

Volumen 6 - Número 3 - Septiembre/Diciembre 2020



REVISTA OBSERVATORIO DEL DEPORTE

REVISTA DE HUMANIDADES Y CIENCIAS SOCIALES

ISSN 0719-5729



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CATÁLOGO



**GENERAL ASPECTS OF THE RIGHT TO FOOD AND ITS INTERDEPENDENCE
WITH THE RIGHT TO HEALTH**

**ASPECTOS GENERALES DEL DERECHO A LA ALIMENTACIÓN
Y SU INTERDEPENDENCIA CON EL DERECHO A LA SALUD**

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Fecha de Recepción: 15 de julio de 2020 – **Fecha Revisión:** 29 de julio de 2020

Fecha de Aceptación: 27 de agosto de 2020 – **Fecha de Publicación:** 01 de septiembre de 2020

Abstract

The right to food and the right to health are rights that must be guaranteed to everyone to ensure the right to life. At the global level, the right to food represents a transcendental challenge that requires cross-sectional analysis and intervention in addition to considering the economic aspect in coordination with public policies. For this, this document presents in a descriptive and analytical form the elements and bases that constitute these two fundamental and human rights associated with the legal and economic aspects. It is explained from a social science perspective. Therefore, thus the access to these two rights permeates directly in the economic stability of the rule of law due to the high indicators of chronic degenerative diseases that impact the health sector also the cost of their care is being increasingly higher.

Keywords

Welfare – Human Rights – Health

Resumen

El derecho a la alimentación y el derecho a la salud son derechos que deben garantizarse a toda persona para garantizar el derecho a la vida. A nivel mundial, el derecho a la alimentación representa un desafío trascendental que requiere un análisis e intervención transversal, además de considerar el aspecto económico en coordinación con las políticas públicas. Para ello, este documento presenta de forma descriptiva y analítica los elementos y bases que constituyen estos dos derechos fundamentales y humanos asociados a los aspectos jurídicos y económicos. Se explica desde una perspectiva de ciencias sociales. Por lo tanto, el acceso a estos dos derechos impregna directamente la estabilidad económica del Estado de derecho debido a los altos indicadores de enfermedades crónico degenerativas que afectan al sector de la salud también el costo de su atención está siendo cada vez mayor.

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Palabras Claves

Bienestar – Derechos Humanos – Salud

Para Citar este Artículo:

Rivera Alor; Jocelin Isabel; Silva Hernández, Francisca y Martínez Prat, Germán. General aspects of the right to food and its interdependence with the right to health. Revista Observatorio del Deporte Vol: 6 num 3 (2020): 19-34.

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Introduction

Each person in this world requires food to survive besides access to it is sometimes unfavorable, which implies diseases that can lead to death.

That does not distinguish between sex or age, as the guarantee of access to the right to food is being violated in addition to violating the dignified life of people, as well as their integrity.

For the health sector, this situation is becoming more recurrent and severe because when people do not eat properly, it damages their health, causing diseases that can lead to death if not treated. In this regard, the economic situation serving the public health sector is implicit in terms of the demands and needs of the population in a state of vulnerability.

According to the World Report on the Food Crisis¹ more than 113 million people across 53 countries experienced acute hunger that requiring urgent food, nutrition, and livelihood assistance.

The countries of Yemen, the Democratic Republic of the Congo, Afghanistan, Ethiopia, the Arab Republic, Syria, South Sudan, and northern Nigeria, are the worst food crises in 2018, representing two-thirds of the total number of people facing acute food insecurity, representing almost 72 million persons.

In Mexico case, according to FAO², more than two-fifths of the population lives in poverty: 53.4 million Mexicans lived in poverty in 2016, which is equivalent to 43.6% of the total population of the country.

Of this population, 9.4 million people, that is, 7.6% of the country's population, were in extreme poverty. Undoubtedly, this situation led to the emergence of 24.6 million Mexicans, or 20% of the total population living with food deprivation in 2016, with vulnerable population groups such as indigenous people, the disabled, and minors being even more pronounced. Consequently, the problem of malnutrition coexists through malnutrition, overweight, and obesity, affecting 24% of children under 12 years of age.

That transcends not only in the food sector through access, guarantee, and full enforceability of the right to food, but also entails an interrelation with other rights that lead to a crisis for the State.

As a result, social institutions and citizens themselves are seen fragmented or in non-progressive processes on their rights, in which their obligations and laws do not converge in a scenario of connection, linkage, and participation with the State.

¹ Food Security Information Network. Global Report on Food Crises Joint analysis for better Decisions 2019 (Italia: united nations network, 2019), https://www.fsinplatform.org/sites/default/files/resources/files/GRFC_2019-Full_Report.pdf (consultation date: 11/09/2020).

² FAO, The food system in Mexico. Opportunities for the Mexican countryside in the 2030 Agenda for Sustainable Development (México: FAO, 2019), <http://www.fao.org/3/CA2910ES/ca2910es.pdf> (consultation date: 1/11/2020).

Legal provision of the right to food

For access to the right to food, it is cardinal to mention that even when in Mexico it is recognized at the Constitutional level, conventionality refers to considering those international instruments that grant the recognition of this right. Therefore, concretely, the international conventions of which Mexico is a part will be indicated below.



Image 1
FAO

In a first approach, there is the Universal Declaration of Human Rights (1948)³ in its article 25, paragraph 1, that provides the following:

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 and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Understanding then that food implies the right to an adequate standard of living.

Likewise, the International Covenant on Economic, Social, and Cultural Rights⁴ in its article 11 provides:

³ ONU, Article 25, section 1. Universal Declaration of Human Rights, United Nations, 1948.

⁴ ONU, Article 11, sections 1 and 2. International Covenant on Economic, Social and Cultural Rights, 1976.

1. 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.

2. 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 programmes, 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.

This document ratifies the recognition and necessary measures by the State to guarantee the right not only to the person but to the family. States need to adopt the required measures through programs, as well as to ensure the production, conservation, and equitable distribution of food.

The Convention on the elimination of all forms of discrimination⁵ against women in its content we can see the following:



Image 2
ONU

⁵ ONU, Article 12 and 14. Convention on the elimination of all forms of discrimination. 1979.

Article 12

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 14

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.



Image 3
UNICEF

The Convention on the Rights of the Child provides in its article 24⁶ the following:

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(c) To combat disease and malnutrition, including within the framework of primary health care, though, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.

Article 27

States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need

⁶ Article 24. Convention on the Rights of the Child. 1989.

provide material assistance and support programmers, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

The Convention on the Rights of Persons with Disabilities⁷ states the following:

Article 28

Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

Undoubtedly, when the right to food should doubtlessly be considered to any person who is in a vulnerable group situation⁸ with that, it is intended to highlight minors, pregnant women, people with different capacities, people of the Third Age. In summary, the following description is present with the aspects that are considered prevalent in each international instrument.



Image 4
ONU

⁷ ONU, Article 28. Convention on the Rights of Persons with Disabilities. 2006.

⁸ Food Security Information Network. Global Report ...6 (consultation date: 11/09/2020).

- The Universal Declaration of Human Rights: It indicates reaching and having an adequate standard of living that ensures food in a personal and collective way through the family.
- The International Covenant on Economic, Social, and Cultural Rights: It provides for continuous improvements and recognition of the right to food. It issues a message of the measures by the State to guarantee it through programs and policies.
- The Convention on the elimination of all forms of discrimination against women: It points out that in the case of women in the situation of pregnancy and lactation, the necessary services will be provided to ensure the nutrition of the woman. In the case of women in rural areas, open and maintain the inclusion and participation gap that allows them adequate living conditions.
- The Convention on the Rights of the Child: In this regard, it provides that the State parties must consider mitigating those diseases that harm or endanger the lives of children, emphasizes the use of technology, and prevails in the supply of healthy food, because it affects the full physical and mental development, spiritual, moral and social.
- The Convention on the Rights of Persons with Disabilities states the following: It recognizes the adequate standard of living for people with disabilities, as well as for their families, conditions a progressive quality of life without discrimination.



Image 5
ONU

In the Mexican states, the Political Constitution of the United Mexican States in article 4 provides: “Everyone has the right to nutritious, sufficient, and quality food. The State will guarantee it”.

This right substantively characterizes food under three nutritional, sufficient, and quality aspects, that is, the guarantee of the human rights of every person to have access to food contributes to its full and enforceable right. In addition to the fact that it is considered that the country in the territory must provide care and guarantee, through the application of public policies, actions, and mechanisms to satisfy it, in such a way that there will be no limitation or condition that obstructs said guarantee.⁹

Although the right to food has been contemplating the responsibility of the country as long as it has the resources and mechanisms, if it does not have it, it must establish programs and policies that they consider pertinent. For this reason, it is necessary to highlight the three levels of protection that reside in the immediate application and progressive compliance as guaranteeing axes of their prevention. Immediately distinguishes within the first, respect, and conservation in the sense of having and applying the rules that adopt the measures for adequate food without discrimination. Progressive compliance falls on the obligation¹⁰ to facilitate the State's necessary programs, provided that its economic capacity allows it.¹¹



Image 6
Diario de Yucatán

⁹ México, Thesis: I.18o.A.5 CS (10a.), Collegiate Circuit Courts, Gaceta del Semanario Judicial de la Federación, Book 56, July 2018, Volume II, Tenth Period. Right to a nutritious and sufficient food and quality. It is full and enforceable, and not just a guarantee of access.

¹⁰ ONU, United Nations. General Comment No. 12, Right to food, (UN: Committee on Human Rights Economic, Social and Cultural, 1999), 3-6.

¹¹ México, Thesis: 2nd. XCV / 2016 (10th.), Second Chamber, Gaceta del Semanario Judicial de la Federación, Book 34, September 2016, Volume I, Tenth Epoch. Right to Food. Guarantees for your protection.

In this regard, the obligations of the State are based on the United Nations.¹²

1. Comply. Facilitate and supply. Apply and improve programs or policies, as well as all those regulations related to the right to food.
2. Gradual and immediate. Gradual referring to the fact that if any State cannot comply, it must specify a plan or program to achieve said compliance.
3. Respect. Access to food and the way it can be obtained physically-materially, and the norms of legislation, policy, or programs.
4. With international dimensions. Ensure equitable distribution of world food, with international cooperation.
5. Protect. Ensure that the food on the market is safe and nutritious. Establish and apply quality and safety standards. Protect against third party violations that prevent access and warranty of power supplies.

In the same sense, describe the elements and forms it is principal to that constitute the right to food.

1. Availability. Possibility of feeding directly; can be obtained from natural resources (production, cultivation and livestock, fishing, hunting, or gathering) or through public or private systems of distribution, preparation, and commercialization of food with adequate nutrients that the correct physical and mental development.
2. Accessibility. Economic Access and scope in the monetary aspect complying with the criteria of sufficient and quality, which allows an adequate diet without compromising any other type of need. Every person must be in the conditions to afford the acquisition of food. Physical. To any person without exclusion and discrimination, children, the sick people, persons with disabilities, or the elderly, to anyone who is in a remote area or victims of conflicts or natural disasters. Social. Within everyone's reach without any discrimination, including any person in a vulnerable state or situation
3. Adequate. Quantity, quality, and appropriate. Considering the need aspect of each person or group, that is, age, living conditions, health, sex, among others, must be considered. Insurance. Of human consumption free of harmful substance that affects the health of every person.

From aforesaid, pronounces warranty and approach to any person in the physical and economic aspect, that right must be adequate, but should also contain the means to obtain it.

Another significant aspect that guarantees the enforceability of the right to food is that it constitutes a human right¹³ for its nature, presupposes intrinsic or natural aspects of the humans; accordingly, they can only enjoy or exercise or demand because of their organic characteristics and physiological requirements exclusive to them.¹⁴

The basic needs of the human being compete with an adequate standard of living that through the minimum that a state of well-being and full development grants, the right to food, is then one of the principal sources in which the human being obtain the nutrients

¹² United Nations. The right to adequate food. (Switzerland: FAO, 2010), 20-26.

¹³ Rapoport, Clara Jusidman. "The right to food as a human right", Public Health of Mexico, Vol. 56, no. 1, (2014), 90.

¹⁴ Thesis: 2nd. XXXVI / 2017 (10th.), Second Chamber, Federal Judicial Weekly Gazette, Book 40, march 2017, Volume II, Tenth Epoch. Feeding. It is a recognized human right, as a rule general, in favor of individuals and not of legal entities.

necessary to survive and be able to develop in different settings and contexts. In this situation, it is necessary to point out that the interdependence and indivisibility of human rights it is related to the right to food and have a connection and intimate relationship with others rights like life, water, work, and social security, information, clothing, housing, education, and health, as already mentioned, that everyone who is in a position to reach a certain level of well-being requires that their basic needs be satisfied.

Interdependence right to food and right to health

The right to health is an inclusive right that includes a set of factors that contribute to a healthy life. Concerning this document only focuses on two fundamental aspects that have been violated and violated in the Mexican state, the first being obesity and overweight, and the second referring to poor diet; both as the principal causes of diseases in Mexico.

According to figures from the World Health Organization¹⁵d in 2016, more than 1.9 billion adults aged 18 and over were overweight, of which more than 650 million were obese. The increase in overweight and obesity in children and adolescents (5 to 19 years) has grown up dramatically, from 4% in 1975 to more than 18% in 2016. This increase has been similar in both sexes: 18% of girls and 19% of boys were overweight in 2016 is a sign of a crisis in the health sector for the medical care of each person, in addition to considering the average life span and above all the quality of life that people will have in this situation.



Image 7
WHO

¹⁵ Who, World Health Organization. Obesity and overweight, <https://www.who.int/es/news-room/factsheets/detail/obesity-and-overweight> (Date consulted August 29, 2020).

In Mexico case, 1 in 20 girls and boys under five years of age and 1 in 3 between 6 and 19 years of age are overweight or obese. The places Mexico among the first places in childhood obesity worldwide, the problem occurs more often in the northern states of the country and urban communities. According to the report of the United Nations rapporteur on the right to food, it indicates that some 35 million Mexican adults (7 out of 10) are overweight or obese.

These people will be sick, on average, for 18.5 years of their life. The United Nations¹⁶ indicate how alarming overweight and obesity is because it has increased in all social classes, more in ones than others, poverty still relatively the less affected (the obesity rate in the quintile lowest is 28%). This crisis must be considered as an alarming situation not only in the present but also in the future, in vulnerable sectors like children, women, and the elderly, especially in the first two; you have to visualize that addition with that is the situation in which they are economical.

Malnutrition

Mexico has the General Health Law¹⁷ which promotes a balanced diet, low in fats and sugars, for healthy development, the creation and implementation of policies and programs is also promoted but in the case of the child population, for example. The implementation of the program in schools has not been sufficient, because citizen participation is still scarce, beyond that, CONEVAL¹⁸ refer that other factors are also involved, such as the economic income of families (considering that the main of the population is in a situation of poverty) social and cultural factors such as the reading of labels on the products they consume, habituate a balance of food at each meal, among others.

Malnutrition must be knowing from a social and cultural context from the public policies applicable to the situation, in consideration of, serves if a sustainable and ecological method use respecting the right to define their food and agricultural systems.

The problem of malnutrition implies, from the moment a woman plans to get pregnant as it creates the conditions and enables her body to reproduce a new life, ensuring at all times a reliable state for the baby. In one way or another is creating competencies and skills but that does not only acquire knowledge in ways of feeding, but the family itself adopts mechanisms to apply for access and guarantee the right to food to starting from the elements and forms such as the availability and accessibility of adequate food.¹⁹ Including this knowledge we realize that food is a fundamental basis for an integral development of every person within the context in which it operates; since otherwise, it permeates health with diseases such as diabetes, various forms of cancer, and cardiovascular diseases, which are the first causes of general mortality in Mexico²⁰ not only does it mean the increase in the

¹⁶ ONU Special Rapporteur. The right to food, mission report to Mexico. (Mexico: Nations United, 2012), 37.

¹⁷ México, Article 65, section. General law of health.

¹⁸ CONEVAL. The evolution of the income of Mexican households in the last 25 years, (Mexico: Directorate of information and social communication, 2017).

¹⁹ Juan Ángel Rivera Dommarco; Arantxa Colchero; Mario Luis Fuentes; Teresita González de Cossío Martínez; Carlos Aguilar Salinas, Gonzalo Hernández Licona and Simón Barquera, Obesity in Mexico. State of public policy and recommendations for its prevention and control (Cuernavaca: Instituto National Public Health, 2018), 133.

²⁰ Camacho Alcántar, Arnulfo. Overweight, obesity and diabetes: health challenge for Mexico in the XXI century, (Mexico: Health, Quintana Roo, 2014), 1.

population that demands the care service in medical centers, but the cost and investment by the health sector (personnel, infrastructure) to serve the demanding citizen, becomes complex, as there is a larger population with this type of diseases and the health sector, maintains or decreases the assigned economic resource or in case of having an economic fertilizer the population is growing.



Image 8
CONEVAL

Economic considerations of food and health

According to data from INEGI²¹ the average quarterly monetary current expenditure per household according to large spending items corresponds to an approximate of \$ 11, 252 pesos, comprised of food, beverages, and tobacco. Therefore, the income and expenses that a family makes must be based on that derive or analyze the aspect of the food they consume under their income.

In the case of Mexico in 2020, the minimum wage amounts to \$123.22, which should be considered sufficient to cover the basic or minimum food of a family. The foregoing is indicated, as a starting point to analyze, according to INEGI (2017) in Mexico are three types of homes which are: the nuclear family that represents 2.5%; extended household by 25.8%, and finally the composite household by 71.7%.

According to the draft budget, federal spending for the fiscal year 2020 (2019) in Mexico has meant in Annex 18. Resources for the care of children and adolescents a total of \$ 46, 701, 021, 118 pesos; of which there is a specific item called "Prevention and control of overweight, obesity and diabetes" in which 27,500.00 pesos is allocated. That is why the institutions can contribute through public policy programs the access and guarantee of responsibility as a State.

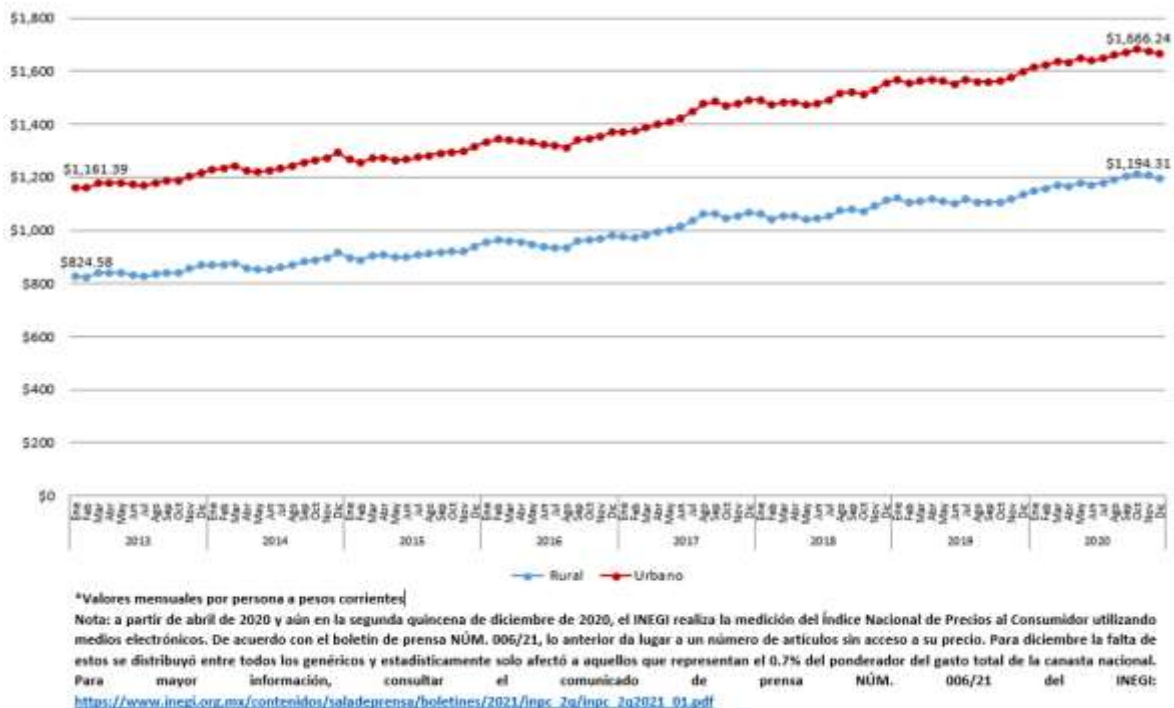


Image 9
CONEVAL

²¹ INEGI. Ingresos y Gastos de los Hogares. Gasto corriente monetario promedio trimestral por hogar según grandes rubros del gasto. (México: INEGI, 2018). <https://www.inegi.org.mx/temas/ingresoshog/> (Date consulted august 29, 2020).

Conclusion

The right to food is a right that must be conceived, in conditions of dignity as an effective, enforceable, and full right. Therefore, collateral aspects must be considered to be a progressive right, it is important to reflect not only on the participation and direct connection of citizens and the State but also the multidisciplinary and transdisciplinary nature of the various sciences focused on addressing issues and short-term problems that contribute to improving the conditions of access and guarantee of this right in a sustainably and through concrete actions of public policies aimed at strengthening the access and guarantee of rights.

An important aspect is the population quantity, which in approximate of time of 20 to 30 years will be the densest population so if care and prevention in the consumption of food do not constitute a healthy habit, unfortunately, this population will represent a cost in the public health sector; due to the increase in chronic degenerative diseases.

Undoubtedly, the economic income per family must be equal to the expenses it makes for its food, also considering the effects that arise in a state of vulnerability such as suffering from one or more chronic degenerative diseases for life.

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