

THE END OF THE HUMAN RIGHT TO ADEQUATE FOOD AND NUTRITION

O FIM DO DIREITO HUMANO À ALIMENTAÇÃO E À NUTRIÇÃO ADEQUADA

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Abstract

In front of the relevant theme of the right to adequate food and nutrition, we seek, through bibliographical and documental research, to understand its complexity and its framework as a fundamental human right, according to a critical, plural and counter-hegemonic perspective. The relevance of the theme is based on the serious state of food insecurity that permeates, in particular, the Brazilian reality, requiring understanding the complexity of the concept of the right to adequate food and nutrition, its normative prescriptions and food sovereignty. The main objective is to critically and counter-hegemonically understand the human right to adequate food and nutrition. Specific objectives are to investigate: (1) the foundations of the human right to adequate food and nutrition; (2)

Resumo

Diante da relevância do tema do direito à alimentação e à nutrição adequadas, busca-se, utilizando pesquisa bibliográfica e documental, compreender sua complexidade e seu enquadramento como direito humano fundamental, conforme uma perspectiva crítica, plural e contra-hegemônica. A relevância do tema reside no estado grave de insegurança alimentar que permeia, em especial, a realidade brasileira, necessitando compreender a complexidade do conceito do direito à alimentação e à nutrição adequadas, suas prescrições normativas e a soberania alimentar. O objetivo geral é compreender crítica e contra-hegemonicamente o direito humano à alimentação e à nutrição adequadas. Os objetivos específicos são investigar: (1) os fundamentos do direito humano à alimentação e à nutrição



the normative provisions guaranteeing the right under study; and (3) the critical reading of human rights and their relationship with the right to adequate food and nutrition. As for the methodology, bibliographical and documentary research is used, starting from dialectical historical materialism and the critical theory of human rights. It's concludes that the effectiveness of the human rights to adequate food and nutrition goes through food sovereignty, in the sense of providing not only food, but culturally adequate food for the uniqueness of the population being treated, according to a critical view of this right as a human right.

Keywords: right to adequate food and nutrition; human law; food insecurity; Brazilian reality; food sovereignty.

adequadas; (2) as previsões normativas garantidoras do direito em estudo; e (3) a leitura crítica dos direitos humanos e sua relação com o direito à alimentação e à nutrição adequadas. Quanto à metodologia, utiliza-se pesquisa bibliográfica e documental, partindo do materialismo histórico dialético e da teoria crítica dos direitos humanos. Conclui-se que a efetividade dos direitos humanos à alimentação e à nutrição adequadas passa pela soberania alimentar, no sentido de proporcionar não apenas o alimento, mas a alimentação culturalmente adequada à singularidade da população que se está tratando, conforme uma visão crítica desse direito como direito humano.

Palavras-chave: direito à alimentação e à nutrição adequadas; direito humano; insegurança alimentar; realidade brasileira; soberania alimentar.

Introduction

The title of this article, “The end of the human right to adequate food and nutrition”, is inspired by the work of Greek author Costa Douzinas, entitled *The end of human rights* (2009), presenting the word “end” with a double meaning: either purpose or termination. In the same way, the paradoxes of human rights are faced, among them the fact that there have never been so many human rights in society and, at the same time, so much human right violations. Similarly, there have never been so many normative provisions regarding the human right to adequate food and nutrition, at the international and national levels, at the same time constant violations of this right are experienced; therefore, it is necessary to debate its purpose, so as not to result in its termination.

Such a scenario of continuity of human rights violations was not different during the COVID-19 pandemic, in which it was possible to identify the questioning and disregard of various rights, such as the right to health, to an ecologically balanced environment and, in particular, to food security. Therefore, from a global perspective, it is clear that food insecurity has worsened with the COVID-19 pandemic, and it is also possible to verify, in the Latin American,

Caribbean and Brazilian realities, its implications regarding the guarantee of individuals' rights and subsistence.

This research is justified in view of the current post-COVID-19 pandemic scenario and the relevance of addressing the right to adequate food and nutrition. In this way, when considering the complexity of the theme referring to the right to adequate food and nutrition, as well as the reality of disrespect for human rights – maintained in the post-COVID-19 pandemic context –, the research question is the following: to what extent is it possible to understand, in a critical and counter-hegemonic manner, the human right to adequate food and nutrition?

Thus, this article aims to understand, in a critical and counter-hegemonic manner, the human right to adequate food and nutrition. Specifically, it seeks to investigate: (1) the foundations of the human right to adequate food and nutrition; (2) the normative provisions guaranteeing the right under study, and (3) the critical reading of human rights and their relationship with the right to adequate food and nutrition.

As for methodology, this article makes use of bibliographical research, with a literature review relevant to the theme, as well as documentary research, with identification and analysis of secondary data from reports regarding adequate food and nutrition. This scientific production is based on the theoretical framework of dialectical historical materialism and on the critical theory of human rights.

1 The right to adequate food and nutrition: from the monoculture of the mind to new perspectives

With regard to the right to adequate food and nutrition, it starts from the perspective of understanding it as a fundamental human right, involved by the particularities of complex society, touched by the most diverse political, economic, and social aspects existing in a given reality, like Brazil. It is a relevant theme, especially when considering the recent context resulting from the COVID-19 pandemic.

Initially, it is important to highlight figures relevant to the debate on the right to adequate food and nutrition. According to the Hunger Hotspots report, the pandemic led to 3.5% decrease in world GDP in 2020, with greater impacts in South Asia and Latin America, and also in countries marked by stagnation in their growth and with fragile economies. Still, according to the mentioned report, in 2020, from 720 million to 811 million people faced hunger, corresponding to an increase of 161 million compared to 2019. Furthermore, 2.37 billion individuals

would not have access to adequate food in 2020, with an increase of 320 million people in just one year (FAO; WFP, 2021).

With regard to Latin America and the Caribbean, according to the *Panorama de la seguridad alimentaria y nutrición en América Latina y el Caribe* (2020), undernourishment has increased in the last five years, reaching 2019 with 7.4% population in a situation of hunger, equivalent to 47.7 million people. According to the cited report, this increase is due to a context of slowing economic growth, increasing poverty, weather events, and political crises (FAO *et al.*, 2020).

The COVID-19 pandemic had a significant impact on individuals' diet, pointing to the need for urgent measures to be taken by countries, under penalty of resulting in a food crisis. In 2020, the increase in extreme poverty affected 83.4 million individuals, noting that this increase in times of health crisis follows a trend that has been observed since 2014 (ECLAC; FAO, 2020).

In the Brazilian context, the situation of hunger can be observed before and during the pandemic. In 2014, Brazil was taken off the world hunger map of the Food and Agriculture Organization of the United Nations (FAO), as the rate of undernourished individuals fell to less than 5%, as indicated by the II National Plan for Food and Nutritional Security – PLANSA 2016-2019 (CAISAN, 2017). It is also observed that, despite Brazil having been removed from the UN hunger map in 2014, since 2013 there has been a drop in the levels of the Brazilian population food security, with a significant increase in mild food insecurity, followed by increased indices of moderate and severe food insecurity (REDE PENSSAN, 2021).

As a result, in 2017, Brazil had 84.9 million Brazilians who were in some degree of food insecurity. Regarding those Brazilians, 10.3 million were in a situation of serious food insecurity (CASTRO, 2021, p. 7). In the pandemic period, in 2020, 116.8 million out of 211.7 million Brazilians lived with food insecurity, of which 43.4 million did not have enough food and 19 million faced hunger (REDE PENSSAN, 2021, p. 10).

In 2021, one verifies that only 41.3% Brazilian households lived with food security, and 15.5% were in severe food insecurity – hunger –, present in their daily lives, which represents more than 33 million individuals (REDE PENSSAN, 2021, p. 10). In one year, there was an increase of over 14 million individuals in severe food insecurity, rising from 9% to 15.5%, that is, in 2022, from 10 million to 33.1 million individuals faced hunger (REDE PENSSAN, 2022, p. 18).

These are alarming numbers, which imply the need to think critically about the right to adequate food and nutrition. To this end, it is important to rescue

the history of that right, for a critical approach to its emergence. Thus, we seek to understand it from its setting, what Shiva (2003, p. 17) calls “monocultures of the mind”, that is, the construction of production models that destroy diversity and legitimize destruction as progress and growth, later transferred to the land¹, to rereadings and reflections that make it go towards new perspectives.

Thus, the debate begins in the 1910s, since the concept of the right to adequate food and the perspective of granting food and nutritional security stems from the historical process, with the First World War (1914-1918) as a milestone. According to Burity *et al.* (2010, p. 11), its initial conception was towards the idea of each nation producing its own food, acting as a national security imperative. After World War II, food security began to be observed according to the parameter of sufficiency or insufficiency of food.

Moving on to the 1940s, the relevant historical landmark on the theme of the right to food is the Hot Springs Food Conference (1943), held in the United States, characterized, according to Silva (2014, p. 9), as the first convened by the United Nations to deal with hunger, which was marked by defining the creation of the Food and Agriculture Organization of the United Nations (FAO), consolidated on October 16, 1945 and considered the most relevant organization in terms of development and strategic planning to combat hunger on the planet.

In the 1970s, an important historical moment in the construction of the right to food occurred with the First World Food Conference (1974), held in Rome. Faced with food scarcity, added to a context of struggles to end colonial domination in Africa and Asia, Silva (2014, p. 10) points out that such a conference implied the need for greater food production and the consequent need of modernizing agricultural production and increasing productivity through the use of pesticides and fertilizers, which was called the Green Revolution – a “formula to introduce monocultures and end diversity”, implying the “introduction of centralized control of agriculture and the erosion of decision-making” (SHIVA, 2003, p. 16).

As recorded in the documentary *O veneno está à mesa* [Poison at the Table], directed by Sílvio Tandler (O VENENO..., 2011), the Green Revolution is temporarily located in the post-World War II period, promising modernization of the countryside, encouraging monoculture and the expulsion of peasants. Transgenics

¹ It is also noteworthy that “it is in the dominant ideology that Vandana [Shiva] calls the monocultures of the mind, which bring with them the absolute conviction that this paradigm is the solution to the problems of all places on the planet, regardless of geographical location, ecosystems, climate, populations installed with their own social and political organizations and millenary traditions of land cultivation, with care for biodiversity that includes respect for life cycles” (VIEZZER, 2003, p. 10).

advanced in the name of increasing productivity, with the intensification of the use of pesticides – harmful to those who apply them and those who consume cultivated food –, a technology used in the green revolution derived from that used in war.

The Green Revolution, according to Ferraz (2017, p. 22), is characterized by monoculture, large agrarian properties, intense mechanization, and massive use of pesticides, fertilizers and transgenics, all in search of high productivity. As a consequence, it entails the accumulation of land, the expulsion of peasants, the threat to the native food culture, and the contamination of the environment. Still according to the author, the expelled peasants are those who migrate to the slums, due to hunger.

Moreover, it is emphasized:

The Green Revolution replaced not only seed varieties, but whole Third World crops. Just as the seeds of local communities were considered “primitive” and “inferior” by Green Revolution ideology, food crops were considered “marginal”, “inferior” and “of poor quality”. [...] what the Green Revolution declared to be “inferior” cereals are actually superior in nutritional content to the perceived “superior” cereals, rice and wheat (SHIVA, 2003, p. 39-40).

In Brazil, it is a production model that becomes hegemonic, considered, according to Augusto *et al.* (2015, p. 96-97), “perverse in its mode of appropriation/exploitation/expropriation of nature and the workforce”. The use of pesticides is characterized by a “morbigenic and deadly potential”, added to the expansion of large agrarian properties with a high degree of negative externalities, that is, socio-environmental impacts. At this point, the presence of industrialized food, the result of a monoculture fostered by the Green Revolution deserves reflection, which is massively distributed and marketed to the detriment of each nation’s food culture and agricultural systems.

As an example, the narrative of farmers impacted by the aforementioned production system stands out: for farmer Fernando Ataliba, from Indaiatuba, state of São Paulo, the Green Revolution destroyed the knowledge of traditional agriculture and created a new business; according to farmer Roberto Carlos Lazarotto, from Caiçara, state of Rio Grande do Sul, the amount of production increased by changing hybrid seeds, with the end of the use of creole ones, resulting in lack of control and loss of them (O VENENO..., 2011).

It exacerbates the disappearance of local knowledge, resulting from the interaction with a dominant system that, although also local, marked by a certain culture, class and gender, globalizes, imposing a dominating and colonizing

culture (SHIVA, 2003). Thus, a “devastation of the millenary wisdom existing in humanity, and a so-called scientific knowledge prevails, transferring the ideology and values of monoculture to the producers, and consumers through ideological, sociocultural and economic control” (VIEZZER, 2003, p. 11).

Returning to the historical context, according to Burity *et al.* (2010, p. 12), in the 1980s, even with the increase in food productivity, with the drop in prices and its introduction in the market through industrialized foods, the problem of hunger persisted. It was thus observed that nutritional security should involve guaranteeing sufficient physical and economic access to food for all, since poverty and social inequality hinder this access.

In the 1990s, as reported by Custódio *et al.* (2015, p. 6), during the International Conference on Nutrition in Rome (1992), held by FAO, food nutritional, health, biological, and cultural aspects were incorporated. Here, a broader view of the right to food was highlighted, as well as the idea of food security corresponding to food and nutrition security.

In the Brazilian scenario, the preparation for the 1996 World Food Summit deserves to be highlighted, with the preparation of a report on Brazil’s food situation, the result of the work of the government, private entities, and civil society. The former brings up the concept of food and nutritional security, based on the human being’s dignity, permanent and sufficient access to food classified as safe and of good quality, with a focus on healthy eating (CUSTÓDIO *et al.*, 2015, p. 3).

Thus, despite the predominance of a production model still based on the use of pesticides, transgenics, monocultures and large agrarian properties, new perspectives are perceived for substantiating the right to adequate food and nutrition. On the other hand, not reflecting on the analyzed production system and the right to adequate food and nutrition implies the continuity of characteristics criticized by Shiva (2003, p. 78), since the dominant system of knowledge has an intimate relationship with economism, implying the continuous dissociation of human needs, incompatible with equality and justice, being fragmenting, colonizing and away from concrete contexts, creating obstacles to the access and participation of subjects – consolidating a “mental monoculture” (SHIVA, 2003, p. 78).

By way of example and in line with Tendler (O VENENO..., 2014), in his documentary *O veneno está na mesa II* [Poison at the table II], some consequences of the dominant food production system are highlighted: oranges, important for human consumption, may be cultivated with phosmet, toxic to the nervous system, and trichlorfon, which can cause cancer, abnormal fetuses, miscarriage and

infertility; banana, with trichlorfon and carbofuran, where the latter can cause cancer, precocious puberty, infertility and miscarriage; onion, with parathion methyl, which can also cause cancer, precocious puberty, infertility and miscarriage; apple, with phosmet and abamectin, which influences fetal malformation, miscarriage, infertility and acute intoxication, in addition to the use of cyhexatin, which can cause cancer; and vegetables with acephate, which acts on fetal malformation, abortion, infertility, and acute intoxication.

Thus, this broader conception of the human right to food and nutrition is necessary, which, according to Burity (2021, p. 41), can be understood in two ways: “the right to be free from hunger and the right to adequate food and nutrition”. In the search for a concept that reflects the right to food in the Brazilian context, there is the conceptualization of Valente (2002, p. 48):

Based on the entire debate developed during this period, the Brazilian concept was built, according to which food and nutritional security consists of guaranteeing everyone access to safe and quality basic foodstuffs, in sufficient quantity, on a permanent basis and without compromising access to other essential needs, based on healthy eating practices, thus contributing to a dignified existence in a context of integral development of the human being.

It is emphasized that this reflection will stick to the perspective of the right to food to be free from hunger, considering the situation of serious food insecurity, in the face of the very emergency that entails the referred topic. Such a perspective does not diminish the relevance of adequate nutrition, whose complexity, inherent to the very right to adequate food and nutrition, deserves a peculiar treatment, since the problems of non-compliance with it do not derive from hunger, but from various consequences of the ingestion of nutritionally inadequate foods.

Thus, after critically presenting the historical aspects of the emergence of the right to adequate food and nutrition, paying attention to the problem of the monoculture of the mind and pointing out the need for critical reflection on new possibilities regarding such a right, we move on to the approach of its normative forecast, both at the international and national levels.

2 Normative prediction and dimensions of the right to adequate food and nutrition

The normative plan, at the international level, has two relevant documents with regard to the human right to adequate food and nutrition: the 1948 Universal Declaration of Human Rights², and the 1966 International Covenant

² Article 25, 1, 1948 Universal Declaration of Human Rights. Everyone has the right to a standard

on Economic, Social and Cultural Rights³, introduced into the Brazilian legal system via Decree No. 591, of July 6, 1992 (BRASIL, 1992). Thus, at the international level, there is an express provision for the right to adequate food and nutrition, both in terms of the existence and the sufficiency and quality of food to be consumed.

At the constitutional level, provided for in Art. 6⁴, the right to food as a fundamental social right appears textually reinforced only with Constitutional Amendment No. 64/2010, as it was already contemplated by the Federal Constitution as an implicit principle. However, at the infraconstitutional level, there was already a prediction with the enactment of Law No. 11.346, of September 15, 2006 (LOSAN) which creates the National Food and Nutrition Security System (SISAN).

Decree No. 7.272/2010 (BRASIL, 2010) regulates Law No. 11.346/2006, creates SISAN to ensure the human right to adequate food, establishes the National Food and Nutrition Security Policy (PNSAN), establishes the parameters for the elaboration of the National Food and Nutrition Security Plan (PLANSAN), and takes other measures. PLANSAN is the main instrument of PNSAN, established by Decree n. 7.272/2010. Its latest plan was designed to be in effect for the period 2016-2019 and there are still no forecasts about the plan that should be in force for the period 2020/2023.

Law no. 11.346/2006, in line with the evolution and complexity of the

of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (ONU, 1948).

3 Article 11, 1966 International Covenant on Economic, Social and Cultural Rights:

1. 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need (BRASIL, 1992).

4 Art. 6, 1988 Federal Constitution. Education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute are social rights, as set forth by this Constitution (BRASIL, 1988).

concept of adequate food and nutrition, implements a food security guarantee network for the Brazilian population. It brings in its core important concepts that punctuate adequate food as a fundamental right in its Art. 2^o, as well as the various dimensions to be protected when implementing public policies.

As stated in LOSAN, some dimensions to be observed when formulating public policies stand out, especially the social, cultural, environmental, and economic ones. This is because, as already mentioned by Burity (2021, p. 41), the right to adequate food and nutrition is presented as a sum of the absence of hunger and adequate access to food, in which there are social, cultural, environmental, and economic dimensions, among others. Another concept relevant to the theme is that of food and nutritional security, also brought by LOSAN in Art. 3^o and 4^o.

In adequate food policies, environmental, cultural, economic, regional, and social dimensions should be respected. In addition, access to food must occur on a permanent basis, covering aspects related to health, cultural diversity and environmental, cultural, and economic sustainability.

In this line, Valente (2002, p. 104) points out that adequate food is not reduced to “nutritionally balanced ration”. It is about the search for a construction of healthy humans, aware of rights, duties and citizenship both in Brazil and in the world. This awareness is also related to the environment and the quality of future generations.

5 Art. 2, Law no. 11.346/2006. Adequate food is a fundamental human right, inherent to the dignity of the human being and indispensable to the fulfillment of rights enshrined in the Federal Constitution, and the public power must adopt the policies and actions that are necessary to promote and guarantee the food and nutritional security of the population.

§ 1 The adoption of these policies and actions must take into account the environmental, cultural, economic, regional and social dimensions (BRASIL, 2006).

6 Art. 3, Law No. 11.346/2006. Food and nutrition security consists of realizing the right of everyone to regular and permanent access to quality food, in sufficient quantity, without compromising access to other essential needs, based on health-promoting food practices that respect cultural diversity and that are environmentally, culturally, economically and socially sustainable (BRASIL, 2006).

7 Art. 4, Law No. 11.346/2006. Food and nutrition security covers:

I – the expansion of conditions of access to food through production, especially traditional and family agriculture, processing, industrialization, commercialization, including international agreements, supply and distribution of food, including water, as well as measures that mitigate the risk of scarcity of drinking water, job creation and income redistribution;

II – the conservation of biodiversity and the sustainable use of resources;

III – the promotion of health, nutrition and food for the population, including specific population groups and populations in situations of social vulnerability;

IV – the guarantee of biological, sanitary, nutritional and technological quality of food, as well as its use, encouraging healthy eating practices and lifestyles that respect the ethnic, racial and cultural diversity of the population;

V – the production of knowledge and access to information;

VI – the implementation of public policies and sustainable and participatory strategies for the production, sale and consumption of food, respecting the multiple cultural characteristics of the Country.

VII – the formation of regulatory and strategic food stocks (BRASIL, 2006).

Thus, the author aligns with what Silva (2012, p. 118) teaches, who highlights the need for public policies adopted by the State to be sustainable – like those involving healthy food and nutrition. The author stresses the reconciliation between economic growth, the environment and social equity, embodying environmental protection as a fundamental objective of the Socio-environmental State of Law.

Likewise, it shows that, according to Law No. 11.346/2006, food and nutritional security permeates food production through traditional and family farming, protection of biodiversity, in addition to striving for the biological, sanitary, nutritional and technological quality of food, with preservation of food practices that respect the country's ethnic diversity and cultural aspects, once again emphasizing the cultural dimension of the right to food.

Thus, it is necessary to emphasize the need for an approach to the right to food that is implemented in a sustainable manner, based on the production of safe food, free of chemicals that are harmful to health and the environment. Valente (2002, p. 104) highlights the need to “promote sustainable food and nutritional security” as a collective responsibility of society and the State, which should seek articulations of governmental and non-governmental initiatives, aiming at fulfilling the human right to food.

As this is an economic dimension, it is necessary to understand that the right to food deserves to be met through access to food, which is acquired, according to Burity (2021, p. 45), from not only physical accessibility, but also economic accessibility. She also points out that access to food cannot jeopardize other rights, such as housing and health, and, when acquiring food, one must not jeopardize other human beings' vital needs.

Ferraz (2017) also observes poverty as one of the main decisive factors for the population's hunger and food insecurity, even pointing out as a premise the idea of its eradication through a development agenda that has human and not economic development as its main objective. Thus, it is observed that the lack of access to food is related to poverty and social inequality, as there is no effective distribution of wealth among individuals.

Valente (2002, p. 39) states:

Our history shows us that the situations in which human societies managed to guarantee quality food for all their members have been rare. None of the development paradigms adopted in recent centuries made it possible to overcome hunger, malnutrition and other food-related deficiencies in a sustainable manner. About a fifth of humanity still suffers from these scourges. This situation reflects exploitation, the

denial of the right to share the wealth produced and even the social and economic exclusion of significant portions of humanity.

[...]

Brazilian society currently lives with the existence of diseases associated with poverty and exclusion, such as hunger and malnutrition, and those associated with inadequate eating habits that affect poor populations more seriously, but which also hit hard all other portions of society. No one today is immune to the distortions imposed by the dominant development paradigm.

With regard to the cultural and social dimension of the right to adequate food and nutrition, attention is paid to the fact that food is presented as a cultural act, which comprises and is present in human relationships. According to Valente (2002, p. 38), eating does not only mean satisfying nutritional needs. It also involves building and empowering oneself as a human being, in the “organic, intellectual, psychological and spiritual dimensions”; not by chance food is present in many religious rituals.

Furthermore, one cannot conceive of said right in an uncritical manner, mentioning, finally, the considerations of Escobar (2007) on the subject of food and nutrition. Faced with the discourse of planning regarding the “nutritional problem”, the cited author asks if there is an objective world beyond the problems posed by policies. In other words, when assuming a practice considered a “true description of society”, one is faced with a “specific representation of the world”, with political, social and cultural consequences.

The cultural and social dimension of the right to food gains relevance and specificity, as it involves preserving cultural practices and ways of doing things of a certain people, translated into the idea of preserving their food sovereignty. On the other hand, it may imply the reproduction of models of development, planning and public policies aligned with a certain representation of the world, moving away from the local reality. With that, emphasizing the normative prediction of the right to adequate food and nutrition and its characterization as a right marked by complexities, it is analyzed below, starting from the critical theory of human rights.

3 Critical theory of human rights and the end of the human right to adequate food and nutrition and food sovereignty

Highlighting the right to food as a fundamental human right nationally and internationally, it is necessary to understand it in a critical manner and think of food sovereignty as a guideline for its implementation. Aligned with the previous

topics, the concept of food sovereignty permeates the cultural and ecological dimension of food and nutrition security, in addition to the economic aspect and the self-determination of each people to feed themselves, allowing thinking about the purpose of the right to adequate food and nutrition, in line with the critical theory of human rights, here based on Douzinas (2009) and Marx (2010).

In *The end of human rights*, Douzinas (2009) addresses the study on human rights critically, questioning what would configure the very end of human rights in the sense not only of its purpose, but also of its extinction. According to the Greek author, critical jurists are those who “teach, research and write guided by the principle that a law without justice is a body without a soul”, understanding that “a legal formation that teaches rules without spirit is intellectually infertile and morally bankrupt”.

The author raises questions about the relevance that should be attributed to the local and individualized understanding of human rights, to the detriment of an abstract perspective – like what can happen with the human right to adequate food and nutrition. It is necessary to observe the reality, so that there is a good administration and enforcement of rights, under penalty of these becoming nothing more than “metaphysical delusions of constitutionalists”, because, “what is the use of discussing the abstract right of man to food or medication?” (DOUZINAS, 2009, p. 165).

Douzinas (2009, p. 170-173) even draws attention to the Marxian critique of human rights, as in the work *On the Jewish question* – also pertinent to the theme of the right to food. For the Marxian view, human rights are nothing more than historical creations and present themselves as conditions of existence of the capitalist regime, in which “rights idealize and support an inhuman social order”.

According to Marx (2010, p. 48-50), the “rights of man” are nothing but the rights of a member of civil society – i.e., the rights of egoistic man, of man separated from other men and from the community”. In this way, they can arise from a dated and localized subject, “withdrawn into himself, into the confines of his private interests and private caprice, and separated from the community” – the individual-liberal-bourgeois, European, white and male human being. Douzinas (2009, p. 170), still connected to the Marxian thought, emphasizes that when dealing with human rights, one can fall back on a dehumanized subject, stripped of his individuality, translated as the abstract bourgeois man.

In this sense, the debate on food sovereignty contributes to rethinking critically the human right under debate. Through this, each nation is given “the right to define policies that guarantee the Food and Nutrition Security of its peoples,

including the right to preserve traditional production and food practices of each culture” (BURITY *et al.*, 2010, p. 12).

According to Custódio *et al.* (2015, p. 3), at the World Forum on Food Sovereignty, in Havana, Cuba, there was discussion about the loss of “third world” countries in defining and directing their food policies. According to the aforementioned author, food sovereignty is the flag of social movements linked to agrarian reform, rebelling against the logic of capital imposed on agricultural production in developing countries, determining what and how to produce, not for those who are hungry, but for those who have money.

In short, it allows overcoming an abstract conception of the human right to adequate food and nutrition, starting from ways of life, resistance and opposition to capital present in the concept of food security. As Douzinas (2009) exposes, there have never been so many human rights in society and, at the same time, so much human rights violations. In the debate in question, guaranteeing food sovereignty is to seek the realization of the fundamental human right to adequate food and nutrition, which permeates the deeper understanding of what human rights are, not setting them in an abstract, generic, and universal perspective, detached from realities.

From this perspective, it is coherent to think about how the exercise of food sovereignty and the fulfillment of the right to food are opposed to a legalistic notion of human rights, since, as noted, they remained forged from an individualistic and homogeneous notion. It is worth mentioning the approach of Santos (2014, p. 15), who seeks a counter-hegemonic perspective of human rights, which focuses on the civil society’s role and the adoption of a critical theoretical perspective of human rights in understanding them as plurality and not a consensus. Precisely, the critical perspective enables a more in-depth debate on the real fulfillment of the right to adequate food and nutrition, which is understood to permeate the notion of food sovereignty.

In that regard:

The other is the theoretical work of **alternative construction of human rights** in order to strip them of the ambiguity that has guaranteed them the consensus they enjoy. Theoretical work aims precisely at destabilizing this consensus. Basically, it is about questioning human rights and all those who use them to interpret and transform the world, asking them the following question: Which side are they on? On the side of the oppressed or on the side of the oppressors? (SANTOS, 2014, p. 15, emphasis added).

With regard to the fulfillment of rights, political and popular participation

is extremely important, either through organized civil society or with members in rights councils. This implication provides a plural counterpoint in the construction of policies. With regard to the right to adequate food and nutrition, the participation of civil society is extremely relevant, as in the reactivation of the National Council for Food and Nutritional Security (CONSEA). It is a space for discussion, including the reaffirmation of food sovereignty, resumed from Provisional Measure No. 1154/2023 (BRASIL, 2023) – formerly extinguished by Provisional Measure No. 870/2019, converted into Law No. 13.844/2019 (BRASIL, 2019).

The study on a human right, such as the right to adequate food and nutrition, needs to criticize the homogenizing perspective of rights, based on universality. In this sense, Santos (2014, p. 16) warns of how diversity can be suffocated when such perspectives are adopted without due criticism, consolidating a “hegemonic or conventional version of human rights”, marked by universality, humanism, institutionalism and disparities between the global South and North. In this vein, he notes that the generic application of the same “abstract recipe for human rights” implies “that the nature of alternative ideologies and symbolic universes are reduced to local specificities without any impact on the universal canon of human rights”.

Therefore, it is necessary to understand that the Western and hegemonic view of human rights does not reflect – but rather suffocates – diversities such as cultural diversity, in particular the peoples’ food sovereignty, imposing dietary regimes that do not match their tradition. According to Santos (2014, p. 17), there is a globalized localism in terms of human rights, expressed in the Western view of the world.

An alternative to the non-homogeneous reading of human rights and the right to adequate food and nutrition is the decolonial approach of Mignolo (2008, p. 290), when he understands the need to build perspectives that escape the imposed by Western Europe in an absolute and categorical way without erasing it, but making room for other forms of knowledge production. As the author points out, “it is necessary to “learn to unlearn”.

In that regard:

Decolonization, or better, decoloniality, means at the same time: a) unveiling the logic of coloniality and the reproduction of the colonial matrix of power (which, of course, means a capitalist economy), and b) disconnecting from the totalitarian effects of Western subjectivities and categories of thought (for example, the successful and progressive subject and blind prisoner of consumerism) (MIGNOLO, 2008, p. 313).

Thus, thinking of human rights as a system of analysis, discussion and point of critical analysis allows one to relearn to think outside the universalist logic that homogenizes (DOUZINAS, 2009, p. 16), not distancing oneself from the maxim of decolonial thought of

“imagining a world in which many worlds can coexist” (MIGNOLO, 2008, p. 296).

Douzinias (2009, p. 194) also points out the following questions: what subject of law is being talked about? What conception of human rights is used? Which dimension of humanism reflects what it is to be human? – Questions that can lead to reflections on the right to adequate food and nutrition. The author understands these definitions as something dynamic, inserted in a constant process of redefinition and transformation. In this sense, it seems incoherent to understand the human being as defined in the declarations of rights with their abstractions and unrealities (DOUZINAS, 2009, p. 174). A perspective that “guards a multiplicity of values and life plans determined in each community by local conditions and historical traditions” becomes more coherent (DOUZINAS, 2009, p. 221).

In this dialogue, the decolonial vision gains relevance, with learning to unlearn, thinking from new categories and new forms of knowledge production, from perspectives different from the European one, including regarding the act of eating. As Mignolo (2008, p. 304) points out, the decolonial option “means thinking from the outside and in a subaltern epistemic position” and “implies thinking from languages and categories of thought not included in the foundations of Western thought”.

Reinforcing a critical perception of human rights, one signals the possibility of a new path, placing them as the utopia that lies behind other rights, as an element of criticism of the law and that “rights not only belong to human beings; on the contrary, they manufacture the human” (DOUZINAS, 2009, p. 267). In this context, it is necessary to take a stand “against the cannibalism of public and private power and the narcissism of rights”, insofar as “human rights are parasites in the body of rights, which judge their hosts” (DOUZINAS, 2009, p. 252).

In addition, one highlights:

Each new demand for rights is a response to the struggle against dominant social and legal relations, in a given time and place, a struggle against the injuries and harm they inflict; aims to negate inappropriate forms of recognition for individuals and groups and create fuller and more nuanced types. Human rights claims represent, negatively, a reaction to multiple insults and offenses of power to an individual's or group's sense of identity, and, positively, an attempt to have as many aspects as possible of that identity recognized by others and the community (DOUZINAS, 2009, p. 298).

Human rights come to an end precisely when they lose their utopian character, when they no longer present themselves as resistance, but as consecration of ideals set by dominant nations that seek, through these, to spread their domination, via democracy and capitalism (DOUZINAS, 2009, p. 384).

The right to adequate food and nutrition loses its utopian character, which reproduces a dominant notion of rights, reproducing the dominant production model and, consequently, subjugating ways of creating, being and living of local populations, with the primacy of monoculture, large agrarian properties, and pesticides. Thus, a decolonial, diverse, plural and critical view is added to the criticism of human rights.

In the case of the right to food, it should be noted the local specificities based on food sovereignty, associated with the end of the right to adequate food and nutrition. Thinking about food sovereignty is thinking about a utopian end, something to be pursued and which rises as a flag of resistance from different ethnic and social groups to preconceived conceptions about food, food production, the relationship with the land and the environment.

Final considerations

The complexity surrounding the right to adequate food and nutrition, as well as its implementation, is not completed with the delivery of food. It is necessary to go further, if a critical and plural vision of human rights is sought, understanding the subject under debate as a human right both in the international and national legal order.

The existence of the human right to adequate food and nutrition, on the one hand, and serious food insecurity and hunger, on the other, demand actions that, in practical terms, lack sufficiency. The pure and simple quantitative production of food is not enough, it is also necessary to discuss profound socio-legal issues to bring alternatives and solutions that protect the dignity of the human person and respect for diversity.

Thus, from the critical theory of human rights, we seek to understand the human right to adequate food and nutrition with sensitivity to the complexity that surrounds it. In terms of effectiveness, many nuances deserve to be observed. As a human right, analyzes should start from the understanding of cultural complexity and diversity, under penalty of general and universal imposition of rights to a given population.

Thinking, therefore, in terms of the Declaration of Nyéléni (FORO

MUNDIAL PELA SOBERANIA ALIMENTAR, 2007), of guaranteeing not just food, but food that is culturally adequate, leaving the power of decision over their food systems to the communities to the detriment of the interests of large corporations, part of a critical understanding of human rights. It consists of favoring the human right to adequate food and nutrition for this ethical and resistance force, which humanizes and guarantees the recognition of the sovereignty and autonomy of countries, peoples, ethnic and social groups.

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