Universiteit Antwerpen

Legal Clinic Project Report

"Adjudicating the Right to Food"

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[1] The information contained in this report is the product of the work carried out by the students at the University of Antwerp Legal Clinic, Danita Asante, Malak Idris, and Naduni Abeywardana, under the guidance of Professor Tomaso Ferrando. The research was conducted with the technical support of the Right to Food Team of the Food and Agriculture Organization of the United Nations (FAO) in the area of access to justice for the right to food. The views expressed in this information product are those of the authors and do not necessarily reflect the views or policies of FAO.

Executive Summary

The report, realized in collaboration with the FAO Right to Food Team, presents a first of its kind analysis of thirty judicial decisions at regional and national levels that interpret and operationalize the right to food. It offers an overview of when and how the right to food has been interpreted and enforced courts, and reflects on ways to strengthen the research and the advocacy work. Despite the formal recognition under Article 25 of the Universal Declaration of Human Rights and in Article 11 of the International Convention on Economic Social and Cultural Rights as a key component of the right to adequate standard of living, the justiciability of right to food has received limited attentions by courts, which poses practical and implementation theoretical issues concerns. However, this trend is not set in stone and needs to be better understood

Given that courts play a significant role in translating abstract human rights norms into concrete relief, this project seeks to "map" and learn from emerging case law to guide future advocacy and adjudication. The project considered both national and regional jurisdictions, including India, Uganda, the Philippines, Zambia, Kenya, Malawi, South Africa, the European Court of Human Rights, the African Commission on Human and Peoples' Rights, and the East African Court of Justice. The project excluded considering cases from the Inter-American Court as per the request from the FAO.

After the jurisdictions were identified, the authors searched for judgments that contained keywords connected to the right to food. The initial search was limited to identifying cases that expressly mentioned 'right to food', but it proved to give limited results. In response, we adopted an expanded keyword strategy and looked for cases including: 'food security', 'adequate food', 'nutrition', and 'hunger'. In this way, we identified 45 cases in total. Within the 45 cases, this report only considered 30 cases for the final analysis. The selection was made on the basis of how these cases have discussed the identified keywords.

Once the cases were identified, they were analysed according to a template that was provided by the Right to Food Team at FAO and commented by the authors on the basis of our experience with implementing it. The template, that is found in Annex A of this document, contains key questions to identify the scope, implications and reasoning of each case.

On the basis of the cases that were retained and identified, we conducted a horizontal analysis of all the legal cases, in order to provide some transversal reflections beyond the individual case-study. Five key thematic clusters emerged from the case analysis and were identified.

1. Conditions of Detention and Dignity
2. Public Distribution, Food Schemes, and Poverty
3. Migration and Statelessness
4. Food Access, Land, Agriculture, and Resource Deprivation
5. Maternal and Child Nutrition.

For each theme, representative cases from different jurisdictions are summarised and their legal reasoning examined using a common template that addresses the substantive components of the right to food, the human rights principles involved, and the State's obligations to respect, protect, and fulfil.

Each thematic focus indicated that the right to food is often connected with human dignity and the right to life. The regional and national courts have taken both a proactive and a restrictive approach towards the right to food and relevant keywords that the report considered.

While the recognition and enforcement of the right to food varies across jurisdictions, the analysis indicates that courts utilize the right to food with regard to multiple aspects of life, in some cases in connection with other human rights and in other cases as a stand-alone right to be enforced. The comparison across jurisdictions calls for more coordinated efforts among courts, lawyers, academics, and human rights actors to dialogue around the potential of the right to food, its judicial recognition, and the legal arguments that can be used to ensure that the fundamental human right of the right to food is effectively respected, protected, and fulfilled.

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1. Introduction

1.1 Background: The Right to Food in International Law

The right to food has long been recognised as a fundamental human right under international law. It is affirmed in Article 25 of the 1948 *Universal Declaration of Human Rights* as an element of the right to adequate living and, with binding force, in Article 11 of the *1966 International Covenant on Economic, Social and Cultural Rights* (ICESCR). Both articles commit States Parties to ensure adequate living conditions, "including adequate food."[2] Article 11(2) of the ICESCR goes further by proclaiming the fundamental right of everyone to be free from hunger and obliging States, individually and through international cooperation, to adopt measures aims at achieving efficient resource use and ensuring equitable distribution of world food supplies according to need.

Authoritative interpretations have clarified the scope and content of this right. In General Comment No. 12 (1999), the United Nations Committee on Economic, Social and Cultural Rights detailed the substantive issues arising in the implementation of Article 11, defining the right to adequate food as "realised "when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement".[3] This definition implies not just freedom from hunger, but also positive entitlements to available, accessible and adequate food on a sustainable basis.

Accordingly, States have the obligations to respect, protect, and fulfil the right to food, in line with the tripartite typology elaborated by the Committee. This typology has been operationalized in the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Right to Food Guidelines), adopted by the FAO Council in 2004.[4] These Guidelines represent the first intergovernmental instrument through which States collectively interpreted their obligations towards an economic, social, and cultural right, and they outlined practical actions for its realisation.

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[2] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR).

[3] UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No 12: The Right to Adequate Food (Art. 11)*, UN Doc E/C.12/1999/5 (12 May 1999); See OHCHR, 'About the Right to Food and Human Rights' (United Nations Human Rights, Office of the High Commissioner) https://www.ohchr.org/en/special-procedures/sr-food/about-right-food-and-human-rights

[4] FAO, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (Food and Agriculture Organization of the United Nations 2004)

Together with other developments such as the work of UN Special Rapporteurs on the Right to Food, the interventions of the High Level Panel of Experts on Food Security and Nutrition and the advocacy of civil society organizations and Indigenous Peoples, this international framework has reinforced the normative content of the right to food. Its core elements of availability, adequancy, and accessibility are now understood in conjunction with principles such as sustainability and agency, while remaining firmly grounded in the long-standing human rights guarantee of non-discrimination.

1.2 Rationale for a Jurisprudential Focus: From Recognition to Adjudication

Despite this solid normative recognition, the justiciability of the right to food, that is, its enforceability through judicial or quasi-judicial bodies has historically lagged behind. Studies have observed that for decades the right to food was "rarely been adjudicated by itself" and typically arose only indirectly, co-decided alongside other human rights issues such as the right to life, health, or dignity.[5]

Christian Courtis in his article *The Right to Food as a Justiciable Right: Challenges and Strategies,* observes that only in rare instances have courts directly addressed the right to food as an autonomous entitlement and argues that "sweeping arguments against the justiciability of ESC rights in general, and of the right to food in particular seem conceptually wrong and empirically unfounded".[6] Similarly, Golay's work for the FAO highlights that "The obligation to ensure the full enjoyment of the right to food without discrimination constitutes an immediately applicable and self-executing obligation. Its justiciability, therefore, is difficult to challenge, as confirmed in national and international jurisprudence."[7]

This project recognises the persistent gap between the textual recognition of food in international and national instruments and its practical enforcement through judicial remedies. This gap is precisely why a focus on jurisprudence is both necessary and timely. Courts play a critical role in translating abstract human rights norms into concrete relief for individuals and groups; without effective remedies, rights risk becoming empty shells devoid of practical meaning. As Jordan Daci has argued, "human rights in general and especially ESCR would be just illusory if they wouldn't

[5] Kunz, A. "Eradicating hunger through climate litigation?" – An assessment of the opportunities and challenges of enforcing the human right to food through courts. *Eur J Futures Res* 12, 14 (2024). https://doi.org/10.1186/s40309-024-00236-2

[6] Christian Courtis, *The Right to Food as a Justiciable Right: Challenges and Strategies* (2007) *Max Planck Yearbook of United Nations Law,* pp. 317-337. Available at: https://www.mpil.de/files/pdf1/mpunyb_12_courtis_11.pdf

[7] Golay, C. The Right to Food and Access to Justice: Examples at the national, regional and international levels. FAO: Rome. 2009

be justiciable."[8] He also makes the observation that unlike economic and social rights, civil and political rights are typically assumed to require judicial remedies as an essential component for their protection.[9]

In recent years, there have been promising signs of change. Courts across different jurisdictions have increasingly considered food-related claims, sometimes recognising violations and ordering affirmative remedies. Although this body of case law remains modest, it provides valuable insights into how legal arguments concerning food security, adequate nutrition, and freedom from hunger have been mobilised and operationalised in practice.[10] By examining these judicial decisions, this project aims to identify how courts have engaged with claims related to food access, malnutrition, and food security, what remedies and principles they have crafted, and what challenges continue to constrain the justiciability of the right to food.

1.3 Roles in Advancing the Right: International, Regional, and National Dimensions

The enforcement of the right to food must be understood within a broader human rights architecture that spans international, regional, and national levels. Each plays a complementary role.

At the international level, UN treaty bodies and special procedures have elaborated the normative content of the right. For example, the CESCR has clarified obligations through General Comments, while successive UN Special Rapporteurs have contributed interpretative and advocacy work, including the 2014 report *The Transformative Potential of the Right to Food*.[11] The FAO has played a central role by facilitating consensus on standards, most notable the notable the *Right to Food Guidelines* 2004[12] and by supporting national implementation. Since 2013, the

[8] Jordan Daci, *Justiciability of Economic, Social and Cultural Rights,* Academicus International Scientific Journal 9 (2014): 54-67, https://doi.org/10.7336/academicus.2014.09.04. See also General Comment No.9 "Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights" of the Committee on Economic, Social and Cultural Rights. E/C.12/1998/24, par.10.

[9] Ibid.

[10] De Schutter, O., *The Transformative Potential of the Right to Food* (Final Report of the Special Rapporteur on the Right to Food, A/HRC/25/57, 24 January 2014) Available at: https://digitallibrary.un.org/record/766914?ln=en&v=pdf

[11] Ibid.

[12] FAO, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (FAO, 2004). Available at: https://www.fao.org/4/y7937e/y7937e00.htm

Optional Protocol to the ICESCR has further strengthened and by supporting national implementation. rights by empowering the Committee to hear individual complaints regarding violations of the right to food and related ESC rights.[13]

At the regional level, human rights courts and commissions have engaged with food-related claims even when their founding treaties do not detail the right to food explicitly. For instance, in *SERAC and CESR v Nigeria* (Ogoni case), the African Commission on Human and Peoples' Rights recognised an "implied" right to food under the African Charter, holding that the destruction of food sources by the State constituted a violation of its duty to respect and protect access to food.[14] Similarly, the Inter-American Court of Human Right has, in cases concerning indigenous communities, read food and water rights into the rights to life and dignity, drawing upon Article 26 of the American Convention on Human Rights and referencing ICESCR jurisprudence to guide interpretation.[15]

These regional decisions set important precedents and interpretative guidance, but the frontline of adjudicating the right to food remains at the domestic level. In practice, food-related claims are often litigated by invoking constitutional rights to food (where expressly recognised), or by linking food insecurity to broader rights such as life, health, equality, or dignity. Examples include the Indian Supreme Court's landmark *People's Union for Civil Liberties v. Union of India*, which interpreted Article 21's right to life to encompass the right to food and issued structural remedies to enforce distribution schemes,[16] and South African jurisprudence recognizing food-related entitlements through the rights of children and dignity, notably in *Grootboom* and subsequent litigation on school nutrition programmes.[17]

These cases, along with the others that have been gathered and analysed, illustrate how domestic courts can give a practical effect to the right to food, though such outcomes are not guaranteed and rarely result in its immediate realisation on the ground. Courts often face institutional and doctrinal challenges such as questions of resource allocation, separation of powers, or the need to define minimum core

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[13] Siobhán McInerney-Lankford, 'Entry into Force of the Optional Protocol to the ICESCR' (Oxford Human Rights Hub, 28 June 2013). Available at https://ohrh.law.ox.ac.uk/entry-into-force-of-the-new-optional-protocol-to-the-icescr/

[14] See *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria* (2001) AHRLR 60 (ACHPR 2001).

[15] See *Yakye Axa Indigenous Community v. Paraguay*, Inter-American Court of Human Rights, Judgment of 17 June 2005, Series C No. 125, paras. 167–168.

[16] *People's Union for Civil Liberties v. Union of India* (2001) Writ Petition (Civil) No. 196/2001, Supreme Court of India; see also (2004) 2 SCC 476

[17] *Government of the Republic of South Africa v. Grootboom* 2000 (11) BCLR 1169 (CC); see also *Equal Education v. Minister of Basic Education* (2019) (South African High Court, on school nutrition litigation)

obligations when adjudicating socio-economic rights. By comparing experiences across jurisdictions, this project seeks to highlight both the innovations, and the limitations observed in judicial approaches to the right to food.

1.4 Structure of the report

The remainder of this report is organised to support both a thematic and comparative understanding of right-to-food adjudication.

Following this **Introduction**:

Section 2 (Methodology) outlines the project's research design, including the definition of the right to food applied, criteria for case selection, keyword strategy, and the scope of jurisdictions examined.

Section 3 (Thematic Overview and Comparative Analysis of Case Law) presents findings grouped into five thematic clusters:

1. Conditions of Detention and Dignity;
2. Public Distribution, Social welfare schemes, and Poverty;
3. Migration and Statelessness;
4. Food Access, Land, Agriculture, and Resource Deprivation
5. Maternal and Child Nutrition

Representative cases from different jurisdictions are summarized and their legal reasoning analysed. It synthesises broader patterns emerging from the case law analysis, including how the right to food is framed, the profile of plaintiffs, the types of remedies granted, and jurisdictional variations in judicial innovation and reluctance.

Section 4 (Enhancing Visibility and Access to Jurisprudence) discusses challenges of accessibility and fragmentation of databases and proposes ways to strengthen knowledge-sharing.

Section 5 (Conclusion) provides overarching reflections on the role of courts in adjudicating food-related claims, highlighting both the opportunities and limits of judicial enforcement, and the implications for policymakers, litigants, and international organisations.

The annex contains the FAO template used to analyse the cases, detailed briefs of the 30 decisions examined, and a reference table of countries with constitutional provisions on the right to food.

2. Methodology

2.1 Project Objectives

This project, conducted in collaboration with the FAO Right to Food Team, analyses judicial decisions at the regional and national levels that interpret or operationalise the right to food and related concepts. Our legal framework is anchored in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recognizes "the right of everyone to an adequate living... including adequate food." This provision, read in conjunction with General Comment No. 12 of the Committee on Economic, Social and Cultural Rights and the FAO Voluntary Guidelines, and subsequent normative instruments and tools such as the Convention on the Rights of the Child, Convention on the rights of persons with disabilities, Declaration on the Rights of Indigenous Peoples (UNDRIP) and United Nations Declaration on the Rights of Peasants provides the foundational content for our analysis and the obligations that States have to fulfil.

2.2 Initial Phase (19 March – 4 April)

The initial stage of the project focused on case law emerging from three regional human rights courts and mechanisms, specifically the European Court of Human Rights (ECtHR), the African Commission on Human and Peoples' Rights, and the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights alongside national jurisdictions.

The primary criterion for case selection during this phase was the express mention of the term "right to food," either in the pleadings or in the reasoning of the judicial body. This narrow framing enabled us to establish a clear link to Article 11 of the ICESCR. The database searches were conducted using the HUDOC database for ECtHR decisions, the African Commission's official case archive, and available online material related to the ASEAN-related mechanisms. This stage yielded 13 cases across various jurisdictions, which are summarized in the chart below.

No	Case Name	Jurisdiction	Key Word
1	R.R. and others V. Hungary	ECHR	Nutrition, Inadequate food
2	Korneykova and Korneykov v. Ukraine	ECHR	Adequate food, Nutrition,
3	Z and Others v. the United Kingdom	ECHR	Food deprivation
4	CASE OF SUFI AND ELMI v. THE UNITED KINGDOM	European Court of Human Rights	Food, malnutrition
5	Rusi Ivanov Stanev v. Bulgaria (Application no. 36760/06)	European Court of Human Rights	Inadequate food, food was insufficient and of poor quality

		(Grand Chamber)	
6	Sudan Human Rights Organisation, Centre on Housing Rights and Evictions V. The Sudan	African Commission	Right to adequate food
7	Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria - 155/96	African Commission on Human and People's Rights	Food, right to food
8	Swaraj Abhiyan v. Union of India & Ors.	Supreme Court of India	Right to food
9	People's Union for Civil Liberties (PUCL) v. Union of India & Ors.	Supreme Court of India	Right to food, food
10	Laxmi Mandal vs Deen Dayal Harinagar Hospital & Ors	High Court of Delhi at New Delhi, India	Right to food, nutritious food
11	Center for Food and Adequate Living Rights (CEFROHT) v Attorney General	High Court of Uganda at Kampala (Civil Division)	Right to food, Adequate food, food security and nutrition
12	R. (Adam, Limbuela and Tesema) v Secretary of State for the Home Department	House of Lords (United Kingdom, Now SC)	No access to food
12	Mwanza & Another v Attorney General	Supreme Court of Zambia	Right to food, adequate food, nutrition

Table 1

To undertake our systematic analysis and guarantee homogeneity with present and future researches of a similar kind, we employed a template provided by the FAO, which requires to assess each case based on three key sections: (i) the substantive components of the right to food (availability, accessibility, adequacy, sustainability), (ii) the PANTHER principles (Participation, Accountability, Non-discrimination, Transparency, Human dignity, Empowerment, and Rule of law), and (iii) the tripartite typology of state obligations (to respect, to protect, and to fulfil the right). A copy of the template is published in the Annex.

2.3 Challenges in the Initial Search

Several limitations were encountered during the first round of case identification. The African Commission's website does not support keyword-based filtering within decisions, significantly constraining our ability to conduct comprehensive searches

without prior knowledge of specific case names. While the ECtHR's HUDOC database does facilitate keyword searches, we found no judgment in which the term "right to food" appeared explicitly. Instead, food-related issues were often embedded within broader discussions on the right to life or the prohibition of inhuman or degrading treatment.

2.4 Refined Methodology: Tiered Keyword Strategy and Expanded Scope

In response to the challenges encountered during the initial phase, we adopted a more robust and inclusive methodology, less stringent and broader approach to the cases. Central to this refinement was the expansion of the list of key words and the adoption of a tiered keyword strategy aimed at capturing both explicit and implicit references to the right to food in judicial reasoning.

Our primary search term remained "right to food," which allows had already allowed us to identify 13 cases where the right is directly invoked and adjudicated in accordance with Article 11 ICESCR or corresponding constitutional provisions.

The second tier of keywords includes "food security," and keywords involving the three A's (accessibility, availability and adequacy): "adequate food," "access to food," "food quality", which are often used in domestic and international contexts to discuss the substantive elements of the right, even if the term itself is not explicitly employed.

A third tier incorporates terms such as "hunger," "malnutrition," "starvation," "nutrition," "adequate nutrition", "food deprivation", "inadequate food", "poor quality food", "insufficient food", and "inadequate provision of food", allowing us to detect cases where food-related harm is relevant to the violation of other rights, such as the right to life, health or dignity.

Finally, we searched for terms linked to productive resources, such as "land rights," "food production," and "subsistence farming," which often emerge in jurisprudence concerned with indigenous communities, environmental degradation, or rural livelihoods. The rationale behind this is to ensure comprehensive coverage of RtF jurisprudence, even where terminology varies.

2.5 Expansion to National Jurisdictions

Given the relative scarcity of express right to food jurisprudence at the regional level, in agreement with the FAO team we agreed to have expanded expand our research scope to include national jurisdictions. Jurisdictions were selected based on two three criteria:

- The recognition of the right to food in the national legal system, whether at constitutional level or not;
- The availability of comprehensive legal databases; and
- The group's linguistic competencies.

With the selection criteria, the project considered both national and regional jurisdictions, including India, Uganda, the Philippines, Zambia, Kenya, Malawi, South Africa, the European Court of Human Rights, the African Commission on Human and Peoples' Rights, and the East African Court of Justice

To guide our national-level case search, a table was created identifying countries that explicitly recognize the right to food in their constitutions, either as a justiciable right or as a directive principle (see table 2 below). The table also includes the relevant legal databases, and a record of cases found using our tiered keyword strategy. It was then combined with the key words in connection with each of them. The matrix allowed the classification of all cases found, already sorted by keyword to facilitate the further analysis of the cases. This favored a more systematic approach to identifying relevant jurisdictions and evaluating the justiciability of the right to food.

Africa			
Country	**Constitutional Provision on RTF**	**Nature of Provisio**	**Database to look at & cases found (using methodology)**
Democratic Republic of the Congo	Article 47: The right to health and to a secure food supply is guaranteed.	Non-Justiciable Right	https://juricaf.org/recherche/+/facet_pays:Congo_d%C3%A9mocratique No relevant cases https://asf.be/database/international-crimes-and-serious-human-rights-violations/?lang=en&db_id=4603&page=1&pages=0&order=asc&s_input=&date_start=&date_end=&date_apply=false&start=&end= No relevant cases https://www.acrisl.org/case-law-database No relevant cases https://www.escr-net.org/?s=%22drc%22+%22food%22 No relevant cases
Niger	Article 12: Right sufficient food	Justiciable Right	https://africanlii.org/

	supply, and to potable water. Article 146: State policy must promote food sovereignty and development.	Directive Principle	Cases found: • Link: https://africanlii.org/akn/aa-au/judgment/ecowascj/2020/2/eng@2020-07-08 Tahirou Djibo and Others et La République du Niger (8 July 2020) – mention of right to food (droit à l'alimentation).
Egypt	Article 79: Each citizen has the right to healthy and sufficient food and clean water.	Non-Justiciable Right	https://www.lexadin.nl/wlg/courts/nofr/oeur/lxctegy.htm It is not possible to conduct research using keywords. https://egyptjustice.com/scc-cases Website under maintenance.
South Africa	Section 27: Right to have access to sufficient food and water.	Justiciable Right	https://www.saflii.org/ Cases found: • Link : https://www.saflii.org/cgi-bin Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another (25 July 2008) – mention of right to food • Link : https://www.saflii.org/cgi-bin Jaftha v Schoeman and Others, Van Rooyen v Stoltz and Others (8 October

			2004) – mention of adequate food • Link : https://www.saflii.org/cgi-bin Government of the Republic of South Africa and Others v Grootboom and Others (4 October 2000) – mention of adequate food and nutrition
Kenya	Article 43(1)(c): Right to be free from hunger and to have adequate food.	Justiciable Right	https://kenyalaw.org/kl/ Cases found: • Link: https://new.kenyalaw.org/akn/ke/judgment Mwangi & another v Attorney General & 3 others; Kenya University Biotechnology Consortium (KUBICO) & 2 others (Interested Parties) (28 April 2023) – mention of the right to food and adequate food • Link: https://new.kenyalaw.org/akn/ke/judgment/kehc/2012/4372/eng@2012-05-18 ERAD SUPPLIES & GENERAL CONTRACTORS LIMITED V NATIONAL

			CEREALS AND PRODUCE BOARD [2012] KEHC 4372 (KLR) - mention of food security • Link: https://new.kenyalaw.org/akn/ke/judgment/keelc/2023/20879/eng@2023-10-18 Sang v Keter & 4 others (Environment & Land Case E010 of 2023) [2023] KEELC 20879 (KLR) (18 October 2023) (Ruling)- mention of food security • Link: https://new.kenyalaw.org/akn/ke/judgment/keca/2024/1233/eng@2024-09-20 Ong'ow v Agriculture and Food Authority & 18 others (Civil Application E604 of 2023) [2024] KECA 1233 (KLR) (20 September 2024) (Ruling) - mention of food security
Malawi	Article 13: State shall promote welfare and development, including nutrition. Article 30: The State shall take all necessary measures for the realization of the	Directive Principle Non-Justiciable Right	https://malawilii.org Cases found: • Link : https://malawilii.org/akn/mw/judgment Masangano v Attorney General & Ors. (8 November 2009) –mention of right to food

	right to development. Such measures shall include, amongst other things, equality of opportunity for all in their access to basic resources, education, health services, food, shelter, employment and infrastructure." Article 42.1: Adequate nutrition and medical treatment for detainees.		
Ethiopia	Article 90: Policies shall aim to provide access to food.	Directive Principle	No reported domestic jurisprudence. https://www.worldlii.org/catalog/54823.html - could not access https://lawethiopia.com Language
Uganda	Objective 14: Fulfil rights including adequate food.	Directive Principle	Domestic courts in Uganda have rarely adjudicated claims under these directives. The High Court decision in Center for Food and Adequate Living Rights (CEFROHT) v Attorney General (2020) noted that, while the Constitution lacks an explicit food-right, the right is “enshrined within other rights” such as human dignity and life. In practice, Uganda pursues the right to food mainly through policies and programmes:

			Parish Development Model (PDM, 2022): A government-led poverty-alleviation initiative to boost agricultural productivity at the grassroots. Various social protection schemes and nutrition programmes, though none are grounded in justiciable rights. https://ulii.org/judgments/ Byamugisha and Others v Kasisiri and Another (MISC. APPLICATION NO. 074 OF 2023) [2025] UGHC 236 (3 February 2025) Center for Food and Adequate Living Rights (CEFROHT) v Attorney General (MISCELLANEOUS CAUSE NO. 75 OF 2020) [2020] UGHCCD 157 (4 June 2020) Center for food and adequate living rights v Attorney General of Uganda and Another (Misc Cause No. 436 of 2019) [2022] UGHCCD 87 (25 May 2022) Centre for Food and Adequate Living Rights (CEFROHT) and Others v Attorney General of the Republic of Uganda and Others (Reference No.39 of 2021) [2023] EACJ 15 (29 November 2023) (First Instance Division) Uwonda and Another v Total E & P (U) Ltd (Civil

			Suit No. 0013 of 2016) [2021] UGHC 71 (21 December 2021) Bandonda V Captain Investments Ltd and Another (Civil Suit No. 493 of 2018) [2022] UGHCCD 245 (5 December 2022) Center for Health, Human Rights & Development (CEHURD) v Attorney General & Another (Miscellaneous Cause 30 of 2023) [2024] UGHCCD 121 (5 July 2024) https://ulii.org/judgments/ Esoko & 3 Others v Attorney General & 4 Others (MISCELLANEOUS CAUSE NO. 42 OF 2019) [2020] UGHCCD 79 (30 April 2020)
Nigeria	Article 16: State shall assure suitable and adequate food. In March 2023, the Constitution was amended by the Fifth Alteration Act No. 28, adding Section 16A, which explicitly requires the State to pursue strategies guaranteeing food securitycovering availability, accessibility and affordability and	Directive Principle	There is no reported domestic case in which a Nigerian court has adjudicated a claim solely under Section 16 or 16A to enforce food entitlements. Instead, practitioners have drawn upon international obligations (ICESCR Article 11) and comparative strategies to argue foodrights claims. The most significant judicial engagement on -foodrelated rights for Nigerians has been bef-ore the African Commission:SERAC and CESR v Nigeria (155/96) https://nigerialii.org

	to promote continuous improvement of production and distribution systems. Constitution of the Federal Republic of Nigeria, 1999 (Fifth Alteration) (No. 34) Act 2023 § 2 (inserting s 16A). https://placng.org/i/wp-content/uploads/2023/05/Constitution-of-the-Federal-Republic-of-Nigeria-1999-Fifth-Alteration-No.-34-Act-2023.pdf		
Asia			
India	Article 47: Duty to raise the level of nutrition.	Directive Principle	Indiankhanoon.com 1. Anun Dhawan vs Union Of India- https://indiankanoon.org/doc/156597649/ 2. Maatr Sparsh An Initiative By Avyaan ... vs Union Of India- https://indiankanoon.org/doc/39678569/ 3. In Re Problems And Miseries Of Migrant ... vs Unknown- https://indiankanoon.org/doc/103278354/ 4. Maniben Maganbhai Bhariya vs District Development Officer-

			https://indiankanoon.org/docfragment/59076033/?formInput=%22right%20to%20food%22%20%20%20doctypes%3A%20supremecourt%20sortby%3A%20mostrecent 5. In Re Problems And Miseries Of Migrant ... vs Union Of India & Ors- https://indiankanoon.org/doc/139315795/ 6. Dipika Jagatram Sahani vs Union Of India- https://indiankanoon.org/doc/91605966/ 7. Dr.Ashwani Kumar vs Union Of India And Ors. Ministry Of ...- https://indiankanoon.org/doc/27374596/ 8. Pankaj Sinha vs Union Of India And Ors.- https://indiankanoon.org/doc/40584595/ 9. Swaraj Abhiyan vs Union Of India And Ors- https://indiankanoon.org/doc/19199787/ 10. Hinsa Virodhak Sangh vs Mirzapur Moti Kuresh Jamat & Ors- https://indiankanoon.org/doc/560071/ 11. National Council For Civil Liberties vs Union Of India & Ors-

			https://indiankanoon.org/doc/549330/ 12. State Of U.P. & Ors vs Jeet S. Bisht & Anr- https://indiankanoon.org/doc/1627400/
Nepal	Article 36: Every citizen shall have the right to food.	Judiciable Right	https://supremecourt.gov.np/lic/sys.php?d=reports&f=case_p Not accessible-the webite is not in English and the case search does not work
Bangladesh	Article 15: Basic necessities of life, including food.	Directive Principle	https://www.supremecourt.gov.bd/web/indexn.php?menu=11&page=case_search.php- issue- no key word search, impossible to get a case file without first knowing the name of the case
Pakistan	Article 38: State to provide basic necessities like food.	Directive Principle	https://www.paklegaldatabase.com/membership-required/?mepr-unauth-page=13&redirect_to=%2Fjudgements%2F need to pay to access
Sri Lanka	Article 27: Adequate standard of living, including food.	Directive Principle	https://supremecourt.lk/?page_id=7383, can't do key word search and have to random google search to get the case name and then have to search for the relevant case
Europe			
Ukraine	Article 48: Right to standard of living, including nutrition.	Justiciable Right This formulation has been noted in FAO's FAOLEX database as the constitutional guarantee of food as part of a broader socio-economic right.	https://www.reyestr.court.gov.ua https://ccu.gov.ua/en/docs/183 (could not find anything*)

Moldova	Article 47: Right to decent living, including food. Article 37 of the Constitution guarantees “the right to live in an ecologically safe and healthy environment, to consume healthy food products and to use harmless household appliances,” and obliges the State to ensure free access to information on food quality	Justiciable Right	No reported decision interpreting articles 37/47 in standalone RtF litigations https://www.constcourt.md/?l=en
Belarus	Article 21: State guarantees right to food.	Justiciable Right	No reported domestic jurisprudence. https://center.gov.by

Table 2- Constitutional recognition of the right to food

Initially, progress was slow due to fragmented access and varying search functionalities. However, once we identified and used a functional database in one country, such as KenyaLaw or SAFLII, we noticed that similarly structured platforms (e.g. AfricanLII, MalawiLII, UgandaLII) followed comparable layout and organisation of content. This pattern greatly accelerated our ability to identify relevant jurisprudence across multiple African jurisdictions. Through this expanded national focus and improved navigation of legal databases, we were able to identify a substantial number of additional cases.

2.6 Broader Case Inclusion Criteria

We have also expanded our inclusion criteria to consider cases in which the right to food is not directly invoked, but where food insecurity or deprivation constitutes a key aspect of the facts or reasoning. This includes cases involving the treatment of migrants, detainees, or displaced persons, as well as judgments addressing state failures in food distribution, environmental harm affecting food systems, or socio-economic exclusion that impairs access to food. These cases are also selected using the key word strategy mentioned under section 2.4. In such cases, although the adjudication by the courts may centre on other rights (such as the right to life or health), the impact on food access is substantial enough to warrant analysis.

2.7 Emerging Thematic Focus Areas

Based on the cases that were identified and analysed, we identified five key thematic clusters that will guide the horizontal and comparative analysis in the report. These thematic categories help synthesize cross-jurisdictional patterns, enhance the normative value of our findings. They also helped realizing the "Thematic Overview" and identifying the "Cross-Cutting Trends" that are discussed in the final section of the report. The identified thematic areas are mentioned below.

1. Conditions of Detention and Dignity – where poor food access constitutes inhuman or degrading treatment.
2. Public Distribution, Food Schemes, and Poverty – focusing on failures in state welfare systems.
3. Migration, Statelessness, and Food Access – deprivation of food for non-citizens or vulnerable groups.
4. Land, Agriculture, and Resource Deprivation – violation of RtF through denial of productive means
5. Maternal and Child Nutrition – failures of public health schemes to ensure adequate food for those pregnant or lactating women, infants and children

2.8 Thematic Overview of Case Law

The selected 30 cases were divided into the identified thematic areas. Table 2 contains the distribution of cases according to the relevant thematic focus.

No	Thematic Focus	Cases	Jurisdiction
1	Conditions of Detention and Dignity – where poor food access constitutes inhuman or degrading treatment.	Stanev v. Bulgaria (2012)	ECtHR
		Esoko & 3 Others v Attorney General & 4 Others(2010)	Uganda
		Bandonda v. Captain Investments Ltd(2022)	Uganda
		Stepuleac v. Moldova (2007)	ECtHR
		Korneykova and Korneykov v. Ukraine(2016)	ECtHR
		Mwanza & Another v Attorney General (2019)	Zambia
		Masangano v Attorney General & Ors. (2009)	Malawi
2	Public Distribution, Food Schemes, and Poverty –	PUCL v. Union of India(2012)	India

	focusing on failures in state welfare systems.	Premlata v. Government of NCT Delhi(2010)	India
		Vaishnorani Mahila Bachat Gat v. State of Maharashtra (2019)	India
		Swaraj Abhiyan v. Union of India(2016)	India
		Center for Food and Adequate Living Rights v. Attorney General	Uganda
		Center for food and adequate living rights v Attorney General of Uganda and Another (Misc Cause No. 436 of 2019) [2022] UGHCCD 87 (25 May 2022)	Uganda
		Center for Food and Adequate Living Rights (CEFROHT) v Attorney General (Miscellaneous Cause No. 75 of 2020)	Uganda
		Dr Mohiuddin Farooque v Secretary, Ministry of Commerce, Government of the People's Republic of Bangladesh and Others (1996)	Bangladesh
		Anun Dhawan vs Union Of India (2024)	India
3	Migration, Statelessness, and Food Access – deprivation of food for non-citizens or vulnerable groups.	Sufi and Elmi v. United Kingdom (2011)	ECtHR
		R (Adam, Limbuela and Tesema) v. Secretary of State for the Home Department (UK)(2005)	UK

4	Land, Agriculture, and Resource Deprivation – violation of RtF through denial of productive means	Sudan Human Rights Organisation and COHRE v. Sudan	Sudan
		Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another(2008)	South Africa
		Mwangi & another v Attorney General & 3 others; Kenya University Biotechnology Consortium (KUBICO) & 2 others (Interested Parties) (2023)	Kenya
		Tahirou Djibo, Amadou Madougou, Abdoulaye Soumaila, Sidikou Abdou v. Republic of Niger (2020)	ECOWAS Community Court of Justice
		Centre for Food and Adequate Living Rights (CEFROHT) and Others v Attorney General of the Republic of Uganda and Others (Reference No. 39 of 2021) [2023] EACJ 15	East African Court of Justice
		Sudan Human Rights Organisation and COHRE v. Sudan (2009)	African Commission
5	Maternal and Child Nutrition – failures of public health schemes to ensure adequate food.	Premlata v. Government of NCT Delhi(2010)	India
		Laxmi Mandal v. Deen Dayal Harinagar Hospital & Ors, W.P.(C) Nos. 8853 of 2008	India
		Maatr Sparsh An Initiative By Avyaan ... vs Union Of India-(2025)	India

		Pharmaceutical and Health Care Association of the Philippines v. Francisco T. Duque III (2007)	Philipines
		Z and Others v The United Kingdom (2016)	ECtHR

Table 3- Thematic overview of case law

3. Cross-Cutting Trends and Comparative Reflections

3.1 Conditions of Detention and Dignity – where poor food access constitutes inhuman or degrading treatment

The reviewed cases in this section center on detention conditions and how they affect the right to food. From African national courts (Malawi, Zambia, Uganda) to the European Court of Human Rights, these judgments expose commonalities and divergences in the judicial treatment of detainees' access to adequate food. This section covers seven cases. Although the keyword "right to food" does not appear explicitly in all of them, their relevance is established through the tiered keyword strategy employed in the case collection process.

The selected cases are *Stanev v. Bulgaria* (ECtHR), mentioning « *inadequate food* » ; *Esoko & 3 Others v. Attorney General & 4 Others* (Uganda), mentioning « *access to food* »; *Bandonda v. Captain Investments Ltd* (Uganda), mentioning « *right to food* »; *Stepuleac v. Moldova* (ECtHR), mentioning "*food quality*"; *Korneykova and Korneykov v. Ukraine* (ECtHR), mentioning "*food quality*" and "mal*nutrition*"; *Mwanza & Another v. Attorney General* (Zambia), mentioning "*right to food*", "*nutrititon*" and "*adequate food*"; and *Masangano v. Attorney General & Others* (Malawi), mentioning "*right to food*".

This section synthesises the cross-cutting trends, the most frequent legal framings of the right to food, patterns among plaintiffs, types of remedies granted, and jurisdictional variations, ultimately drawing conclusions on the evolving normative landscape.

3.1.1 Framing the Right to Food : Dignity, Life, and Equality

In several cases captured by our methodology, i.e. *Stanev v. Bulgaria* (ECtHR); *Esoko & 3 Others v. Attorney General & 4 Others* (Uganda), *Stepuleac v. Moldova* (ECtHR) and *Korneykova and Korneykov v. Ukraine* (ECtHR) , the right to food was not framed

as an isolated socio-economic right but rather as integral to other fundamental rights such as dignity, life, and freedom from inhuman or degrading treatment under the European Convention on Human rights.[18]

In *Stepuleac v. Moldova*, the insufficiency of food provided to the applicant was raised as an issue under Article 3 of the Convention. The court then concluded that that the applicant's detention for over three months with insufficient food and no access to daylight for up to 22 hours a day, restricted access to toilet facilities and tap and insufficient medical assistance, amount to a violation of Article 3 of the Convention"[19].

Likewise in *Korneykova and Korneykov v. Ukraine*, the court referred *to* Kalashnikov v. Russia, no. 47095/99, § 95, ECHR 2002-VI) to stress that "*in accordance with Article 3 of the Convention, the State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured*"[20].

Although *Stanev v. Bulgaria*, pertains to conditions of detention for person with disabilities, a context distinct from conventional "detention". The case remains pertinent to this analysis due to the implications of such detention on the right to food. In this case, the court expressed that "*the applicant's placement in the Pastra social care home – a situation for which the domestic authorities must be held responsible – amounts to a deprivation of liberty within the meaning of Article 5*" and added: "*other aspects of the applicant's physical living conditions are a considerable cause for concern. In particular, it appears that the food was insufficient and of poor quality*." [21] It then concluded by affirming that *"taken as a whole, the living conditions to which the applicant was exposed during a period of approximately seven years amounted to degrading treatment*".

What unites these cases is the recognition that the deprivation of adequate food, even if not intentionally punitive, violates the inherent dignity of a person as recognized by Article 3 of the ECHR and Article 24 and 44(a) of the Ugandan Constitution. Rather than treating food as a standalone right, the inadequacy, insufficiency and difficulty in

[18] Stanev v Bulgaria App no 36760/06 (ECHR, 17 January 2012) [204]; Esoko & 3 Others v Attorney General & 4 Others (2020) UGHCCD 79 (High Court of Uganda); Korneykova and Korneykov v Ukraine App no 56660/12 (ECHR, 24 March 2016) [27], [97], [115], [128], [147].

[19] Stepuleac v Moldova App no 8207/06 (ECHR, 6 November 2007) [55], [65].

[20] Korneykova [128**].**

[21] Stanev [206], [209], [212].

accessing food are assessed through the lens of the prohibition against inhuman or degrading treatment.

In the subsequent cases, the right to food was explicitly referenced in the court's reasoning. In *Masangano v Attorney General* (Malawi,the applicants claimed that "*food is very basic to the sustenance of human life, holding that giving prisoners only one meal per day violated their right to dignity and was cruel and inhuman*".[22] The High Court agreed with these concerns and emphasised the importance of adequate nutrition for prisoners, noting: *«We think that the situation of having one meal a day in some of our prisons is most unsatisfactory, even though the meal meets the daily portion as prescribed by the Prison Regulations*». *«We would however wish to encourage the Respondents to remove the monotony in the maize meal/peas or beans diet by diversifying within the options given in the Third Schedule of the Prisons Act. We make these observations and comments not because the Respondents have fallen below minimum standards, which we think they have not, but because of the realization that we need to raise the level of minimum standards if not by law, then by taking some progressive steps through policy*».[23]

The court then concluded by reaffirming the right to food for prisoners and declared: *«we would like to reaffirm that prisoners' rights include right to food, clothing, accessories and cell equipment to the minimum standards as set out in the Prisons Act and Prison Regulations. Those standards are the minimum that the law dictates and obliges duty bearers to observe. Going below the minimum standards runs the risk of duty bearers not providing anything at all and coming up with seemingly plausible and seemingly convincing excuse*s».[24]

Similarly, in *Mwanza v Attorney General* (Zambia),the Supreme Court interpreted the right to life as encompassing the right to food sufficient in nutritional value to maintain a dignified human existence, particularly for prisoners on anti-retroviral therapy.[25] The court declared in paragraph 13.13 "*We accept the learned counsel for the appellants' call that the right to life must be interpreted liberally. It inevitably dovetails and is interlinked with other rights such as the right to food and the right to health*". To support its argument, the court relied on several precedents affirming a similar position:[26]

1. **Carolie v Union Territory of Delhi**: *"The right to life includes the right to live with dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition."*
2. **Shantiser Builders v Narayan Khilimal Totame**: *"The right to life is guaranteed in any civilized society. That we would take the right within its sweep the right to food, clothing, the right to deceit environment and reasonable accommodation to life in*".

[22] Masangano v Attorney General & Ors (2009) MWSC 31 (Malawi Supreme Court of Appeal) 13.
[23] Ibid 47.
[24] Ibid 60-61.
[25] Mwanza & Another v Attorney General (Zambia Supreme Court, 9 December 2019) [15.1] and [15.2].
[26] Ibid [8.3] and [8.4].

3. **Sata and Another v Post Newspapers Limited**: *"It was also submitted that the right to life encompasses the right to adequate food which is high in nutritional value to maintain a decent human existence."*
4. **Francis Mullin v Administrator, Union Territory of Delhi**: *"But the question which arises is whether the right to life is limited only to the protection of limb or faculty or does it go further and embrace something more? We think that the right to life includes the right to live with human dignity and all that goes along with it, viz., the bare necessities of such life such as adequate nutrition, clothing, shelter, and facilities for reading and expressing oneself in diverse forms, freely moving about, and mingling with fellow human beings."*Lastly, in *Bandonda v. Captain Investments Ltd (*Uganda*),* the court declared that while the right to food is not explicitly protected under Ugandan law, it is enforceable through Uganda's international obligations—particularly under the International Covenant on Economic, Social and Cultural Rights. These rights are subject to progressive realisation, meaning states are not expected to fulfill them instantly. In practice, Uganda cannot guarantee sufficient meals for all detainees due to budget constraints. However, detention facilities must not unreasonably prevent suspects from receiving food from relatives or friends.[27]

Across these cases, courts in Malawi, Zambia, and Uganda affirmed that the right to food cannot be breached. While *Masangano* and *Mwanza*, framed food as an indispensable component of humane detention and a dignified existence, *Bandonda*, emphasised the enforceability of the right through international obligations and the principle of progressive realisation. Taken together, these decisions illustrate a judicial consensus that access to adequate and nutritious food, especially for prisoners and detainees, is a legal duty grounded in both domestic and international law.

3.1.2. Patterns Among Plaintiffs: Vulnerability and Custodial Dependence

A unifying thread across the cases that were captured by our methodology in this section is the vulnerable status of plaintiffs. This vulnerability derives from incarceration, pre-trial detention, or placement in a care facility. Therefore, these individuals are entirely dependent on the State for basic needs, including access to food. The cases involve a spectrum of vulnerable groups:

- HIV-positive inmates (Mwanza, Zambia), who required specialised nutrition for ART.
- Pregnant and breastfeeding women (Korneykova, Ukraine), whose physiological needs heightened the nutritional inadequacy of prison food.

[27] Bandonda v Captain Investments Ltd and Another (Civil Suit No 493 of 2018) UGHCCD 245 (5 December 2022) [22].

- Mentally disabled institutionalised individuals (Stanev, Bulgaria) denied autonomy and access to food of adequate quality.
- Disadvantaged detainees, who lacked external support to supplement inadequate prison meals (Masangano, Esoko, Bandonda).

In Mwanza, where the right to food was recognised as part of the right to life, "*The right to life entails that the two prisoners should have the right to decent food - adequate nutritious food*", the Court affirmed that : "*The State has no obligation to provide adequate care and food to prisoners in general; it has no obligation to provide a special diet to particular patients such as HIV positive prisoners to assist them in their recovery. Yet it is well known that eating a balanced diet is of vital importance for maintaining good health and well-being which in turn guarantees the right to life"; it then concluded "We hold, therefore, that by failing to provide the two prisoners with a balanced diet as prescribed in the Prisons Rules, the State not only failed to observe legislation which it had enacted for itself, it has also violated the prisoner's right to life as set out in Article 12 of the Constitution*".[28]

The Court recognised substantive equality by emphasizing that hat equal treatment may require differentiated measures for individuals in distinct situations. In this context, this means that prisoners with special dietary needs, arising from conditions such as HIV, diabetes, hypertension, high cholesterol, allergies, or religious and ethical dietary requirements, as well as general nutritional concerns or vegetarian preferences, require preferential consideration to safeguard their right to life.[29] Likewise, in Korneykova, the Court recognized the applicants—a detained mother and her newborn son—as particularly vulnerable and emphasised that their specific needs required tailored protections;

"*The Court further observes that the first applicant's allegation about insufficient and poor quality food in the SIZO is confirmed by the statements of her fellow detainee (see paragraph 48 above). The fact that her mother sent her about thirty parcels, often with the most basic foodstuffs, is another indication that such food was not provided to the first applicant by the SIZO administration (see paragraph 43 above). The Court has already held that where food given to an applicant is clearly insufficient, this in itself raises an issue under Article 3 of the Convention (see Kadiķis v. Latvia (no. 2), no. 62393/00, § 55, 4 May 2006, and Stepuleac v. Moldova, no. 8207/06, § 55, 6 November 2007). The issue becomes crucial in the case of a breastfeeding mother*".[30]
"The Court therefore concludes that the first applicant did not receive sufficient and

[28] Mwanza [15.1], [15.2], [15.5], [16.3, [16.6].
[29] Ibid [16.6].
[30] Korneykova [141].

wholesome food corresponding to her needs as a breastfeeding mother in detention".[31]

In these two contexts, courts acknowledged that the right to food is not simply a question of sufficiency but must respond to differentiated needs. It implicitly recognised substantive equality, namely that genuine equality requires differential treatment of individuals in unequal positions.

3.1.3 Types of Remedies Granted

Remedies varied considerably, reflecting jurisdictional capacity, legal tradition, and the justiciability of socio-economic rights. In national jurisdictions, where courts often lack enforcement mechanisms, courts in *Masangano* and *Mwanza* issued structural remedies, ordering governments to improve prison conditions and food provision systems over time, and to report on progress.[32] The ECtHR, by contrast, awarded monetary compensation for non-pecuniary damages suffered by the plaintiffs (e.g., €12,000 in *Stepuleac*).[33] In some cases (e.g. *Esoko* and *Bandonda*, Uganda), the courts recognised the violations of the prohibition against inhuman or degrading treatment in one case, and of the right to food in the other, but refrained from awarding damages for food deprivation alone, citing progressive realisation and limited state capacity.[34]

3.1.4 Jurisdictional Variations: Innovation vs. Reluctance

The degree of judicial innovation varied significantly by jurisdiction. In some cases, courts adopted a progressive interpretation. For instance, *Mwanza v Attorney General* represents a landmark shift in Zambian case law by declaring socio-economic rights justiciable when intertwined with civil-political guarantees like the right to life and dignity.[35] The Zambian Supreme Court notably held that economic rights were no longer merely aspirational but enforceable,

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[31] Korneykova [144].
[32] Mwanza [16.7], [16.8], Masangano 60-62.
[33] Stepuleac [85].
[34] Bandonda [22], [40-41]; in Esoko, the Court limited its recognition to violations related to prolonged detention, while rejecting complaints relating to deprivation of food, hygiene and medical care due to insufficient evidence, "*This application therefore succeeds in part as to the violation of Article 23(4) of the Constitution. The applicants are awarded interest at a rate of 15% from the date of Judgment until payment in ful*l.".
[35] Katindo Mwale, 'The right to food as a derivative of the right to life: The case of George Peter Mwanza and another vs. The Attorney General' (Commonwealth Lawyers Association, 9 December 2019) <https://www.commonwealthlawyers.com/africa/the-right-to-food-as-a-derivative-of-the-right-to-life-the-case-of-george-peter-mwanza-and-another-vs-the-attorney-general-by-katindo-mwale> accessed 24 August 2025; Amo Muzambalika, 'Beyond Bars: A Critical Examination of the Theoretical Underpinnings and Jurisprudential Significance of *George Peter Mwanza and Melvin Beene v Attorney*

"*The two prisoners' claim that their right to life - a clearly justiciable right of the first-generation type - was violated through the non-observance of another right, i.e. the right to food (adequate food) - which as a second-generation right is generally taken to be of doubtful justiciability. The point is conceded that the right to food in Zambia is not in the justiciable category of rights in the domestic Bill of Rights*".[36]

"*Economic, social and cultural rights are now increasingly being widely recognized as enforceable in the courts either directly or indirectly through civil and political rights*".[37]

"*We accept the learned counsel for the appellants' call that the right to life must be interpreted liberally. It inevitably. dovetails and is interlinked with other rights such as the right to food and the right to health. Comparative legal experiences from which Zambia stands to benefit highlights the growing trend of indirect judicial protection of the right to food through the interconnection of that right with other rights and by framing, as we believe the two prisoners did here, the right to food with other rights*".[38]

Similarly, *Masangano* in Malawi displayed forward-looking jurisprudence by affirming that budgetary limitations are not a legal excuse for failing to meet constitutionally mandated minimum standards, "*The law as is put in the Prison Regulations is not a mere aspiration which has to be progressively attained, nor is it the ideal that the law represents. It is in fact the minimum requirement. The framers of the law setting the minimum standards surely must have known that the minimum standards are achievable and must be achieved. No one should be allowed to disobey the law merely on the ground that he or she does not have sufficient resources to enable them obey the law and fulfill their obligations under the law*".[39]

In contrast, other jurisdictions exhibited judicial caution and reluctance. In *Bandonda*, the court acknowledged international legal obligations but ultimately deferred to the doctrine of progressive realisation, effectively excusing inadequate detention food if family support was available. *Esoko* echoed this minimalistic approach, with the court dismissing detainees' food deprivation claims due to lack of "credible evidence" and reinforcing a high threshold of proof for inhuman treatment.

The European Court of Human Rights (ECtHR) has taken a distinct approach. It tends toward a cumulative conditions test, where food, sanitation, access to light, and healthcare are considered collectively under Article 3. While the Court does not recognise the right to food per se, its jurisprudence increasingly acknowledges food deprivation as part of a broader context of institutional neglect or abuse, as seen in cases such as *Stepuleac*, *Stanev*, and *Korneykova*. Crucially, these cases advance

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General (2019)' (Amulufeblog, 5 May 2025) <https://www.amulufeblog.com/2025/05/beyond-bars-critical-examination-of.html> accessed 24 August 2025.

[36] Mwanza [13.3].

[37] Ibid [13.11].

[38] Ibid [13.13].

[39] Masangano 21-22, 51.

the indirect enforceability of the right to food through human dignity and anti-torture provisions.

3.1.5 Conclusions: Evolving Normative Understandings and Judicial Roles

The reviewed cases reveal an expanding judicial willingness to recognise that adequate food is essential to human dignity in the context of people who rely entirely on the state to access their food. Across jurisdictions, dignity has emerged as the primary legal anchor; the most effective path for adjudicating food-related claims has been through framing deprivation as a violation of human dignity, often linked to the right to life and the prohibition of inhuman or degrading treatment. In order to provide a remedy, courts in *Mwanza* and *Masangano* have rejected the outdated dichotomy between justiciable and non-justiciable rights, affirming that economic and social rights are enforceable, particularly when state failure results in suffering. There is also a clear trend toward vulnerability-sensitive adjudication. Courts are increasingly recognising the differentiated nutritional needs of groups such as HIV-positive inmates, breastfeeding mothers, or persons with disabilities, signaling a shift from formal to substantive equality in detention jurisprudence.[40] Moreover, the principle of progressive realisation is coming under increasing scrutiny. The Malawian court in *Masangano* emphasised that progressive realisation must not become a shield for governmental inaction Even where the right to food is not recognised explicitly, courts are increasingly invoking food security under broader human rights provisions This use of connected concepts may be seen as a way to transform the right to food from a marginal to a central concern in detention litigation, although not expressely mentioned.

3.2 Public Distribution, Food Schemes, and Poverty – focusing on failures in state welfare systems

State welfare systems and social security plans, particularly those designed to ensure public distribution, food security, and poverty alleviation, are cornerstones of social justice and human well-being. However, their efficacy is frequently undermined by a spectrum of systemic failures, ranging from implementation gaps and bureaucratic practices to corruption and a lack of accountability. Our analysis draws on landmark court cases from India, Uganda, and Bangladesh that mention the right to food or relevant notions and highlight how right to adequate food and access to food is framed by the judiciary in cases concerning inadequate access to social security, explores the nature of remedies considered by the courts and highlights the appraoches different courts have adopted in adjudicating such critical issues.

[40] Mwanza [15.1], [15.2], [15.5], [16.3, [16.6]; Korneykova [141], [144].

3.2.1 Framing Right to Food

In India, 5 cases were considered: PUCL v. Union of India[41], Premlata v. Government of NCT Delhi[42], Vaishnorani Mahila Bachat Gat v. State of Maharashtra[43], Swaraj Abhiyan v. Union of India[44], and Anun Dhawan vs Union of India[45]. These cases were captured by the methodology as they included keywords such as 'food security', 'nutrition', and 'food'. Similarly, in Bangladesh, the case Dr. Mohiuddin Farooque v. Government of Bangladesh[46] was selected as it included the keyword 'nutrition'. The cases Center for Food and Adequate Living Rights v Attorney General of Uganda and Another (Misc Cause No. 436 of 2019)[47] and Center for Food and Adequate Living Rights (CEFROHT) v Attorney General (Miscellaneous Cause No. 75 of 2020)[48] in Uganda were selected as both cases include the keyword 'adequate food'. It is important to note that all of these cases were initiated by social activists, human rights lawyers, and agri-business specialists. This demonstrates a common thread of civil society engagement in human rights advocacy through public interest litigation.

Considering the Indian cases, the Supreme Court has consistently held that the fundamental Right to life enshrined in Article 21 of the Constitution does include the Right to live with human dignity and the right to food and other necessities. This foundational principle was emphatically stated in PUCL v. Union of India, which observed that "what is of utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation... Article 21 of the Constitution of India protects for every citizen a right to live with human dignity"[49]. The court noted that 'amongst plenty there is scarcity'[50] and elaborated on how issues regarding food distribution have led to malnutrition and starvation. Similarly, Anun Dhawan v. Union of India reiterated this direct linkage between Article 21, human dignity, and the right to food.[51] The Swaraj Abhiyan judgment specifically addressed access barriers during drought, directing that no household in drought-affected areas should be denied food grains solely for lacking a ration card, allowing other identification proofs. This identified the principle of removing procedural hurdles to accessing food in times of crisis. Premlata & Ors. v. Govt. of NCT Delhi further reinforced this, explicitly stating that the denial of a ration card to a Below Poverty Line (BPL) person "is virtually a denial of his or her right to food and thereby the right to life under Article 21 of the Constitution".[52] The Vaishnorani Mahila Bachat Gat case heavily

[41] AIR 1997 SC 568
[42] W.P.C. 7687 of 2010
[43] AIRONLINE 2019 SC 2526
[44] AIR 2016 SC 2929
[45] AIR 2024 SC 812
[46] 22 BLD (HCD) 2002 534
[47] 2022 UGHCCD 87 (25 May 2022)
[48] 2020 UGHCCD 157
[49] PUCL,[2]
[50] ibid
[51] Anun Dhawan, [2.5]
[52] Premlata and Others, [5.10]

focused on the quality and hygiene of supplementary nutrition provided under the Integrated Child Development Services (ICDS) Scheme, particularly for children, pregnant women, and lactating mothers. The court reiterated earlier PUCL directives that "contractors shall not be used for the supply of nutrition in Anganwadis and preferably ICDS funds shall be spent by making use of village communities, self-help groups and Mahila Mandals for buying of grains and preparation of meals"[53]. Considering the Indian cases, it is evident that the right to food was linked with the right to life and human dignity, and the Courts have continuously upheld the importance of removing procedural hurdles that could affect nutritional needs and food distribution.

Similarly, in Bangladesh, the Supreme Court in Dr. Mohiuddin Farooque v. Government of Bangladesh interpreted the right to life contained in Articles 31 and 32 of its Constitution not only as protecting life and limbs, but also health, strength of workers, means of livelihood, enjoyment of a pollution-free environment, and other bare necessities. The court ruled that this right means "not only protection of life and limbs but extends to the protection of health and strength... enjoyment of pollution-free water and air, bare necessities of life... maintenance and improvement of public health... and ensuring quality of life consistent with human dignity".[54] The Courts further recognized that it a "man has a natural right to the enjoyment of healthy life and a longevity upto normal expectation of life in an ordinary human being," and that "the natural right of man to live free from all the man made hazards of life has been guaranteed"[55].

The two cases from Uganda, Center for Food and Adequate Living Rights (CEFROHT) v Attorney General (MISCELLANEOUS CAUSE NO 75 OF 2020) and Center for Food and Adequate Living Rights (CEFROHT) v Attorney General and Another (Misc Cause No 436 of 2019), provide insights into the framing of the right to food within the broader context of the right to life and human dignity in Uganda similar to the position taken by the Indian cases in PUCL v. Union of India and Anun Dhawan v. Union of India.

3.2.2 Patterns Among Plaintiffs- Representation of Vulnerable Groups

Considering the plaintiffs, they are predominantly non-governmental organizations (NGOs), social activist groups, or individuals acting in the public interest, dedicated to upholding and enforcing the right to food and related human rights for vulnerable populations. Their litigation efforts frequently involve challenging the State's obligation to respect, protect, and fulfill their statutory duties, which are designed to ensure food adequacy, nutrition, and quality.

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[53] Vaishnorani, [2.5]
[54] Dr.Mohiuddin,[6]
[55] Ibid, [7]

Many plaintiffs explicitly state their role as public interest litigants. In the Ugandan cases, the Center for Food and Adequate Living Rights (CEFROHT) is an organization dedicated to food and living rights, and the *MISCELLANEOUS CAUSE NO 75 OF 2020* is identified as a "public interest case"[56]. The *Misc Cause No 436 of 2019* also develops from CEFROHT's concerns regarding public health and food quality.[57] Four of the Indian cases and the Bangladesh case are filed by social activists, civil liberties organizations, and human rights lawyers on behalf of vulnerable populations and communities. For example, CEFROHT has represented 'landless, the unemployed, the elderly, indigenous peoples, women, children, and people with disabilities'.[58] PUCL specifically advocates for "the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, pregnant and lactating women and destitute children,"[59] as well as Below Poverty Line (BPL) families and school children under the Mid-Day Meal Scheme. Vaishnorani Mahila Bachat Gat, representing local women's self-help groups (Mahila Mandals), fights to ensure that these groups can supply supplementary nutrition to "children, pregnant women and lactating mothers, adolescents girls under Integrated Child Development Scheme (ICDS Scheme)".[60] Anun Dhawan seeks to combat "hunger, malnutrition and starvation and the deaths resulting thereof".[61] Dr. Mohiuddin Farooque's case concern is the threat to the "life of the people of the country"[62] from contaminated food. Premlata & Ors**.** is the only Indian case out of the selected 5 cases that comprises individual petitioners whose grievances include being excluded from the BPL list, directly affecting their access to food and livelihood.

Most plaintiffs represent or are part of structured organizations, which suggests a sustained and organized approach to legal advocacy. The core of these cases is the plaintiffs' insistence on the State's responsibility to fulfill rights related to food, including the right to adequate food, nutrition, and distribution.

3.2.3 Failure in State Welfare System

The cases reveal the close connections between food and social security programs. They were filed against a range of systemic failures in public distribution, food schemes, and poverty alleviation efforts, highlighting challenges in policy implementation, resource allocation, and oversight. Three main challenges were identified.

(i) Insufficient Coverage and Accessibility of Food Schemes

[56] CERFOHT [2020] [4.11]
[57] CEFROHT [2022] [4]
[58] ibid.[9]
[59] PUCL,[2]
[60] Vaishnorani, [2]
[61] Anun Dhawan [1]
[62] Dr. Mohiuddin, [3]

One of the recurring issues within the cases is the state's failure to ensure equitable access to food. In India, *Swaraj Abhimanyu* considered the partial implementation of the National Food Security Act (NFSA) and the state governments' failure in upholding the provisions of the NFSA. The drought-affected areas were significantly impacted due to the inaction of the government, and the Supreme Court extended the protection of NFSA towards households that were initially not protected through the NFSA. While acknowledging the constitutional right to food as part of the right to life (Article 21) and the State's duty to improve nutrition (Article 47), the Court could not mandate the supply of items beyond the NFSA's statutory provisions due to its limited role in financial policy. However, it directed that no household in drought-affected areas shall be denied food grains under the NFSA solely for lacking a ration card, permitting other identity proofs.[63] . *PUCL v. Union of India* echoed these concerns, revealing arbitrary removal of people from the Below Poverty Line (BPL) lists and reduced grain allocations for "Food for Work" programs. The Court directed the immediate, temporary implementation of Famine Codes (or superior subsequent schemes) and a doubling of food grain and cash allocation.[64] In Premlata & Ors. v. Govt. of NCT Delhi, the Delhi High Court further exposed the denial of fresh BPL cards due to "caps" imposed by the Planning Commission, which the High Court deemed a "denial of a ration card to a BPL person is virtually a denial of his or her right to food and thereby the right to life under Article 21 of the Constitution".[65]

In Uganda, CEFROHT v. Attorney General (MISC CAUSE NO 75 OF 2020) highlighted the government's inability to manage food access and availability during the COVID 19 pandemic. The strategies adopted by the government left out vulnerable populations and the court noted "The Respondent's failure and omission to issue guidance on the access to and availability of food during the corona virus (COVID 19) pandemic is a violation of and a threat to the National Objective and Directive Principles of State Policy No. XXII & XXIII and Articles 20, 45 and 8A of the Constitution of Uganda.".[66]

(ii) Inadequate Nutritional Standards and Quality Control

The case Swaraj Abhiyan discussed issues regarding the inadequacy of food where important food items such as dhal and lentils were absent due to fiscal constraints. Further, the case discussed mid-day meal plans and their inconsistencies in maintaining the same ingredients and the nutrition requirement being a maximum rather than a minimum. A more severe failure in quality control emerged in *Vaishnorani Mahila Bachat Gat*, where the main issues concerned the 'Integrated Child Development Scheme' and large-scale irregularities and corruption under the category of supplementary nutrition. Bangladesh, the case brought by Dr. Mohiuddin Farooque

[63] Swaraj Abhimanyu, [9]
[64] PUCL, [3]
[65] Premlata and Others, [5]
[66] CEFROHT[2020], [2]

exposed a serious public health threat where imported skimmed milk powder was found to have radiation levels above the acceptable limit. The Supreme Court of Bangladesh held that the right to life, enshrined in Articles 31 and 32 of the Constitution of Bangladesh, encompasses not only the protection of life and limbs but also the protection of health and health of an ordinary human being, free from man-made hazards like contaminated food.[67] Similarly, in Uganda, CEFROHT alleged that food distributed as relief was contaminated with aflatoxins, posing serious health risks and highlighting the critical need for functioning food reserves and quality control systems. The Court acknowledged that the right to food is an implied right under the right to livelihood, which is part of the right to life. However, it found that the government had taken sufficient measures to establish distribution guidelines, maintain open access to farmlands for subsistence agriculture, and utilize a contingency fund for emergency food relief.

(iii) Flows in Implementation and Monitoring Schemes

Common among the cases is that the Courts repeatedly discussed the capacity of the state to overview distribution systems and guarantee the provision of adequate food and the respect of people's health and safety. In India, this was specifically discussed in the case of *Swaraj Abhiyan*. The court analysed the government's delay in releasing funds and their failure in developing mandatory oversight bodies. For example, *Swaraj Abhiyan II* highlighted that the National Food Security Act (NFSA), 2013, mandated the establishment of State Food Commissions and District Grievance Redressal Officers, but it was observed that "not every State has established such a Commission",[68] hindering implementation and remedial measures. Vaishnorani Mahila Bachat Gat reiterated the problem of centralization, noting that ICDS in Uttar Pradesh was a "highly centralised programme" where most purchases were made at the Directorate level, fostering corruption and making it difficult for local women's groups to participate. In Uganda, CEFROHT noted the absence of clear guidance in food distribution, while the dismissal of the case, Center for Food and Adequate Living Rights v. Attorney General, indicates that, due to administrative hurdles, substantive issues raised by the case could not be dealt with. These cases can be used as an example where access to food was directly affected due to the inaction of the state.

3.2.4 Types of Remedies Granted

Courts have granted a variety of remedies, primarily aimed at upholding fundamental rights, ensuring the proper implementation of social welfare schemes, and fostering accountability in governance. In India, the Supreme Court adopted a proactive approach, issuing institutional and policy guidelines to ensure food security and welfare. For example, in Swaraj Abhiyan the court guided the states to implement a grievance mechanism while in In Vaishnorani Mahila Bachat Gat v. State of Maharashtra, the Court the Court directed the State Government of Maharashtra to

[67] Dr.Mohiuddin, [6]
[68] Swaraj Abhiyan, [3.10]

invite fresh tenders within four weeks, strictly adhering to the national policy and its observations, and recommended decentralizing the supply to smaller units like ‘panchayats’ to fulfill the real intention of the policy and prevent the scheme from being "usurped" by large players.[69] These directions are intended to protect the right to life and dignity of vulnerable populations. However, Indian courts also exercised judicial restraint on policy matters, as seen in Anun Dhawan v. Union of India, where they declined to mandate specific schemes like community kitchens, deferring to the executive's role in policy formulation when existing statutory frameworks were deemed sufficient. The Court's rationale for this decision was primarily based on the principle that the scope of judicial review in policy matters is very limited.70 While the petitioners sought to apply the fundamental Right to life enshrined in Article 21, which the Court acknowledged includes the right to live with human dignity and the right to food and other necessities as well as the State's primary duties under Article 47 to raise nutrition levels, the Court determined that the executive was already fulfilling its obligations through existing channels.

The two Ugandan cases, CEFROHT v Attorney General of Uganda and Another (Misc Cause No. 436 of 2019) and CEFROHT v Attorney General (Misc Cause No. 75 of 2020) ended in very different ways. In the first case, the court didn’t even get to the heart of the matter. It dismissed the case on a technical point, saying that the applicants should have first used the internal complaint systems available before coming to court. In the second case, the judges went further and looked at the substance of the claim. They acknowledged that while food systems were under strain during COVID-19, the government had taken steps such as issuing food distribution guidelines and creating alternative support measures, which, in the court’s view, were enough to satisfy constitutional expectations at that time.

Together, these outcomes show a kind of judicial caution. In one instance, the court stepped back because of procedure, and in the other, it gave the government the benefit of the doubt, accepting its pandemic response as adequate even if not perfect.

3.2.5 Jurisdictional Variations : Innovation vs. Reluctance

The courts from India, Uganda, and Bangladesh showed varying levels of innovation and reluctance towards intervening.

In Anun Dhawan v. Union of India, the Supreme Court demonstrated reluctance and a principle of judicial restraint.[71] The petitioners sought a mandate for specific schemes like "Community Kitchens" to combat hunger and malnutrition, leveraging the fundamental Right to life under Article 21, which includes the right to food and other

[69] Vaishnorani, [25]
[70] Anun Dhawan, [3]
[71] ibid

necessities, and the State's primary duties under Article 47 to raise nutrition levels.[72] However, the Court declined to issue such directions, reasoning that the scope of judicial review in policy matters is very limited and courts should not act as advisors to the executive. In contrast, Vaishnorani Mahila Bachat Gat v. State of Maharashtra exemplifies judicial innovation and active intervention. The Court nullified tenders for supplementary nutrition that favored large contractors, finding the conditions arbitrary and designed to exclude local self-help groups (SHGs).[73] The Court highlighted that previous directives in PUCL v. Union of India explicitly stated that "contractors shall not be used for the supply of nutrition in Anganwadis and preferably ICDS funds shall be spent by making use of village communities, self-help groups and Mahila Mandals.[74] It directed the State to invite fresh tenders adhering to national policy and to decentralize supply to smaller units like panchayats to fulfill the policy's true intention. Swaraj Abhiyan v. Union of India showcases a mixed approach. The Court demonstrated innovation and intervention by directing states to faithfully implement the National Food Security Act, 2013 (NFSA), establish internal grievance mechanisms, and constitute State Food Commissions. PUCL v. Union of India is a landmark example of judicial innovation that proactively shaped social welfare policy. The Supreme Court issued numerous interim orders to address hunger and starvation, asserting that the "right to life with human dignity" under Article 21 and the State's primary duties under Article 47 mandated governmental action to provide food to the poor.[75] In Premlata & Ors. v. Govt. of NCT Delhi, the Delhi High Court showed innovation in addressing specific implementation challenges related to food security. The Court observed that the denial of a ration card to a BPL person is "virtually a denial of his or her right to food and thereby the right to life under Article 21 of the Constitution".[76] It directed the Union of India and the GNCTD to resolve issues preventing the issuance of fresh BPL cards due to "caps" imposed by the Planning Commission.

The Bangladesh Supreme Court in Dr. Mohiuddin Farooque v. Government of Bangladesh adopted a distinct approach, interpreting the "right to life" broadly to include protection of health from contaminated food. While it refrained from ordering the return of contaminated milk due to pending litigation, it issued procedural directives requiring multiple sample collections for radiation testing and streamlined testing protocols to prevent future hazardous food imports.

In Center for Food and Adequate Living Rights v. Attorney General of Uganda (2020 COVID-19 case), the High Court exhibited reluctance to intervene. The applicant argued that the government's failure to issue guidance on food access and availability and to establish food reserves during the pandemic violated constitutional rights to

[72] Ibid,[2]
[73] Vaishnorani, [25]
[74] PUCL, [2]
[75] Swaraj Abhiyan, [2]
[76] Premlata and others, [5.10]

livelihood and national objectives.[77] The Court acknowledged that the right to food is an implied right under the right to livelihood. However, it found that the government had already taken steps and had not failed its duty, having other systems in place instead of formal food reserves, and thus dismissed the application. Center for Food and Adequate Living Rights v. Attorney General of Uganda (2022 marketing case), further demonstrated reluctance, but on procedural grounds. The applicant sought declarations against the government for failing to restrict the marketing of unhealthy foods to children, citing violations of children's rights to adequate food, health, and safety. The Court, however, upheld a preliminary objection that the application was prematurely brought because the applicant had not first utilized the existing complaints mechanism of the Uganda Communications Commission.[78]

3.2.6 Conclusions: Evolving Normative Understandings and Judicial Roles

Cases from India, Bangladesh, and Uganda provide an insight into how these jurisdictions have interpreted and utilized the right to food within the thematic focus of Public Distribution, Food Schemes, and Poverty. One of the core characteristics of the selected cases is the visible involvement of civil society organizations in protecting the food-related rights of vulnerable communities. For example, both Vaishnorani Mahila Bachat Gat v. State of Maharashtra and the two Ugandan cases gave specific focus to women, children, and the elderly, while in Dr. Mohiuddin Farooque v. Government of Bangladesh, the entire country was considered as the affected population. Although in Anun Dhawan v. Union of India, the Indian Supreme Court indicated a reluctance to expand food-related rights beyond its capacity, cases PUCL and Vaishnorani Mahila Bachat indicate the active role the judiciary plays in protecting the right to food within the context of Article 21 of the Indian Constitution. The same enthusiasm for expanding the right to food within the context of the right to life is also shown in Bangladesh through the selected case, while Uganda prefers adhering to the existing standards rather than active involvement of the judiciary towards protecting the right to food.

3.3 Migration, Statelessness, and Access to Food – deprivation of food for non-citizens

The reviewed cases in this section center on migration and statelessness and how they affect the right to food. This section covers two cases ; *Sufi and Elmi v. United Kingdom* (EctHR), mentioning “*malnutrition*” and “*food security*”and and R (Adam, Limbuela and Tesema) v. Secretary of State for the Home Department (UK), mentioning “*access to food*”. Although the keyword “right to food” does not appear explicitly in these cases, their relevance is established through the tiered keyword strategy employed in the case collection process.

[77]CEFROHT[2020],[3-4]
[78] CEFROHT [2022] [9]

3.3.1. Patterns Among Plaintiffs

In Sufi and Elmi, the applicants were Somali nationals who, while physically present in the UK, had no viable claim to citizenship or protection in their country of origin. Their statelessness and lack of protection made them especially vulnerable. The European Court of Human Rights recognised that if returned to Somalia, they would likely end up in internally displaced persons camps or in areas where access to food and water was severely restricted due to conflict, forced displacement, and obstruction of humanitarian aid. Importantly, the Court considered that migrants without local affiliations or economic resources are most exposed to hunger and malnutrition, thereby framing the applicants' vulnerability as a structural condition linked to their migration status.

In Adam, the applicants were asylum seekers in the UK who had failed to apply for asylum “as soon as reasonably practicable” and were thus denied all state support under Section 55 of the Nationality, Immigration and Asylum Act 2002. This provision left them without legal access to shelter, food, or income. Because they were also prohibited from working, they became entirely dependent on charitable organisations, with some being forced to sleep in public spaces. The policy created a system where asylum seekers could be punished with hunger for administrative failings. The House of Lords found this unacceptable, concluding that the deliberate infliction of such deprivation by a state authority could cross the threshold of inhuman treatment.

In both cases, the plaintiffs belonged to migrant populations who lacked secure legal status and were systematically excluded from the means of survival. This legal exclusion directly contributed to their actual or potential food insecurity, and it is this intersection between migration control and material deprivation that placed the applicants at risk of treatment violating their human rights. These cases show that the most severe food insecurity is experienced by individuals who are excluded from formal legal protections and simultaneously denied the autonomy to provide for themselves. Stateless persons and migrants often fall into this category, particularly when states pursue deterrence-based policies that restrict access to aid or impose conditionalities on support. The legal status of these individuals thus becomes a determinant of whether they can access food or face malnutrition.[79]

[79] R (Adam) v Secretary of State for the Home Department [2005] UKHL 66, [2005] 3 WLR 1019 [6], [26], [67], [91].

3.3.2. Framing the Right to Food: Inhuman treatment and Dignity

In Sufi and Elmi, the European Court of Human Rights was asked to assess whether deporting two Somali nationals to a country affected by widespread conflict, internal displacement, and famine-level food insecurity would amount to inhuman treatment. The applicants argued that they faced a real risk of starvation and extreme deprivation in Somalia due to their lack of clan affiliation, their inability to access humanitarian aid, and the overall collapse of social support systems.

Although the Court did not refer to the right to food as such, it recognised that conditions of acute malnutrition, obstruction of food aid, and displacement could constitute degrading treatment under Article 3 of the European Convention on Human Rights. In particular, the Court explicitly cited emergency levels of malnutrition and hunger as grounds for prohibiting deportation. This framing allowed the Court to treat food insecurity as part of a larger pattern of treatment incompatible with human dignity. The Court stated: "*In light of the above, the Court considers that the conditions both in the Afgooye Corridor and in the Dadaab camps are sufficiently dire to amount to treatment reaching the threshold of Article 3 of the Convention. IDPs in the Afgooye Corridor have very limited access to food and water, and shelter appears to be an emerging problem as landlords seek to exploit their predicament for profit*".[80]

In Adam, the UK House of Lords examined whether denying social support, including access to food and shelter, to asylum seekers who had not claimed asylum promptly after arrival could breach Article 3 of the European Convention on Human Rights. The applicants were rendered entirely destitute by the government's policy: they were barred from working, ineligible for public support, and left without means to access food or shelter. While the judgment did not rely on the right to food, the Court acknowledged that state policies which knowingly cause or exacerbate an inability to access food, or tolerate homelessness, may breach the prohibition of inhuman or degrading treatment under Article 3 of the ECHR. In this case, the court recognised that food deprivation was a direct result of state action.[81]

3.3.3 Types of Remedies Granted

The remedies offered in both Sufi and Elmi and Adam were tailored to the immediate protection of the applicants and focused primarily on preventing future violations or removing them from harmful conditions, rather than on system-wide reforms or structural guarantees of the right to food. In Sufi and Elmi, the European Court of Human Rights issued a declaratory judgment that the deportation of the applicants to

[80] *Sufi and Elmi v United Kingdom* (App nos 8319/07 and 11449/07) ECtHR, 28 June 2011[291].
[81] R (Adam) [9], [60].

Somalia would violate Article 3 ECHR. The Court found that "*any returnee forced to seek refuge in either camp would be at real risk of Article 3 ill-treatment on account of the dire humanitarian conditions*".[82] The effect of this decision was to prohibit their removal from the UK, as long as conditions in Somalia remained life-threatening. While the Court did not require policy reform, the ruling provided protection against forced return to conditions of food insecurity and malnutrition, "*declares the applications under Article 3 of the Convention admissible; Holds that the applicants' removal to Somalia would violate Article 3 of the Convention*".[83]

In Adam, the UK House of Lords ordered that support be restored to asylum seekers who would otherwise face destitution, including deprivation of food and homelessness. The Court found that denying support to people in such situations breached Article 3 and required the government to provide them with minimum subsistence aid.[84] This remedy had the practical effect of restoring food access and shelter to those affected.

Both the European Court of Human Rights and the UK House of Lords demonstrated a willingness to expand the protective reach of Article 3 to encompass conditions of extreme deprivation caused by state action or inaction. However, this expansion remains incremental and reactive, limited to circumstances where suffering reaches a threshold of inhumanity.

3.3.4 Jurisdictional Variations: Innovation vs. Reluctance

Both the European Court of Human Rights and the UK House of Lords demonstrated a willingness to expand the protective reach of Article 3 to encompass conditions of extreme deprivation caused by state action or inaction. However, this expansion remains incremental and reactive, limited to circumstances where suffering reaches a threshold of inhumanity.

The ECtHR in Sufi and Elmi showed a significant degree of innovation, explicitly including food insecurity as part of its analysis of degrading treatment covered by Article 3. The Court engaged both with the reality of vulnerable people deprived of their freedom, but also with humanitarian evidence from conflict zones to then ground its ruling in the real-life consequences of deportation on several factors, including food security. While the Court avoided recognising a right to food, it made clear that

[82] Sufi [292]
[83] Sufi 75.
[84] R (Adam) [39], [40].

deporting individuals into situations of predictable hunger and deprivation is incompatible with human rights obligations.

Similarly, the UK House of Lords in Adam affirmed that domestic policy cannot be used to justify the intentional creation of destitution, including hunger, among asylum seekers. This was an important domestic precedent, as it confirmed that Article 3 ECHR applies within the UK to matters of socio-economic exclusion, particularly when directed against migrants. Nevertheless, the ruling stopped short of requiring comprehensive changes to asylum law or support systems. Courts will intervene to prevent hunger when it results in severe and demonstrable suffering, but they will generally do so under the rubric of dignity and humane treatment, not by recognising food as a legally enforceable right.

3.3.5 Conclusion

The cases of Sufi and Elmi and Adam illustrate how the issues of migration and statelessness may intersect with the right to food given the condition of actual of potential vulnerability of the people and the obligations of the state vis-à-vis individuals who are under their custody. Even where that right is not explicitly protected. While the courts in these cases did not affirm a freestanding right to food, they nevertheless recognised that not providing food while in custody or exposing individuals to possible malnutrition or food deprivation by expelling them constitute inhuman and degrading treatment in breach of Article 3 of the EChHR. This reading offers a pathway to increase the protection of migrants from cases of food deprivation by anchoring food insecurity within the framework of dignity and civil rights.

3.4 Land, Agriculture, and Resource Deprivation - Violation of the Right to Food through Denial of Productive Means

The cases reviewed in this section focus on the interconnection between land, agriculture and the right to food. In these disputes, food is rarely treated as a self-standing claim. Instead, it appears as an entitlement contingent on access to productive resources, environmental integrity, and the ability of communities to sustain themselves. From South Africa and Kenya at the national level to African regional and sub-regional bodies including the African Commission on Human and Peoples' Rights, the ECOWAS Community Court of Justice, and the East African Court of Justice, courts have been asked to address how land deprivation, forced displacement, and unsafe agricultural policies undermine food security. This section examines six cases,

all identified through our tiered keyword strategy under “right to food,” “adequate food,” and “food security.”

The selected cases are SERAC and CESR v Nigeria (ACHPR), Tahirou Djibo & Others v Republic of Niger (ECOWAS Court of Justice), Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another (Constitutional Court of South Africa), Mwangi and Another v Attorney General and Others (High Court of Kenya) all mentioning “right to food”; Sudan Human Rights Organisation and Centre on Housing Rights and Evictions v Sudan (ACHPR) mentioning “right to adequate food”; and Centre for Food and Adequate Living Rights (CEFROHT) and Others v Attorney General of Republic of Uganda mentioning “food security”.

3.4.1 Framing the Right to Food: from Subsistence to Sovereignty

The six cases examined under this theme illustrate how courts have engaged with food through questions of land access, environmental degradation, displacement, and agricultural regulation. At the regional level, the African Commission in SERAC v Nigeria[85] and Sudan Human Rights Organisation v Sudan[86] linked environmental destruction and forced displacement to food deprivation. At the sub-regional level, the ECOWAS Court in Tahirou Djibo v Niger[87] and the East African Court of Justice in CEFROHT v Uganda[88] addressed the relationship between land, governance, and food security. At the national level, the High Court of Kenya in Mwangi v Attorney General[89] dealt with food safety and genetically modified crops, while the South African Constitutional Court in Wary Holdings v Stalwo[90] considered land-use rules with direct implications for food production. Taken together, these cases demonstrate that while courts rarely adjudicate the right to food in isolation, they consistently acknowledge that food security is inseparable from access to land, natural resources, and sustainable agricultural policies.

In Social and Economic Rights Action Center (SERAC) and CESR v Nigeria, the African Commission on Human and People’s Rights found that the Nigerian government’s complicity in environmental degradation through oil extraction in

[85] *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v Nigeria* (2001) AHRLR 60 (ACHPR 2001)

[86] *Sudan Human Rights Organisation and Centre on Housing Rights and Evictions (COHRE) v Sudan* (2009) AHRLR 153 (ACHPR 2009)

[87] *Tahirou Djibo, Amadou Madougou, Abdoulaye Soumaila, Sidikou Abdou v Republic of Niger*ECW/CCJ/JUD/03/20 (ECOWAS Court of Justice, 20 February 2020).

[88] *Centre for Food and Adequate Living Rights (CEFROHT) and Others v Attorney General of the Republic of Uganda and Others* Reference No 39 of 2021 [2023] EACJ 15.

[89] *Mwangi and Another v Attorney General and Others* [2023] eKLR (High Court of Kenya)

[90] *Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another* [2008] ZACC 12, 2009 (1) SA 337 (CC)

Ogoniland deprived local communities of their means of subsistence, violating their rights to life (Article 4), health (Article 16) and to economic, social and cultural development (Article 22).[91] It observed that "the right to food is inseparably linked to the dignity of human beings and is therefore essential for the enjoyment and fulfilment of such other rights as health, education, work and political participation" and stressed that Nigeria had failed in its "minimum duties" by both destroying food sources and allowing private companies to do the same.[92] By linking the contamination of farmland and rivers directly to subsistence when the destruction of fishing waters and arable land rendered self- sufficiency impossible, the Commission gave the right to food an explicit place in African regional jurisprudence.

A similar framing appeared in Sudan Human Rights Organisation and Centre on Housing Rights and Evictions (COHRE) v Sudan, concerning the Darfur conflict. Here, the Commission found that forced displacement and the destruction of homes, crops and livestock by militias left entire communities unable to cultivate or access food. The complainants had argued that "attacks by militias prevented Darfurians from farming land, collecting fireweed for cooking, and collecting grass to feed livestock, which constitute a violation of their right to adequate food."[93] The Commission agreed that such acts, taken together with forced evictions, implicated Articles 4, 16 and 22 of the Charter as informed by standards and principles of international human rights law.[94]

At the sub-regional level, the ECOWAS Court of Justice reached similar conclusions in Tahirou Djibo and Others v Niger where pastoralist and farming families had been evicted from their land without consultation or compensation. The judgment available in French and translated showed that the Court acknowledged the "right to an adequate standard of living is recognised as a fundamental right by international human rights instruments. It includes several rights recognised by international standards: the right to food, clothing, housing, work, health, etc." and held that depriving communities of their land undermined the "availability, accessibility and sufficiency of food."[95]

The East African Court of Justice in *Centre for Food and Adequate Living Rights (CEFROHT) v Attorney General of Uganda* approached the issue through the lens of governance and environmental regulation. The applicants, led by a Ugandan civil society organisation promoting the right to food, argued that the East African Crude Oil Pipeline threatened local livelihoods and food security. While the Court dismissed the case on procedural grounds, it recorded that the EACOP project is "proceeding in

[91] SERAC v Nigeria [64]

[92] Ibid. [65-66]
[93] *Sudan Human Rights Organisation and Centre on Housing Rights and Evictions (COHRE) v Sudan* [112]
[94] Ibid. [124]
[95] Tahirou Djibo and Others v Niger [84, 87-88]

breach of human rights obligations, and disregard of environmental considerations such as preservation of forest reserves, water bodies, wetlands, international conservation sites, bird and animal wildlife and that it will have a significant impact on food security in the region."[96] The Applicants argued that the failure to conduct proper ESIA and obtain environmental approvals endangered food security and sustainable livelihoods. The right to food, although not directly mentioned is indirectly protected as an interlinked outcome of the recognition of the state responsibility to protect the right to access to healthy food, regulate the use of harmful inputs, and ensure indirectly environmental sustainability as connected to human rights.

At the national level, *Mwangi & another v Attorney General of Kenya and Others* represents one of the clearest constitutional invocations of the right to food. Kenyan farmers and consumers challenged the government's decision to lift the ban on genetically modified crops, invoking Article 43(1)(c) of the Kenyan Constitution, which guarantees the right "to be free from hunger, and to have adequate food of acceptable quality." The Court acknowledged that this right includes ecological and cultural dimensions, citing international soft law on peasants' rights (Article 15 of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas) to affirm that adequate food must be "produced through ecologically sound and sustainable methods that respect culture and preserve access for future generations."[97] While ultimately dismissing the petition, the High Court acknowledged that the constitutional right to food includes dimensions of nutritional adequacy and safety, locating food directly within the right to health and life.

Finally, in Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another, the South African Constitutional Court considered the regulation of agricultural land and its implications for access to food. Although the court did not directly focus on the right to food, both the amici curiae and the Minister of Agriculture argued that "reclassifying agricultural land undermines access to land, food, and environmental sustainability, as protected under: section 27(1)(b): Right to have access to sufficient food, section 24(b)(iii): Right to sustainable development, and section 25(5): Right to equitable access to land."[98] Even in this more technical dispute, food security concerns found their way into constitutional reasoning. What unites these cases is the understanding that the right to food, while rarely litigated in explicit terms, is intrinsically bound to access to land, ecological integrity, and the ability to produce or obtain adequate nutrition. Courts navigate doctrinal constraints around socio-economic rights by combining food production with the protection of multiple civil, political, and collective rights. This

[96] *Centre for Food and Adequate Living Rights (CEFROHT) and Others v Attorney General of the Republic of Uganda* [2]

[97] Mwangi and Another v Attorney General and Others [2]

[98] Wary Holdings (Pty) Ltd v Stalwo [50-51]

integrative framing has allowed judicial bodies to address food-related deprivation through more established legal categories, while simultaneously contributing to the growing recognition of food as a fundamental human entitlement.

3.4.2 Patterns among Plaintiffs: Rural, Marginalised, and Dispossessed Communities

Across all reviewed cases, the plaintiffs shared a common characteristic, and that is, their systematic marginalisation and dependence on land, agricultural and natural resources for their survival and livelihoods. These individuals and communities were not merely impoverished; their vulnerability stemmed from structural exclusion, environmental degradation, or displacement that severed their access to productive means.

Affected populations include:

- Indigenous and rural communities in Ogoniland (SERAC v Nigeria), whose subsistence farming and fishing were destroyed by unregulated oil extraction and state-supported pollution.
- Civilians in Darfur (Sudan Human Rights Organisation v Sudan), who faced forced displacement and targeted destruction of food systems by state-backed militias left them unable to cultivate or access food.
- Pastoralist and farming families in Niger (Tahirou Djibo v Niger), forcibly evicted from land vital for grazing and agriculture, and rendered landless without adequate notice, compensation, or relocation. The displacement by agro-industrial expansion reflected the broader struggle of nomadic communities in asserting land rights in formal legal systems.
- Smallholder farmers and consumers in Uganda (CEFROHT v Attorney General), who were exposed to unsafe agrochemicals due to state regulatory failure, undermining their ability to access or produce safe and nutritious food.
- Public interest petitioners who are smallholder Kenyan farmers in Kenya (Mwangi & another v Attorney General), who sought to protect the constitutional right to safe, adequate food against government deregulation of GMOs without sufficient public participation or scientific transparency. They challenged top-down policies that threatened their food sovereignty and traditional systems.
- Disadvantaged landholders in South Africa (Wary Holdings v Stalwo), indirectly impacted by land classification rules that limited equitable access to agricultural land. Although more technical in focus, it raises questions about how land-use designations can reinforce or undermine equity in South Africa.

The reviewed cases in this section focus on courts' responses to the claim that plaintiffs were structurally denied access to land, agriculture, and natural resources as

core pathways through which the right to food is guaranteed. Our methodology captured cases on these topics in the context of African jurisdictions, both at the regional, sub-regional, and national level. All the cases reveal judicial engagement with how land alienation, destruction of productive infrastructure, and exclusion from agricultural policymaking impact food security and food sovereignty, especially for vulnerable communities.

3.4.3 Types of remedies granted

The remedies granted varied considerably depending on jurisdiction and the court's willingness to assert enforceable standards. The role of symbolic recognition, even when compensation is not awarded, serves as a catalyst for advocacy and policy reform.

At the African Commission on Human and Peoples' Rights, both SERAC v Nigeria and Sudan Human Rights Organisation v Sudan illustrate how declaratory remedies can be substantive, even where direct enforcement is absent. In SERAC, the Commission found that Nigeria had violated the Ogoni people's right to food by destroying crops and livestock, enabling pollution, and forcibly displacing communities. It ordered Nigeria to cease military attacks, investigate and prosecute those responsible, provide compensation and resettlement assistance, and undertake environmental remediation. These recommendations, while not judicially enforceable, provided a detailed blueprint for rebuilding food systems and have since been widely cited in rights-based advocacy. The Commission maintained oversight by requiring Nigeria to report on implementation through the Niger Delta Development Commission (NDDC) and Ministry of Environment.

In Sudan Human Rights Organisation, the Commission adopted a similar approach, finding violations linked to the looting of food and water sources in Darfur. Its recommendations urged Sudan to protect victims, ensure effective remedies including restitution and compensation, and rehabilitate social and agricultural infrastructure. Though framed under the right to health (Article 16 of the African Charter), the remedies indirectly addressed food security by recognizing its interdependence with survival and dignity. The prevention of farming and destruction of food and water sources directly impacted the health and well-being of the population, contributing to the violation found under Article 16.

By contrast, the ECOWAS Court in Tahirou Djibo v Niger demonstrates the limitations of more formalised judicial processes when claimants lack documentary land titles. Although the applicants argued that eviction severed their access to food, the Court focused narrowly on property formalities and denied relief. Plaintiffs were left bearing costs (para 260), and no substantive food-related remedies were granted. The case exposes a structural weakness, that is, customary land users may be denied standing

to litigate food rights because their tenure is not formally recognised, thereby leaving subsistence concerns outside enforceable protection.

National and sub-regional courts also displayed caution. In Mwangi v Attorney General (Kenya), the High Court acknowledged the importance of food security but restricted itself to a procedural ruling on case allocation, leaving substantive issues unresolved. Similarly, the East African Court of Justice in CEFROHT v Uganda accepted the applicants' arguments that the East African Crude Oil Pipeline project endangered food security and sustainable livelihoods but dismissed the case entirely on procedural grounds. No remedies were granted, and the right to food was neither upheld nor denied, highlighting how procedural thresholds can effectively insulate food-related claims from substantive adjudication.

Finally, in Wary Holdings v Stalwo, the South African Constitutional Court addressed food-related concerns only indirectly. The amici and Minister of Agriculture argued that reclassifying agricultural land implicated the constitutional right to sufficient food, environmental sustainability, and equitable access to land. Yet the Court's decision ultimately deferred responsibility to municipalities, holding that integrated development plans under the Municipal Systems Act could address agricultural preservation. This avoided a substantive engagement with the right to food, leaving a gap in enforceable protections against unsustainable rezoning and underscoring the tension between decentralised governance and national food security imperatives (paras 139-140).

Taken together, these cases reveal a mixed remedial landscape. The most ambitious remedies, such as those in SERAC, aimed not only to compensate past violations but to reconstruct conditions for future food security. Others, such as Sudan Human Rights Organisation, linked food access to broader socio-economic rights, but without explicit recognition of food as a standalone entitlement. At the judicial level, procedural constraints often curtailed meaningful remedies, with courts more willing to recognise violations symbolically than to order structural change. These patterns highlight the uneven judicial willingness to translate the right to food into practical, enforceable obligations, leaving much of the transformative potential of right-to-food litigation unrealized.

3.4.4 Jurisdictional variations

The reviewed cases also reveal important jurisdictional variations in the ways courts approach food- related claims, ranging from doctrinal innovation to procedural reluctance. These differences reflect not only the formal mandates of the relevant bodies but also their interpretive willingness to engage the right to food as part of broader human rights frameworks.

The most innovative jurisprudence emerged from the African Commission on Human and Peoples' Rights. In SERAC v Nigeria, the Commission explicitly articulated the

right to food as implicit in the African Charter anchoring it in Articles 4 (life), 16 (health), and 22 (development). It expanded state obligations beyond non-interference to include protection from private actors and proactive measures to restore food systems, thereby recognising environmental remediation and community consent as conditions for realising the right to food. Similarly, in Sudan Human Rights Organisation v Sudan, while the Commission did not frame its findings in terms of a standalone "right to food," it nevertheless linked destruction of crops, livestock, and water sources to violations of the right to health under Article 16. Its recommendations to rebuild agricultural and social infrastructure demonstrated a substantive, if indirect, commitment to addressing food insecurity through human rights adjudication. By contrast, the ECOWAS Court in Tahirou Djibo v Niger displayed a more constrained approach. Although the applicants argued that land expropriation had deprived them of food and livelihoods, the Court limited its analysis to property title formalities. In refusing to consider the food security implications of dispossession, and in ordering no remedies beyond assigning costs, the Court revealed a reluctance to treat subsistence concerns as justiciable where customary tenancy was not formally documented. This illustrates how rigid requirements can exclude protection of vulnerable groups most affected by food insecurity.

At the sub-regional level, the East African Court of Justice in CEFROHT v Uganda showed similar procedural caution. Despite detailed allegations that the East African Crude Oil Pipeline project endangered ecosystems vital for food production and threatened regional food security, the Court dismissed the case. By refusing to reach the merits, the Court avoided any substantive engagement with the right to food, effectively sidelining the issue through procedural filters. National courts likewise displayed mixed approaches. In Mwangi v Attorney General (Kenya), the High Court acknowledged the novelty and complexity of the issues raised concerning genetically modified organisms and constitutional food rights. Declining to pronounce on substance, the Court left the constitutional right to food untested in this context. In South Africa's Wary Holdings v Stalwo, the Constitutional Court was similarly reluctant to engage food security directly. While amici curiae and the Minister of Agriculture invoked sections 27(1)(b) (access to sufficient food), 24(b)(iii) (sustainable development), and 25(5) (equitable access to land), the Court focused instead on the division of powers between municipalities and national government. In deferring to municipal planning processes without ensuring safeguards for agricultural preservation, the Court acknowledged food-related concerns in argument but declined to translate them into judicially enforceable protections.

To conclude, these jurisdictional variations underscore the unevenness of right-to-food adjudication. The African Commission stands out for its interpretive innovation in situating food within the Charter's guarantees of life, health, and development, and for ordering remedial measures. By contrast, regional and sub-regional courts with binding authority often avoided substantive engagement through narrow procedural rulings or reasoning. National courts showed some openness, as in Kenya and South

Africa, but ultimately stopped short of robustly operationalising the constitutional right to food. The comparative picture suggests that while some are willing to innovate, judicial reluctance remains a significant barrier to advancing food-related claims in practice.

3.4.5 Conclusions: Judicial recognition of Right to Food through access to productive resources

Across this cluster of cases, a common theme emerges, that is that courts rarely frame the right to food as an autonomous entitlement but instead recognise it through the protection of productive resources essential for subsistence. Whether in the African Commission's innovative jurisprudence (SERAC and Sudan Human Rights Organisation), the ECOWAS Court's constrained reasoning in Tahirou Djibo, or national and sub-regional cases such as Mwangi, Wary Holdings, and CEFROHT, access to land, water, and ecological integrity formed a core part of judicial reasoning. This indirect recognition reflects both opportunity and limitation. On one hand, the linkage of food to rights such as life, health, property, and development provides a powerful doctrinal basis for holding states accountable when communities are displaced, food systems destroyed, or unsafe practices threaten subsistence. On the other hand, the reluctance to affirm food as a distinct, justiciable right leaves gaps. Procedural dismissals and deference to political branches (as seen in Djibo, CEFROHT, and Wary Holdings) demonstrate how structural barriers continue to limit enforceability.

Ultimately, these cases illustrate that the right to food is most often judicially realised through claims to land and natural resources. Ensuring equitable access to these productive means is central to food security and human dignity. The jurisprudence reveals both the promise and fragility of right-to-food adjudication: while courts have the capacity to innovate by embedding food in broader rights, without explicit recognition and enforceable remedies, protection of this fundamental right remains partial and uneven.

3.5 Maternal and Child Nutrition – failures of public health schemes to ensure adequate food

Maternal and child nutrition is a cornerstone of public health, directly impacting the fundamental rights to life, health, and dignity. Adequate nutrition during pregnancy and early childhood is vital for survival, healthy growth, and long-term well-being. According to FAO 'Good nutrition is the foundation for human health and well-being,

physical and cognitive development, and economic productivity.[99] Despite national policies and international commitments, systemic failures in public health schemes often lead to a denial of essential nutritional support. The search for cases led to the identification of a series of cases that provide an overview of the way courts can make the link between existing obligations and adequate maternal and child nutrition. Five cases were considered for the thematic focus on maternal and child nutrition: Laxmi Mandal vs. Deen Dayal Harinagar Hospital & Ors[100], Premlata & Ors. v. Govt. of NCT Delhi[101], Maatr Sparsh An Initiative By Avyaan Foundation vs. Union Of India[102], Z and Others v. The United Kingdom[103], and the Pharmaceutical and Health Care Association of the Philippines vs. Health Secretary Francisco T. Duque III.[104]

In Laxmi Mandal vs. Deen Dayal Harinagar Hospital & Ors. considered that the right to food is an "inalienable survival right" that forms part of the right to life, together with the right to health and reproductive rights of the mother.[105] This case highlights systemic failures in implementing government schemes designed to provide food and nutritional support to poor mothers and children. Similarly, Premlata & Ors. v. Govt. of NCT Delhi directly asserts that the "Denial of a ration card to a BPL person is virtually a denial of his or her right to food and thereby the right to life under Article 21 of the Constitution".[106] Both cases considered significant implementation gaps in various welfare programs intended to reduce maternal and infant mortality and combat malnutrition. Concurrently, Maatr Sparsh An Initiative by Avyaan Foundation vs. Union of India highlights the State's obligation to provide an enabling environment for breastfeeding, a crucial aspect of child nutrition. The Pharmaceutical and Health Care Association of the Philippines vs. Health Secretary Francisco T. Duque III case, while different in context, highlights regulatory challenges in balancing public health objectives with commercial interests, exposing instances of executive overreach in implementing nutrition policies. Collectively, these cases illustrate the persistent struggle to translate legal and policy frameworks into tangible benefits for the most vulnerable populations.

3.5.1 Framing Right to Food

In the case of Z and others v. The United Kingdom, the right to food was implicitly framed as a fundamental component of the children's right to be free from inhuman and degrading treatment under Article 3 of the European Convention on Human Rights. The severe neglect suffered by the children, Z, A, B, and C, directly involved

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[99] 'The State of Food and Agriculture' (2013), FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS Rome, 2013, < https://www.fao.org/4/i3300e/i3300e00.htm> accessed on 12th of August 2025
[100] W.P.(C) Nos. 8853 of 2008.
[101] W.P.C. 7687 of 2010.
[102] 2025 INSC 302.
[103] 29392/95, ECHR 2001-V.
[104] 535 SCRA 264 (2007).
[105] Laxmi,[3.2]
[106] Premlata and others,[5.10]

deprivation of adequate food, contributing to their "horrific experiences" and "appalling neglect".[107]B was noted to "crave for food" in January 1991.[108] The Court found that “the neglect and abuse reached the threshold of inhuman and degrading treatment”, indicating that the failure of authorities to protect them from such severe food deprivation was a violation of their fundamental rights.[109] In this case, the right to food was identified as a basic necessity.

In Laxmi Mandal, the "right to food" is explicitly framed as an inalienable survival right, integral to the right to life under Article 21 of the Indian Constitution, and intrinsically linked to the right to health and reproductive rights of mothers.[110] The petitions specifically highlight systemic failures in implementing schemes like the Antyodaya Anna Yojana (AAY), which provides rations of up to 35 kgs of grains and nutritional supplements to the "poorest of the poor".[111] The Integrated Child Development Services (ICDS) Scheme aims to improve the nutritional and health status of children and reduce malnutrition by providing supplementary nutrition. The cases demonstrated how the lack of access to these schemes directly impacted individuals. This case is an example where the right to food was expanded to protect the reproductive health and nutrition of mothers.

Maatr Sparsh An Initiative By Avyaan Foundation vs. Union Of India & Others is a public interest litigation where the right to food is specifically designed in the context of maximum infant nutrition through breastfeeding. The case highlights that depriving a child of mother's milk due to a lack of facilities infringes on their fundamental rights.[112] The case framed the right to food in the capacity of infant breastfeeding, where dignified infant feeding facilities were considered a right.

Similar to Maatr Sparsh, the case Pharmaceutical and Health Care Association of the Philippines vs. Health Secretary Francisco frames the "right to food" in terms of regulating optimal infant nutrition and protecting breastfeeding as a public health policy. The Court and all parties agreed that "the best nourishment for an infant is mother's milk", and "the ideal is, of course, for each and every Filipino child to enjoy the unequaled benefits of breastmilk".[113]

3.5.2 Failures of Public Health Schemes and Systemic Gaps

The Indian cases of Laxmi Mandal and Premlata & Ors. v. Govt. of NCT Delhi provides an important illustration of the possibility to access courts to redress failures in implementing centrally and state-sponsored schemes designed to reduce infant and maternal mortality and improve nutrition. Laxmi Mandal specifically deals with two petitions from two mothers who are below the poverty line. The first petition concerned

[107] Z and others, [9.74]
[108] Ibid, [5.21]
[109] Ibid,[19.74]
[110] Laxmi, [3.2], [6.19], [10.27]
[111] Ibid, [6.17]
[112] Maatr, [2.4]
[113] Pharmaceutical, [1]

Shanti Devi, a migrant worker, and her family, who were unable to obtain a ration card in Faridabad, which denied them access to subsidized food, education, and health facilities, exacerbating her poor health.[114] The second petition concerned a woman named Fatema, a homeless woman suffering from epilepsy who was compelled to give birth to her child, Alisha, under a tree due to the denial of basic medical services. She was not provided with JSY benefits, a scheme designed by the government to facilitate maternal health, and her inability to produce breast milk due to malnutrition was deepened by a lack of funds for buying milk.[115]

The Maatr Sparsh case points to another critical gap, which is the lack of gender-friendly spaces in public places, specifically feeding and child care rooms, despite government advisories. This failure directly impacts a mother's dignity and privacy, hindering the practice of breastfeeding and thus infringing on the child's right to adequate nutrition.

The UK case Z and Others indicates the failure of the state to ensure the welfare of children. The local authorities mentioned in the case failed to take effective measures against the abuse faced by the children. This systemic failure to intervene decisively and timely led to severe, long-term physical and psychological damage, directly implicating the State's responsibility for ensuring basic welfare and nutrition.

3.5.3 Type of Plaintiffs

In the case of z and others v. The United Kingdom, the plaintiffs were four full siblings (Z, A, B, and C), identified as vulnerable children who suffered severe, long-term neglect and abuse by their parents. The rights primarily discussed by the courts concerned their right not to be subjected to inhuman or degrading treatment (Article 3 of the ECHR), which the Court unanimously found to be violated, recognizing the State's positive obligation to protect vulnerable persons like children from ill-treatment by private individuals.[116]

Laxmi Mandal vs Deen Dayal Harinagar Hospital & Ors. and Premlata & Ors. v. Govt. of NCT Delhi involved vulnerable mothers and their infant children from economically disadvantaged backgrounds. In Laxmi Mandal, there were two petitions. One was filled by Laxmi Mandal concerning her sister, Shanthi Devi, and Shanthi Devi’s daughter Archana. The second petition was filed by Jaitun concerning her daughter Fatema and Fatema's child, Alisha. The cases discussed the fundamental right to life under Article 21 of the Indian Constitution, which encompasses the right to health (including reproductive rights, access to minimum standards of treatment and care in public health facilities, and maternal/child health services) and the right to food. The court explained the State's obligation for the effective implementation of public health and welfare schemes.

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[114] Laxmi, [10.28]
[115] Ibid, [29]
[116] Z and others [19.74]

Similarly, Maatr Sparsh An Initiative By Avyaan Foundation vs. Union Of India & Others petition was also centered on the rights of nursing mothers and infants. The petitioner, an NGO, highlighted the lack of basic facilities, specifically breastfeeding and child-care rooms in public places. The court affirmed that the right of a child to be breastfed is an integral component of their right to life, survival, and development, inextricably linked to the mother's right to breastfeed in dignity and privacy.[117]

3.5.4 Types of Remedies Granted

In Z and others v UK, the domestic courts (House of Lords) had rejected the applicants' negligence claim against the local authority, finding no duty of care and thus denying them access to a compensation remedy under domestic law. However, the ECtHR provided remedies including pecuniary and non-pecuniary damages. The Court awarded specific sums for future medical costs and loss of employment opportunities to the four siblings, recognizing the long-term psychological and physical damage they suffered due to neglect and abuse. Z was awarded 8000GBP for medical costs, A was identified as the most damaged and was awarded 50,000GBP as medical costs, another 50,000 for loss of employment opportunities; similarly, B was awarded 50,000GBP as medical costs, another 30,000 for loss of employment opportunities, and C was awarded 4000GBP as medical costs.[118] For non-pecuniary damages, the court awarded each applicant 32,000GBP for the serious abuse and neglect they encountered.[119]

In Laxmi Mandal vs Deen Dayal Harinagar Hospital & Ors, the Delhi High Court issued financial remedies for individual plaintiffs as well as social directions to prevent further incidents. For Shanti Devi, pecuniary damages included refunding the hospital charge of Rs. 1000, Rs. 500 was ordered to be paid through the National Maternity Benefit Scheme (NMBA), 2.4 Laks for Shanti Devi's death, and Rs. 10,000 from the National Family Benefit Scheme.[120] Further, Antyodaya Anna Yojana(AAY) card was to be made forthwith for Archana's family to ensure access to subsidized rations.[121] The State of Haryana was directed to give Rs.500/- to Archana through her father and Indira Vikas Patras of Rs.2,500/- in Archana's name.[122] Similarly, for Fatema and her daughter Alisha, the High Court of Delhi awarded both financial and medical remedies. For example, Rs.. 10,000 was awarded through NMBS, an AAY card was provided for grains, MCD maternity home was directed to treat Fatema and to assist in correcting the birth certificate of Alisha, and the Government of the National Capital Territory of Delhi (GNCTD) and the MCD maternity home were to pay Rs. 50,000 for a fundamental rights violation.[123] For systematic directions, the Court issued several directions to the Central Government, Haryana, and GNCTD to address shortcomings

[117] Maatr, [3-4]
[118] Z and others [34-35]
[119] Ibid, [35-36]
[120] Laxmi, [17.55]
[121] ibid
[122] ibid
[123] Ibid, [18]

in scheme implementation. These included regulating NMBA and AAY systems, improving the private insurance sector to promote health, and building infrastructure and equipment to promote health.

In Maatr Sparsh An Initiative By Avyaan Foundation vs. Union Of India & Others, the Court affirmed that the right of a child to be breastfed is an integral component of the right to life, survival, and development, linked to the mother's right to breastfeed in dignity and privacy. This establishes a State obligation to provide adequate facilities for mothers to breastfeed.[124] The court directed that public places should be able to accommodate breastfeeding facilities, and the Union of India was directed to issue further advisories to States/UTs to communicate to all Public Sector Undertakings to set apart separate rooms for child care/feeding and nursing of infants.[125]

In Pharmaceutical and Health Care Association of the Philippines vs. Health Secretary Francisco, the remedies granted by the Supreme Court of the Philippines were focused on nullifying specific provisions of the Revised Implementing Rules and Regulations (RIRR) that exceeded the provisions of the Milk Code or the Department of Health's (DOH) authority. The courts declared sections 4(f), 11, and 46 of Administrative Order No. 2006-0012 (RIRR) null and void for being ultra vires.[126] These provisions imposed an absolute prohibition on advertising, promotions, or sponsorships of infant formula, breastmilk substitutes, and related products for infants up to 24 months, and the Court found this to be beyond the DOH's power to regulate as specified in the Milk Code.

3.5.5 Jurisdictional Variations: Innovation vs. Reluctance

The courts from India, the European Union, and the Philippines showed varying levels of innovation and reluctance towards intervening. In Z and others v. The United Kingdom, a significant jurisdictional variation is visible between the United Kingdom's domestic courts and the European Court of Human Rights (ECtHR) regarding state accountability for child protection failures. The House of Lords in the UK indicated a clear reluctance to impose a common law duty of care towards local authorities. Lord Browne-Wilkinson argued that such a duty would "cut across the whole statutory system" for child protection, potentially leading to a "more cautious and defensive approach" by local authorities.[127] On the contrary, EctHR took a progressive approach. EctHR found that Article 3 and Article 13 of the ECHR were violated in the context of the case. While recognizing that the domestic law of the UK did not recognize a duty of care in similar situations, EctHR indicated that the UK is obligated to protect human rights under the ECHR. By not recognizing the duty of care within the care institutions, created gap was created in the law, which led to the violation of the human rights of the applicants.

[124] Maatr,[3]
[125] Ibid, [7]
[126] Pharmaceutical, [44]
[127] Z and others, [9]

The Indian judiciary, particularly in Laxmi Mandal vs Deen Dayal Harinagar Hospital & Ors. and Maatr Sparsh An Initiative By Avyaan Foundation vs. Union Of India & Others, indicates judicial innovation by proactively enforcing fundamental rights and compelling executive action. In Laxmi Mandal, the Delhi High Court highlighted "deficiencies in the implementation" and "systemic failure" of various welfare schemes designed to reduce infant and maternal mortality.[128] The courts gave attention to multiple issues, including failure by the Central and State Governments to ensure full delivery of benefits and the reluctance of the health care institutions to provide necessary treatments. The court responded with a continuing mandamus to compel the state to protect the right to life, which included the right to health, reproductive health, and the right to food. Similarly, in Maatr Spaarsh, the court further directed the states to implement public places for child feeding. The approach taken by the courts indicates a proactive approach to policy consideration and implementing social welfare.

The Philippines' legal system, as demonstrated in the Pharmaceutical and Health Care Association of the Philippines, shows a different form of reluctance, particularly concerning the implementation of international norms by administrative agencies. While the court stated that international law becomes a part of the domestic system through ratification, the World Health Assembly resolutions do not have a binding effect. This shows a reluctance in the judiciary to assess a situation and take proactive measures to protect rights in general.

3.5.6 Conclusion

The cases analyzed indicate the failure of public health and child protection schemes to consistently ensure adequate nutrition and protection for vulnerable mothers and children. Although the cases were not focused on protecting the right to food, each case discussed relevant aspects.

In Z and others v the UK, depriving food and nutrition was said to trigger Article 3 of the ECHR, although the domestic courts did not provide any remedy towards the applicants suffering. Considering India, the right to food is interpreted under the right to life, which is under Article 21 of the Indian Constitution. Indian courts' expansion approach towards the right to food covered maternal and infant health and led to compelling the states and the central government to take measures in developing infrastructure and to effectively implement the existing schemes. This was evident in both Laxmi Mandal vs Deen Dayal Harinagar Hospital & Ors. and Maatr Sparsh An Initiative By Avyaan Foundation vs. Union Of India & Others. Considering the Philippines, in the Pharmaceutical and Health Care Association of the Philippines, the Department of Health (DOH) attempted to implement Revised Implementing Rules and Regulations (RIRR) that expanded the scope of the "Milk Code" (Executive Order

[128] Laxmi,pg.2

No. 51) beyond its original intent, for example, by extending product coverage to "young children" up to three years old and imposing an absolute prohibition on advertising and promotion of breastmilk substitutes for children up to 24 months which the court declared as null and void. Although not directly concerning the right to food, the case concerned infant nutrition.

4. Enhancing visibility and access to right to food jurisprudence

Despite the growing recognition of the right to food in both international and domestic legal frameworks, one of the most persistent challenges is the limited visibility and accessibility of judicial decisions interpreting or operationalising this right. As Gauri and Brinks observe, access to legal decisions and judicial enforcement mechanisms is critical to translating the normative recognition of socio-economic rights into practical outcomes.[129] While courts and human rights bodies may adjudicate right to food violations, the absence of accessible, searchable, and
consolidated databases prevent these decisions from informing comparative legal analysis, legal mobilisation, or public policy.

The justiciability of economic, social and cultural rights including the right to food, is not solely determined by their recognition in constitutions or treaties. It also depends on whether legal practitioners, scholars, civil society actors, and affected communities can easily access and strategically engage with existing jurisprudence. This section therefore focuses on barriers to accessing right to food case law, rather than barriers to accessing courts, which fall outside the scope of this study. It highlights the main obstacles we encountered in identifying right to food's jurisprudence such as language constraints, under-reporting, and database limitations. It also proposes practical strategies to enhance visibility and usability. These reflections draw on both this project's experience and broader literature on legal empowerment and rights-based development.

[129] See Gauri, V. & Brinks, D. (2008). *Courting Social Justice: Judicial Enforcement of Social and Economic Rights in the Developing World*. Cambridge University Press.

4.1 Accessibility of Databases

4.1.1 Fragmentation and Inconsistency of Case Law Repositories

One of the primary barriers to mapping and accessing right to food jurisprudence is the fragmented nature of legal information infrastructures, particularly in the Global South. In our research, we encountered significant inconsistencies across national databases. While countries such as Kenya (via Kenya Law), Uganda (via UgandaLII), and South Africa (via SAFLII) maintain centralised and searchable legal databases, many other jurisdictions publish decisions irregularly, without searchable platforms or offer only limited or sporadic online access to judicial decisions.

Regional human rights mechanisms face similar challenges. The African Commission on Human and Peoples' Rights, for example, does not support internal keyword searches within judgments, limiting access unless researchers already know the case name. In contrast, the European Court of Human Rights (ECtHR) offers the HUDOC database, which offers advanced keyword-based functionality. However, our team's search demonstrated that the term "right to food" rarely appears in ECtHR judgments. Instead, food-related concerns are often adjudicated under other headings (e.g., Article 3 on inhuman or degrading treatment, or Article 8 on family life). These structural limitations inhibit comparative analysis and the development of shared interpretive standards.

4.1.2 Lack of Keyword Tagging and Thematic Indexing

The absence of consistent thematic tagging further impedes effective jurisprudence mapping. As the right to food is often adjudicated through related rights such as life, dignity, or health, relevant judgments may not be indexed under food-related headings. For instance, in *SERAC and CESR v Nigeria*, the African Commission did not explicitly mention the "right to food", yet the decision is considered a landmark in food rights jurisprudence. This demonstrates that meaningful judgments may remain invisible without strategic metadata practices.

Improved indexing is needed to reflect recognised elements of the right to food, particularly the four regulating dimensions of availability, accessibility, adequacy and sustainability, and to incorporate the tripartite typology of state obligations (to respect, protect, and fulfil). Without such measures, systematic comparative analysis remains difficult.

4.2 Gathering & Centralising Information

4.2.1 Legal Clinics and Civil Society as Intermediaries

Legal clinics and civil society organisations can serve as key actors in bridging access gaps. This report, for example, is the outcome of a university-based Legal Clinic in collaboration with the FAO Right to Food Team, and provides detailed case summaries and thematic analyses that are not otherwise compiled in a single source. Similar efforts by organisations such as Dejusticia (Colombia), ESCR-Net, and the Center for Food and Adequate Living Rights (CEFROHT, Uganda) have produced searchable databases, thematic case digests, and strategic litigation reports. These initiatives demonstrate that knowledge-sharing can circumvent formal publication gaps, particularly in jurisdictions where right to food litigation is limited.

4.2.2 Developing thematically indexed, open-access databases

There is a growing need for interoperable and cross-jurisdictional legal databases that focus specifically on economic, social, and cultural rights. For example, the ESCR-Net Case Law Database and Columbia University's Global Freedom of Expression platform allow users to explore jurisprudence thematically across regions and rights categories. These platforms serve as models for a dedicated Right to Food Jurisprudence Repository, which could be hosted or endorsed by the FAO or OHCHR, and systematically classify decisions using legal criteria such as state obligations (respect, protect, fulfil) and regulating elements (availability, adequacy, accessibility, sustainability). This would complement existing efforts like the United Nations Treaty Body Database, which already provides authoritative findings but lacks regional and national case integration.

4.2.3 Strengthening Legal Data Infrastructure

Efforts should also focus on improving the underlying infrastructure of legal databases. This includes encouraging courts and regional bodies to adopt standardised metadata practices, tagging decisions according to human rights themes. Additionally, securing funding for official translations of landmark judgments into the UN languages (especially English, French, Spanish, and Arabic) and supporting open-access summarisation tools that allow civil society to produce legal briefs of otherwise inaccessible decisions for public use.

Investments in legal data accessibility are not simply technical matters; they are essential to advancing the rule of law and promoting human rights accountability. Without such infrastructure, many important rulings remain out of reach for the communities, advocates, and policymakers who could rely on them.

4.3 Conclusion of the section

If the right to food is to be effectively claimed, defended, and enforced, it must be made legally visible. Enhancing access to the right to food jurisprudence is not only about cataloguing cases. It is about building the informational architecture needed for legal empowerment, accountability, and structural change. The FAO and its partners are uniquely positioned to spearhead this process by supporting regional knowledge hubs, building accessible repositories, and facilitating cross-border exchange of legal strategies. The realisation of the right to food will depend, in part, on our ability to know how, where, and by whom it has been defended.

Ultimately, the realisation of the right to food hinges not only on normative frameworks but also on the capacity to find and use judicial decisions that enforce these norms. Legal clinics, international bodies, and academic institutions should collaborate to build an informational architecture for socio-economic rights enforcement. Enhanced access to the right to food jurisprudence empowers those facing hunger to claim their rights, informs policy development, and upholds both transparency and accountability within human rights governance.

5 Conclusion

The enforcement of the RtF is increasingly influenced by the changing attitude of courts at international, regional and national levels, often determined by the bottom-up pressure exercised by civil society, Indigenous People, lawyers and individuals. This report demonstrates that, as well as being sites of legal interpretation, courts are essential instruments for translating the normative recognition of the RtF into tangible relief and accountability. Whether through explicit constitutional provisions or indirect interpretation of related rights, such as dignity, health or life, courts have gradually established the justiciability of economic and social rights.

Judicial engagement with the RtF shows that courts can be powerful intermediaries, bridging the gap between policy promises and lived realities. In contexts ranging from detention and migration to public distribution failures and land dispossession, courts have applied a broad legal reasoning to address hunger and malnutrition. This includes interpreting the RtF in relation to broader civil and political rights or using constitutional mandates to hold states accountable. Significantly, courts have also recognised the varying vulnerabilities of marginalised groups, indicating a shift towards more equality-conscious and transformative adjudication.

However, the effectiveness of courts in enforcing the RtF is profoundly shaped by the broader constitutional and legal frameworks within which they operate, and by the economic and financial conditions of the states where courts operate. Where constitutions explicitly recognise the RtF or socio-economic rights more broadly, courts have a stronger basis on which to grant remedies and mandate structural reforms. In contrast, in jurisdictions lacking such recognition, judicial action is often more restrained, with courts deferring to executive discretion or resource-based limitations. This highlights the urgent need for constitutional entrenchment of the RtF as a justiciable right, and for the ongoing development of legal doctrines that empower, rather than restrict, judicial enforcement.

Recognition of legal pluralism is equally vital in RtF adjudication. The existence of international treaties, regional human rights instruments, national constitutions and customary or community-based norms creates a dynamic legal landscape. Courts that engage with this plurality by referencing international norms, interpreting regional charters or acknowledging local rights claims contribute to the more holistic and context-sensitive enforcement of RtF. This kind of pluralistic engagement strengthens normative coherence and enhances the accessibility and legitimacy of RtF jurisprudence across diverse legal cultures.

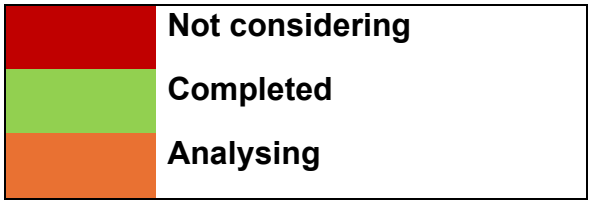
In conclusion, courts are indispensable in realising the right to food. Their role extends beyond dispute resolution to include norm interpretation, accountability and empowerment. However, this potential depends on supportive legal frameworks and a willingness to embrace pluralism. As hunger and food insecurity persist amid global inequalities, consolidating jurisprudence across legal systems and strengthening

constitutional and pluralist approaches will be essential to ensure that the right to food is actionable.

6 Annex

6.1 Case Chart

National Jurisdictions



No	Case Name	Year	Link	Jurisdiction	Key Word	Thematic Focus	Country	Type of plaintiffs	Reason for not analysing
1	Anun Dhawan vs Union Of India-	2024	https://indiankanoon.org/doc/156597649/	Supreme Court of India	RtF	Hunger, Malnutrition	India	NGO	NA
2	Maatr Sparsh An Initiative By Avyaan ... vs Union Of India-	2025	https://indiankanoon.org/doc/396785669/	Supreme Court of India	RtF	Breastfeeding rights, right to life, Children and mothers	India	NGO	NA
3	In Re Problems And Miseries Of Migrant ... vs Unknown-	2022	https://indiankanoon.org/doc/103278354/	Supreme Court of India	RtF	Access to food Security, Migrant Worke	India	Migrant Labourers	Only mentions the keyword

						rs (rtf was discussed but not the focus of the case), administrative action			
4	Maniben Maganbhai Bhariya vs District Development Officer-	2022	https://indiankanoon.org/docfragment/59076033/?formInput=%22right%20to%20food%22%20%20%20%20doctypes%3A%20supremecourt%20sortby%3A%20mostrecent	Supreme Court of India	RtF	Nutrition, workers' 'rights (rtf was discussed but not the focus of the case), administrative action	India	Anganwadi Workers (AWWs) and Anganwadi Helpers	Only mentions the keyword, Focus on payment of grativity

5	In Re Problems And Miseries Of Migrant ... vs Union Of India & Ors-	2021	https://indiankanoon.org/doc/139315795/	Supreme Court of India	RtF	Right to Life, Dignity, Migrant workers	India	Migrant Workers	Mentions key word, more focused on migrant workers rights during COVID 19 pandemic
6	Dr.Ashwani Kumar vs Union Of India And Ors. Ministry Of ...-	2018	https://indiankanoon.org/doc/27374596/	Supreme Court of India	RtF	Right to life, dignity, Elderly care including pension, gastric care and shelter	India	An individual	Case focus is on custodial torture.
7	Pankaj Sinha vs Union Of India And Ors.-	2018	https://indiankanoon.org/doc/405845955/	Supreme Court of India	RtF	Right to life with dignity, rights of disabled people	India	A visually impaired lawyer on behalf of the people affected by leprosy	Keywords are mentioned. Case focus is systematic discrimination
8	Swaraj Abhiyan vs Union Of India And Ors-	2016	https://indiankanoon.org/doc/191997877/	Supreme Court of India	RtF	Right to life, State's inaction in drought	India	NGO	NA

						conditions			
9	Hinsa Virodhak Sangh vs Mirzapur Moti Kuresh Jamat & Ors-	2008	https://indiankanoon.org/doc/560071/	Supreme Court of India	RtF	Right to life, Religion	India	Butchers and Mutton Sellters	Keywords are mentioned. Case focus is communal harmoney
10	National Council For Civil Liberties vs Union Of India & Ors-	2007	https://indiankanoon.org/doc/549330/	Supreme Court of India	RtF	Right to life, civil liberties (case is not focused on RtF and barely mentions it)	India	A non-governmental organization	Keywords are mentioned. The case focus is on the usage of foreign funds
11	People's Union for Civil Liberties (PUCL) v. Union of India & Ors	2001-2012	https://web.archive.org/web/20150716164007/http://www.righttofoodindia.org/orders/interimorders.html	Supreme Court of India	RtF	Food distribution Public distribution Food security schemes Starvation	India	NGO	NA

			#box16						
12	Premlata w/o Ram Sagar & Ors. v. Govt. of NCT Delhi, W.P.C. 7687 of 2010	2010-2011	https://www.escr-net.org/caselaw/2015/premlata-wo-ram-sagar-ors-v-govt-nct-delhi-wpc-7687-2010/	High Court of Delhi	RtF	Food security schemes Food distribution Public distribution Breast feeding rights	India	Pregnant and Lactating women	NA
13	Vaishnorani Mahila Bachat Gat vs. State of Maharashtra & Ors.	2019	https://indiankanoon.org/doc/67854246/	Supreme Court of India	Food security, malnutrition	Food security schemes Food distribution Public distribution	India	A woman self-help group	NA
14	Pharmaceutical and Health Care Association of the Philippines v. Francisco	2007	https://lawphil.net/judjuris/juri2007/oct2007/gr_1730	Supreme Court of Philippines	Nutrition	Infant nutrition	Philippines	Non-profit organization representing pharmaceutical and health	NA

	T. Duque III		34_2007.html					care industry	
15	International Service for the Acquisition of Agri-Biotech Applications, Inc. vs. Greenpeace Southeast Asia (Philippines)	2015	https://lawphil.net/judjuris/juri2016/jul2016/gr_209271_2016.html	Supreme Court of Philippines	Food Security, Nutrition,	Agricultural practices, (not directly about right to food)	Philippines	Private non profit organization	Keywords are mentioned. The case focus is on genetically modified organisms.
16	Mwanza & Another v Attorney General	2019	https://zambialii.org/akn/zm/judgment/zmsc/2019/33/eng@2019-12-09	Supreme Court of Zambia	RtF, adequate food, nutrition	Inhumane and degrading treatment of prisoners Food distribution Health Nutrition	Zambia		

17	Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another	2008	https://www.saflii.org/cgi-bin/disp.pl?file=za/cases/ZACC/2008/12.html&query=%20right%20to%20food	Constitutional Court of South Africa	Rtf	Land ownership Agriculture Food production	South Africa		
18	Jaftha v Schoeman and Others, Van Rooyen v Stoltz and Others	2004	https://www.saflii.org/cgi-bin/disp.pl?file=za/cases/ZACC/2004/25.html&query=adequate%20food	Constitutional Court of South Africa	Adequate food	Adequate housing Dignity	South Africa	Unemployed women	Keyword is mentioned but the right to food is not the focus of the case (adequate housing is the focus).
19	Government of the Republic of South Africa and Others v Grootboom and Others	2000	https://www.saflii.org/cgi-bin/disp.pl?file=za/cases/ZACC/2000/19.html&	Constitutional Court of South Africa	Adequate food, nutrition	Adequate housing Dignity Equality (The right to	South Africa	People living in great poverty	Keyword is mentioned but the right to food is not the focus of the case (adequate housing is the focus).

			query=adequate%20food			food is not the main focus of the case)			
20	Mwangi & another v Attorney General & 3 others; Kenya University Biotechnology Consortium (KUBICO) & 2 others (Interested Parties)	2023	https://new.kenyalaw.org/akn/ke/judgment/kehc/2023/3943/eng@2023-04-28	High Court of Kenya- at Nairobi	RtF, adequate food, food security	Dignity Agriculture Health	Kenya	Small-scale farmers and rural communities	NA
21	ERAD SUPPLIES & GENERAL CONTRACTORS LIMITED V NATIONAL CEREALS AND PRODUCE BOARD)	2012	https://new.kenyalaw.org/akn/ke/judgment/kehc/2012/4372/eng@2012-05-18	High Court of Kenya – at Nairobi	Food security	Public distribution Distribution of relief food Preservation of national food stocks	Kenya	Private company	Keyword is mentioned but the right to food is not the focus of the case. The case is fundamentally about: debt recovery, asset ownership (whether grain reserves are government property) and procedural

									technicalities .
22	Sang v Keter & 4 others	2023	https://new.kenyalaw.org/akn/ke/judgment/keelc/2023/20879/eng@2023-10-18	Environment and land court at Eldoret.	Food security	Land ownership Agriculture	Kenya	Landowner	Keyword is mentioned but the case focuses more on land ownership, trespass, and injunction based on property rights, with only incidental reference to food security as evidence of harm.
23	Ong'ow v Agriculture and Food Authority & 18 others	2023-2024	https://new.kenyalaw.org/akn/ke/judgment/keca/2024/1233/eng@2024-09-20	Court of Appeal at Nairobi	Food security	Agriculture Farming	Kenya	Ousted public official	Keyword is mentioned but the dispute centres on the judicial review of appointment validity. Food security was a passing reference.
24	Masangano v Attorney General & Ors.	2009	https://malawilii.org/akn/mw/judgment/mwsc/	High Court of Malawi	RtF	Inhumane and degrading treatment of	Malawi	Prisoner	NA

			2009/31/eng@2009-11-08			prisoners Health Nutrition			
25	Center for Food and Adequate Living Rights (CEFROHT) v Attorney General	2020	https://ulii.org/akn/ug/judgment/ughccd/2020/157/eng@2020-06-04	High Court of Uganda at Kampala (Civil Division)	RtF	Socio-economic rights, food security	Uganda	Non-profit organization	NA
26	R. (Adam, Limbuela and Tesema) v Secretary of State for the Home Department [2005] UKHL 66	2005	https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/UK_072%20Judgment.pdf	UK, (House of Lords (now SC)	No access to food	Asylum seekers, right to dignity	UK	Individual asylum seekers	NA
27	Laxmi Mandal vs Deen Dayal Harinagar	2010	https://indiankanoon.org/doc/10	High Court of Delhi, India	Rtf	Maternal health and nutrition	India	Pregnant woman	NA

	Hospital & Ors		055071 4/						
28	Esoko & 3 Others v Attorney General & 4 Others (Misc. Cause No. 42 of 2019)	2010	https://ulii.org/akn/ug/judgment/ughccd/2020/79/eng@2020-04-30	High Court of Uganda (Civil Division)	Denied access to food	Conditions of detention and constitutional rights	Uganda	Private sector actors (company)	NA

29	Center for food and adequate living rights v Attorney General of Uganda and Another (Misc Cause No. 436 of 2019)	2022	https://ulii.org/akn/ug/judgment/ughccd/2022/87/eng@2022-05-25	High Court of Uganda (Civil Division)	RtF	State obligations in ensuring the right to food	Uganda	Non-profit organization	NA
30	Bandonda V Captain Investments Ltd and Another (Civil Suit No. 493 of 2018)	2022	https://ulii.org/akn/ug/judgment/ughccd/2022/245/eng@2022-12-05	High Court of Uganda (Civil Division)	RtF	Conditions of detention, right to food via international obligations (ICESCR, UDHR), Unlawful arrest and false imprisonment	Uganda	Detainee	NA

31	Uwonda and Another v Total E & P (U) Ltd (Civil Suit No. 0013 of 2016)	2021	https://ulii.org/akn/ug/judgment/ughc/2021/71/eng@2021-12-21	High Court of Uganda	RtF (x1)	Impact of industrial activities on environmental rights and food	Uganda	Private company/ litigation	tort-based civil suit, not a rights-based constitutional or human rights enforcement claim.

India- 14

Philippines- 2

Uganda- 5

Kenya- 4

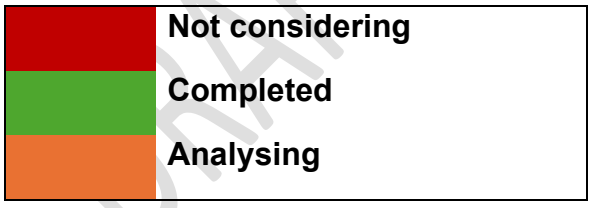
SA-3

Malawi-1

Zambia-1

UK-1

Regional Jurisdictions



No	Case Name	Year	Link	Jurisdiction	Key Word	Thematic Focus	Type of plaintiffs
1	Tahirou Djibo and Others et La République du Niger	2020	https://africanlii.org/akn/aa-au/judgment/ecowasc	ECOWAS Community	RtF in French (Droit à alimentation)	Land ownership	Individual citizens

			j/2020/2/eng@2020-07-08	Court of Justice			
2	Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights	2001	https://achpr.au.int/en/decisions-communications/social-and-economic-rights-action-center-serac-and-center-economic-15596	African Commission on Human and People's Rights	RtF	Land ownership Agriculture	NGO representing indigenous people
3	R.R. and others V. Hungary	2021	https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-208406%22]}	ECtHR	Nutrition, Inadequate food	Asylum, nutrition, Detainees	Migrant Children
4	Korneykova and Korneykov v. Ukraine	2016	https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-161543%22]}	ECtHR	Adequate food, Nutrition,	Detention, Asylum, Rights of Children and Mothers	Detainee
5	Z and Others v. the United Kingdom	2001	https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-59455%22]}	ECtHR	Food deprivation	Rights of Children	Children

6	CASE OF SUFI AND ELMI v. THE UNITED KINGDOM	2011	https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-105434%22]}	ECtHR	Food, malnutrition	Detention, right to life	Asylum Seekers
7	Stanev v. Bulgaria (Application no. 36760/06)	2012	https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-129%22]}	ECtHR	Inadequate food, food was insufficient and of poor quality	Food quality and conditions of detention	Individual with a psychological disability
8	Sudan Human Rights Organisation, Centre on Housing Rights and Evictions V. The Sudan	2009	https://achpr.au.int/en/decisions-communications/sudan-human-rights-organisation-centre-housing-rights-and-evictions-27903	African Commission	Right to adequate food	Right to life, Destruction of property, Children and Women's Rights	civil society organizations and diaspora groups
9	BEKETOV v. UKRAINE	2019	https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-190025%22]}	ECtHR	Food, Right to adequate food	Detention	Detainees

10	Stepuleac v Moldova (no. 8207/05)	2007	https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-83085%22%5D%7D	ECtHR	insufficiency and poor quality of food	Detention conditions and right to dignity, Art 3	Detainee
11	BECCIEV v. Moldova	2006	https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-70434%22%5D%7D	ECtHR	Inadequate provision of food	Detention conditions and right to dignity, Art 3	Detainee
12	Centre for Food and Adequate Living Rights (CEFROHT) and Others v Attorney General of the Republic of Uganda and Others (Reference No.39 of 2021) [2023] EACJ 15 (29 November 2023) (First Instance Division)	2023	https://ulii.org/akn/aa/judgment/eacj/2023/15/eng@2023-11-29	East African Court of Justice	Food security	Intersection of environmental projects and socio-economic rights, procedural aspects of regional litigation	NGO

Total National Cases Researched- 32

Total Regional Cases Researched- 13

6.2 Case Analysis Sheets

1. Becciev v. Republic of Moldova, Application no. 9190/03

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Becciev v. Moldova

1.2. Date of ruling: 4th of October 2005

1.3. Country (and locality, if relevant e.g. department/municipal town): Moldova

1.4. Forum (jurisdiction): European Court of Human Rights

1.5. Forum type (territorial): Regional

1.6. Thematic focus: Detention, inadequate provision of food

1.7. Parties involved:

Applicant: Mr. Constantin Becciev, a Moldovan national, born in 1955, and the head of the Chişinău Public Water Company

Respondent: The Moldovan Government

1.8. Type of petition (individual complaint, class action): Individual Application

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

Mr. Constantin Becciev, the head of the Chişinău Public Water Company, was arrested on 21 February 2003 on charges of embezzlement and subsequently remanded in custody. His initial detention for twenty-five days and subsequent prolongations were based on the alleged seriousness of the offence and the risk of his absconding or influencing the investigation. The applicant's lawyers appealed these decisions, arguing a lack of grounds for detention, highlighting his past cooperation with the investigation, his travel history, family ties, and offers of surety from reputable individuals and public bodies. These appeals were dismissed, and Mr. Becciev was not allowed to be present at the appeal hearings.

During his detention from 23 February to 1 April 2003 in the remand centre of the Ministry of Internal Affairs in Chişinău, the applicant alleged inhuman and degrading conditions. He described a damp cell, lack of natural light due to metal plates on the window, constant electric light, poor ventilation, an unseparated bucket for a toilet, no beds or bedding, and no daily outdoor exercise. Crucially, he complained that the food was inedible, noting the State's meagre daily allowance of 0.23 EUR per detainee, and that he was only permitted to receive food parcels from his family once a month. The Government largely contested these claims, stating improvements had been made, but admitted to some limitations like not serving meat or fish due to insufficient funding.

The Court considered reports from the European Committee for the prevention of torture (CPT) from 1998 and 2001, which corroborated many of the applicant's

claims regarding poor conditions in Moldovan remand centres, including lack of mattresses, poor ventilation, non-existent natural light, and particularly, numerous complaints about the quantity and quality of food. The Court found the Government's counter-arguments inconsistent or unsupported by evidence.

A significant development was an interview given by Police Colonel "C.B.", a former investigator on Mr. Becciev's case, to a newspaper. C.B. alleged that the case against Becciev was fabricated for political reasons, that there was no evidence of guilt, and that witness statements were falsified or obtained under pressure, including pressure on judges. The Chişinău Regional Court refused, without explanation, the applicant's request to hear C.B. as a witness during his detention review proceedings.

The applicant was released from detention on 12 August 2003, though the criminal proceedings against him were still pending. The Court found violations of Article 3 (conditions of detention), Article 5 § 3 (unjustified detention), and Article 5 § 4 (denial of judicial review by refusing to hear a key witness).

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

International Legal Basis

- European Convention on Human Rights
- Freedom from Inhuman or Degrading Treatment or Punishment (Article 3 ECHR)
- Right to Liberty and Security (Article 5 § 3 ECHR)
- Right to a Fair Trial (Article 6 § 3 (d) ECHR)

National Legal Basis

- Code of Criminal Procedure: Articles 42, 73 § 1, 76, 78 § 1, 98 (1), 193, 194, 195, 195-1, and 195-2,

- Criminal Code: Articles 332

1.11. Link to the judgement:
https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-70434%22%5D%7D

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- European Convention for the Protection of Human Rights and Fundamental Freedoms

- European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT)

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Moldovan Code of Criminal Procedure

- Moldovan Criminal Code

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- Labita v. Italy
- Ireland v. the United Kingdom
- Kudla v. Poland
- Raninen v. Finland
- Peers v. Greece
- Dougoz v. Greece
- Kalashnikov v. Russia
- Kehayov v. Bulgaria
- Duca v. Moldova

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): No explicit reference to the right to food.

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: N/A

3.2.2. Accessibility: The applicant complained that "the legal provisions were applied very strictly, and he was not allowed to receive parcels from his family more than once a month"(pg. 3). This demonstrates a direct restriction on the *accessibility of* additional food sources that were necessary "Because of the State's incapacity to provide adequate food" (pg. 3). Although not explicitly stated as an accessibility issue in the Court's conclusion regarding food, the Court noted the applicant's submission about the restriction on parcels and found that "the detainees were not provided with sufficient food". (pg. 10)

3.2.3. Adequacy: The applicant explicitly stated that "the food was inedible"(pg 3). The amount spent daily, "3.5 Moldovan Lei (MDL) (0.23 euros (EUR))" per

detainee for food (pg. 3), strongly implies that the quality and nutritional content would be severely inadequate. The Court, taking into account the submissions and CPT reports, identified "the inadequate provision of food" as one of the cumulative factors contributing to the violation of Article 3.(pg 10)

3.2.4. Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: N/A

3.3.2. Accountability: The Court explicitly held the State accountable for the inadequate conditions. It found that "the detainees were not provided with sufficient food"(pg. 10). Ultimately, the Court's finding of a violation of Article 3 of the Convention directly signifies that the Moldovan authorities failed in their responsibility to ensure conditions compatible with human rights, thereby holding the State accountable for these failures.

3.3.3. Non-Discrimination: N/A

3.3.4. Transparency: N/A

3.3.5. Human Dignity: The Court's general principles under Article 3 directly state: "The State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention"(pg. 9).

In its application of these principles, the Court considered "the harsh conditions in the cell, the lack of outdoor exercise, the inadequate provision of food and the fact that the applicant was detained in these conditions for thirty-seven days"(pg 10). It concluded that "the hardship he endured went beyond the unavoidable level inherent in detention and reached the threshold of severity contrary to Article 3 of the Convention" (pg 10-11). This finding directly implies that the conditions, including food, were so poor as to violate the applicant's human dignity.

3.3.6. Empowerment: N/A

3.3.7. Rule of Law: By finding a "violation of Article 3 of the Convention"(pg 10), the Court determined that the State failed to meet its fundamental obligations under international human rights law (the European Convention on Human Rights).

The Court also noted the inconsistencies in the Government's submissions regarding outdoor exercise, further highlighting a potential lack of adherence to proper standards or accountability in reporting. The Court's role in reviewing the conditions against the Convention standards demonstrates the application of the rule of law at the international level.

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: N/A

3.4.2. Protect: N/A

3.4.3. Fulfil (facilitate and provide): In the context of detention, the State has a direct obligation to provide adequate food. The Court explicitly found that "the detainees were not provided with sufficient food" (pg. 4). This indicates that the state failed to adequately provide food for the detainee.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? No

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? No

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? Yes, the Court found the State of Moldova (the respondent State) at fault

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? No

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? The Court did acknowledge a structural cause related to funding when the Government attributed the lack of meat and fish to insufficient funding.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: The European Court of Human Rights

4.2. Tier of the court that made the final decision (check if appealed): The European Court of Human Rights

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The Court found that the detainees were not provided with sufficient food. This finding was consistent with the applicant's submissions and the CPT reports. The Court further noted the Government's admission of "insufficient funding" leading to the absence of meat and fish, and the general lack of "significant improvements" or "increase in public funding" for the prison system.

When evaluating the overall conditions of detention, the Court explicitly included the inadequate provision of food as one of the factors, along with harsh cell conditions, lack of outdoor exercise, and lack of natural light, that led to the conclusion that "the hardship he endured went beyond the unavoidable level inherent in detention and reached the threshold of severity contrary to Article 3 of the Convention" (pg. 10).

Therefore, while the "right to food" was not explicitly upheld or denied as a standalone right, the State's obligation to provide adequate food in detention was found to be violated.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- Pecuniary damage: EUR 1,000 for loss of earnings due to illegal detention

- Non-pecuniary damage: EUR 4,000 for the stress, anxiety, and suffering caused by the violations

- Costs and expenses: EUR 1,200 for legal fees and other expenses

4.6. Mechanisms for the enforcement of the decision and outcomes: Once the judgment is final, the defendant state should pay the applicant within three months.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? The case is significant for indirectly advancing the principle that access to adequate food is a fundamental component of dignified treatment in detention. The case highlights the positive obligation of the state to provide adequate food for detainees.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? The case could provide a strong precedent for cases concerning detention conditions where detainees' right to food, including accessibility, adequacy, and availability, is limited or completely violated by authorities.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? N/A

5.3.2. Was legal aid available/how was the case funded? N/A

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? N/A

2. Beketov v. Ukraine, Application no. 44436/09

1. Identify the case (procedural aspects):

1.1 Name (copy full name of the case): Beketov V. Ukraine

1.2 Date of ruling:19th of February 2019

1.3 Country (and locality, if relevant e.g. department/municipal town): Ukraine

1.4 Forum (jurisdiction): European Court of Human Rights

1.5 Forum type (territorial): Regional Court

1.6 Thematic focus: Detention conditions, failure to provide food

1.7 Parties involved:

Applicant: Mr. Yuriy Oleksiyovych Beketov

Respondent**:** The Ukrainian Government

1.8 Type of petition (individual complaint, class action): Individual Complaint

1.9 Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

Mr. Yuriy Oleksiyovych Beketov was arrested on suspicion of abduction and murder in February 2008 and subsequently detained in various facilities in Kyiv, including the Shevchenkivskyy district police station, the Kyiv Temporary Detention Facility (ITT), and the Kyiv Pre-trial Detention Centre (SIZO).

During his prolonged detention, which lasted approximately five years, he raised several complaints regarding his conditions and treatment. The applicant stated that the food provided in the SIZO was deficient14. He detailed the daily diet as consisting of "tea and bread in the morning, porridge in the afternoon and boiled water in the evening"(pg. 10).

The Court found that the material conditions of his detention, including aspects of personal hygiene and the unsanitary environment, alongside the lack of personal space and outdoor exercise, amounted to inhuman treatment. The applicant further complained that he was not provided with food and water on days when he had court hearings. He explained that on these days, he was transported between the SIZO and the trial court, a process that commenced early in the morning and ended in the evening, causing him to miss meals scheduled to be served in the SIZO.

The Court ultimately concluded that the lack of provision of food and water to the applicant on hearing days constituted a violation of Article 3 of the Convention.

1.10 Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon.

International legal basis

- The applicant relied on the Convention for the Protection of Human Rights and Fundamental Freedoms.

- Article 3: Prohibition of torture or to inhuman or degrading treatment or punishment.

- Article 13: Right to an effective remedy before a national authority

- Article 14: Prohibition of discrimination

National legal basis

- The Code of Criminal Procedure of 1960 (concerning pre-investigation enquiries)

- The new Code of Criminal Procedure of 2012 (which abolished pre-investigation enquiries)

1.11 Link to the judgement: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-190025%22]}

2. Legal Framework applied by the Court in the judgment:

2.1 International legal basis (list international or regional instruments referenced by the court) relied upon:

- Convention for the Protection of Human Rights and Fundamental Freedoms

2.2 Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- The Code of Criminal Procedure of 1960

- The new Code of Criminal Procedure of 2012

2.3 Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- El-Masri v. the former Yugoslav Republic of Macedonia ([GC] no. 39630/09, §§ 182–185 and 195–198, ECHR 2012)
- Bouyid v. Belgium ([GC] no. 23380/09, §§ 81–90 and 100–101, ECHR 2015)
- Assenov and Others v. Bulgaria, 28 October 1998, § 102, Reports 1998-VIII
- Savitskyy v. Ukraine, no. 38773/05, § 105, 26 July 2012
- Pomilyayko v. Ukraine, no. 60426/11, § 56, 11 February 2016
- Drozd v. Ukraine, no. 12174/03, §§ 63–71, 30 July 2009
- Grinenko v. Ukraine, no. 33627/06, § 62, 15 November 2012

- Zhyzitskyy v. Ukraine, no. 57980/11, §§ 49–53, 19 February 2015
- Kaverzin v. Ukraine, no. 23893/03, §§ 173–180, 15 May 2012
- Kalashnikov v. Russia, no. 47095/99, § 95, ECHR 2002-VI
- Mirilashivili v. Russia (dec.), no. 6293/04, 10 July 2007
- Grishin v. Russia, no. 30983/02, § 76, 15 November 2007
- Aleksanyan v. Russia, no. 46468/06, § 140, 22 December 2008
- Hummatov v. Azerbaijan, nos. 9852/03 and 13413/04, §§ 109, 114, 115, 116, 29 November 2007
- Khudobin v. Russia, no. 59696/00, § 83, ECHR 2006-XII
- Melnik v. Ukraine, no. 72286/01, §§ 104–106, 28 March 2006
- Sarban v. Moldova, no. 3456/05, § 79, 4 October 2005
- Popov v. Russia, no. 26853/04, § 211, 13 July 2006
- Holomiov v. Moldova, no. 30649/05, § 117, 7 November 2006
- Yevgeniy Bogdanov v. Russia, no. 22405/04, §§ 101–105, 26 February 2015
- Romanova v. Russia, no. 23215/02, §§ 88–92, 11 October 2011
- Kovaleva v. Russia, no. 7782/04, §§ 62–65, 2 December 2010
- Yakovenko v. Ukraine, no. 15825/06, §§ 103–113, 25 October 2007
- Vlasov v. Russia, no. 78146/01, § 96, 12 June 2008
- Starokadomskiy v. Russia, no. 42239/02, § 58, 31 July 2008
- Bagel v. Russia, no. 37810/03, § 69, 15 November 2007
- Denisenko and Bogdanchikov v. Russia, no. 3811/02, § 108, 12 February 2009
- Riad and Idiab v. Belgium, nos. 29787/03 and 29810/03, § 106, 24 January 2008
- Akdivar and Others v. Turkey, 16 September 1996, §§ 65–67, Reports 1996-IV
- Mocanu and Others v. Romania [GC], nos. 10865/09 and 2 others, § 225, ECHR 2014 (extracts)
- Štrucl and Others v. Slovenia, nos. 5903/10, 6003/10 and 6544/10, § 127, 20 October 2011
- Rodzevillo v. Ukraine, no. 38771/05, § 41, 14 January 2016
- Kleutin v. Ukraine, no. 5911/05, § 78, 23 June 2016
- Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania [GC], no. 47848/08, § 148, ECHR 2014
- Dvoynykh v. Ukraine, no. 72277/01, § 72, 12 October 2006
- Ukhan v. Ukraine, no. 30628/02, §§ 91–92, 18 December 2008
- Iglin v. Ukraine, no. 39908/05, § 77, 12 January 2012
- Barilo v. Ukraine, no. 9607/06, §§ 104–105, 16 May 2013
- Polonskiy v. Russia, no. 30033/05, § 127, 19 March 2009

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1 Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): No explicit reference to the right to food

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1 Availability: The applicant stated that he was "not provided with food and water on hearing days, since Ukrainian legislation did not make provision for this"(pg. 10). He elaborated that the escort process to and from court hearings meant he "had to spend whole days at the trial court... so he had missed meals scheduled to be served in the SIZO"(pg.23).

The government counter argued that the applicant was provided with dry rations on the hearing days according to law. However, the Court found the Government's assertion "unconvincing" and noted that the Government "did not comment on the applicant's argument that the documentation on the catering arrangements related to the period from 2010 to 2011 should have been available to them"(Pg 24). The Court therefore concluded that the applicant was "left without adequate food and water" on hearing days.

3.2.2 Accessibility: The applicant stated that it was "not possible to have meals or drinks at the courts dealing with his case"(pg. 10), highlighting a practical barrier to accessing food. The government declared that the applicant could take his food to court.

The Court explicitly rejected this argument, stating that "giving somebody permission to provide his or her food cannot be a substitute for providing appropriate catering arrangements, because it is primarily the State that is responsible for the well-being of persons deprived of their liberty" (pg 24). This underscores that the State cannot delegate its primary responsibility to ensure food accessibility for detainees, effectively finding that the suggested alternative was not an adequate form of accessibility.

3.2.3 Adequacy: The applicant also generally complained about the food in the SIZO being "unsatisfactory in terms of quality and quantity. (pg. 10)". The Court ultimately found that the applicant was "left without adequate food and water" on hearing days. The Court also emphasized that "it finds it unacceptable for a person to be detained in conditions where no provision is made for meeting his or her basic needs". (pg. 24)

3.2.4 Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1 Participation: N/A

3.3.2 Accountability: The principle of accountability was a central aspect of the Court's findings, as the judgment explicitly held the State accountable for the shortcomings in food provision and for the lack of effective domestic remedies.

The Court held the State explicitly accountable by finding a "violation of Article 3 of the Convention in respect of the lack of provision of food and water to the applicant on hearing days"(pg 21). This is a direct finding of State responsibility and, therefore, accountability. The Court also emphasized that it is "primarily the State that is responsible for the well-being of persons deprived of their liberty"(pg 24), reinforcing the State's ultimate accountability.

3.3.3 Non-Discrimination: N/A

3.3.4 Transparency: The transparency of the State's actions and record-keeping regarding food provision was directly questioned and found lacking by the Court. The applicant criticised the Government for arguing that documentation on catering arrangements had been destroyed, pointing out that "the present case had been communicated in 2013 and by that time the above-mentioned documentation related to the period from 2010 to 2011 should have been available to the Government"(pg 23). This indicates an assertion that the State failed to be transparent by not providing relevant records. The Court found the Government's assertion about providing dry rations "unconvincing" and noted that it **"**would have expected the Government to provide such documentation in order to discharge the burden of proof in this respect" (pg 24).

3.3.5 Human Dignity: The applicant submitted that the unsatisfactory condition of food could degrade human dignity. The Court repeatedly emphasized that "the State must ensure that a person is detained in conditions which are compatible with respect for his or her human dignity"(pg 17).

Regarding the lack of food and water, the Court explicitly stated that "it finds it unacceptable for a person to be detained in conditions where no provision is made for meeting his or her basic needs"(pg 24). This strong statement links the failure to provide basic necessities directly to a violation of human dignity, implying that such deprivation constitutes inhuman or degrading treatment.

3.3.6 Empowerment: N/A

3.3.7 Rule of Law: The applicant specifically pointed out that he was not provided with food and water on hearing days since Ukrainian legislation did not make provisions regarding the issue. This directly suggests a gap or failure within the domestic legal framework itself, leading to a breach of basic rights. The court held that a violation of Article 3 signifies that Ukraine failed to uphold its international human rights obligations under the Convention.

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1 Respect: The Court stated that **"**it finds it unacceptable for a person to be detained in conditions where no provision is made for meeting his or her basic needs" (pg 24).

3.4.2 Protect: The Court emphasized that "it is primarily the State that is responsible for the well-being of persons deprived of their liberty" (pg 24)

3.4.3 Fulfil (facilitate and provide): The Court stated that **"**it finds it unacceptable for a person to be detained in conditions where no provision is made for meeting his or her basic needs" (pg 24). Further it declared that it is primarily the State that is responsible for the well-being of persons deprived of their liberty" (pg 24). This encompasses the duty to provide adequate sustenance.

3.4.4 Did the court refer to the fundamental right to freedom from hunger, if relevant? No

3.4.5 Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? No

3.4.6 Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? Yes, the Court found the respondent State (Ukraine) at fault for the violation

3.4.7 Did the court consider violations of the right to food committed by actors other than the state, if so, how? No

3.4.8 Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? No

4 Outcome of the legal case

4.1 Tier(s) of the court that referred explicitly to the right to food: European Court of Human Rights

4.2 Tier of the court that made the final decision (check if appealed): European Court of Human Rights

4.3 Legal basis invoked by the court to assert its jurisdiction over the case: Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms

4.4 Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Court found the Government's assertion of providing dry rations "unconvincing" due to the lack of documentation, expecting the Government to provide such proof. Crucially, the Court explicitly stated that "giving somebody permission to provide his or her food cannot be a substitute for providing appropriate catering arrangements, because it is primarily the State that is responsible for the well-being of persons deprived of their liberty"(pg 23-24). The Court emphasized that it finds it "unacceptable for a person to be detained in conditions where no provision is made for meeting his or her basic needs"(pg.24).

Ultimately, the Court concluded that the applicant was left without adequate food and water on hearing days. While not explicitly using the term "right to food," the Court's decision effectively upheld the fundamental necessity of adequate food and water provision by the State for individuals in its custody, thereby affirming an implicit state obligation akin to fulfilling basic dietary needs for those under its control.

4.5 Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

Non-pecuniary damage: The respondent State (Ukraine) was ordered to pay the applicant EUR 11,700 in respect of non-pecuniary damage, plus any tax that may be chargeable (pg 27)

4.6 Mechanisms for the enforcement of the decision and outcomes: N/A

Analysis of the outcome of the case

5.1 In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

The significance of this case in advancing the principle of the right to food, particularly for individuals deprived of their liberty, lies in its strong interpretation and application of Article 3. The Court effectively established that the State has a fundamental obligation to ensure adequate food and water for individuals in its custody.

While not framing it as a specific "right to food," this judgment reinforces the State's positive obligation to provide essential sustenance, treating its absence as a form of "inhuman or degrading treatment." This implicitly upholds a core aspect of the right to food within the context of detention conditions under ECHR law. Its broader impact extends to confirming that basic sustenance is an undeniable component of humane treatment in detention.

5.2 Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? The case is already. Build on existing precedents, and the judgment contributes to the notion that detainees' rights should be protected. These rights include the right to adequate food and nutrition.

5.3 As far as the information is available, consider also:

5.3.1 Were there any barriers to accessing the court (costs, standing, delay)? There was a significant delay in the overall process. The application was lodged with the Court on 7 August 2009, and the judgment was delivered on 19 February 2019, indicating a nearly ten-year period from application to final judgment.

5.3.2 Was legal aid available/how was the case funded? The applicant has been granted legal aid

5.3.3 Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

5.3.4 Was there follow-up by courts, civil society, or other oversight bodies? N/A

3. Korneykova and Korneykov v. Ukraine, Application no. 56660/12

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Korneykova and Korneykov v. Ukraine

1.2. Date of ruling: 24 March 2016

1.3. Country (and locality, if relevant e.g. department/municipal town): Strasbourg

1.4. Forum (jurisdiction): The European Court of Human Rights

1.5. Forum type (territorial): Territorial

1.6. Thematic focus: This case primarily focuses on the prohibition of inhuman or degrading treatment (Article 3 of the Convention) in the context of detention, pregnancy, childbirth, and the detention of a mother with her child.

1.7. Parties involved:

Applicants: Ms Viktoriya Yuryevna Korneykova (the first applicant) and her son Mr Denis Yuryevich Korneykov (the second applicant)

Respondent: Ukraine (represented by their Agent, most recently Mr B. Babin, of the Ministry of Justice)

1.8. Type of petition (individual complaint, class action): Individual

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case highlights the failure of Ukrainian authorities to provide adequate nutrition to Ms. Korneykova, a breastfeeding mother, during her pre-trial detention. Crucially, she stated that she did not receive food appropriate to her dietary needs as a nursing mother, and on days when she attended court hearings, she was given only breakfast with no packed lunch, leaving her without food for extended periods. The frequent food parcels sent by her mother underscored the inadequacy of the prison-provided meals and illustrated the authorities' neglect in ensuring basic nutritional standards.

Ms. Korneykova was five months pregnant when detained in January 2012 on suspicion of robbery and held in the Kharkiv SIZO. In May, she gave birth in Kharkiv Maternity Hospital no. 7, where she was allegedly shackled to her hospital bed or examination chair, except during childbirth and brief breastfeeding intervals—treatment the Court found to be inhuman and degrading.

After being discharged, she and her newborn son (the second applicant) were returned to the SIZO, where they were held in harsh conditions until November 2012. The cell was described as cold and damp with unreliable water supply, inadequate hygiene, insufficient outdoor time, and, significantly, lacking proper nutrition.

She also raised concerns about the substandard medical care her son received, including delays in examination by a pediatrician and discrepancies in medical records. Moreover, she was subjected to being placed in a metal cage during court hearings—a practice the Court deemed inherently degrading.

Ultimately, the European Court of Human Rights found violations of Article 3 of the Convention, emphasizing that the cumulative effect of poor nutrition, unsanitary conditions,

and inadequate medical care constituted inhuman and degrading treatment of both mother and child.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

Prohibition of torture or inhuman or degrading treatment or punishment (Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms)

Right to adequate nutrition during pregnancy and lactation- this can be explained under Article 12 of the Convention on the Elimination of All Forms of Discrimination Against Women. According to the Article, the state is required to eliminate all forms of discrimination against women which includes providing appropriate services in relation to pregnancy.**N**

1.11. Link to the judgement:

https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-161543%22]}

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- Convention for the Protection of Human Rights and Fundamental Freedoms- Article 3

- Convention on the Elimination of All Forms of Discrimination Against Women (1979)- Article 12

- Convention on the Rights of the Child (1989)- Preamble, Article 3

- Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (2011)- Rules 33, 48, 49, 50, 51

2.2 Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Pre-Trial Detention Act 1993- Article 9

- Rules on detention in pre-trial detention centres, approved in 2000- Rules 2.1.5, 4.1.3, 8.1.2 and annexes

- Clinical Protocol for medical care of children up to the age of three, approved by Order no. 149 of the Ministry of Public Health in 2008- Sections 2.1 and 2.2.9

- Sanitary and Epidemiological Welfare of the Population Act 199- Article 27

- Vaccination schedule approved by an order of the Ministry of Public Health in 2011

2.3 Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically): The case does not refer to right to food and the precedents used by the courts is connected to Article 3 of the ECHR.

3. **Right to Food Framework:**

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: N/A

3.2.2. Accessibility: N/A

3.2.3. Adequacy: The first applicant specifically stated that she did not receive nutrition suitable to her needs.

Para 27- “The first applicant was not provided with any baby hygiene products. Nor did she receive nutrition suitable to her needs. On the days of court hearings, her only meal was breakfast, which consisted of bread and tea. No packed lunches were provided to her”

The government contested that the applicant received adequate nutrition.

Para 33- “The first applicant was provided with adequate nutrition in accordance with the applicable standards (the total energy value of her daily meals being 3,284 kilocalories). She received three hot meals per day with the exception of hearing days, when she missed lunch. She breastfed her son and refused the baby food provided by the SIZO. There were no restrictions on food or other parcels she received from her relatives”

The court held that the applicant did not receive sufficient food and mentioned that "wholesome food" implies a consideration of the quality and nutritional adequacy beyond mere caloric intake. (Para 144)

3.2.4. Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: Not directly relevant

3.3.2. Accountability: By finding a violation of Article 3 due to inadequate food, the Court holds the Ukrainian State accountable for ensuring the well-being of individuals in its custody, including the provision of adequate nutrition, especially to vulnerable groups like pregnant and breastfeeding women.

3.3.3. Non-Discrimination: While not explicitly framed as a discrimination issue, the Court's focus on the specific nutritional needs of a breastfeeding mother indicates a consideration of the need for differentiated treatment to ensure substantive equality.

3.3.4. Transparency: Not directly relevant

3.3.5. Human Dignity: The Court's finding of a violation of Article 3 due to inadequate food, particularly for a breastfeeding mother, underscores the principle of human dignity.

3.3.6. Empowerment: Not directly relevant

3.3.7. Rule of Law: Not directly relevant

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: While not explicitly stated in the terms of 'right to food', the Court's criticism of the SIZO administration's failure to provide adequate nutrition, especially for a breastfeeding mother, suggests a failure to respect her basic needs and dignity while in custody.

3.4.2. Protect: Not directly relevant to the case

3.4.3. Fulfil (facilitate and provide): The court's reasoning emphasized the state's obligation to fulfill the obligation of access to food when parties are under state control.

Para 143- "The Court stresses that the absence of any restriction on the number of food parcels from the first applicant's relatives and, possibly, on being allowed to take her own food on hearing days was not a substitute for appropriate catering arrangements, because it is primarily the State that is responsible for the well-being of people deprived of their liberty"

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? No explicit reference to freedom from hunger in the judgement.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? The judgment does not invoke the principle of progressive realization

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? The Court's findings of a violation of Article 3 implicitly place the fault with the State of Ukraine for failing to ensure adequate conditions of detention, including sufficient and adequate nutrition.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? The judgment does not consider violations of the right to food committed by actors other than the state.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? The judgment does not acknowledge or engage with underlying structural causes such as poverty, inequality, or land access.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: The European Court of Human Rights

4.2. Tier of the court that made the final decision (check if appealed): The European Court of Human Rights

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The case originated in an application lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedom[TF3] [NA4] s.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Court found that the first applicant did not receive sufficient and wholesome food corresponding to her needs as a breastfeeding mother in detention, which, cumulatively with other inadequate conditions, amounted to inhuman and degrading treatment in violation of Article 3 of the Convention.

While the "right to food" was not explicitly invoked, the Court upheld the principle that the State is primarily responsible for the well-being of people deprived of their liberty, including the provision of adequate nutrition. The fact that the first applicant received numerous food parcels from her mother was considered an indication that the SIZO administration failed to provide adequate nutrition. The Court also noted that the first applicant missed meals on court hearing days without being provided with packed lunches.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- To the first applicant: EUR 12,000 in respect of non-pecuniary damage and EUR 3,000 in respect of costs and expenses.

- To the second applicant: EUR 7,000 in respect of non-pecuniary damage. The judgment did not include any specific directives to the Government to improve food security, provide food assistance, or reform policies beyond the general finding of a violation of Article 3. The remedy was primarily focused on providing just satisfaction in the form of financial compensation for the non-pecuniary damage suffered.

4.6. Mechanisms for the enforcement of the decision and outcomes: The judgment specifies that the awarded amounts are to be paid within three months from the date on which the judgment becomes final. The enforcement of judgments of the European Court of Human Rights is overseen by the Committee of Ministers of the Council of Europe. Article 46 of the European Convention on Human Rights obliges states to abide by the final judgments of the ECtHR.

5. Analysis of the outcome of the case

In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? While the Court did not explicitly label the issue as a violation of the "right to food," this case is significant for implicitly recognizing the fundamental importance of adequate nutrition for human dignity and well-being, particularly within the context of state detention. By finding a violation of Article 3 due to the provision of insufficient and poor-quality food to a breastfeeding mother, the Court underscores the State's duty to ensure basic necessities for those in its care.

5.1. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? While not explicitly framed as a "right to food" case, the Court's emphasis on the State's responsibility for the well-being of detainees and the specific findings regarding inadequate nutrition can be invoked in future cases arguing that similar failures constitute violations of human rights, potentially even encouraging a more explicit recognition of the right to food in such contexts.

5.2. As far as the information is available, consider also:

5.2.1. Were there any barriers to accessing the court (costs, standing, delay)? There is no indication of the costs. However, the time between the application in 2012 and the final judgment in 2016 indicates a significant delay, which is a common challenge in accessing international courts.

5.2.2. Was legal aid available/how was the case funded? No information on the availability of legal aid.

5.2.3. Were the mechanisms put in place to ensure the implementation of the decision adequate? The judgment itself does not detail specific measures Ukraine needed to take to prevent similar violations regarding detention conditions and nutrition in the future.

5.2.4. Was there follow-up by courts, civil society, or other oversight bodies? The sources provided do not contain information about any specific follow-up actions.

4. R.R. and Others v. Hungary, Application no. 36037/17

1. Identify the case (procedural aspects):

1.1 Name (copy full name of the case): CASE OF R.R. AND OTHERS v. HUNGARY

1.2 Date of ruling: 2 March 2021

1.3 Country (and locality, if relevant e.g. department/municipal town): Hungary (Röszke transit zone at the border of Hungary and Serbia)

1.4 Forum (jurisdiction): The European Court of Human Rights

1.5 Forum type (territorial): International

1.6 Thematic focus: Conditions of detention in a transit zone for asylum-seekers, including issues related to food, health, and deprivation of liberty; right to an effective remedy; non-compliance with an interim measure.

1.7 Parties involved:

Applicants: Mr R.R. (Iranian national), Ms S.H. (Afghan national), M.H. (Afghan national), R.H. (Afghan national), and A.R. (Afghan national)

Respondent: Hungarian Government

Third-party intervener: Office of the United Nations High Commissioner for Refugees (UNHCR)

1.8 Type of petition (individual complaint, class action): Individual Complaint

1.9 Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case concerns an Iranian-Afghan family, including three minor children and a pregnant woman, who were confined to the Röszke transit zone at the border of Hungary and Serbia between 19 April and 15 August 2017 while their asylum request was being examined3 . The first applicant, Mr R.R., had previously applied for asylum in Hungary and was therefore considered by the Office for Immigration and Asylum (IAO) not to be entitled to material reception conditions, including free meals, under Hungarian law.

While his family members received three meals a day and two snacks for the children, Mr. R.R. was not provided with free food. He was accommodated with his family but had to rely on their leftovers, beg other asylum-seekers for food, and search for edible items in rubbish bins to survive. Although an NGO reportedly organised food shopping for him twice at the beginning of his stay, and he was sometimes able to get food by paying other asylum-seekers, these arrangements were difficult to maintain.

The Hungarian authorities stated that his family received sufficient long-life food to share, that he could buy food with the help of social workers, and that charity organizations regularly distributed food which he sometimes refused. However, the Court noted the lack of a reasoned decision by the Hungarian authorities regarding the denial of food to Mr. R.R. and the absence of legal safeguards concerning food provision by NGOs. The UNHCR confirmed that while repeat asylum applicants could receive cold food assistance from charities, it was not always provided.

The Court concluded that the failure of the Hungarian authorities to ensure Mr. R.R.'s basic subsistence, leaving him in a situation of extreme poverty for nearly four months, amounted to inhuman and degrading treatment

1.10 Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

-Prohibition from torture and inhuman or degrading treatment- Article 3 ECHR

- Right to an effective remedy- Article 12 ECHR

1.11 Link to the judgement:

https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-208406%22]}

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon: Convention for the Protection of Human Rights and Fundamental Freedoms, Reception Conditions Directive (2013/33/EU), Asylum Procedures Directive (2013/32/EU), Return Directive (2008/115/EC), Regulation (EU) No 604/2013 (Dublin Regulation), Convention on the Rights of the Child of 20 November 1989

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered): Court comsidered Hungarian domestic law- Act no. LXXX of 2007 on Asylum, Administrative Procedure Act (Hungary)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically): The case is more focused on Article 3 of ECHR and hence did not consider any prior cases related to the right to food.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food

(copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

No explicit reference to the right to food. However, the Court does extensively discuss the first applicant's lack of access to food during his nearly four-month stay in the Röszke transit zone. The Court notes that the Hungarian authorities refused to provide him with

free meals as he was considered a repeat asylum-seeker. This situation led to the first applicant being "unable to cater for one of his most basic needs – food" and allegedly being forced to rely on his family's leftovers, begging, or searching in rubbish bins.

While not using the term "right to food," the Court concluded that the Hungarian authorities' failure to provide food to the first applicant, without duly assessing his circumstances and giving a reasoned decision, amounted to a failure to have due regard to his state of dependency. As a result, the Court found that the first applicant was in a situation incompatible with Article 3 of the Convention (prohibition of degrading treatment) due to the failings of the Hungarian authorities in securing his basic subsistence

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The Court notes that the Hungarian authorities refused to provide him with free meals throughout his stay in the Röszke transit zone as he was considered a repeat asylum-seeker

3.2.2. Accessibility: The accessibility of adequate food for the first applicant was severely restricted. Despite being accommodated with his family, he was not given free meals. He was forced to rely on his family’s leftovers, beg other asylum-seekers for food, and search for edible things in rubbish bins. The hot meals provided to his family could not be taken out of the canteen. While the government argued he could buy food with the assistance of social workers and that charities distributed food, the Court found the applicant's allegations of difficulty in accessing food to be sufficiently substantiated

3.2.3. Adequacy: The adequacy of food is discussed in relation to the applicant children and the pregnant mother. The applicants submitted that the food provided to the children had been inadequate for their age, and that fruit had only been provided occasionally, despite the government claiming children and pregnant women were entitled to dairy and fruit.

3.2.4. Sustainability: Not expressly mentioned

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: N/A

3.3.2. Accountability: The principle of accountability is implicitly engaged in the Court's criticism of the Hungarian authorities' failure to provide food to the first applicant without a duly reasoned decision

3.3.3. Non-Discrimination: While not a direct finding of discrimination in the context of the right to food, the first applicant, as a repeat asylum-seeker, was treated differently regarding the provision of food compared to his family members.

3.3.4. Transparency: N/A

3.3.5. Human Dignity: Human dignity was considered in the light of nonavailability of food and not providing adequate living standards for the applicant.

3.3.6. Empowerment: N/A

3.3.7. Rule of Law: The principle of the rule of law is relevant to the Court's findings regarding Article 5 (right to liberty and security) and Article 13 (right to an effective remedy).

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The obligation to respect the right to food requires the State to refrain from interfering with individuals' existing access to adequate food. In this case, the Hungarian authorities refused to provide the first applicant with free meals throughout his stay in the Röszke transit zone because he was considered a repeat asylum-seeker. The Court found that this refusal, without a duly reasoned decision and consideration of his circumstances, amounted to a failure to have due regard to his state of dependency

3.4.2. Protect: This aspect is not directly addressed in the Court's reasoning concerning the first applicant's food situation. The issue was primarily the State's own failure to provide food.

3.4.3. Fulfil (facilitate and provide): The obligation to fulfill the right to food includes both facilitating individuals' access to food and directly providing food when they are unable to secure it themselves. The Court's reasoning strongly emphasizes the State's failure in this regard concerning the first applicant.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? The Court did not explicitly refer to the "fundamental right to freedom from hunger" by that specific term in its judgment. However, its concern for the first applicant's inability to cater to his basic need for food and the finding of a violation of Article

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? No. The case does not fall within the category of ESC rights.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? The courts specifically mentioned the Office for Immigration and Asylum (the IAO) as the entity that considered the first applicant not entitled to material reception conditions under the Asylum Act

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? The Court did not find non-state actors directly at fault but highlighted the State's ultimate responsibility despite the efforts of these organizations.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? The courts did not delve into broader underlying structural causes of food insecurity such as poverty, inequality, or land access in either Hungary or the applicants' countries of origin. The judgment addressed the immediate deprivation of a basic need within a specific state-controlled environment.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: The European Court of Human Rights (ECtHR) in this judgment did not explicitly refer to the "right to food" by that specific name. However, its reasoning concerning the first applicant's lack of food directly addressed the State's obligation to ensure basic subsistence, which is a core element of the right to food.

4.2. Tier of the court that made the final decision (check if appealed):European Court of Human Rights

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The Court's jurisdiction was based on Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The central food-related issue concerned the first applicant, R.R., who, as a repeat asylum-seeker, was refused free meals by the Hungarian authorities throughout his nearly four-month stay in the Röszke transit zone. While his family received food, it could not be taken out of the canteen. R.R. claimed he was forced to rely on leftovers, beg for food, and search in bins. The government argued he had access to food through his family, social workers, and charities, and had refused food at times.

The Court found a violation of Article 3 of the Convention (prohibition of degrading treatment) specifically in respect of the first applicant. The Court reasoned that while Hungary could, in principle, reduce or withdraw material reception conditions for a repeat asylum-seeker under the Reception Conditions Directive, any such decision should have been reasoned and proportionate, and no such decision was provided. The Court concluded that the Hungarian authorities failed to have due regard to the state of dependency of the first applicant, who was wholly reliant on them for basic needs in the

transit zone. As a result of the authorities' failings in securing his basic subsistence (food), the first applicant was found to have been in a situation incompatible with Article 3, effectively indicating a denial of his basic right to sustenance in a context of complete dependency on the State.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- €4,500 in non-pecuniary damage to the first applicant for the violation of Article 3.
- €4,500 in non-pecuniary damage to the second applicant and €6,500 to each of the applicant children for the violation of Article 3 due to the overall living conditions.
- €5,000 jointly to the applicants for costs and expenses

4.6. Mechanisms for the enforcement of the decision and outcomes:

The enforcement of judgments of the European Court of Human Rights is overseen by the Committee of Ministers of the Council of Europe under Article 46 of the European Convention on Human Rights. Hungary, as a party to the Convention, is obligated to abide by the Court's final judgment

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

While the case did not explicitly establish a standalone "right to food" under the European Convention on Human Rights, it is significant for advancing the principles underlying this right within the framework of Article 3 (prohibition of degrading treatment). The case also highlights the State's responsibility to ensure basic subsistence for vulnerable individuals under its control, particularly asylum-seekers in a confined environment where they are reliant on the authorities for their need.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? This case can serve as a strong precedent in future cases arguing that the denial of access to adequate food by state authorities to dependent individuals constitutes inhuman or degrading treatment under Article 3 of the ECHR

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? The applicants, as direct victims of the alleged violations, clearly had standing to bring the case before the ECtHR. The fact that they were represented by a lawyer suggests they were able to navigate the legal process. While the judgment awarded costs and expenses, the initial ability to afford legal representation or access legal aid is not

explicitly detailed in the source. The time between the applicants' confinement (April-August 2017) and the final judgment (March 2021) indicates a significant delay in the resolution of the case, which can be a barrier to effective justice. However, the Court did grant priority to the application.

5.3.2. Was legal aid available/how was the case funded? the source does not explicitly state whether legal aid was available to the applicants. It mentions an agreement between the lawyer and the applicants regarding payment if they won the case. This suggests a potential arrangement where the lawyer took on the case with the expectation of payment from any awarded compensation, which could act as a form of de facto access to justice even without formal legal aid.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? The primary mechanism for ensuring implementation of ECtHR judgments is the oversight of the Committee of Ministers of the Council of Europe. This body monitors the measures taken by respondent states to comply with judgments, including the payment of compensation and the adoption of general measures to prevent similar violations. The adequacy of these mechanisms can be debated and depends on the willingness of the state to comply and the effectiveness of the Committee's supervision.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? Judgement does not provide guidance on the follow ups.

5. Rusi Ivanov Stanev v. Bulgaria, Application no. 36760/06

1. Identify the case (procedural aspects):

1.1 Name (copy full name of the case): Rusi Ivanov Stanev v. Bulgaria (Application no. 36760/06)

1.2 Date of ruling: 17 January 2012 (Grand Chamber)

1.3 Country (and locality, if relevant e.g. department/municipal town): Bulgaria (Pastra social care home)

1.4 Forum (jurisdiction): European Court of Human Rights (Grand Chamber

1.5 Forum type (territorial): Regional human rights court

1.6 Thematic focus: Right to food in institutional settings, right of persons with psychological disabilities

1.7 Parties involved:

Applicant: Rusi Stanev

Respondent: Bulgarian government

1.8 Type of petition (individual complaint, class action): individual application

1.9 Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

This case concerned the living conditions of a man with psychosocial disabilities confined in Bulgaria's Pastra social care home. While primarily focused on unlawful detention (Article 5) and inhuman treatment (Article 3), the judgment contained significant findings regarding food-related violations.

The applicant, Rusi Stanev, was a Bulgarian national placed under partial guardianship due to diagnosed schizophrenia. In 2002, he was involuntarily confined to the social care home. The food provision system offered no seasonal variation and was often times delivered cold. The applicant asserted that the food provided at the home was insufficient and of poor quality. He had no say in the choice of meals and was not allowed to help prepare them.

The report notes that the provision of the food was inadequate. Residents received three meals a day, including 750g of bread. Milk and eggs were never on offer, and fresh fruit and vegetables were rarely available. No provision was made for special diets.

Regarding the legal proceedings, the applicant's complaints about food conditions were dismissed domestically, with Bulgarian courts accepting the institution's claim that meals met minimum state standards without conducting independent verification. However, the Grand Chamber’s assessment cited CPT standards to link with provision of nutritionally adequate food. It emphasised the state’s obligations to right to food implicitly through Article 3. The judgment built upon prior ECtHR food-related jurisprudence. For instance, Went beyond *Kalashnikov v Russia* by recognizing disability-specific nutritional needs.

1.10 Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Article 3 (inhuman treatment)

- Article 5 (liberty)
- Article 6 (fair trial)
- Article 8 (private life)
- and in conjunction with Article 13 (effective remedy)

1.11 Link to the judgement: https://hudoc.echr.coe.int/#{%22itemid%22:[%22001-108690%22]}

2. Legal Framework applied by the Court in the judgment:

2.1 International legal basis (list international or regional instruments referenced by the court) relied upon:

- ECHR Articles 3, 5, 6, 8, 13
- UN Convention on the Rights of Persons with Disabilities (CRPD)
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT) Standards

2.2 Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered): Bulgarian Social Assistance Act 1998

2.3 Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- *Kalashnikov v Russia*
- *M.S. v Croatia*

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

“22. The applicant asserted that the food provided at the home was insufficient and of poor quality.”

“79. The report notes that the provision of food was inadequate. Residents received three meals a day, including 750 g of bread. Milk and eggs were never on offer, and fresh fruit and vegetables were rarely available. No provision was made for special diets.”

“**B. Merits of the complaint under Article 3 of the Convention**

1. The parties’ submissions

197. The applicant submitted that the poor living conditions in the Pastra social care home, in particular the inadequate food, the deplorable sanitary conditions, the lack of heating, the enforced medical treatment, the overcrowded bedrooms and the absence of therapeutic and cultural activities, amounted to treatment prohibited by Article 3.”

“Nevertheless, other aspects of the applicant’s physical living conditions are a considerable cause for concern. In particular, it appears that the food was insufficient and of poor quality.”

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1 Availability: Insufficient quantity/variety, the Court held it violated minimum standards

3.2.2 Accessibility: No autonomy to obtain food, there was institutional over-restriction

3.2.3 Adequacy: Nutritionally inadequate, and in turn failed health needs accommodation

3.2.4 Sustainability

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1 Participation: N/A

3.3.2 Accountability: lack of food quality monitoring

3.3.3 Non-Discrimination: disproportionate impact on persons with disabilities

3.3.4 Transparency: N/A

3.3.5 Human Dignity: monotonous diet could be deemed as dignity violation

3.3.6 Empowerment: N/A

3.3.7 Rule of Law: N/A

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: N/A

3.4.2. Protect: The state did not regulate private care provider

3.4.3. Fulfil (facilitate and provide): N/A

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant?

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? N/A

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? N/A

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? N/A

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? N/A

4. Outcome of the legal case

4.1 Tier(s) of the court that referred explicitly to the right to food: ECtHR Grand Chamber

4.2 Tier of the court that made the final decision (check if appealed): ECtHR Grand Chamber (final)

4.3 Legal basis invoked by the court to assert its jurisdiction over the case: Article 34

4.4 Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

- A violation was found regarding Article 3 as a result of the food conditions and overall treatment, and to Article 5 for unlawful detention

4.5 Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- The State was to pay the applicant, within three months, EUR 15,000 in respect of non-pecuniary damage

4.6 Mechanisms for the enforcement of the decision and outcomes:

5. Analysis of the outcome of the case

5.1 In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? This was the first ECtHR case linking institutional food

standards to Article 3 for persons with disabilities. It also influenced CRPD Committee's General Comment No. 5 on independent living.

5.2 Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

5.3 As far as the information is available, consider also:

5.3.1 Were there any barriers to accessing the court (costs, standing, delay)? N/A

5.3.2 Was legal aid available/how was the case funded? N/A

5.3.3 Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

5.3.4 Was there follow-up by courts, civil society, or other oversight bodies? N/A

6. Stepuleac v. Moldova, Application no. 8207/06

1. Identify the case (procedural aspects):

1.1 Name (copy full name of the case): *CASE OF STEPULEAC v. MOLDOVA (Application no. 8207/06)*

1.2 Date of ruling: 6 November 2007

1.3 Country (and locality, if relevant e.g. department/municipal town): Republic of Moldova

1.4 Forum (jurisdiction): European Court of Human Rights (First Section)

1.5 Forum type (territorial): Regional (Council of Europe jurisdiction)

1.6 Thematic focus: Conditions of detention, alleged inhuman and degrading treatment, fair trial rights

1.7 Parties involved:

Applicant: Mr. Valeriu Stepuleac (Moldovan national)

Respondent: Government of the Republic of Moldova

1.8 Type of petition (individual complaint, class action): Application under Article 34 of the European Convention on Human Rights

1.9 Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

Mr. Valeriu Stepuleac, a Moldovan businessman, was arrested on 21 November 2005 and detained for over three months in the Centre for Fighting Economic Crime and Corruption. During this period, he was held in a basement cell with no access to daylight for up to 22 hours per day, limited access to toilets and tap water, insufficient food, and inadequate medical assistance. The applicant complained that these conditions amounted to inhuman and degrading treatment in breach of Article 3 of the European Convention on Human Rights. He also alleged procedural violations under Article 5 § 4, claiming he had no access to a lawyer and was unable to challenge the lawfulness of his detention for several days after his arrest

The Moldovan Government contested the claims, arguing that Mr. Stepuleac was not held in solitary confinement, had access to medical care, and was provided with adequate food and sanitation. However, the European Court of Human Rights found that the cumulative conditions of detention, specifically, prolonged isolation, the insufficiency of food, the denial of regular access to toilets and water, the absence of daylight, and a lack of timely medical care together exceeded the threshold for degrading treatment. The Court held that the applicant's physical and psychological suffering due to these conditions constituted a violation of the substantive limb of Article 3. It further found a violation of the procedural obligation under Article 3, due to the authorities' failure to investigate the applicant's complaints of intimidation during detention.

The Court also held that Mr. Stepuleac's inability to access legal counsel and to challenge his detention in the initial days after his arrest constituted a breach of Article 5 § 4. In total, the Court awarded the applicant €12,000 in non-pecuniary damages and €3,000 for costs and expenses. The judgment affirms that poor detention conditions, including insufficient food, can amount to inhuman or degrading treatment, even in the absence of physical abuse, thus contributing to the evolving interpretation of state obligations under Article 3 in custodial contexts.

1.10 Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

- Right to human treatment: Article 3, ECHR
- Right to liberty and security: Article 5(1), ECHR
- Right to have lawfulness of detention reviewed: Article 5(4), ECHR

While the applicant mentioned food quality and availability, the Court assessed these concerns under Article 3, treating them as part of overall detention conditions. The right to food was not recognised as a standalone right, nor was it directly analysed apart from its relevance to humane treatment

1.11 Link to the judgement:

https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-83085%22]}

2. Legal Framework applied by the Court in the judgment:

2.1 International legal basis (list international or regional instruments referenced by the court) relied upon:

European Convention on Human Rights:

- Article 3: Prohibition of inhuman or degrading treatment
- Article 5(1): right to liberty and security
- Article 5(4): right to speedy review of detention
- Article 6(1): right to a fair trial (mentioned but not examined)

2.2 Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- No Moldovan legislation on food, detention, or health was discussed in depth.

2.3 Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

The Court referenced prior ECtHR jurisprudence to assess Article 3 standards, including:

54. The Court refers to the principles established in its case-law on Article 3 of the Convention regarding, in particular, conditions of detention and medical assistance to detainees (see, amongst others, *Kudła v. Poland* [GC], no. 30210/96, § 91, ECHR 2000-XI, *Ostrovar v. Moldova*,no. 35207/03, §§ 76-79, 13 September 2005, and *Sarban*, cited above,§§ 75-77).

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

Food was mentioned as one element of detention conditions under Article 3, but the right to food was not articulated as a separate legal entitlement.

“28. …In particular, he complained, relying on Article 3 of the Convention of the insufficiency and poor quality of food and that he could not receive food from his wife on a daily basis.”

“33. In his submissions to this Court, the applicant stated that only the Head of GDFOC had had the keys to his cell and that the quality of food had been very poor”

“57. The delegation also received numerous complaints about the quantity of food in the EDPs visited. This normally comprised tea without sugar and a slice of bread in the morning, cereal porridge at lunch time and hot water in the evening. In some establishments, food was served, just once a day and was confined to a piece of bread and soup”

“d. Conclusion: 65. To sum up, the Court finds that the applicant's detention for over three months with insufficient food and no access to daylight for up to 22 hours a day, no access to toilet and tap water whenever needed, and insufficient medical assistance, amount to a violation of Article 3 of the Convention. In addition, the failure to investigate his complaints about intimidation in the prison cell, where he felt particularly vulnerable since he was detained alone, amounts to a violation of the procedural obligations under Article 3 of the Convention.”

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1 Availability: food was insufficient over the time of detention

3.2.2 Accessibility: N/A

3.2.3 Adequacy: the Court considered the applicant’s complaints about the quality of food

3.2.4 Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1 Participation: N/A

3.3.2 Accountability: Moldova was held accountable for violation of Article 5(4)

3.3.4 Non-Discrimination: N/A

3.3.4 Transparency: N/A

3.3.5 Human Dignity: Implicitly, integral to Article 3 assessment

3.3.6 Empowerment: N/A

3.3.7 Rule of Law: Core to detention review under Article 5(4)

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: Moldova's authorities were expected to respect basic conditions of detention.

3.4.2. Protect: N/A

3.4.3. Fulfil (facilitate and provide): State responsible for providing food in detention

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? N/A

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? N/A

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? The Moldovan Government

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? No private actors involved

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? N/A

4. Outcome of the legal case

4.1 Tier(s) of the court that referred explicitly to the right to food:

- European Court of Human Rights addressed food indirectly under Article 3 but did not recognise a distinct right to food.

4.2 Tier of the court that made the final decision (check if appealed): ECHR (first section)

4.3 Legal basis invoked by the court to assert its jurisdiction over the case:

- Article 34 of the European Convention on Human Rights (individual application)

4.4 Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The applicant alleged that poor conditions of detention, including insufficient food, violated his rights under Article 3 of the ECHR. He described poor nutrition, inadequate hygiene, and lack of exercise. The Government denied these claims and argued that food provided, medical care was available, and the conditions were within lawful limits.

4.5 Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- Non-pecuniary damages: €12,000

- Costs and expenses: €3,000

4.6 Mechanisms for the enforcement of the decision and outcomes:

- Standard execution procedures through Council of Europe Committee of Ministers for ECtHR judgments

- No specific follow-up or implementation discussed in the judgment

5. Analysis of the outcome of the case

5.1 In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

It has limited significance. Although food was part of the facts, the Court did not develop or apply a right to food framework. The case does illustrate how food can be addressed under humane treatment standards but does not advance the right to food doctrine.

The ECtHR's decision treats food insufficiency as part of inhuman treatment, reinforcing minimum standards for state-provided food in detention.

5.2 Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

The case sets a strong precedent for cases concerning RtF in custodial settings, especially where food denial is part of degrading treatment. Establishes that insufficient food in state custody can breach Article 3.

5.3 As far as the information is available, consider also:

5.3.1 Were there any barriers to accessing the court (costs, standing, delay)? None discussed in the judgment. The applicant was able to access the ECtHR and obtain redress under Article 5(4)

5.3.2 Was legal aid available/how was the case funded? The applicant was represented by a lawyer, and no mention of legal aid in the judgment.

5.3.3 Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

5.3.4 Was there follow-up by courts, civil society, or other oversight bodies? N/A

7. Sufi and Elmi v. The United Kingdom, Applications nos. 8319/07

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): CASE OF SUFI AND ELMI v. THE UNITED KINGDOM

1.2. Date of ruling: 28 June 2011

1.3. Country (and locality, if relevant e.g. department/municipal town): United Kingdom (European Court of Human Rights, Strasbourg)

1.4. Forum (jurisdiction): European Court of Human Rights

1.5. Forum type (territorial): Regional human rights body

1.6. Thematic focus: Right to life (Article 2), prohibition of inhuman/degrading treatment (Article 3), and humanitarian conditions (including food insecurity) in Somalia.

1.7. Parties involved:

Applicants: Abdisamad Adow Sufi and Abdiaziz Ibrahim Elmi (Somali nationals)

United Kingdom Government

1.8. Type of petition (individual complaint, class action): Individual complaints under Article 34 of the European Convention on Human Rights.

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case of *Sufi and Elmi v. The United Kingdom*, decided by the European Court of Human Rights in 2011, addressed the broader human rights implications of deporting individuals to a country experiencing severe instability and conflict. Although the case is principally grounded in Article 3 of the European Convention on Human Rights, which prohibits inhuman or degrading treatment, the Court's reasoning touches on critical aspects of the right to food as an essential component of humane living conditions. The applicants, two Somali nationals with criminal records, challenged their deportation from the United Kingdom on the grounds that returning them to Somalia would expose them to serious harm due to the ongoing armed conflict, generalized violence, and humanitarian crisis. Central to their argument was the assertion that they would be at real risk of being placed in conditions where basic human needs, including food, water, and shelter would not be met, thereby violating their rights under Article 3.

The Court acknowledged the dire humanitarian conditions in southern and central Somalia, particularly in Mogadishu, where violence and displacement had overwhelmed the country’s capacity to care for its civilian population. It accepted that the applicants, if deported, would likely be forced to live in internally displaced persons (IDP) camps or in makeshift shelters, areas known to lack consistent access to adequate food and clean water. The Court’s assessment was informed by multiple international and governmental reports, which consistently described food insecurity, malnutrition, and the obstruction of humanitarian aid in Al-Shabaab-controlled territories. The Court also considered how certain groups, such as displaced persons, members of minority clans, and individuals lacking strong clan affiliations, were more vulnerable to hunger and deprivation due to the collapse of traditional support systems and the inaccessibility of humanitarian assistance.

Although the European Convention on Human Rights does not explicitly recognize the right to food, the Court's interpretation of Article 3 has, in this case, extended to include the failure of a state to protect individuals from conditions of extreme material deprivation. The judgment recognized that a combination of factors such as the absence of clan protection, lack of access to humanitarian aid, exposure to violence, and displacement could amount to degrading treatment. Importantly, the Court found that the applicants were not simply at risk

of physical violence upon return, but also at risk of living in conditions incompatible with human dignity, including the inability to access sufficient and nutritious food.

In its reasoning, the Court drew attention to the fact that in Al-Shabaab controlled areas, where the applicants would most likely end up, humanitarian agencies had been blocked or expelled, and food aid was routinely looted, taxed, or denied. Consequently, food security was critically compromised. The applicants, being returnees without local connections or resources, would be unable to secure adequate food independently.

This decision illustrates how the right to food, while not formally enshrined in the European Convention, can be judicially protected through its integration into existing human rights frameworks.

Therefore, while the ruling did not explicitly affirm a standalone right to food, it treated the denial of food and related humanitarian necessities as an integral element of what constitutes degrading treatment under Article 3.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to food (implicit in Article 3, as starvation and malnutrition were key concerns).
- Right to life (Article 2 ECHR).
- Prohibition of torture/inhuman treatment (Article 3 ECHR).
- Right to health and shelter (linked to humanitarian conditions).

Legal Basis: European Convention on Human Rights (articles 2, 3 and 8), UNHCR Eligibility guidelines on Somalia (2010), Reports on Somalia's humanitarian crisis (WFP, Amnesty International, Human Rights Watch).

1.11. Link to the judgement: https://hudoc.echr.coe.int/fre

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- European Convention on Human Rights (articles 2, 3 and 8)
- UNHCR Eligibility Guidelines

- Reports from WFP, Amnesty International and Human Rights's Watch

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- UK immigration rules (HC 395, as amended)

- Nationality, Immigration and Asylum Act 2002 (UK)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- M.S.S. v. Belgium and Greece: underlined that Article 3 may be violated where a state exposes individuals to "official indifference" in situations of "serious deprivation or want incompatible with human dignity" (Sufi and Elmi, §279)

The applicant in M.S.S. lived in "extreme poverty," lacking access to food, hygiene, and shelter, while facing constant insecurity. He was unable to ater for his basic needs and there was no expectation of imrovement within a reasonable timle frame. The Court found Greece responsible for these conditions and Belgium liable for transferring him there.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): There is no explicit mention of the right to food, but the judgment discusses food deprivation in Somalia as a factor contributing to inhuman treatment (§§ 284 and 287).

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The Court cited evidence that al-Shabaab's restrictions on humanitarian organizations had severely disrupted food supplies, leaving over half of Somalia's population dependent on aid that was no longer accessible (§§§ 94, 122, 187 and 188)

3.2.2. Accessibility: Checkpoints forced displacements and violence prevented civilians from accessing food (§§94 and 122).

Displaced persons in the Afgooye Corridor faced "gatekeepers" who controlled access to aid (§95)

3.2.3. Adequacy: The judgment highlighted "emergency levels of acute malnutrition," with 1 in 5 children in southern Somalia severely malnourished (§§ 188 and 194).

3.2.4. Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Human Dignity: Starvation and malnutrition violated dignity (§279 citing *M.S.S. v. Belgium and Greece*).

3.3.2. Accountability: The UK was held accountable for the violation of article 3 of the Convention but in the decision, there is no specific mention of the right to food.

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: UK failed to respect the right to food of the applicants by deporting them in a country where they could be subject to hunger or malnutrition.

3.4.2. Protect: The State failed to protect applicants from return to food insecurity.

3.4.3. Fulfil (facilitate and provide): No evidence of UK/Somalia ensuring food access.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? Not explicitly.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? No.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? UK was found at fault for deportation and a reference was made to Somalia for their responsibility in blocking aid.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? Not explicitly but there was a mention of: Al-Shabaab's aid restrictions which exacerbated famine.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? Not mentioned

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: European Court of Human Rights.

4.2. Tier of the court that made the final decision (check if appealed):

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Article 1, 32 and 34 ECHR

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The European Court of Human Rights ruled that deporting the applicants to Somalia would violate Article 3 of the European Convention due to the humanitarian crisis affecting the country. The judgment meticulously documented how Somalia's food systems had collapsed under the combined pressures of armed conflict, forced displacement, and deliberate obstruction of humanitarian aid. The Court cited UN reports showing that over 3.2 million Somalis (nearly half the population) required emergency food assistance, with malnutrition rates among children reaching catastrophic levels. This food insecurity was not accidental but resulted from systemic failures, including al-Shabaab's blockade of World Food Programme operations and the destruction of agricultural infrastructure through prolonged fighting.

The Court found that internally displaced persons in camps like the Afgooye Corridor faced life-threatening deprivation, lacking reliable access to food, clean water, and basic medical care. These conditions were exacerbated by exploitation from armed groups and predatory landlords. Drawing parallels to its landmark M.S.S. v. Belgium and Greece decision, the Court emphasized that subjecting individuals to such severe deprivation - whether through direct state action or by deporting them to zones of famine - constituted inhuman and degrading treatment under Article 3. The judgment rejected the UK government's argument that internal relocation within Somalia was feasible, noting that no region offered protection from food insecurity or violence.

By prohibiting the applicants' removal to these conditions, the Court implicitly recognized that the right to be free from hunger (combined to other rights) forms part of the protection against inhuman treatment under Article 3. The decision established that states cannot deport individuals to situations where they would face systemic food deprivation.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): The Court did not award monetary compensation or issue directives concerning food assistance or reforms to improve food security. Rather, the primary remedy granted by the Court was a declaratory judgment stating that the deportation of the applicants to Somalia would violate Article 3 of the European Convention on Human Rights, which prohibits inhuman or degrading treatment. As such, the Court prohibited their removal from the United Kingdom as long as the conditions in Somalia continued to pose a real risk of inhuman or degrading treatment.

4.6. Mechanisms for the enforcement of the decision and outcomes: The enforcement mechanism of the Court’s decision operates under Article 46 of the European Convention on Human Rights, which obliges member states to abide by final judgments of the Court. Following the judgment, the United Kingdom was legally bound not to

deport the applicants to Somalia as long as the article 3 risk persisted. The responsibility for implementation lies with the UK government, and compliance is monitored by the Committee of Ministers of the Council of Europe.

As a result of the judgment, the UK authorities were prohibited from executing the deportation orders against Sufi and Elmi. The applicants were allowed to remain in the UK, and interim measures (under Rule 39) that had previously halted their removal became permanent through the judgment's effect.

5 Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

While the European Court of Human Rights did not explicitly frame its judgment in *Sufi and Elmi* in terms of a "right to food," the decision significantly contributes to its indirect recognition and protection under Article 3 of the European Convention on Human Rights (prohibition of inhuman or degrading treatment). In doing so, the case expands the scope of civil and political rights to offer protection against violations traditionally seen as socio-economic, thereby opening a path for the right to food to be judicially protected. The case therefore advances the right to food by confirming that exposing individuals to hunger or food insecurity through state action (like deportation) can amount to a human rights violation.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? The case does not refer explicitly to the right to food. The Court found that involuntary return to conditions where access to food, water, and shelter is extremely limited, particularly for displaced persons without clan support could amount to inhuman or degrading treatment under Article 3.This reasoning indirectly acknowledges the importance of access to food and other basic needs, but only as part of the broader threshold for a violation of Article 3, not as a freestanding right to food. Consequently, it is not a direct or strong precedent for the recognition or enforceability of the right to food.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)?

- Nothing is mentioned concerning financial barriers.

- There was no issue with standing, the applicants were Somali nationals in the UK, subject to deportation orders. As individuals directly affected by state action, they had standing under article 34 ECHR.

- The case was initiated in 2007 and decided in 2011. The 4 years duration included procedural delays due to related pending cases in UK courts (notably HH and Others and AM and Others) that the European Court waited on before the proceedings.

5.3.2. Was legal aid available/how was the case funded? Yes, it is mentioned in §2. They were represented by Ms. Nuala Mole of the Aire Centre, a London-based NGO specializing in human rights and European law.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? The mechanisms were adequate in this case, but no structural reform obligations were imposed on the UK beyond this. The court imposed no obligation on the UK to change the asylum and deportation frameworks to incorporate socio-economic rights like RTF protections. In conclusion, protection remained case-specific and depended on the discretion of domestic authorities, rather than on national policy reform that would systematically incorporate concerns such as food insecurity.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? Information not available.

8. *Z* and Others v. The United Kingdom, Application no. 29392/95

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Z and Others v. the United Kingdom

1.2. Date of ruling: 10 May 2001

1.3. Country (and locality, if relevant e.g. department/municipal town): United Kingdom of Great Britain and Northern Ireland

1.4. Forum (jurisdiction): The European Court of Human Rights

1.5. Forum type (territorial): International

1.6. Thematic focus: Failure of a local authority to take adequate protective measures in respect of severe neglect and abuse of children, including issues of food deprivation; alleged lack of access to a court and effective remedy. Specifically, the Court considered allegations under Article 3 (prohibition of inhuman and degrading treatment), Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), and Article 13 (right to an effective remedy) of the Convention.

1.7. Parties involved:

Applicants: Z, A, B, C (four full siblings, British nationals). Initially, D was also an applicant but was later removed.

· Respondent: The United Kingdom Government

1.8. Type of petition (individual complaint, class action): Individual Complaint

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case concerns four siblings, Z, A, B, and C, who suffered severe neglect and abuse at the hands of their parents over a period of several years, starting from at least October 1987 when concerns were first raised with social services. The factual background reveals multiple instances of food deprivation and neglect. Z was reported to be stealing food at night. Z and A were seen taking food from school and park bins. It was noted that the children would eat an early dinner and then not eat again until the following morning.

The headmistress reported that B appeared to crave food, and A was observed raiding playground bins for apple cores. When the older children were in respite foster care, A stole food from his brother. Weight checks indicated concerns about the children's weight gain, suggesting potential malnutrition.

These food-related issues were part of a broader pattern of neglect, including filthy living conditions, lack of basic hygiene, and emotional abuse, all of which were brought to the attention of the local authority on numerous occasions through reports from health visitors, neighbours, teachers, and even family members.

Despite being aware of the situation and having statutory duties and powers to intervene, the local authority did not take effective steps to remove the children from the harmful environment until April 1992, following the mother's demand. By this time, the children had suffered significant physical and psychological harm as a result of the prolonged neglect and abuse, including the food deprivation they experienced

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Article 3 of the ECHR: Prohibition of inhuman and degrading treatment

- Article 8 of the ECHR: Right to respect for private and family life.

1.11. Link to the judgement:

https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Z%20and%20Others%20v.%20the%20United%20Kingdom%22],%22itemid%22:[%22001-59455%22]}

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon: Convention for the Protection of Human Rights and Fundamental Freedoms

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

Child Care Act 1980, Children Act 1989, Rules of the Supreme Court, Order 18, Rule 19, Civil Procedure Rules, Part 3.4(2)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically): The case is not directly relevant to right to food. The precedent used by the ECHR is mainly related to Article 3 and Article 8.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): Does not refer explicitly to 'right to food'

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: No direct link on food availability

3.2.2. Accessibility: The accessibility of food for the children was severely restricted due to the actions and inactions of their parents. The reasoning in the judgment focuses on the local authority's failure to intervene in the face of known ill-treatment and neglect, which directly resulted in the children's lack of access to basic necessities, including adequate food.

3.2.3. Adequacy: While the judgment doesn't detail the nutritional content of the food (or lack thereof), the overall picture painted strongly suggests that the children's dietary needs for health and development were not being met. The reasoning of the Court in finding a violation of Article 3 centers on the "serious, long-term neglect and abuse" which undoubtedly included a failure to provide adequate food.

3.2.4. Sustainability: No direct link on food sustainability

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: N/A

3.3.2. Accountability: The applicants' legal action against the local authority was fundamentally about seeking accountability for the alleged failure to protect them from severe neglect and abuse, which included deprivations related to food

3.3.3. Non-Discrimination: N/A

3.3.4. Transparency: N/A

3.3.5. Human Dignity: The severe neglect and abuse described in the judgment clearly compromised the human dignity of the children.

3.3.6. Empowerment: N/A

3.3.7. Rule of Law: The entire case revolves around the rule of law, specifically the interpretation and application of domestic law concerning the duties of local authorities in child protection and the applicants' rights under the European Convention on Human Rights

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: Does not expressly discuss the aspect of respect

3.4.2. Protect: The court's finding of a violation of Article 3 hinges on the State's failure to protect the applicants from inhuman and degrading treatment, which included severe neglect. The court further recognized a positive obligation on the State to take reasonable steps to protect children from serious neglect and abuse, which implicitly includes ensuring their basic needs like adequate food are met

3.4.3. Fulfil (facilitate and provide): Did not expressly discuss the the aspect of fulfill

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? No direct relevance to freedom from hunger

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? The case focused on a failure to provide a basic level of protection from severe neglect that had been ongoing for years, rather than the progressive improvement of access to food within resource limitations.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? The court found that the State (the United Kingdom) had failed in its positive obligation under Article 3 to provide the applicants with adequate protection against inhuman and degrading treatment

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? The court acknowledged that the inhuman and degrading treatment, including neglect related to food, was administered by the applicants' parents, who were private individuals.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? Did not indicate structural causes

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: The European Court of Human Rights

4.2. Tier of the court that made the final decision (check if appealed):N/A

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The European Court of Human Rights asserted its jurisdiction based on Article 32 of the Convention for the Protection of Human Rights and Fundamental Freedoms

Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The case does not focus/ mention the right to food. However, when considering the state's neglect, the court discussed food deprivation which contributed to reaching the threshold of inhuman and degrading treatment. This neglect included instances directly related to food: Z was reported to be stealing food at night, Z and A were reported to be taking food from bins at school and in the park, The headmistress noted that B "appeared to crave for food", the children ate early (4 or 4:30 p.m.) and then did not eat again until the morning, and were sent to bed early (6 p.m.)

4.4. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- Pecuniary damage: GBP 8,000 to Z, GBP 100,000 to A, GBP 80,000 to B, and GBP 4,000 to C. These amounts were awarded considering loss of future earnings and costs of future medical expenses resulting from the abuse and neglect.

- Non-pecuniary damage: GBP 32,000 to each applicant. This was to compensate for the pain and suffering endured due to the abuse and neglect.

- Costs and expenses: GBP 39,000 in respect of legal costs and expenses, inclusive of VAT

4.5. Mechanisms for the enforcement of the decision and outcomes: The European Convention on Human Rights has a mechanism for the supervision of the execution of its judgments by the Committee of Ministers of the Council of Europe. Article 46 of the Convention obliges the High Contracting Parties to abide by the final judgment of the Court in any case to which they are parties. The Committee of Ministers oversees the implementation of these judgments.

5. Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? In my assessment, this case has limited direct significance in advancing the explicit right to food in the United Kingdom. The judgment did not directly address or interpret the right to food as a distinct legal principle. However, the case is indirectly relevant as it highlights the State's obligation to protect vulnerable individuals, particularly children, from inhuman and degrading treatment, which can include severe deprivation of basic necessities such as adequate food.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? This case is not a strong direct precedent for future cases specifically focused on the right to food because the judgment's legal reasoning did not center on this right.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? The applicants initially faced significant barriers in accessing the domestic courts. Their claims against the local authority were struck out by the High Court, upheld by the Court of Appeal, and ultimately rejected by the House of Lords, based on the legal principle that local authorities could not be sued for negligence or breach of statutory duty in the discharge of their child welfare functions.

5.3.2. Was legal aid available/how was the case funded? No details are available in this regard

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? The European Convention on Human Rights system relies on the Committee of Ministers of the Council of Europe to supervise the execution of judgments [refer to external knowledge on ECHR enforcement]. The UK, as a signatory, is obligated to comply with the Court's rulings (Article 46 ECHR). The payment of compensation is a direct and measurable outcome. The finding of a violation of Article 13 also implies a need for the State to consider legislative or other measures to prevent similar violations in the future by providing effective remedies.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? No information available in this regard.

9. Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) v. Nigeria, Communication No. 155/96

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria - 155/96

1.2. Date of ruling: 27 October 2001

1.3. Country (and locality, if relevant e.g. department/municipal town): Gambia

1.4. Forum (jurisdiction): African Commission on Human and People's Rights

1.5. Forum type (territorial): Regional human rights body

1.6. Thematic focus: Food security, land rights, sustainable agriculture

1.7. Parties involved:

Plaintiffs: SERAC (Nigeria) and CESR (international NGOs)

Respondents: Government of Nigeria

1.8. Type of petition (individual complaint, class action): Collective complaint

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case emerged from decades of environmental devastation and human suffering experienced by the Ogoni people, an indigenous ethnic group in Nigeria's Rivers State. Their traditional lands and waterways had been subjected to catastrophic oil spills, rampant gas flaring, and widespread pollution that destroyed agricultural lands and fishing grounds. These environmental impacts led to the collapse of local food systems, creating severe food insecurity and public health crises. The situation was exacerbated by the government's use of military force to suppress protests and its failure to regulate corporate actors or provide adequate remedies for affected communities.

SERAC and CESR filed their complaint before the ACHPR in 1996, arguing that Nigeria had violated multiple provisions of the African Charter on Human and Peoples' Rights.

While the Charter does not explicitly recognize a right to food, the petitioners successfully framed food insecurity as a direct consequence of violations of several Charter rights. They demonstrated how the destruction of farmland and fisheries through oil pollution violated Article 4 (Right to Life) by threatening the Ogoni's survival, Article 16 (Right to Health) through malnutrition and related illnesses, Article 21 (Right to Natural Resources) by depriving them of their means of subsistence, and Article 22 (Right to Development) by undermining sustainable livelihoods. The case implicitly incorporated Article 11 of the International Covenant on Economic, Social and Cultural Rights (right to adequate food) through its interpretation of these interconnected rights.

In its decision, the African Commission concluded that the right to food is implicitly protected under the African Charter and held that the Nigerian government violated their obligations.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to life
- Right to food (implicit under Articles 4, 16, 21, 22)
- Right to health
- Right to a healthy environment
- Right to free disposal of natural resources
- Right to development

1.11. Link to the judgement: https://achpr.au.int/en/decisions-communications/social-and-economic-rights-action-center-serac-and-center-economic-15596

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- African Charter on Human and People's Rights (articles 4, 14, 16, 18, 21, 24)
- International Covenant on Economic, Social and Cultural Rights (articles 11 and 12)
- General Comment No. 4 (1991) of the CESCR (Right to Adequate Housing)
- General Comment No. 7 (1997) of the CESCR (Forced Evictions)
- General Comment No. 14 (2000) of the CESCR (Right to Health)
- Inter-American Court of Human Rights jurisprudence (*Velásquez Rodríguez v. Honduras*)
- European Court of Human Rights jurisprudence (*X and Y v. Netherlands*)

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Niger Delta Development Commission (NDDC) Act: cited in Nigeria's response as a remedial measure

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- Communications 25/89, 47/90, 56/91, 100/93 (*World Organisation Against Torture v. Zaire*) : on exhaustion of local remedies.

- Communication 60/91 (*Constitutional Rights Project v. Nigeria*) : on state failure to respond.

- Communication 101/93 (*Civil Liberties Organisation v. Nigeria*) : on lack of domestic remedies.

- Communication 129/94 (*Civil Liberties Organisation v. Nigeria*) : on military decrees barring judicial review.

- Communication 74/92 (*Union des jeunes avocats v. Chad*) : on state duty to protect against private actors.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

The communication linked food deprivation to violations of Articles 4 (life), 16 (health), and 22 (development):

64. « The communication argues that the right to food is implicit in the African Charter, in such provisions as the right to life (Article 4), the right to health (Article 16) and the right to economic, social and cultural development (Article 22). By its violation of these rights, the Nigerian Government trampled upon not only the explicitly protected rights but also upon the right to food implicitly guaranteed ».

65. « The right to food is inseparably linked to the dignity of human beings and is therefore essential for the enjoyment and fulfilment of such other rights as health, education, work and political participation. The African Charter and international law require and bind Nigeria to protect and improve existing food sources and to ensure access to adequate food for all citizens. Without touching on the duty to improve food production and to guarantee access, the minimum core of the right to food requires that the Nigerian Government should not destroy or contaminate food sources. It should not allow private parties to destroy or contaminate food sources and prevent peoples' efforts to feed themselves ».

66. « The government's treatment of the Ogonis has violated all three minimum duties of the right to food. The government has destroyed food sources through its security forces and state oil company; has allowed private oil companies to destroy food sources; and, through terror, has created significant obstacles to Ogoni communities trying to feed themselves. The Nigerian Government has again fallen short of what is expected of it as under the provisions of the African Charter and international human rights standards, and hence, is in violation of the right to food of the Ogonis ».

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: Oil production destroyed farmland and fishing waters, reducing food production. (§9 and 66)

3.2.2. Accessibility: The military blockades prevented access to fields (§62)

3.2.3. Adequacy: The contamination rendered food unsafe (§2 and 50)

3.2.4. Sustainability: Oil pollution degraded long-term food production (§2 and 52)

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)

3.3.1. Participation: The Ogoni people were excluded from oil development decisions (§5 and 55).

3.3.2. Accountability: There were no investigations into security force abuses (§7 and 58)

3.3.3. Transparency: There was no impact assessment conducted, nor information provided (§§5 and 53)

3.3.4. Human Dignity: The people faced starvation and forced evictions (§63)

3.3.5. Rule of Law: Military decrees barred judicial redress (§41)

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The State failed to refrain from destroying food sources (§65)

3.4.2. Protect: The State allowed oil companies to contaminate land/water (§58)

3.4.3. Fulfil (facilitate and provide): The state failed to enact measures to ensure food security (§66)

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? Only in an implicit form through articles 4, 16 and 22 (§64)

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? No.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? No, the African Commission did not single out a particular government ministry, agency or public sector entity as solely or specifically responsible for the failure to uphold the right to food. Instead, the Commission held the Nigerian government responsible for violating the right to food based on the cumulative actions and omissions of both: state security forces, state owned oil company, government's failure to regulate or restrain private oil companies like Shell.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? Yes, even though private companies are not bound by the African Charter, their actions were considered when acknowledging Nigeria's responsibility. The African Commission holds the state accountable but explicitly refers to Shell/NNPC in connection with the destruction of food sources (§66). The violations of the right to food associated with their activities are environmental contamination of food sources (§2 and 9), destruction of food-producing means (§9), blocking access to land and food systems (§9), failure to conduct impact assessments or provide information (§5).

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? The Commission recognized that Ogoni people's survival depended on their access to land and farming (§67). Additionally, it noted that the government failed to include Ogoni communities in the decision-making process, which highlights political inequality. Lastly, the Commission explicitly referred to Africa's colonial legacy when interpreting Article 21 of the African Charter. While not using the term "structural cause", it grounds the resource exploitation in historical economic injustice.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: African Commission (Final decision)

4.2. Tier of the court that made the final decision (check if appealed): /

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The jurisdiction was based on Nigeria's ratification of the African Charter.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The ruling upheld the Ogoni people's right to food, despite its implicit status in the African Charter. The decision established that Nigeria violated this right through three key actions: the military's deliberate destruction of crops and livestock; its complicity in oil operations that poisoned farmland and waterways; and forced displacements that severed communities from food sources without alternatives.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food

assistance, or reform policies): The judgment mandated an immediate cessation of military attacks on Ogoni communities to prevent further destruction of food sources. It required Nigeria to investigate and prosecute those responsible for burning crops and killing livestock, while providing full compensation to victims - including both monetary reparations and practical resettlement assistance.

Crucially, the Commission ordered a complete environmental cleanup of oil-polluted lands and waterways to restore agricultural and fishing capacity. For future development, it imposed strict requirements for environmental impact assessments and community consent procedures. The government was further instructed to establish independent oversight of oil operations and ensure transparent risk communication with affected communities. These measures were designed not just to compensate past violations, but to fundamentally rebuild the Ogoni's food systems and prevent future abuses. The Commission maintained oversight by requiring Nigeria to report on implementation through its new environmental institutions.

4.6. Mechanisms for the enforcement of the decision and outcomes: The commission required the State to report on NDDC and Ministry of Environment progress

5. Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

The case demonstrates that even without explicit textual foundations, human rights bodies can protect fundamental rights such as food security through a holistic interpretation of interrelated rights. By linking food insecurity to violations of civil, political, economic, social and cultural rights, the ACHPR created a comprehensive framework for addressing hunger and malnutrition as human rights violations.

While the case broke new ground in linking environmental destruction to food insecurity, it missed several opportunities to fully articulate the right to food. The ACHPR did not explicitly reference ICESCR Article 11.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? As a precedent, the judgment has been cited in key cases like *Endorois Welfare Council v. Kenya* to support indigenous land and resource claims. Its interpretation of state obligations regarding non-state actors has influenced later developments in business and human rights jurisprudence.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)?

- There were no barriers to standing, the case was brought under actio popularis which the Commission recognizes (§49).

- The decision does not mention financial costs for submitting the communication.

- There were long delays, the communication was filed in 1996 and the final decision on the merits was rendered in October 2001. Several postponements were documented

(§14-34), mainly due to the need for written submissions, scheduling and awaiting government cooperation.

5.3.2. Was legal aid available/how was the case funded?

The decision does not mention legal aid or funding mechanisms, but it explicitly credits two NGOs as the complainants, so it is assumed that these organizations provided legal expertise and funded the litigation, but this is not detailed in the judgment.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate?

The Commission made non-binding recommendations urging Nigeria to:

- Stop military attacks
- Conduct investigations and prosecute perpetrators
- Provide compensation and clean up
- Ensure environmental and social impact assessments

However, no enforcement mechanism is described in the judgment.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies?

Yes, the Nigerian government's efforts are mentioned in §30 and emphasized in §69. This included: establishing a Federal Ministry of Environment, creating the Niger Delta Development Commission (NDDC), inaugurating a Judicial Commission of Inquiry. There is no mention of other follow-up procedures.

10. Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v. Sudan, Communications Nos. 279/03 and 296/05

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Sudan Human Rights Organisation, Centre on Housing Rights and Evictions V. The Sudan

1.2. Date of ruling: 13-27 May 2009

1.3. Country (and locality, if relevant e.g. department/municipal town): The Sudan, specifically the Darfur region

1.4. Forum (jurisdiction): African Commission on Human and Peoples' Rights

1.5. Forum type (territorial): Regional

1.6. Thematic focus: Gross, massive, and systematic violations of human rights including large-scale killings, forced displacement of populations, destruction of public facilities and properties, disruption of life through bombing by military fighter jets in densely populated areas, extra-judicial executions, torture, rape of women and girls, arbitrary arrests and detentions, forced evictions, attacks preventing access to food and water.

1.7. Parties involved:

Complainants- Sudan Human Rights Organisation (London), the Sudan Human Rights Organisation (Canada), the Darfur Diaspora Association, the Sudanese Women Union in Canada, the Massaleit Diaspora Association, and the Centre for Housing Rights and Evictions (COHRE)

Respondent- State of Sudan

1.8. Type of petition (individual complaint, class action): Two consolidated communications submitted by NGOs alleging gross, massive and systematic violations of human rights. The first was the SHRO Case submitted by multiple organizations. The second was the COHRE Case submitted by one NGO.

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case involves two communications consolidated by the African Commission on Human and Peoples' Rights. The first communication, the SHRO Case, was submitted by several human rights organizations alleging gross, massive, and systematic human rights violations by the Republic of Sudan against indigenous Black African tribes (Fur, Marsalit, and Zaghawa) in the Darfur region following the intensification of fighting in February 2003. These alleged violations included large-scale killings, forced displacement, and destruction of property.

The second communication, the COHRE Case, made similar allegations. Specifically relevant to the right to food, the COHRE Case alleged that attacks by militias, supported by the Respondent State, **prevented Darfurians from farming land, collecting fireweed for cooking, and collecting grass to feed livestock**, thus violating their right to adequate food. The Complainant further alleged that the Respondent State was **complicit in looting and destroying foodstuffs, crops, and livestock, as well as poisoning wells and denying access to water sources in the Darfur region**. These actions directly undermined the availability and accessibility of essential resources for sustenance.

The Complainants argued that the Respondent State failed to respect and protect the human rights of the Darfur people, with government forces allegedly attacking villages, injuring and killing civilians, and destroying homes. They also contended that the State failed to prevent the Janjaweed militia from committing similar abuses, sometimes even conducting joint attacks. The forced evictions and destruction of housing and property also severely impacted the livelihoods and food security of the affected populations. The Complainants asserted that the cumulative effect of these actions constituted serious and massive violations of human rights protected by the African Charter.

The Respondent State generally denied the allegations, attributing the conflict to regional instability and asserting that measures were being taken to restore stability and address the issues through the Darfur Peace Agreement. However, the African Commission found the communications admissible, noting the serious and massive nature of the alleged violations made local remedies ineffective and inapplicable

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

· Right to life (African Charter, Art. 4)

· Right to dignity (African Charter, Art. 5, also interpreted under Art. 4)

· Freedom from cruel, inhuman or degrading treatment (African Charter, Art. 5)

· Right to liberty and security of the person (African Charter, Art. 6)

· Right to have one's cause heard/access to justice (African Charter, Art. 7(1))

· Right to freedom of movement and residence (African Charter, Art. 12(1))

· Right to property (African Charter, Art. 14)

· Right to health (African Charter, Art. 16)

· Protection of the family (African Charter, Art. 18(1))

· Right to economic, social and cultural development (African Charter, Art. 22(1))

· Freedom from discrimination (African Charter, Art. 2)

· Right to equality before the law and equal protection (African Charter, Art. 3)

· Right to receive information and express opinions (African Charter, Art. 9)

· Right to participate freely in government (African Charter, Art. 13(1 and 2))

· Obligation of States parties to recognize and implement rights (African Charter, Art. 1)

· Implicit right to adequate housing (linked to African Charter, Arts. 14, 16, 18(1))

· Implicit right to adequate food (linked to African Charter, Arts. 4, 16, 22)

Implicit right to water (linked to African Charter, Arts. 4, 16, 22

1.11. Link to the judgement:

https://africanlii.org/akn/aa-au/judgment/achpr/2009/100/eng@2009-05-27

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

· Universal Declaration of Human Rights (Art. 25(1))

· African Charter on Human and People's Rights

· International Covenant on Economic, Social and Cultural Rights (Art. 11(1))

· European Convention on Human Rights (Arts. 3, 8, Protocol No. 1 Art. 1)

· United Nations Convention Against Torture (Arts. 1, 16)

· American Declaration of the Rights and Duties of Man (Art. XVIII)

· Guiding Principles on Internal Displacement (Principle 5)

· Pinheiro Principles

· UN Committee on Economic, Social and Cultural Rights General Comments No. 4, 7, 12, and 15

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

Constitution of Sudan

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

Free Legal Assistance Group and Others v. Zaire [Communications 25/89, 47/90, 56/91 and 100/93]: The African Commission, in its decision on the merits regarding Article 16 (right to health), referred to this prior case where it held that "the failure of the Government to provide basic services such as safe drinking water and electricity and the shortage of medicine ... constitutes a violation of Article 16"

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

112. The Complainant argues further that attacks by militias prevented Darfurians from farming land, collecting fireweed for cooking, and collecting grass to feed livestock, which constitute a violation of their right to adequate food.

124. The Complainant also submits that forced evictions and accompanying human rights violations constitute violations by the Respondent State of the right to adequate food and the right to water implicitly guaranteed under Articles 4, 16 and 22 of the Charter as informed by standards and principles of international human rights law.

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: Not explicitly mentioned

3.2.2. Accessibility: While not explicitly stating lack of physical or economic accessibility in the copied sections, the prevention of farming and the reliance on General Comment 12, which addresses accessibility, imply this component was considered compromised.

3.2.3. Adequacy: The Complainant argues that attacks by militias prevented Darfurians from farming land, collecting fireweed for cooking, and collecting grass to feed livestock, which constitute a violation of their right to adequate food

3.2.4. Sustainability:Not explicitly mentioned

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation:N/A

3.3.2. Accountability: N/A

3.3.3. Non-Discrimination: The Complainants in the SHRO case specifically alleged that acts of violence were committed in a discriminatory manner against populations of Black African origin.

3.3.4. Transparency: N/A

3.3.5. Human Dignity: The Commission explicitly found that the treatment of the civilian population, including forced eviction and destruction of property, was cruel and inhuman and threatened the very essence of human dignity, leading to a violation of Article 56 . The denial of access to food and means of sustenance directly impacts human dignity.

3.3.6. Empowerment: N/A

3.3.7. Rule of Law: The Complainants in the SHRO case argued that the military regime did not respect the rule of law, hindering access to justice for human rights violations.

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The Complainant submitted that the Respondent State failed to respect the human rights of the Darfur people, alleging that government forces attacked villages, injuring and killing civilians, and destroying homes. These actions directly impact the availability and accessibility of food and livelihoods.

3.4.2. Protect: The Complainant argued that the State failed to prevent the Janjaweed militiamen from killing, assaulting, and raping villagers, thus failing in its obligation to protect the civilian population. The Commission found that the Respondent State did not act diligently to protect the civilian population in Darfur against violations perpetrated by its forces or third parties. This failure to protect contributed to the conditions that prevented access to food and means of food production.

3.4.3. Fulfil (facilitate and provide):The court did not explicitly discussed the fulfill aspect.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? The court did not explicitly refer to the fundamental right to freedom from hunger.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? The court did not invoke the principle of progressive realization in the context of the right to food in the judgement. The focus was on the immediate violations resulting from the conflict and the State's alleged actions and omissions.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? The court found the Respondent State, the Republic of The Sudan, at fault for violating several articles of the African Charter, including those related to the conditions necessary for the realization of the right to food.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? The court considered the actions of the Janjaweed militia, alleged to be supported by the Respondent State, in preventing farming, looting foodstuffs, and poisoning wells. The Commission held the Respondent State responsible for these actions due to its alleged support of the militia and its failure to protect the civilian population

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? The Complainant in the COHRE case stated that the political demand of the armed groups was essentially for the Respondent State to address the marginalisation and underdevelopment of the region. The Commission also noted that the claim for equal treatment arose from alleged underdevelopment and marginalization.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: The African Commission on Human and Peoples' Rights

4.2. Tier of the court that made the final decision (check if appealed): The African Commission on Human and Peoples' Rights

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The African Commission asserted its jurisdiction based on Articles 55 and 56 of the African Charter on Human and Peoples' Rights, which outline the conditions under which the Commission can consider communications concerning alleged violations of human rights.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): While the African Commission did not explicitly state a violation of a standalone "right to food", it considered the Complainant's arguments that the Respondent State was complicit in looting and destroying foodstuffs, crops, and livestock, as well as poisoning wells and denying access to water sources in the Darfur region. The Commission found that the Respondent State violated Article 16 of the African Charter (the right to health) by failing to protect the health of the Darfur people and ensure they receive medical attention, noting that the right to health includes underlying determinants such as access to safe and portable water and an adequate supply of safe food and nutrition. The prevention of farming and destruction of food and water sources directly impacted the health and well-being of the population, contributing to the violation found under Article 16. Therefore, while not a direct upholding of a distinct "right to food" by name, the judgment recognized violations of rights intrinsically linked to food security and access to sustenance.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

The African Commission made the following recommendations to the Respondent State-

· Take all necessary and urgent measures to ensure the protection of victims of human rights violations in Darfur.

· Ensure that the perpetrators of human rights violations are brought to justice.

· Take measures to ensure that the victims of human rights abuses are given effective remedies, including restitution and compensation.

· Rehabilitate economic and social infrastructure, such as education, health, water, and agricultural services, in the Darfur provinces in order to provide conditions for return in safety and dignity for the IDPs and Refugees. This directly addresses the issues related to food security and livelihoods.

· Establish a National Reconciliation Forum to address the long-term sources of conflict and equitable allocation of national resources.

4.6. Mechanisms for the enforcement of the decision and outcomes: The judgement does not detail the specific mechanisms for enforcement in this case or the subsequent outcomes.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? It explicitly acknowledges the link between the alleged actions (preventing farming, destroying food and water sources) and the violation of human rights, particularly the right to health. This reinforces the understanding that the right to health is intricately connected to the underlying determinants of health, including food and water security, consistent with international human rights standards like General Comment No. 14.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? As the case does not directly address the right to food, it might not set precedence towards implementing the right to food.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? The Complainants argued, and the Commission accepted, that local remedies were unavailable, ineffective, and insufficient due to the prevailing human rights situation and the nature of the alleged violations under a military regime.

5.3.2. Was legal aid available/how was the case funded? Does not contain information about the legal aid or the funding aspect

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? The African Commission's primary mechanism for ensuring implementation is the submission of its activity reports, including decisions and recommendations, to the Assembly of the African Union.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? Information not available in the judgement

11. Centre for Food and Adequate Living Rights (CEFROHT) and Others v. Attorney General of the Republic of Uganda and Others, Reference No. 39 of 2021

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case):

Centre for Food and Adequate Living Rights (CEFROHT) and Others v Attorney General of the Republic of Uganda and Others (Reference No. 39 of 2021) [2023] EACJ 15 (29 November 2023)

1.2. Date of ruling: 29 November 2023

1.3. Country (and locality, if relevant e.g. department/municipal town): Uganda and Tanzania (regional case before East African Court of Justice)

1.4. Forum (jurisdiction): East African Court of Justice (First Instance Division)

1.5. Forum type (territorial): Regional (East African Community)

1.6. Thematic focus: Environmental rights (governance), human rights, procedural fairness, regional treaty compliance, food security

1.7. Parties involved:

Applicants:

- 1st Applicant: Centre for Food and Adequate Living Rights (CEFROHT)
- 2nd Applicant: Africa Institute for Energy Governance (AFIEGO)
- 3rd Applicant: Natural Justice Kenya
- 4th Applicant: Centre for Strategic Litigation (Zanzibar, Tanzania)

Respondents:

- 1st Respondent: Attorney General of the Republic of Uganda
- 2nd Respondent: Attorney General of the United Republic of Tanzania
- 3rd Respondent: Secretary General of the East African Community

1.8. Type of petition (individual complaint, class action):

Public interest litigation; Reference filed under Article 30 of the Treaty for the Establishment of the East African Community, challenging the legality of the Inter-Governmental Agreement (IGA) and Host Government Agreement (HGA) related to the East African Crude Oil Pipeline (EACOP) project.

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case concerned a challenge to the legality and implementation of the Inter-Governmental Agreement (IGA) and Host Government Agreement (HGA) for the East African Crude Oil Pipeline (EACOP), a cross-border project between Uganda and Tanzania. The Applicants, composed of civil society organisations from Uganda, Kenya, and Tanzania, filed a Reference before the East African Court of Justice (EACJ) alleging violations of the Treaty for the Establishment of the East African Community and the Protocol for Sustainable Development of the Lake Victoria Basin.

The Reference alleged that the IGA and HGA were concluded and implemented without proper environmental safeguards. Specifically, the Applicants claimed that the Ugandan government signed and implemented the agreements without conducting a full Environmental and Social Impact Assessment (ESIA) and without obtaining a Certificate of Approval from the National Environmental Management Authority (NEMA), contrary to domestic environmental law. The Applicants argued that these omissions risked irreparable harm to ecosystems and water sources critical for livelihoods, biodiversity, and food production.

The Applicants further contended that the pipeline route threatened wetlands, forests, river systems, and Lake Victoria, thereby posing risks to environmental sustainability, food security, and the right to an adequate standard of living. They claimed this breached Uganda and Tanzania's obligations under Articles 5(3)(c) and 111 of the EAC Treaty, and the objectives of the Lake Victoria Basin Protocol.

The Respondents objected on procedural grounds. Uganda and Tanzania argued that the Reference was filed outside the two-month limitation period stipulated under Article 30(2) of the EAC Treaty. The IGA had been signed on 26 May 2017, while the Reference was filed on 6 November 2020. As such, they argued it was time-barred. Furthermore, the Respondents argued that the HGA had not yet been signed when the Reference was filed, and thus any challenge to it was premature.

The Court analysed the pleadings and concluded that the Reference challenged both the IGA and the HGA. It found that the IGA was indeed signed in May 2017 and therefore the Applicants had exceeded the two-month time limit for challenging it. Regarding the HGA, the Court found that the Applicants had filed the Reference before the agreement was signed. Therefore, the Court held that it lacked jurisdiction *ratione temporis* to hear the matter under Article 30(2) of the Treaty.

The Reference was dismissed with costs against the Applicants.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to a clean and healthy environment under Protocol for Sustainable Development of the Lake Victoria Basin.

- Right to food/food security (indirectly asserted), not grounded in a specific domestic or treaty provision, and was framed in terms of negative environmental impacts affecting food sources.

1.11. Link to the judgement:

https://africanlii.org/akn/aa/judgment/eacj/2023/15/eng@2023-11-29

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

International/Regional legal basis:

- Treaty for the Establishment of the East African Community (especially Article 30(2))

- Protocol for Sustainable Development of the Lake Victoria Basin

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- National Environmental Management Authority (NEMA) framework (implicitly referenced through requirement for environmental certificate and impact assessment)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- *Attorney General of Uganda and Another v Omar Awadh & 6 Others, EACJ Appeal No. 2 of 2012*

- *Attorney General of Kenya v Independent Medical Legal Unit, EACJ Appeal No. 1 of 2021*

- *Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd [1969] EA 696*

- *Secretary General EAC v Margaret Zziwa, EACJ Appeal No. 7 of 2015*

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

Key word: "food security"

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

- "The EACOP Project is therefore proceeding in breach of human rights obligations, and disregard of environmental considerations such as preservation of forest reserves, water bodies, wetlands, international conservation sites, bird and animal wildlife and that it will have a significant impact on food security in the region"

- "the 1st Applicant, Centre for Food and Adequate Living Rights (CEFROHT) Ltd, is a Uganda-registered not-for-profit civil society organization promoting the right to adequate living, right to food and trade justice"

- Yes, but indirectly. The Applicants argued that the failure to conduct proper ESIA and obtain environmental approvals endangered food security and sustainable livelihoods. However, the Court did not adjudicate or pronounce the right to food, as it dismissed the Reference on procedural grounds.

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The project affects the natural environment (e.g., forests, wetlands) which are sources of food (subsistence farming, fishing, hunting)

3.2.2. Accessibility: Though not explicitly mentioned, impacts on ecosystems affect physical and economic access to food by disrupting traditional food systems

3.2.3. Adequacy: Not discussed, destruction of diverse ecosystems poses a threat to the quality of food sources

3.2.4. Sustainability: Song-term environmental degradation from oil infrastructure undermines sustainable food systems

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: Implied through critique of lack of ESIA and public engagement

3.3.2. Accountability: applicants aimed to hold States accountable under regional law

3.3.3 Non-Discrimination: N/A

3.3.4. Transparency: Implied through ESIA obligations and lack of published approvals

3.3.5 Human Dignity: N/A

3.3.6 Empowerment: Indirect through civil society petitioning Court

3.3.7.Rule of Law: strong emphasis on strict adherence to Treaty provisions

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: Implied by allowing pipeline project without legal safeguards

3.4.2. Protect: Implied by state obligations to protect ecosystems tied to food security

3.4.5 Fulfil (facilitate and provide): N/A

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? N/A

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? N/A

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? Alleged, not decided

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? No, focus was only on State parties and EAC Secretary General

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? Indirect, with environmental degradation linked to systematic risks for food and water

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: East African Court of Justice – First Instance Division

4.2. Tier of the court that made the final decision (check if appealed): Same (First Instance Division)

4.3. Legal basis invoked by the court to assert its jurisdiction over the case:

- Article 30 of the EAC Treaty

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

-The Applicants alleged that the implementation of the East African Crude Oil Pipeline (EACOP) project, particularly through the signing and execution of the Inter-Governmental Agreement (IGA) and Host Government Agreement (HGA) by Uganda and Tanzania, posed serious threats to ecosystems essential for food production and livelihoods.

- They claimed that the absence of a proper Environmental and Social Impact Assessment (ESIA) and the failure to obtain a Certificate of Approval from Uganda's National Environmental Management Authority (NEMA) violated regional environmental

obligations, undermined sustainable development, and endangered food security. The Applicants linked these omissions to broader violations of the right to adequate living conditions and environmental sustainability, particularly in areas dependent on agriculture, fisheries, and water resources from forests, wetlands, and Lake Victoria.

- Despite the framing of food security concerns, the East African Court of Justice did not rule on the substance of the right to food or any food-related obligations. Instead, the case was dismissed entirely on procedural grounds. The Court found that the Reference was filed:

- Out of time in relation to the IGA, which had been signed in May 2017, well beyond the two-month window provided under Article 30(2) of the EAC Treaty;

- Premature in relation to the HGA, which had not yet been signed at the time the Reference was filed in November 2020.

- As a result, the Court held that it lacked jurisdiction *ratione temporis* and dismissed the case without considering the merits of the food-related claims. Accordingly, the right to food was neither upheld nor denied; it remained unaddressed by the Court.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- None granted. Reference was dismissed

4.6. Mechanisms for the enforcement of the decision and outcomes:

- Not applicable due to procedural dismissal

5. Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

- The case contributes to the indirect visibility of the right to food within environmental and development disputes in East Africa. Although the Court did not rule on the merits, the Applicants' framing of the environmental issues in terms of food security and adequate living conditions adds to the emerging jurisprudence linking food systems and ecological protection.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

- This case is procedurally significant as it reaffirmed that Article 30(2) imposes a rigid jurisdictional limit.

- However, it is substantively limited as the right to food was not directly adjudicated

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? N/A

5.3.2. Was legal aid available/how was the case funded?

- Procedural limitation, that is the strict two-month deadline under Article 30(2)

- Information asymmetry, as there were uncertainties about signing dates of the HGA

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? N/A

12. Tahirou Djibo, Amadou Madougou, Abdoulaye Soumaila, and Sidikou Abdou v. Republic of Niger, Application No. ECW/CCJ/APP/51/18

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Tahirou Djibo, Amadou Madougou, Abdoulaye Soumaila, Sidikou Abdou v. Republic of Niger.

1.2. Date of ruling: 8 July 2020.

1.3. Country (and locality, if relevant e.g. department/municipal town): Abuja, Nigeria.

1.4. Forum (jurisdiction): ECOWAS Court of Justice.

1.5. Forum type (territorial): Regional (West Africa – ECOWAS).

1.6. Thematic focus: Land, Agriculture, and Resource Deprivation.

1.7. Parties involved:

- Plaintiffs: TAHIROU DJIBO AMADOU MADOUGOU ABDOULAYE SOUMAILA SIDIKOU ABDOU
- Defendants: Republic of Niger
- Third party implicated: Summerset Continental Hotel (private company granted land title)

1.8. Type of petition (individual complaint, class action):collective complaint (landholders acting together)

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The applicants, representing families that had cultivated and occupied the Gountou Yena area for generations, claimed ownership through customary land tenure recognized by local authorities. Despite their long-standing use and official recognition via customary landholding certificates, the state of Niger granted land titles over this land to a private company, Summerset Hotel, in 2013 without consultation or compensation.

The government proceeded to revoke the customary landholdings unilaterally and forcibly evicted the residents. Their crops and homes were destroyed by bulldozers, with police protection. This displaced them from their only source of livelihood and food. Several attempts to obtain legal remedies in national courts failed, prompting them to turn to the ECOWAS Court. They argued violations of their rights to property, food, housing, non-discrimination, development, access to natural resources, and effective remedy.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

- **Right to property**: Art. 14 ACHPR; Art. 17 UDHR
- **Right to food / adequate standard of living**: Art. 11 ICESCR; Art. 25 UDHR
- **Right to non-discrimination**: Art. 2 ACHPR; Art. 2 ICESCR
- **Right to natural resources**: Art. 21 ACHPR
- **Right to development**: Art. 22 ACHPR

- **Right to effective remedy**: Art. 8 UDHR; Art. 2(3) ICCPR

1.11. Link to the judgement: https://africanlii.org/akn/aa-au/judgment/ecowascj/2020/2/eng@2020-07-08

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- African Charter on Human and Peoples' Rights (ACHPR)
- Universal Declaration of Human Rights (UDHR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- UN Declaration on the Right to Development
- UN Basic Principles and Guidelines on the Right to a Remedy and Reparation

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Constitution of Niger, Article 28 (protection of property)
- Law No. 2008-37 (amending the 1961 law on expropriation for public interest).
- Certificates of customary tenure issued by Nigerien authorities.

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- Endorois Welfare Council v. Kenya (African Commission: customary land rights)
- Ogoni Case (Link between land and right to food).

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

§84 "Que le droit à un niveau de vie suffisant est reconnu comme un droit fondamental par les textes internationaux relatifs aux droits de l'Homme. Il inclut plusieurs droits reconnus par les standards internationaux : droit à l'alimentation, à l'habillement, au logement, au travail, à la santé, etc » (*That the right to an adequate standard of living is*

recognised as a fundamental right by international human rights instruments. It includes several rights recognised by international standards: the right to food, clothing, housing, work, health, etc).

§87-88 « Que, partant de la présente décision, le fait de priver une population, dont les revenus dépendent principalement du travail de la terre comme c'est le cas des plaignants, d'accéder à leur terre porte atteinte à la disponibilité, accessibilité, et suffisance de l'alimentation. Mais quand les plaignants se sont trouvés sans moyen de s'alimenter à cause de l'expropriation de leurs terres, l'Etat n'a fait rien pour les aider à se rétablir. Au contraire, l'État a adopté un moyen de privation qui leur nie la compensation et s'est opposé à tout effort de regagner leur accès à la terre »

(*That, on the basis of this decision, depriving a population whose income depends mainly on working the land, as in the case of the plaintiffs, of access to their land undermines the availability, accessibility and sufficiency of food. But when the plaintiffs found themselves without any means of feeding themselves because of the expropriation of their land, the State did nothing to help them recover. On the contrary, the state adopteḋ a means of deprivation that denied them compensation and opposed any effort to regain their access to land*).

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The destruction of crops and productive land rendered food physically unavailable (§29 and 87).

3.2.2.Accessibility: Applicants lost physical and economic access to food because they were expelled from the land they farmed for subsistence and income (§ 61 and 87).

3.2.3. Adequacy: Not addressed by the judgment.

3.2.4. Sustainability: Not addressed by the judgment.

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: There was no prior consultation with the community nor compensation before their land was reallocated (§18 and 88).

3.3.2. Accountability: The court acknowledged the lack of mechanisms to hold authorities accountable for the destruction (§ 99 and 100).

3.3.3. Non-Discrimination: The applicants alleged that the Republic of Niger selectively revoked their customary land rights, while allowing others in similar situations who possessed economic wealth or political connections to retain theirs. This differential treatment, they argued, was not based on any objective or legally valid criteria, and constituted discrimination based on economic and social status (§42-45)

3.3.4. Transparency: Any eviction must be preceded by genuine consultation with those affected, and all feasible alternatives must be explored to avoid or minimize the use of force. In this case, the State failed to consult the plaintiffs, provide advance notice, or inform them of the planned land transfer and their resulting displacement. No information was shared regarding the possibility of relocation or compensation, and no legal or administrative recourse was effectively made available before the eviction took place (§65-67).

3.3.5. Human Dignity: Not addressed by the judgment.

3.3.6. Empowerment: Their inability to influence land decisions stripped them of agency (§ 94–95).

3.3.7. Rule of Law: Failure to follow expropriation procedures violated domestic and international law. (§ 48–51, 72–74)

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: Not addressed by the judgment.

3.4.2. Protect: The State did not protect the plaintiffs from third-party interference by Summerset.

3.4.3. Fulfil (facilitate and provide): The State did not provide alternative livelihoods or compensation after eviction (§88).

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? Not explicitly cited.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? The Court did not apply this principle explicitly.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food?

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? The role of Summerset was examined.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? Yes in §87.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: ECOWAS Court of Justice.

4.2. Tier of the court that made the final decision (check if appealed): ECOWAS Court; not subject to appeal.

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Article 9(4) of Protocol A/SP.1/01/05 – jurisdiction over human rights violations.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The Court narrowly focused on property title formalities, ruling that without documented proof of land ownership, it could not evaluate the food security impacts. This created a legal catch: customary land users

lacked standing to claim food rights violations precisely because their traditional tenure wasn't formally recognized. The judgment exposed a critical gap in regional human rights protection by allowing states to circumvent food security

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): No remedies were ordered; plaintiffs bore costs (§ 260).

4.6. Mechanisms for the enforcement of the decision and outcomes: Not addressed.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? The case represents a missed opportunity to strengthen the right to food in West Africa. By dismissing the claim due to lack of formal land ownership, the ECOWAS Court failed to address how forced evictions directly undermine food security for vulnerable communities. This narrow interpretation weakens protections for subsistence farmers who rely on customary land rights, setting a concerning precedent that prioritizes state and corporate interests over livelihood-based food access.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? This judgment is not a strong precedent for future right-to-food litigation. The Court's refusal to engage with the plaintiffs' food security arguments, despite clear evidence of harm signals that similar claims may face dismissal if tied to unresolved property disputes. However, the case highlights the urgent need for legal frameworks that explicitly link customary land rights to the right to food, particularly in agrarian societies.

5.3. As far as the information is available, consider also:

5.3.1 Were there any barriers to accessing the court (costs, standing, delay)? The plaintiffs faced systemic hurdles, including prolonged national court delays (§35).

5.3.2. Was legal aid available/how was the case funded? Information not available.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? No remedies were ordered, and the Court did not mandate safeguards against future violations, leaving victims without recourse.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? There is no evidence of post-ruling monitoring by ECOWAS or civil society.

13. Dr Mohiuddin Farooque v Secretary, Ministry of Commerce, Government of the People's Republic of Bangladesh and Others, *Writ Petition No. 92 of 1996*

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): *Dr Mohiuddin Farooque v Secretary, Ministry of Commerce, Government of the People's Republic of Bangladesh and Others*

1.2. Date of ruling: 1 July 1996

1.3. Country (and locality, if relevant e.g. department/municipal town): Bangladesh

1.4. Forum (jurisdiction): Supreme Court of Bangladesh, High Court Division

1.5. Forum type (territorial): National

1.6. Thematic focus: Public health, food safety, environmental justice, constitutional right to life

1.7. Parties involved:

Petitioner: Dr Mohiuddin Farooque (on behalf of Bangladesh Environmental Lawyers Association, BELA)

Respondents: Secretary, Ministry of Commerce and others

1.8. Type of petition (individual complaint, class action): Public Interest Litigation (PIL)

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

This case arose from a public interest writ petition filed by Dr. Mohiuddin Farooque, Secretary General of the Bangladesh Environmental Lawyers Association (BELA), concerning the importation of powdered milk into Bangladesh. The mild was found to contain levels of radiation that exceeded the permissible limit set by the country's Import Policy Order (1993–95) and the Nuclear Safety and Radiation Control Act (1993).

Initial testing conducted by the Radiation Test Laboratory in Chittagong revealed radioactive contamination of 133 Bq/kg, far above the 95 Bq/kg threshold. Despite this alarming result, the Bangladeshi authorities failed to take decisive action to prevent the contaminated milk from entering the domestic market.

The petitioner argued that the government's inaction posed a serious threat to public health and violated the constitutional right to life and personal security under Articles 31 and 32 of the Constitution of Bangladesh. The case highlighted both regulatory lapses and the absence of prompt protective measures to ensure food safety.

In its judgment, the Supreme Court of Bangladesh (High Court Division) interpreted the constitutional right to life broadly to include the protection of health and the normal longevity of individuals. The Court held that this right can be compromised by the consumption and marketing of food or beverages that are harmful to health.

Accordingly, the Court ruled that the government's failure to act in the face of known health risks violated fundamental constitutional guarantees and ordered stricter enforcement of food safety regulations.

While the term “right to food” was not explicitly used, the judgment clearly addressed the core principles of food safety and state accountability for ensuring safe and adequate food, concepts that are integral to the normative content of the right to food under international human rights law

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

- Implicit: Right to food (safe, non-contaminated food)
- Right to life (Articles 31 and 32, Constitution of Bangladesh
- Right to health

1.11. Link to the judgement:

https://www.globalhealthrights.org/wp-content/uploads/2013/02/SC-1996-Dr.-Mohiuddin-Farooque-v.-Government-of-Bangladesh-Radioactive-Milk-Case.pdf

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

Not explicitly cited.

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Articles 31 and 43 of the Constitution (right to protection of law and life)
- Nuclear Safety and Radiation Control Act 1993
- Import Policy Order 1993-1995

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically): -

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

The judgment does not use the term “right to food” explicitly, but the Court states:

“No one has the right to endanger the life of the people, which includes their health and normal longevity of an ordinary healthy person by marketing in the country any food item injurious to the health of the people.”

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1 Availability: N/A

3.2.2 Accessibility: N/A

3.2.3. Adequacy: Addressed; the radioactive milk was found to be unfit for consumption and a direct threat to health

3.2.4 Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1 Participation: N/A

3.3.2. Accountability: The government was held accountable for its inaction in enforcing safety standards

3.3.3. Non-Discrimination: N/A

3.3.4. Transparency: Implied as inconsistent test results and delays raised concerns

3.3.5. Human Dignity: Implied as unsafe food threatens health and dignity

3.3.6: Empowerment: N/A

3.3.7. Rule of Law: Reinforced as government must act in accordance with

3.4. Legal obligations:

Examine the court’s decision on the State’s obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The state failed to respect citizens’ right to life and health

3.4.2. Protect: The state failed to protect people from contaminated food

3.4.3. Fulfil (facilitate and provide): indirectly addressed, as the Court directed authorities to implement stricter food safety enforcement

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? N/A

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? N/A

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? - Yes, Ministry of Commerce and relevant state agencies

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? – No analysis of corporate responsibility or third-party actors.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)?

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food:

High Court Division, though framed under right to life

4.2. Tier of the court that made the final decision (check if appealed):

High Court Division

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Constitutional writ jurisdiction

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Court ordered stronger regulatory oversight and held the government responsible for ensuring imported food safety.

The Court stated: “No one has the right to endanger the life of the people, which includes their health, and normal longevity of an ordinary healthy person by marketing in the country any food item injurious to the health of the people.”

This declaration effectively extended constitutional protection over the safety and quality of food, bringing food-related risks squarely within the remit of judicially enforceable rights.

Although the Court did not use the term “right to food”, its reasoning directly supports a substantive interpretation of that right including access to safe and non-contaminated food, and state obligation to regulate and monitor food safety in the interest of protecting public health.

Thus, the right to food, as defined in General Comment No.12 of the CESCR as "physical and economic access at all times to adequate food or means for its procurement" is functionally upheld in this case through the lens of the right to life and health.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

4.6. Mechanisms for the enforcement of the decision and outcomes: Directives were issued, and enforcement was dependent on government compliance.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

This case expands the interpretation of the constitutional right to life to include the safety of food, laying a foundation for justiciable right to food claims in Bangladesh

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

Yes, because it has been cited in environmental and food safety litigation in South Asia.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? None significant as it was filed as a public interest petition

5.3.2. Was legal aid available/how was the case funded?

It was filed under the Bangladesh Environmental Lawyers Association (BELA), a non-profit legal advocacy organisation

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate?

This is dependent on government follow-up. No formal supervisory mechanism ordered.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies?

No formal court supervision, but BELA remains active in monitoring food and environmental justice issues.

14. Anun Dhawan & Ors. v. Union of India & Ors., Writ Petition (Civil) No. 1103 of 2019

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Anun Dhawan & Ors. vs Union of India & Ors.

1.2. Date of ruling: 22 February 2024

1.3. Country (and locality, if relevant e.g. department/municipal town):

1.4. Forum (jurisdiction): India

1.5. Forum type (territorial): Supreme Court of India

1.6. Thematic focus: Right to food, Hunger, Malnutrition

1.7. Parties involved:

Petitioners: Anun Dhawan & Ors. (social activists)
Respondents: Union of India & Ors.

1.8. Type of petition (individual complaint, class action): Public Interest Litigation under Article 32 of the Constitution of India

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

This case emerged from a public interest litigation filed by Anun Dhawan and others, who were social activists, before the Supreme Court of India under Article 32 of the Constitution. The petitioners sought directions to establish Community Kitchens across India to combat hunger, malnutrition, and starvation deaths. They also requested formulation of a National Food Grid and a role for the National Legal Services Authority. The petitioners emphasized that access to food is an essential element of the right to life under Article 21. The respondents (Union and State Governments) countered that a wide range of schemes already addressed food security, including the Pradhan Mantri Garib Kalyan Anna Yojana, Mid-Day Meal Scheme, and the National Food Security Act (NFSA), 2013. The Supreme Court acknowledged that food is a constitutional right under Article 21, linked with dignity and sustainability (p. 2), but refrained from mandating any specific policy like Community Kitchens, holding that such policy choices rest with the legislature and executive. Nevertheless, the Court emphasized the continuing duty of the State to ensure adequate nutrition and access to food, especially for vulnerable groups. (pp. 1–4)

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

- Right to food (implicit in Article 21 - right to life with dignity); Article 47 (Directive Principle); National Food Security Act (NFSA), 2013; Cash Transfer of Food Subsidy Rules, 2015.(p. 2-3) No explicit invocation of international instruments, but the Court acknowledged India's commitments under the UN Sustainable Development Goals to eradicate hunger (p. 2).

1.11. Link to the judgement: https://indiankanoon.org/doc/156597649/

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon: The Court referenced India’s commitment to the UN Sustainable Development Goal of eradicating hunger. However, no specific treaty or General Comment was cited (p. 2)

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Article 21 (Right to life with dignity)

- Article 47 (Directive Principle: nutrition, public health)

- National Food Security Act (NFSA), 2013

- Cash Transfer of Food Subsidy Rules, 2015 (p. 2–3)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

Directorate of Film Festivals v. Gaurav Ashwin Jain (2007) 4 SCC 737 – referred to for scope of judicial review over policy (p. 4)

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

'…the fundamental Right to life enshrined in Article 21 of the Constitution does include Right to live with human dignity and right to food and other basic necessities.' (p. 2)

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The petitioners argued that despite multiple schemes, gaps remain in ensuring food is available to all, particularly the homeless and extremely poor. Community Kitchens were proposed to supplement this. The Court acknowledged that availability was addressed through schemes under the NFSA (p. 2–3).

3.2.2. Accessibility: Accessibility was a core concern—petitioners asserted that many vulnerable populations lack access to existing schemes due to bureaucratic or social barriers. Community Kitchens were viewed as a direct-access remedy. The Court noted efforts such as 'One Nation One Ration Card' for portability (p. 2).

3.2.3. Adequacy: The judgment acknowledged the importance of nutrition and highlighted provisions for children, pregnant women, and the elderly. NFSA ensures access to quality food in adequate quantity. Petitioners still considered current measures inadequate without Community Kitchens (p. 2–3).

3.2.4. Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: Petitioners, as civil society actors, represented participatory engagement. The Court encouraged states to continue dialogue around evolving schemes (p. 1–2).

3.3.2. Accountability: The petition aimed at holding the Union and States accountable for unaddressed hunger. The Court relied on legal accountability via NFSA's grievance redressal mechanisms (p. 3).

3.3.3. Non-Discrimination: The Court indirectly upheld non-discrimination through its support for universal schemes covering marginalized groups (e.g., Antyodaya Anna Yojana, ICDS) (p. 2).

3.3.4. Transparency: The Union submitted detailed affidavits, and state reports were evaluated. This openness reflected the role of transparency in reviewing food access policies (p. 1–2).

3.3.5. Human Dignity: Article 21 of the Constitution recognizes human dignity and right to food is recognized as part of human dignity.

3.3.6. Empowerment: NA

3.3.7. Rule of Law: The court emphasized the limits of judicial review, recognizing that legislatures must lead pood policy within the bounds of law (p.4)

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: N/A

3.4.2. Protect:N/A

3.4.3. Fulfil (facilitate and provide): The court recognized the state's obligation to fulfil their duty towards implementing food provision schemes such as PDS, mid day meals and ICDS.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? This was not directly mentioned. However, the court interpreted right to life and dignity to include the right to food.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? They did not discuss this directly. However, the emphasis on resource allocation and improving policies indicates a progressive realization of the right to food.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? No. . The Court found that sufficient schemes were in place and did not find fault with any government body (p. 3–4).

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? No

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? Poverty and hunger were recognized as key causes.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: Supreme Court of India

4.2. Tier of the court that made the final decision (check if appealed): NA

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Article 32 of the Indian Constitution

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The Court acknowledged that the right to food is an integral part of the right to life with dignity under Article 21. However, it declined to mandate Community Kitchens, citing policy discretion and adequate existing welfare schemes. It upheld the legal framework under NFSA as satisfying the right to food obligation. (pp. 2–4)

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): No specific remedies were granted. The Court disposed of the petition while allowing states the liberty to adopt Community Kitchens voluntarily under NFSA (p. 4).

4.6. Mechanisms for the enforcement of the decision and outcomes: Enforcement occurs via the implementation of the NFSA and its built-in grievance redressal system. The Court did not establish any new enforcement mechanisms.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?
This judgment strengthens the recognition of the right to food as part of the constitutional guarantee to live with dignity under Article 21. It also legitimizes the statutory framework under NFSA and clarifies that judicial review cannot mandate specific welfare schemes, leaving scope for policy evolution

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? Yes. It reaffirms the judicial interpretation of the right to food and the state's role in fulfilling their role to ensure the right to food within the country.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? N/A

5.3.2. Was legal aid available/how was the case funded? N/A

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate?N/A

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies?N/A

15. Laxmi Mandal & Ors. v. Deen Dayal Harinagar Hospital & Ors., *W.P.(C) No. 8853 of 2008*

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Laxmi Mandal v. Deen Dayal Harinagar Hospital & Ors, W.P.(C) Nos. 8853 of 2008

1.2. Date of ruling: Tuesday, June 4, 2010

1.3. Country (and locality, if relevant e.g. department/municipal town): India (Delhi)

1.4. Forum (jurisdiction): Delhi High Court

1.5. Forum type (territorial): National

1.6. Thematic focus: Reproductive rights, maternal health, right to food, right to life (Article 21, Indian Constitution)

1.7. Parties involved:

Petitioner: Laxmi Mandal (represented by Human Rights Law Network

Respondents:

Deen Dayal Harinagar Hospital (Governmental)

State of Delhi (for systematic failures in healthcare)

1.8. Type of petition (individual complaint, class action): Individual complaint (public interest)

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

This public interest litigation challenged systematic failures in India's healthcare and food security systems through the tragic cases of two women, Laxmi Mandal and Fatema, who died from preventable pregnancy-related complications exacerbated by malnutrition and denial of medical care.

The Delhi High Court's Judgment established a link between maternal health care rights, food security, and the constitutional right to life (Article 21).

Laxmi Mandal was repeatedly denied hospital admission and delivered a stillborn child without medical assistance. She died days later from hemorrhage and sepsis. She was eligible but never received benefits under the Janani Suraksha Yojana maternal health scheme and the National Maternity Benefit Scheme that offered cash assistance for nutrition.

Fatema, a Muslim woman living in poverty, suffered severe anemia due to chronic malnutrition and was denied emergency care at multiple hospitals. She died during childbirth from preventable complications.

The petitioners argued that the deaths resulted from a violation of Article 21 (Right to Life) as there was failure to provide emergency obstetric care and there was lack of access to nutrition schemes for pregnant women. Discrimination (Article 14) played a role as caste and poverty were barriers to healthcare access. Right to Food was denied as the two women suffered from starvation during pregnancy due to Public Distribution System failures.

In the judgment, the Court held that denial of maternal healthcare violates Article 21, building on: Paschim Banga Khet Mazdoor Samiti v State of West Bengal (1996) on emergency care, and People's Union for Civil Liberties & Anr v Union of India (Right to Food Case, 2001).

While not explicitly using "right to food" terminology, the court linked maternal deaths to state failure in providing nutritional support (NMBS/PDS), and ordered reforms to ensure pregnant women receive cash and food entitlements.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to food (implicit in starvation/malnutrition claims)
- Right to Health & Reproductive Rights (Article 21, Indian Constitution)

1.11. Link to the judgement: https://indiankanoon.org/doc/100550714/

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- ICESCR was indirectly referenced - right to health, food and an adequate standard of living

- Convention on the Elimination of Discrimination Against Women – Maternal Health protections

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Article 21 (Right to Life) – Expanded to include health, nutrition, and maternal care

- National Maternity Benefit Scheme (NMBS) – critiqued for failing to provide timely support

- Public Distribution System (PDS) – failure to prevent starvation

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- People's Union for Civil Liberties & Anr v Union of India (Right to Food Case, 2001), established food as part of Article 21

- Pt. Parmanand Katara v Union of India (1989) and Paschim Banga Khet Mazdoor Samiti v State of West Bengal (1996), right of emergency healthcare under Article 21

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

"2. ...These petitions focus on two inalienable survival rights that form part of the right to life: the right to health (which would include the right to access and receive a minimum standard of treatment and care in public health facilities) and in particular the reproductive rights of the mother. The other right which calls for immediate protection and enforcement in the context of the poor is the right to food."

"19. A conspectus of the above orders would show that the Supreme Court has time and again emphasised the importance of the effective implementation of the above schemes meant for the poor. They underscore the interrelatedness of the „right to food" which is what the main PUCL Case was about, and the right to reproductive health of the mother and the right to health of the infant child... The other facet is the right to food which is seen as integral to the right to life and right to health."

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1.Availability: Failure of Public Distribution System to provide grains to pregnant women

3.2.2. Accessibility: Economic barriers (Laxmi was denied care due to poverty)

3.2.3. Adequacy: Malnutrition leading to maternal mortality

3.2.4 Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: N/A

3.3.2. Accountability: State held liable for systematic healthcare failures

3.3.3. Non-Discrimination: Caste and poverty exacerbated denial of care

3.3.4. Transparency: N/A

3.3.5. Human Dignity: Death deemed a violation of dignity

3.3.6. Empowerment: N/A

3.3.7. Rule of Law: N/A

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: N/A

3.4.2. Protect: N/A

3.4.3. Fulfil (facilitate and provide): State ordered to reform National Maternity Benefit Scheme and Public Distribution System

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? The Court recognized starvation as a constitutional violation

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? Not explicitly mentioned, but implied in systematic reforms

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food?

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how?

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)?

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: Delhi High Court

4.2. Tier of the court that made the final decision (check if appealed): Delhi High Court (not appealed further)

4.3. Legal basis invoked by the court to assert its jurisdiction over the case:

Article 226 (Constitution of India), jurisdiction for fundamental rights violations

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

- Right to Food upheld indirectly through Article 21
- State was found negligent in maternal healthcare and food security

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- Strengthened implementation of National Maternity Benefit Scheme and Public Distribution System for pregnant women
- Compensation to victims' families

4.6. Mechanisms for the enforcement of the decision and outcomes: Continued judicial monitoring to ensure state compliance

5 Analysis of the outcome of the case

5.1 In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

- It is a landmark case in linking maternal health and food security under Article 21.
- It will strengthen accountability for starvation deaths in India

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

- It is cited in later cases on health and food rights (See Nation Food Security Act, 2013)

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? N/A

5.3.2. Was legal aid available/how was the case funded? N/A

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

4.3.4. Was there follow-up by courts, civil society, or other oversight bodies?NA

16. Maatr Sparsh – An Initiative by Avyaan Foundation v. Union of India & Others, *Writ Petition (Civil) No. 950 of 2022*

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Maatr Sparsh An Initiative By Avyaan ... vs Union Of India

1.2. Date of ruling: February 19, 2025

1.3. Country (and locality, if relevant e.g. department/municipal town): India

1.4. Forum (jurisdiction): Supreme Court of India

1.5. Forum type (territorial): National

1.6. Thematic focus: Rights of mothers and children

1.7. Parties involved:

Petitioner: Maatr Sparsh An Initiative By Avyaan Foundation. This is a non-Governmental organization (NGO)2. One of its Directors is Advocate Neha Rastogi

Respondents: Union of India & Others.

1.8. Type of petition (individual complaint, class action): Public interest

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case of Maatr Sparsh An Initiative By Avyaan Foundation vs. Union Of India concerned a writ petition filed in public interest by Maatr Sparsh An Initiative By Avyaan Foundation, a non-Governmental organization (NGO), against the Union of India and others. The primary objective of the NGO was to advocate for the establishment of feeding rooms, child care rooms, and crèche facilities in public places with governmental and public support.

The genesis of the petition stemmed from the personal experience of one of the NGO's Directors, Advocate Neha Rastogi, who, after giving birth, realized the impediments faced by nursing mothers due to the absence of public facilities for feeding their children. This personal challenge highlighted a significant need for breast-feeding rooms and child-care facilities in all public spaces. Consequently, the petitioner sought a mandamus direction to all respondents to construct such facilities and ensure the protection of the fundamental rights of nursing mothers and infants.

Experts recommend exclusive breast-feeding for the first six months of life, followed by safe and adequate complementary foods while continuing breast-feeding for up to two years or beyond. This view is explicitly supported by Section 5(a) of the National Food Security Act, 20136. The health of infants is intrinsically linked to the status of women

and their roles as mothers, and the right of a child to be breast-fed is inextricably linked with the mother's right to breast-feed her child. The State, therefore, has an obligation to ensure adequate facilities and an environment conducive to mothers breast-feeding their children, a right and obligation stemming from Article 21 of the Constitution of India and the principle of 'the best interest of the child. Furthermore, the Constitution of India's Article 47 reinforces the State's duty to raise the level of nutrition and the standard of living of its people and to improve public health. International human rights treaties and statements also underscore the obligation of States to protect, promote, and support breast-feeding as a means of ensuring optimal feeding practices and diminishing infant and child mortality

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

National

Right to Life- Article 21 of the Constitution of India

Right to Equality and Non-Discrimination- Article 14 of the Constitution of India

Child's right to be breast fed- National Food Security Act 2013 Section 5(a)

International

Motherhood and childhood are entitled to special care and assistance, and all children enjoy the same social protection -UDHR Article 25

Importance of breastfeeding for infant survival and health, concern over stigmatization regarding breastfeeding in public places and at workplaces, exposing women to stress, state's obligation to prevent and protect from discrimination connected with breastfeeding- Joint Statement dated 17.11.2016 by UN Special Rapporteurs (on the Right to Food, Right to Health, the Working Group on Discrimination against Women in law and in practice, and the Committee on the Rights of the Child

Best interest of the child- UNCRC Article 3(1)

State's obligation to protect the child- UNCRC-Article 3(2)

State's duty to ensure that institutional care is maintained according to standards- UNCRC Article 3(3)

1.11. Link to the judgement: https://indiankanoon.org/doc/39678569/

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- Universal Declaration of Human Rights (UDHR): Article 25(2)

- Joint Statement dated 17.11.2016 by the UN Special Rapporteurs on the Right to Food, Right to Health, the Working Group on Discrimination against Women in law and in practice, and the Committee on the Rights of the Child

- United Nations Convention on the Rights of the Child (UNCRC

Article 3(1), Article 3(2), Article 3(3), Article 7(1), Article 24(1), Article 24(2)(a), Article 24(2)(e)

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Constitution of India- Article 21, Article 39(f), Article 47, Article 51A
- National Food Security Act Section 5(a)
- Juvenile Justice (Care and Protection of Children) Act, 2015
- Maternity Benefit (Amendment) Act, 2017
- POSH Act, 2013 (Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013)
- Palna Scheme (Anganwadi-cum-Creches)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

Master Avyaan Rastogi through Guardian Neha Rastogi vs. Union of India, WP (C) No.7356 of 2018

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): Does not mention right to food explicitly

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: N/A

3.2.2. Accessibility:

Physical Accessibility was asserted as significantly compromised. The petitioner highlighted that the lack of facilities meant a "sore need for breast-feeding rooms and child-care in all public places" (pg 1). The personal experience of Advocate Neha Rastogi, one of the NGO's Directors, demonstrated this, as "she was afraid to go out in public because of the lack of facilities for feeding her child at public places"(pg 1). The petitioner argued that "depriving any child of mother's milk due to lack of basic facilities at public places infringes the fundamental right of a child and the mother"(pg 2). The Court acknowledged the State's "obligation to ensure adequate facilities and

environment to facilitate mothers to breast-feed their children", which directly pertains to ensuring physical access to feeding.

Social Accessibility was also implicitly hindered by societal norms. The Joint Statement referenced by the Court expressed "concern over stigmatization regarding breast-feeding in public places and at workplaces as it exposed women to unnecessary stress, pressure or intimidation"(pg 4). This societal pressure acts as a barrier, preventing mothers from comfortably exercising their right to feed their children in public, thereby affecting their ability to access the necessary environment for feeding. The Court also reminded citizens of their "duty to 'renounce practices derogatory to the dignity of women'" to counter this stigmatization

3.2.3. Adequacy:

The adequacy of breast-feeding as the optimal food for infants was strongly emphasized, and its provision was implicitly compromised due to the lack of facilities. The petitioner's counsel highlighted "the importance of early child-care and mother's milk for a child". The judgment states, "Breast-feeding is an integral component of a child's right to life, survival, and development to the highest attainable standard of health"(pg 3). It further notes that "Experts recommend that children be exclusively breast-fed for the first six months of their life and from the age of six months, children should commence consuming safe and adequate complementary foods while continuing to be breast-fed for up to two years of age or beyond"(pg 3). This directly speaks to the optimal nutritional quality and health benefits (adequacy) of breast milk. The Joint Statement also reinforced that breast-feeding "is safe, clean, and contains anti-bodies which help protect against many illnesses"(pg 4). The underlying concern was that without appropriate facilities, mothers might be compelled to cease breast-feeding prematurely or engage in sub-optimal feeding practices, thereby compromising the adequacy of the child's nutrition and overall health.

3.2.4. Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: The principle of participation is evident through the proactive role of the petitioner NGO and its directors in bringing this issue to the judicial forum. The *Maatr Sparsh An Initiative By Avyaan Foundation*, a non-Governmental organization, filed the writ petition in public interest. One of its Directors, Advocate Neha Rastogi, initiated the petition due to her personal "impediment" and "sore need for breast-feeding rooms and childcare in all public places"(pg 1). This demonstrates active engagement of civil society and individuals in advocating for the rights of mothers and children, thereby ensuring the participation of affected groups in raising concerns and seeking remedies

3.3.2. Accountability: Accountability is a central theme, as the petitioner seeks judicial directives to hold various government entities responsible for providing essential facilities. The petition specifically requests a "Writ, Order, or Direction in the nature of Mandamus to all Respondents to act and construct feeding rooms and child care rooms etc. or any other facilities related to infants and mothers at public places"(pg 1). This clearly aims to compel the State and its various departments (Respondents) to fulfill their obligations. The Court acknowledges the State's "obligation to ensure adequate facilities and environment to facilitate mothers to breast-feed their children"(pg 3). The final order directly commands the Union of India to issue a "reminder communication" to State

Governments/Union Territories to comply with the advisory for setting up facilities, implicitly holding them accountable for implementation (pg 7). The directive also mandates that existing public places, "as far as practicable," give effect to these directions, and new constructions reserve sufficient space for such facilities.

3.3.3. Non-Discrimination: N/A

3.3.4. Transparency: N/A

3.3.5. Human Dignity: The principle of human dignity is paramount in the petitioner's arguments and the court's decision. The petitioner explicitly submitted that "nursing a child in an environment which is conducive to a mother’s dignity and privacy is a fundamental right"(pg 1). The court's order aims to ensure that the State's advisory, if acted upon, "would go a long way in facilitating nursing mothers and infants so that their privacy is ensured at the time of feeding the infants"(Pg 7). The judgment directly links the right to breast-feed with a woman's reproductive process and "the health and well-being of both mother and the child" (pg 2), reinforcing the inherent dignity of both. The directive for State Governments/Union Territories to comply with the advisory is also framed "in the light of right to privacy of nursing mothers and for welfare of the infants".

3.3.6. Empowerment: The case significantly contributes to the empowerment of women by removing barriers to their participation in public and economic life. The petitioner's counsel argued that it is "imperative that child-care facilities are available in the public spaces and premises" as women are "equally participating in the growth of the nation and are stepping outside their homes in large numbers"(pg 1). The communication from the Ministry of Women and Child Development, referenced by the court, explicitly states that "increased and meaningful participation of women in the workforce is ensured" through "Gender Friendly Spaces in public places" (pg 6). It highlights that "if half of the women in India can join the workforce, the country can potentially boost its economic growth by 1.5 percentage points" (pg 6). The provision of feeding rooms and creche facilities is presented as directly addressing "the physical and mental health needs of female employees" and "promoting gender equality and facilitating the retention and advancement of talented female professionals" (pg 6). This directly speaks to empowering women to balance their roles as mothers with their professional and public engagements.

3.3.7. Rule of Law: The entire case is founded upon and heavily relies on the principle of the rule of law, drawing upon a comprehensive array of domestic and international legal instruments to establish the rights and obligations.

3.4. Legal obligations:

Examine the court’s decision on the State’s obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: he court's finding that the advisory would "go a long way in facilitating nursing mothers and infants so that their privacy is ensured at the time of feeding the infants" (pg 7) directly reflects the State's obligation to respect.

3.4.2. Protect: The court, specifically noted that States "should prevent and protect from discrimination, including exclusion from public space, linked to breast-feeding" (pg 4)

3.4.3. Fulfil (facilitate and provide): The court recognized that "the State has the obligation to ensure adequate facilities and environment to facilitate mothers to breast-feed their children" (pg 3)

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? The court directly addresses the nutritional aspect of the right to food. It states that "Breastfeeding is an integral component of a child's right to life, survival, and development to the highest attainable standard of health" (pg 2)

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? The court does not explicitly invoke the principle of progressive realization or refer to limited resources as a constraint. Instead, its directives are framed as immediate and necessary obligations. The order states that existing public places should comply "as far as practicable" (pg 7), which might suggest a degree of flexibility in implementation rather than a formal recognition of progressive realization due to resource constraints.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? No

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? Yes, the court implicitly considered violations or impediments to the right to food stemming from actors other than the State, primarily through societal attitudes and stigmatization. The Joint Statement by UN Special Rapporteurs highlighted "concern over stigmatization regarding breast-feeding in public places and at workplaces as it exposed women to unnecessary stress, pressure or intimidation" (pg 4). The court then directly addressed this by reminding citizens of their "duty to 'renounce practices derogatory to the dignity of women'" (Article 51A(e)). It explicitly stated that "Over and above the duty of the State to facilitate the exercise of the right of nursing mothers to breast-feed their children, the citizens must ensure that the practice of breast-feeding in public places and at workplaces is not stigmatized" (pg 5). This shows that the court recognized that social norms and individual actions could infringe upon the right to breast-feed.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? The court did not extensively engage with broad underlying structural causes like poverty, inequality, or land access. However, it did acknowledge the structural issue of gender inequality in workforce participation and the need to remove barriers for women.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: Supreme Court of India

4.2. Tier of the court that made the final decision (check if appealed):Supreme Court of India

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Article 32 of the Indian Constitution

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The Court's judgment unequivocally upheld the right to food in the context of infant nutrition through breast-feeding. It affirmed that "Breast-feeding is an integral component of a child's right to life, survival, and development to the highest attainable standard of health" and linked this to the child's right to be breast-fed and the mother's corresponding right to breast-feed her child (pg 2-4). The Court stated that this imposes an obligation on the State "to ensure adequate facilities and environment to facilitate mothers to breast-feed their children"(pg 3). The judgment also addressed the societal issue of stigmatization regarding breast-feeding in public, urging citizens to renounce such practices.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security,provide food assistance, or reform policies):

The court directed the Union of India to issue a "reminder communication" to the Chief Secretary/Administrator of all State Governments/Union Territories, attaching a copy of the Court's order, to ensure compliance with the advisory issued by the Ministry of Women and Child Development on February 27, 2024.

For existing public places, the Court ordered States/Union Territories to ensure that the directions in the advisory are given effect to "as far as practicable".

For public buildings at the planning and construction stage, the Court directed that "sufficient space is reserved for the purposes... in the form of child-care/nursing rooms".

The Union of India was further directed to issue advisories to all Public Sector Undertakings (via Chief Secretaries/Secretary, Department of Women and Child Welfare) to "set apart separate rooms/accommodation for child care/feeding & nursing of infants by mothers"

4.6. Mechanisms for the enforcement of the decision and outcomes: The Union of India was mandated to comply with the directions within a period of two weeks from the date of receipt of the order by issuing the necessary reminder communications and further advisories.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? The decision is significant because it imposes a positive obligation on the state to ensure nutrition for a child in the crucial early stage. Further, the judgment emphasizes the need for facilities that ensure "a mother's dignity and privacy" while nursing, and that the "privacy and comfort of nursing mothers" is ensured at the time of feeding the infants. This adds a crucial human dignity dimension to the right to food, recognizing that the manner in which nutrition is accessed is also important. The strong reliance on international legal instruments strengthens the interpretation of the right to food in the domestic context and aligns India's obligations with global standards.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? Yes. It expands the interpretation of right to food, where RtF now includes access to food as well as necessary conditions and infrastructure to facilitate appropriate consumption and absorption of food, especially for vulnerable groups.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? N/A

5.3.2. Was legal aid available/how was the case funded? N/A

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? The mechanisms put in place rely heavily on administrative directives and inter-governmental communication, backed by the authority of the Supreme Court's order. The order does not specify a monitoring or reporting mechanism beyond the initial directive, nor does it lay out specific consequences for non-compliance. However, the Supreme Court's direct involvement and the framing of the issue as a fundamental right create a strong legal impetus for compliance.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? N/A

17. People's Union for Civil Liberties (PUCL) v. Union of India and Others, Writ Petition (Civil) No. 196 of 2001

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): People's Union for Civil Liberties (PUCL) v. Union of India & Ors.

1.2. Date of ruling: The petition was filed in April 2001. The Supreme Court issued multiple interim orders over the years.

1.3. Country (and locality, if relevant e.g. department/municipal town): India, the case had nationwide implications, though it originated from issues in Rajasthan.

1.4. Forum (jurisdiction): Supreme Court of India

1.5. Forum type (territorial): National

1.6. Thematic focus: Right to food, starvation prevention, and implementation of food security schemes.

1.7. Parties involved:

- Petitioner: PUCL (NGO advocating for civil liberties).
- Respondents: Union of India, State Governments (e.g., Bihar, Uttar Pradesh).

1.8. Type of petition (individual complaint, class action): Public interest litigation.

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The People's Union for Civil Liberties (PUCL) brought a petition before the Indian Supreme Court in 2001, seeking enforcement of the right to food. The case emerged from reports of starvation deaths in the state of Rajasthan, even though substantial grain stocks were available in government granaries and despite the existence of various food distribution schemes across India. The PUCL grounded its petition in the constitutional right to life under Article 21 of the Indian Constitution, arguing that the right to food was an essential component of the right to life and dignity.

The petition specifically called for the activation of the Famine Code, a legal framework designed to permit the release of grain reserves during times of food crisis. It also demanded the proper implementation of national food schemes such as the Public Distribution System, the Mid-Day Meal Scheme, and the Antyodaya Anna Yojana program for the poorest households. Despite the Court issuing multiple interim orders over a two-year period, both national and state governments displayed a consistent lack of compliance.

In response, the Supreme Court delivered a forceful ruling in 2003, recognizing that the failure to implement food schemes and distribute available grain endangered the very essence of the right to life. It condemned the manifest contradiction of overflowing food reserves coexisting with persistent hunger and starvation among the poor. The Court issued a series of binding directives aimed at ensuring immediate relief and systemic reform.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon: Right to food (derived from article 21 right to life) and right to health.

1.11. Link to the judgement:
https://web.archive.org/web/20150716164007/http://www.righttofoodindia.org/orders/interimorders.html#box16

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon: /

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered): Constitution of India: Article 21 (Right to Life); Article 47 (Directive Principle – Duty of the State to raise the level of nutrition); Various government schemes like ICDS, PDS, and Mid-Day Meal Scheme.

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically): Not mentioned

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): No explicit mention.

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The Court noted the paradox of overflowing granaries while people starved, emphasizing the need to make food physically available to those in need.

3.2.2. Accessibility: By directing the implementation of schemes like the PDS and Mid-Day Meal Scheme, the Court aimed to improve economic and physical access to food for vulnerable populations.

3.2.3. Adequacy: The Court's orders ensured that the food provided met certain nutritional standards, particularly in the context of the Mid-Day Meal Scheme.

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Non-Discrimination: The Court directed the inclusion of vulnerable groups like the elderly, disabled, and destitute women in the Antyodaya Anna Yojana (AAY), cracked down on corrupt ration shops by threatening license cancellations, and mandated transparency in BPL lists.

3.3.2. Transparency: The Court directed the publicizing of entitlements and schemes to ensure beneficiaries were aware of their rights.

3.3.3. Human Dignity: The court linked starvation deaths to violations of Article 21 (Right to Life) and stressed that "food must reach the hungry" (Page 2), rejecting bureaucratic delays.

3.4. Legal obligations:

Examine the court’s decision on the State’s obligation to respect, protect, and fulfil the right to food (copy in the reasoning).

3.4.1. Respect: The Court ordered the government to stop practices that violated the right to food, like allowing ration shops to deny grains to eligible families or divert supplies to black markets. This upheld the state’s duty to *respect* rights by not interfering with access.

3.4.2. Protect: By threatening to cancel licenses of corrupt ration shop owners, the Court made the government *protect* people from exploitation by third parties (like black-market dealers).

3.4.3. Fulfil (facilitate and provide): The directives to double food grains under SGRY and expand AAY coverage forced the state to *fulfill* its duty, actively providing food to the hungry through schemes.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? Although the Court did not use the exact term “freedom from hunger, the judgment linked starvation to Article 21 (Right to Life), effectively recognizing freedom from hunger as a constitutional right.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? No

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? It held state governments (e.g., Bihar, UP) accountable for failing to implement MDMS and Famine Codes, calling their neglect unlawful.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? The Court targeted corrupt ration shop owners as violators, ordering penalties for siphoning grains meant for the poor.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? Yes. The Court repeatedly emphasized poverty, destitution, and exclusion as structural drivers of hunger.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: The Supreme Court of India.

4.2. Tier of the court that made the final decision (check if appealed): The Supreme Court of India.

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The case was brought as a Public Interest Litigation (PIL) under Article 32 of the Indian Constitution, which allows individuals to directly approach the Supreme Court for enforcement of fundamental rights.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The Court responded to widespread starvation in India despite overflowing government grain stocks. It recognized the failure of the state to distribute food through schemes like the Public Distribution System (PDS), the Mid-Day Meal Scheme, and the Antyodaya Anna Yojana. The Court affirmed that this failure amounted to a violation of the right to food, which it interpreted as an essential component of the right to life. It directed both the central and state governments to implement and monitor various schemes to ensure access to adequate food for all vulnerable groups, especially children, elderly persons, widows, and persons with disabilities.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- Enforced the universal implementation of key food schemes, including the Mid-Day Meal Scheme, ICDS, and PDS.
- Ordered the doubling of grain allocation for the Food-for-Work Programme.
- Directed that ration shops remain open regularly and provide grain to families below the poverty line at subsidized rates.
- Mandated free distribution of grain to destitute individuals without any support (elderly, disabled, widows).
- Required public awareness measures to inform people of their entitlements.
- Directed State Governments to progressively implement the Mid-Day Meal Scheme by providing cooked meals to all children in government and government-assisted schools.

4.6. Mechanisms for the enforcement of the decision and outcomes: The Supreme Court continued to monitor the implementation of its interim orders through regular hearings. It appointed Commissioners of the Court (Dr. N.C. Saxena and Mr. S R Shankaran) to act as independent monitors. These commissioners submitted reports on compliance, and their findings often led to further directions by the Court.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

This case helped the recognition and enforcement of the right to food in India. It converted several welfare schemes into legally enforceable entitlements, thereby judicially affirming food security as a fundamental human right. It also helped integrate social and economic rights into the justiciable framework of the Constitution.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? Yes, it is a landmark case that enhanced the recognition of the right to food as integral to the right to life under article 21 of the Constitution, it has provided a legal foundation for enforcing food security measures. Additionally, the PUCL case is shown to have directly influenced the drafting and content of the National Food Security Act (NFSA), which codified many of the court's orders and has been a milestone for the realization of the right to food in India. The Supreme court's orders in the PUCL case were later cited in subsequent cases to compel States agencies to implement the reforms outlined in the judgment (e.g. Kapila Hingorani v. State of Bihar (2003), Swaraj Abhiyan v. Union of India (2016), Dipika Jagatram Sahani v. Union of India (2021), Re: Problems and Miseries of Migrant Labourers (2021)). [1]

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)?

- There were no visible barriers to standing. The People's Union for Civil Liberties (PUCL), a public interest organization, brought the case under Article 32 of the Constitution, which allows any individual or organization to approach the Supreme Court for the enforcement of fundamental rights.

- Regarding the costs, the judgment doesn't provide any indications about financial barriers impeding access to the court.

- While the petition was filed in 2001, the Supreme Court issued a series of interim orders over the years to address urgent concerns.

5.3.2. Was legal aid available/how was the case funded? The PUCL, a civil liberties organization, spearheaded the litigation. Legal representation was provided by Mr. Colin Gonsalves, likely on a pro-bono basis but it is not mentioned.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? According to the study "The Impact of School Lunches on Primary School Enrollment: Evidence from India's Midday Meal Scheme" by Jayaraman and Simroth, (2011), the mechanisms established by the Supreme Court in PUCL v. Union of India to ensure implementation of the midday meal directive were legally and structurally adequate, but their effectiveness varied considerably across states. Although the Court mandated that all Indian states provide cooked midday meals in government primary schools within six months of its 2001 order, no state complied within that deadline, and many delayed implementation for several years. While some states cited financial constraints, the study attributes the delays more to a lack of political, bureaucratic, and societal will. The judicial directive alone proved insufficient; it was only under sustained pressure from civil society, particularly the Right to Food Campaign, as well as media scrutiny and oversight by the Supreme Court-appointed Commissioners, that most states eventually complied. The campaign, which emerged from the litigation itself, played a critical role in mobilizing public opinion and monitoring state-level action. y 2005, approximately 84% of public schools in the states classified as treated were providing midday meals, indicating that although the implementation mechanisms were well-designed, they required continuous external advocacy and oversight to be effective.[2]

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? Yes, the Supreme Court continued hearing the matter for years, issuing dozens of orders. The Right to Food Campaign, a coalition of civil society groups, played a key role in both advocacy and monitoring.

18. Premlata wife of Ram Sagar and Others v. Government of National Capital Territory of Delhi, Writ Petition (Civil) No. 7687 of 2010

1.1. Name (copy full name of the case): Premlata w/o Ram Sagar & Ors. v. Govt. of NCT Delhi

1.2. Date of ruling: 13 May 2011

1.3. Country (and locality, if relevant e.g. department/municipal town): India– Delhi

1.4. Forum (jurisdiction): High Court of Delhi

1.5. Forum type (territorial): National

1.6. Thematic focus: Access to food, implementation of food security schemes, denial of ration cards.

1.7. Parties involved:

- Petitioners: Premlata and others represented by counsel (Ms. Ritu Kumar).

1.8. Respondents: Government of NCT of Delhi, Union of India, Food and Supplies Department (FDS), Health Department.

1.9. Type of petition (individual complaint, class action): Individual complaint (writ petition), the petition was filed by several named individuals, each with specific grievances.

1.10. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

This case was brought by six women: pregnant, lactating, or living in poverty residing in the Bhim Nagar slum in Delhi. The petitioners raised multiple grievances: they had been denied access to subsidized food grains under the Public Distribution System (PDS); they were excluded from receiving entitlements under maternity benefit schemes such as the Janani Suraksha Yojana (JSY) and the National Maternity Benefit Scheme (NMBS); and they faced bureaucratic obstacles in updating or transferring their ration cards. Some had undergone biometric verification but were still unable to access rations, while others were denied inclusion in their household's BPL card or had difficulty transferring their records upon marriage.

The core legal issue centred on the Delhi government's refusal to issue new BPL ration cards due to a cap imposed by the Planning Commission. The Court found this cap to be incompatible with the city's growing population and influx of migrants, stating that denying ration cards to poor households effectively amounted to denying their right to food and thus their right to life under Article 21 of the Indian Constitution. The Court explicitly stated: "Denial of a ration card to a BPL person is virtually a denial of his or her right to food and thereby the right to life under Article 21."

The Court also addressed issues of food grain quality and inadequate grievance redress mechanisms, directing the State to clarify the functioning of vigilance committees and to post visible complaint information at ration shops. It ordered that a nodal officer be appointed to oversee individual complaints and called on the central and state governments to meet and resolve the ration card issuance deadlock.

1.11. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to life and human dignity (article 21 of the constitution).
- Right to social assistance and health (under JSY and NMBS).

1.12. Link to the judgement: https://www.escr-net.org/caselaw/2015/premlata-wo-ram-sagar-ors-v-govt-nct-delhi-wpc-7687-2010/

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon: Not explicitly cited.

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Constitution of India (article 21)
- National Maternity Benefit Scheme
- Janani Suraksha Yojana
- Public Distribution System Orders

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- PUCL v. Union of India, W.P. (C) No. 196/2001.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

§10: Denial of a ration card to a BPL person is virtually a denial of his or her right to food and thereby the right to life under Article 21 of the Constitution."

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1.Availability: Not addressed in the case.

3.2.2. Accessibility: Asserted as compromised. Petitioners were denied access to BPL ration cards due to a government-imposed cap and faced difficulties in card transfer, name addition, and registration. It particularly affected women after marriage and prevented economic access to food (§ 6 to 10).

3.2.3. Adequacy: Addressed by the Court in relation to the quality of food grains. Petitioners claimed that the grains distributed under PDS were of poor quality, which the Court acknowledged and directed relevant departments to address (§12).

3.2.4. Sustainability: Not addressed in the case.

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: Not explicitly addressed.

3.3.2. Accountability: The Court demanded that both the Delhi and central governments take concrete steps to address the grievances raised. It insisted on institutional clarity regarding the cap on BPL cards and called for joint coordination and review to remedy exclusionary practices (§§10 and 11).

3.3.3. Non-Discrimination: The Court recognized the administrative cap as a systemic barrier that disproportionately affected the urban poor, and emphasized that equal access to welfare schemes should not be blocked by arbitrary ceilings (§10)

3.3.4. Transparency: The Court was critical of the lack of public visibility around grievance redress procedures. It ordered better dissemination of information at fair price

shops and emphasized the need for transparent complaint mechanisms that are visible and accessible (§15).

3.3.5. Human Dignity: By affirming that denial of a ration card equates to denial of the right to food and, by extension, the right to life and dignity, the Court linked entitlements to the core of human dignity (§10).

3.3.6. Empowerment: Not explicitly addressed.

3.3.7. Rule of Law: The Court underscored that state obligations under statutory schemes like JSY, NMBS, and PDS must be implemented in a lawful, timely, and non-discriminatory manner. It reaffirmed that welfare rights are enforceable and that procedural barriers cannot override constitutional guarantees.

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfil the right to food (copy in the reasoning).

3.4.1. Respect: Not addressed.

3.4.2. Protect: The judgment criticized arbitrary ration card "caps" that excluded 55% of Delhi's poor (§§8 and 10), stating this denial violated Article 21's right to life. It ordered stronger oversight of Fair Price Shops after petitioners reported substandard grains (§12) and mandated grievance mechanisms (§15).

3.4.3. Fulfil (facilitate and provide): The Court explicitly ordered the State to

provide the benefits to the petitioners, including through the issuing or correction of ration cards and payment of maternity entitlements. It also mandated operational improvements like appointing a nodal officer and ensuring grievance mechanisms were functional and visible (§§§ 6 ,7 and 15).

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if

relevant? No, it did not.

3.4.5. Did the court invoke the principle of progressive realization,

particularly in cases involving limited resources or challenges in fully meeting the right to food? No, it did not.

3.4.6. Did the court find a particular government/public sector entity at fault

for failing to uphold the right to food? Yes, the Court unequivocally held the

Government of NCT Delhi (GNCTD) and its Food and Supplies Department responsible for violating the right to food. It identified three primary failures: the enforcement of arbitrary caps on BPL ration cards that excluded over half of the poor population (§10); the failure to monitor and regulate the distribution of substandard food grains through Fair Price Shops (§ 12); and the mishandling of benefits under schemes like JSY and NMBS, including wrongful denial and bureaucratic inaction (§§ 3 to 7).

3.4.7. Did the court consider violations of the right to food committed by

actors other than the state, if so, how? The role of private or non-state actors was not addressed in this case.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g.) poverty, inequality, land access)? In §10, the Court acknowledged that population growth

and migration trends in Delhi rendered static caps on ration cards unreasonable, showing an awareness of systemic social and demographic realities.

4. **Outcome of the legal case**

4.1.Tier(s) of the court that referred explicitly to the right to food: High Court of Delhi.

4.2. Tier of the court that made the final decision (check if appealed): High Court of Delhi (interim order).

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Article 226 of the Constitution (writ jurisdiction of High Courts).

4.4.Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

In May 2011, after the Delhi Government claimed it was unable to issue additional ration cards due to the central government's-imposed limit on the number of individuals who could be classified as Below Poverty Line (BPL), Justice Muralidhar delivered an interim order affirming that Indian state governments have the discretion to go beyond such caps when necessary. He emphasized that refusing a ration card to an eligible BPL individual effectively amounts to denying their right to food and, by extension, their constitutional right to life under Article 21.

4.5.Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

The Delhi Government and the Union of India were directed to collaborate within four weeks to address the issue of eligible individuals being denied new BPL (Below Poverty Line) cards. The Court noted concerns that many others might face similar difficulties and instructed the appointment of a government official to resolve all pending grievances. The next hearing was scheduled for July 27, 2011.

Additionally, the Court ordered further proceedings to ensure the government followed through with improving ration card procedures. This order of the Court, dated May 13th, 2011, is one of a series of interim orders issued by the Court with regard to the original petition. The final ruling in the case was delivered on December 13th, 2011.

4.6.Mechanisms for the enforcement of the decision and outcomes:

Community members and petitioners are now regularly accessing their food rations and health-related benefits. Eligible individuals have also begun receiving newly issued ration cards. As a result of greater government accountability and heightened legal awareness among residents regarding their rights and entitlements, incidents of corruption and the diversion of food grains for unauthorized sale have noticeably declined. Inspired by this progress, similar legal actions are currently being initiated in other districts across Delhi.

Analysis of the outcome of the case

5.1.In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

This case is an important judicial milestone in reinforcing the justiciability of the right to food in India, particularly in connection with women's reproductive and maternal health. It clarified that the denial of food rations and nutrition support to Below Poverty Line (BPL) women, especially during pregnancy and lactation, is a violation of their constitutional right to life under Article 21. The judgment extended beyond individual remedies to challenge systemic barriers, such as the arbitrary "cap" on BPL cards, affirming that such limits cannot override fundamental rights. Importantly, the Court recognized that food security and reproductive health are intertwined rights. In the broader landscape of public interest litigation on maternal health and food justice, this case contributed to a growing body of jurisprudence treating state failure to implement welfare schemes as a human rights violation, strengthening both the domestic legal framework and its alignment with international standards.

5.2.Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

Yes, Premlata is a persuasive precedent for future right to food litigation at the state level. Although not a Supreme Court decision, the ruling b contributes meaningfully to a pattern of High Court interventions that establish socio-economic rights as enforceable. It also strengthens the application of PUCL v. Union of India, reinforcing the idea that rights-based delivery of welfare schemes must be inclusive, non-discriminatory, and free from arbitrary restrictions.

5.3.As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? The information is not available.

5.3.2. Was legal aid available/how was the case funded? This information is not available.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? The Court issued concrete enforcement orders, including organizing reauthorization camps for ration cards and mandating surveys of local Fair Price Shops. These were crucial in ensuring short-term compliance. Additionally, the Court made clear that denial of a ration card violates the right to life. However, structural challenges such as poor administrative coordination and accountability mechanisms could continue to threaten long-term outcomes.[1]

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies?

The Food and Supply Department was instructed to report on grievances beyond the petitioners, acknowledging the collective nature of the right to food.

19. Swaraj Abhiyan v. Union of India & Others, Writ Petition (C) No. 857 of 2015

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Swaraj Abhiyan v. Union of India & Ors.

1.2. Date of ruling: 13th of May 2016

1.3. Country (and locality, if relevant e.g. department/municipal town): India

1.4. Forum (jurisdiction): Supreme Court of India

1.5. Forum type (territorial): National

1.6. Thematic focus: Food Distribution

1.7. Parties involved:

Petitioner: Swaraj Abhiyan (a political and social organization) **Respondents:** Union of India and various state governments

1.8. Type of petition (individual complaint, class action): Class Action

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

Swaraj Abhiyan filed a writ petition concerning the drought situation in India and the implementation of key legislative frameworks aimed at providing relief and security to affected populations. The Supreme Court delivered multiple judgments on 13th May, 2016, addressing different aspects of the petition.

Judgment I (Swaraj Abhiyan – II) focused on the implementation of the National Food Security Act, 2013.

The petitioner made suggestions regarding the provision of food grains to all households in drought-affected areas, the supply of dal and edible oil, and nutritional support under the Mid-Day Meal Scheme, including during summer vacations. The Union of India responded by outlining the provisions of the NFS Act, the role of state governments in its implementation, and the existing Mid-Day Meal Scheme guidelines.

The Court expressed surprise at the delayed and partial implementation of the NFS Act by some states. While acknowledging the statutory obligation to provide food grains under the NFS Act, the Court refrained from directing the provision of additional items like dal and oil beyond the Act's mandate. However, it emphasized the moral force of Article 47 concerning the level of nutrition.

The Court directed states to ensure the monthly entitlement of food grains under the NFS Act is provided in drought-affected areas, regardless of ration card status (requiring alternative identification). It also directed Bihar, Haryana, and Uttar Pradesh to provide eggs, milk, or nutritional substitutes under the Mid-Day Meal Scheme and urged other states to do the same, preferably 3-5 days a week, stating that financial constraints should not be an excuse. The Mid-Day Meal Scheme was also directed to be extended during summer vacations in drought-affected areas. The Court also mandated the establishment of internal grievance mechanisms and State Food Commissions under the NFS Act.

Judgment II (Swaraj Abhiyan – III) dealt with the implementation of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005. The petitioner raised concerns about adequate budgetary provision, informal capping of funds, delayed wage payments, and the need to increase guaranteed employment days in drought-affected states.

The Union of India explained the process of labour budget finalization and fund release, acknowledging pending wage bills and efforts to address them, and stated that 150 days of employment were guaranteed in drought-affected states. The Court noted the statutory requirement for timely wage disbursement and compensation for delays. It found that there was no formal capping of funds but noted delays in the release of payments.

The Court emphasized that delayed payment of wages to a large number of people constitutes a constitutional breach. It directed the Government of India to release adequate funds in a timely manner and ensure compensation for delayed payments. The Court also directed the immediate constitution of the Central Employment Guarantee Council and proactive requests to states to establish State Employment Guarantee Councils.

Judgment III (Swaraj Abhiyan – IV) addressed the remaining substantive issues, including relief for crop loss, fodder banks, and crop loan re-structuring. The petitioner argued that the agricultural input subsidy was too low and the criteria for crop loss were arbitrary. The Union of India outlined the financial assistance available under the SDRF and NDRF and stated that the norms were for immediate relief, not full compensation. Regarding fodder banks and crop loan re-structuring, the Court noted the existing schemes and guidelines.

The Court stated that the concerns raised by the petitioner were essentially matters of policy, and judicial review in such matters is limited unless the policy is unconstitutional, or outside the Act, or arbitrary. The Court directed the concerned authorities to religiously implement their existing policies. The petitioner's plea for the appointment of Court

Commissioners was rejected, as existing statutory mechanisms for monitoring were in place, albeit not always effectively implemented. The Court decided to keep the petition pending, indicating a continuing mandamus to ensure compliance with the directions issued, and adjourned the case for a status report from the Union of India

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to food and basic sustenance, as a component of the right to life under Article 21, due to inadequate implementation of the NFS Act and insufficient drought relief
- Right to work with dignity and timely payment of wages, potentially linked to Article 21 and the prohibition of forced labor under Article 23, due to issues with the NREG Act implementation
- Right to a basic standard of living for farmers affected by crop loss due to insufficient relief measures
- Rights of children to nutrition under the Mid-Day Meal Scheme

1.11. Link to the judgement: https://indiankanoon.org/doc/19199787/

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon: N/A

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Constitution of India

Article 21: Right to life and personal liberty, interpreted to include the right to food and a dignified life

Article 23: Prohibition of forced labor, argued in the context of delayed wage payments under MGNREGA

Article 14: Right to equality, cited in the context of discrimination in wage payment for drought-affected workers

Article 47: Duty of the State to raise the level of nutrition and the standard of living

National Food Security Act, 2013

Mahatma Gandhi National Rural Employment Guarantee Act, 2005

Disaster Management Act, 2005

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

Shantistar Builders v. Narayan Khimalal Totame- The court explicitly stated that "there can be no doubt that the right to food is actually a constitutional right and not merely a statutory right" and cited this case as an example. This establishes a strong domestic precedent for recognizing the constitutional dimension of the right to food.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The judges emphasized the need for adequate food grains to be made available for people in the drought-affected areas and the state should provide their monthly entitled food grains irrespective of their priority household status.

3.2.2. Accessibility: Not relevant

3.2.3. Adequacy: The judgment focused on the nutritional adequacy of food provided, particularly through the mid-day meal scheme for children.

3.2.4. Sustainability : Not relevant

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1 Participation: N/A

3.3.2. Accountability: Accountability is the principle covered in the judgment. The court indicated the statutory obligations of both the Union of India and the State Governments under the Disaster Management Act and the National Food Security Act. The judgment criticizes the non-execution of the laws and the failure to establish necessary mechanisms to address situations successfully.

3.3.3. Non-Discrimination: N/A

3.3.4. Transparency: N/A

3.3.5. Human Dignity: N/A

3.3.6. Empowerment: N/A

3.3.7. Rule of Law: N/A

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: N/A

3.4.2. Protect: N/A

3.4.3. Fulfil (facilitate and provide): The states were unable to fulfill the obligations provided for them through the constitution and other statutes.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? Not directly referred to by the courts

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? Not directly referred to by the courts

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? N/A

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? N/A

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? N/A

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: Supreme Court of India

4.2. Tier of the court that made the final decision (check if appealed): Supreme Court of India

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: In cases of Fundamental Rights violations, the Supreme Court of India grants individuals and organizations to directly file a case in the Supreme Court. Article 32 of the Indian Constitution provides for this.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Court directed states to ensure food grain provision under the NFS Act to all households in drought-affected areas, irrespective of priority status or ration card availability, and specifically mandated Bihar, Haryana, and Uttar Pradesh to provide nutritional supplements like eggs or milk in the Mid-Day Meal Scheme, extending the scheme to summer vacations in drought areas.

Regarding the NREG Act, the Court acknowledged delays in wage and material payments and directed the Union Government to release adequate funds promptly and ensure compensation for delayed wages, further mandating the constitution of the Central and proactive request for the establishment of State Employment Guarantee Councils.

While the Court considered relief for crop loss, fodder banks, and loan restructuring as policy matters best left to the expertise of the executive and relevant bodies, it directed the religious implementation of existing policies in these areas.

Ultimately, the Court decided against appointing Court Commissioners but resolved to maintain a continuing mandamus over the matter, adjourning the case for a status report on the implementation of its directives.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

Regarding the National Food Security Act, 2013, the Court mandated that all households in drought-affected areas receive their entitled food grains regardless of priority status or ration card possession, with alternative identification accepted, and directed Bihar, Haryana, and Uttar Pradesh to provide nutritional supplements like eggs or milk in the Mid-Day Meal Scheme, urging other states to do the same, and ordering the extension of the scheme during summer vacations in drought-affected areas.

The judgment also required states to establish internal grievance mechanisms with District Grievance Redressal Officers and State Food Commissions to monitor the NFS Act's implementation.

Concerning the Mahatma Gandhi National Rural Employment Guarantee Act, 2005, the Court directed the Union Government to release adequate funds promptly for timely wage payments and to ensure compensation for delayed wages, while also emphasizing the need to establish the Central Employment Guarantee Council and proactively request states to form State Employment Guarantee Councils. For issues like crop loss, fodder banks, and loan restructuring, the Court directed the religious implementation of existing policies by relevant authorities.

4.6. Mechanisms for the enforcement of the decision and outcomes: The court recognized the need for ongoing oversight and decided to maintain a continuing mandamus over the matters to ensure compliance with the given directives

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

This case significantly advances the right to food by emphasizing the statutory obligation of the State under the National Food Security Act, 2013 (NFS Act), particularly in drought-affected areas. The Supreme Court addressed the implementation of the NFS Act to ensure food security for those affected by drought.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

Yes, this case appears to be a strong precedent for future cases on the right to food, particularly in situations involving drought or similar widespread food insecurity. The explicit recognition of the constitutional dimension of the right to food adds significant weight to future claims based on this right. The directions regarding the provision of food grains to all households in drought-affected areas, irrespective of priority status or ration card availability, set a precedent for ensuring wider access to food during emergencies. The court's forceful rejection of financial constraints as a justification for failing to provide food security is a crucial aspect that can be cited in future cases where the state argues a lack of resources. The emphasis on the statutory obligations under the NFS Act and the directions for setting up grievance redressal mechanisms and State Food Commissions provide a framework for demanding accountability and effective implementation of food security laws.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? There was no mention about the cost and the case was heard within the month of May which indicates that there was a speedy process.

5.3.2. Was legal aid available/how was the case funded? The sources do not provide information on whether legal aid was available to Swaraj Abhiyan or how the case was funded.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate?

The Supreme Court in its judgment directed the establishment of several mechanisms to ensure the implementation of the NFS Act and its directions:

· Internal Grievance Mechanisms and District Grievance Redressal Officers: States were directed to establish these within one month.

· State Food Commissions: States were directed to constitute these within two months to monitor and review the implementation of the NFS Act.

· Central Employment Guarantee Council (CEGC): The Government of India was directed to immediately constitute this under the MGNREGA within a maximum of 60 days.

· State Employment Guarantee Councils: The Government of India was directed to proactively request states to establish these under the MGNREGA within 45 days.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? The Supreme Court explicitly decided to keep the petition pending and scheduled a follow-up hearing, directing the Union of India to file a status report. Swaraj Abhiyan, as the petitioner, represents civil society's active role in bringing the issue to court and would likely continue to monitor the implementation of the court's directions. The court's directions for establishing District Grievance Redressal Officers and State Food

Commissions under the NFS Act, and the CEGC and State Employment Guarantee Councils under the MGNREGA, were intended to create statutory oversight bodies responsible for monitoring and reviewing the implementation of the respective acts.

20. Vaishnorani Mahila Bachat Gat v. State of Maharashtra & Others, Civil Appeal No. 2336 of 2019

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Vaishnorani Mahila Bachat Gat vs. State of Maharashtra & Ors.

1.2. Date of ruling: 26 February 2019

1.3. Country (and locality, if relevant e.g. department/municipal town): India- State of Maharashtra.

1.4. Forum (jurisdiction): Supreme Court of India

1.5. Forum type (territorial): National

1.6. Thematic focus: Right to food, food security, access to food, implementation of food security schemes, equality and non-discrimination.

1.7. Parties involved:

- Appellant: Vaishnorani Mahila Bachat Gat
- Respondents: State of Maharashtra & Others

1.8. Type of petition (individual complaint, class action): Collective complaint (filed by a self-help group representing the interest of local women's groups affected by state tender conditions).

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case revolves around the allocation of contracts for supplying ready-to-cook food under the Integrated Child Development Scheme (ICDS) in Maharashtra. The appellants, local women's self-help groups (SHGs), challenged the tender conditions imposed by the state government, arguing that these conditions favoured large corporate entities over local Mahila Mandals and SHGs, contrary to Supreme Court directives in *PUCL v. Union of India* (2004) and *Shagun Mahila Udyogik Sahakari Sanstha Maryadit v. State of Maharashtra* (2011).

These directives emphasized decentralized supply through local communities, SHGs, and Mahila Mandals to ensure quality and prevent corruption. The Supreme Court found that the tender conditions, such as requiring high turnover and advanced technology, were arbitrary and excluded local groups. The Court noted that the state misrepresented central government guidelines, which were merely suggestive, not mandatory.

The Court directed the state to reissue tenders within four weeks, aligning with the National Food Security Act (2013) and central policies, and to decentralize supply to smaller units like panchayats to empower local SHGs. The judgment reinforced the need to prioritize local women's groups in ICDS implementation to uphold transparency and nutritional goals.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- The right to food is central in this case (Sections 4, 5 and 6 of the NFSA, Rules 7 and 9 of the Supplementary Nutrition (under ICDS) Rules, 2015 and amended 2017).

1.11. Link to the judgement: https://indiankanoon.org/doc/67854246/`

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon: Not explicitly mentioned.

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered): National Food Security Act, 2013 (Sections 4, 5, 6), Supplementary Nutrition, (ICDS) Rules, 2015 and 2017, ICDS Guidelines, government circular and policy communications.

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- PUCL v. Union of India (W.P.(C) No.196/2001).
- Shagun Mahila Udyogik Sahakari Sanstha Maryadit v. State of Maharashtra and Others.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

The case does not explicitly mention the right to food but does mention food security and malnutrition in § 6,7 and 38.

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: Not directly challenged.

3.2.2. Accessibility: The petitioners argued that Self Help Groups were denied access to public procurement opportunities due to discriminatory and burdensome tender conditions. The Court held that the tender conditions imposed by the State of Maharashtra (particularly the high turnover requirements and the use of districts as unit areas) were arbitrary and exclusionary. It was held as ousting genuine self-help groups from participating in the supply of nutrition under ICDS, in violation of prior Supreme Court directives and the spirit of decentralization embedded in the National Food Security Act (§ 50 and 52).

3.2.3. Adequacy: The Court accepted evidence showing that food supplied by large contractors was of poor hygienic and nutritional quality and endorsed decentralization through self-help groups to improve adequacy by ensuring safer, locally prepared, and culturally appropriate nutrition for children and women.
(§§§ 7, 27, 37).

3.2.4. Sustainability: The Court emphasized that sustainable nutrition provisioning requires empowering local women's groups and decentralizing supply systems. It also noted that that reliance on large contractors had led to recurring corruption, poor oversight, and systemic failure, whereas self-help group models, as seen in Odisha and Kerala, offered long-term, community-driven solutions.
(§ 30, 37, 52).

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: The Court endorsed the community participation through local women's group and self-help groups, in contrast to centralized contractor models (§52).

3.3.2. Accountability: The court acknowledged systemic failures and corruption when supply was handled by private actors instead of community-led structures (§7).

3.3.3. Non-Discrimination: The court held that the tender conditions unfairly excluded Self Help Groups, which typically represent poor, rural women, violating equal access to public schemes (§50).

3.3.4. Transparency: The principle of transparency was addressed by the Court through evidence showing that several Mahila Mandals, which were officially awarded contracts for supplying nutrition, were in fact front private companies. As highlighted in the independent commissioner's report both the legal and practical ownership of these women's group and the private agro-companies belonged to the same family (§7). This revealed a deliberate concealment of true ownership and control, undermining the

openness and integrity of the public procurement process. The court recognized that this lack of transparency violated the intent of decentralizing nutrition supply through genuine community-based self-help groups.

3.3.5. Human Dignity: Not addressed.

3.3.6. Empowerment: The court emphasized that women-led self-help groups must be meaningfully included in food provisioning.

3.3.7. Rule of Law: The court enforced binding precedents (PUCL v. Union of India) and national laws (NFSA 2013) to invalidate State practices that contradicted legal mandates (§50).

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The court held that the State violated its obligation to respect by setting tender conditions that were arbitrary and for effect the exclusion of legitimate self-help groups (§50).

3.4.2. Protect: The court recognized that the State failed to prevent private actors from undermining the right to food by engaging in corrupt practices and delivering poor quality food (§7 and 27).

3.4.3. Fulfil (facilitate and provide): The Court affirmed that the state has a duty to facilitate the participation of genuine Self- Help Group in the nutrition supply system and ruled that the existing call for tenders should be cancelled and that a new procedure should be launched, in accordance with the principles of decentralisation and inclusion (§37 and 51).

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? The judgment does not explicitly reference "freedom from hunger". However, it acknowledges the importance of preventing malnutrition and child deaths, indirectly supporting this dimension of the right to food (§7).

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? The court did not cite the principle of progressive realization.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? The state of Maharashtra was found to be at fault for violating its obligations (§50 and 51).

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? Yes. Although private contractors were not parties to the case and no direct legal responsibility was imposed on them, their role was acknowledged in the

Court’s reasoning when assessing the failure of the State of Maharashtra to uphold the right to food. The Court examined the violations committed by private actors, in particular the large contractors and industrialists who operated the system under the guise of the Mahila Mandals. The ruling highlighted that these entities, often supported by political connections, obtained contracts through fraudulent means, supplied substandard food and violated the Supreme Court's prohibition on contractors participating in the ICDS. The Court noted that these practices perpetuated corruption and compromised the nutritional needs of children and mothers (§7).

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? Yes. The judgment engages with systemic issues such as malnutrition, poverty, corruption, and inequality in access to food systems. The Court cites data from the National Family Health Survey highlighting that nearly 5,000 children die daily in India from preventable causes, including malnutrition, and links this crisis to corruption and leakages within the ICDS programme (§7). The judgment also refers to the Odisha model, which relies on decentralized, SHG-led nutrition provisioning as a more equitable and transparent system to combat structural exclusion (§30). Corruption is also addressed, the Court notes that many so-called Mahila Mandals were fronts for industrialists with political connections (§21 to 23). The judgment further reinforces this concern by quoting a National Human Rights Commission report describing the ICDS in Uttar Pradesh as an example of "crony capitalism" (§27). The Court also recognizes structural inequality (§50).

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: Supreme Court.

4.2. Tier of the court that made the final decision (check if appealed): Supreme Court of India.

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The Supreme Court exercised appellate jurisdiction under article 136 of the Constitution of India, which allows it to hear appeals by special leave against judgments from any court or tribunal. The appellants filed civil appeals challenging the High Court’s dismissal of their writ petitions. Additionally, the Court relied on its earlier jurisdiction exercised in PUCL v. Union of India (W.P. (C) No. 196/2001), a public interest litigation in which it issued binding guidelines concerning the right to food and the functioning of ICDS schemes.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The Supreme Court found that the State of Maharashtra’s 2016 tender conditions for supplying Take Home Rations (THR) under ICDS were arbitrary, exclusionary, and inconsistent with Supreme Court directives and national food policy. It ruled that these conditions could not stand and had to be revised to align with the principles laid down in the PUCL case and the National Food Security Act.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): The Supreme Court ordered the state to issue new tenders within four weeks that complied with decentralization principles and allowed real Self-Help Groups and Mahila Mandals to meaningfully participate. Additionally, it instructed the state to restructure the supply units to smaller administrative areas (such

as panchayats or groups of panchayats) and to ensure that the new tender conditions did not indirectly exclude smaller players (§§51 and 52).

4.6. Mechanisms for the enforcement of the decision and outcomes: The Supreme Court set a four-weeks deadline for issuing the tenders and the ruling was made immediately enforceable by the state administration. No external oversight mechanism was ordered but compliance was to be ensured through executive implementation and administrative follow-up. Non-compliance would expose the state to potential contempt proceedings.

5. Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? By striking down tender conditions that favoured corporate contractors over local self-help groups and Mahila Mandals, the Supreme Court reinforced the principle of decentralized, community-based food distribution under the Integrated Child Development Scheme (ICDS). This decision built upon the foundational PUCL v. Union of India (2001) case and underscored the justiciability of the right to food under the National Food Security Act (NFSA), 2013. It linked arbitrary procurement policies to violations of nutritional rights. Moreover, the court exposed systemic corruption, documenting how fabricated women's cooperatives served as fronts for industrialists, thereby setting a precedent for challenging fraudulent practices in public food programs.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? This judgment was not used as a precedent to uphold right to food in further cases. However, it concretely applies existing right to food jurisprudence to the design of social security schemes. In doing so, it sets a strong precedent for future cases challenging the delivery mechanisms of food security schemes, especially in cases where people are not openly denied access, but the rules are written in a way that makes it almost impossible for vulnerable groups to take part.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? The judgment does not explicitly discuss these matters.

5.3.2. Was legal aid available/how was the case funded? The judgment does not discuss how the litigation was financed.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? The court's remedy was unambiguous and legally binding. However, the judgment did not establish any institutional mechanism to oversee compliance. As a result, the effectiveness of the order relied solely on the state's initiative, with no provision for continued judicial supervision or formal involvement of other actors to monitor implementation.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? There is no mention of follow up by a specific body.

21. Mwangi & Another v Attorney General & 3 Others; Kenya University Biotechnology Consortium (KUBICO) & 2 Others

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Mwangi & another v Attorney General & 3 others; Kenya University Biotechnology Consortium (KUBICO) & 2 others (Interested Parties)

1.2. Date of ruling: 28 April 2023

1.3. Country (and locality, if relevant e.g. department/municipal town): Kenya, Nairobi.

1.4. Forum (jurisdiction): High Court of Kenya, Constitutional and Human Rights Division.

1.5. Forum type (territorial): National

1.6. Thematic focus: Land, Agriculture, and Resource Deprivation.

1.7. Parties involved:

Petitioners: Paul Mwangi (1st Petitioner), Kenya Peasants League (2nd Petitioner)

Respondents: Attorney General; Cabinet Secretary for Agriculture, Livestock, Fisheries; National Biosafety Authority; Cabinet Secretary for Trade, Investment and Industry

Interested Parties: Kenya University Biotechnology Consortium (KUBICO); Biodiversity and Biosafety Association of Kenya; Association of Kenya Feeds Manufacturers

1.8. Type of petition (individual complaint, class action): Individual complaint and public interest petition.

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case revolved on the constitutional right to food under Article 43(1)(c) of the Kenyan Constitution, which guarantees every person the right to "adequate food of acceptable quality." The Petitioners argued that the Cabinet's decision to lift the ban on genetically modified organisms (GMOs) threatened this right, as it allowed the importation and cultivation of GMO foods and animal feeds without sufficient safeguards to ensure their safety for human consumption.

They contended that the government failed to conduct adequate public participation or scientific risk assessments, thereby disregarding potential health risks and ecological impacts that could undermine food security and the quality of food available to Kenyans. The Petitioners further linked the right to food to broader constitutional and international protections, including the rights of peasants and rural communities under the United Nations Declaration on the Rights of Peasants (UNDROP).

They emphasized Article 15 of UNDROP, which recognizes the right to food produced through "ecologically sound and sustainable methods," arguing that GMOs could disrupt traditional farming practices, seed sovereignty, and long-term food sustainability.

Additionally, they raised concerns under Article 46 (consumer rights), asserting that Kenyans were entitled to clear labelling and information about GMO products to make informed choices about the food they consume.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to food (Article 43, Constitution of Kenya)
- Right to health, life, and dignity
- Right to fair administrative action (Article 47)
- Consumer rights (Article 46)
- Right to access information (Article 35)
- Rights of peasants under UNDROP (e.g., Articles 15 & 19)
- Public participation (Article 10)

1.11. Link to the judgement:
https://new.kenyalaw.org/akn/ke/judgment/kehc/2023/3943/eng@2023-04-28

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP)

· Article 15: Right to adequate food produced ecologically

· Article 19: Rights to seeds and traditional knowledge

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Constitution of Kenya (Articles 10, 32, 35, 43, 46, 47)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- Stanley Liwondo v Attorney General (2020) – Definition of "substantial question of law."

- British American Tobacco Kenya v Cabinet Secretary for Health (2019) – Public participation.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

§2 “The right to adequate food that is produced through ecologically sound and sustainable methods that respect culture and preserves access to food for future generations as guaranteed by Article 15 of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas ».

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1.Availability: Not addressed in the judgment.

3.2.2. Accessibility: (§2) “The right to adequate food that is produced through ecologically sound and sustainable methods that respect culture and preserves access to food... ».

3.2.3. Adequacy: (§2a) Petitioners argued GMOs may compromise food safety

3.2.4. Sustainability §3 « The 2nd Petitioner is thus apprehensive that the GMOs if permitted into the country will gravely affect their farming, productivity and sustainability as peasant farmers….». The Petitioners heavily relied on UNDROP Article 15, which protects ecologically sustainable food systems. They argued that GMOs could disrupt traditional farming, harm biodiversity, and create dependency on corporate seed suppliers, undermining long-term food sovereignty.

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: The lack of public consultation before lifting the ban violated Article 10 (public participation). The 2nd Petitioner (Kenya Peasants League) had requested risk assessment reports but received no response, breaching their right to engage in policymaking (§§§§3, 4, 8 and 30).

3.3.2. Accountability: Not addressed by the judgment.

3.3.3. Non-Discrimination: It was argued that GMOs could marginalise small-scale producers who rely on traditional seeds, violating their rights under UNDROP Article 19 (§§2-3)

3.3.4. Transparency: The state’s refusal to share risk assessments breached Article 35 (access to information §§3, 4)

3.3.5. Human Dignity: The right to life (Article 26) was indirectly invoked, as GM foods were framed as a potential health risk (§§ 3, 12).

3.3.6. Empowerment: Not addressed by the judgment.

3.3.7. Rule of Law: Not addressed by the judgment.

3.4. Legal obligations:

Examine the court’s decision on the State’s obligation to respect, protect, and fulfil the right to food (copy in the reasoning).

3.4.1. Respect: The government allegedly failed to respect farmers' and consumers' rights by lifting the ban unilaterally (§3 and 29).

3.4.2. Protect: Failure to regulate (§2–3): By lifting the GMO ban without safeguards, the State failed to protect the public from potential harm. Removing regulatory barriers exposes peasant farmers and people in general to risks from unregulated GMO cultivation and trade.

3.4.3. Fulfil (facilitate and provide): The 2nd Petitioner sought information from the National Biosafety Authority (3rd Respondent) regarding risk assessments or reports justifying the GMO policy shift, via a letter dated 12 October 2022 but received no response (§3). This lack of response violates the State's duty to facilitate the right to food by ensuring transparency and informed decision-making. Moreover, the petitioners argued that introducing GMOs without State support for agroecological or traditional farming systems undermines sustainable food production, particularly for peasant farmers (§4).

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? No, this was not explicitly mentioned.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? While the judgment does not expressly refer to the principle of progressive realization, the 1st Petitioner argues that the Cabinet’s decision of 3 October 2022 marked a regression from previously established safeguards protecting the right to food (§2).

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? No, the Court did not make a substantive finding in fault. The ruling was limited to procedural issues.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how?Since the ruling focused on procedural matters, the Court did not consider or determine whether any non-state actor had violated or would violate the right to food.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? It was raised by the petitioners but not addressed by the court. he petitioners explicitly linked the Cabinet decision to structural issues affecting peasants and rural communities, including threats to seed sovereignty, ecological farming, and food access (§2). They relied on Articles 15 and 19 of the UN Declaration on the Rights of Peasants, highlighting concerns related to poverty,

marginalization, and sustainability. However, since the ruling was procedural, the court did not engage with these arguments on the merits.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: High Court (Constitutional and Human Rights Division).

4.2. Tier of the court that made the final decision (check if appealed): High Court, single judge.

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Article 165 of the Constitution of Kenya.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The judgment did not uphold or deny the right to food. This ruling only resolved a procedural issue: whether the case should be referred to a panel of judges due to its complexity. The court held that while the issues were novel and complex, a single judge could competently hear the matter. Substantive issues, including those on the right to food remain pending (§2,3,14, 33).

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): None yet, the court declined to refer the matter for empanelment.

4.6. Mechanisms for the enforcement of the decision and outcomes: To be determined after final judgment on the merits. Not applicable - merits of the case not yet decided

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? Even though a final ruling is pending, this case raises critical constitutional and international law questions about food sovereignty, participation, and sustainable development. It frames the right to food as inclusive of procedural and substantive guarantees.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? Currently the precedent is weak because it only ruled on procedural matters, but it may set precedent once ruled on merits if the court make a decision to enforce article 43(1)(c) of the constitution.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? No cost barriers mentioned, standing was granted to both individual and peasant organization.

5.3.2. Was legal aid available/how was the case funded? Not mentioned in the judgment.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? To be determined according to the final judgment.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? Although the court has not yet issued a final judgment on the merits, the involvement of certain actors shows that it is being closely followed by civil society organizations. Indeed, the

Kenya Peasants League and the Biodiversity and Biosafety Association of Kenya, are actively advocating for food sovereignty, seed rights, and ecological justice.

22. Gable Masangano and Others v. Attorney General, Minister of Home Affairs and Internal Security, Commissioner of Prisons

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Gable Masangano and ors v Attorney General, Minister of Home Affairs and Internal Security, Commissioner of Prisons

1.2. Date of ruling: 9 November 2009

1.3. Country (and locality, if relevant e.g. department/municipal town): Malawi, Lilongwe District.

1.4. Forum (jurisdiction): High Court of Malawi, Constitutional Court panel.

1.5. Forum type (territorial): National.

1.6. Thematic focus: Conditions of Detention and Dignity.

1.7. Parties involved:

- Applicant: Gable Masangano (on behalf of all prisoners in Malawi)

- Respondents: Attorney General (1st), Minister of Home Affairs and Internal Security (2nd), Commissioner of Prisons (3rd)

1.8. Type of petition (individual complaint, class action):

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report): The applicant, a prisoner, challenged prison conditions in Malawi as unconstitutional, including inadequate food (only one meal of nsima and beans per day), poor clothing, overcrowded cells, lack of access to medical care, and inhumane treatment by warders. The claim was supported by the Malawi Prison Inspectorate's 2004 report. The court emphasized that prisoners, while incarcerated, remain entitled to basic human rights and declared that the treatment described violated their rights to human dignity and freedom from cruel and degrading treatment. The case centered on the violation of minimum standards set in the Prison Regulations under the Prisons Act, including dietary requirements.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to adequate nutrition (right to food)

- Right to health and medical care

- Right to human dignity

- Freedom from torture and inhuman treatment
Legal bases: Constitution of Malawi (Sections 19, 42, 44), Prisons Act Cap 9:02, Prison Regulations, international human rights instruments (implicitly referenced)

1.11. Link to the judgement:
https://malawilii.org/akn/mw/judgment/mwsc/2009/31/eng@2009-11-08

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- UN Convention Against Torture
- UN Minimum Rules for the Treatment of Prisoners

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Constitution of Malawi: Sections 13, 14, 19, 42, 44, 46, 108
- Prisons Act Cap 9:02 and its Regulations (3rd–5th Schedules)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- Linton v Jamaica (UNHCR Communication No. 258/1987) – Withholding food is inhuman treatment.

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

« We would like to reaffirm that prisoners' rights include right to food, clothing, accessories and cell equipment to the minimum standards as set out in the Prisons Act and Prison Regulations ».

« Under S 13 of the Constitution the State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the goals of nutrition and health ».

« Section 42 (1)(b) of the Republic of Malawi Constitution provides that every person who is detained, including every sentenced prisoner shall have the right to be detained under conditions consistent with human dignity, which shall include at least the provision of reading and writing materials, adequate nutrition and medical treatment at the expense of the State ».

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The court found that while the daily quantity of food provided to prisoners—0.680 kg of maize flour per prisoner per day—met the minimum requirement

set by SADC standards and the Third Schedule of the Prison Regulations, the diet was deficient in variety, lacking regular provision of meat, fish, and fruits as required.

“It is not correct to say that there is total lack of diet in Malawi Prisons or total lack of foodstuffs… The Chief Commissioner averred that the 0.680 Kg given to each prisoner is more than enough for a single meal and the prisoners actually split the meal into two portions, one for lunch and the other for supper… We would however wish to encourage the Respondents to remove the monotony in the maize meal/peas or beans diet by diversifying within the options given in the Third Schedule of the Prisons Act”.

3.2.2. Accessibility: The court acknowledged that while some logistical constraints were real, such as inadequate cooking facilities in overcrowded prisons like Maula and Chichiri, which made it difficult to serve more than one meal per day, other issues pointed to systemic inequality, including unequal access to communication, where only prisoners with money could afford to communicate.

“Prisoners are allowed to get food from their relatives,”
yet “only prisoners with money have access to communication,”

3.2.3. Adequacy: The court recognized that the prisoners' monotonous diet, primarily consisting of *nsima* and beans, lacked nutritional diversity.

Additionally, the inclusion of vegetables, meat or fish was only occasional.

“The prisoners complained that they are always served with a monotonous diet of *nsima* (mgaiwa) and beans/pigeon peas once a day. However, it is pleasing to note that this diet is supplemented by vegetables in almost all the prisons”.

“The prisoners are on occasion fed fish, meat and vegetables dishes ».

3.2.4. Sustainability: see point 3.2.2. “The farming or agricultural activities have been intensified in prison farms and have considerably improved the food situation in the prisons... There is poultry farming benefiting prisoners”.

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: Not addressed by the judgment.

3.3.2. Accountability: The Court ordered compliance with Prison Act standards within 18 months.

“Accordingly, we direct the Respondents to comply with this judgment within a period of eighteen months by taking concrete steps in reducing prison overcrowding by half, thereafter periodically, educing the remainder to eliminate overcrowding and by improving the ventilation in our prisons and, further, by improving prison conditions generally. Parliament through the Prisons Act and Prison Regulations set minimum standards on the treatment of prisoners in Malawi, which standards are in tandem with international minimum standards in the area ».

3.3.3. Non-Discrimination: The judgment highlighted alleged discrimination within the prison system, as only prisoners with money had access to communication, creating unequal treatment among inmates based on economic status. “Only prisoners with money have access to communication”.

3.3.4 Transparency: Not addressed by the judgment.

3.3.5. Human Dignity: The court strongly emphasized that human dignity remains an inalienable right, even for incarcerated individuals, and used it as a central standard in assessing the adequacy of prison conditions, including food provision. he judgment framed the lack of adequate, diverse meals and poor detention conditions (including overcrowding, inadequate clothing, and lack of bedding) as violations of dignity, particularly when such deprivation was systemic and prolonged.

“The act of giving prisoners one meal a day is not in tandem with the right to human dignity under Section 19(1) of our Constitution. Food is very basic to the sustenance of human life, and providing prisoners with a single meal of *nsima* and beans over long periods of time is cruel and inhuman”

3.3.6. Empowerment: Not addressed by the judgment.

3.3.7. Rule of Law: The court affirmed the principle of rule of law by holding that compliance with constitutional and statutory obligations is not optional, even in the face of resource limitations. The respondents had argued that budgetary constraints prevented them from fully implementing the minimum standards for food, clothing, and hygiene as set out in the Prisons Act and its Regulations. However, the Court firmly rejected this as a legal defence.

“No one should be allowed to disobey the law merely on the ground that he or she does not have sufficient resources to enable them obey the law and fulfil their obligations under the law”.

“The law as is put in the Prison Regulations is not a mere aspiration which has to be progressively attained... It is in fact the minimum requirement”.

3.4. Legal obligations:

Examine the court’s decision on the State’s obligation to respect, protect, and fulfil the right to food (copy in the reasoning).

3.4.1. Respect The court ruled that the State must not deprive prisoners of adequate food or subject them to conditions that violate their dignity. It cited Section 44 of the Constitution, which guarantees non-derogable rights, including freedom from cruel and inhuman treatment. The judgment referenced *Linton v. Jamaica* (UNHCR Communication No. 258/1987), which established that withholding food constitutes inhuman treatment (p. 38-44)

3.4.2. Protect: The Court found that the State failed to prevent malnutrition risks in prisons by providing only one meal per day and relying on a nutritionally monotonous

diet consisting primarily of maize (*nsima*) and beans, which violated the minimum dietary standards prescribed in the Third Schedule of the Prisons Act (page 60-61).

3.4.3. Fulfil (facilitate and provide):

While the Court acknowledged the existence of budgetary limitations, it firmly rejected the notion of "progressive realization" as a justification for failing to meet prisoners' basic dietary needs. Instead, the Court held that the minimum standards outlined in the Prisons Act are binding obligations, not aspirational goals, and therefore require immediate compliance (p.51). These findings demonstrate the Court's commitment to enforcing the rule of law and immediate realization of minimum rights, even within a resource-constrained environment.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? Not referenced in these terms.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? Yes, see point 3.4.3.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? The Court held the Minister of Home Affairs and Internal Security and the Commissioner of Prisons responsible for the violation.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? The court did not directly examine third-party responsibility, but allegations in the affidavits suggested internal corruption or selective access, and the court acknowledged these allegations (p.5; 58-60)

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? No.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: The High Court Constitutional Panel.

4.2. Tier of the court that made the final decision (check if appealed): The High Court of Malawi.

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The court relied on Section 108(2) of the Constitution, which grants the High Court authority to review government actions for constitutionality.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The Court in *Masangano v Attorney General* upheld the right to food in principle, recognizing it as fundamental to human dignity. However, it found the one-meal-per-day system provided in most prisons to be unsatisfactory and degrading, particularly due to its lack of nutritional diversity and inadequate frequency. Although the court did not frame this explicitly as a standalone violation of the right to food, it linked the practice to broader constitutional violations concerning humane treatment.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- Reduce overcrowding by 50% within 18 months.
- Improve ventilation and sanitary conditions.
- Parliament must increase funding to meet Prisons Act standards

4.6. Mechanisms for the enforcement of the decision and outcomes: The judgment did not establish a monitoring body, leaving compliance to the government.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? This case set a precedent in Malawi for enforcing minimum food standards in prisons, affirming that resource constraints do not excuse rights violations. It strengthened the justiciability of socio-economic rights under the Constitution.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? The case has been cited in academic, advocacy, and legal sources as a foundational decision on socio-economic rights in Malawi. It is recognized for affirming that minimum standards for food, health, and dignity in prisons are legally enforceable, regardless of resource constraints. It has been analysed in the African Human Rights Law Journal as Malawi's first major socio-economic rights case, linking prison conditions to constitutional protections of dignity.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? No substantial barriers: the case was brought by a prisoner acting on behalf of all prisoners, showing standing was granted.

5.3.2.Was legal aid available/how was the case funded? The applicant was represented by counsel (Mr. Salimu), but no mention of funding sources or legal aid schemes is included.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? The court did not outline oversight or follow-up mechanisms, relying instead on compliance with judicial orders.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? N/A

23. Pharmaceutical and Health Care Association of the Philippines v. Health Secretary Francisco T. Duque III; Health Undersecretaries Dr. Ethelyn P. Nieto, Dr. Margarita M. Galon, Atty. Alexander A. Padilla, and Dr. Jade F. Del Mundo; and Assistant Secretaries Dr. Mario C. Villaverde, Dr. David J. Lozada, and Dr. Nemesio T. Gako, G.R.RNo. 173034,

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Pharmaceutical and Health Care Association of the Philippines, petitioner, vs. Health Secretary Francisco T. Duque iii; Health Undersecretaries Dr. Ethelyn p. Nieto, dr. Margarita m. Galon, atty. Alexander a. Padilla, & dr. Jade f. Del mundo; and assistant secretaries dr. Mario c. Villaverde, dr. David j. Lozada, and dr. Nemesio t. Gako

1.2. Date of ruling: 9th of October 2007

1.3. Country (and locality, if relevant e.g. department/municipal town): Philippines

1.4. Forum (jurisdiction): Supreme Court

1.5. Forum type (territorial): National

1.6. Thematic focus: Children's rights, breastfeeding, nutrition

1.7. Parties involved:

Petitioner: Pharmaceutical and Health Care Association of the Philippines.

Respondents:

· Health Secretary Francisco T. Duque III.

· Health Undersecretaries Dr. Ethelyn P. Nieto, Dr. Margarita M. Galon, Atty. Alexander A. Padilla, & Dr. Jade F. Del Mundo1

· Assistant Secretaries Dr. Mario C. Villaverde, Dr. David J. Lozada, and Dr. Nemesio T. Gako

·The Department of Health (DOH)

1.8. Type of petition (individual complaint, class action): individual action

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case concerns a petition filed by the Pharmaceutical and Health Care Association of the Philippines, which represents manufacturers of breastmilk substitutes, against the Department of Health (DOH) and its officials. The petitioners sought to nullify Administrative Order (A.O.) No. 2006-0012, known as the Revised Implementing Rules and Regulations (RIRR) of Executive Order No. 51, the "Milk Code".

The fundamental issue at the heart of the dispute is the provision of safe and adequate nutrition for infants and young children in the Philippines. All parties, including the Court, agree that mother's milk is the best nourishment for an infant, and the ideal is for every Filipino child to receive the unequaled benefits of breastmilk.

The petitioner challenged several RIRR provisions as unconstitutional and exceeding the scope of the Milk Code, directly impacting the marketing and distribution of food products for infants and young children. These food-related contentious points. The RIRR extended its scope beyond infants (0-12 months), as defined in the Milk Code, to include "young children" up to three years of age. The RIRR declared further "exclusive breastfeeding for infants from 0 to six (6) months" and that "there is no substitute or replacement for breastmilk," which the petitioner argued diverged from the Milk Code's acknowledgment that breastmilk substitutes may be necessary in certain instances.

A significant point of contention was the RIRR's absolute prohibition on advertising, promotions, and sponsorships of breastmilk substitutes intended for infants and young children up to twenty-four (24) months, including a ban on health and nutritional claims. The Milk Code, conversely, established an Inter-Agency Committee (IAC) to regulate, rather than entirely prohibit, such promotional materials.

The RIRR introduced additional labeling requirements and placed restrictions on milk companies' involvement in breastfeeding promotion, education, and policymaking bodies related to breastfeeding. Further, it also imposed an absolute prohibition on donations from manufacturers and distributors of breastmilk substitutes, whereas the Milk Code allowed such donations upon request or with DOH approval.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

Right to health- Section 15, Article II of the 1987 Constitution

Right to Adequate Nutrition- Milk Code

Restraint of Trade- RIRR restrictions on selling the breast milk

Freedom of Commercial Speech- RIFF Section 4(f) and 11

1.11. Link to the judgement:
https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/44615

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- International Code of Marketing of Breastmilk Substitutes (ICMBS)

- UNCRC

- ICESCR

- CEDAW

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- The Philippine Constitution- Article VII, Section 21, Article II, Section 2, Article 15, Section 15 and due process clause

- Milk Code

- Administrative Order No. 2006-2012 (revised implementing rules and regulations or RIRR)

- 1917 Revised Administrative Code of the Philippine Islands (Act No. 2711)

- Administrative Order No. 2005-0014

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

Domestic Cases

- Executive Secretary v. Court of Appeals

- Purok Bagong Silang Association, Inc. v. Yuipco

- Mijares v. Ranada

- Government of Hongkong Special Administrative Region v. Olalia,

- Mejoff v. Director of Prisons

- Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc

- Minucher v. Court of Appeals

- Equi-Asia Placement, Inc. vs. Department of Foreign Affairs

- Civil Aeronautics Board v. Philippine Air Lines, Inc

- Eastern Assurance & Surety Corporation v. Land Transportation Franchising and Regulatory Board

- Pest Management Association of the Philippines v. Fertilizer and Pesticide Authority

- Yazaki Torres Manufacturing, Inc. v. Court of Appeals

International Cases

- Virginia Pharmacy Board v. Virginia Citizens Consumer Council

- Central Hudson Gas & Electric v. Public Service Commission

- Jacobson v. Massachusetts

- Judge Tanaka's dissenting opinion in the 1966 South West Africa Case

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): No explicit reference to right to food

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The term "availability" is directly used in the Milk Code's scope, stating it applies to products like breastmilk substitutes, "and to their quality and availability, and to information concerning their use"(pg 17). While the physical availability of breastmilk substitutes was not directly asserted as compromised by the DOH's actions, the

availability of *information* about proper infant feeding and breastmilk substitutes was a central concern.

3.2.2. Accessibility:N/A

3.2.3. Adequacy: The component of adequacy is central to the Court's assessment, particularly in terms of ensuring that infants receive nutritionally sound and safe nourishment. The dispute revolves around ensuring that promotional activities for breastmilk substitutes do not undermine the recognized superiority of breastfeeding and thus compromise the adequacy of infant nutrition. The Court acknowledges the "unequaled benefits of breastmilk"(pg 1) and the "primacy of breastfeeding for children as a national health policy" (pg 10).

3.2.4. Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: The petitioner, the Pharmaceutical and Health Care Association of the Philippines, representing manufacturers of breastmilk substitutes, initiated the legal challenge to the Revised Implementing Rules and Regulations (RIRR) (pg 1) This demonstrates their *participation* in challenging a government policy that directly affects their industry. The Court explicitly recognized the petitioner's standing as a "real party-in-interest" because its legal identity is "deemed fused with its members" and it is "mandated by its Amended Articles of Incorporation to represent the entire industry"(pg 3). This validates the industry's right to participate in legal processes concerning policies that affect them

3.3.2. Accountability:
The **petition for *certiorari*** explicitly seeks to nullify the RIRR on the grounds that it is "not valid as it contains provisions that are not constitutional and go beyond the law it is supposed to implement" and that DOH officials "acted without or in excess of jurisdiction, or with grave abuse of discretion"(pg 1). This directly holds the DOH accountable for its exercise of delegated legislative powers

3.3.3. Non-Discrimination: N/A

3.3.4. Transparency: The principle of transparency is a central theme, particularly concerning the dissemination of information about infant feeding. The Milk Code and the RIRR are founded on the need to provide "adequate, consistent and objective information" about breastfeeding and the proper use of breastmilk substitutes (pg 19). The DOH's authority under the Milk Code explicitly includes the power to "control" information on infant nutrition, covering "the planning, provision, design and dissemination of information" (pg. 28). This grants the DOH the mandate to ensure that information is transparent and not misleading. The Court upheld provisions of the RIRR requiring labels to warn about "the health hazards of unnecessary or improper use of infant formula and other related products, including information that powdered infant formula may contain pathogenic microorganisms"(21). This promotes transparency by requiring manufacturers to disclose potential risks, enabling informed consumer choice.

3.3.5. Human Dignity: N/A

3.3.6 Empowerment: The goal of providing "adequate, consistent and objective information" (pg 10) on infant feeding, including the benefits of breastfeeding and the

proper use and implications of breastmilk substitutes, directly empowers parents to make informed decisions about their infants' health and well-being.

3.3.7. Rule of Law: The concept of the rule of law, as applied in this case, primarily focuses on ensuring that administrative agencies like the Department of Health (DOH) operate strictly within the bounds of their legal authority and adhere to the Constitution and existing statutes. The Court found that the DOH exceeded its delegated powers when promulgating Sections 4(f), 11 (absolute advertising prohibition), and 46 (administrative sanctions) of the Revised Implementing Rules and Regulations (RIRR), declaring them null and void as *ultra vires* and in contravention of the Milk Code.

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The court implicitly touches on the obligation to respect by limiting the DOH's power to impose an absolute prohibition on the advertising, marketing, and promotion of breastmilk substitutes(pg 20). It declared Sections 4(f) and 11 of the RIRR, which imposed this absolute ban, as null and void for being *ultra vires* (beyond the DOH's authority).

3.4.2. Protect:NA

3.4.3. Fulfil (facilitate and provide): The court's decision supports the State's role in facilitating access to "safe and adequate nutrition for infants"(pg 10) by upholding the DOH's power to "ensure that objective and consistent information is provided on infant feeding" and "control thereof (pg 28).

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? No

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? No, the court did not invoke the principle of progressive realization. The decision is focused on the scope of administrative authority and the consistency of the RIRR with existing domestic law (the Milk Code) and the Constitution.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? The court found the Department of Health (DOH) at fault for *exceeding its statutory authority* (acting *ultra vires*) in promulgating Sections 4(f), 11, and 46 of the RIRR.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? The case directly involved non-state actors, specifically manufacturers of breastmilk substitutes. While the court did not explicitly frame their actions as "violations of the right to food," it upheld the State's power to regulate these actors to achieve public health goals related to infant nutrition. The court affirmed that "public interest must be upheld over business interests".

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? No

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: The Supreme Court of the Philippines

4.2. Tier of the court that made the final decision (check if appealed): The Supreme Court of the Philippines

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Rule 65 of the Rules of Court

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The Court and all parties agreed that "the best nourishment for an infant is mother's milk" and that "the ideal is... for each and every Filipino child to enjoy the unequaled benefits of breastmilk"(pg 1). The court upheld that the RIRR, like the Milk Code, recognized breastmilk substitutes may be proper "when medically indicated and only when necessary, on the basis of complete and updated information"(pg 11). The court further affirmed the DOH's delegated power under the Milk Code to "ensure that objective and consistent information is provided on infant feeding" and to "control thereof"(pg 28). It also upheld the RIRR's labeling requirements for breastmilk substitutes, such as stating "there is no substitute for breastmilk" and warning about pathogenic microorganisms in powdered infant formula. The Court found that the DOH exceeded its delegated powers (*ultra vires*) by promulgating Sections 4(f) and 11 of the RIRR, which imposed an absolute prohibition on advertising, promotion, and sponsorship of breastmilk substitutes intended for infants and young children up to twenty-four months. The Milk Code itself did not contemplate such an absolute ban but instead created an Inter-Agency Committee (IAC) to regulate such activities. The court also declared Section 46 of the RIRR, which provided for administrative sanctions (fines and penalties), as null and void for being *ultra vires.*

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): The court's decision was a partial grant of the petition (pg 33). This includes,

- Sections 4(f), 11, and 46 of Administrative Order No. 2006-0012 were declared NULL and VOID for being ultra vires.

- The Department of Health and respondents were PROHIBITED from implementing these nullified provisions.

- The Temporary Restraining Order (TRO) issued on August 15, 2006, was LIFTED insofar as the rest of the provisions of Administrative Order No. 2006-0012 were concerned. This means the majority of the RIRR provisions, which were found to be consistent with the Milk Code, were allowed to be implemented

4.6. Mechanisms for the enforcement of the decision and outcomes: The decision itself, being a final ruling from the Supreme Court, is legally binding and enforceable. The immediate mechanism for enforcement is the prohibition issued to the Department of Health and its officials from implementing the declared null and void provisions (Sections 4(f), 11, and 46). For the remaining valid provisions of the RIRR, the previous Temporary Restraining Order was lifted, allowing their implementation to proceed.

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? The case relates to infant and young child nutrition, which is a critical component of the right to adequate food. The Court upheld that the Milk Code aims to ensure "safe and adequate nutrition for infants" by protecting and promoting breastfeeding, and by regulating the proper use and marketing of breastmilk

substitutes. This implicitly supports public health objectives aligned with food security, but it does not articulate or expand the constitutional or international legal understanding of the RTF itself.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? It will provide a strong precedent towards protecting infant nutrition requirements, and the state cannot exceed the statutory restrictions.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? No

5.3.2. Was legal aid available/How was the case funded? N/A

5.3.3. Were the mechanisms put in place to ensure the implementation of the decision adequate? The court provided direct mechanisms for implementation. The adequacy of these mechanisms in practice would depend on the subsequent compliance of the DOH and the enforcement actions of relevant government bodies, which are not detailed in the provided source.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? N/A

24. Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Others

1.2. Date of ruling: 25 July 2008

1.3. Country (and locality, if relevant e.g. department/municipal town): South Africa

1.4. Forum (jurisdiction): Constitutional of South Africa

1.5. Forum type (territorial): National

1.6. Thematic focus: Land use and property rights, interpretation of "agricultural land" under legislation.

1.7. Parties involved:

· Applicant: Wary Holdings (Pty) Ltd

· Respondents: Stalwo (Pty) Ltd; Registrar of Deeds, Cape Town

· Intervening Party: Minister of Agriculture and Land Affairs

· Amici curiae: Trustees of the Hoogekraal Highlands Trust, Safamco Enterprises (Pty) Ltd

1.8. Type of petition (individual complaint, class action): Individual complaint (appeal by a private party)

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case concerned a dispute over the sale of land previously designated as “agricultural land” under the Subdivision of Agricultural Land Act 70 of 1970. The key legal issue was whether the land retained this designation following municipal restructuring, thus requiring ministerial consent for its subdivision and sale. The seller (Wary Holdings) attempted to declare the agreement invalid when the land’s value increased and the costs of required improvements became burdensome.

While the case primarily revolved around statutory interpretation, its implications extend to the right to food, particularly through the lens of land use governance and the preservation of agricultural land.

The applicant had applied to rezone and subdivide the land formerly used or zoned for agriculture, for industrial development. The sale and intended rezoning therefore presented a conflict between urban expansion and the constitutional and policy imperative to safeguard land for agricultural production, which is critical to food availability and sustainability.

Amici curiae and the Minister of Agriculture argued that allowing such land to be freely alienated without ministerial oversight threatened the broader public interest, particularly in the context of South Africa's constitutional obligations under Section 27(1)(b) (right to access to sufficient food) and Section 24(b)(iii) (environmentally sustainable development). They emphasized that agricultural land, once reclassified or absorbed into urban municipalities without national oversight, risks being lost to non-agricultural uses, undermining food systems and long-term food security.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

Right to land use (property and development)

Indirectly implicates right to food, land, and sustainable development

Legal bases:

- Subdivision of Agricultural Land Act 70 of 1970
- Section 25 of the Constitution (property)
- Section 27 (access to food and water)
- Section 24(b)(iii) (environmentally sustainable development)

1.11. Link to the judgement: https://www.saflii.org/cgi-bin/disp.pl?file=za/cases/ZACC/2008/12.html&query=%20right%20to%20food

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

No direct references to international instruments were made in the judgment.

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Subdivision of Agricultural Land Act 70 of 1970
- Constitution of South Africa, notably:
· Section 24(b)(iii)
· Section 25
· Section 27
- Local Government Transition Act
- Municipal Structures Act
- Municipal Demarcation Act

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- Finbro Furnishers v Registrar of Deeds
- Kotzé v Minister van Landbou
- Geue v Van der Lith
- Fuel Retailers Association case (constitutional environmental duties)

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

While the Constitutional Court did not directly mention “the right to food,” the amici curiae and the Minister of Agriculture explicitly invoked constitutional provisions that support the right to food:

§50–51: The Minister and amici curiae submitted that reclassifying agricultural land undermines access to land, food, and environmental sustainability, as protected under:

- Section 27(1)(b): Right to have access to sufficient food
- Section 24(b)(iii): Right to sustainable development
- Section 25(5): Right to equitable access to land

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1 Availability: It is argued that ministerial oversight prevents loss of arable land (§85).

3.2.2. Accessibility: The issue of accessibility is addressed in the same paragraph referring to ministerial oversight (§85).

3.2.3. Adequacy: Not addressed in the judgment.

3.2.4. Sustainability: The issue of sustainability is addressed by invoking section 24(iii) of the Constitution which refer to ecologically sustainable development and use of the land (§50).

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: No participation by food-affected groups or communities was considered.

3.3.2. Accountability: The judgment does not discuss this matter.

3.3.3. Non-Discrimination: The judgment does not discuss this matter.

3.3.4 Transparency: The judgment does not discuss this matter.

3.3.5. Human Dignity: The judgment does not discuss this matter.

3.3.6 Empowerment: The judgment does not discuss this matter.

3.3.7. Rule of Law: The entire judgment focuses on interpreting the Subdivision of Agricultural Land Act and constitutional competence of municipalities under the rule of law (§54–67).

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The Court did not address the state's obligation to refrain from interfering with access to food or productive land.

3.4.2. Protect: Not explicitly addressed by the court.

3.4.3. Fulfil (facilitate and provide): The court address it indirectly in the form of facilitation in §85, it acknowledges that the State has positive obligations to facilitate access to agricultural land, which is an essential precondition for individuals or communities to produce food and secure livelihoods.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? This matter is not addressed by the court.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food?

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? This matter was not addressed in the case. As the case was filed on an appeal basis to the constitutional court, it only reversed the SCA's decision and affirmed the Minister's Authority to regulate the land under the Act. The judgment was more about the interpretation of one provision than finding someone at fault.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? No, this is matter is not addressed by the court.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? The Court's reasoning remained narrowly focused on statutory interpretation. It mentions national interest in land use control, but there is no direct engagement with structural issues such as inequality, food insecurity, or rural land access.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: Constitutional Court (via *amici* arguments).

4.2. Tier of the court that made the final decision (check if appealed): Constitutional Court.

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The basis for jurisdiction was section 167(3)(b).

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Court ultimately prioritised municipal autonomy over centralised control,

ruling that once land fell under municipal jurisdiction, ministerial consent was no longer required. The judgment did not outright dismiss food security concerns but deferred responsibility to local governments, emphasising that integrated development plans (IDPs) under the *Municipal Systems Act* could address agricultural preservation. Yet, the Court stopped short of imposing safeguards to ensure municipalities would actively protect food-producing land, leaving a gap in enforceable protections against unsustainable rezoning (§139-140).

In essence, while the right to food was acknowledged in arguments, the

ruling sidestepped a substantive engagement with how decentralised land-use decisions might impact food availability. This created uncertainty about whether local governments would or even could balance urban development with the constitutional obligation to safeguard food security. The case thus highlights a tension between local governance flexibility and national food security imperatives, without resolving how to harmonise the two (§83-105; 139-141).

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): This was not the object of the appeal, which was based on constitutional interpretation.

4.6. Mechanisms for the enforcement of the decision and outcomes: None (see 4.5).

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? The case sets a limited precedent in the context of the right to food, as the Constitutional Court prioritised land-use governance and statutory interpretation over the explicit integration of food security safeguards. Although the case concerned agricultural land, the judgment did not engage directly with the right to food or broader socio-economic implications. Instead, it reinforced a decentralised model of land regulation by affirming that, following municipal restructuring, certain land no longer qualified as "agricultural land" under national legislation. This shift of control to municipalities potentially risks fragmented oversight and weakens coordinated national protection of land essential for food production, thereby indirectly affecting long-term food security.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

The judgment is weak in advancing the right to food, as the Constitutional Court focused on statutory interpretation rather than engaging with constitutional rights enforcement.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? No evidence of access barriers.

5.3.2. Was legal aid available/how was the case funded? Not mentioned.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? This was not the object of the appeal, which was based on constitutional interpretation.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? The judgment provided no follow-up mechanism to ensure that agricultural land would continue to be protected in the public interest, particularly for food security purposes.

25. Bandonda v Captain Investments Ltd and Another, Civil Suit No. 493 of 2018

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Bandonda v Captain Investments Ltd and Another (Civil Suit no. 493 of 2018) UGHCCD 245 (5 December 2022)

1.2. Date of ruling: 5 December 2022

1.3. Country (and locality, if relevant e.g. department/municipal town): Uganda – Kampala

1.4. Forum (jurisdiction): High Court of Uganda, Civil Division

1.5. Forum type (territorial): National

1.6. Thematic focus: Unlawful arrest, and detention, police misuse of authority in civil/commercial matters, right to liberty and due process

1.7. Parties involved:

- Plaintiff: Bandonda Nicholas

- Defendants: (1) Captain Investments Ltd (2) Attorney General of Uganda

1.8. Type of petition (individual complaint, class action): Civil suit for declarations, damages for unconstitutional arrest and detention, and enforcement of fundamental rights

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The Plaintiff, Bandonda Nicholas, sued Captain Investments Ltd and the Attorney General of Uganda for illegal arrest and detention stemming from a commercial dispute over a hire-purchase agreement for a vehicle.

The Plaintiff had entered into a hire-purchase agreement with the 1st Defendant to buy a motor vehicle (Reg. No. UAA 046D), which was lost when the Plaintiff's driver absconded

with it. The 1stDefendant, instead of pursuing civil remedies, involved police officers who arrested the Plaintiff without explanation and detained him for five days.

The Plaintiff was lured to a meeting under false pretenses by the 1st Defendant and arrested by Jinja Road Police officers. He was taken to the 1st Defendant's premises, then detained at the police station, where he was served with a civil summons related to the car dispute. He was never charged with any criminal offence and was released after several days in custody, having been fed one insufficient meal per day.

The case was heard *ex parte* as neither Defendant filed a written statement of defence despite proof of service. The plaintiff's arrest and detention were found to violate Article 23 of the Constitution, which protects personal liberty. The Judge emphasized that arrest for civil disputes is unconstitutional and that the police failed to act with reasonable suspicion as required under Article 23(1)(c) of the Constitution and Section 23 (1) of the Police Act

Furthermore, the Plaintiff's detention exceeded 48 hours, violating Article 23(4)(b) of the Constitution and Section 25(1) of the Police Act. The police also denied him bond, contravening Section 17 of the Criminal Procedure Code Act. The Court held that there was no justification for arrest since the dispute was civil in nature and already subject to a pending civil suit. The judge warned against the misuse of criminal law to resolve private disputes.

The Court also considered the Plaintiff's claim regarding denial of adequate food in detention. Although the Court acknowledged Uganda's international obligations under the ICESCR and UDHR, it held that the right to food during detention is subject to progressive realization and institutional capacity. Because the Plaintiff had access to family and no evidence showed he was blocked from receiving food, this aspect was not deemed to independently constitute a violation.

The Court held both the private company and the government vicariously liable: The former for instigating the arrest, and the latter for the actions of its police officers. The Plaintiff was awarded interest on the general damages at the rate of 8% p.a. from the date of judgment. The Court declined to award punitive damages, reasoning that although police practices were deplorable, the Plaintiff did not suffer deliberately malicious treatment warranting exemplary punishment.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

Right to liberty and freedom from arbitrary detention

- National legal basis:

o Article 23(1)(c), (2), (3), (4)(b), and (5) of the Constitution

- Section 23(1), 25(1) of the Police Act
- Section 17(3) of the Criminal Procedure Code Act

Right to food and humane treatment in detention

- International legal basis:
  - Article 11, ICESCR
  - Article 25(1), UDHR

Right to due process and equality before the law

- National legal basis:
  - Article 28(7), (12) of the Constitution

1.11. Link to the judgement:

https://ulii.org/akn/ug/judgment/ughccd/2022/245/eng@2022-12-05

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

International legal basis (explicit or implicit):

- Article 11, International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Article 25(1), Universal Declaration of Human Rights (UDHR)

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

Domestic legislation and constitutional provisions:

- Constitution of Uganda:
  - Article 23 (liberty and due process)
  - Article 24 (freedom from cruel and inhuman treatment)
- Police Act, Sections 23 and 25
- Criminal Procedure Code Act, section 17

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- *Hon. Elijah Okupa v Attorney General, HC MC No. 14 of 2014*

- *Godfrey Nyakana v NEMA & Others, SCCA No. 05 of 2011*

Other case law cited in relation to progressive realization of socio-economic rights

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

Provision of insufficient meals during detention

[21] It was stated by the Plaintiff that he was given one insufficient meal per day for the five days he was in detention. Counsel for the Plaintiff conceded that there is no express right to food but made reference to the provisions under Article 25(1) of the Universal Declaration of Human Rights (UDHR) and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which make specific provision for the right to food and are justiciable under our law.

Counsel relied on the decisions in *Hon. Elijah Okupa vs Attorney General, HC MC No. 14 of 2014* and*Godfrey Nyakana vs Nema & Others, SCCA No. 05 of 2011* and invited the Court to find that denial of sufficient meals to the Plaintiff was a contravention of his right to food.

[22] As conceded by the Plaintiff's Counsel, the right to food is not one of the fundamental or other rights expressly enshrined in our law. However, it is true that it is one that is justiciable in light of Uganda's obligation under international law. It is further important to note that the rights provided for under the International Covenant on Economic, Social and Cultural Rights are subject to progressive realization by member states. It is recognized under the instrument that their implementation cannot be achieved at once and immediately by state parties to the Covenant. As such, the right to sufficient meals during detention in all detention places in Uganda cannot be guaranteed. The State attempts to provide such meals as are within the budgetary capacity of the institutions. It then becomes necessary that the institutions ensure that where a suspect can access food from their relatives or friends, they are not unreasonably blocked.

The Court stated:

- The right to food is protected under Article 11 of the International Covenant on Economic, Social and Cultural Rights and Article 25 of the Universal Declaration of Human Rights. It is part of the Government's obligation to provide basic needs to people who cannot access food, including those in detention.

- However, it is also held that such obligations are "subject to progressive realization" and dependant on institutional capacity.

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: The Plaintiff alleged he received only one meal a day; the Court did not dispute this but held that availability was constrained by budgetary limitations.

3.2.2. Accessibility: The Plaintiff had access to family members who could have brought him food. The Court noted he was not denied access to such help

3.2.3. Adequacy: Not directly discussed in terms of nutritional value

3.2.4. Sustainability: Not applicable in the context of short-term detention

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: not relevant in detention context

3.3.2. Accountability: The government was held responsible through the Attorney General

3.3.3. Non-Discrimination: not specifically argued, but the case implicitly concerns equal treatment of detainees

3.3.4. Transparency: No finding of denial of information, but the Plaintiff's detention was arbitrary

3.3.5. Human Dignity: Central to the Article 24 claim

3.3.6. Empowerment: The Plaintiff exercised by his rights by suing

3.3.7. Rule of Law: Affirmed through the court's enforcement of constitutional and statutory detention rules.

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The State must not interfere with access to food for detainees. Court found no active interference

3.4.2. Protect: No evidence that the State prevented family from bringing food

3.4.3. Fulfil (facilitate and provide): The State is expected to ensure detainees receive adequate food, but the Court held this is subject to progressive realization

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant?

- Alleged but not proved to judicial satisfaction

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food?

- Key part of Court's reasoning: obligations apply but depend on available resources.

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food?

- Yes, the State was found vicariously liable for police actions.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how?

- Private actor: Captain Investments Ltd was found liable for instigating the unlawful arrest

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)?

- Not addressed

4. Outcome of the legal case

4.1 Tier(s) of the court that referred explicitly to the right to food:

- High Court of Uganda (Civil Division)

4.2. Tier of the court that made the final decision (check if appealed):

- Same court, High Court (no appeal noted in ruling)

4.3. Legal basis invoked by the court to assert its jurisdiction over the case:

- Constitutional and tort claims via civil procedure

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

It involved the unlawful arrest and detention of the Plaintiff for a civil dispute. The detention was beyond 48 hours without charge and there was no legitimate criminal suspicion.

The claim of insufficient food not independently upheld. The Court recognized right to food under international law, but framed it as subject to budgetary and institutional limits.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- 8% interest per annum from judgment until payment
- Costs awarded
- Punitive damages were declined

4.6. Mechanisms for the enforcement of the decision and outcomes:

- Civil judgment with monetary enforcement against both state and private actor

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

Moderate significant in advancing the right to food.

The Court acknowledged the constitutional relevance of the right to food via Uganda's international obligations. However, it applied the doctrine of progressive realization conservatively and declined to find a violation in this specific instance.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

Limited precedent strength, but notable. Reinforces limits on arbitrary detention and indirectly affirms the justiciability of socio-economic rights in detention contexts. Future litigants may build on the recognition of international food rights, but the evidentiary bar remains high.

5.3. As far as the information is available, consider also:

5.3.1.Were there any barriers to accessing the court (costs, standing, delay)?

None indicated; The Plaintiff was represented and the case proceeded ex parte due to Defendant(s) inaction.

5.3.2. Was legal aid available/how was the case funded?

(not mentioned)

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

5.3.4.

Was there follow-up by courts, civil society, or other oversight bodies? N/A

26. Center for Food and Adequate Living Rights v. Attorney General of Uganda and Another, Miscellaneous Cause No. 436 of 2019

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Center for food and adequate living rights v Attorney General of Uganda and Another (Misc Cause No. 436 of 2019) [2022] UGHCCD 87 (25 May 2022)

1.2. Date of ruling: 25 May 2022

1.3. Country (and locality, if relevant e.g. department/municipal town): Uganda - Kampala

1.4. Forum (jurisdiction): High Court of Uganda, Civil Division

1.5. Forum type (territorial): National

1.6. Thematic focus: Socio-economic rights, Children's rights, right to adequate food, regulation of marketing of unhealthy food, government duty to regulate food systems and labelling

1.7. Parties involved:

Applicant: Centre for Food and Adequate Living Rights (CEFROHT)

Respondents:

(1) Attorney General of Uganda;

(2) Uganda Communications Commission

1.8. Type of petition (individual complaint, class action): Public interest litigation (constitutional and human rights enforcement application under Article 50(2) of the Constitution and the Human Rights (Enforcement) Act)

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The Applicant, Center for Food and Adequate Living Rights (CEFROHT), brought a constitutional human rights application against the Attorney General of Uganda and the Uganda Communications Commission (UCC), alleging violations of children's rights to adequate food, health, and safety.

The core claim was that the Government of Uganda had failed to regulate the marketing and advertisement of unhealthy foods targeted at children. The Applicant argued that children in Uganda were regularly exposed to aggressive marketing of foods high in fat, sugar, and salt, including through television, online media, in-school promotions, and general broadcast platforms before and after watershed hours.

This exposure, they argued, contributed to poor diets and increased risk of non-communicable diseases (NCDs), which were already responsible for approximately 35% of annual deaths in Uganda.

The Applicant based its claims on multiple legal grounds includes Articles 20, 22, 24, 33, 34, 45 and 8A of the Constitution, Objectives XIV and XXII of the National Objectives and Directive Principles of State Policy, and Sections 4(1)(g) and (I) of the Children Act.

It also relied on Uganda's international commitments under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the UN Convention on the Rights of the Child.

The Applicant sought declarations that Government omissions in regulating food advertising and nutrition labelling violated the right to adequate food. They also sought wide-ranging orders including bans on advertising unhealthy foods to children; restrictions to post-watershed hours; prohibition of in-school marketing; regulations on front-of-pack nutrition labelling; and prohibitions on using children in marketing.

The second Respondent, the Uganda Communications Commission, opposed the application on procedural grounds. It argued that the Applicant had not first submitted a complaint to the Commission as required under Section 5(1)(j) of the Uganda Communications Act, 2013. The UCC maintained that the case was premature, lacked a specific cause of action, and should be dismissed.

The Court agreed with the second Respondent. It ruled that the Applicant had failed to exhaust the available administrative remedies by not filing a complaint with the Commission, as required under law.

The Court found that only after such administrative avenues had been pursued, and possibly appealed to the Communications Tribunal, should the High Court by approached. Accordingly, the case was dismissed with costs to the second Respondent.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

Right to adequate food: Article 8A, 45 of the Constitution; Objectives XIV (b), XXII (c) of National Objectives; Section 4 (1)(g), (l) Children Act; ICESCR Article 11

Right to Health: Article 22, 33, 24 Constitution; Section 4 Children Act; ICESCR Article 12

Right to safety and well-being (especially of children): Article 33, 34 of the Constitution; UN Convention on the Rights of the Child

Right to consumer protection / food labelling (indirect): UN Guidelines for Consumer Protection; implied from Children Act and government duty to regulate advertising

1.11. Link to the judgement:

https://ulii.org/akn/ug/judgment/ughccd/2022/87/eng@2022-05-25

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

Mentioned but not adjudicated:

- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- United Nations Convention on the Rights of the Child
- UN Guidelines for Consumer Protection

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

Domestic legal basis (invoked by Applicant):

- Constitution of Uganda (Articles 20, 22, 24, 33, 34, 45, and 8A)
- National Objectives and Directive Principles of State Policy (XIV and XXII)

- Children Act (Sections 4(1)(g), (l))
- Uganda Communications Act, 2013 (Section 5(1)(j))

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- *Environmental Action Network Ltd v Attorney General & Anor (HCMA, No. 39 of 2001)*
- *Abudu Katuntu v MTN & 6 Others (HCCS No. 248 of 2012)*

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

The Right to adequate food was explicitly raised by the Applicant:

"(1) A declaration that Government's failure and omission to restrict marketing, broadcast and advertisement of unhealthy foods to children in Uganda threatens and is a violation of their rights to adequate food, health and safety contrary to Objectives XIV (b) and XXII (c) of the National Objectives and Directive Principles of State Policy, Articles 20,22,24,8A. 45,34 and 33 of the Constitution as amended, Section 4 (1)(g) and (L) of the Children Act as amended and a contravention of advertising standards 13(b), Annex 3 Rules 1,3,4,8,11,12 and 3.1,5.1,5.3,5.5,20,20.3 and 20.4 of the standards for general broadcast programming in Uganda"

"(3) A declaration that the Government's failure to regulate nutrition labelling threatens and is a violation of the right to health, safety and adequate food in Uganda.

The grounds of this application were that:

"i. The Government of Uganda is under a legal mandate to uphold, protect and fulfill the rights of all Ugandans including children rights to safety, health, adequate food and wellbeing."

"vii. Marketing, advertising and broadcast of unhealthy foods and beverages in Uganda by the media is done before and after the watershed time lines, exposing children to unhealthy diets compromising their safety, right to health and the right to adequate food"

"viii. The Respondents have failed and omitted to protect children from the adverse impact of marketing of unhealthy diets on children's health in accordance with the rights of children as acknowledged by the United Nations Convention on the Rights of the child, the right to adequate food, as set out in the International Covenant on Economic, Social

and Cultural Rights and consistent with the United Nations guidelines for consumer Protection"

"ix. The provisions in the advertising standards and broadcasting standards omit unhealthy foods exposure to children as a danger to children safety, well-being, right to health and the right to adequate food"

Issues for trial included:

"ii. Whether the 2nd Respondent's failure and omission to restrict marketing, broadcasting and advertisement of unhealthy foods to children threatens and is in a violation of their right to adequate food, health and safety contrary to objectives XIV (b) and XXII (c) of the National Objectives and Directive principles of the State policy, Article 20, 22, 24, 8A, 45, 33 and 34 of the Constitution as amended.

iii. Whether annex 3 rule 13 (a) (b) and (d) of the advertising standards are a threat and in violation of children's right to safety, health and adequate food contrary to Objectives XIV (a) and (b) and XX of the National Objectives and directive principles of state policy, Articles 20, 22, 33 and 8A of the Constitution as amended and Section 4 (1) (g) and (L) of the Children Act.

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1.Availability: implied; indirect concerns over market availability of unhealthy foods

3.2.2.Accessibility: indirect; focused on children's exposure to unhealthy food advertising

3.2.3.Adequacy: was addressed as the nutritional quality of food was central to the argument

3.2.4.Sustainability: not directly discussed

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1.Participation: implied, as no specific claim but the Applicant acted on behalf of children

3.3.2. Accountability: State's failure to regulate food environments was central claim

3.3.3. Non-Discrimination: this was implied, as the case was focused on children as a vulnerable group

3.3.4. Transparency: through demand for food labelling

3.3.5. Human Dignity: implied through child rights framing

3.3.6. Empowerment: indirect as the case showed role of civil society in advancing food-related claims

3.3.7. Rule of Law: case decision hinged on following statutory procedures

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: alleged by Applicant, as Government's failure to regulate harmful advertising practices

3.4.2. Protect: this was the core claim, as State's omission to prevent private actors from harming health/food rights

3.4.3. Fulfil (facilitate and provide): the Applicant sought regulations on food labelling

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? N/A

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? N/A

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food?

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? Yes, advertisers of unhealthy food (not named in suit)

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)?

- Yes, the marketing of unhealthy foods is linked to rising NCDs and poor nutrition in Uganda. Applicants argues that Ugandans are "at a risk of chronic, non-communicable diseases (NCDs) including cardiovascular disease, diabetes, cancers and other obesity related conditions yet these can be prevented".

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food:

- High Court of Uganda, Civil Division

4.2. Tier of the court that made the final decision (check if appealed):

- Same (first instance)

4.3. Legal basis invoked by the court to assert its jurisdiction over the case:

- Article 50(2) of the Constitution; Human Rights (Enforcement) Act; Civil Procedure Act

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Applicants alleged that the Government's failure to restrict the marketing of unhealthy foods to children endangered their right to adequate food, health, and safety.

The case framed the right to food as being jeopardized by the unregulated and pervasive advertisement of nutritionally harmful products, especially to children. However, the Court did not reach the merits of these claims.

It dismissed the case on procedural grounds, ruling that the Applicant failed to exhaust the administrative remedies provided under the Uganda Communications Act.

Specifically, the Applicant had not lodged the complaint with the Communications Commission before seeking judicial review. As a result, the right to food was neither upheld nor denied.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

- None. The application was dismissed

4.6. Mechanisms for the enforcement of the decision and outcomes:

- Not applicable, as the case was disposed of on a procedural basis

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

Although the Court dismissed the application on procedural grounds, the case is significant in that it attempted to operationalize the right to food in the context of food systems regulation, children's rights, and public health.

It framed the state's failure to regulate food marketing and labelling as a breach of core obligations under both domestic and international law. This approach marks an important attempt to move the right to food beyond access and availability, into the realm of nutritional adequacy and consumer protection.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

- Substantively weak, as the right to food was briefly addressed. However, the case affirms the doctrine of exhaustion of remedies, which could influence future procedural strategies.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)?

- Requirement to exhaust administrative remedies

- Lack of functioning Communications Tribunal (noted by Applicant but not accepted as sufficient reason)

- Complexity of procedural rules in litigation

5.3.2. Was legal aid available/how was the case funded? Not stated.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? Not applicable due to dismissal

27. Esoko & 3 Others v Attorney General & 4 Others, Miscellaneous Cause No. 42 of 2019

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Esoko & 3 Others v Attorney General & 4 Others (Miscellaneous cause no. 42 of 2019) [2020] UGHCCD 79 (30 April 2020)

1.2. Date of ruling: 30 April 2020

1.3. Country (and locality, if relevant e.g. department/municipal town): Uganda – Kampala (High Court, Civil Division)

1.4. Forum (jurisdiction): High Court of Uganda, Civil Division

1.5. Forum type (territorial): National

1.6. Thematic focus: Human rights enforcement, unlawful detention, rights of detainees (including right to food, access to medical care, and sanitary conditions)

1.7. Parties involved:

Applicants: Felix Cuthbert Esoko, Godlive Nayebare, Karuhanga Rosali, Humbisa Emmanuel

Respondents: Attorney General, Director Public Prosecutions, Lt. Col. Edith Nakalema, Director CID, OC Kabalagala Police

1.8. Type of petition (individual complaint, class action): Constitutional Petition under Article 50 of the Constitution of Uganda

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The Applicants were arrested and detained at Kabalagala Police Station from 6 to 11 April 2019. They filed this constitutional application alleging multiple violations of their fundamental rights. They claimed their detention exceeded the 48-hour constitutional limit, that they were denied access to their lawyers and families, and were subjected to inhuman and degrading treatment contrary to Articles 23(4), 24, and 44 of the Constitution.

Among the core claims were the denial of adequate food and clean drinking water, lack of access to sanitary facilities, denial of medical treatment, and lack of exposure to sunlight. Female applicants alleged denial of sanitary pads during menstruation.

The applicants further challenged the legality of the arrest and involvement of Lt. Col. Edith Nakalema in investigating them, claiming it was ultra vires since corruption cases should fall under the Inspectorate of Government.

The respondents admitted that the detention exceeded the 48-hour limit but argued that the delay was caused by the need for approval from the Director of Public Prosecutions. They denied all other allegations, asserting that the applicants had access to food, water, and medical care, and that conditions at the station were humane and lawful.

The court examined both affidavits and oral testimonies. It confirmed that the 48-hour rule had been violated and awarded general and punitive damages. However, it found the applicants' evidence on other claims, including the alleged denial of food, unconvincing. The court observed that detainees received food from the police or their relatives and that no credible evidence supported claims of complete deprivation or inhuman treatment.

Accordingly, the Court partially allowed the application: it upheld the violation of Article 23(4) (detention beyond 48 hours) but rejected the other claims.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

Right to liberty: Article 23 (4)(b) of the Constitution of Uganda

Right to freedom from cruel, inhuman and degrading treatment: Article 24 and 44(a) of the Constitution

Right to adequate food: not explicitly framed as a freestanding right but argued through Articles 24 and 44 on treatment of detainees

Right to water and sanitation: also implied under dignity/human treatment protections (Articles 24, 44)

Right health (access to medical care): implied under Articles 22 and 24

Rights of detained persons (including to medical treatment, food, and contact with family): Articles 23(5)(a)-(d) of the Constitution

The applicants did not base their claims on international law, but invoked various protections under Uganda's 1995 Constitution, particularly those related to humane treatment of detained persons.

1.11. Link to the judgement:

https://ulii.org/akn/ug/judgment/ughccd/2020/79/eng@2020-04-30

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

The case was brought under:

- Article 50 (1) & (2) of the Constitution of Uganda 1995, on enforcement of fundamental rights and freedoms

The High Court had jurisdiction to entertain the petition as a competent court under the Constitution.

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

The Court based its assessment on the following provisions from the 1995 Constitution of Uganda:

- Article 23(4)(b) that requires that an arrested person be brought before court within 48 hours

- Article 44(a) that prohibit cruel, inhuman or degrading treatment. This was raised by applicants in relation to detention conditions, including denial of food and sanitary care

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

The Court did not cite or rely on any previous judicial decisions or case law in relation to RtF

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

The right to food was not explicitly referenced as a distinct constitutional or legal right by the Court. However, denial of food formed part of the Applicants' allegations of inhuman and degrading treatment under Articles 24 and 44(a) of the Constitution.

" The applicants stated that they were denied access to food and drinks, access to sunshine and toilet facilities while in detention for several days. However, the respondents denied any of the applicants being subjected to any kind of torture, cruel, inhuman or degrading treatment"

"This evidence was corroborated by the applicants during their cross examination where Ms. Rosalia Karuhanga told court that she ate food brought to her by Mr. Esoku as there was nobody to bring her food. She further stated that she did not remember the number of times she ate food"

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: N/A

3.2.2. Accessibility: access to food while in police detention was part of alleged mistreatment

3.2.3. Adequacy: no mention of nutrition quality or adequacy of food

3.2.4. Sustainability: N/A

The Applicants claimed they were denied food and clean water for five days in police custody. However, the Court found that they received food at least twice daily and/or from various sources.

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: N/A

3.3.2. Accountability: implicitly, as applicants held the state accountable for unlawful detention and alleged mistreatment

3.3.3. Non-Discrimination: N/A

3.3.4 Transparency:N/A

3.3.5. Human Dignity: this was indirectly raised through the right to be free from inhuman and degrading treatment (Article 24)

3.3.6. Empowerment: N/A

3.3.7. Rule of Law: this was applied regarding compliance with Article 23(4)(b) on 48-hour rule for producing detainees in court

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: partially, as violation of right to liberty under Article 23(4)(b)

3.4.2. Protect: N/A

3.4.3. Fulfil (facilitate and provide): the Court found no sufficient evidence to support that the state failed to provide food/water

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? N/A

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? N/A

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? Yes, Attorney General liable for unlawful detention

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? No

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? No, focus remained on factual dispute about detention conditions, not broader socio-economic structures.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food:

High Court of Uganda Civil Division

4.2. Tier of the court that made the final decision (check if appealed): same court

4.3. Legal basis invoked by the court to assert its jurisdiction over the case:

Article 50(1) and (2) of the Constitution of Uganda, 1995

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Applicants claimed they were denied food, clean water, and sanitary facilities during their five-day detention at Kabalagala Police Station. They alleged they were fed irregularly or not at all, and that such conditions amounted to cruel, inhuman and degrading treatment in violation of Articles 24 and 44(a) of the Constitution.

The Respondents disputed these claims, submitting affidavits stated that detainees were given meals at least twice daily, could access water and medical care, and had use of functional sanitation. During oral cross-examination, the Applicants gave inconsistent accounts: some admitted to eating two to three times during detention, and others acknowledged that food was brought by family or co-detainees.

The Court considered the documentary evidence (including police records) and conducted a factual assessment of the inconsistencies in the Applicants' testimonies. It concluded that the Applicants failed to prove that they were denied food or treated inhumanely. Therefore, the Court dismissed all claims relating to food, water, and degrading treatment. It found only one constitutional violation: unlawful detention beyond 48 hours under Article 23(4)(b).

Thus, the right to food was neither upheld not legally recognized in the judgment; it was rejected as an unsubstantiated claim.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

General damages: UGX 100,000,000 per applicant

Interest: 15% per annum from judgment date until payment in full

Costs of the application: awarded to the Applicants

4.6. Mechanisms for the enforcement of the decision and outcomes: Not discussed

Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

Very limited. Although Applicants raised conditions of detention including food denial, the Court did not recognize or adjudicate a distinct right to food. The Court evaluated the conditions of custody in relation to inhuman and degrading treatment, and concluded there was insufficient proof.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

Weak in relation to right to food as it is more relevant to unlawful detention.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)?

- High burden of proof in rights enforcement cases and strict evidentiary requirements (Court rejected claims due to inconsistencies)

- Lack of explicit legal basis or recognition for the right to food.

5.3.2. Was legal aid available/how was the case funded? Not mentioned

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? - Not addressed by the Court

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies?

- Not addressed by the Court

28. Center for Food and Adequate Living Rights (CEFROHT) v. Attorney General, Miscellaneous Cause No. 75 of 2020

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Center for Food and Adequate Living Rights (CEFROHT) v Attorney General (Miscellaneous Cause No. 75 of 2020)

1.2. Date of ruling: 4 June 2020

1.3. Country (and locality, if relevant e.g. department/municipal town): Uganda (Kampala)

1.4. Forum (jurisdiction): Hight Court of Uganda (Civil Division)

1.5. Forum type (territorial): National Court (first instance)

1.6. Thematic focus: right to food during the COVID-19 pandemic, government obligations under constitutional and international law

1.7. Parties involved:

- Applicant: CEFROHT (NGO specializing in food rights
- Respondent: Attorney General (representing Ugandan government)

1.8. Type of petition (individual complaint, class action):

Public interest litigation seeking declaratory orders on constitutional violations and guidelines/mandatory orders for policy reform

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The High Court case examined whether Uganda's government fulfilled its constitutional obligations to ensure food security during the COVID-19 lockdowns. The applicant, CEFROHT, presented substantial evidence of systemic failures in the state's response. This included the government's failure to establish national food reserves as required by National Objective XXII(b) of the Constitution, supported by 2018 parliamentary records confirming their absence.

Additional evidence demonstrated dramatic food price inflation during lockdown periods and unequal distribution that initially prioritized urban centres like Kampala and Wakiso while neglecting rural populations. CEFROHT also raised concerns about food safety, including potential aflatoxin contamination in distributed supplies, arguing these failures violated constitutional and international rights to adequate food.

In its defence, the government documented comprehensive emergency measures implemented during the crisis. This included allocating 65 billion shillings for food relief (Annexure B) and creating specific distribution plans for urban poor populations (Annexures A and C).

The state established hospital feeding programs across nine regional referral hospitals (Annexure E) and formed District Task Forces to coordinate local distribution efforts (Para 5n of affidavit). Regarding food reserves, while acknowledging the absence of a national system, officials pointed to ongoing community storage programs in ten districts and plans for regional food banks under the Ministry of Trade's development. The

government maintained these measures satisfied its constitutional duties during the unprecedented pandemic emergency.

The High Court dismissed CEFROHT's application in its entirety, ruling the government had fulfilled its constitutional obligations under National Objectives XXII and XXIII and Articles 8A, 20, and 45. The judgment accepted the state's argument that its emergency response, while imperfect, met constitutional requirements during the crisis.

Regarding food reserves, the Court acknowledged Uganda's failure to establish the mandated national system but deemed alternative measures like community storage and future regional plans as sufficient compliance. The ruling showed significant deference to executive discretion in crisis management, particularly in accepting the government's justification for initially focusing relief efforts on urban areas like Kampala and Wakiso districts.

Legal basis:

- Constitutional Provisions: Articles 8A, 20, 45; National Objectives XXII (food security) and XXIII (disaster response).
- Statutes: Human Rights (Enforcement) Act 2019; Food and Drugs Act
- International Law: ICESCR (Art. 11), UDHR (Art. 25), reference to WHO

Legal claims:

- Failure to guide on food access/availability violated rights.
- Lack of food reserves breached constitutional duties.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

- Right to food, life, livelihood, and non-discrimination.

1.11. Link to the judgement:

https://ulii.org/akn/ug/judgment/ughccd/2020/157/eng@2020-06-04

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

- International Law: ICESCR (Art. 11), UDHR (Art. 25), reference to WHO

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Constitutional Provisions: Articles 8A, 20, 45; National Objectives XXII (food security) and XXIII (disaster response).

- Statutes: Human Rights (Enforcement) Act 2019; Food and Drugs Act

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically): NA

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): NA

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

“9. The Respondent’s omissions and failures to issue guidance on access and availability of food during the government directives are
unconstitutional, a violation of and a threat to the constitutional
guarantees to the right to food and livelihood for which the applicant is seeking declarations, orders and redress”

“Counsel explained that the right to livelihood means the right to live or survive and that it survives in the womb of the right to food as the latter offers means for securing one’s survival. In this way, food not only remains a critical determinant of an individual's survival but also becomes a determinant of their right to life.”

“... the Constitution of Uganda does not expressly provide for the right to food. However, this right is enshrined within other rights such as the right to life since it is not in doubt that without food, a human being cannot live.
The only provision in the Constitution that is close to expressly
providing for the right to food is Objective XXII.”

2.1.1. Availability: lack of reserves created a systematic risk, but the court viewed temporary measures sufficed during emergency

2.1.2. Accessibility: Urban bias in distribution

2.1.3. Adequacy: Aflatoxin risks unaddressed

2.1.4. Sustainability: No long-term food reserve system but future plans were seen as adequate

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

2.2.1. Participation: N/A

2.2.2. Accountability: The Court accepted unverified government claims without independent assessment

2.2.3. Non-Discrimination: the government ignored disproportionate rural impact

2.2.4. Transparency: N/A

2.2.5. Human Dignity: N/A

2.2.6. Empowerment: N/A

2.2.7. Rule of Law: The Court tolerated non-compliance with constitutional reserve mandate

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: the State failed to prevent lockdown-induced market disruptions

3.4.2. Protect: the State offered inadequate price gouging controls

3.4.3. Fulfil (facilitate and provide): the State had future plans but no deadline for establishing required reserves

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? N/A

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? N/A

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? N/A

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? N/A

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? N/A

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: High Court

4.2. Tier of the court that made the final decision (check if appealed): no appeal filed

4.3. Legal basis invoked by the court to assert its jurisdiction over the case:

The Court exercised its authority based on Uganda's constitutional provisions (Articles 50, 8A, 20, and 45), the Human Rights (Enforcement) Act of 2019, and the Judicature (Fundamental Rights and Freedoms) (Enforcement Procedure) Rules of 2019.

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Court dismissed all claims, finding that the Ugandan government had fulfilled its constitutional obligations under National Objectives XXII and XXIII and Articles 8A, 20, and 45 of the Constitution through its COVID-19 response measures.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies):

No remedies were granted as the Court dismissed the application in its entirety, refusing to order any of the requested interventions such as establishing food reserves or implementing price controls.

4.6. Mechanisms for the enforcement of the decision and outcomes: Since the case was dismissed, no enforcement mechanisms were established or required to monitor compliance with the judgment.

5. Analysis of the outcome of the case

4.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

While the judgment theoretically advanced the right to food by affirming its justiciability under Uganda's constitutional framework and referencing international standards like ICESCR, its practical impact remains limited.

By accepting the government's incomplete measures as sufficient compliance, the Court set a concerning precedent that may enable future administrations to fulfil constitutional obligations through minimal, temporary solutions rather than systemic reforms.

The ruling's failure to address evidence of unequal food distribution or mandate independent safety testing for relief supplies further weakens its value as a safeguard for vulnerable populations

This decision highlights the persistent gap between recognizing socioeconomic rights in principle and enforcing them in practice. The Court's excessive deference to executive discretion during crises creates a dangerous paradox where constitutional protections become least enforceable when they are most needed.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? No, as it is somewhat limited.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? N/A

5.3.2. Was legal aid available/how was the case funded? N/A

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? No follow-up mechanism for reserve establishment. 2023 reports show still no national reserves

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? N/A

29. R (Adam, Limbuela and Tesema) v Secretary of State for the Home Department [2005] UKHL 66

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Adam, R (On the Application of) Secretary of State for the Home Department [2005] UKHL 66

1.2. Date of ruling: Thursday, November 3, 2005

1.3. Country (and locality, if relevant e.g. department/municipal town): United Kingdom

1.4. Forum (jurisdiction): House of Lords (now UK Supreme Court)

1.5. Forum type (territorial): National (highest appellate court at the time)

1.6. Thematic focus: Asylum seekers' rights, Article 3 ECHR (prohibition of inhuman or degrading treatment)

1.7. Parties involved:

Appellants: Three applicants (asylum seekers)

Respondents: Secretary of State for the Home Department (UK government)

1.8. Type of petition (individual complaint, class action): Individual judicial review challenge (appeal)

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case concerned the denial of support to asylum seekers under Section 55 of the Nationality, Immigration and Asylum Act 2002.

This denied asylum seekers access to basic support, including food, shelter, and means of subsistence, if they did not apply for asylum "as soon as reasonably practicable" after arrival in the UK. The appellants, Adam, Limbuela, and Tesema, were asylum seekers who had been refused support under this provision, leaving them in extreme destitution, without accommodation, and forced to rely on charities or sleep rough.

The case highlighted how the denial of state support led to severe material deprivation, including inability to afford food, forcing reliance on charities or begging. They were also sleeping rough, exacerbating hunger and exposure to harsh conditions, and had No means of subsistence, as asylum seekers were barred from working. The appellants argued that this policy violated Article 3 of the European Convention on Human Rights (ECHR), which prohibits inhuman or degrading treatment, by deliberately leaving them without access to basic necessities, including food.

The House of Lords examined whether the state's refusal to provide support constituted a violation of Article 3. While the **right to food** was not explicitly invoked as a standalone human right, the court recognized that prolonged deprivation of food and shelter could amount to inhuman or degrading treatment. The State had a positive obligation to prevent such suffering where it was aware of the risk. Section 55's blanket denial of support risked exposing asylum seekers to conditions beneath basic human dignity.

The House of Lords ruled unanimously the threshold for inhuman/degrading treatment was met when individuals were deprived of food, shelter, and basic necessities for a prolonged period.

The government's policy was unlawful because it systematically exposed asylum seekers to conditions that breached Article 3.

The judgment reinforced that denial of food as part of state policy could constitute inhuman treatment. It established that states cannot deliberately withhold support in ways that lead to starvation or extreme deprivation. It indirectly supports the principle that access to food is a fundamental human dignity issue, even if not explicitly recognized as a free-standing right in the UK

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon

- Freedom from torture and inhuman or degrading treatment (Article 3 ECHR)

- National legal basis: Section 55 of the Nationality, Immigration and Asylum Act 2002

- International legal basis: European Convention on Human Rights

1.11. Link to the judgement:

https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/UK_072%20Judgment.pdf

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon: European Convention on Human Rights (ECHR), Article 3 (prohibition of inhuman or degrading treatment)

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered): Section 55 of the Nationality Immigration and Asylum Act 2002 (denial of support to late asylum claimants)

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- Pretty v United Kingdom (2002) 35 EHRR 1 (ECtHR on Article 3)

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned): The judgment does not explicitly mention the “right to food” as a standalone right but discusses the consequence of withholding support, including food deprivation, under Article 3 ECHR

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1.Availability: N/A

2.1.2. Accessibility: implicitly considered, denial of support made food inaccessible

3.2.2. Adequacy: N/A

3.2.4. Sustainability: N/A

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1. Participation: N/A

3.3.2 Accountability: State held accountable for inhuman treatment

3.3.3. Non-Discrimination: discrimination against late asylum seekers was a factor

3.3.4. Transparency: N/A

3.3.5. Human Dignity: Central to Article 3 analysis

3.3.6. Empowerment: N/A

3.3.7. Rule of Law: Judicial review ensured state compliance with ECHR

3.4. Legal obligations:

Examine the court’s decision on the State’s obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: State must not deprive asylum seekers of basic needs

3.4.2. Protect: N/A

3.4.3. Fulfil (facilitate and provide): State required to provide support

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? Implicitly considered under Article 3

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food? Not discussed

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? Home Department found in breach

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? Not discussed

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? Poverty acknowledged but not analysed

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: None, right to food was implicit in Article 3 analysis

4.2. Tier of the court that made the final decision (check if appealed): House of Lords (final appellate court)

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: Judicial review under UK law and ECHR

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?): The court ruled that denying support to asylum seekers, leaving them destitute and without food, violated Article 3 ECHR.

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): Government was required to provide support to avoid inhuman treatment

4.6. Mechanisms for the enforcement of the decision and outcomes: Judicial oversight of Home Department policies

5 Analysis of the outcome of the case

5.1 In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)?

The case indirectly reinforced the right to food by linking poverty (including food deprivation) to inhuman treatment under Article 3

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)? This is a strong precedent for asylum seekers' rights but limited direct impact on broader right to food jurisprudence

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? N/A

5.3.2. Was legal aid available/how was the case funded? N/A

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? N/A

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? N/A

30. Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Another, Case CCT 78/07

1. Identify the case (procedural aspects):

1.1. Name (copy full name of the case): Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd and Others

1.2. Date of ruling: 25 July 2008

1.3. Country (and locality, if relevant e.g. department/municipal town): South Africa

1.4. Forum (jurisdiction): Constitutional of South Africa

1.5. Forum type (territorial): National

1.6. Thematic focus: Land use and property rights, interpretation of "agricultural land" under legislation.

1.7. Parties involved:

· Applicant: Wary Holdings (Pty) Ltd

· Respondents: Stalwo (Pty) Ltd; Registrar of Deeds, Cape Town

· Intervening Party: Minister of Agriculture and Land Affairs

· Amici curiae: Trustees of the Hoogekraal Highlands Trust, Safamco Enterprises (Pty) Ltd

1.8. Type of petition (individual complaint, class action): Individual complaint (appeal by a private party)

1.9. Summary (maximum 2,000 words) (a brief reference to the factual background related to the case, focusing on aspects relevant to the right to food. This might include information on the parties involved, the circumstances leading to the case, and the food-related issues at the heart of the dispute. It must be based on factual information provided in the case report):

The case concerned a dispute over the sale of land previously designated as “agricultural land” under the Subdivision of Agricultural Land Act 70 of 1970. The key legal issue was whether the land retained this designation following municipal restructuring, thus requiring ministerial consent for its subdivision and sale. The seller (Wary Holdings) attempted to declare the agreement invalid when the land’s value increased and the costs of required improvements became burdensome.

While the case primarily revolved around statutory interpretation, its implications extend to the right to food, particularly through the lens of land use governance and the preservation of agricultural land.

The applicant had applied to rezone and subdivide the land formerly used or zoned for agriculture, for industrial development. The sale and intended rezoning therefore presented a conflict between urban expansion and the constitutional and policy imperative to safeguard land for agricultural production, which is critical to food availability and sustainability.

Amici curiae and the Minister of Agriculture argued that allowing such land to be freely alienated without ministerial oversight threatened the broader public interest, particularly in the context of South Africa's constitutional obligations under Section 27(1)(b) (right to access to sufficient food) and Section 24(b)(iii) (environmentally sustainable development).

They emphasized that agricultural land, once reclassified or absorbed into urban municipalities without national oversight, risks being lost to non-agricultural uses, undermining food systems and long-term food security.

1.10. Rights challenged/asserted (in addition to the right to food, e.g. right to land, right to water and sanitation, right to information, etc.) and national/international legal basis relied upon:

Right to land use (property and development)

Indirectly implicates right to food, land, and sustainable development

Legal bases:

- Subdivision of Agricultural Land Act 70 of 1970
- Section 25 of the Constitution (property)
- Section 27 (access to food and water)
- Section 24(b)(iii) (environmentally sustainable development)

1.11. Link to the judgement: https://www.saflii.org/cgi-bin/disp.pl?file=za/cases/ZACC/2008/12.html&query=%20right%20to%20food

2. Legal Framework applied by the Court in the judgment:

2.1. International legal basis (list international or regional instruments referenced by the court) relied upon:

No direct references to international instruments were made in the judgment.

2.2. Domestic legislation (mention the constitutional provision or any relevant domestic laws, such as food security laws, social welfare policies, health or other regulations that the court considered):

- Subdivision of Agricultural Land Act 70 of 1970
- Constitution of South Africa, notably:
· Section 24(b)(iii)
· Section 25
· Section 27
- Local Government Transition Act
- Municipal Structures Act
- Municipal Demarcation Act

2.3. Precedents (if applicable, list any relevant prior case law that the court referred to when assessing the right to food, both internationally and domestically):

- Finbro Furnishers v Registrar of Deeds
- Kotzé v Minister van Landbou
- Geue v Van der Lith
- Fuel Retailers Association case (constitutional environmental duties)

3. Right to Food Framework:

**Guidance on conceptual framework: UN CESCR General Comment Nº 12 (1999). The right to adequate food (art. 11). E/C.12/1999/5.

3.1. Explicit reference to the right to food (copy the part(s) of the plaintiff's argument and/or in the judgment where the right to food is explicitly mentioned):

While the Constitutional Court did not directly mention “the right to food,” the amici curiae and the Minister of Agriculture explicitly invoked constitutional provisions that support the right to food:

§50–51: The Minister and amici curiae submitted that reclassifying agricultural land undermines access to land, food, and environmental sustainability, as protected under:

- Section 27(1)(b): Right to have access to sufficient food
- Section 24(b)(iii): Right to sustainable development
- Section 25(5): Right to equitable access to land

3.2. Components:

Identify whether any of the components of the right to food - availability/accessibility/adequacy/sustainability - have been asserted as compromised and how (copy across the reasoning).

3.2.1. Availability: It is argued that ministerial oversight prevents loss of arable land (§85).

3.2.2. Accessibility: The issue of accessibility is addressed in the same paragraph referring to ministerial oversight (§85).

3.2.3. Adequacy: Not addressed in the judgment.

3.2.4 Sustainability: The issue of sustainability is addressed by invoking section 24(iii) of the Constitution which refer to ecologically sustainable development and use of the land (§50).

3.3. Principles:

Examine the case against the principles of the right to food: Have the human rights principles and their infringement been taken into account in the arguments of the plaintiff or by the court when reaching its final decision? If so, how (copy across the reasoning)?

3.3.1.Participation: No participation by food-affected groups or communities was considered.

3.3.2.Accountability: The judgment does not discuss this matter.

3.3.3 Non-Discrimination: The judgment does not discuss this matter.

3.3.4 Transparency: The judgment does not discuss this matter.

3.3.5. Human Dignity: The judgment does not discuss this matter.

3.3.6. Empowerment: The judgment does not discuss this matter.

3.3.7. Rule of Law: The entire judgment focuses on interpreting the Subdivision of Agricultural Land Act and constitutional competence of municipalities under the rule of law (§54–67).

3.4. Legal obligations:

Examine the court's decision on the State's obligation to respect, protect, and fulfill the right to food (copy in the reasoning).

3.4.1. Respect: The Court did not address the state's obligation to refrain from interfering with access to food or productive land.

3.4.2. Protect: Not explicitly addressed by the court.

3.4.3. Fulfil (facilitate and provide): The court addresses it indirectly in the form of facilitation in §85, it acknowledges that the State has positive obligations to facilitate access to agricultural land, which is an essential precondition for individuals or communities to produce food and secure livelihoods.

3.4.4. Did the court refer to the fundamental right to freedom from hunger, if relevant? This matter is not addressed by the court.

3.4.5. Did the court invoke the principle of progressive realization, particularly in cases involving limited resources or challenges in fully meeting the right to food?

3.4.6. Did the court find a particular government/public sector entity at fault for failing to uphold the right to food? This matter was not addressed in the case. As the case was filed on an appeal basis to the constitutional court, it only reversed the SCA's decision and affirmed the Minister's Authority to regulate the land under the Act. The judgment was more about the interpretation of one provision than finding someone at fault.

3.4.7. Did the court consider violations of the right to food committed by actors other than the state, if so, how? No, this matter is not addressed by the court.

3.4.8. Did the court acknowledge or engage with underlying structural causes (e.g. poverty, inequality, land access)? The Court's reasoning remained narrowly focused on statutory interpretation. It mentions national interest in land use control, but there is no direct engagement with structural issues such as inequality, food insecurity, or rural land access.

4. Outcome of the legal case

4.1. Tier(s) of the court that referred explicitly to the right to food: Constitutional Court (via *amici* arguments).

4.2. Tier of the court that made the final decision (check if appealed): Constitutional Court.

4.3. Legal basis invoked by the court to assert its jurisdiction over the case: The basis for jurisdiction was section 167(3)(b).

4.4. Factual summary of the judgment (focus on food-related issues at the heart of the dispute - was the right to food upheld or denied?):

The Court ultimately prioritised municipal autonomy over centralised control,

ruling that once land fell under municipal jurisdiction, ministerial consent was no longer required. The judgment did not outright dismiss food security concerns but deferred responsibility to local governments, emphasising that integrated development plans (IDPs) under the *Municipal Systems Act* could address agricultural preservation. Yet, the Court stopped short of imposing safeguards to ensure municipalities would actively protect food-producing land, leaving a gap in enforceable protections against unsustainable rezoning (§139-140).

In essence, while the right to food was acknowledged in arguments, the

ruling sidestepped a substantive engagement with how decentralised land-use decisions might impact food availability. This created uncertainty about whether local governments would or even could balance urban development with the constitutional obligation to safeguard food security. The case thus highlights a tension between local governance flexibility and national food security imperatives, without resolving how to harmonise the two (§83-105; 139-141).

4.5. Remedies provided by the court (detail any orders the court made, such as compensation, directives to the government to improve food security, provide food assistance, or reform policies): This was not the object of the appeal, which was based on constitutional interpretation.

4.6. Mechanisms for the enforcement of the decision and outcomes: None (see 4.5).

5 Analysis of the outcome of the case

5.1. In your assessment, what is the significance of the case in advancing the right to food (assess the broader impact of the case on the interpretation and application of the right to food in the jurisdiction)? The case sets a limited precedent in the context of the right to food, as the Constitutional Court prioritised land-use governance and statutory interpretation over the explicit integration of food security safeguards. Although the case concerned agricultural land, the judgment did not engage directly with the right to food or broader socio-economic implications. Instead, it reinforced a decentralised model of land regulation by affirming that, following municipal restructuring, certain land no longer qualified as "agricultural land" under national legislation. This shift of control to municipalities potentially risks fragmented oversight and weakens coordinated national protection of land essential for food production, thereby indirectly affecting long-term food security.

5.2. Is this a strong precedent for future cases on RTF (or has it already been used as a precedent)?

The judgment is weak in advancing the right to food, as the Constitutional Court focused on statutory interpretation rather than engaging with constitutional rights enforcement.

5.3. As far as the information is available, consider also:

5.3.1. Were there any barriers to accessing the court (costs, standing, delay)? No evidence of access barriers.

5.3.2. Was legal aid available/how was the case funded? Not mentioned.

5.3.3. Were the mechanisms put in place to ensure implementation of the decision adequate? This was not the object of the appeal, which was based on constitutional interpretation.

5.3.4. Was there follow-up by courts, civil society, or other oversight bodies? The judgment provided no follow-up mechanism to ensure that agricultural land would continue to be protected in the public interest, particularly for food security purposes.