

Nutrition, Sustainability and Culture.
Grounding and Defence of the Right to Nutrition

Student: Davide Fumagalli, 6164587

Supervisors: Franck Meijboom
Jos Philips

Introduction	3
1.0 Account and Grounding of a Human Right Theory	6
2.0 Account and Grounding of Subsistence Rights	9
2.1 The Political Approach, Rawls and the Non-Intervention duties	9
2.2 Naturalistic Approaches, Fundamental Interests	13
2.2a Capabilities or Rights? Nussbaum's Capabilities	14
2.2b Personhood and Beers, Griffin's Agency	18
2.3 Conclusions	20
3.0 The Right To Adequate Food- Introduction	21
3.1 The Right to Adequate Food, State of the Art	21
3.2 Right to Food, What does it imply.	23
4.0 The Indivisibility and Feasibility Objections	26
4.1 Implementation Sensitive Issues	26
4.2 Normative Indivisibility	28
4.3 Feasibility and Basic Human Rights	32
4.4 The Right to Food- Conclusion	34
Conclusion	34
Bibliography	36

Introduction

In 1999 the UN Committee on Economic, Social And Cultural Rights gathered in Geneva in order to discuss the notion of “Right to Adequate Food”.

4. The Committee affirms that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights. (...)

6. The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realized progressively(...)¹

As defined, the Right to Adequate Food generated a lively debate, especially on the nature of its justification. This thesis aims to justify the Right to Food and in order to do so I will have to answer several questions. First of all the thesis will focus on the most common objection the doctrine of Human Rights had to deal with. How is it possible to justify international laws, powerful enough to compel states to obey? Is it even possible to lay universal foundations for moral evaluation? Several authors, the American Anthropological Association in particular, blamed the UDHR to be disrespectful of local traditions, narrow minded and eventually culturally imperialistic. It is necessary to understand the strength of this kind statements, but also the limitations. It is in fact true that the idea of Universal Human Rights is beyond easy to comprehend or justify. It precisely because of this reason that the second part of the thesis will actually focus on the analysis of the debate related with the defence of Human Rights. In this part I will consider three positions. The first one tries to ground Human Rights with the simple fact that a specific group of people in the world adopts them. Doing so however doesn't provide any real ground, authenticity, or guarantee on the kind of norms that those people decide to choose. In other words, these kind of rights are only valid because agreed upon by those that will have to respect them, and are not universally valid. After rejecting this kind of defence, the thesis will move to two more satisfying theories that have several common aspects. In particular, they justify Human Rights as a method of protection for certain specific, intrinsic, human interests such as the interest to have stable access to means of subsistence.

The third chapter will try to understand exactly what the Right to Adequate Food exactly implies. Eventually I will show that what the Committee means with Right to Adequate Food involves three

¹ General Comment, “Committee on Economic, Social and Cultural Rights,” *The International Journal of Children's Rights* 7, 1999, 1–2.

notions that, if applied with the same priority, are totally conflicting and incoherent: Nutritional Value, Cultural Adequacy, Sustainability. These three notions imply three different kind of duties:

1) The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and 2) acceptable within a given culture; 3) The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

To solve these conflicts the thesis will delve deeper into the debate on Subsistence Rights and maintain that the Nutritional Value of food should be the leading principle of the three because of a simple reason: without sufficient energies and nutrition the actual enjoyment of any right can be easily hindered if not cancelled.

The fourth chapter of the thesis will instead deal with two extremely powerful objection that have been traditionally addressed to the Economic Social and Cultural Rights; at this point is worth remembering that the Right to Food is part of this group rights, so this chapter is quite important. Firstly the thesis will consider how, contrary to the idea that the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible contrasts with the in the crude reality: the implementation of rights is all but indivisible. Moreover, since every country has his own societal and economic structure it would be mindless and abstract to make compulsory to adopt as immediately normative all the Human Rights: every country should be allowed which to pick, and implement them freely. This objection relies on a passage from merely descriptive to normative statements. Indeed the political and societal structures around the world are incredibly different, and there are incredibly different development models whose efficiency can definitely vary from time to time: this is descriptively true. However, as it will be pointed out following Zylberman's paper, if human rights are justified, they are justified by the same principles. Once accepting the Universal Declaration of Human Rights, a State is committing to act accordingly to those principles, hence it is not free to pick and choose whatever right it might prefer. The practical point made by the critics remain extremely valuable: a state shouldn't be free to pick which rights to endorse, but tolerance on the extent and manner of implementation of a right are more than advisable. The other main criticism that Basic Rights traditionally face is the Feasibility objection. As a matter of fact, this relatively new kind of rights always had a tendency to be hard to implement:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights

recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.²

How is it possible to understand if these are only utopian dreams, programmatic objectives, or long term goals? How can rights and obligations that depend on the availability of scarce or unpredictable resources have any actual normative power? What does "progressive realization" mean?³ A big part of the challenge of these questions comes from the loose formulation of the Committee. As a matter of fact this thesis will not give an answer for every Economic Social and Cultural Right as the answer is very likely above personal current knowledge. The thesis will however focus on the Right to Adequate Food, and maintain that it is absolutely possible to define both positive and negative duties to protect it, a clearer and specific formulation of the right.

² Ivi, Art2.

³ M. J. Dennis, D. P. Stewart, *Justiciability of Economic, Social, and Cultural Rights: Should There be an International Complaints Mechanism to Adjudicate the Rights to Food, Water, Housing, and Health?*, 98 A.J.I.L. 462 July, 2004, 3. <https://www.law.du.edu/documents/sutton-colloquium/materials/2013/Stewart-David-Justiciability-of-Economic-Social-and-Cultural-Rights-Should-There-be-an-Int-1-Complaints-Mechanism-to-Adjudicate-the-Rights-to-Food-Water.pdf>

1.0 Account and Grounding of a Human Right Theory

In the tenth of December of the 1948, the General Assembly of the United Nations unanimously adopted the Universal Declaration of Human Rights (UDHR). After the 2nd World War, the UN felt the need to have a shared method to hold States morally accountable for their actions and laws, with the purpose of granting people with fundamental freedoms and rights that ought to be protected. After that first declaration, other two followed: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Moreover, after these two major declarations other more specific treaties followed with specific concerns in mind, such as torture, racial discrimination, migrant workers and children.⁴ Given the large media coverage and the expansion of the related institutions, these rights can be relatively effectively enforced not only in States but also other subjects, such as companies, often receive pressures to change and adapt to the Declarations content. Among these rights there is the Right to Adequate Food, which the next chapters will specifically focus and define. As of now though I justify, after considering the possible objections, a universal Human Rights. After the reconstruction of a first moment of the debate, especially related with the American Anthropological Association I will side with a Minimalist Justification of HR arguing, in particular, with a Constructivist approach based on presumptive Universal Needs.

As the debate on human rights is definitely broad and extended, I chose to focus on one of the very first objections raised against a universal theory of morality as it effectively shows what is a problematic point in HR doctrine. In this short introductory chapter, I will present the American Anthropological Association objection to Human Rights. The intention is to show effectively how the claim of universal morality can possibly conflict with the idea of Tolerance for Cultural Identity: this problem will be the overarching theme of the whole thesis and, in the second section, I will advance a possible solution to it. In particular, the will of avoiding World War II horrors that is almost explicit in the UDHR, can sometimes simply be interpreted as plain cultural colonialism, moral paternalism, or simply as naïve moral universalism. Still, from a political and purely practical point of view, we can consider that several violations in Human Right laws have been ignored depending on political situations. Even though this might not seem to be a huge deal but several perplexities related with the actual impartiality and universality of Rights can legitimately be raised. Care for rights requires resources and has the potential to change regional powers: it is hard to imagine that every intervention in their favour is made purely out of moral rectitude and dedication.

⁴ G. Y. Kao, *Grounding Human Rights in a Pluralist World*, Georgetown University Press, 2011, 1.

The most acknowledged and traditional criticisms to the UDHR is raised by the American Anthropological Association (AAA) in 1947. According to the AAA, the Declarations have a strongly individualistic and typically Western minded idea of the subject and the society around it. Not only this, but what the UHRD eventually does is comparable to a new form of cultural imperialism, which means that the cultural variety of notions such as freedom and dignity is denied. As a consequence of this the “alternatives have been decried, and suppressed where controls have been established over Non-European peoples” in the name of a supposed Universality. The hard core of similarities between cultures has, however, been consistently overlooked” to say the least.⁵ More in detail we can see three major conceptual objections:

1. The individual realizes his personality through his culture, hence respect for individual differences entails a respect for cultural differences. There can be no individual freedom, that is, when the group with which the individual identifies. (...)
2. Respect for differences between cultures is validated by the scientific fact that no technique of qualitatively evaluating cultures has been discovered. (...)
3. Standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must, to that extent, detract from the applicability of any Declaration of Human Rights to mankind as a whole.⁶

Essentially, what this document wants to be is a warning towards the refusal and lack of concern for cultural and historical particularities of humanity: a reminder for a healthy moral scepticism, if not Cultural Relativism. In fact, what the Declaration does is indeed trying to frame exactly what human beings have universally right to. The objective is describing a presumably objective and universal moral truth that is related to every possible person independently of any details such as his age, the colour of his skin or his sex. Intuitively the idea behind this is that if, say, genocide or slavery are morally wrong, then it must be always like that, independently of the peculiarities of the human being that is being killed or enslaved. It is fairly reasonable to assume that the American Anthropological Association refuses slavery and mass murder in fact, as I reminded, the Relativistic objection they raise should be seen simply as a call for tolerance of cultural diversity.⁷ Let’s consider now this paragraph of the Statement:

Even where political systems exist that deny citizens the right of participation in their government, or seek to conquer weaker peoples, underlying cultural values may be called on to bring the peoples of such states to a realization of the consequences of the acts of their governments, and

⁵ American Anthropological Association The Executive Board, “Statement on Human Rights”, in *American Anthropologist*, 1947, 541.

⁶ Ivi, 541-543.

⁷ K. Engle, “From Scepticism to Embrace: Human Rights and the American Anthropological Association from 1947-1999”, in *Human Rights Quarterly* 23, no. 3, 2001, 540–543.

thus enforce a brake upon discrimination and conquest. For the political system of a people is only a small part of their total culture.⁸

How and when is it possible now to defend effectively both the idea of cultural relativism and care for human interests? What is ultimately justifiable only in the face of culture? What if my culture justified torture as a mean of entertainment?

As a matter of fact, it appears from the 3rd point I quoted that AAA is not contrary at all to the idea of UHR, rather it suggests strongly that a declaration of Human Rights, based solely on one culture's values would be unjust, non-universal and non-legitimately applicable to "humanity as a whole". As K. Engle rightfully notes, two kinds of observation can be done against the AAA's Statement. First of all, the Statement seemingly sets up the principle of tolerance to be the new ultimate and universal principle of all: this would be inconsistent with the claim of opposition to a strongly universal principle of morality. If the content of the UDHR is not to be accepted because of the idea of Universality that it brings, then the alternative that is given can't possibly rely on a Universal Principle of Tolerance. The second objection is that despite the claimed universal validity of the Principle of Tolerance, there seem to be specific cases in which the principle must be acted against: "underlying cultural values may be called on to bring peoples of such states to a realization of the consequences of the acts of their governments". In this case the claim for Universality of Tolerance would be simply false, as its actual application would be limited to certain cases. I hope to have shown how problematic and conflicting the grounding of Universal Rights and the notion of Tolerance are. It should be clear by now that in order to defend the existence of Universal Subsistence Rights effectively, it is necessary to make cultural relativism and care for human interests cope with each other.

In the following chapter I will try to solve this extremely problematic point by arguing for the normative importance of Subsistence Rights, as protection of biological and unavoidable human needs.

⁸ American Anthropological Association, The Executive Board, "Statement on Human Rights", cit., 543.

2.0 Account and Grounding of Subsistence Rights

Since in the first chapter I analysed both the first problematical points about HR doctrine and in this second chapter I plan to analyze other possible alternatives in grounding human rights with the so called Minimalist Theories. Following Kao's interpretation of the debate, Minimalist Theories are all those theories that try to justify HR without any reference to Religion as a grounding element. Several authors, such as Charles R. Beitz and Joseph Raz notice how, within the Minimalist debate on Rights, it is possible to find mainly two types of defence: political and naturalistic. In this chapter I will present both positions, focussing in particular on the naturalistic approach. By doing so, I plan to show the normative importance of specific human capabilities that, if left unprotected, would drastically endanger human life. I will argue that these core functions ought to be universally protected: this will prove to be decisive in the next chapters, where I will defend a specific declination of the Right to Food: Right to Nutrition. This chapter will proceed by firstly showing the lack of strong grounding of the Political Rawlsian approach. In a second moment, by analyzing the differences between A. Sen's and M. Nussbaum's version of the Capabilities Approach. The third and final part of the chapter will consider Griffin's naturalistic account, as an alternative defence of Human Rights, starting from the normative ideals of free and autonomous beings.

2.1 *The Political Approach, Rawls and the Non-Intervention duties*

As J. Rawls states in the introduction of *Laws of Peoples*, his work aims to bring the level of reflection on the topics faced in his previous studies up to an international level.⁹ Not surprisingly this book's arguments follow from *A Theory of Justice*. The idea of social contract between reasonable citizens and the application of a principle based procedure had a prime role in his first theory, and still does in this latter book. The idea would be to define the role of Human Rights as ultimate limits of tolerable pluralism between political communities. Remarkably, Rawls' focus is not so much related with a possible justification and grounding of HR, but with what might be the conditions for a legitimate enforcement of international law.

Not surprisingly then, the first distinction made in the book is the differentiation of domestic societies according to their political system. The first group is *reasonable liberal peoples*, which intuitively represent Rawls' ideal political group of subjects and also already endorses his theory of justice as fairness; the second category is *decent peoples*. In this second case the author refers to "non-liberal societies whose basic institutions meet certain specified political conditions, such as the right of citizens to play a substantial role through associations and groups in the making of

⁹ J. Rawls, *The Law of Peoples: With "The Idea of Public Reason Revisited"*, Harvard University Press, 2001, Introduction.

political decisions, and lead their citizens to endorse what is a reasonably just law, according to the Society of Peoples”.¹⁰ An example of this are *decent hierarchical people*, however he mentions that there are quite surely other he is not going to talk about because the research would be too extensive. Overall these two types of group I mentioned can be called *well-ordered people* and are both “worthy” members of the Society of Peoples, which is essentially the group of people that follows the ideals and principles of international law, the Law of Peoples, in their mutual relations. The third category is *outlaw states*, which presumably are acting upon completely opposite principles to the Law of Peoples, while the fourth is *Societies burdened by unfavourable conditions*: societies whose historical, social, and economic circumstances make their achieving a well-ordered regime, whether liberal or decent, difficult if not impossible. The last group comprehends *benevolent absolutisms*: they honor human rights but, given their non-democratic structure of governance, their members are denied a meaningful role in decision making process. As a consequence of this, they are not “well ordered”.

As a first note on this, it is necessary to clarify that according to Rawls there might well be more than a single Law of Peoples: rather, there will be a large family of principles and conditions that will respect the fairness and representation of the said people. The first difference from his previous work is the fundamental political unit. If in *A Theory of Justice*, the “veil of ignorance” and the procedural system were based on persons, in this case we can clearly see that the scope enlarges radically: the political subject is now a greater group of Peoples, the international community. The idea of *The Law of Peoples* is to account for a defence of a Realistic Utopia: “Our hope for the future of our society rests on the belief that the nature of the social world allows reasonably just, constitutional and democratic societies as members of the Society of Peoples. In such a social world peace and justice would be achieved between liberal and decent peoples both at home and abroad”.¹¹ Rawls then adds that, from a practical perspective, a certain degree of contrast would be ineliminable and always be cause of friction between *liberal* peoples and *non-liberal but decent* people about the following intersocietal values:

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the right of self-defense but no right to instigate war for reasons other than self-defense.
6. Peoples are to honor human rights.
7. Peoples are to observe certain specified

¹⁰ Ivi, 3.

¹¹ Ivi, 6.

restrictions in the conduct of war. 8. Peoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime.¹²

We need to remember that in Rawl's *Law of People*, Human Rights have the peculiar role of setting specific limits to a regime's internal autonomy or potentially to the legitimate reason for declarations of war.¹³ As counterintuitive as it may seem, agreement to HR is not only a required step to reach *decency*, as defined above, but also essential to claim a right to complete political and military autonomy: they set the ultimate limits to tolerance and pluralism. This is possible because what he means with HR is slightly different than what is actually declared in the UDHR. As a matter of fact these rights are numerically inferior to the ones in the Universal Declaration, these "urgent rights" are: right to life, as in "means of subsistence and security"; the right to freedom, as in "freedom from slavery, serfdom, forced occupation, and a sufficient measure of liberty of conscience to ensure freedom of religion and thought"; the right to personal property; to formal equality as expressed by the rules of natural justice which entails that similar cases ought to be treated similarly.¹⁴ The violation of these rights is to be condemned by both *reasonable people* and *decent hierarchical people*. Other societal set ups will, by definition, not agree with these values but nonetheless these rights, as the points 6. and 8. in particular maintain, remain universal in their truth and validity. By this, Rawls means that they are "intrinsic to the Law of Peoples and have a political (moral) effect whether or not they are supported locally. That is, their political and moral force extends to all societies (...) human rights are, as I have said, a proper subset of the rights possessed by citizens in a liberal constitutional democratic regime, or of the rights of the members of a decent hierarchical society".¹⁵ Despite being such a powerful enabler for legitimate intervention in other countries' autonomy, Human Rights in the Rawlsian theory are explicitly not grounded in any teleological, philosophical or morally objective conception of human being and the only actual foundation for Human Rights that is given in *The Law of People* is of political, or procedural nature.¹⁶ Now, I want to consider two main aspects of the author's theory: 1. Any intervention aimed enforcing any other right currently present in the UDHR will not be justified 2. Any non-citizen living among decent people will not be subject to care as he is not, technically speaking, part of the Society of People endorsing the law. As Rawls himself recognizes, these two points might seem counterintuitive but, as he acknowledges, the purpose of his theory is fair to people in general

¹² G. Y. Kao, *Grounding Human Rights in a Pluralist World*, cit., 59.

¹³ J. Rawls, *The Law of Peoples: With "The Idea of Public Reason Revisited"*, cit., 79.

¹⁴ Ivi, 65.

¹⁵ Ivi, 81-82.

¹⁶ Ibidem.

and not to individual persons.¹⁷ In this respect, Rawls' *Laws of People* doesn't imply by any means a truly universal adoption of liberal or civil Rights in the sense that it targets every single person on earth, but one that is limited to the idea of Citizenship. Despite how unpalatable this might seem, doing so can make it easier to stand against the remarks of ethnocentrism I considered in the first chapter and can also define clearer criteria for the application of the Principle of Tolerance. A restricted amount of Human Rights, that avoid possible references to a broader and liberal set of values, is easier to justify and defend on an international level but it obviously might lead to unsatisfying results if we are interested to the whole set of rights the UDHR endorses.

Despite the explicit intention of avoiding ethnocentric critiques, some authors such as Tarek Hayfa have argued that the ethnocentric objection is still applicable to the *Law of People*. As Hayfa rightfully notices, only liberal and decent peoples are the sources of international laws to whom justice must be justifiable.¹⁸ Other possible countries or groups of people wouldn't need to confirm, accept or agree with the *Law of People*, because the legitimization coming from liberals and decent people would be sufficient. Even though this definition of what constitutes the Law of People is clear, what remains mostly unjustified is why certain rights should be only relevant because they are recognized by *liberals* and *decent populations*. A prime example of this can be seen with the refusal to recognize *benevolent absolutisms* as decent just because of the incapacity of these governments to accord their citizens any meaningful role in politics. This proves to be a problem because nothing in the eight principles of intersocietal justice I cited before requires societies to grant their citizens the right to participate in the political decision-making process. The exclusion of *benevolent absolutisms* from the Society of Peoples is apparently unjustified and a signal of a theory that, despite trying not to, leans anyway towards an ethnocentric and liberal perspective.

Other than this, the Law of People has a possibly more relevant point that needs to be addressed. I am referring to the menace outlaw and non-Law complying states present for international peace and security and the fact that they are not to be tolerated by *decent people*: they "deeply affect the international climate of power and violence".¹⁹ Given the political justification for the Law of People, the legitimate boundaries for intervention are eventually set by the will to maintain political peace between the countries. The result of this is however that, unless an outlaw state endangers international peace and cooperation, any *decent states* intervention will be unjustified even if the

¹⁷ Ivi, 24.

¹⁸ T. Hayfa, "The Idea of Public Justification in Rawls's Law of Peoples", in *Res Publica* 10, no. 3, 2004, 238.

¹⁹ Ivi, 81.

purpose would be to care for the citizen's civil rights.²⁰ What complicates these difficulties is Rawls's prima facie commitment to defend human rights in the case of externally weak outlaw states, which contradicts the previous statement I considered. This shows that in this specific case either Rawls claims are inconsistent or he unconsciously endorses a theory of intrinsic human worth and dignity: in both cases it seems that there is a problem of consistency in the meaning of the concepts he uses.²¹ Given the political nature of the Rawlsian theory, we end up with a reflection on what a legitimate intervention might be. This reflection, however, seems to be based on ineffective or biased, typically liberal, concepts. Keeping in mind the political nature of Rights is crucial for their enforcement and yet, if the objective is to provide solid grounding for Rights, it might be good to look somewhere else.

2.2 Naturalistic Approaches, Fundamental Interests

In this section of the chapter I will briefly present the theory while in the next one I will analyze the interaction between Capabilities Approach (CA) and HR. The objective is to justify Human Rights with the Principle of Equal Capabilities and the idea of threshold biological needs that, if not reached, prevent the realization of that equality.

The Capabilities Approach framework was initially formulated by Amartya Sen in order to offer a different perspective on the evaluation of quality of life, public policies and justice in social institutions. As it might seem from a first sight, this framework is not strictly related with Human Rights. It is important to note that this perspective tries to do exactly what Rawls was trying to do: avoiding the ethnocentric and pluralistic objections, without turning down the possibility to Universally evaluate and condemn certain human conditions. Traditionally A. Sen and Martha Nussbaum, who in particular focuses on the link between CA and HR, always had strong remarks towards the so called goods-oriented theories that can be found in the first Rawlsian model. The main problem is that in the Rawlsian framework every citizen's skill and capacity to convert those primary and standard quantities of goods is treated as always being equal: this however is not always true. For example, a disabled person might have access to an equal amount of resources as others but still be unable, from a practical perspective, to achieve sufficient freedom. As Sen notices, "the motivations underlying the Rawlsian theory and the capability approach are similar, but the accountings are different(...) an interpersonal comparison based on the holdings of primary goods cannot, in general, also reflect the ranking of their respective real freedoms to pursue any

²⁰ G. Y. Kao, *Grounding Human Rights in a Pluralist World*, cit., 74.

²¹ Ivi, 75-76.

given—or variable—ends”.²² Sen has observed that a person’s ability to pursue her own ends will depend not only on what ends she has, but also how well she is able to convert her resources into valuable functionings considering the following five variables:

- Personal heterogeneities, such as disabilities or proneness to illness
- Environmental diversities, including climate conditions or varying threats from epidemic disease or local crime
- Variations in non-personal resources and social climate, such as the nature of public health care or social cohesion
- Different relative positions vis-à-vis others (e.g., being relatively poor in a rich country may prevent persons from achieving elementary functionings even though their income, in absolute terms, may be higher than the level of income of members in poorer communities)
- Distribution within the family, because the income earned and opportunities afforded may not be equally distributed²³

The Rawlsian account and the CA might be both aiming for social justice, yet given the Aristotelian tradition in which Sen and Nussbaum move, they are able to find a different justification for their principles.²⁴ In particular, according to Aristotle the means of satisfactory living are not themselves ends: the ultimate end is in fact the reaching of a good life. The point Sen makes is that in a Rawlsian theory of justice these goods become primary indicators of justice and become prominent in assessing the equality of a society. In doing so they achieve a major importance that overcomes the initial objective of a theory of justice, and sets the stage for an improper consideration of people’s actual interests.²⁵ Several authors tried to elaborate objective lists of capabilities that would grant actual equality, however Sen mainly refrains from “definitive” lists, preferring more vague yet definitions: “the freedom to be well nourished, to live disease-free lives, to be able to move around, to be educated, to participate in public life”.²⁶ It is exactly from this consideration that I would like to proceed in the next chapter in regard of the Right to Food, however it is yet to be cleared how does all of this relates to human rights.

2.2a Capabilities or Rights? Nussbaum’s Capabilities

In more than one case Rights and Capabilities have the purpose to care for the same aspects of life. M. Nussbaum’s, for example, tried several times to elaborate a list of capabilities that have more

²² A. Sen, *Development As Capability Expansion*, 48, http://www.ophi.org.uk/wp-content/uploads/Sen-2003_Development-as-Capability-Expansion.pdf

²³ A. Sen, M. Nussbaum, *The Quality of Life*, Oxford University Press, 1993, 25–29.

²⁴ A. Sen, *The Idea of Justice*, Harvard University Press, 2011.

²⁵ Ibid.

²⁶ G. Y. Kao, *Grounding Human Rights in a Pluralist World*, cit., 107.

than one overlapping content with HR. Consider the following list of Threshold capabilities presented in “Capabilities as Fundamental Entitlements: Sen and Social Justice”:

Life is related to Being able to live to the end of a human life of normal length; not dying prematurely, or before one’s life is so reduced as to be not worth living.

Bodily Health. Being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter.

Bodily Integrity. Being able to move freely from place to place; to be secure against violent assault, including sexual assault and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.

Senses, Imagination, and Thought. Being able to use the senses, to imagine, think, and reason—and to do these things in a “truly human” way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing works and events of one’s own choice, religious, literary, musical, and so forth. Being able to use one’s mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to have pleasurable experiences and to avoid nonbeneficial pain.

Emotions. Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one’s emotional development blighted by overwhelming fear and anxiety. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)

Practical Reason. Being able to form a conception of the good and to engage in critical reflection about the planning of one’s life. (This entails protection for the liberty of conscience and religious observance.)

Affiliation. A. Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech.) B. Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails provisions of nondiscrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, national origin.

Other Species. Being able to live with concern for and in relation to animals, plants, and the world of nature.

Play. Being able to laugh, to play, to enjoy recreational activities.

Control over One’s Environment. A. Political. Being able to participate effectively in political choices that govern one’s life; having the right of political participation, protections of free speech and association. B. Material. Being able to hold property (both land and movable goods), and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. In work, being

able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers.²⁷

This broad list of capabilities essentially aims at defending what in the UDHR would be called civil, political, economic, cultural, and social rights. As Nussbaum explicitly maintains in “Capabilities as fundamental entitlements, this is nothing but a number of similarities, however the CA can provide clearer answers to specific problematic and uncertain points in the HR debate. As I will argue in the next chapter, enforcing fundamental rights using the idea of Capabilities might prove to be more effective: securing a right to citizens in these areas is to put them in condition to function in that area. Achieving standards from a Capability perspective simply requires slightly different things, that might not be simply present from a traditional and quantitative ones. To prove this point, Nussbaum considers the condition of women in a State in which they have a nominal right to participate to politics but from a practical perspective they are actually totally powerless. That right can’t be translated into practical capabilities: thinking in terms of capability gives us an easier and more effective benchmark as we think about what it really means to secure a right to someone. Securing rights as per intended by CA is an active affirmation and not merely absence of negative action. Consider for example that the American Constitution is based on an ideal of negative liberty which states that: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; (...) deprive any person of life, liberty, or property (...) nor deny to any person within its jurisdiction the equal protection of the laws”. Now consider the Indian Constitution, which is instead relying on a affirmative definition of rights: “All citizens shall have the right to freedom of speech and expression; to assemble peaceably and without arms; to form associations or unions”. The framing of the notion of freedom we can find in the latter of the two clearly implies that every subject impeding on individual freedoms would be acting against that person’s rights and the state needs to engage in reparatory action.²⁸ CA manages to appeal at an intuitive level that goes beyond possible religious or cultural grounding by putting a major focus on practical aspects: facing the same issues with a Rawlsian approach would be harder. More than giving a reason to abandon HR, CA give good reasons or starting points to assess their actual effectiveness or necessary implementation.

Until now what I have done, is simply presenting how Human Rights and Capabilities Approach interact and which kind of advantages would come from a union between the two. I will now discuss the foundational aspects related to the capability approach. In order to do so, I will shortly

²⁷ M. Nussbaum, “Capabilities as Fundamental Entitlements: Sen and Social Justice”, in *Feminist Economics* 9, no. 2–3, 2003, 40–41.

²⁸ Ivi, 39.

present Sen's defence, but I will mainly focus on Nussbaum's arguments as, of the two main representatives of the CA, she put consistently more effort in this debate. The main justification of Human Rights, according to Sen, is of procedural nature. In particular, debating with "open impartiality" and unconstrained discussion amongst every part involved will eventually lead to a convincing list of capabilities ought protecting. By doing so, it will be possible to avoid for the result to become a simple adoption of the most commonly shared norms. No candidate for a universal norm should be disqualified simply because someone somewhere objects to it. The procedural nature of the justification of Rights activists for Human Rights are especially dear to Sen since they "allow the immediate use of the generally appealing idea of human rights to confront oppression or great misery, without having to wait for the theoretical air to clear".²⁹ All this results in a quite vague conclusion in regard of the justificatory grounds, but in a clear normative content: Sen's original intent has never been the justification of HR but their actual defence.

On the other hand, Nussbaum's account relies on quite different claims. Starting from the Aristotelian understanding of humanity, as naturally social, she reaches into a non realist, yet essentialist and naturalistic view of morality and human nature. What do I mean by this is that, according to her, human beings all have peculiar capabilities and functionings and some of them are more relevant than others.³⁰ Respecting these core capabilities, which I mentioned before in this chapter, is respecting human nature. It is worth considering now that these capabilities are not only biologically defined, but also psychologically or socially determined. Surprisingly enough, to describe humanity, Nussbaum refuses a strong biologic approach, preferring what she calls "Aristotelian procedure in ethics" or, "internalist essentialism", that resembles the Socratic way of reasoning: appeal to personal experience, common sense, or the use of popular myths and traditions.³¹ According to her, Human nature is definitely too complex to be simply reduced to a biologically limited thing. These important features and behaviours needs to be available for a human being because they are part of his natural *telos*: impeding on those functionings implies going against individual flourishing possibility and, eventually, acting in an unjust way.³² Even though these capabilities seem to have intrinsic worth, they still need to be "acceptable for all": how are these two things compatible? The whole problem of this argument comes, again, from the intention to (1). avoid a universal, possibly ethnocentric position that is unaware of cultural peculiarities, and at the same time (2). avoiding the problem of relativism that comes with

²⁹ A. Sen, *The Idea of Justice*, cit., 356.

³⁰ M. Nussbaum, "Capabilities as Fundamental Entitlements: Sen and Social Justice", cit., 55.

³¹ G. Y. Kao, *Grounding Human Rights in a Pluralist World*, cit., 115.

³² *Telos*: Natural functioning of an organism according to Aristotle. Also "...telos is intended to reflect the biological and functional needs that would be characteristic of a given species".

subjective or adaptive preferences. The main problem here is that accepting the idea of a natural *telos*, defined through capabilities, in human nature would inevitably push us into a strongly universalistic direction. Now, on the one hand such a universalistic framework is conflicting with the idea, that I already mentioned before, of cultural diversity and identity that is extremely relevant in the debate. On the other hand, the whole idea of having Human Rights is precisely to avoid and prevent behaviours from those cultural and moral traditions that openly accept and inflict cruelties.

Nussbaum replies to this by appealing to the fact that her list of capabilities should be only considered as a starting point: capabilities want to give a general, most definitely updatable, framework of assessment. Overall what the main, core, notions are aiming to do is protect humans biological needs and avoid psychological vulnerabilities, without erasing the option to gradually change the social rules that might exploit these intrinsic human capabilities.³³ More explicitly, in this perspective a good or a freedom need not to be timeless to be considered universally valid. It is because of this that, for example, we can find minimum literacy to be in that list of core capabilities. Given the important relation between literacy and other important capabilities such as political freedom, civic engagement and education it would be reasonable to think that promoting such a thing would be a positive goal for public policies: the creation of new possibilities by human innovation can radically transform the surrounding culture and environment, however certain necessities humans have will likely be left unchanged.

It is especially because of the radical importance of these threshold capabilities that Nussbaum describes a human right as “an especially urgent and morally justified claim that a person has, simply by virtue of being a human adult, and independently of membership in a particular nation, or class, or sex, or ethnic or religious or sexual group”.³⁴ The list of “central human capabilities” serves to identify the types of claim that satisfy this condition. In the next chapter I will briefly introduce Griffin’s theory of Right and, as I will try to show, it is not surprising that Beitz, refers to both theories as proponents of a naturalistic approach to the justification of human rights.³⁵

2.2b Personhood and Beers, Griffin’s Agency

Griffin is one of the fiercest proponents of Naturalism in Human Rights and according to him personhood, in the form of security of person and agency, has a central role in justifying a normative approach to Human Rights.³⁶ By analyzing his position I want to offer an alternative to the CA path for the justification and grounding of Human rights, this will allow to face some

³³ Ivi, 121.

³⁴ M. Nussbaum, “Capabilities as Fundamental Entitlements: Sen and Social Justice”, cit., 57.

³⁵ C. R. Beitz, *The Idea Of Human Rights*, Great Clarendon Street, Oxford, 2009, 62-65.

³⁶ J. Griffin, *On Human Rights*, Oxford University Press, Oxford 2008, 31-33.

peculiar points when finally facing debate on Subsistence Rights. In doing so it will be necessary to clarify the two central notions we already mentioned because, as even the author acknowledges, they are rather vague and they could easily have a lot of meanings. Griffin's argument starts with what is a rather powerful normative statement: Normal Human Agents have three characteristics 1) choose one's own path through life (autonomy); (2) the possession of minimal resources and education to act upon this choice (minimum provision); and (3) no one must block you from pursuing your particular conception of a worthwhile life (liberty).³⁷ In order to achieve Social and Political justice, every human being or citizen must be autonomous in his decisions, sufficiently supplied his basic needs and not be actively impeded in his quest to achieve what he values. Starting the importance of the notion of personhood and agency, that becomes the actual "threshold" of justice, Human Rights enforcement is the tool to achieve justice. At this point several authors, such as Beitz and Raz, find that there are quite a number of similarities between the grounding of rights in Nussbaum's capabilities and Griffin's Rights. In particular both of them take basic human interest as an essential starting point of their accounts, with Griffin having autonomy, minimum provision and liberty, and Nussbaum having the ideal of the citizen "as a free and dignified human being".³⁸ The common idea here is that given the human nature, that necessarily comes with needs as well, it is possible to ground a theory of justice in a principle of equal access to those extremely valued aspects of life. In this regard, we need to consider Williams' objection, as it is vital in order to correctly understand the naturalistic standpoint of Nussbaum: how does somebody's wants possibly influence "any prescription that leads to obligations or rights?".³⁹ In fact, if mere wants or wishes were the actual grounding of human rights, we could be forced to admit an alcoholic's right to be given beers, just because he have an addiction problem. The objection is solid, however, simple wants are not the point being discussed here. It is possible to avoid the critique by reminding that the basic capabilities or interests are intrinsically valuable objectives and as such they are independent from somebody's desire. Unrestrained agency, as much as equal capabilities, are necessary to lead a satisfying life hence whatever doesn't contribute to these aspects it is not a relevant to justice evaluation. Let's consider the alcoholic case once again. Even accepting without too many doubts that drinking a beer is an enjoyable activity, we still would like to argue that it is impossible to say that a person has a "Right to Alcohol Consumption". Avoiding this objection with CA is possible because even if there is a central capability related with playing and "entertain yourself", drinking alcohol is neither a central or necessary element for a dignified life: it is not part

³⁷ Ivi, 50.

³⁸ C. R. Beitz, *The Idea of Human Rights*, cit., 64.

³⁹ B. Williams, *Ethics and the Limits of Philosophy*, London, Routledge, 2006, 61.

of that “minimum of what justice requires for all”.⁴⁰ In a very similar way Griffin would argue that 1) constant alcohol supply and consumption does not have a particular role in the concept of personhood and agency 2) you are free to value alcohol because of the liberty principle 3) the liberty principle is a negative principle, hence in the worst case scenario there is a right not to impede on somebody’s quest for alcoholism but nothing more than that. In these two conceptions it is possible to avoid Williams’ objections since the grounding of a right is independent of anybody’s contingent wills and desires: the content of what constitutes a dignified life is part of an objective list of core interests, based mostly on natural basic needs.

2.3 Conclusions

Starting from Rawls’ perspective and finishing with the naturalistic accounts, I analyzed three possible justifications and defences for Subsistence Rights. I firstly noticed how Rawls’ argument eventually relies on a precautionary constructivist principle. In fact not only the author fails to give a strong grounding for Human Rights, but it also has limitations due to the use of a strongly libertarian point of view. After presenting a possible way to differentiate between political aggregates, Rawls then takes into account how they could reasonably interact and establish shared fundamental norms that ought to be internationally respected. The main advantage of doing this is that it makes it easier to account for cultural independence, autonomy and regional values, if we exclude some extreme cases of Right infringement. The approach tries to rely merely on the procedural acceptance of the Law of Peoples by liberal and other decent peoples but, in doing so, it kicks out of the possible group of lawmakers every other kind of political subject. The end result is apparently weakened by the role that the ideal of liberal society eventually has in legitimizing the Law of Peoples: *decent people* alone have to power and the right to decide what is morally right and to be rightfully protected. As a consequence of this it is hard to truly justify or impede any kind of intervention against *non-decent people*.⁴¹ As a final point Rawls’ position makes it impossible to argue for intervention within *non-decent people* since they would not be even considered as proper citizens of a State: there is no possible duty towards *non-decent people*. This doesn’t sound like a good starting point for a defence of Universal Human Rights and, as a matter of fact, it offers a limited idea of justice. Since the political grounding of Rights was unsatisfying, I considered the two naturalistic arguments from Nussbaum and Griffin. While the first theory relies on the notion of equality of core capabilities, the second one relies on crucial interests, in particular on the notion of agency. Both authors strive for a universal foundation of rights that is also based on human nature;

⁴⁰ M. Nussbaum, *Beyond the Social Contract: Capabilities and Global Justice. An Olaf Palme Lecture*, Oxford, 19 June 2003, 5.

⁴¹ J. Rawls, “The Law of Peoples”, 81.

because of this they are, although in their own ways, particularly successful at securing a ground for Subsistence Rights.

3.0 The Right To Adequate Food- Introduction

In this chapter I will try to define what the Right to Adequate Food implies. Firstly I will analyse the definition as presented in the Committee on Economic, Social and Cultural Rights, focussing in particular on the three notions of Nutritional Value, Cultural Adequacy and Sustainability. The aim of this first section is to show that these principles need further clarification as they are inconsistent with each other. Secondly, to solve these issues, I will integrate Shue's account with the previously presented ones. The main purpose of this second section will be to clarify different levels of priority in the normative principles of food. By taking into account the relevance of threshold capabilities and of agency I will argue that to enforce the Right to Food effectively a primary focus should be given to the Nutritional Value of food. The other two principles, despite being relevant long term objectives, are neither as necessary or impactful in securing human life's safety. In the third section of the chapter I will consider two traditional objections to the Right to Food: the argument of Normative Indivisibility of Human Rights, and Cranston's objection to the Right to Adequate Food. Finally, I will conclude that the importance of the Nutritional Aspect should trample the other two principles mentioned in the Right to Adequate Food. In particular, I totally disagree with Kent's observation that "Dignity does not come from being fed". Dignity might not come from being fed, but it doesn't come from dying of starvation either. In fact, not dying of hunger is probably quite necessary to improve one's quality of life.

3.1 The Right to Adequate Food, State of the Art

In this first section I will analyse the Right to Adequate Food as presented in the *General Comment on the Committee on Economic, Social and Cultural Rights* in 1991.

6. (...)The right to food is realized when every man, woman and child , alone or in community with others, has physical and economic access at all the times to adequate food or means for its procurement.

7. The concept of adequacy is particularly significant in relation to the right to food since it serves to underline a number of factors which must be taken into account in determining whether particular foods or diets that are accessible can be considered the most appropriate under given circumstances for the purposes of article 11 of the Covenant. The notion of sustainability is intrinsically linked to the notion of adequate food or food security, implying food being accessible for both present and future generations. The precise meaning of "adequacy" is to a large extent

determined by prevailing social, economic, cultural, climatic, ecological and other conditions, while “sustainability” incorporates the notion of long-term availability and accessibility.⁴²

According to the above section, the Committee suggests three main components of the Right to Adequate Food. The first component, not surprisingly, is the Nutritional Value of food. This means that to the very least a satisfying diet should be able to fulfil the basic nutritional necessities of a person without compromising his health. Despite how intuitive and simple this concept might seem, several complications arise with the other components enlisted in the *General Comment*. The second element of Adequate Food is its Cultural Value. This means that food must also be respectful of cultural elements such as the prevailing “social, economic, cultural, climatic, ecological and other conditions”.⁴³ This aspect makes up for the whole idea of “adequacy” and makes the definition of food incredibly flexible, volatile, and extremely unclear from a practical and normative perspective. The aim of this component is to protect the traditional, religious and cultural aspects that are often related with food. Ranging from cultivation and breeding techniques to the consumption methods and religious prescriptions, all humanity historically related with food in a lot of different ways. Some authors, such as Kent, argued that this component of the Right to Food is necessary to protect human dignity: “Dignity does not come from being fed. It comes from providing for oneself. In any well-structured society, the objective is to move toward conditions under which all people can provide for themselves”.⁴⁴ Forcefully feeding pork to a Muslim prisoner would go against his rights, even though it would probably take care of his nutritional needs.⁴⁵ Taking into account the resulting prescriptions would imply that not only should an individual be protected by malnutrition and hunger, but also that he should have access to culture-specific foods. In fact, what needs to be provided in the prisoner’s case is access to a healthy pork-free source of protein. Other elements such as economic, climatic and ecological aspects need to be considered as parts of the Cultural Value of food. Overall, producing healthy food and making it accessible is not enough; it also requires to consider which food is to be produced in which region, what are the traditional methods of production, how the surrounding economy works and what are the environmental needs of the area. The final component of the notion of adequate food is Sustainability. Though this point is possible to question the quantity of resources used in food production: these must be carefully balanced in order not to endanger the future generation’s right

⁴² General Comment, “Committee on Economic, Social and Cultural Rights”, cit., 1–2.

⁴³ Ivi, 3–4.

⁴⁴ G. Kent, *Freedom from Want: The Human Right to Adequate Food*, Georgetown University Press, Washington, 2005, 46.

⁴⁵ K. Bonne, W. Verbeke, “Religious values informing halal meat production and the control and delivery of halal credence quality”, in *Agriculture and Human Value*, 25 (1):35–47, 2008, 36–38.

to adequate food. If this component is ignored, in the future we could simply have even more food safety problems.

Intuitively these three points can easily conflict between each other in extremely problematic ways and this would also result in unclear duties. As an example I will now consider a study conducted on a nomadic community in Kenya: the Maasai. According to Chenge et. al this tribe's culture and dietary habits have a huge correlation with children under nutrition:

Some food taboos prohibit consumption of wild animals, chicken and fish limits the household food diversity. Consumption of vegetables is limited since they are perceived to be livestock feed. The belief that land is only for grazing contributes to low crop production and consumption thus the diets lack diversification. Maasai culture encourages introduction of blood, animal's milk and bitter herbs to infants below six months, which affects exclusive breast feeding. The men are prioritized in food serving leading to less and poor quality food to children.⁴⁶

In this case, it is clearly impossible to safeguard the children's Right to both Nutritious and Culturally Adequate food. If the Right to Food is really dependant on those three criterions to be satisfied, in no possible condition their Right to Food will be ever satisfied. The culture and the environment they are raised in have unhealthy consequences and impede their access to actually nutritious food. Make no mistake, the clash between culture and nutrition is not the only problem with the threefold definition of food. In fact, according several authors such as FAO⁴⁷, Singer⁴⁸ and Johnston⁴⁹ all around the world people are consuming foods that pose the greatest negative impacts for both their health and the environment: implementing a right to food that doesn't have any priority in his principles is nigh impossible. What if the only sustainable and healthy food available goes against a culture's diet? What if a culture is based on unhealthy or unsustainable food? As these intuitive questions are definitely too broad and vague, I will now try to find approach to the Right to Adequate Food, starting from the last chapter's section.

3.2 Right to Food, What does it imply.

Considering both Nussbaum' and Griffin's defence of Rights from the last chapter, I will now argue that the notion of Nutritional value of food ought to have a first level priority if compared to the other two principles. On the other hand, Culturally Adequate Food should be of minor immediate concern: only once the access to healthy, nutritious and sustainable food is established, the cultural

⁴⁶ P. M. Chege, J. O. Kimiywe, Z. W. Ndungu, "Influence of culture on dietary practices of children under five years among Maasai pastoralists in Kajiado, Kenya", in *The International Journal of Behavioral Nutrition and Physical Activity*, 2015; 12: 131.

⁴⁷ Food and Agriculture Organization, *The state of food insecurity in the world 2012. Economic growth is necessary but not sufficient to accelerate reduction of hunger and malnutrition*, Rome, 2012

⁴⁸ P. Singer, J. Mason, *The Ethics of What We Eat: Why Our Food Choices Matter*, Rodale Books, 2007.

⁴⁹ J. L. Johnston, J. C. Fanzo, B. Cogill, "Understanding Sustainable Diets: A Descriptive Analysis of the Determinants and Processes That Influence Diets and Their Impact on Health, Food Security, and Environmental Sustainability", in *Advances in Nutrition*, Volume 5, Issue 4, 1 July 2014, 418–429.

meaning of food will become a valuable and legitimate objective to strive for. According to the conclusions of the last chapter, the ideas of capability or agency are both especially fit to describe the subject of Human Rights. With this chapter I am considering, thanks to Shue's account of Rights, that unless Security and Subsistence are achieved it will be nigh impossible to improve somebody's capabilities. Setting a priority between the principles used in the Right to Adequate Food formulation will also allow for clearer understanding of the responsibilities of the duty bearers.

A good starting point for a defence of the Right to Subsistence can be found in Shue's *Rights: Subsistence, The Affluence, and U.S. Foreign Policy*.⁵⁰ Many authors, such as Alkire and Morales, considered Shue's definition of Basic Needs as extremely restrictive and too narrow: potentially limited to extreme survival situations.⁵¹ Even if this is a reasonable objection, Subsistence Rights' main and only strength is that it supports a highly intuitive notion of basic needs.⁵² The fact that survival is a universal necessity for every human being is easily endorsed, but is seldom too scarce and brute of a notion to be palatable for social rights advocates.⁵³

I will now defend Shue's position from these objections by showing how it positively interacts with Nussbaum and Griffin's positions. As already mentioned, the reason why Shue's account is especially relevant when compared to the other two is his focus on the Human Right to Subsistence. According to Shue a Right provides "(1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats".⁵⁴ Rights are grounded because they are everyone's minimum reasonable demands upon the rest of humanity: they are essential to the enjoyment of any other right. In other words, every human being that can't provide for himself "should have available for consumption what is needed for a decent chance at a reasonably healthy and active life of more or less normal length, barring tragic interventions".⁵⁵ Being aware that is the possibility to "actually enjoy a substance" is key to answer to the objections I considered earlier. Having a Right to subsistence does not mean having the right to be slightly undernourished for the majority of your life: "is to exercise it within institutions that effectively protect one against deprivation of it, especially deprivation by those with the most power in the situation. And effective protection must include channels through which those whose rightful demands have not been satisfied, can in fact repeat and insist upon their demands until they are

⁵⁰ H. Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, Princeton, Princeton University Press, 1996.

⁵¹ L. Morales, "The Discontent of Social and Economic Rights", in *Res Publica*, 24:257–272, 2018, 261.

⁵² F. Shuppert, Distinguishing Basic Needs and Fundamental Interests, in *Critical Review of International Social and Political Philosophy*, 16:1, 24–44, 2011, 27.

⁵³ L. Morales, "The Discontent of Social and Economic Rights", cit., 262.

⁵⁴ H. Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, cit., 13.

⁵⁵ Ivi, 23.

fulfilled”.⁵⁶ In fact, Shue would definitely “not count as adequate food a diet that produces a life expectancy of 35 years of fever-laden, parasite-ridden listlessness”.⁵⁷ It is at this point that the similarities between his account and the other two I already considered become interesting: Nussbaum, Griffin and Shue all want to ensure the possibility for long term solutions that also lead a good, healthy and self-sufficient life. If on the one hand a narrow definition of Subsistence couldn’t fit in Shue’s account because he is explicitly holding that societies have a moral duty to change their policies in such a way that minimizes deaths and serious illnesses that are related with poor fulfilment of Basic Needs. On the other hand, differently from the other approaches, he realizes that fatal or debilitating deficiencies in essential commodities such as food would mean failure to fulfil subsistence rights and this would eventually “hinder the enjoyment of all other rights”.⁵⁸

Griffin and Nussbaum’s accounts allow for an effective justification for human Rights as whole however, Shue, manages to set priorities within threshold capabilities. Given that I just argued for the extreme importance of biologically-determined needs in order to achieve full capability and agency, it is clearer now how to set a priority within the three principles used by the Committee. A First-level priority in the enforcement of the Right to Food should be given to its Nutritional value: as without proper access to healthy and non-damaging food it would be way harder to lead a normal life. Sustainability maximisation would come as second priority since without it, future generation would certainly have less resources to fulfil their nutritional needs. As a matter of fact, if the focus on nutritional value is so strong, the cultural value of food cannot help to be last in priority: while it is clear that a human being’s death and serious illness should be avoided, it is less clear how these two elements could compete with his culture. The main point about prioritizing the Nutritional Value of food is to enable every other human functioning or right: unless a person is alive, reasonably healthy and with sufficient shelter from the environment, he won’t be able to enjoy or further his condition in any way.

There are now two main points that need to be addressed. Firstly, In this chapter I maintained that a specific component of the Right to Food should receive more attentions than the others, and this can lead to some problems one considers the notion of Indivisibility of Human Rights. Secondly, independently from the issues presented this section, I will need to address one of the most common objections raised against the *Economic, Social and Cultural Rights*, of which the Right to Food is part of: the Feasibility Objection.

⁵⁶ Ivi, 81.

⁵⁷ Ibidem.

⁵⁸ Ivi, 25.

These two issues will be dealt with in the next chapter.

4.0 The Indivisibility and Feasibility Objections

One of the main characteristic of the Human Rights Doctrine is its indivisibility. Since the proclamation of Teheran in 1968 the UN supported the idea that “Since human rights and fundamental freedoms are indivisible, the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible”.⁵⁹ This ideal of invisibility was rightfully called in because of the intuitive idea that no human right can be fully realized without fully realizing all the other human rights. In this chapter I will be analysing this concept and the relevant debate related to it. Finally, given the relevance of Basic Rights that I argued for, I will maintain that System-Wide Indivisibility its incompatible with the idea, that I defended in the last chapter, that some aspects of a Right are more relevant than others. Because of this, advocating for a refined and more realistic version of indivisibility is of pivotal importance. To help me with the discussion, I will be drawing from two particular contributions: the first one is *Rethinking Indivisibility: Towards A Theory of Supporting Relations between Human Rights*, an article from Nickel; and the second one is *The Indivisibility of Human Rights*, from Zylberman.

4.1 Implementation Sensitive Issues

In his article, Nickel, opens up with a very powerful remark that keeps coming back throughout the whole article. What does it exactly mean to say that all human rights are indivisible? According to the UN it means that unless all rights are thoroughly satisfied with a high quality it will be impossible to say that Human Rights are actually respected. This, however, “fails to recognize the genuine possibility that each right could be supported weakly by many others without this generating an indivisible structure”.⁶⁰ If, as Shue does, we were to maintain that Basic Rights are essential to the enjoyment of other rights, we would be also saying that “it would be quite literally self-defeating to defend standard civil rights while denying that there are basic subsistence rights”.⁶¹ As a consequence of this, Shue also argues that whenever there is a choice to be made between implementing Basic Rights and other rights, maximum priority should be used for the first ones.⁶² However, from a practical perspective the full implementation of a right is dependent on the almost total neutralization to that right’s menaces or through providing protections and other services,

⁵⁹ Proclamation of Teheran, International Conference on Human Rights, 22 Apr.–13 May 1968, ¶13, U.N. Doc. A/CONF.32/41, 1968, http://www.unhchr.ch/html/menu3/b/b_tehern.htm.

⁶⁰ J. Donnelly, *Universal Human Rights in Theory and Practice*, 2003, 27.

⁶¹ H. Shue, *Basic Rights: Subsistence, Affluence, and US Foreign Policy*, cit., 19.

⁶² *Ibidem*.

against any noncompliance with the right's duties: achieving this result for every human right might be a good long term objective, however has a risk of resulting too ambitious. According to Nickel, in order to clarify the debate related to indivisibility or links between rights we need to make two things more evident. The first one is that it is more reasonable to talk about "families" or groups of rights because, doing so, will drastically reduce the number of possible combinations and links between rights that we have to analyze.⁶³ The second one is related to the kind of relations that we can reasonably trace between the various groups of rights. Supporting relations between families of rights can be different in both direction and strength. If a right A supports strongly a second right B, while B only supports weakly the right A, we can also say the following things: 1) A is indispensable and necessary for B to be respected and 2) B is useful, but not necessary to reach A. What the author means while speaking of a weak support relation is a sufficient, yet not necessary relation. As an example Nickel considers that something like the Right of Freedom and Security Against Physical Attack and the Right of Freedom of Association. The first Freedom is definitely strongly supportive towards the second one since it is "practically inconsistent to advocate implementing the right to freedom of assembly while rejecting all rights to protections against physical attack".⁶⁴ Taking this into consideration, Nickel maintains that 1) if two groups of rights supports each other bi-directionally in a weak sense, then they are interdependent. 2) if two groups of rights supports each other bi-directionally in a strong supporting relation, then they are indivisible. These two statements essentially mean that interdependent should mean something radically different than indivisible. Advocating for a strong indivisibility relation hence, means defending the idea that all families of rights bi-directionally and indispensably support themselves. At this point Nickel cleverly notes how in the real world:

(3) The strength of supporting relations between rights varies with the quality and distribution of implementation. The high quality implementation of a right requires (but also provides) more and stronger support from (to) other rights. Rights with low quality implementation provide (and need) less support to (from) other rights. (4) A system of rights that has low quality implementation for most rights will tend to have low levels of interdependence among its rights.

This means that indivisibility of Human Rights is Implementation Sensitive, hence the value and effect of the implementation of a human right in a certain country or environment is not set in the stone. Since the quality of implementation of a right is highly dependent on the environment and on the success of other rights, it is absolutely likely that, in certain countries, it will be possible or more effective, to fully implement certain rights while temporarily getting along with only a partial

⁶³ Ibidem.

⁶⁴ J. W. Nickel, "Rethinking Indivisibility: Towards A Theory of Supporting Relations between Human Rights", in *Human Rights Quarterly* 30, 2008, 989.

enforcement of others. Zylberman calls this the problem of Asymmetrical Implementation.⁶⁵ Beyond this, Nickel notices how System Wide invisibility is inconsistent with the idea of Basic Rights. If this was to be true then, there would be a group of rights that should have higher priority in his implementation, forcing us to temporarily forget about the other groups: this would contradict the Indivisibility principle. While Nickel's considerations are extremely useful and correct in descriptive terms, there is one problem that need to be considered. Let's now analyze his analogy of the arched bridge. A bridge is an incredibly resistant and indivisible structure of major strategic importance, moreover, if we were to remove one big piece from the arc, the whole structure would crumble to the ground. Despite the bridge's current sturdiness, we have no reason to believe that all its parts were built in the same moment. Temporary scaffoldings were very likely used during his construction. If this analogy holds, it is reasonable to argue with Nickel that countries can "pick and choose" which right to implement. Every country has its own strengths, problems and liabilities, it would be useless to force a partial, stern and abstract "building schedule": every country should get to build their bridge with their own times, rhythms and prerogatives. While this idea is certainly able to picture a great amount of political and anthropological subtleties, we must not forget that the accorded freedom might simply be used to cherry pick easy-to-implement rights, that require minimum efforts and resources. In the next section I will cope with this point, trying to solve the problem of implementation sensitivity. Once this is done, I will defend the idea of Normative Indivisibility of Basic Rights: this will allow to argue against the total freedom of countries about the implementation of Basic Rights.

4.2 Normative Indivisibility

In his article, *The Indivisibility of Human Rights*, A. Zylberman tries to overcome the criticism I just considered, advancing the idea of Normative Indivisibility (NI).

Normative Indivisibility: "Two (sets of) human rights are indivisible if, and only if, there is a bidirectional relation of normative entailment between them, that is, if commitment to one (set of) human right(s) entails and is entailed by commitment to another (set of) human right(s)".⁶⁶

The whole idea of NI is to trace inferential relations of entailment and bidirectional duties among normative commitments. So, if we consider the principle of Equal Status (ES) as a starting point, that is the idea of individuals as free and equal persons with two rights, such as Right to freedom of Association(RA) and the Right to political Participation (RP), with NI we could say that:

⁶⁵ A. Zylberman, "The Indivisibility of Human Rights", in *Law and Philosophy*, 36: 389–418, 2017, 392.

⁶⁶ Ivi, 394.

- 1) Commitment to RA presupposes ES .
- 2) Commitment to ES entails RA.

In the same way:

- 3) Commitment to RP presupposes ES .
- 4) Commitment to ES entails RP.

Moreover it appears that there is a indirect bidirectional entailment between RA and RP via the principle of Equal Status. If this is correct then, the two rights would be Normatively Indivisible. According to Zylberman the main advantage of NI is that of being implementation insensitive, contrary System Indispensability that is contested by Nickel: “the rational necessity is not contingent on the kind or level of desired implementation”.⁶⁷ At this point Zylberman settles with three points. Firstly, it makes explicit that by pursuing an end settled by a right, you must also be pursuing the means that are bound with it. In other words, when formulating Normative Indivisibility between rights, we make so to reveal logical or practical inconsistencies involved in the denial of a right’s principle. What this means is that it will be possible to defend the enforcement of controversial rights, such as the Right to Adequate Food, by showing its relation with less controversial rights, such as the one for Political Participation. Secondly, considering Normative Indivisibility of some couples of rights, it would be incoherent to say as Nickel does, that countries with low capacities for the implementation of human rights would be totally unrestrained in their choices on the implementation rights. Thirdly we must remember that NI is a thesis about the way rights relate to each other, and not necessarily a thesis regarding the source of their justification. Because of this reason, according to the author, one of strong points of this thesis is the potential freedom of adoption of possible theories of justification of rights. It should be clear by now that NI is not about the immediate justification of rights, but is about the relation between them. In his article the author defends a theory of justification of rights that relies on Reciprocal Dignity of human beings: by doing so he show that NI is compatible with at least one justification theory and explicitly admits that other justificatory grounds can be legitimately used.⁶⁸ If we are committed to the Right against Torture then we are also committing to, say, the idea that people have Reciprocal Dignity that commands respect. This implies that because of that very same justification that is the Reciprocal Dignity, we would be forced to accept the validity to the Right to Adequate Food. Given our finite, biological constitutions, there are some conditions in which our

⁶⁷ Ivi, 396.

⁶⁸ Ivi, 399.

Reciprocal Dignity would be necessarily infringed: “what generates the rights to food, housing, and health is that their absence would entail interpersonal relations of subordination where your hunger, homelessness or sickness subjects you to the will of another ‘through begging, prostitution, or bonded labour’”.⁶⁹

If instead of Reciprocal Dignity I was to choose the Equality of Capabilities, or Equality of Agency as justifications for the HR doctrine, I would necessarily have to accept any corollary right that would come from them as Normative: I should act in accordance to it. The reason this detail is extremely relevant is that, is that by following the author’s remark, Normative Indivisibility:

does not require that everyone be committed to human rights for the same reasons, but rather that Normative Indivisibility functions as a presumptive constraint on the justification of human rights. Indeed, although indivisibility has been neglected, recognizing the important role indivisibility plays in the justification of human rights, should enrich our understanding of the demands on an adequate theory of human rights.⁷⁰

As I rapidly claimed in the introduction of this section, the reason of this focus on the NI theory is surprisingly enough, very much related with political and practical issues. If the argument holds, what we end up with is a theory strong enough to deny any country, even the developing ones, to have the discretion to pick and choose which policy or right implement as fast as they can. Even though it is true that moving into the realm of Rights can’t be an all or nothing thing, it is also true that “no agent can be bound to discharge a duty it is not feasible for said agent to compel to it”.⁷¹ Moreover we should consider that one thing is being able to reach the fulfilment of a HR only in the long term, and one other thing is to do nothing to achieve it because of excessive resources being needed. As an example let’s consider a developing country: since NI is valid, it is a country’s duty to implement all human rights. At this point it is probably self evident that the implementation would require a quantity of economic resources that is unavailable to the state. The legitimate conclusion here it is not to say that the state can freely choose what to implement, but to say that it can choose only the extent and manner of implementation, according to its capacities and resources. The key difference in practical terms is the fact that infinite postponing and procrastination is not acceptable in this framework. In the author’s words:

⁶⁹ A. Eide, “Adequate Standard of Living”, in *International Human Rights Law*, D. Moeckli, S. Shah, and S. Sivakumaran, Oxford: Oxford University Press, 2010, 235.

⁷⁰ A. Zylberman, “The Indivisibility of Human Rights”, cit., 399.

⁷¹ P. Gilibert, “The Feasibility of Basic Socioeconomic Human Rights: A Conceptual Exploration”, in *The Philosophical Quarterly*, 59:237, 2009, 659–681.

It must implement all human rights. The principle of feasibility affects the extent and manner of implementation, not the kinds of rights a state is obligated to implement. The proper way to acknowledge the material limitations of developing states, then, is not to grant these states discretion to choose which rights to implement first. Rather, these states should be given leeway in the extent and manner to which they can manage to implement human rights (...) Every state has an obligation to implement all human rights to the best of its ability.⁷²

This conclusion should not lead us into thinking that what is being advocated here is a universal, yet poor and jeopardy, implementation of all rights rather than a perfect implementation of few specific rights. In fact, a good amount of discretion on manners and extent of the implementation is more than compatible with this view. This discretion is very much needed if we consider the careful remarks Nickel makes about the social, political, economic peculiarities of every state. It would be delusionary to impose a standard, pre-made implementation scheme, advocating for specific and abstract instructions. However it must be clear that, if accepted, the HR doctrine can't allow extensive "cherry picking".

One final objection can be made to this framework. How exactly is "a great deal of freedom"⁷³ different, to the extent of implementation, from simply allowing a state to pick what rights to implement? This might seem problematic, and in fact it probably is, as Zylberman's answer is not totally satisfactory. Firstly the author admits that it is impossible to assess a priori the minimum extent to which a state should aim for, as every country's resources and environments is different. Nevertheless he claims that this conclusion should not lead us into thinking that whatever happens, a country can freely pick what to implement or not. If a minority of the population is steadily refused access to any kind of educative structure or constantly without any level of scholarization, believing that State has been really trying to implement the Right to Education would be rather disingenuous: again, it is relevant to settle any debate on rights with a keen eye. Before concluding this chapter I need to clarify two more things. Firstly, according to Zylberman there is a difference between failing to implement rights, and openly ignoring them, this might be true but I find this an unsatisfactory answer since, considering that the consequences are the same, it basically relies on the good intentions of a state: if we could rely on those, we would not be here in the first place as we could let states pick freely. Secondly, duly noted that from the practical and political perspective the difference between Nickel's and Zylberman might be thin, I am afraid I will be forced to accept Zylberman's option as his conclusions more convincing. Once Human rights are accepted as normative principles of actions, since they lie on the same principles there must be an option to

⁷²A. Zylberman, "The Indivisibility of Human Rights", cit., 615.

⁷³Ivi, 616.

sanction a state that actively ignores them: doing so, would be precluded if we accepted the Asymmetrical Implementation objection.

4.3 Feasibility and Basic Human Rights

In this chapter I will be defending Economic, Social and Cultural Rights from the Feasibility Objection, an influential critique from Cranston. The author remarks that that Socio-Economic Rights, such as the aforementioned Basic Rights, are not practicable and can't be translated into positive law as easily as civil-political rights. The main reason for this, is a lack of clarity in their formulation that causes extremely difficult implementation of those rights' defences. Rights must be positive duties, that also have a chance to be acted upon: it cannot be my duty to do what it is impossible for me to do. Now, securing traditional political and civil rights can be enforced through simple legislation, but since the so called socio-economic rights can't be taken care of as easily, they are only "utopian ideals that threaten to dilute the legal power of actual rights".⁷⁴ Beyond this, the author clarifies that there are other two major underlying problems. One thing is to say that for a Court understanding if a law undermines political freedom is a much easier task then checking if somebody is undernourished: to solve this matter is probably enough to given the task to elected officials or special bodies of inquiry. Another thing is to know what actions are required to fulfil the right, since this will generate a problem of enforcement. According to Raponi's response, these objections are relying on a traditional division between civil-political rights and socio-economic rights. Firstly, Raponi notices Cranston considers civil-political rights as bound to negative duties, while bounding socio-economic rights to positive duties to provide goods and services.⁷⁵ According to her, this is incorrect. Firstly, as already said in the introduction, according to the Committee on Social, Economic and Cultural Rights:

...the right to adequate food is realized when every man, woman and child, alone or in community with others, have the physical and economic access at all times to adequate food or means for its procurement...[It requires the] availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture [and] the accessibility of such food in ways that are sustainable.⁷⁶

The Right to Food it is not, at least not necessarily, the right to be fed or given money to buy food. The Right is also meant to protect the access to food, which is radically different since it requires that people have access to nutritious food, that enables them to lead a healthy life. Hence the

⁷⁴ M. Cranston, *Human Rights, Real And Supposed. In Political Theory And The Rights Of Man*, ed. D.D. Raphael, 43–53, London, Indiana University Press, 1967, 50-52.

⁷⁵ S. Raponi, "A Defense of the Human Right to Adequate Food", in *Res Publica*, 23:99, 2017, 115.

⁷⁶ General Comment, "Committee on Economic, Social and Cultural Rights", cit., 1-2

enforcement of this right doesn't necessarily imply a direct and positive duty to provide food or money. Secondly, there are cases in which even the more traditionally accepted civil-political rights, even by Cranston's terms, required a much loathed positive approach to law enforcement: the right to vote, for example, requires positive expenditure of resources and state action. Beyond this, we must recall that it is a State's duty not to interfere with rights, and making sure that those rights are actively and positively, protected and fulfilled. If these two counter arguments hold, the Right to Adequate Food can imply both positive and negative duties: a strong distinction between the two families of rights is, at least in this specific case, not justified.

An objection still remains, and is the one about how to effectively enforce what remains a complicated right. Onora O'Neill claimed that as long as Human Rights focus only on the perspective of a "claimant" they will lack strength, enforceability and meaning: "While liberty rights automatically entail universal duties against all others (everyone has the duty to not assault everyone else), rights to goods and services do not correspond to universal duties since no agent can have the obligation to feed all the hungry or ensure that all others have adequate food".⁷⁷ As long as an actual duty bearer is not specified, those rights are going to be empty aspiration that nobody is going to be compelled to. Raponi acknowledges that it might be complex to understand whose duty it is to respect the Right to Food, since it requires extremely difficult analysis of several things: government actions, policies regarding agriculture, commerce, zoning laws, foreign trade, and economic strategies.⁷⁸ Nonetheless, by reframing the Right to Food as both a positive and a negative right, it is possible to say that everyone, including States, have a duty not to interfere with everyone else's Right to Food, or a duty not to facilitate others actors to impede on some people's access to adequate food. If some communities are steadily deprived of any access to good, healthy and nutritious food because they can only buy from convenience stores or to fast foods, then they are being deprived of their Right to Adequate Food. Granting access to healthy food might be a weird, unusual or not traditionally enforced request but this doesn't prove that an individual doesn't have a right to it. Effective solutions or enforcements of rights can be thought of. An example could be: zoning, through permit laws, of fast food; encouraging mobile vendors to come in the problematic area; create an effective public transport system.⁷⁹

⁷⁷ O. O'Neill, "The Dark Side Of Human Rights", In *Contemporary Debates In Political Philosophy*, ed. Thomas Christiano, and John Christman, 427–439, Oxford: Blackwell Publishing Ltd, 2009, 426.

⁷⁸ S. Raponi, A Defense of the Human Right to Adequate Food", cit., 106.

⁷⁹ Ivi, 107.

4.4 The Right to Food- Conclusion

The Right to Food, independently of its formulation, has been much debated. One of the main reasons was that it was part of the Economic-Socio-Cultural rights. Firstly I considered debate on the degree of freedom related with the implementation of Economic-Socio-Cultural rights, such as the Right to Food. Several authors such as Nikels maintained that since the effectiveness of the level of implementation was not universal, every country should have been allowed to implement whatever rights he prefers, accordingly to his specific characteristics. However, following Zybermann, it was possible to defend modify the idea of indivisibility into a refined and more realistic one. Eventually I maintain that From a practical perspective, States indeed have the moral duty to fulfil, or try to fulfil, as best as they can the Right to Food as it was specified in the previous chapters, since they agreed to the UDHR.

In the second part of the chapter, I argued together with Raponi that, the feasibility objection is misguided interpretation of the Economic-socio-cultural rights that is based on a wrong application of positive and negative duties. In particular, the Right to Food requires a lot of preliminary and extremely complex studies, however, once those are done it will be totally feasible to implement appropriate positive and negative duties.

Conclusion

This thesis defends the Human Right to Adequate Food. First of all, as an Introduction, the objection of cultural relativism from the American Anthropological Association was considered in order to show the most problematic points of the grounding of the Human Right doctrine. In the second chapter Rawls' political justification from a *Law of People* is considered. The procedural nature of the justification, however, was normatively only grounded in the fact the a certain group of people would agree on the content of the laws. More importantly, Rawls' position makes it impossible to argue for the intervention and protection of rights within *non-decent people* since they would not be even considered as proper citizens of a State. No duty is possible towards *non-decent people*. This doesn't sound like a good starting point for a defence Universal Human Rights and, as a matter of fact, it offers a limited idea of justice. The focus was then switched to Nussbaum and Griffin approaches. The first one focuses on equality of core capabilities, while the second one relies on crucial interests, in particular on the notion of equal agency. Both authors strive for a universal foundation of rights that is based equal distribution of intrinsically valuable good or capabilities, according with human nature; because of this they are, in their own ways, particularly successful at securing a ground for Subsistence Rights as minimal threshold conditions that set a strong

normative limit. Once viable justifications are set, the thesis analyzes Right to Adequate Food, with particular focus on the three components of Nutritional Value, Cultural Adequacy, Sustainability. Eventually, as formulated, these principles are to be equally considered but this generates extremely vague and contradictory consequences: the case of the Maasai children is a perfect example of this. In order to solve this impasse is necessary to establish a priority between the three elements and, after considering Shue's argument of good nutrition and subsistence as primary enablers of other capabilities, eventually I maintain for Nutritional Value to be the most important one. Hence, the Right to Adequate food involves both Sustainability and Culture components, but these are to be achieved only in a second moment, when a stable access to nutritious food has been achieved: if this wasn't the case the enjoyment of other rights would be very likely endangered.

Finally after considering Zylbermann objection to the Asymmetrical implementation the thesis maintains that every country that agrees with the UHRD should also be striving to implement Economic Social and Cultural Rights, given the Normative Indivisibility of Rights. As an extremely important side note it is good to remember that, as Nickel points out, every country environment, society and culture is extremely different. Especially because of this reason it would be delusionary to implement human rights by imposing same deadlines or manners of implementation: tolerance for not immediate compliance towards unfeasible or extremely difficult to enforce rights is advisable. Finally, the final section of the thesis is related exactly with feasibility. The Right to Adequate Food and, traditionally, the bigger part of the Economic Social and cultural rights have been especially hard to implement and this has led to a bad name for this category of rights. Given the size of the debate, focussing on every Economic social and cultural rights wasn't really an option, however by giving a more specific definition of what the Right to Adequate Food implies a better account of duties and responsibilities. In doing this, Raponi's thesis was crucial, because it allowed to maintain that it is absolutely possible to define both positive and negative duties to protect the crucial human interest for survival.

Bibliography

- Appiah, K. A. *The Honor Code: How Moral Revolutions Happen*, WW Norton & Company, 2011.
- Beitz, Charles R. *The Idea Of Human Rights*, Great Clarendon Street, Oxford, 2009.
- Blakeney, Michael. *Intellectual Property Rights and Food Security*. Cabi, 2009.
- Boylan, Michael. *Environmental Ethics*. John Wiley & Sons, 2013.
- Bonne Karijn, Verbeke Wim. “Religious values informing halal meat production and the control and delivery of halal credence quality”, *Agriculture and Human Value*, 25 (1):35-47, 2008.
- Chege Peter M., Kimiywe Judith O., Ndungu Zipporah W. “Influence of culture on dietary practices of children under five years among Maasai pastoralists in Kajiado, Kenya”, in *The International Journal of Behavioral Nutrition and Physical Activity*, 2015; 12: 131.
- Comment, General. “Committee on Economic, Social and Cultural Rights.”, in *The International Journal of Children’s Rights* 7, 1999, 395–98.
- Cranston, Maurice. “Human rights, real and supposed”, in *Political Theory And The Rights Of Man*, ed. D.D. Raphael, 43–53. London: Indiana University Press.
- De Schutter, Olivier, and Kaitlin Y Cordes. *Accounting for Hunger: The Right to Food in the Era of Globalisation*, Bloomsbury Publishing, 2011.
- Dennis Michael J., Stewart David P. *Justiciability of Economic, Social, and Cultural Rights: Should There be an International Complaints Mechanism to Adjudicate the Rights to Food, Water, Housing, and Health?*, 98 A.J.I.L. 462 July, 2004.
<https://www.law.du.edu/documents/sutton-colloquium/materials/2013/Stewart-David-Justiciability-of-Economic-Social-and-Cultural-Rights-Should-There-be-an-Int-l-Complaints-Mechanism-to-Adjudicate-the-Rights-to-Food-Water.pdf>
- Donnelly, Jack. *Universal Human Rights in Theory and Practice*, 2003, 27.
- Engle, K. “From Skepticism to Embrace: Human Rights and the American Anthropological Association from 1947-1999.” *Human Rights Quarterly* 23, no. 3 (2001): 536–59.
- Eide, Asbjørn. “Adequate Standard of Living”, in *International Human Rights Law*, ed. by D. Moeckli, S. Shah, and S. Sivakumaran, Oxford: Oxford University Press, 2010, 235.
- Gilbert, Pablo. “The Feasibility of Basic Socioeconomic Human Rights: A Conceptual Exploration”, in *The Philosophical Quarterly*, 59:237, 2009, 659–681.
- Griffin, James. *On Human Rights*, Oxford: Oxford University Press, 2008.
- Food and Agriculture Organization, *The state of food insecurity in the world 2012. Economic growth is necessary but not sufficient to accelerate reduction of hunger and malnutrition*, Rome, 2012.

- Hayfa, Tarek. “The Idea of Public Justification in Rawls’s Law of Peoples.”, in *Res Publica* 10, no. 3, 2004, 233–46.
- Herring, Ronald J. *The Oxford Handbook of Food, Politics, and Society*, Oxford Handbooks, 2015.
- Ignatieff, Micheal. “I. Human Rights as Politics II. Human Rights as Idolatry.”, *The Tunner Lectures on Human Values, Delivered at Princeton University, April*, 2000.
- Ip, King-Tak. *Environmental Ethics: Intercultural Perspectives*, Vol. 205, Rodopi, 2009.
- Johnston Jessica L., Fanzo Jessica C., Cogill Bruce, “Understanding Sustainable Diets: A Descriptive Analysis of the Determinants and Processes That Influence Diets and Their Impact on Health, Food Security, and Environmental Sustainability”, in *Advances in Nutrition*, Volume 5, Issue 4, 1 July 2014, 418–429.
- Kao, Grace Y. *Grounding Human Rights in a Pluralist World*, Georgetown University Press, 2011.
- Kaplan, David M. and others. *Encyclopedia of Food and Agricultural Ethics*, Springer, 2018.
- Kent, George. *Freedom from Want: The Human Right to Adequate Food*, Georgetown University Press, Washington, 2005.
- Miller, Alexander. *Contemporary Metaethics: An Introduction*, John Wiley & Sons, 2014.
- Morales Leticia, “The Discontent of Social and Economic Rights”, in *Res Publica*, 24:257–272, 2018.
- Narveson, Jan. Sterba James P. *Are Liberty and Equality Compatible?*, Cambridge University Press, 2010.
- Nussbaum, Martha. *Beyond the Social Contract: Capabilities and Global Justice. An Olaf Palme Lecture*, Oxford, 19 June 2003.
- Nussbaum, Martha. “Capabilities as Fundamental Entitlements: Sen and Social Justice.”, *Feminist Economics* 9, no. 2–3, 2003, 33–59.
- Nussbaum, Martha. Sen, Amartya. *The Quality of Life*, Oxford University Press, 1993.
- O’neill, Onora. *Towards Justice and Virtue: A Constructive Account of Practical Reasoning*, Cambridge University Press, 1996.
- O’Neill, Onora. “The Dark Side Of Human Rights.”, In *Contemporary Debates In Political Philosophy*, ed. Thomas Christiano, and John Christman, 427–439, Oxford: Blackwell Publishing Ltd, 2009.
- Ofstehage, Andrew. “The construction of an alternative quinoa economy: balancing solidarity, household needs, and profit in San Agustìn, Bolivia”, in *Agriculture and human values*, 2012

- Otteson, James R. *Actual Ethics*, Cambridge University Press, 2006.
- Perry, Michael J. *The Idea of Human Rights: Four Inquiries*, Oxford University Press, USA, 2000.
- Singer, Peter. “One World: The Ethics of Globalization.”, *New Haven and London*, 2002.
- Singer Peter, Mason Jim, *The Ethics of What We Eat: Why Our Food Choices Matter*, Rodale Books, 2007.
- Pollan, Michael. *In Defense of Food: An Eater’s Manifesto*, Penguin, 2008.
- Rawls, John. *The Law of Peoples: With “ The Idea of Public Reason Revisited. ”*, Harvard University Press, 2001.
- Sen, Amartya. *Development As Capability Expansion*, http://www.ophi.org.uk/wp-content/uploads/Sen-2003_Development-as-Capability-Expansion.pdf
- Sen, Amartya. *The Idea of Justice*, Harvard University Press, 2011.
- Shafer-Landau, Russ. *Oxford Studies in Metaethics*, Vol. 1. Oxford University Press, 2006.
- Sharma, Shashi B. Wightman, John A. *Vision Infinity for Food Security: Some Whys, Why Nots and Hows!*, Springer, 2015.
- Shue, Henry. *Basic Rights: Subsistence, Affluence, and US Foreign Policy*, Princeton University Press, 1996.
- Simopoulos, Artemis P. *Nutrition and Fitness: Cultural, Genetic and Metabolic Aspects*, Vol. 98. Karger Medical and Scientific Publishers, 2008.
- Steiner, Hillel. *An Essay on Rights*, 1994.
- United Nations, *Proclamation of Teheran*, International Conference on Human Rights, 22 Apr.–13 May 1968, ¶ 13, U.N. Doc. A/CONF.32/41, 1968, available at http://www.unhcr.ch/html/enu3/b/b_tehern.html.
- The Executive Board, American Anthropological Association. “Statement on Human Rights.”, *American Anthropologist*, 1947, 539–43.
- Williams, B. *Ethics and the Limits of Philosophy*, London, Routledge, 2006, 61