



The Reality of Food Security in the 2020 Constitutional Amendment and Its Achievement Requirements

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Received: 15 /02 / 2024 Accepted: 14 /04 / 2024 Published: 30 /04 / 2024

Abstract:

The concept of food security stands as a cornerstone in the global pursuit of ensuring fundamental human rights, particularly the right to survival. Across the globe, international bodies ardently labor to delineate and underscore the imperative of safeguarding and enhancing this essential right. Consequently, numerous nations have enshrined it within their constitutional frameworks, recognizing its paramount significance. Despite this global trend, Algeria's recent constitutional amendment of 2020 provides only a modest treatment of this critical aspect. However, paradoxically, the Algerian government has demonstrated a robust commitment to upholding food security through a comprehensive array of legal measures designed to protect this vital right and hold accountable any individuals or entities that undermine it.

Keywords: *Food Security; The Right to Food.*

I. INTRODUCTION :

The right to food and its protection represent a crucial demand at both the international and national levels, a principle explicitly and implicitly underscored by numerous international conventions and domestic legislative texts worldwide. Article 25 of the Universal Declaration of Human Rights unequivocally asserts that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or any other lack of livelihood in circumstances beyond his control. (Universal Declaration of Human Rights, 1948)

In our present world, inhabited by a staggering 842 million people afflicted by hunger, the right to food is intricately interwoven with the concept of food security. This right stands indivisible from other fundamental rights, such as the right to life and human dignity (Dabah, 2003), serving as a cornerstone among the rights enshrined in the Universal Declaration of Human Rights.(Thériault& Otis, 2003)

Within the framework of the international legal system, the realization of food security is imperatively linked to the recognition of the individual's right to food, a right intimately associated with the right to survival (Universal Declaration of Human Rights, 1948). Indeed, it is unthinkable to acknowledge an individual's fundamental rights without simultaneously acknowledging their inherent right to food.(Fatiha, 2015)

The importance of constitutional organization for food security mandates the explicit inclusion of constitutional provisions within the constitutional document itself. Such provisions should articulate the right to food (De Schutter, 2010), its prerequisites for achievement, and its protection, given its vital connection to the right to survival.

However, despite this imperative, the treatment of this issue remains somewhat subdued in the Algerian constitution and some foreign counterparts, with only a limited number of constitutions explicitly addressing this fundamental right.

Therefore, there exists a prevailing sentiment among some stakeholders that current deliberations should center on establishing a legal hierarchy for food security within the state's constitutional framework. The backdrop of the COVID-19 pandemic serves as a stark reminder, prompting a reevaluation of the importance of food security within the broader political discourse.(Ziegler, 2003)

Given that food security stands as one of the most critical elements of national security, it begs the question whether adequate provisions for food security were integrated into the 2020 constitutional amendment. Additionally, there arises a pressing inquiry into the orientations adopted by the Algerian state to effectively realize and safeguard food security for its populace.

To answer this problem, a comparative analytical approach was adopted by addressing the following topics:

1. Constitutional Organization of Food Security.
2. Efforts of the Algerian State to Achieve Food Security.
- 1. The Constitutional Organization of Food Security**

Constitutions exhibit a spectrum of approaches regarding the organization of food security, ranging from explicit stipulations to implicit regulations. Before delving into an analysis of the constitutional organization of food security in both foreign jurisdictions and the Algerian constitution, it is imperative to establish a comprehensive definition of food security.

1.1 Definition of Food Security:

Food security is not merely a concept confined to the realm of sustenance; rather, it embodies a broader notion of safety, tranquility, and stability, shielding individuals and communities from the perils of hunger, uncertainty, and disruptions. Rooted deeply in various Quranic verses advocating for security from fear and hunger, such as "*a security blanket*" (Surah Al-Imran, verse 104) and "*Who has fed them, saving them from hunger and made them safe, saving them from fear*" (Surah Quraysh, verse 4). Additionally, the mention of "*the fig and the olive, and Mount Sinai, and this secure city*" (Surah At-Tin, verses 1-3) further emphasizes the notion of security.

Introduced alongside terms like national security and social security by international bodies and governments, food security underscores the imperative of addressing societal vulnerabilities and risks by adopting proactive strategies. Yet, the conceptualization of food security is far from uniform, reflecting the diverse perspectives of its proponents and definers.(Bouillet, 2021)

At the landmark World Food Summit convened in Rome in 1996, food security was defined as the state wherein all individuals enjoy unfettered physical, social, and economic access to adequate, safe, and nutritious food that caters to their dietary needs and preferences, fostering an active and healthy lifestyle.(Al-Kubaisi, 2014)

In the lexicon of geographical terminology, food security is depicted as the capacity of a state or a collective of states, such as the European Union or the Common Market, to achieve near-complete self-sufficiency in food production, shielded from external factors and risks.(EC-FAQ Food Security Programme, 2008)

From a health-centric viewpoint, the World Health Organization emphasizes the imperative of ensuring stringent conditions and standards throughout the food production, processing, distribution, and preparation phases to guarantee the safety, reliability, healthfulness, and suitability of food for human consumption.(Al-Zarqati, 2007)

Similarly, the Committee on World Food Security articulates food security as the state wherein all individuals enjoy unfettered physical and economic access to sufficient, safe, and nutritious food, tailored to their dietary requirements, fostering an active and healthy existence.(Al-Saeed, 2011)

The Arab Organization for Agricultural Development (AOAD) frames food security as the continuous provision of food in both quantity and quality essential for vitality and productivity across all segments of society, whether sourced locally or otherwise, and offered at prices commensurate with individuals' incomes and financial capacities.(Belkhir, 2015)

Echoing this sentiment, the World Bank underscores the necessity of ensuring universal access to adequate food for a healthy and active life, premised on the availability of food and the capacity to procure it.(Ksouri, 2012)

In essence, the attainment of food security hinges on multiple facets, chief among them being the physical availability of food, contingent upon factors such as food production levels, stock reserves, and trade dynamics.

Based on these definitions, achieving food security requires:

- **Physical Availability of Food:** Determined by the level of food production, stock levels, and net trade.
- **Economic and Physical Access to Food:** Through sufficient supply of food.
- **Utilization of Food:** The body's benefit from the essential elements of food.
- **Stability of the Above Indicators:** Ensuring the consistency of food availability, access, and utilization.

1.2 Food Security in Foreign Constitutions

African nations' constitutions stand out for their explicit provisions regarding the right to food, a reflection of the challenging crises they have faced. The Ethiopian Constitution of 1994, for instance, underscores this commitment in Article 90, affirming the state's obligation to address public health, education, clean water, food, housing, and social security needs within the limits of its resources.

Similarly, the Constitution of Malawi of 1994, in Article 13, mandates state action to promote welfare and development, including policies aimed at ensuring sufficient nutrition for all citizens to bolster health, self-reliance, and domestic self-sufficiency.

The Ugandan Constitution, notably detailed on the matter, emphasizes food security in Article 22, tasking the state with promoting food production and storage, establishing national food reserves, and fostering proper nutrition through mass education, among other measures, to foster a healthy populace.

In South Africa, the 1997 Constitution acknowledges the right to food explicitly within the framework of broader rights. Article 27 asserts everyone's entitlement to sufficient food and water, with special provisions ensuring basic nutrition for children.

Similarly, the Nigerian Constitution of 1999, in Article 17, commits the state to ensuring adequate food and reasonable living standards in pursuit of constitutional ideals and objectives.(Ben Tefat, n.d.)

In Europe, the Swiss government has shown foresight by proposing a constitutional amendment on food security, as reflected in Article 104, which underwent revisions in 2017 to address evolving challenges. The amendment broadens the scope of food security, emphasizing the preservation of agricultural bases, adaptation of production methods, and promotion of sustainable trade relationships.

Conversely, Arab countries' constitutions generally do not explicitly address the right to food, focusing instead on broader human rights and freedoms like education and housing. However, implicit acknowledgment of this right can be inferred from various constitutional provisions. For instance, the Bahrain Constitution of 2003, in Article 9, underscores the state's responsibility to effectively utilize arable land and support farmers, albeit without explicit mention of food security.(Kadem, 2018)

An exception among Arab nations is Egypt, where the 2014 Constitution explicitly enshrines the right to food and clean water in Article 79/1, reflecting a commitment to securing food resources, ensuring sustainable food sovereignty, and preserving agricultural biodiversity for future generations.

This disparity underscores the greater detail and emphasis placed on the right to food and food security in African constitutions, shaped by the persistent struggles with poverty and food insecurity experienced by their populations.(Swiss Federal Council, n.d.)

1.3 Food Security in the 2020 Algerian Constitutional Amendment

The latest constitutional amendment includes many fundamental human rights and freedoms as outlined in Article 35, which asserts that "the state guarantees fundamental rights and freedoms, and the institutions of the republic aim to ensure equality of all citizens in rights and duties by removing obstacles that hinder human development and prevent the effective participation of everyone in political, economic, social, and cultural life." However, it notably omits explicit mention of the right to food and food security.

Nevertheless, it implicitly touches upon these concerns through Article 62, which states that "public authorities work to protect consumers in a way that ensures their security, peace, health, and economic rights," and Article 63, which guarantees the right to access drinking water.

Despite these provisions, the Algerian constitution falls short in providing explicit constitutional protection for the right to food, offering minimal safeguarding compared to constitutions that explicitly regulate it. The general language of Article 63, particularly its emphasis on consumer protection to ensure security, safety, and health, prompts questions regarding whether the constitutional founder intended "security" in the article to encompass food security.

Given the ambiguity surrounding this article, it would have been more prudent for the constitutional founder to explicitly address this right. Therefore, it is suggested to amend the content of Article 62 to explicitly state: "Public authorities work to protect the right to food for consumers in a manner that ensures food security, safety, health, and their economic rights. The state shall protect local production and penalize any actions that disrupt market stability. Moreover, the state shall support agricultural production, strive to preserve agricultural and plant diversity, and provide suitable conditions for achieving sustainable development of food security."

2. The Algerian State Strategy to Achieve Food Security

Algeria has adopted various policies to achieve food security since independence. However, recently, the Algerian state has witnessed illicit commercial practices, especially during the COVID-19 pandemic, leading to a shortage of essential food supplies for every citizen, causing disturbances in food security, known as illicit speculation. The legislator intervened to put an end to these practices that pose a danger to consumers and threaten the security and stability of society, not stopping there but also expanding the powers of the National Gendarmerie to contribute to implementing the national strategy for food security.

2.1 Criminalizing Illicit Speculation

Speculation, at its core, is a legitimate aspect of economic activity, integral to the functioning of markets, where economic agents engage in speculative activities to garner lawful profits across various economic endeavors.(Thabet, 2022) However, speculation crosses into illegitimacy when it seeks, through deceptive tactics, to orchestrate artificial market fluctuations for personal gain.

This illicit form of speculation, often termed as risky maneuvering, involves buying and selling based on anticipations of price shifts to capitalize on the ensuing differences. Yet, such practices can backfire, resulting in losses if predictions prove inaccurate.(Al-Amin, 2000)

In Algerian legislation, illicit speculation is explicitly defined in Article 02 of Law 21/15 (Law 21-15, 2021)pertaining to the combatting of speculation, which delineates its manifestations. According to the law, illicit speculation encompasses actions such as hoarding or concealing goods with the intent of creating scarcity in the market and disrupting supply chains. Additionally, it encompasses practices like price manipulation, including the deliberate refusal or artificial reduction of prices for goods, merchandise, or securities, whether conducted directly, through intermediaries, or utilizing fraudulent methods, including electronic means.

Forms of illicit speculation as listed in Article 02 include:

- Deliberately spreading false or malicious news among the public to disturb the market and unjustifiably raise prices suddenly.
- Introducing offers in the market to disturb prices or legally set profit margins.
- Presenting offers at prices higher than those normally applied by sellers.
- Individually or collectively, or based on agreements, conducting market operations to gain profits not resulting from the natural application of supply and demand.

- Using maneuvers aimed at raising or lowering the value of securities. (Fawzia, 2023)

In the final paragraph of the article, scarcity is delineated as the insufficiency of goods or merchandise to satisfy the needs of the populace, stemming from heightened demand and diminished supply. Consequently, it is apparent that the legislature endeavors to safeguard the right to food, with a particular emphasis on addressing scarcity, the presence of which undermines food security.

In the battle against illicit speculation, which imperils the stability and welfare of consumers, the law bestows authority upon various entities to uphold market equilibrium. Articles 3 and 4 of the same law grant this authority to the state, while Article 5 extends it to local communities, and Article 6 involves civil society and the media. (Khadija, 2023)

To combat illicit speculation effectively, the legislature has criminalized such activities in the Penal Code under the section dedicated to crimes related to industry, trade, and public auctions. Articles 172, 173, 174, and 175 address these offenses, with Article 172 specifically outlining the crime of illicit speculation.

It stipulates penalties ranging from imprisonment for two months to two years and fines from 5000 DZD to 100000 DZD for individuals who, either directly or through intermediaries, engineer artificial fluctuations in the prices of goods, merchandise, or public or private securities.

Such actions include disseminating false or deliberately misleading information, manipulating market offers to disrupt prices, presenting offers at inflated prices, engaging in collusive practices to artificially inflate profits, or employing any other fraudulent means.

2.2 Expanding the National Gendarmerie's Tasks in Food Security

One of the significant amendments made by the Algerian legislator to protect food security is expanding the tasks of the National Gendarmerie to include adopting all appropriate strategies to ensure food security. This was done through Presidential Decree 23-313 dated September 3, 2023, which includes the tasks of the National Gendarmerie. (Presidential Decree 23-313, 2023)

Article 7 stipulates that the National Gendarmerie undertakes judicial police duties, participating in national defense as planned by the Minister of National Defense, combating terrorism, sabotage, and all activities aimed at compromising state security according to the current legislation and regulation. It also contributes to general intelligence tasks.

In the context of protecting food security, Article 9 states, "The National Gendarmerie ensures, in the field of administrative police, the preservation of public order and peace through preventive action characterized by general and continuous monitoring, ensuring the protection of people, property, institutions, and freedom of movement on communication routes. In this regard, the National Gendarmerie is specifically tasked with:

- Ensuring the application of laws and regulations governing administrative police.
- Maintaining and restoring public order and security, according to current legislation and regulation.
- Contributing to the implementation of the national strategy for food security.

By virtue of Article 11, the National Gendarmerie carries out all necessary intelligence to maintain food security, stating, "The National Gendarmerie, in the field of general intelligence, coordinates with other security services and concerned bodies to: ... Collect and analyze information and data related, especially to food, health, energy, and water security, and

communicate it to the competent authorities and participate in proposing the national security strategy."

Thus, the Algerian state has made considerable legal efforts to protect food security and the citizen's right to food and market stability by expanding the National Gendarmerie's authority to ensure the stability of the state and its institutions.

II. Conclusion :

While the latest constitutional amendment in Algeria may offer only modest provisions for organizing food security, it signals a growing recognition within the Algerian state of the imperative to ensure food security for its citizens. Efforts have been made at the legal level to strengthen penalties for breaches of food security regulations, reflecting a commitment to safeguarding this fundamental aspect of national well-being.

Moving forward, several key recommendations can further enhance Algeria's efforts to achieve lasting food security:

- Constitutionalizing food security and the right to food would provide a solid legal foundation for ensuring these essential rights are protected and prioritized within the national framework.
- Developing a comprehensive and integrated strategy for all aspects of food security is crucial to address the multifaceted challenges posed by ensuring an adequate and sustainable food supply for the population.
- Embracing digitization in sectors directly related to food security, such as agriculture, can significantly enhance efficiency, productivity, and resilience in food production and distribution systems.
- Leveraging the findings of university research in the field of food security can contribute valuable insights and innovations to inform policy-making and practical interventions aimed at enhancing food security outcomes.
- Promoting rational food consumption habits among the population can help reduce food waste, optimize resource utilization, and improve overall nutritional outcomes.
- Vigorously combating all forms of economic crimes that undermine food security, such as illicit speculation, is essential to maintain market stability and ensure equitable access to food resources for all citizens.
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