

# **International Human Right Approach to Food Security for Sustainable Internal Security in Nigeria: A Call for Implementation of Right to Food**

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## **Abstract:**

*The right to food as a basic human right has been recognized in International law as part of the right to a decent standard of living. Right to food is thus considered to be the minimum threshold that should be enjoyed by every Nigerian. However, despite the development of international legal framework to monitor the implementation of the right to food at both international and national levels, the prevailing economic situation in the country characterized by food scarcity has made right to food an illusion even as majority of Nigerians live below the poverty level with attendant result of insecurity. This paper adopts the doctrinal method of research to examine international human rights approach to food security in Nigeria. The objective of this paper is thus to proffer solution to internal insecurity as a corollary to food insecurity in Nigeria based on international human rights approach. It is the finding of this paper that there is no constitutional recognition for the right to food in Nigeria to ensure Nigerians have access to good food. It is thus recommended that the constitution should be amended to provide for recognition and enforcement of right to food by all Nigerians.*

**Keywords:** Law, Right, Food, Security, Human Right.

## **1.1 Introduction**

Human rights are the inherent rights of all human beings to which every individual is entitled simply by virtue of being a human being. The idea of human right is that every human being is sacred and inviolable and has certain needs that must be respected.<sup>1</sup> Human rights have become part of customary international law and have thus placed certain obligations on countries for protection of human rights.<sup>2</sup> The importance of human rights is that they limit the power of the State to arbitrarily interfere with people's free exercise of their rights, and also they require the State to

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<sup>1</sup> Perry, M.J.(1998) *The Idea of Human Rights*. Oxford University Press, pp.4-5.

<sup>2</sup> Amato, A.D.(1982) *The Concept of Human Rights in International Law*. *Columbia Law Review*, Vol.1110, p.1128.

take positive measures to create an enabling environment in which people may enjoy these rights.<sup>3</sup> It is in this context of international human right that the right to food was conceived and developed in international law.

The first essential component of social and economic justice is access to adequate food as it is fundamental to human existence.<sup>4</sup> Realizing the significance of food to survival and the need to secure availability and security of food, international law intervened and recognized the right to adequate food by every human being. This is reflected in the motto of the Food and Agriculture Organization (FAO) “*Fiat panis*” which literally means “Food comes first” and underscores the importance of food to survival of every individual.<sup>5</sup> Right to food is the underlying philosophy behind food security and is one of the ways of ensuring that every human has access to adequate food. This right is realized when every individual, either alone or in community with others, has adequate access to food.<sup>6</sup> However, the current level of insecurity in Nigeria calls for new approach to solving the problem comprised of threats and risks that endanger and undermine internal and food security. In 2012, United Nations General Assembly adopted Resolution 66/290 which recognizes the concept of human security as an approach for promotion and sustenance of security. It has been submitted that this approach will assist Member States in identifying measures that will address challenges to the survival of the people.<sup>7</sup>

Food accounts for a large percentage of family budget for rural and urban families, and when the prices of food increase, the poor normally suffers because of the importance of food to human existence.<sup>8</sup> Food and Agricultural Organization reported that seven million Nigerians experienced food shortage between June and August in 2020 as 16 Northern states and the FCT have been identified to face food crisis.<sup>9</sup> More so, in Nigeria, the ongoing internal conflicts characterized by kidnapping, Cattle rustling, Banditry, and Armed Robbery and the Covid -19 pandemic have negatively affected the accessibility of food in Nigeria. One of the

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<sup>3</sup>Knuth,L. and Vidar, M.(2010) *Constitutional and Legal Protection of the Right to Food around the World*. Food and Agriculture,p.1.

<sup>4</sup> Otaha,I.J.(2013) Food Security in Nigeria: Way Forward. *African Research Review*, Vol.7 (4), No.31,p.27.

<sup>5</sup>Vaughah, I.O, and others, (2014) An Analysis of Nigeria Food Import and Bills .*International Journal of Economics, Commerce and management*, Vol.II, Issue 9,p.2

<sup>6</sup>[www.foa.org/3/a-i5522e.pdf](http://www.foa.org/3/a-i5522e.pdf). Accessed on 5/10/2020 at 11:17 am.

<sup>7</sup> Ibid.

<sup>8</sup>Eme, O.I. et al. (2014) Challenges of Food Security in Nigeria: Options Before Government. *Arabian Journal of Business and Management Review*, Vol.4, No.1, p.15.

<sup>9</sup><https://nairametrics.com/2020/03/20/7-million-nigerians-to-experience--food-shortage/>.

Accessed on 5/10/2020 at 11:29am.

major concerns in Nigeria and across the global is the impact of the Covid- 19 pandemic on food security as the United Nations World Food Program warned that the number of people facing food insecurity may double by the end of the pandemic.<sup>10</sup>

The research problem is that the level of food insecurity in Nigeria has increased despite Nigeria's abundant resources and its arable land suitable for farming.<sup>11</sup> This development has been affected by clashes between the farmers and herdsmen across most Northern states which disrupted farming activities, and have resulted to reduction in farm output, a situation that has heightened the fear of hunger.<sup>12</sup> More so, many people do not know about the right to food and do not believe that the right can be realized.<sup>13</sup> The rights-based approach to food security for internal security is premised on the need to ensure adequate food by empowering poor people and those who are food insecure; this is integral to any strategy that moves away from the deployment of armed forces and instead emphasizes enabling environments that support people to get access to good food.<sup>14</sup> Is producing more food the only way to guarantee right to food? The production of more food is the solution promoted by agribusiness, which wants to promote biotechnology.<sup>15</sup>

The paper is divided into six sub-headings starting with the introductory part which deals with background to the research and the statement of the problem as well as the aim and objective of the research. The second sub-heading deals with the concept of food security for sustainable internal security. In this respect, the paper reviews the historical development of the concept of food security, and the components of food security. The third sub-head discussed the relationship between food security and insecurity, and how internal insecurity impacts on food security in Nigeria. In the fourth subhead, the paper also analyses some of the international, regional and domestic instruments constituting legal framework for right to food in Nigeria.

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10. [https://pulitzercentre.org/Reporting/ Impact-Covid-19 - Nutrition-and -Food- Shortage-Nigeria](https://pulitzercentre.org/Reporting/Impact-Covid-19-Nutrition-and-Food-Shortage-Nigeria). Accessed on 5/10/2020 at 11:41am.

11 Ojo, E.O. and Adebayo, P.F. (2012) Food Security in Nigeria: An Overview, *European Journal of Sustainable Development*, p.201.

12 Eme, O. E. et al. (2014) Food Insecurity in Nigeria: A Thematic Exposition, *Arabian Journal of Business and Management Review*, Vo.4, No.1, p.1.

13 [https://www.righttofoodandnutrition.org/files/Watch\\_2011\\_ENG.pdf](https://www.righttofoodandnutrition.org/files/Watch_2011_ENG.pdf) Accessed on 7/10/2020 at 11:0am

14 WeClain-Nhlapo, C. (2004) *Implementing a Human Rights Approach to Food Security*. International Food Policy Research Institute, p.3.

15 Kunnemann, E. and Epal-Ratjen (2005) *The Right to Food: A Resource manual for NGOs*. AAA Science and Human Rights Program, p.11.

Finally, the conclusion contains findings of the research and recommendations on the findings.

## 1.2 The Concept of Food Security for Sustainable Internal Security

Food Security has a history of more than 50 years, and has evolved through a sequence of definitions and paradigms. After the historic Hot Spring Conference of Food and Agriculture in 1943, in which the concept of a ‘secure, adequate and suitable supply of food for everyone’ was adopted internationally, bilateral agencies from donor countries such as the USA or Canada were created in the 1950s and started to dispose of their agricultural surplus commodities overseas.<sup>16</sup> It is difficult to proffer a comprehensive definition of the concept of food security even as it is a common exercise pursued by academics writing on food security to attempt to choose the appropriate definition of the term ‘food security’.<sup>17</sup> The term ‘food security’ first emerged in the mid-1970s, at the World Food Conference, and has evolved to become part of the Millennium Development Goals.<sup>18</sup> Food security is a flexible concept as reflected by many attempts to define it and it has been estimated that approximately 200 definitions and 450 indicators of food security exist.<sup>19</sup> Consequently, it is difficult to adopt a generally accepted definition of food security that will encompass all the elements of food security.

However, Food security has been defined by Anderson (1990) as “access by all people at all times to enough food for an active, healthy life and includes at a minimum: (a) the ready availability of nutritionally adequate and safe foods, and (b) the assured ability to acquire acceptable foods in socially acceptable ways (e.g., without resorting to emergency food supplies, scavenging, stealing, or other coping strategies). Thus, when enough food for a healthy life is not available or accessible to all people, there will be food insecurity.”<sup>20</sup> Perhaps a widely accepted definition of food security is that “food security is a situation that exists when all people, at all times, have physical, social and economic access to sufficient, safe, and nutritious

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<sup>16</sup> <http://www.oda-alc.org/documentos/1341934899.pdf>. Accessed on 6/10/2020 at 8:17am.

<sup>17</sup> Alcock, R. *Speaking Food: A Discourse Analytic Study of Food Security*. Working Paper No.0709, School of

Sociology, Politics, and International Studies, University of Bristol, p.10.

<http://www.Bristol.ac.uk/media-library/sites/spais/migrated/documents/alcock0709.pdf>. Accessed on 6/10/202

at 9:40am.

<sup>18</sup> Matemilola, S. and Elegbede, I.O. (2017) The Challenges of Food Security in Nigeria. *Open Access Library Journal*, Vol.4, p.6.

<sup>19</sup> Mechlem, K. (2004) Food Security and the Right to Food in the Discourse of the United Nations. *European Law Journal*, Blackwell Publishing Ltd., Vol.10, No.5, p.633.

<sup>20</sup> Quandt, S.A. et al. (2001) Meaning and Management of Food security Among Rural Elders. *Journal of Applied Gerontological Society*, Vol.20, No.3, p.357.

food that meets their dietary needs and food preferences for an active and healthy life.<sup>21</sup> The essence of general definition is to provide a template to define the problem of insecurity and proffer solution to the problem of food insecurity. Being able to reliably obtain, consume and create enough food is essential to survival of every individual.

Food security is based on three components. They are: food availability, food access, and food utilization.<sup>22</sup> Food availability in a country, region or local area means that food is physically present because it has been grown locally, or imported and/or transported there. Food availability is a function of the combination of domestic food stocks, commercial food imports, food aid, and domestic food production, as well as the underlying determinants each of these factors. Use of the term availability is often confusing since it can refer to food supplies available at both household level and at a more aggregate (regional and national) level. However, the term is applied most commonly in reference to food supplies at a regional or national level.<sup>23</sup>

Food accessibility is the way different people can obtain the available food. Food accessibility means poverty reduction: simply making food available is not enough because low income households must also be able to purchase it.<sup>24</sup> Access to food could be physical in the market or economic access (through income).<sup>25</sup> However, food access can be negatively influenced by physical insecurity such as conflict, loss of coping options, such as border closure, preventing seasonal job migration, or the collapse of safety net institutions that once protected people with low incomes.<sup>26</sup> During conflict and crises, food has become critical components of effective interventions more so that people, especially women and children are often

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<sup>21</sup> Peng, W. and Berry, E.M. (2019) The Concept of Food Security. In: Ferranti, P., et al (eds.) *Encyclopedia of Food Security and Sustainability*, Vol.2, p.1.

<sup>22</sup> (2006) *How to Conduct Food Security Assessment?* International Federation of Red Cross AND Red Crescent Societies, Second Edition, p.7.

<sup>23</sup> Omonona, B.T. and Agoi, G.A. (2007) An Analysis of Food Security Situation Among Nigerian Urban Households: Evidence From Lagos State, Nigeria. *Journal of Central European Agriculture*, Vol.8, No.3, p.400.

<sup>24</sup> Arelu, C.J. and Anyaeji, R.C. (2010) Determinants of Food Security Among Households in Nsukka Metropolis of Enugu State, Nigeria. *Pakistan Journal of Social Sciences*, Vol.30, No.1, p.9.

<sup>25</sup> Opara, U.L. (2013) Perspectives: The Evolving Dimensions and Perspectives on Food Security- What are the Implications for Postharvest Technology Research, Policy and Practice? *Int. J. Postharvest Technology and Innovation*, Vol.3, No.3, p.327.

<sup>26</sup> (2006) *How to Conduct Food Security Assessment?* International Federation of Red Cross AND Red Crescent Societies, Second Edition, p.7.

forced to reduce their intake in favour of other household members, particularly men and boys, which results in increased incidence of malnutrition among women.<sup>27</sup>

Food utilization is the way people use food and is dependent on the quality of the food, its preparation and storage method, nutritional knowledge, as well as on the health status of the individual consuming the food. However, certain diseases do not allow for the maximum absorption of nutrients and growth requires increased intake of certain nutrients. Food utilization is often reduced by endemic disease, poor sanitation, lack of appropriate nutrition knowledge or culturally prescribed taboos that affect access to nutritious food by certain groups or family members according to age or gender. Any of the above-mentioned factors can cause food insecurity.<sup>28</sup> Food insecurity is still a major global challenge and it has been reported that Hunger is on the rise in almost all sub-regions of Africa, where the prevalence of undernourishment has reached levels of 22.8 % in sub-Saharan Africa.<sup>29</sup>

Three areas of global concern have been identified that impact food security: overpopulation, climate change and urbanization.<sup>30</sup> The food system is bending under the intense pressure of the world population growth, increasing demand for food as well as milk and dairy products, scarcity of water and land resources and the fight for arable land with the producers of bio-fuels, industry and urbanization; Climate change, the vanishing of biodiversity of ecosystems and the diversity of agricultural cultivars, new plant and animal diseases, and increasing energy and food prices will have a disadvantageous impact on global food security.<sup>31</sup>

Food security entails producing food that will go round every citizen both in quantity and quality. To achieve this, agriculture production needs to be enhanced with adequate knowledge of the environment, climatic condition, the market and its operation, types of insecticides and pesticides, crop treatment, be aware of prices and its mechanism.<sup>32</sup> Availability, access and affordability are all elements of food

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<sup>27</sup>Modupe ,A. et alk. (2019) Food Sovereignty: An Enhancer to Women Contributions to Food Security in Nigeria.

*Journal of Social Sciences and Public Policy*, Vol.11,No.1, p.23.

<sup>28</sup> Ibid.

<sup>29</sup>FAO, IFAD, UNICEF, WFP and WHO. 2019. The State of Food Security and Nutrition in the World 2019.

Safeguarding against Economic Slowdowns and Downturns. Rome, FAO, p.xvi.

<sup>30</sup>Karyn, H. and Salman, M. (2011) Food Security: Its Components and Challenges. *International Journal of Food Security, Nutrition and Public Health*, Vol.4, No.1, p.5.

<sup>31</sup>Kwasek, M.(2012) Threats to Food Security and Common Agricultural Policy. *Economics of Agriculture*, No.4 , p.703.

<sup>32</sup>Oriola, E.O. (2009) A Framework for Food Security and Poverty Reduction in Nigeria, *European Journal of Social Sciences*, Vo.8, No.1,p.135.

security complex issues that encompass a wide range of interrelated economic, social and political factors –internal and external, which challenge Africa’s ability to address food security.<sup>33</sup> Food security should not be seen only from the perspective of availability; it should be considered from the perspective of security. The North Eastern Nigeria, which has advanced greatly in farming activities, and which use to supply food items to other zones of the Country is now without any serious farming activities on account of *Boko Haram* insurgencies. The agrarian communities now experience deepening food crisis and the threat of imminent famine.<sup>34</sup>

### 1.3 Impact of Internal Insecurity on Food Security in Nigeria

Nigeria has been striving to enhance food security since 1960s but the ratio of food insecurity has continued to decrease. It has been reported that from 1960, the food sufficiency ratio has been falling from 98% in 1960 to 40.7% in 1996 and in 2012, the number of hungry people in Nigeria was estimated at about 53 million.<sup>35</sup> The importance of security on food security in Nigeria cannot be over emphasized because of the multi-dimensional nature of security. There is no gainsaying that development only thrives in a peaceful environment and without security, agricultural production will be negatively affected. Security in this context entails the ability of the people to take care of them by earning a living, and contribute to the development of the society.<sup>36</sup> Osuolale et al emphasized the complexity and multi-dimensional nature of security and posited that in ensuring internal security, effort should be made not to undermine food security.<sup>37</sup> They submitted that government must boost agriculture to produce more food for the teeming population because food

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<sup>33</sup>Olayinka, O.F. (2017) The Right to Food in Nigeria: What is the Impact of University education on Food Security.

In: Falaye, F.V. and Adegbile, J.A. (eds.) *Issues in Curriculum and Language Education*, Ibadan, p.9.

<sup>34</sup>Olayinka, O.F. (2017) The Right to Food in Nigeria: What is the Impact of University Education on Food Security?

In: Falaye, F.V. and Adegbile, J.A. (eds) *Issues in Curriculum and language Education*, Ibadan University Press, Ibadan, p. 12.

<sup>35</sup>Tiri, G.D, Ojoko, E.A. and Aruwayo, A. (2014) Growth Enhancement Support Scheme (GESS) and the Challenges of

Food Security in Nigeria: A Review. *Security Journal of Agricultural and Biological Sciences*, Vol.9, No.7, p.227.

<sup>36</sup>Ejoifor, O.C. et al. (2017) An Assessment of the Impact of Internal Displacement on Human Security in Northern

Nigeria (2009-2016) *ActaUniveritatis Danubius*, Vol.10, No.1, p.24.

<sup>37</sup>Osuollale, T.O. et al. (2016) Food Security in Nigeria: “The Result of Socio-Political Conflict”.

*Public Policy and Administration Research*, Vol.6, No.6, p.49.

security can help prevent conflict and enhance sustainable growth and development.<sup>38</sup>

There is no gainsaying the level of insecurity in the country has affected food security in Nigeria and has drastically reduced food production in Nigeria, especially in the Northern states with attendant reduction in the number of trucks conveying food from the North to the Southern markets. As a result, there has been food insecurity in the North and South, and other parts of Africa such as Chad that rely on from the Northern part of Nigeria for survival.<sup>39</sup> The insecurity in the country has scared farmers from the farmlands because of kidnapping, banditry, and robbery thereby undermining all efforts towards ensuring food production.<sup>40</sup> In a recent research in 2016, it was established that insecurity has been found to statistically increase food insecurity thereby constituting threats to food security in Nigeria. Thus, the government was urged to intensify effort to curb the consequences of insecurity on food security in Nigeria.<sup>41</sup>

There is no doubt that no country can achieve economic development without agricultural development. This is achieved through achieving food security and sustainability in the provision of abundance crop and livestock (food accessibility, food affordability, food utilization and food quality), to meet local consumption, raw materials for the processing industries, and export. Food insecurity negatively affects human physical, social, emotional, and cognitive development throughout the life course and is a major social and environmental disruptor. Food security is related to all of the United Nations SDGs. Improved food security governance based on sound, sustainable and equitable agricultural is essential for countries to meet the SDGs. It has been reported that many households are negatively impacted by farmer/herder conflict in central and Northern States of Zamfara, Katsina, Kaduna, Taraba, Plateau, Benue, Nasarawa and Adamawa, and the conflict did not allow the households to engage in normal livelihood activities including farming with no access to market and income opportunities.<sup>42</sup> However, despite various approaches addressing the challenges of insecurity and its consequences on food insecurity in Nigeria, the country is still characterized by chronic food shortages particularly in the areas

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<sup>38</sup> Ibid.,p.51.

<sup>39</sup> Kah,H.K. (2017) Boko Haram is Losing,But so is Food production: Conflict and Food Insecurity in Nigeria and Cameroon. *African Development*, Vol.XLII,No.3, p.183.

<sup>40</sup> Idris,M.M. and Isah,R.K. (2020) The Effect of Insecurity in Nigeria- An Empirical Investigation (1989-2018). *Sumerianz Journal of Economics and Finance*, Vol.3, No.4, p.25.

<sup>41</sup> Adebayo, O, and others,(2016) Social Crisis, Terrorism and Food Poverty Dynamics: Evidence from Northern Nigeria. *International Journal of Economics and Financial Issues*, Vol.6, No.4, p.1871.

<sup>42</sup> Ayinde,I. A. and others (2020) Food Security in Nigeria. Impetus for Growth and Development *Journal of Agricultural Economics and Rural Development*, Vol.6, No.2 ,p.814.



ravaged by conflict. It can be said that it is an indication that the problem of food insecurity has not been adequately and critically analyzed in the light of current security challenges in the country.

#### **1.4 International Legal Framework for the Right to Food**

The recent trend in the global approach to food security is the nexus between the concept of food security and human rights. On 10 December 1948, the United Nations General Assembly proclaimed the Universal Declaration of Human Rights which provides for the right to adequate food and to be free from hunger and the right was reiterated in the Covenant on Economic, Social and Cultural Rights in the Convention in the Rights of the Child, and numerous other instruments. International human rights law has thus firmly established that everyone has a right to adequate food and a fundamental right to be free from hunger. These rights are assumed to be universal, though clearly they are not yet globally enjoyed.<sup>43</sup> While there has been a long process to make these rights universal since 1948, much remains to be done. Eight hundred million human beings around the world suffer from severe malnutrition which represents a severe weakness in existing human rights policy.

The international legal framework for right to food provides the scope and content of the right, set out obligations for State authorities and private actors, establish necessary institutional mechanisms, give legal basis for subsidiary legislation and other necessary measures, and provide grounds for redress.<sup>44</sup> At international legal level, the notion of “food security” is advanced in legal concept of fundamental human rights and freedoms in various international documents of major importance for the idea of international democratic community, as well as for the contemporary international legal order.<sup>45</sup> The right to adequate food was first recognized by the Universal Declaration of Human Rights (UDHR) as part of the right to adequate standard of living. However, the first legally binding instrument that deals with right to food in an elaborate and comprehensive way is the International Convention on economic, Social and Cultural Rights (ICESCR) which was adopted by the United

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<sup>43</sup>Ojo,E.O. and Adebayo,P.F. (2012) Food Security in Nigeria: An Overview. *European Journal of Sustainable*

*Development*, European Centre for Sustainable Development, p. 204.

<sup>44</sup>Vidar,M. et al.(2014) *Legal Developments in the Progressive Realization of the Right to Adequate Food*. Food and Agriculture Organisation,p.5.

<sup>45</sup>Antonescu, M.V.(2014) Food Security within the Framework of Human Rights Development at International Level. Paper presented at the International Conference “Contemporary Legal Institutions within the Context of European Integration”, VII Edition, American-Romanian University, Law Department, 14-15, November, p.6.

nations General Assembly in 1966 and came into force in 1976.<sup>46</sup> Article 11 of the ICESCR on the right to food provides as follows:

- i) The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The states parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
- ii) The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programs, which are needed:
  - (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
  - (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

The above provisions of Article 11 of the ICESCR provide the contextual basis for definition of the right to food as well as the duties and obligations of states to secure the protection of the right in international law. The United Nations Committee on Economic, Social and Cultural Rights (Committee on ESCR), which monitors the implementation of ICESCR by state parties, has given an authoritative interpretation of Article 11 in its General Comment on the right to adequate food. According to the Committee, 'the right to food is realised when every man, woman and child, alone or in community with others, has physical and economic access to adequate food or means for its procurement'.<sup>47</sup> This point is also supported by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which contains provisions concerning with the right to food. Article 12 of CEDAW deals

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<sup>46</sup>Biglino,I. et al. (2014) *Realizing the Right to Food*. International Development Law Organisation,p.17.  
[https://www.idlo.int/sites/default/files/pdfs/publications/Realizing%20the%20Right%20to%20Food\\_Legal%20Strategies%20and%20Approaches\\_full-report\\_0.pdf](https://www.idlo.int/sites/default/files/pdfs/publications/Realizing%20the%20Right%20to%20Food_Legal%20Strategies%20and%20Approaches_full-report_0.pdf). Accessed on 7/10/2020 at 4:15pm;Kunnemann,R. and Epal-Ratjen, (2004) *The Right to Food: A Resource Manual for NGOs*. AAAs Science and Human Rights Program, p.32.

<sup>47</sup>Cooman,F. and Yakpo,K.(2004) *A Framework Law on the Right to Food-An International and South African Perspectives*. *African Human Rights Law Journal*, Vol.4, Issue 1, p.8.

with adequate nutrition during pregnancy and lactation, and Article 14 of CEDAW protects women's access to land, credit, income and social security programs.

In Africa, the right to food is protected by the African Charter on Human and Peoples' Rights of 1981 and African Charter on the Rights and Welfare of the Child of 1990. The African Charter on Human and Peoples' Rights does not explicitly recognize the right to food; however, several other rights, such as the right to health are recognized and can be interpreted as protecting the right to food.<sup>48</sup> The African Charter on Human and Peoples' right also stipulates that African governments should implement the right to food recognized by these governments on the international level, such as by their accepting the International Covenant on Economic, Social and Cultural Rights. All Member States that have accepted the African Charter and the ICESCR thus have the obligation to take measures to fulfill the right of their peoples to food and should prove that they have done so before the compliance monitoring bodies that have been set up throughout Africa.

Under these instruments, States must respect existing access to adequate food, by abstaining from adopting measures which may result in preventing such access; they must protect the right to food by adopting measures ensuring that enterprises or individuals do not deprive individuals of their access to adequate food. More so, they must fulfill (facilitate) the right to food, by proactively strengthening people's access to and utilization of resources and means to ensure their livelihood.<sup>49</sup> In addition, 'whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfill (provide) that right directly'. It is note worthy that only in the most exceptional circumstances is the right to adequate food about the right to be fed.<sup>50</sup> The right to food is essentially about the right to feed oneself in dignity, either by producing food, or by gaining incomes sufficient to procure food on the markets.<sup>51</sup>

### **1.5 Legal Framework for Right to Food in Nigeria**

The right to food is a human right which protects the right of Nigerians to live in dignity, free from hunger, food insecurity and malnutrition. The right to food is protected under international human rights because all human beings, regardless of their race, color, sex, language, religion, political or other opinion, national or social

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<sup>48</sup> Teklu, G. (2019) Analysis on the Legal Status of the Right to Food. *Journal of Political Sciences & Public*

*Affairs*, Vol.7 (1), p.3.

<sup>49</sup> Schutter, O.D. (2009) *International Trade in Agriculture and the Right to Food*. Friedrich-Ebert Stiftung, Geneva, p.7.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

origin, property, birth or other status are entitled to right to adequate food.<sup>52</sup>The right to food is an integral part of the right to adequate standard of living which ensures that every individual has access to food. This right is an inclusive right because it goes beyond right to minimum ration of calories, proteins and other specific nutrients. It is a right to all nutritional elements in the food that a person needs to live a healthy life and the means to access them.<sup>53</sup>It may be argued that the most central challenge facing the realization of the right to food is the ineffective of implementation of the right in Nigeria, and persistent food insecurity. More so, lack of implementation of the right to food is partly hindered by a disproportionate focus placed by the human rights framework (and the human rights community) on State obligations that leaves the human rights responsibilities of non-state actors inadequately considered.<sup>54</sup>

Access to Food is a fundamental human right and not just a need as stated in the 1948 Universal Declaration of Human Rights. However, this fundamental right is not enjoyed among majority of the populace in Nigeria as the rate of hunger and malnutrition is observed to be high.<sup>55</sup> The legal framework of the right to food in Nigeria derives its roots from the Universal Declaration of Human Rights and International convention on Economic, Social and Cultural Rights (ICESCR).<sup>56</sup> The International Covenant on Social and Economic Rights is the key instrument concerning Socio-economic rights which provides inter alia for the right to work; right to just and favourable working conditions; right to social security; right to adequate standard of living including adequate food, clothing and housing; right to enjoyment of highest attainable standard of physical and mental health and right to education. Right to food is one of the rights protected under international human rights law which guarantee that everyone has right to adequate food and a fundamental right to be free from hunger. The African Charter on Human and People's Rights (the African Charter) is the cornerstone of the African human rights regime and establishes a framework for promotion and protection of human rights in

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<sup>52</sup>Teklu,G.(2019) Analysis on the Legal Status of the Right to Food. *Journal of Political Sciences & Public Affairs*, Vol.7 (1), p.1.

<sup>53</sup>The Right to Adequate Food.

<https://www.ohchr.org/documents/publications/factsheet/34en.pdf>. Accessed on 7/10/2020 at 10:20am.

<sup>54</sup>Claeys, P.(2015) The Right to Food: Many Developments, Many Challenges. *Canadian Food Studies*, Vol.2, No.2, p.62.

<sup>55</sup> Gloria, E.A. and Norris, E.I.(2016) Promoting Food Bank as a Way of Ensuring Food Security in Nigeria.

<https://pdfs.semanticscholar.org/2fdf/844f23b9cb29ece0cc3901aad616d7f388f4.pdf>. Accessed on 15/10/2020.

<sup>56</sup>Odunaike, E. et al. (2019) Judicial Protection of Socio-Cultural Rights in Nigeria. *International Journal of Comparative Law and Legal Philosophy*, Vol.1, No.3, p.33.

African within the context of the African Union. The African Charter promotes a plethora of human rights that are classified as socio-economic rights. But the Charter does not expressly provide for the right to food in Nigeria. However, the African Commission has held that the right to food is implied in the Charter flowing from the provisions on the right to life, right to health, and right to economic, social, and cultural development.<sup>57</sup>

This decision of the African Commission has been criticized on the ground that it has created supplementary rights which member states did not consent to.<sup>58</sup> However, it has been argued that the African Commission's position is in line with the Commission's Reporting which enjoins states to report on right not expressly enshrined in the African Charter. More so, this supplementary right is already provided for in international conventions which African countries have already adopted.<sup>59</sup> In the Rome Declaration on World Food Security adopted at the World Food Summit in 1996, countries including Nigeria set the target of reducing hunger level by half by 2015, and it was also reiterated in the Millennium Development Goals. To achieve these goals, states adopted at the World Food Summit a Plan of Action with the objective to clarify the content of the right to adequate food as means of achieving food security for all.<sup>60</sup> Thus, the right to food has received increasing attention at the global, regional and national levels.

These rights in the ICESCR have been replicated in Chapter Two of the Nigerian Constitution of the Federal Republic of Nigeria. However, as in many other jurisdictions, Chapter Two of the Nigerian Constitution is described as Fundamental Objectives and Directive Principles of State Policy.<sup>61</sup> The 1999 Constitution of the Federal Republic of Nigeria thus provides that the State shall direct its policies towards ensuring that suitable and adequate food is provided for all citizens. The relevance of the right to food compares with the right to life which the Constitution

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<sup>57</sup> *Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v. Nigeria* (2001)

Communication 155/96 (2001). <http://hrlibrary.umn.edu/africa/comcases/155-96.html>. Accessed on 13/1/2021.

<sup>58</sup> Ekhaton, E.O. and Ajibo, K.I. (2015) Legal and Theoretical Assessment of the Right to Food in Nigeria. In: Ako, R.T. And Olawuyi, D.S. (eds) *Food and Agricultural Law: Readings on Sustainable Agriculture and the Law in Nigeria*.

Afe Babalola University, p.130.

<sup>59</sup> Ibid. pp.130-131.

<sup>60</sup> Mechlem, K. (2004) Food Security and the Right to Food in the Discourse of the United Nations. *European Law*

*Journal*, Blackwell Publishing Ltd., Vol.10, No.5, p.632.

<sup>61</sup> Ogunniran, I. (2010) Enforceability of Socio-Economic Rights: Seeing Nigeria Through the Eyes of Other Jurisdictions. *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, Vol.1, p.63.

provided for in Section 33. Section 33(1) of the Constitution provides thus: “every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria”. The constitutional rights in Nigeria followed the common pattern of dividing human rights into two categories, that is, civil and political rights on the one hand and economic, social and cultural rights on the other hand. The right to adequate food has been expressly provided under section 16 of the Constitution which provides that ‘the state shall direct its policy towards ensuring that suitable and adequate Shelter, suitable and adequate food, reasonable minimum living wage...are provided for all citizens.’ Clearly, this provision imposes obligations on the state to ensure the realization of the right to food as a stand-alone right. It is one of the fundamental objectives of the state to recognize, maintain and enhance the sanctity, worth and dignity of every person.

But the right under the constitution is a mere directive principle which is different from a fundamental objective. Because of this status of the right under the constitution, it is proclaimed to be non-justiciable or not redressable in a judicial forum in the event of violation.<sup>44</sup>This means that the state or any duty bearer cannot be held accountable for violation of the right to food through the judicial process.<sup>45</sup>It should be pointed out however, that a realization is not exclusively an issue of judicial enforcement. It is a matter of discharging legal obligations through the deliberate taking of concrete measures to ensure food security for the citizens. Therefore, realization goes beyond mere justiciability as often assumed. It should be emphasized that as an all-encompassing right, the right to food is an important element of the rights to life and dignity which enjoy full recognition as an enforceable right under Chapter Four of the Constitution. This is more in tandem with the general, holistic interpretation given to the rights to life and to dignity of the human person. It is equally more in tune with the indivisibility of all categories of human rights. According to the Vienna Declaration on Human Rights, ‘extreme poverty and social exclusion constitutes a violation of human dignity’. Therefore, hunger, food insecurity and malnutrition are antithetical to human dignity because they often lead to starvation, disease and deaths.<sup>62</sup> In the words of the Special Rapporteur on the Right to Food, the right to food is inherent in everyone as a human being. Hunger and malnourishment are not the result of fate; they are the result of human actions. There are always actions that can be taken to prevent hunger, prevent famine, and prevent people dying from starvation. Viewed from this perspective, the non-justifiability argument is unsustainable with respect to the right to adequate food in Nigeria because it is intrinsically connected to human life and dignity.

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<sup>62</sup>Badamasiuy,J. and Bello,M. (2014) The Realization of the Right to Food in Nigeria: Good Governance as a Missing Element. In: Masum, A et al (eds) *Proceedings of the UUM International Conference on Governance* from 29-30<sup>th</sup> November, 2014, Institute for Governance and Innovation Studies, University Utara, Malaysia, p.1031.

Thus, dignity is worthless without food security; dignity is worthless without provision of healthy food through calculated and targeted design and implementation of policies.<sup>63</sup> The Committee on ECOSOC succinctly made the point thus: The right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined in the International Bill of Human Rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfillment of all human rights for all.<sup>64</sup>

## **1.6 Conclusion**

The right to safe and adequate food is protected in international law because of the importance of food to survival of every human being. The right to food has not been expressly provided in the Universal Declaration of Human Rights, but the first international instrument to secure the right to food is the International Covenant on Economic, Social and Cultural Rights which provides for right to adequate standard of living and the right to food in Article 11 of the Covenant. This right is also entrenched in the African Charter on Human and Peoples' Rights which guarantees the right to food. This right forms part of the legal regime for the protection of the right to food in international human rights law and have been adopted and domesticated in Nigeria.

However, the right to safe and adequate food in Nigeria has not been realized because of the absence of an implementation framework to facilitate the enjoyment of the right to food by Nigeria. More so, there is no adequate provision in international law for obligations on non-state actors private institutions to guarantee the protection and promotion of the right to food. Unfortunately, the provisions for the fundamental objectives and directive principles of state policy which ensures that Nigerians have access to good food are not justiceable thereby making it impossible for the right to be enforced. It is therefore recommended that the Constitution should be amended to make the right to food justiceable in the Nigerian constitution to enable Nigerians whose rights have been violated to seek legal redress against government and other institutions involved in actions that deny Nigerians access to good food. Furthermore, the court should be pro active in enforcing the right to food as a part of the right to life and dignity of the human person by ensuring that violation of right to food is considered as a violation of right to life.

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<sup>63</sup> Ibid.

<sup>64</sup> Ibid.