**Theories of justice and the right to food**

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**Introduction**

The contemporary international human rights system was born in 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR).

The "Four Freedoms" address of U.S. President Roosevelt, in January 1941, was of special importance in the preparation of the Declaration, which included freedom from want as one of those rights. In his 1944 State of the Union address, Roosevelt had advocated the adoption of an "Economic Bill of Rights," stating that "true individual freedom cannot exist without economic security and independence. Necessitous men are not free men. People who are hungry and out of jobs are the stuff of which dictatorships are made." [[1]](#endnote-1)

The right to food is recognized in the 1948 Universal Declaration of Human Rights (Art. 25) as part of the right to an adequate standard of living, and is enshrined in the 1966 International Covenant on Economic, Social and Cultural Rights (Art. 11).

 It is also recognized in specific international instruments such as the Convention on the Rights of the Child (Art. 24(2)(c) and 27(3)), the Convention on the Elimination of All Forms of Discrimination against Women (Art. 12(2)), or the Convention on the Rights of Persons with Disabilities (Art. 25(f) and 28(1)).

According to UDHR Article 25(1), "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing...". The right to an adequate standard of living sums up the underlying concern of all economic and social rights, which is to integrate everyone into a humane society. This right is closely linked to the guiding principle of the whole human rights system, that everyone is born free and equal in dignity and rights and should act toward each other in a spirit of solidarity (UDHR Article 1). However, "the document did not go into the implications of making the right to adequate food a basic human right, in any depth."[[2]](#endnote-2) It was not until 1985 that the UN took another step by creating the Commission on Economic, Social and Cultural Rights to supervise the application of human rights by the governments of member states.[[3]](#endnote-3)

The right to food is a human right recognized under international law which protects the right of all human beings to feed themselves in dignity, either by producing their food (which entails availability of land, seeds, water and other resources) or by purchasing it (which entails adequate income). Thus States must provide an enabling environment in which people can produce or procure adequate food for themselves and their families.

As defined by the Committee on economic, Social and Cultural Rights (ESCR) in its General Comment 12,

"The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means to its procurement."

The general concept of adequate food can be broken down into several elements: the food supply should be adequate, which means that the types of foodstuffs commonly available should be culturally acceptable; the available supply should cover overall nutritional needs in terms of quantity (energy) and quality (it should provide all the essential nutrients); and, last but not least, food should be safe (free of toxic elements and contaminants) and of good quality (in terms, for example, of taste and texture).

Hamm and Bellows describe *food security* as being achieved when

"all community residents obtain a safe, culturally acceptable, nutritionally adequate diet through a sustainable food system that maximizes self-reliance and social justice." [[4]](#endnote-4)

**Debates among theorists of justice**

There are two main issues that divide theorists of justice concerning the world starvation problem and the right to food.

The first issue is whether the world hunger problem should be addressed primarily in terms of [a] the duties and/or obligations of individuals to other (perhaps distant) individuals, or [b] the structures (and possible restructuring) of various social, economic, and political institutions, policies, and programs and, consequently, in terms of our duties and/or obligations to do our fair share in creating and maintaining such just social structures. I shall refer to the former as the "individual approach" and to the latter as the "social approach."

The second issue is whether saving people from starvation (and other forms of severe deprivation) is a matter of *charity* (or *beneficence*) or a matter of *justice*. This question, which cuts across the traditional division between consequentialist and non-consequentialist (or deontological) moral theory, is of the utmost importance since, by definition, if it is a matter of charity then no one can be compelled to give some of the resources they would otherwise have available to them to aid the severely deprived, whereas if it is a matter of justice then people could be compelled – through compulsory taxation, for example – to aid them. This issue also cuts across the division between the *individual* and *social* approaches to this problem, although it seems that most of those who view this as a matter of justice adopt the social approach to it, whereas most of those who view it as a matter of charity favor the individual approach.

A related issue is whether individuals in one society or state have obligations and/or duties to aid only those within that society or state or have obligations and/or duties to aid other persons outside the boundaries of those groupings. If the latter, do they have the same moral obligations to distant persons that they have toward fellow citizens or only some of them? And if so, precisely which obligations do they have from either an individual or social point of view?

**In this paper I maintain that the right to food should be understood as a basic right because failure to deal with it would hinder the enjoyment of all other rights. The right to food is a right to access the means to procure adequate food and must be supported by social practices conducive to a stable social and economic order. Such an order is necessary to prevent deprivation and to insure that each person has the opportunity to secure adequate access to food. Governments are primarily responsible for instituting and maintaining this order and thus for protecting the right to food.**

In "Famine, Affluence, and Morality" Peter Singer present three premises to support his argument that people in rich countries have a moral obligation to help people in poor countries. His premises are (1) "that suffering and death from lack of food, shelter and medical care are bad;" (2) that "if it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it;" and, in a weaker form, that "if it is in our power to prevent something very bad from happening, without sacrificing anything morally significant, we ought, morally, to do it." Singer provides the famous example of the drowning child as an application of his second principle, and adds that its application is unaffected by proximity or distance and (3) "makes no distinction between cases in which I am the only person who could possibly do anything and cases in which I am just one among millions in the same position."[[5]](#endnote-5)

If we agree that the rich have some obligation on humanitarian grounds to provide economic aid to the poor, the next question is, how much sacrifice is required? Even if Peter Singer believes that the answer is provided by a "simple formula" that dictates that we give away any money we are "spending on luxuries, not necessities,"[[6]](#endnote-6) it seems difficult to establish where the line is to be drawn.

In his response to Singer, Brian Barry draws a distinction between *humanity* and *justice*, and suggests that, while the obligations of humanity are goal-based, those of justice are right-based. While humanity is concerned with the well-being of people, such as their welfare, freedom from malnutrition and disease, and satisfaction of basic needs, justice is concerned with the distribution and control of resources. Thus justice is concerned with those resources that provide those who use them with the material means of well-being: food, housing, clothing, medical care, etc. Among the constituents of well-being is autonomy, which includes the power to plan our lives and make our own decisions. [[7]](#endnote-7)

Barry's position here is close to Amartya Sen's and Martha Nussbaum's "capability approach," which emphasizes functional capabilities, construed on people's substantive freedoms. Thus poverty is understood as capability-deprivation. The emphasis is not only on how human beings actually function but on their having the capability to function if they wish, which is a practical choice. Capability for Sen means the real opportunity to accomplish what we value, a notion that comes close to "substantial freedom" and approximates Rawls's view of the "worth of liberty" as a person's capacity to advance their ends within the framework the system defines.[[8]](#endnote-8)

Sen proposes that we focus on capability as a measure of the richness of real options we have, and in his critique of Rawls, he argues that "the primary goods that someone holds may be very imperfect indicators of the freedom that the person really enjoys to do this or be that."[[9]](#endnote-9) This is so because different social circumstances and factors internal to individuals cause resources that offer many possibilities to one person to open fewer possibilities to another. Thus there are "significant variations in the conversion of resources and primary goods into freedom," resulting from such factors as "simple physical differences:" "...a person who has a disability can have more primary goods (in the form of income, wealth, liberties and so on) but less capacity (due to the handicap)."[[10]](#endnote-10) In other words, for some it is more difficult to convert primary goods into capabilities.

I believe that the world hunger/absolute poverty problem can only be solved through the *social approach*. Due to the limits of people's altruism as well as to social co-ordination problems (such as the assurance problem and the free-rider problem) the individual approach of contributing money and/or time to various charities is not, by itself, going to solve it, although it is not morally insignificant if it can help alleviate it to some degree. As Henry Shue writes:

Individual donations by individual donors – I give $50 to Wanda, who is already malnourished – are at best too little, too late, too uncoordinated. They may also be myopically off-target by focusing too directly on food itself; for many Third World countries, more or less food assistance, or even agricultural development aid, is far less important than some solution to their staggering burdens of debt to foreign, rich-country banks, which is one of the main forces driving the diversion of land and other resources out of the production of food. … The design of effective institutions for food security [is what is necessary to solve the world hunger problem].[[11]](#endnote-11)

Moreover, the individual approach does not sufficiently focus on the dignity (and, possibly, the rights) of the individuals in need of aid. Finally, this can misdirect the attention of people – even generous people – away from the justice of the social arrangements, institutions, policies, and programs that are usually the cause of these severe depravations. Charitable donations are no solution to global poverty. People starve and die because of political and economic arrangements. As Frederic Bender observes: "(t)he causes of world hunger are primarily, although not entirely, social and economic in origin and typically are perpetuated through political and institutional violence, i.e., through the violation of human rights of the impoverished."[[12]](#endnote-12) If this is true (which the evidence show) and if private charitable efforts have not succeeded in solving this problem (as they have not) then, if one is really serious about solving it, the only reasonable thing to do is to concentrate on establishing social arrangements that can do so. It is not enough to say, as Singer does, that all persons have equal moral claims on us; we need to ask how best to organize politically and economically to meet those claims. While it is true that we often act as individuals, the causal relevance or impact of our actions depends on the positions we occupy within a complex social system. Singer's analogies to an ethical behavior by an individual abstract from the causal dynamics of poverty and opportunity and from the mediated nature of social relations at a global level. Unless attention is paid to transforming institutional factors, aid agencies will only have limited victories in a losing battle against the sources of poverty. This is not to say that direct charitable aid is unimportant but, rather, to say that establishing more just social and economic arrangements that will assure people food security is – in the long run – even more important.

Another important and related issue is whether it is primarily national governments of developing counties that are responsible for eliminating hunger and absolute poverty in their own territories or whether this responsibility falls more or less equally on governments in the developing world, wealthier nations, and international organizations (such as the United Nations, International Monetary Fund, World Bank, World Trade Organization).

Radhika Balakrishnan and Uma Narayan divide this responsibility more or less equally:

The primary responsibility of guaranteeing the basic welfare rights of all individuals falls on the national and international institutions – economic institutions, nation states, and international bodies – whose policies and choices are responsible for the occurrence of world hunger and poverty, and who have the means to act so as to guarantee these rights. … National and international institutions that have primary responsibility for many economic decisions and development policies need to recognize that the provision of basic economic and social welfare rights to all is a binding moral and political obligation, one that cannot be overridden for reasons of economic convenience.[[13]](#endnote-13)

It is important to concentrate our moral attention on the social rather than the individual approach, while at the same time understanding that the social approach is not really disconnected from obligations and/or duties at an individual level since, arguably, we all have a duty to abide by the dictates of social justice and to do (at least) our fair share in the social effort to create and maintain just social arrangements. Further, it will probably be a relief to a great many people to learn that it really serves no useful purpose to agonize over whether, as Peter Singer maintains, we must give away our income and wealth (and expend our time and energy) to the point of marginal utility – i.e. to the point just before we would start to become as bad off as the starving and malnourished people we're trying to aid – or whether, as Arthur contends, we are morally justified in giving considerably less than this because we have a right to give our own projects and purposes (and special relationships) tremendously more weight in our moral calculations.[[14]](#endnote-14) The language of sacrifice must give way to the language of social, political and economic cooperation for the interests of the globally poor. The most important factor in eliminating starvation and hunger in any particular country is for that country to establish basically just social arrangements; e.g. a policy of national food self-reliance which will include an entitlement system assuring adequate nutrition for the population.[[15]](#endnote-15)

Aiding those in severe need is, therefore, not a matter of charity or beneficence but a matter of justice. This is extremely important because duties of justice are enforceable while duties of charity or beneficence are not (in Kant's terms, the former is a *perfect* duty and the latter an *imperfect* one.) Even strict libertarians often claim that we have a duty to be charitable so long as this duty is not defined as a perfect (i.e. enforceable) one. This not only allows one off the moral hook as soon as one makes one's minimal contribution. It also allows one to argue that we need not have social arrangements that ensure people don't starve and, in fact, that it would *not* be morally allowable to have any kind of taxation to fund social programs aimed at solving these problems because solving them is a matter of beneficence, and taxation – according to the strict libertarian – is a violation of one's property rights (which is a matter of justice).[[16]](#endnote-16)

It must be recognized, it seems to me, that we have a general duty (i.e. a duty towards all humans, not just towards those with whom we are socially close) to aid people when they are in dire necessity and a social duty (i.e. a duty of social justice) to establish social arrangements that address the standard threats that we might all face. Arguably, no rational and reasonable person would deny this because all rational and reasonable persons know that the exigencies of human existence mean that we all may need such help at some point in our lives. Therefore, out of respect for ourselves and others we must recognize the duty to aid those in dire necessity. In *A Theory of Justice,* Rawls recognizes this in his theory of natural duties which includes the duty not to harm other individuals as well as the duty to aid those in dire necessity (i.e. "the duty of mutual aid"). Rawls writes that a

feature of natural duties is that they hold between persons irrespective of their institutional relationships; they obtain between all as equal moral persons. In this sense the natural duties are owed not only to definite individuals, say to those co-operating together in a particular social arrangement, but to persons generally.[[17]](#endnote-17)

Arguably, at the social level no rational and reasonable person would choose to have duties correlative to their basic security or subsistence needs classified as a matter of discretionary charity rather than a matter of obligatory justice, since having one's security and basic physical needs assured is a necessary condition for enjoying any other good or right.

Although duties and principles of distributive justice will undoubtedly be part of any overall adequate theory of social justice, it is the concept of *rights* that must be emphasized with respect to the problem of world hunger. If it is not claimed that everyone has subsistence rights there is no guarantee that everyone will have their subsistence needs targeted even if a duty of aiding the severely deprived is recognized as incumbent on all moral agents. What really matters is, first, that people should not suffer severe (non-voluntary) deprivation and that this state of affairs should be brought about in some way or other and, second, that so far as possible people should be empowered to meet their needs through their own freely chosen activities, as Sen's capabilities approach suggests. If this state of affairs were to be brought about by governments in First and/or Third World countries or by wealthy philanthropists even when most non-impoverished people either refused to recognize their duty to aid the severely deprived or refused to act on it, this wouldn't really matter from a moral point of view, except for purposes of judging people's moral character. This is why it is crucial to view the situation from the viewpoint of the rights of the individuals who need the aid rather than from the duties of individuals (*qua* individuals) to provide it.

Moreover, it is arguable that rights are a necessary concomitant to human dignity or – if this expression is too vague – to the attitude of genuine respect for persons and a person's self-respect. As Joel Feinberg writes, rights

are especially sturdy objects to 'stand upon,' a most useful sort of moral furniture …. This feature of rights is connected in a way with the customary rhetoric about what it is to be a human being. Having rights enables us to 'stand up like men' (sic), to look others in the eye, and to feel in some fundamental way the equal of anyone. To think of oneself as the holder of rights is not to be unduly but properly proud, to have that minimal self-respect that is necessary to be worthy of the love and esteem of others.[[18]](#endnote-18)

Rights are not mere gifts or favors, motivated by love or pity, for which gratitude is the sole fitting response. A right is something that can be demanded or insisted upon without embarrassment or shame. … A world of claim-rights is one in which all persons, as actual or potential claimants, are dignified objects of respect, both in their own eyes and in [the eyes] of others.[[19]](#endnote-19)

A widely accepted contemporary definition of rights is that given by Joseph Raz. As summed up by Jeremy Waldron: "to have a right is for it to be the case that one's interest justifies holding someone else to have a duty."[[20]](#endnote-20) Since the interest of having one's basic physical needs be met (by having access to sufficient nutrition, potable water, housing, clothing, etc.) is, arguably, the most fundamental interest one has, it seems reasonable to claim that this right must be recognized as the strongest right we have. And this right would seem to be intimately connected to human dignity and respect for the person. As Xiaorong Li writes:

The right to food, as a need-based human right, carries high priority because of its tie to human dignity and its essential effect on human well-being. The human need for food is closely tied to the dignity that distinguishes human beings from animals. The sense of indignity and humiliation human beings often experience when they are forced to accept degrading conditions (slave labor, prostitution, stealing, or begging) in exchange for food is uniquely theirs. It is this sense of human dignity, as an essential part of human well-being, that makes the human need for food a right-claim.[[21]](#endnote-21)

Balakrishnan and Narayan further suggest that

any moral framework that is committed to seeing all humans as bearers of dignity and worth needs to guarantee all individuals not merely important negative rights to noninterference, but positive welfare rights to the basic means of subsistence.[[22]](#endnote-22)

However, in order to respect and protect either type of rights we have to develop social institutions that effectively do so. This is clear in the case of subsistence rights since we cannot sensibly be expected to provide – or even attempt to provide – for every person's subsistence rights in our own society, let alone the rest of the world. But we can – and must – insist that through some combination of individual actions, non-governmental associations (e.g. charities), and governmental policies and programs, people's subsistence rights be met. We must, morally speaking, do our fair share toward meeting this end and we can be forced to pay taxes aimed at achieving this end, if that is necessary, since this right – as any general right – gives rise to an *enforceable* duty or obligation on the part of all humans who are in a position to help achieve this goal.

To quote Balakrishnan and Narayan again:

While … the brunt of the moral obligations to alleviate poverty and hunger fall on national and international policy making institutions, … the existence of widespread hunger and poverty creates certain obligations on the part of individual citizens. … Those of us who are citizens of democratic political systems have an obligation to use our political rights to support national and international policies that are conducive to alleviating, rather than exacerbating, hunger and poverty at home and abroad. We have obligations to be active and concerned citizens who support not only the sorts of economic policies that would be conducive to securing the basic welfare rights of all individuals, but also to encourage the growth and survival of democratic regimes in other parts of the world.[[23]](#endnote-23)

Finally, if these rights are not being met when it is possible to meet them, the people whose subsistence rights are being violated – and, in fact, all persons everywhere – have the right to use any necessary political means in order to make sure that these rights are respected and protected. As John Locke wrote some 300 years ago, any population whose basic rights are being systematically violated has the right of rebellion and revolution to remedy the situation if no other political means have worked and/or can be expected to work in addressing this situation.[[24]](#endnote-24)

1. Quoted in Alston, p. 1990. US Ratification of the Covenant on Economic, Social and Cultural Rights: the need for an entirely new strategy. *American Journal of International Law,* Vol. 84. [↑](#endnote-ref-1)
2. Humberto Gonzales, 2010. "Debates on Food security and Agrofood World Governance," *International Journal of Food Science and Technology* 45:1345-1352, p. 1350. [↑](#endnote-ref-2)
3. K. Mechlem, 2004. "Food Security and the Right to Food in the Discourse of the United Nations," *European Law Journal* 10:631-648, p. 639. [↑](#endnote-ref-3)
4. Hamm, M. and Bellows, A. 2003. "Community Food security and Nutrition Educators", *Journal of Nutrition Education Behavior* 35:37-43. [↑](#endnote-ref-4)
5. Peter Singer, "Famine, Affluence and Morality" (1972). Reprinted in his *Writings on an Ethical Life* (New York: Ecco Press, 2000), pp. 105-117. [↑](#endnote-ref-5)
6. Peter Singer, "The Singer Solution to World Poverty," in Peter Singer, his *Writings on an Ethical Life* (New York: Ecco Press, 2000), pp. 118-124. [↑](#endnote-ref-6)
7. Brian Barry, *Nomos XXIV: Ethics, Economics and the Law,* edited by J.R. Pennock and J.W. Chapman (New York: New York University press, 1982), pp. 219-254. The roots of this approach, however, go back to Smith (1776) and Marx (1887). [↑](#endnote-ref-7)
8. John Rawls, *A Theory of Justice*, (Cambridge, MA: Belknap Press of Harvard University Press, 1971), p. 204. [↑](#endnote-ref-8)
9. Amartya Sen, *Inequality Reexamined* (New York: Oxford University Press, 1992), pp.37-8. [↑](#endnote-ref-9)
10. Amartya Sen, op. cit., p. 33. [↑](#endnote-ref-10)
11. Henry Shue, "Solidarity among Strangers and the Right to Food" in William Aiken and Hugh LaFollette (eds.), *World Hunger and Morality*, 2nd edition (Englewood Cliffs, NJ: Prentice-Hall, 1996), p. 128. See also: Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, 2nd edition (Princeton: Princeton University Press, 1996). [↑](#endnote-ref-11)
12. Frederic L. Bender, "World Hunger, Human Rights, and the Right to Revolution," *Social Praxis*, 8 (1981), p. 6. [↑](#endnote-ref-12)
13. Radhika Balakrishnan and Uma Narayan, "Combining Justice with Development: Rethinking Rights and Responsibilities in the Context of World Hunger and Poverty," in William Aiken and Hugh LaFollette (eds.), *World Hunger and Morality*, op cit., p. 242. [↑](#endnote-ref-13)
14. For this debate, see Peter Singer, "Famine, Affluence and Morality", Garrett Cullity, "The Life-Saving Analogy," and John Arthur, "Rights and the Duty to Bring Aid", all in William Aiken and Hugh LaFollette (eds.), *World Hunger and Morality*, op. cit. [↑](#endnote-ref-14)
15. See Frederic L. Bender, "World Hunger, Human Rights, and the Right to Revolution," *Social Praxis*, 8 (1981) and Frances Moore Lappe et al., *World Hunger: Twelve Myths*, 2nd. ed. (New York: Grove Press, 1998). [↑](#endnote-ref-15)
16. This is Robert Nozick’s position in *Anarchy, State, and Utopia* (New York: Basic Books, 1975) although he actually repudiates this position in *The Examined Life* (New York: Simon and Schuster, 1989), pp. 286-293. [↑](#endnote-ref-16)
17. John Rawls, *A Theory of Justice*, op. cit., p. 115. [↑](#endnote-ref-17)
18. Joel Feinberg, "The Nature and Value of Rights," *Journal of Value Inquiry* 4:4 (1970), p. 252. [↑](#endnote-ref-18)
19. Joel Feinberg, *Social Philosophy* (Englewood Cliffs, NJ: Prentice Hall, 1973), p. 59. [↑](#endnote-ref-19)
20. Jeremy Waldron, *Liberal Rights: Collected Papers, 1981-1981* (New York: Cambridge University Press, 1993), p. 353. [↑](#endnote-ref-20)
21. Xiaorong Li, "Making Sense of the Right to Food," in William Aiken and Hugh LaFollette (eds.), *World Hunger and Morality*, op cit., pp. 154-5. [↑](#endnote-ref-21)
22. Radhika Balakrishnan and Uma Narayan, "Combining Justice with Development," op. cit., pp. 240-241. [↑](#endnote-ref-22)
23. Radhika Balakrishnan and Uma Narayan, "Combining Justice with Development," op. cit., p. 244. [↑](#endnote-ref-23)
24. See the "The Right to Rebel" section in Locke's *Two Treatises of Government* (1690) published in many editions, as well as Frederick Bender, "World Hunger, Human Rights, and the Right to Revolution," op. cit. [↑](#endnote-ref-24)