

C.E.D.R.



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Commission I – Kommission I

**THE RIGHT TO ADEQUATE FOOD – SELECTED LEGAL ASPECTS
LE DROIT A UNE ALIMENTATION ADÉQUATE –
ASPECTS JURIDIQUES**

**DAS RECHT AUF ADÄQUATE ERNÄHRUNG –
AUSGEWÄHLTE RECHTLICHE ASPEKTE**

National Report – Rapport national – Landesbericht

**United Kingdom – le Royaume-Uni –
Vereinigtes Königreich**

**United Kingdom report – Rapport du Royaume-Uni –
Bericht des Vereinigten Königreichs**

Eleanor PINFOLD

**The Right to Adequate Food –
Selected Legal Aspects**

1. National foundation of the right to food:

- a) *Is your country a state party to the International Covenant on Economic Social and Cultural Rights (CESCR)?*
- b) *How does your country report to the UN on the right to food?*
- c) *Does your country have a monistic or dualistic approach to international law?*
- d) *Is the covenant implemented in national law?*
- e) *How is CESCR implemented?*
 - i) *Constitution*
 - ii) *Judicial*
 - iii) *Administrative*
- f) *Does your country consider the rights in CESCR just as equal as the civil and political rights?*
- g) *Does your country give education in the CESCR in general and the right to food in particular?*
- h) *Are the rights in CESCR in general and the right to food in particular discussed in academic fora?*
- i) *Are the rights in CESCR in general and the right to food in particular discussed in other fora?*

I have taken the liberty of not answering the question in its individual parts because so far as practical lawyers are concerned this “right” has no foundation at all in English Law. I use the term English Law in that both Scotland and Northern Ireland both have different laws which they enforce and so there are three jurisdictions in the UK.

The UK is one of the 145 countries that has signed the ICESCR adopted by the UN in January 1966 when it was ratified by Parliament on 20th May 1976.

Reports are made to the UN the 4th report having been submitted in 2000 and for which the UK government has been criticised and some recommendations made. However those ideas are not likely to be implemented by this Government since as with previous governments does not accept that it needs to owing to the nature of our system of law. So far as the English system of law is concerned each Parliament can do as it likes so that while one Parliament can agree an international treaty the next can repeal it as it wishes. This has allowed such flexibility that we see no need to change the law which is based on the principles of Magna Carta of 1215 and the Bill of Rights of 1688. It is only because of the European Communities Act of 1972 that EU law is directly enforceable in the UK, but if there were a government that did not want it to be directly enforceable that Act could be repealed and so each directive in EU Law would have to be separately enacted into the UK.

So far as I am aware there is no implementation of the right to food in the English Law system. It is not an ancient right: ancient rights are embodied in the fabric of English Law the tenets of which are usually to be traceable to the Henry III year books (1216-1272), when the courts became assiduous in accepting pleas of all kinds following Magna Carta. While ancient rights are usually to do with property there was an ancient right to allow pigs to forage in the forest (pigs being a food for the poor), to be allowed to cut turf for your fire and to allow your animals to graze over common land which was normally part of the Lord of the Manor's Estate and water rights.

It is possible that because there was no real famine in England since possibly the 17th century, that the idea that there will be no food in the UK is never considered. While from books it would appear that all governments have paid lip service to the idea that the articles set out in the Convention are important there is really no way it has been implemented in the UK and it will not be in the foreseeable future.

From the above it will not come as a surprise that most of the electorate in the UK would not have heard of the CESCR. It does not form any part of our legal training unless perhaps in the world of academia which most of the English legal practitioner are not, because while it may form part of a academic degree in International Law it is unknown by those coming from law school. So far as I am aware it is not discussed in any other organisation, although those that contributed to the report given by the Government to the UN in 2000 contain a list of the participants. The UK ALA was not one of them.

2. CESCR article 11(1) – the right to adequate food

Please describe the national regulation relating to the following areas

- a) *Regulations relating to the state obligation to respect protect and fulfil adequate food in the national legal system*
 - i) *The availability of food in a quantity and quality:*
 - 1) *sufficient to satisfy dietary needs of individuals*
 - 2) *free from adverse substances*
 - 3) *acceptable within a given culture*
 - ii) *The accessibility of such food*
 - 1) *economic*
 - 2) *physical*
 - iii) *Are the abovementioned regulations connected to the right to food?*
- b) *Regulations relating to the individual's right to adequate food in the national legal system*
 - i) *Does your country consider the right to food as a justifiable right?*
 - ii) *Is the right to food immediately applicable or is there any law in order to put the right into practice?*
 - iii) *Does your country have any enforceable mechanisms relating to the right to food?*
 - iv) *Can individuals bring any of the following cases to the court when:*
 - 1) *the food is insufficient to satisfy the dietary needs of individuals?*
 - 2) *the food is not free from adverse substances?*
 - 3) *the food is not acceptable within a given culture?*

4) *there is not means to get access to adequate food?*

v) *Have there been any lawsuits concerning any of the abovementioned cases?*

vi) *Has the result been connected to the right to food?*

There is no obligation on the Parliament to provide an adequate food supply. The only time the UK Parliament took over the organisation of food supply and distribution was during the Second World War and food was rationed from 1941 to 1952. At the present time it is the system of supply and demand and how cheaply it can be supplied which drives the system. There is no shortage of any food stuffs in the UK, but the dietary needs of individuals while are mentioned now in less salt in food for example are not at the heart of any policy and it is up to the individual to eat as they wish – and most of residents of the UK would not have it any other way as we do not want to be told what to eat or how to eat: that is a dictatorship.

While there has been monitoring of hygiene in the UK for many years including cows being tested for TB from about 1930 onwards, and there are very detailed provisions as to every aspect of such standards, too numerous to detail in a paper such as but which were originally set up under the Trading Standards Agency which still employs inspectors for all many of food stuffs. However the Food Standards Agency (FSA) was set up after the BSE scare in the UK in 1998 which was given power to oversee all aspects of food standards since that time its only function has been to scare the inhabitants in various matters, the latest being the carcinogenic dye Sudan 1 which has been found in many processed products sold in this country.

Any minorities with a dietary culture different from those of us indigenous people are catered for and have been for many years. The first curry restaurant was opened in the East End of London in 1874 and the first Chinese restaurant was opening in Limehouse a few years later.

Food is usually bought at supermarkets. It is rarely bough directly from the farm and there is such a division of the production of food and its packaged final product that most children in the UK do not know where any food comes from. Further the way in which the supermarkets contract with those that produce food to keep it cheap means that a good deal of food is dealt with on price not on nutritional value. Anyone can buy anything in the UK and even the poorest can eat well if one knows how to cook – that being the real problem few are taught to cook now from original ingredients and live on processed food and take aways.

The regulations such as we have are certainly not connected to any right to food.

The questions of b (i) and (ii) have already been answered under 1 above. There is no right to food and if it is an international right that right will have to be brought into English Law by an act of Parliament and there is no enforcement rights since there is no right to food in the way in which you mean.

It is very doubtful that a case could be made in the UK in respect of insufficiency to satisfy dietary needs of individuals, and even the *Maclibel* case recently decided in favour of the individual rested on the libel laws and not on a right to a satisfactory diet. While our law of negligence which would allow for an individual's right to found an action in negligence for a product not fit for its purpose so that the individual could sue (the famous case of *Donoghue -v- Stevenson* 1932 established this right) the breaches of the food standards are criminal cases taken by the state against individuals and while individuals can give evidence in those cases the penalties are criminal not civil ones where damages are paid as compensation. None of this is connected to the right to food in any case as the law is much older.

Questions (iv) (3) and (4) have no relevance at all for the UK.

3. CESCR article 11 (2) – the right to be free from hunger

- a) *Emergency preparedness*
 - i) *How is the legal basis for emergency preparedness concerning the right to be free from hunger?*
 - ii) *Is there any other anchorage for this right (administration practice, action plans, policy documents etc)?*
- b) *International obligations*
 - i) *How does the right to food effect your country's foreign policy:*
 - 1) *trade?*
 - 2) *development aid?*
 - 3) *other international aspects?*

There must be plans for an emergency, but a trawl through various government publications has not brought any to light. Because the distribution centres are not central if one is eliminated others take over. We have many food suppliers much competition and this right is really not considered in relation to the UK. If it does not produce enough from the farmers it imports or it has over the years invested in so many other countries that it can get its supplies as it wants from them. The only problem is when we are at War and the shipping is being hit as the supplies comes in.

In respect of trade with other countries, there is now a growing movement for Fair Trade for the developing countries, and a growing awareness of the problems of the developing world.

However these problems do not affect day to day solicitors and barristers and surveyors in the UK as it is a policy matter which the practitioners do not concern themselves with save as commentators on what is put to them in White papers.

4. Other Matters

- a) *Is the right to adequate food important for and does it affect the conditions for:*
 - i) *The farmers?*
 - ii) *The processing industry?*
 - iii) *The distributive trade?*
- b) *How is the right to food effecting on the area administration?*
- c) *Are the farmers themselves responsible for food safety and security in any way according to national law?*

While on the basic level if a human does not have food and water it dies (it can last longer without food than water) there is no right to adequate food as such in English Law so does not affect the conditions for any farmers, processing industry or distributive trade nor does it affect administrative law.

The farmers have to have good hygiene in dairy parlours or wherever there are food processing buildings as do the food distributors, and shops which sell food and supermarkets and they have to comply to all the regulations which abound in this country and which puts a great deal of pressure on the farmers themselves.