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THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION
OF HUMAN RIGHTS

Study on the Right to Adequate Food as a Human Right

Preliminary report by Mr. Asbjørn Eide, Special Rapporteur

GE.83-12794

INTRODUCTION

A. Mandate

1. On the basis of a recommendation made by the Sub-Commission (resolution 1982/7 of 7 September 1982) and approved by the Commission on Human Rights (resolution 1983/16 of 22 February 1983), the Economic and Social Council, by its decision 1983/140 of 27 May 1983, authorized the Sub-Commission to entrust Mr. Asbjørn Eide with the preparation of a study on the right to adequate food as a human right. In its decision, the Economic and Social Council stated that the Special Rapporteur, in elaborating his study, should take into account all relevant work being done within the United Nations system and should consult with organs and agencies such as the World Food Council, the Food and Agriculture Organization of the United Nations and the United Nations Conference on Trade and Development and relevant non-governmental organizations in the field. It was also stated that the Special Rapporteur should give special attention in his study to the normative content of the right to food and its significance in relation to the establishment of the new international economic order.

2. The Council requested the Special Rapporteur to submit his preliminary report to the Sub-Commission at its thirty-seventh session.

B. Issues to be addressed in the Final Report

3. Since the preparation of the study on the right to adequate food was approved by the Economic and Social Council only some two and a half months before the opening of the Sub-Commission's thirty-ninth session, it has not been possible, in the preliminary report, to do more than provide an indication of some of the main issues which will be addressed in the final report.

1. The elaboration of specific economic, social and cultural rights

4. The indivisibility and interdependence of the two sets of human rights - civil and political rights on the one hand and economic, social and cultural rights on the other - is a fundamental tenet of the United Nations approach to human rights. But while this doctrine has frequently been reaffirmed by the various human rights organs, and most notably perhaps in General Assembly resolution 32/130, it has not always been reflected in practice whether at the national or international levels. Among the reasons for this discrepancy is the fact that both the precise content of a number of economic, social and cultural rights, as well as the specific obligations which they imply for States Parties to the International Covenant on Economic, Social and Cultural Rights, remain extremely vague. This vagueness, when contrasted with the degree of precision with which most civil and political rights have been elaborated, has tended to encourage the relative neglect of economic and social rights.

5. As long ago as 1968 the International Conference on Human Rights called upon "all Governments to focus their attention on developing the material means of protecting, promoting and realizing economic, social and cultural rights, as well as developing and perfecting legal procedures for prevention of violations and defence of these rights". 1/ The broader challenge with which the present

1/ Final Act of the International Conference on Human Rights, Teheran, 22 April to 13 May 1968 (United Nations publication, Sales No. E.68.XIV.2), resolution XXI, para. 6.

study will be concerned was clearly stated some years ago by Wilfred Jenks, then Director-General of the International Labour Organisation:

"That the economic and social 'rights' are justified social claims which political and economic systems must satisfy is no longer open to question; an overwhelming weight of responsible opinion has settled the matter decisively. What does need further analysis, and the jurist is both entitled and called upon to analyse, is, on the one hand, the sense in which these 'rights' have the juristic quality of rights and the measures and procedures required to make them a reality, and, on the other hand, the sense in which these 'rights' are international and the measures and procedures required to make them effectively so." 2/

6. The study of a specific right - the right to adequate food - provides an important opportunity to address a number of fundamental questions relating to economic, social and cultural rights both from theoretical and practical perspectives, and to examine the most effective measures and procedures by which their realization may be promoted and monitored. It is to be hoped that the understanding gained through a detailed examination of one right will also provide some useful insights into the difficulties which may be confronted in efforts to implement other rights such as, for example, the right to health and the right to education.

2. The right to adequate food as a human right

7. The right to adequate food is a part of established international law by virtue of its inclusion in an international treaty - the International Covenant on Economic, Social and Cultural Rights - as well as in a range of other international instruments. In this regard reference may be made, inter alia, to article 11 of the Covenant, article 25 (1) of the Universal Declaration of Human Rights, the four Geneva Conventions of 1949 and their two Protocols of 1977, as well as to the Universal Declaration on the Eradication of Hunger and Malnutrition adopted by the World Food Conference in 1974. 3/

8. In addition, as noted below, the right to adequate food as a human right must also be considered in the context of other international instruments including for example, the Strategy for the Third United Nations Development Decade (General Assembly resolution 35/56, Annex) and the key resolutions relating to the establishment of the new international economic order.

3. The "normative content" of the right to food

9. In its decision 1983/140, the Economic and Social Council requested the Special Rapporteur to "give special attention to the normative content of the right to food". The Council thus recognized the need to go beyond the basic formulation of the right, which exists principally in article 11 of the Covenant on Economic, Social and Cultural Rights and to spell out the precise implications

2/ C. Wilfred Jenks, Social Justice in the Law of Nations: The ILO Impact after Fifty Years (London, Oxford University Press, 1970), p. 72.

3/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.78.XIV.2); and generally see Bernard Habib, "Droits de l'homme et alimentation", in Jacques Bourrinet and M. Flory (eds.), L'ordre alimentaire mondial (Paris, Economica, 1982) pp. 209-231.

of the right including the obligations which derive from it. This will require consideration of the exact nature of the right which individuals and groups possess as well as of the obligations which attach to various entities, including individuals, collectivities, the State and the international community. Perhaps the most important task in developing the normative content is to specify the internal and external obligations of States. The internal obligations are those to be held in relation to persons living inside the jurisdiction of the State concerned; the external are those owed towards other States. For analytical purposes this will involve consideration of the obligation of different entities to respect, to protect and to secure fulfilment of the right to food.

4. Relationship between this and other food-related studies

10. It is implicit in all that has been said above that the present study is to be conducted from a distinctively human right perspective. The report will thus not be primarily concerned with the technical aspects of issues such as those relating to the production, conservation, distribution and consumption of food. These issues are already being dealt with elsewhere in the United Nations system by bodies such as the World Food Council, the Food and Agriculture Organization of the United Nations, the World Food Programme and the International Fund for Agricultural Development. More specific activities are also undertaken by a wide range of other bodies including the United Nations Children's Fund, the World Health Organization and the World Bank among others.

11. Nevertheless, just as neither the Commission on Human Rights nor the Sub-Commission is the most appropriate place in which to examine technical matters; so too are the specialist food-related bodies not necessarily the most appropriate places in which to begin consideration of the human rights dimensions of food issues. This view is confirmed by the fact that the right to adequate food as a human right has not in fact been the subject of any exhaustive study undertaken anywhere within the United Nations system to date. ^{4/} Thus the challenge confronting the Special Rapporteur will be to avoid duplication of the work being more appropriately undertaken in other United Nations fora while at the same time making full use of that work in order to ensure that the specifically human rights aspects of the right to adequate food are carefully and constructively explored.

5. The new international economic order and the right to food

12. Both article 2 and article 11 of the International Covenant on Economic, Social and Cultural Rights make clear the essential importance of international co-operation in seeking to achieve the realization of the right to food. Similarly the major instruments adopted by the General Assembly relating to the establishment of the new international economic order have strongly affirmed the need for concerted international action to supplement the efforts of States in their endeavours to achieve the eradication of hunger and malnutrition. This point was reiterated by the World Food Council in June 1983 when it "called on the international community to accord continuing and increasing political impetus and support for measures to improve global food security and to eliminate hunger and malnutrition." ^{5/}

^{4/} See, for example, the report submitted by the Food and Agriculture Organization to the Economic and Social Council in accordance with article 18 of the International Covenant on Economic, Social and Cultural Rights, E/1981/22.

^{5/} "Report of the World Food Council on the Work of its Ninth Session, 27-30 June 1983", WFC/1983/19, Part One, para. 35.

13. From the perspective of the present report it is important to note that the link between on the one hand improved global food security based on international co-operation and on the other hand realization by every individual of his or her right to food is by no means automatic. Therefore the nature of the relationship between these two goals will need to be carefully studied in order to ensure the most effective possible linkage.

6. Concluding remarks

14. The range of issues noted above, each of which will be examined in the Special Rapporteur's final report, is designed only to provide a general indication of some of the relevant concerns. It is by no means exhaustive.

15. In connection with the preparation of his final report, the Special Rapporteur would welcome information on the right to adequate food from any source.