

THE HUMAN RIGHTS APPROACH TO REDUCING MALNUTRITION

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Summary

Malnutrition leads to death, illness, and significantly reduced quality of life for hundreds of millions. People have a right to not be malnourished, as a matter of law. The right is articulated in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and several other international instruments. Since people have the human right to food and nutrition, others have obligations to assure that the right is realized. Nations that are parties to these agreements have made a commitment to assure the realization of the human right to food and nutrition.

National governments, not international organizations, are the primary agents for the realization of human rights. It is important to assure that human rights are clearly articulated in national law. Following ratification of international human rights instruments, concretization of human rights in national law reinforces, and is a major sign of, commitment to those rights. National legislation provides highly authoritative articulation of the commitments accepted by the nation-state. It is a means of codifying and legitimizing institutionalized governmental action. Thus, national law can become a major tool through which the realization of human rights is advanced.

The motivating idea underlying the nutrition rights vision is that establishing clear entitlements in the law, and assuring the implementation of that law, can help to reduce malnutrition of different kinds. The establishment and effective implementation of such law will not in itself be the solution to the malnutrition problem. Rather, it should be viewed as another tool for addressing the challenge, one that must be used together with

other more conventional means such as feeding, health, education, and sanitation programs.

1. Introduction

Each year, about 12 million children die before their fifth birthdays, about half of them from causes associated with malnutrition. This is a silent holocaust, repeated year after year. Malnutrition leads to death, illness, and significantly reduced quality of life for hundreds of millions of children, adolescents, and adults. People should not have to suffer from malnutrition. More than that, people have a *right* to not be malnourished, as a matter of law. Since people have the human right to food and nutrition, nation-states and the governments that represent them have obligations to assure that the right is realized.

2. The Human Rights Context

For much of human history, individuals had no recognized rights. It was accepted that the power of emperors and kings was absolute, at least with respect to secular issues. In time it was argued that, in recognition of the interests of the monarch's subjects, the powers of the sovereign ought to be limited. The claims of these countervailing interests were articulated in the Magna Carta of 1215, arguably the first major rights document. Like many later rights documents, the Magna Carta was not fully implemented. Nevertheless, the document broke new ground by declaring that despotism was illegitimate, and rights of citizens were to be recognized and respected. These were radical ideas.

The modern nation-state system had its beginnings in the Treaty of Westphalia of 1648. Its core principles were that states were sovereign in that they had no ruling bodies above them, and no state was permitted to interfere in the internal affairs of any other. Within states, however, people lived at the mercy of their rulers, their sovereigns. The Magna Carta represented constraint on the sovereign from within the sovereign's jurisdiction. Sovereigns were not constrained from without. International law did not apply to individuals but only to states. There was no international protection for the rights of individuals at all.

In 1776 the Declaration of Independence, marking the revolution of the American colonies against the tyranny of King George III, launched another major rights movement. It was consolidated in the Bill of Rights, added in 1791 to the United States Constitution of 1787. These first ten amendments spelled out the basic rights of citizens of the new United States. The French Revolution led to the Declaration of the Rights of Man and of the Citizen, approved by the new French National Assembly on August 4, 1789.

These efforts advanced the cause of rights within particular nations, but were not bases for international agreement or action. Thus they were not about human rights as that term is now understood. By definition, *human rights* refers to those rights that are universal, enjoyed by all persons by virtue of their being human. On this basis, rights recognized only in one country cannot be viewed as human rights.

Human rights, understood as claims for universal recognition of rights, arguably began with the anti-slavery movement in the nineteenth century. The modern era of human rights began with the signing of the Charter of the United Nations in 1945. In the charter, nations pledged to take action to achieve “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.” The key event launching the post Second World War human rights movement, however, was the adoption by the United Nations General Assembly of the Universal Declaration of Human Rights on December 10, 1948.

After that declaration was made, the number of international human rights agreements proliferated rapidly, and many new organizations, both governmental and nongovernmental, arose to make sure these rights were realized. Human rights became a major factor in global discourse.

The declaration was given binding effect in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The two covenants were adopted by the United Nations General Assembly in 1966, and both received enough ratifications to come into force in 1976.

Since the adoption of the Universal Declaration of Human Rights, human rights advocates have focused most of their energy on civil and political rights. Now, as the second half-century of postwar human rights advocacy begins, economic, social, and cultural rights are gaining increasing attention. With the conclusion of the Cold War it has become increasingly clear that economic, social, and cultural issues shape the well-being of much of humankind.

The global human rights system is distinctive in that it deals only with rights that are universal, enjoyed by all simply by virtue of their being human. However, there are many different kinds of rights systems.

A rights *system* can be understood as a kind of cybernetic self-regulating arrangement designed to assure that rights are realized. In any cybernetic system, a goal is decided upon, and means are established for reaching that goal. In addition, there are specific means for making corrections in case there are deviations from the path toward the goal. This is the self-regulating aspect of the system. Rights systems function in this way. Any government may have policies saying, for example, that there is to be freedom of speech, and social security, and many other good things. They may even be promised in the nation’s constitution. But we know that there are many cases in which governments go “off course” and fail to deliver on their promises. In nations where there is an effective rights system, however, there are specific mechanisms for calling the government to account, that is, for making course corrections. The most fundamental of these mechanisms of accountability is for rights holders themselves to have effective remedies through which they can complain and have the government’s behavior corrected. Where there are no effective remedies, there are no effective rights.

On the basis of this understanding, we can say that in any rights system there are three distinct roles to be fulfilled: the *rights holders*, the *duty bearers*, and the *agents of*

accountability. The task of the agents of accountability is to make sure that those who have the duty carry out their obligations to those who have the rights.

To describe a rights system, we need to know the identities and also the functions of those who carry out these roles. We would also want to know the mechanisms or structures through which these functions are to be carried out. Thus, we would want to know:

- the nature of the *rights holders* and their rights;
- the nature of the *duty bearers* and their obligations corresponding to the rights of the rights holders; and
- the nature of the *agents of accountability*, and the procedures through which they assure that the duty bearers meet their obligations to the rights holders. The accountability mechanisms include, in particular, the remedies available to the rights holders themselves.

Some parties may carry out several roles. As indicated in this reference to the remedies available to rights holders, the rights holders also should serve as agents of accountability. Those who are rights holders generally also have duties, and conversely, those who have duties also have rights. Nevertheless, while those who carry out the roles may overlap in different ways, it is useful to draw out the distinctions between these three different types of roles.

This three-part framework can be used by any national government or other sort of administrative unit concerned with drafting law or policy designed to assure the realization of rights. This framework can also be used for adapting specific programs, such as national welfare programs or nutrition programs, to conform to the human rights approach. The program's policies may be reformulated so that its clients have clear entitlements to its services, and so that the program makes explicit commitments to honor those entitlements. That commitment can be concretized by establishing a complaint procedure through which those who feel they have not obtained their entitlements can get a fair hearing and, if necessary, have the situation corrected.

3. Malnutrition

The World Health Organization defines nutrition as “a process whereby living organisms utilize food for maintenance of life, growth and normal function of organs and tissues and the production of energy.” Malnutrition results when this process goes wrong, whether because of problems on the intake side or because of problems in processing the intake. There are various types of malnutrition including protein-energy malnutrition and specific micronutrient deficiencies.

The United Nations Administrative Committee on Coordination has a Sub-Committee on Nutrition (ACC/SCN) that is responsible for coordinating nutrition-related activities among the UN agencies. An independent Commission on the Nutrition Challenges of the 21st Century appointed by the SCN submitted its report to the SCN, entitled *Ending Malnutrition by 2020: An Agenda for Change in the Millennium*. It identified the eight major nutritional challenges as follows:

- *Low birth weights.* Each year some 30 million infants in developing countries are born with low birth weight, representing about 24% of all newborns in these countries. Population-wide interventions aimed at preventing fetal growth retardation are urgently needed.
- *Childhood undernutrition underestimated.* There are still more than 150 million underweight preschool children worldwide, and more than 200 million are stunted. This underweight and stunting is the tip of the iceberg. Suboptimal growth may affect many more. Stunting is linked to mental impairment. At current rates of improvement about 1 billion children will be growing up by 2020 with impaired mental development.
- *Undernourished adults.* High proportions of Asian and African mothers are undernourished: this is exacerbated by seasonal food shortages, especially in Africa. About 243 million adults in developing countries are severely undernourished, judged by a body mass index of less than 17 kg m^{-2} . This type of adult undernutrition may impair work capacity and lower resistance to infection.
- *Pandemic anemia.* Anemia during infancy, made worse by maternal undernutrition, causes poor brain development. Anemia is also very prevalent in school children and adolescents. Maternal anemia is pandemic, over 80% in some countries, and is associated with very high rates of maternal death.
- *Extensive persisting vitamin A deficiency.* Severe vitamin A deficiency is on the decline in all regions. However, subclinical vitamin A deficiency still affects between 140 and 250 million preschool children in developing countries, and is associated with high rates of morbidity and mortality. These numbers do not take into account vitamin A deficiency in older children and adults and thus seriously underestimate the total magnitude.
- *Adult chronic diseases accentuated by early undernutrition.* Evidence from both developing and industrialized countries links maternal and early childhood undernutrition to increased susceptibility in adult life to noncommunicable diseases such as adult-onset diabetes, heart disease, and hypertension. These diet-related noncommunicable diseases—including cancers—are already major public health challenges for developing countries.
- *Obesity rates escalating.* Overweight and obesity are rapidly growing in all regions, affecting children and adults alike. These problems are now so common in some developing countries that they are beginning to replace more traditional public health concerns such as undernutrition and infectious disease. Obesity is a risk factor for a number of noncommunicable diseases, adult-onset diabetes in particular.
- *Sustaining iodization programs.* Efforts are needed to sustain the remarkable progress made during the 1990s towards universal salt iodization and elimination of iodine deficiency disorders. Monitoring systems, quality control, and sound legislation are key priorities, as is improving outreach to isolated communities.

The large numbers of infants born at very low weights often reflect the poor nutritional status of their mothers, and thus constitute a form of intergenerational transmission of the consequences of malnutrition.

When measured in terms of weight for age, protein-energy malnutrition affects almost 150 million children under five years of age, about 26.7% of the world's children in this age group. More than two-thirds of the world's malnourished children live in Asia.

When measured in terms of height for age, children's protein-energy malnutrition is even more widespread, affecting an estimated 38% of all preschool children in developing countries. While the incidence has been declining in most regions, in Africa the incidence of stunting (inadequate height for a given age) of children has been increasing.

The body mass index (BMI) is a standardized measure for assessing the degree to which adults are underweight or overweight. It is based on the formula, $BMI = \text{kg}/\text{m}^2$. That is, the body mass index is equal to the individual's weight in kilograms, divided by the square of the individual's height, measured in meters. While there is widespread undernutrition in the world, there is also widespread and rapidly increasing obesity, in children as well as in adults. Some describe it as an epidemic of obesity.

Iron deficiency is the world's most widespread nutritional disorder. In industrialized countries, it is the main cause of anemia. However, in developing countries, anemia is associated not only with iron deficiency but also with deficiencies in other nutrients, such as folic acid, vitamins A and B₁₂, and with malaria, parasites, and chronic infections.

Vitamin A deficiency remains the single greatest preventable cause of childhood blindness. An estimated 250 000 to 500 000 children become blind every year because of vitamin A deficiency. This micronutrient deficiency increases vulnerability to a broad spectrum of diseases.

Iodine deficiency disorders result in goiter, stillbirth and miscarriages, and severe mental impairment. Programs to prevent iodine deficiency disorders, based primarily on universal salt iodization, have proven effective in several regions of the world.

4. Causes of Malnutrition

It is useful to distinguish between the immediate, underlying, and basic causes of malnutrition. Figure 1, from the United Nations Children's Fund (UNICEF), illustrates their interrelationships.

4.1 Immediate Causes

Malnutrition is caused by inadequate or improper dietary intake and disease. The two are closely linked because bad diets can increase vulnerability to disease, and many diseases result in loss of appetite and reduced absorption. Even with appropriate food intake, malnutrition can result from disease, particularly diarrhea or parasitic diseases. There may be enough good food coming in, but it may in effect run right out, or it might be diverted to the nutrition of parasites. Infection often leads to malnutrition. Disease often increases the body's food requirements. When children die at an early age, usually

it is not malnutrition alone but the combination of malnutrition and disease that leads to death. The immediate causes can be understood as the clinical causes of malnutrition.

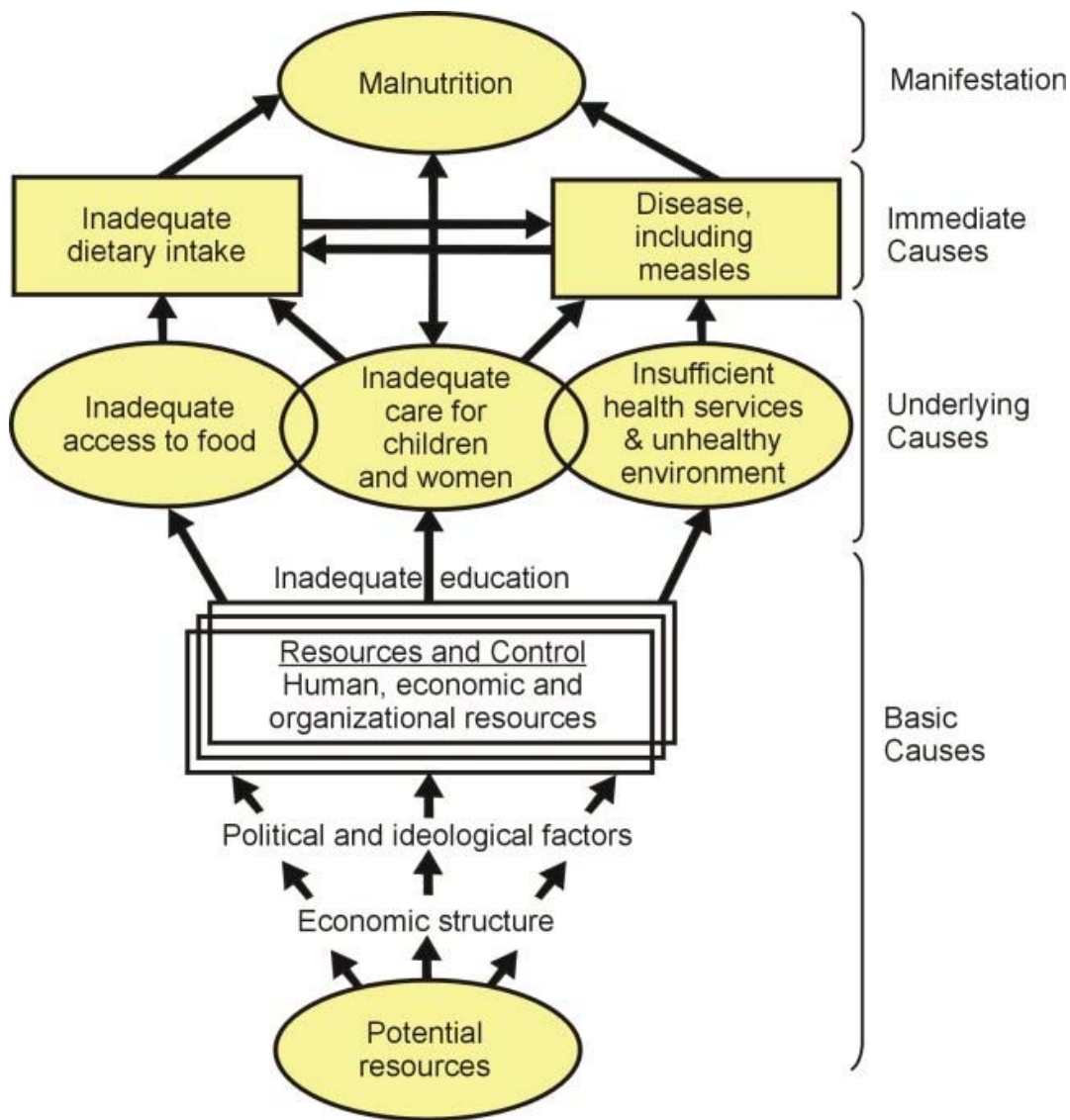


Figure 1: Causes of malnutrition (source: UNICEF)

4.2 Underlying Causes

The underlying causes of malnutrition are inadequate access to food, inadequate care of children and women, and inadequate access to basic health services, sometimes combined with an unhealthy environment. Inadequate food supply in the household can be a major factor in causing malnutrition. Often, however, the types of food and the methods of feeding are also important. For example, the supply of food in the household may be adequate but its distribution within the family may be skewed against small children and in favor of the male head-of-household. Of course this is not a significant problem where household food supplies are abundant. Some bulky carbohydrates such

as rice or maize have low nutrient density, which means that one must consume large volumes of the food. Small children cannot take in large quantities at one sitting. Thus, children who depend on such foods must be fed frequently during the day or they will not get enough.

Nutritional status is not determined simply by food supply. Rather, nutrition is an outcome of three groups of factors: household food security, good health services (including a healthy environment), and care. People should be well fed, healthy, and well cared for. Food, health, and care are the three pillars of good nutrition. These are the underlying or household level factors that determine nutrition status.

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Biographical Sketch

George Kent is professor of political science at the University of Hawaii. His professional work is addressed to finding remedies for social problems, especially finding ways to strengthen the weak in the face of the strong. He works on human rights, international relations, peace, development, and environmental issues, with a special focus on nutrition and children. His books include: *The Political Economy of Hunger: The Silent Holocaust*; *Fish, Food, and Hunger: The Potential of Fisheries for Alleviating Malnutrition*; *The Politics of Children's Survival*; and *Children in the International Political Economy*.

He is co-convenor of the Commission on International Human Rights of the International Peace Research Association, and coordinator of the Task Force on Children's Nutrition Rights, which serves both the

World Alliance for Nutrition and Human Rights and the World Alliance for Breastfeeding Action. He has worked as a consultant with the Food and Agriculture Organization of the United Nations, the United Nations Children's Fund, and several civil society organizations. He is part of the Working Group on Nutrition, Ethics, and Human Rights of the United Nations Sub-Committee on Nutrition. During a recent sabbatical at the Norwegian Institute for Human Rights (supported by a Fulbright grant) he launched his current major project, preparation of a tutorial on *Nutrition Rights: The Human Right to Adequate Food and Nutrition*, on behalf of the World Alliance for Nutrition and Human Rights. The tutorial (which can be accessed on the Internet at <http://www2.hawaii.edu/~kent/tutorial2000/titlepage.htm>) is being used as the core text for his on-line course on nutrition rights.

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