Reframing food labelling regulations as human rights obligations in the fight against Diet-Related NCDs

Olufunke A. Aje-Famuyide, PhD

ABSTRACT

Public health regards food labelling as a tool for tackling diet-related non-communicable diseases (DR-NCDs). In its current formulation, food labelling is addressed through voluntary or technical standards. Beyond the role of food labeling as a public health tool, this article discusses food labelling from a rights perspective. This work therefore explores the potential of framing food labeling as a rights obligation rather than a matter of regulatory preference. This work adopts a doctrinal analysis of current legislative instruments and arrangements on food labelling for the prevention of DR-NCDs. This work examines the vast range of regulatory mechanisms and approaches from voluntary to mandatory interventions. This work argues that food labelling would benefit from a broader formulation of the right to health, the right to food and the right to nutrition grounded in international human rights law. The significance of this framing is that it incorporates principles of accountability from the state to respect, fulfil and protect the right.

Keywords: Non-Communicable Diseases, Human Rights, Food Labelling and Legal Framework

INTRODUCTION

Similar to global trends, Non-Communicable Diseases (NCDs) are the leading cause of death in Nigeria, and more alarmingly, with higher rates than in Europe and the United States.[1] Aside from its negative health and psychological impacts, NCDs pose developmental concerns because they cause loss of production posing a threat to both human well-being and economic growth.[2] A key driver behind the rise in NCD is the shift towards an unhealthy diet which, is the second biggest contributor to the NCD disease burden,[3] This is due, in part to the excessive, continuous consumption of foods high in unhealthy fats, sugar and sodium (HFSS) and ultra-processed foods (UPFs) which have replaced traditional, highly nutritional

[1]van de Vijver, S., Akinyi, H., Oti, S., Olajide, A., Agyemang, C., Aboderin, I.and Kyobutungi, C. 2013. Status report on hypertension in Africa--consultative review for the 6th Session of the African Union Conference of Ministers of Health on NCD's. *The Pan African Medical Journal* 16.1: 38. Retrieved May 18, 2022, from https://cutt.ly/iwOTsuch.

[2]Why the 21st century's biggest health challenge is our shared responsibility. Retrieved 19 May 2019 from https://www.weforum.org/agenda/2019/01/why-the-21st-centurys-biggest-health-challenge-is-our-shared-responsibility/

[3] World Health Organization. 2022. Invisible numbers: the true extent of noncommunicable diseases and what to do about them. Geneva:

foods.[4] Scientific studies show that HFSS and UPFs have poor nutritional content but are engineered to be highly addictive, irresistible with high contents of HFSS that cause diet-related NCDs. (DR-NCDs). According to estimates, the prevalence of unhealthy diets in Nigeria is estimated at 74.6%[5], ranking 42nd out of 195 countries with the highest rate of diet-related deaths[6]

To curb the global NCD epidemic, international health bodies and states have adopted policies and best practices that can reduce the prevalence of unhealthy diets. In particular, public health considers policies that influences consumer into making informed choices in dietary matters. In 2018, the UNICEF Guidance on the Prevention of overweight and obesity in childhood and adolescence endorsed a 5-step regulatory action, one of which is the adoption of adoption of food labelling that identify unhealthy foods and beverages with excess saturated fat, trans fats, free sugars and/or salt. The World Health Organization (WHO adopted several global documents that provides enough information that allows consumers make informed decisions when purchasing food. [7]

This article argues that the regulation of food labelling should be understood not merely as a policy option, but as a legal duty rooted in international human rights law. This is because information provided through food labelling is intrinsically linked to the right to health, food and nutrition.[8] This perspective aligns with principles enshrined in several international covenants such as the International Covenant on Economic, Social and Cultural Rights

[4] Kibrom A.A., Kosam I., Clemens B. 2022. Food policies and obesity in low-and-middle-income countries. *World Development* 15:105775

[5] https://www.iccp-portal.org/system/files/plans/NCDs_Multisectoral_Action_Plan.pdf accessed 20 December 2022.

[6] Chukwuma Muanya. 2019. Why more Nigerians may die of diet-related diseases. The Guardian Online available at https://guardian.ng/features/why-more-nigerians-may-die-of-diet-related-diseases/ accessed 17 January 2023

[7] World Health Organization(WHO). 2022. Nutrition Labelling. Polic Brief. WHO. Geneva. Available at https://www/who.int/publications/i/item/97789240015324 See also WHO. Nutrient Profiling: Report of a WHO/IASAO technical meeting, London, United Kingdom 4.6 October 2011.

[8] Vidar, Margret. 2010. International legal frameworks for food labelling and consumer rights. In *Innovations in food labelling*. The Food and Agriculture Organization of the United Nations and Woodhead Publishing Limited, Woodhead publishing series in food science, technology and nutrition. *Pp 17.36*

(ICESCR), which recognizes the right to adequate food as a fundamental human right. Hence, this article discusses how a rights-based approach to food labelling is elevated to a fundamental right with state responsibility and accountability. The International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC) provide a normative framework for states to act decisively in regulating unhealthy diets through effective labelling systems. In this article, I also argue that food labelling should be approached from a broader formulation of rights to health, food and nutrition. The argument proffered is that food labelling should be approached from a broader formulation of the right to health. To fully advance the scope of food labelling, it must be complemented with the right to health, the right to food and nutrition.

This article proceeds as follows. Section 2 begins with an outline of the suitability of a human rights framework for NCD prevention and control; thereafter, I provide a summary of the development of the rights to health, the right to food and nutrition under international human rights law. I briefly synthesise the importance of the right to health as a framework for addressing diet-related NCDs while at the same time underscoring the need for the right to adequate food and nutrition. In section 3, I interrogate how the right to adequate food and nutrition embodies food information, and draw upon these interpretations to come up with the conception of the food labelling rights, and conclude with how they work together to address diet-related NCDs.

2.0 The link between Human Rights Framework and Food Labelling

Generally, human right is well suited to galvanize action and greater accountability for NCD responses in three critical ways. Firstly, human rights strengthen regulatory efforts by providing guidance to governments towards strengthening their national laws. Human rights, and the international legal grounding they offer, can strengthen national laws and policies to

fulfilling their international human rights obligations especially when international and regional treaties become legally binding through ratification and domestication into national constitutions and laws. Secondly, international legal efforts define state obligations to promote health. Because human rights impose obligations on state parties to protect, promote and fulfil rights, it creates a greater accountability on states to adhere and respect the rights that are protected. Likewise, human right principles inform policy-making processes and decisions so that policies and programs are put in place to protect human rights. Where human rights frameworks are translated into policies, they can provide a mechanism for action and accountability. Lastly, human rights law and regulatory approach to NCD prevention and reduction both share the goal of advancing the right to health. Human rights framework is particularly relevant to NCD prevention and reduction because it specifically addresses the food environment as underlying determinants of DR-NCDs. An important contextual factor in the DR-NCD pandemic concerns the food environment – especially the information that can influence a consumer's acquisition, preparation, and food consumption. In the area of diet, allowing food and nutrition to be framed in right language, could assist in developing stronger accountability, and compliance mechanisms for the food industry who are the drivers of unhealthy diet.

2.1 The development of the right to health under international law.

The first mention of the right to the highest attainable standard of health, commonly called the right to health, was in the preamble to the WHO Constitution. Health is a fundamental need of an individual that can only be exercised through the realization of other rights. The human right to health is not found in the Universal Declaration of Human Rights (UDHR) as a separate article, instead, it is enshrined in Article 25 (1) which provides that, ‘everyone has a right to a standard of living adequate for the health 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.' In order for an individual to be healthy, there must be some essential parameters that must be present for the fulfilment of a right to health. These essential elements are those condiments, daily needs, preconditions (social, environmental and biological, moral and psychological) that fulfils a condition of health. Article 12(1) of the ICESCR also provides that : *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the instrument is by no means prescriptive but enumerated actions to be taken by states to fulfil their obligation*[9] The ICESCR has explained the elements that determines health includes the specific elements of the health and the realization of other interdependent rights that contribute to health. As Jonathan Mann argued in his seminal scholarship on social determinants of health, right to health and its underlying causes, is fundamental to the realization of every other form of right and, the state should prioritize the respect, fulfilment and protection of the right to health of persons under its jurisdiction. In addition, Getahun A. Mosissa[10] quite rightly, links the fulfilment of the right to health to human dignity, a principle which forms the fulcrum of all human rights as the normative essence of the right to health. According to Getahun, the entitlement of right, that inheres to everyone, means that '*a biological and moral person because a human being has, in essence, a biological and moral existence. This means the value of dignity pertains equally and inseparably to both the biological and moral aspects of humanness.'*[11]Jonathan Mann extended this scholarship by looking at the inter-relatedness of health and human rights framework – The essence of the right to health is access to the conditions necessary for its realization; by nature, it is an inclusive systemic right, meaning that the right to health

[9] Article 12 paragraph 2 ICESCR 1966
[10] Getahun A. Mosissa. 2014. Ensuring the Realization of the Right to Health Through the African Union (AU) System: A Review of Its Normative, Policy and Institutional Frameworks [in] B. Toebes et al. (eds.), The Right to Health. Asser
[11] Getahun A. Mosissa. 2014. supra

requires the fulfillment of other underlying determinants of health. Without these determinants, the right to health cannot be fully realized. They include safe drinking water and adequate sanitation; safe food; adequate nutrition and housing; healthy working and environmental conditions; health-related education and information and gender equality.

Aside from the UDHR and the ICESCR, the legal basis for protection for the right to health in Africa originates from the ratification of the international and regional UN Charter and the African Charter on Human and Peoples' Rights (AFHPR)[12] respectively, for instance, The right to health under the Charter is 'a prerequisite to all other human rights recognized by the African Charter'[13] Article 16 of the Charter provides as follows:

1. *Every individual shall have the right to enjoy the best attainable state of physical and mental health.*

2. *State Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.*

In assessing state obligations, the African Charter, like other international and regional instruments adopts the tripartite (i.e. respect, protect and fulfil) or quadruple (respect, protect, promote, fulfil) approach and/or the availability, accessibility, acceptability and quality.[14] Time and again, the African Commission on Human and Peoples' Rights (hereinafter the 'African Commission'), in several instances, adopted these approaches in assessing extent of violation of their respective obligation under the charter. In *Purohit and others v The Gambia*[15], the violation of the right to health occurred in the context of denial of

[12] All members of the African Union have ratified the African Charter
[13] Communication 323/ 06, Egyptian Initiative for Personal Rights & INTERIGHTS v Egypt, 16 December 2011, para 261
[14] Communication 323/ 06, Egyptian Initiative for Personal Rights & INTERIGHTS v Egypt, 16 December 2011, para 263
[15] (2003) AHRLR 96 (ACHPR 2003).

access to health facilities, goods and services. In the celebrated cases of Social Economic Rights Action Centre and another v Nigeria[16], the Commission interpreted Article 16 (1) to mean 'that held that the right to enjoy the best attainable state of physical and mental health enunciated in Article 16 (1) of the African Charter and the right to a general satisfactory environment favourable to development and obligate governments to desist from directly threatening the health and environment of their citizens'[17] The court in the case of International Pen and Others (On behalf of Ken Saro Wiwa) v Nigeria[18].

Ultimately, in the context of the right to health, the fulfilment of the right to health is the regulation of those underlying factors that cause NCDs. In practical terms, this includes the respect, fulfilment and the protection of the right to health and its underlying determinants, through adequate regulation and governance structure of the protection of the right to health.

2.2 The right to food

Flowing from the right to health, is a right to food and nutrition. The UN High Commissioner for Human Rights reiterated the link between the right to health and food when he noted that: *They should ensure adequate attention to the underlying determinants of child health, including, inter alia, access to minimum safe and nutritionally adequate food, basic shelter, housing, sanitation, safe and potable water and a healthy and safe environment.'*[19]

Article 11 ICESCR on the right to food states that 'the right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. Adequacy of food has been interpreted to mean 'possibility to feed oneself from productive land or natural resources, or

[16] (2001) AHRLR 60 (ACHPR 2001)
[17] Durojaiye Ebenezer. 2013. The approaches of the African Commission to the right to health under the African Charter *Law, Democracy &* Development page 373 – 418 @ 405
[18] (2000) AHLR 212 (ACHPR 1998).
[19] UN Human Rights Office of the High Commission, The Right of the Child to the Enjoyment of the Highest Standard of Health, March 2013, at para 99.

through well-functioning distribution, processing and market systems' that must be accessible physically and economically available. [20] For food to be adequate, it must be in a quality and quantity sufficient to be able to satisfy dietary needs.[21] 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. Rather, General Comment 3 and 12 outlines the specific content of the right as follows:

1. The provisioning of essential foodstuffs to the population to alleviate hunger:
2. The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable with 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.

2.3 The right to nutrition

Of the concepts that have occurred in our understanding of unhealthy diet and DR-NCDs, the most pervasive, within the dietary nutrition of NCDs discourse is the concept of nutrition transition, a concept which arose as the developed and developing countries' status continue to dominate in trade and economy over less developed countries, influencing a shift in diet and eating pattern especially in structure, pattern and composition. - from predominantly staple foods to ultra-processed foods (rich in sugar, trans fat and salt). with severe health impacts.[22] In terms of promoting a healthy diet, the human rights to health paradigm provides a normative basis to leverage, and to prioritize healthy diet through the recognition of rights and imposing duties on states to ensure access to food security and adequate

[2020] General Comment 12 (6) : The right to adequate food Article 11 ICESCR Soohranoneyi v linier of Healith, KwaZui VNatal 1998 (1) SA cited in Sibonile Khoza, 2004 Realising the Right to Food in South Africa: Not by Policy Alone - A Need for Framework Legislation, *S. Afr. J. on Hum*. Rts. 20:664

[21] U.N. Econ. & Soc. Council, Substantive Issues Arising in the Implementation of Covenant of Economic, Social and Cultural Rights: General Comment 12, The Right to Adequate Food, ¶ 6, U.N. Doc. E/C.12.1999/5 (May 12, 1999)

[22] Oliver De Schutter. 2014. The right to adequate food. S*ociety for International Development* 57(2), (147–154

nutrition. What this means is that states are accountable to realize commitments through appropriate legislative and institutional framework. The human rights perspective entails that States, with full participation of beneficiaries, put in place appropriate policies that guarantee the right to adequate diet.

A right to nutrition is not expressly stated in any human rights document because it is considered not as a right, but as an element of health, or the outcome of access to food; instead, it is a derivative of the right to adequate food and a right to health under article 25 of the UDHR on the rights to access to food and to health. Articles 11 & 12 of the ICESCR, and can be interpreted as recognizing the right to nutrition as one of the determinants of health. And MacMaolain recognized the importance when he observed the importance of nutrition in the realization of a right to health. *The first element of quality is actually nutritional value, yet […] nutritional value has remained for the most part outside the factors that are taken into account in determining what qualifies as safe or high quality food [...] As a consequence of this misinterpretation of the extent to which the [Union] is responsible for the protection of human health through the consumption of safe or quality food, the issue of nutrition has become side-lined.* [23]

Notwithstanding, General Comment 14 on the right to adequate food is inclusive of providing adequate diet that provides all the nutritional requirements to live a healthy life[24] Moreover, the UN Special Rapporteur on the Right to Food has interpreted the right to food to include a right to nutritious food, and advocated for a regulatory approach to the marketing of foods

[23] MacMaolain, C. 2007. *EU Food Law: Protecting Consumers and Health in a Common Market*. Hart Publishing, n 2007, at 223 and 224

[24]De Schutter, Olivier 2014a 'The Transformative Potential of the Right to Food'. Final Report of the Special Rapporteur on the right to food to the twenty-fifth session of the Human Rights Council, UN doc. A/HRC/25/57; Grover, Anand (2014) 'Unhealthy Foods, Non-Communicable Diseases and the Right to Health'. Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to the twenty-sixth session of the Human Rights Council, UN doc. A/HRC/26/31. Ha

particularly to children.[25] In addition, the Committee on the Economic, Social and Cultural Rights stated that one of the core State obligations under the right to health includes ensuring "access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone".

General Comment 12 (8) on Article 11 ICESCR) identifies two distinct components of the rights to food – the availability of food which is capable of meeting dietary needs. As dietary issues increasingly become complicated, and the composition of diet becomes more complex, there is need to have full and informed information as to the nature of ingredients which are outlined in a food in order to determine whether it satisfies dietary needs of an individual [26] To this extent, The existence of the duty to protect the right to health, through the consumption of safe, and quality food imposes upon duty bearers firstly, to provide food that satisfies dietary needs, and secondly, the duty to provide adequate food information relevant to make full and informed decision. Arguably, the state as duty bearer has the duty to ensure that regulations are put in place to ensure that individuals are provided with enough information to make decisions as to whether a particular food satisfy their dietary need.

3.0 Food labelling as an underlying determinant of right to health, food and nutrition

The jurisprudence of food labelling as a public health tool fulfils two basic conditions which are intrinsic to health - is consumer protection and the right to know as foundational to health freedom. In its enabling function, food labelling laws can support healthier food choices by informing consumers of the ingredients of food products, presenting basic nutritional information about the food in a readable format. The prescription of nutritional information on pre-packaged foods either in the front of pack (FOP or the back of pack (BOP) labeling is

[25] O. de Schutter, The Right to an Adequate Diet: the Agriculture-Food-Health Nexus, Report presented at the 19th Session of the United Nations Human Rights Council, 26 December 2011, A/HRC/1/9/59.

[26] Hasmin NA., Azizum N., Selangor SA. 2022. Right to food information and food choice from the perspective of fundamental liberties. *Esteem Journal of Social Sciences and Humanities*. 6:2:56-70

to provide consumers with information as to the content of a food item. Food labelling also serves a protective function by protecting consumers from fraudulent, misleading or deceptive information. The most compelling argument for menu labelling is the consumer's right to information about what he is putting in his mouth. It has been argued that persons who eat in restaurants are not aware of, nor can they assess the amount of calorie in every serving. In the absence of readily available information, consumers would continue to indulge in fast foods which have been associated with the development of one or more types of chronic diseases. Advocates of food labelling argue that it provides consumers with additional information to make healthier choices. Home cooking has largely shrunk to less than a quarter of daily cooking, and as Maxwell Gregg Bloche[27] found, foods that were commercially created constitute a greater portion of daily intake.

Invariably, the nature of the policies has particular implications for effectiveness of the labeling schemes as most of the (voluntary) schemes have been found to be less effective in adequately informing consumers about the healthfulness of the products.[28] For instance, in July 2020, the UN Special Rapporteur on the Right to Food recommended that states regulate the promotion of unhealthy foods through enforcing front-of-pack labeling as an effective public health regulatory measure to reduce NCDs.[29] Perhaps, because it is a recommendation, some countries around the world adopted series of voluntary, informational schemes; for instance, Australia's traffic light system and Nigeria's heart logo to indicate healthfulness.[30] Comparatively, Uruguay and Chile's mandatory FOP fits in to the core characteristic of an effective legal intervention. Chile's Law 20,606 included three

[27] Maxwell Gregg Bloche. 2005. Obesity and the Struggle Within Ourselves

[28] Duran AC, Ricardo CZ, Mais LA, Martins APB, Taillie LS. 2019. Conflicting messages on food and beverage packages: front-of-package nutritional labeling, health and nutrition claims in Brazil. *Nutrients*.11:12

[29] UN. Special rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. In: Unhealthy foods, non-communicable diseases and the right to health; 2014. https:// www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/ Documents/A-HRC-26-31_en.doc

[30] Constantin et al. 2021. A human rights-based approach to non-communicable diseases: mandating front-of-package warning labels. *Globalization and Health* 17:85 https://doi.org/10.1186/s12992-021-00734-z

components – it mandates a FoPL for foods high in sugar, sodium and saturated fat; it regulates advertisement and marketing of products with FoPL by restricting advertisements to minors, and prohibits all products that exceeds a threshold.[31] In the case of Uruguay in 2018, regulation 277/018[32] enforced mandatory FOP warning labeling for products that exceed a threshold for sugar, salt and trans fat using "HIGH IN" or "EXCESS" warning/stop sign for every critical nutrient that exceeds the accepted threshold warning label. Following the implementation of the regulation, 77% of consumers reported that they modified their purchases after seeing the label while Chile's mandatory FOP warning recorded a 24% decrease in purchase of SSB following implementation.[33]

3.1 Translating food labelling into a human rights obligation

Framing food labelling as a human rights obligation fundamentally shifts the nature of the regulatory debate. Rather than presenting labelling as a matter of policy preference, this perspective positions it as a duty of the state – one that requires deliberate legislative and administrative action and demands accountability for both action and inaction. And although current interpretations of the right to food may not explicitly address food labelling, the principle of dietary adequacy imposes stats responsibility of ensuring comprehensible, and accurate information.

Elevating food labelling to a rights discourse have implications on the way in which labelling is viewed and carried out. These are:

---

[31] Pablo Villalobos Dintrans, Lorena Rodriguez, Jaia Clingham-David & Tito Pizarro. 2020. Implementing a Food Labeling and Marketing Law in Chile. *Health Systems & Reform* 6:1 DOI: 10.1080/23288604.2020.1753159

[32] Executive Decree No. 272/018 effective March 1, 2020 available https://www.foodnavigator-latam.com/Article/2020/02/24/Warning-labels-set-to-enter-into-force-in-Uruguay accessed 16 February 2023

[33] Tallie, LS., Berchcolz MS., Popkin, Barry, Reyes, M., Colchero, MA, Corvalan, C. 2021. Changes in food purchases after the Chilean policies on food labelling, marketing, and sales in schools: a before and after study. *The Lancet Planetary.* 5:8:E526-E533

3.1.1 The right to accurate and balanced information. Global instruments including the United Nations Conference on Trade and Development endorse the rights to information to enable informed choices. National laws can also protect the right to accurate information as a component of the freedom of expression as seen for instance, under Article 19 of the ICCPR and Section 39 (1) 1999 Nigerian constitution. For states to fulfil the obligation to protect and fulfil this right, States must ensure that manufacturers provide with full and accurate information on the health risks involved in the consumption of their product. The information must not be misleading, deceitful or fraudulent. This right has been protected by the Columbian Supreme Court, which recognized the right of consumers to 'access to information on the positive or negative consequences that consuming a certain product may have on their physical and mental integrity'. The court in that ruling thereafter directed the Superintendency of Industry and Commerce to publish a commercial showing the harmful effects of sugar-sweetened beverages on human health.[34]

3.1.2 Adequacy of information

The prescription of nutritional information on pre-packaged foods either in the front of pack (FOP or the back of pack (BOP) labeling is to provide consumers with information as to the content of a food item. However, some foods do not provide sufficient information. To be sufficient, the information must be accurate, complete and, ideally, incapable of being misunderstood. Article 11 and Article 13 of the FCTC presents plain packaging as well as mandatory health warnings as carrying the potential to eliminate the effect of advertising and promotion on packaging.[35]

[34] NCD Alliance. 2017. Columbian Supreme Court protects right to health in historic ruling available https://ncdalliance.org/news-events/news/colombian-supreme-court-protects-right-to-health-in-historic-ruling accessed 20 July, 2024

[35] WHO Framework Convention on Tobacco Control Working Group [hereinafter FCTC Working Group], Guidelines for Implementation of Article 11 of the WHO Framework Convention on Tobacco Control, 46 (Nov. 2008); WHO FCTC Working Group, Guidelines for Implementation of Article 13 of the WHO Framework Convention on Tobacco Control, 16 (November 2008)

3.1.3 Accountability

Global instruments on food labelling as generally found in dietary matters, come in form of directives, or recommendations giving States the option of adopting either a mandatory or voluntary regulation of food labelling. Hence, the United States in 1994 adopted a mandatory labelling of nutritional information on all processed foods[36], similar to the Article 11 (a) of the EU's voluntary FOP labelling of energy and nutrients which prescribes a series of requirement for the presentation of nutritional information.[37] Chile's Presidential decree, for instance, requires packaged food products that exceed limits set per 100 g/100 ml for energy, sodium, sugar or saturated fat, respectively, to be prominently labelled as "high in" each of the relevant nutrients. The decree contains detailed requirements for the size and placement of these warnings. The cut-off points that trigger the warnings are to be implemented incrementally with annual reductions over a three-year period.[38] Information is not limited to words but extends to the use of imagery and graphical warnings. Domestically, in 1998, the Nigerian Heart Foundation (NHF) developed in collaboration with National Agency for Food, Drug Administration and Control (NAFDAC) the "Nigerian Heart Foundation Heart Check Food Labelling Programme", a voluntary standardized nutrition profile evaluation, guided by a set of scientific criteria approved levels of sodium, sugar, cholesterol and trans-fat. Food items that fulfil the criteria is granted permission to use the Logo of the foundation which is used in all the geographic regions of Nigeria, and in a few countries in West Africa. Like the international criteria, the Food Labelling is voluntary. Where it is reframed in rights standard, it imposes a normative element that elevates it

[36] Nutrition Labeling and Education Act (NLEA) Requirements, Guide to Nutrition Labeling and Education Act (Feb. 1995), available at http://www.fda.gov/ICECI/Inspections/Inspection Guides/ucm074948.htm. 81

[37] Council Directive 1990/496/EEC of 24 September 1990 on nutrition labelling for food- stuffs. [1990] OJ L 276/40.

[38] Decreto Número 13, de 2015. Modifica Decreto Supremo No. 977 de 1996, Reglamento Sanitario de los Alimentos. Diario Official de la Republica de Chile. No. 41.193. Viernes 26 de Junio de 2015

beyond an exercise of discretion to one that mandates transparency, reporting, public disclosure and remedy in case of breach.

4.0 Conclusion

Food labelling as a public health tool in addressing information deficit to be able to make full and informed decision with regards to dietary matters. But it has limitations in addressing DR-NCDs and other chronic conditions linked to the consumption of an unhealthy diet. It is clear that the problem of information deficit, cannot be addressed without tackling the underlying deficiencies that makes it ineffective as a policy tool. Pursing human right to food and its adequacy to meet dietary needs cannot be divorced from full knowledge of the nature of the food and the nutritional components it offers to the consumer. It is my contention that food labelling is intrinsically linked to human right to health, food and nutrition; and is a broader formulation the right to health, food and nutrition. Lastly, for effective reduction of DR-NCDs, there is need to pay close attention to food labelling.