A Human Rights-Based Approach to Challenges and Opportunities in the Process of Fulfilling Nursing Home Residents’ Right to Adequate Food

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Abstract: In Norway many residents in nursing homes are malnourished and their diet has often proven inadequate. This study used concepts and principles of a human rights-based approach to investigate the conditions regarding meals for nursing home residents. The study was performed in two nursing homes in Oslo in 2010-2011 focusing, respectively, on staff as duty-bearers and residents as rights-holders, and using focus groups, interviews and participant observation. Findings indicate that applying a human rights-based approach in caring for the elderly can enhance the understanding of the causes of poor nutrition among elderly living in institutions. In line with this we discuss challenges and opportunities in Norwegian nursing homes for fulfilling the residents’ right to adequate food. Promoting their human dignity and empowering them to participate so they can better enjoy the mealtimes, can increase the chances for achieving nutritional wellbeing.
Keywords: Human Right to Adequate Food; Human Rights-Based Approach; Nursing Home; Nutritional Health and Wellbeing

I. Introduction

The world’s population is ageing rapidly. WHO estimates that the number of people in the world aged 60 years and over will more than triple within a period of 50 years: from 600 million people in 2000 to 2 billion in 2050. Likewise, in European countries, including Norway, the elderly proportion is expected to increase.

This growing group is vulnerable and neglected and The United Nations High Commissioner of Human Rights, Ms Navi Pillay, in marking the International Day of Older Persons, said, ‘...The human rights community has also been slow in realizing that the global agenda and the advocacy efforts at the national level can no longer ignore the rights of older persons’. To ensure older people the entitlement and enjoyment of their human rights has been indicated as a priority. The human right to adequate food has been recognised since the adoption of the Universal Declaration of Human Rights in 1948.

1 Elisabeth Karlsen and Kristine Stray Aurdal contributed equally to this manuscript. We are grateful for the critical reading of the manuscript by Professor Arne Oshaug.
6 Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR) article 25, ‘Everyone has the right to a standard of living adequate for the health and wellbeing 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’. 
Norway has acknowledged a legal obligation to ensure the right to adequate food for all (article 11); the right to the highest attainable physical and mental health (article 12); along with other related rights under this Covenant.\textsuperscript{7} The content of the right to adequate food in particular has been clarified through extensive research and civil society engagement,\textsuperscript{8} and officially interpreted in General Comment No.12 by the UN Committee on Economic, Social and Cultural Rights (CESCR) in 1999, followed by General Comment No. 14 on the right to health in 2000.\textsuperscript{9} Yet, the understanding of these and other socio-economic rights is often unclear when it comes to the corresponding obligations.\textsuperscript{10}

In a development context, UN agencies arrived at a ‘common understanding’,\textsuperscript{11} in 2003, of the need for a common framework to guide the realisation of economic and social rights. A major feature is the distinction made between, on the one hand, the desired \textit{outcome} that should be guided by human right norms

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{7} International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR). Articles 11.1 and 11.2 of the ICESCR establish state obligations with regard to the right to adequate food within the context of an adequate standard of living and further recognising the fundamental right of everyone to be free from hunger and enjoyment of the highest attainable standard of physical and mental health; Meneskeretsloven. (1999). Lov om styrking av menneskerettighetenes stilling i norsk rett. LOV-1999-05-21-30.
\item \textsuperscript{10} Siri Damman, ‘Indigenous Peoples and the Right to Adequate Food. A Dissertation Discussing the Content of an Indigenous Rights-Based Approach to Indigenous Food Security and Nutritional Health and Some Methodological Challenges Surging from such an Approach’ (PhD thesis, Department of Nutrition, Faculty of Medicine, University of Oslo).
\end{itemize}
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and standards as laid down in the legal instruments, and, on the other, the processes towards this outcome being of equal importance as the outcome itself. Such processes should be guided by a set of principles that includes human dignity; equality and non-discrimination; participation and inclusion; accountability; and respect for the rule of law. The UN Food and Agriculture Organization (FAO) also includes empowerment and transparency as being important to the process. Applying these principles explicitly and systematically in planning and interventions characterises “a human rights-based approach to development” (HRBAD).

This framework invites more specific studies in order to deepen the understanding of the meaning of these rights for specific vulnerable groups and contexts. The present study is a case in point in Norway.

Nursing Home Residents’ Nutritional Health: A Brief Situation Report

Good health is essential for an active and independent lifestyle in old age. In White Paper No. 25 (2005-2006) presented to the Norwegian Parliament [Stortinget] entitled “Coping, Possibilities and Meaning: The Future Care Challenges”, the Norwegian government highlights the importance of food and meals as an important part of health care services in nursing homes. In combination with optimal medical treatment, an adequate nutritious diet is important in order to achieve the best possible outcome in terms of disease and quality of life. Adequate food is essential for the health and wellbeing of the elderly.

Today, there are 40,000 people living in nursing homes and these residents are becoming increasingly older and more ill, with a corresponding need for strengthened health care. One of the areas that has proven inadequate is the nurs-

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12 FAO, referring to these principles include participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law (PANTHER).
13 In Norway only one earlier study has been made of a vulnerable group in the Norwegian society related to the right to adequate food, namely heavy drug abusers, by Mone Sæland, ‘Mat på livets skyggeside’ (2000) Stabekk: Høgskolen i Akershus.
The elderly who live in nursing homes or are hospitalised are more likely to be malnourished than those living at home. Both Scandinavian and other international studies show that between 20-50% of the elderly in institutions suffer from malnutrition. This varies depending on which group is being examined, the methods used and the diagnostic criteria. An accurate overview of the problem does not exist in Norway. Two recently performed studies of the nutritional status of nursing homes residents in Oslo showed that malnutrition is a widespread problem. A study carried out at Aker Hospital in Oslo showed that 57% of the patients over 70 years who were hospitalised for acute illness, were malnourished. Thus while a plan of action for a better diet of the Norwegian population published jointly by twelve ministries in 2006 emphasises that, in most cases, the condition of malnutrition can be prevented and treated, this is not necessarily reflecting the reality in Norway.

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20 See Council of Europe (n 19); See Stratton, Elia and Green (n 19).
21 Heidi Aagard “Ærlig talt”: Mat og måltider i sykehjem: En undersøkelse blant beboere i somatiske sykehjem i Østfold’ (Oppdragsrapport) Høgskolen i Østfold (Online 24 February 2010).
Human Rights and the Conceptual Framework for the Current Study

A HRBAD has gained increasing recognition over the last few decades. In this study we initially draw on the conceptual framework launched by UNICEF over 40 years ago and which is widely in use. It opens the way for a holistic understanding of the causes of malnutrition, identified at several levels: immediate; underlying; and basic. The framework was first officially launched in 1970 as the basis for a new strategy for UNICEF with the aim of improving the nutritional health of children and women in developing countries. The framework can also be used to explain malnutrition in nursing homes. The immediate causes here are inadequate dietary intake and disease, underlying these one can find insufficient access to adequate food; neglect; or inadequate health care. The basic causes would include resources available for geriatric care, in general, or, more specifically, in nursing homes, along with political and ideological factors that affect the allocation and management of these resources.

Analyses by health professionals and epidemiologists often give an impression of malnutrition as an outcome of disease alone (immediate causes), paying little or no attention to the basic causes of malnutrition and the relation between nutrition and disease. The original UNICEF framework can be reversed to a normative form to identify the basic, underlying and immediate conditions that need to be in place in order to achieve the set objective or expected results, in this case, the enjoyment of the right to adequate food for nursing home residents. Given the emphasis on the nature of the processes geared towards ensuring these conditions as being equally important as the results themselves, it becomes necessary to specifically focus on the actors involved in these processes, their performance and how it may be optimised. It is here that the human rights based approach and principles come into play.

The basic notion that, when someone is entitled to a right, somebody else has a duty to help fulfil this right underlies the identification of the study populations. The rights-holders are the residents in the nursing homes; for the duty-

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24 The framework was later referred to as the UNICEF framework, and has long been a fundamental analytical tool within this area.
bearers, the idea of “nested rings of responsibilities”, a term coined by Kent, is used to map the different levels of duty bearers. Where the state of Norway – represented here in terms of the health authorities – has the overall obligation of a responsible policy of care for the elderly, various public actors have the more immediate duty of carrying it out. Thus, in the proximate “rings”, the nursing assistants are the duty bearers closest to the nursing home residents, complemented by nurses and, then, the nursing home management. Each ring should support and give guidance to the duty-bearers closest to the right holders, in affording them the opportunities needed for them to meet their duties.

To map the performance of duty-bearers in their fulfilment of the right to adequate food and related rights for particular groups, a role and capacity analysis was proposed by the Working Group on Nutrition, Ethics and Human Rights of the UN Standing Committee on Nutrition in 2001. In nursing homes, this approach can work towards strengthening the residents’ capacity as rights-holders to assert their claims, and the staff’s capacity to meet their duties. This study therefore addresses the issues concerning the right to adequate food in a selection of Norwegian nursing homes, to answer the following questions: What challenges and opportunities do health personnel have in the process of fulfilling the residents’ right to adequate food? What does the food and mealtime situation for nursing home residents look like from a human rights based approach and when observing the principles of human dignity, non-discrimination, participation, empowerment and transparency?

The study took place in Oslo in 2010 at two different nursing homes. It had a comparative design, as the two institutions chosen had different ideological perspectives in terms of their role in the care of the elderly and ways of providing for food and organising mealtimes. Part II of the article introduces the study’s methodology and analysis within a human rights-based approach. Part III discusses the results from the perspective of the principles of a human rights-based approach.

26 George Kent, Freedom from Want: the Human Right to Adequate Food (Georgetown University Press 2005).
28 One nursing home has its own kitchen and with a vision that this is the residents’ home. The other nursing home gets the dinner brought from outside, and is more of a “traditional” type.
approach, in relation to nursing home residents’ right to adequate food. Finally, part IV discusses the methodology and the results of the study; in Part V we conclude the study and findings.

II. Methodology

As stated earlier, this study adopted a human rights-based approach. Accordingly, principles characterising a human rights-based approach were taken into account throughout the entire research process: from the development of the research questions; to data analysis; and, finally, to presentation of the results.\textsuperscript{29} A comparative case-design is used in this study, aimed at yielding rich information on a few cases in search of comparisons.\textsuperscript{30} Qualitative methods, such as observation, focus groups and individual interviews, were used throughout the study: applying to both duty-bearers and rights-holders.

The two nursing homes chosen for this study were selected due to their differences in the organisation of meal preparation and in their approach to running a nursing institution more generally. The first, henceforth identified as “nursing home A”, did not have its own kitchen facilities and had hot meals delivered by a centralised kitchen. Nursing home A can be regarded as representative of a typical public-run elderly care institution. The second, as from now “nursing home B”, had its own kitchen facilities and provided its own meals to the residents. Since 2008, nursing home B had been part of a pilot programme aimed at introducing a new approach and model to elderly care in public elderly care (termed the Lotte-modell).

The study consisted of two parts: one focusing on duty-bearers (management and nurses working in the institutions), the other on right-holders (residents). The study was conducted between 2010 and 2011.

The study of duty-bearers and their performance focused on the nursing home staff and management opportunities and challenges in terms of realising the residents’ right to food through a “good” process, characterised as a process where the human rights principles form the basis for design and conduct. The nursing home staff and management are responsible for the residents’ meals and for taking care of the residents’ nutritional health. Focus groups and individual

\textsuperscript{29} See FAO, ‘A Primer’ (n 18).
\textsuperscript{30} Tove Thagaard, Systematikk og innlevelse: en innføring I kvalitativ metode (Fagbokforlaget 2009).
interviews were chosen to gain insight into the staff’s and management’s experiences, attitudes and views on the process of realising the right to adequate food. Five focus groups and eight individual interviews were conducted with a total number of 29 participants. At nursing home A, there were eleven participants and two focus groups. At nursing home B, the total number of participants were eighteen, with three focus groups. In addition to the researcher, a moderator was present during all focus group interviews. Participants in the focus groups were nurses or nursing assistants. Individual interviews were conducted with the management, doctors, chefs and housekeepers as key informants at both nursing homes.

The second part of the study focused on the nursing home residents and the processes geared towards the realisation of their right to adequate food. The participants lived in the same ward at each respective nursing home. Twenty residents lived at the ward in nursing home B, and eight at nursing home A. Both wards housed mentally lucid residents as well as residents with dementia, with varying physical abilities. Being over 65 years of age and having permanent residency (> 6 months) was an inclusion criterion.

To gain insight into the residents’ food and mealtime situation, participant observation was chosen as a suitable data collection method. It afforded an opportunity to get a close view of the residents’ everyday life and reality and a holistic view of the situation. Additional unstructured interviews were conducted with staff and mentally lucid residents. Mentally lucid participants were defined as those able to express themselves and give a meaningful account and understanding of the food and mealtimes at the nursing homes, in terms of their thoughts, opinions, experiences and actions. Five residents fulfilled these characteristics in nursing home B and three in nursing home A. Selection of the mentally lucid residents was also guided by the nursing home staff at each ward.

Transcription of interviews; focus group discussions; and field notes formed the basis for analysing the data material. As is a typical characteristic in much qualitative research, the analytic phase started at the beginning of the observation study. A main focus was given to identifying aspects pertaining to the human rights principles of dignity; non-discrimination; participation; empowerment; transparency; accountability; and the rule of law. A theme-centred approach was used in analysing the data material, comparing information on different themes.

related to the food and mealtime situation in the nursing homes. The data material was reviewed several times to reveal analytical units, divide the material into categories and then present relevant interpretations. The theoretical framework of the study is illustrated in figure 1.

![Figure 1: The study and the human rights principles applied](image)

**Ethical Considerations**

In the present study participants were informed verbally about the scope of the study and the use of the data gathered. Confidentiality included total anonymity about the participants and the handling of all sensitive material in a careful manner. The study design was submitted to both the Norwegian Social Science Data Services and the Regional Committee for Medical and Health Research Ethics for their approval.

**III. Human Rights Principles in the Context of Meal Provision**

Residents at nursing homes are, to a great extent, dependent on others to make food available to them. Nursing home staff and management play an important role in arranging the residents’ food and mealtime situation. The nursing home staff described the meals as highly valuable and important to the residents. Meals were described as the highlight of the day for many of the residents and something they looked forward to. How meals are organised; the food that is provided,
together with how nursing home staff and management view the accompanying possibilities and challenges, affect the realisation of the residents’ enjoyment of their right to adequate food. This section presents the findings of our study according to the human rights principles of dignity; participation; empowerment and accountability; and respect of the rule of law.

Dignity

Many aspects concerning the food and mealtime situation in nursing homes are related to the theme of residents’ dignity. The two nursing homes differed to an extent in how the residents’ dignity was taken care of; both staff and residents emphasised differences in the organisation of the kitchen in the two nursing homes. The food offered at nursing home B with a localised kitchen was characterised as varied and tasty by the residents. Both residents and staff gave an impression of a more flexible food and mealtime situation at nursing home B. At nursing home A, both residents and staff described the food offered as less appetising, less varied and less suitable for elderly people. Mealtimes were less flexible, and the staff gave us the impression that, preferably, the residents should eat their meals in the dining room. Regarding the organisation of meals, the staff described the nursing home food and meals as “institutionalised”. Dinner-time was around 1 pm at both nursing homes. However, most residents were used to eating dinner later in the afternoon, typically in many Norwegian families, dinner is consumed between 4 and 6 pm.

Another aspect is related to how the food provided meets the needs and the preferences of the residents regarding their entitlement of the right to adequate food. There was only one option typically offered for dinner. This could present a challenge to some residents as food preferences vary. In addition, the meals offered did not always take into consideration difficulties chewing and other limitations and disabilities affecting the residents. Alternatives were often not available, resulting in limited food intake by some residents. The staff (duty-bearers) expressed an intention to serve meals that were as delicious as possible and to also adjust the meals offered as much as possible to suit the residents’ needs, serving the dinner courses in mashed form to make chewing easier, for example. The dishes were therefore not always served in an appetising manner, making them less tempting to eat. Over time, this can potentially affect the residents’ state of nutrition. The food served at both nursing homes can be defined as old-fashioned Norwegian food: based on potatoes, minced meat, boiled fish or fish pudding. Interviews with residents indicated that they were accustomed to more var-
iation, having previously also incorporated more modern dishes into their food habits. Staff working at nursing home A did highlight a need for a broader variation in the food offered, in order to serve more suitable meals. They suggested that nursing home residents are more when they were served food according to their preferences. A greater diversity in the meals offered, such as a dinner menu including both traditional and more modern Norwegian dishes, would positively affect residents’ food intake and promote the residents’ dignity.

Moreover, according to Norwegian food culture there are usually differences in the content of different meals served throughout the week. In both nursing homes, such differences were less prominent. At nursing home B, wine was served with Sunday dinner, demarcating a difference between weekends and weekdays, which was appreciated by the residents. However, the fact that nursing home meals are characterised by routine can also be considered an advantage: it gives the residents a feeling of structure, predictability and safety. Unexpected changes in routines, like the substitution of Saturday’s rice porridge with vegetable soup, can cause worry. Similarly, unfamiliar staff contributed to more commotion on the ward, something that was often the case on the weekends. At nursing home B, the residents expressed a sense of insecurity in these situations. Such a feeling of being unsafe in one’s own home reflects a breach of the principle of the residents’ dignity.

The nursing home staff also pointed to ethical issues connected with taking care of the residents’ nutritional health but which may affect the residents’ dignity. Trying to ensure that the undernourished residents put on weight presented a challenge. Causes of undernourishment included dementia; a marginal home situation prior to moving to the nursing home; difficulties with swallowing; poor dental health; and the use of medications affecting appetite and the digestive system. At nursing home B, a focus by some residents themselves to not put on weight was also a factor. How dignity is taken care of in the last stage of life through food and nutrition, or the absence of it, was a concern highlighted by the nursing home staff as presenting ethical dilemmas. For a summary of aspects promoting dignity and how this is approached in the two nursing homes, see table 1.

32 Runar Døving, Rype med lettøl: En antropologi fra Norge (Pax 2003).
Table 1: Aspects promoting dignity in nursing homes A and B

<table>
<thead>
<tr>
<th>Aspects promoting dignity</th>
<th>Nursing home A Opportunities and challenges promoting dignity</th>
<th>Nursing home B Opportunities and challenges promoting dignity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residents</td>
<td>Staff</td>
</tr>
<tr>
<td>Variation in food offered and an appetising</td>
<td>Less variation. Not always suitable for residents with chewing</td>
<td>Mostly satisfied with food variation. Not always suitable for</td>
</tr>
<tr>
<td>impression of food offered</td>
<td></td>
<td>caning disabilities. Mashed food served in a less</td>
</tr>
<tr>
<td></td>
<td></td>
<td>appetising way.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Familiar food, prepared in the “right”</td>
<td>Some favourite dishes were never offered at the nursing home.</td>
<td>Not able to serve what the residents wished.</td>
</tr>
<tr>
<td>way.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Differences in food culture and food</td>
<td>Mostly offering Norwegian traditional food.</td>
<td>More modern Norwegian dishes wanted by residents, but not all.</td>
</tr>
<tr>
<td>habits</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Routine mealtimes, giving structure and</td>
<td>Little flexibility. Mealtimes were an activity residents should</td>
<td>Appreciated, especially by those with disabilities. Some</td>
</tr>
<tr>
<td>predictability</td>
<td></td>
<td>preferably attend in the dining room. Mealtimes viewed as a highlight.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marked differences between weekends/</td>
<td>Less difference, compared to what was used to.</td>
<td>Less difference, compared to what was used to. Wine on Sundays gave some difference.</td>
</tr>
<tr>
<td>holidays and workdays</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Food as an element of care</td>
<td>Unsatisfied with food, gave less feeling of care.</td>
<td>Not always able to serve suitable and delicious food.</td>
</tr>
</tbody>
</table>
Participation

Participation is closely related to empowerment, as is further discussed below. The residents’ participation in decisions concerning food and meals offered at the nursing home was generally low. Dinners came ready-to-serve, and the other meals were prepared by the staff working at each ward thus limiting the residents’ opportunities to participate in cooking and activities involving food preparation.

At nursing home B, the residents could, to some extent, decide when and where they wanted to eat their meals. Still, most residents ate most meals in the dining room, and coffee and snacks were mostly eaten in the residents’ rooms, at both nursing homes. At nursing home A, mealtimes were more formal and the staff preferred that the residents ate their meals in the dining room. This afforded an opportunity to let the residents prepare their own sandwiches or help themselves from a buffet at dinnertime, giving the residents an opportunity to participate in food choices. For meals accompanying bread, like breakfast and supper, plates were set out on the tables in the dining room with different spreads and toppings. According to the nursing home staff, this should make it easier for the residents to act as independently as possible during the meals and pass food around the table.

Residents were not included in cooking and food preparation. Arranging this sort of activity could promote residents’ participation in organising their lives. As highlighted by the staff, meals at the nursing home have important roles in this respect, in addition to being an arena for eating. It gives the day structure and solid ground, a place to meet others and enjoy company. When interviewing the nursing home staff, the reason why residents were not included in cooking and

Table 1: Aspects promoting dignity in nursing homes A and B (Continued)

| Ability to offer food/drinks when residents received guests | Appreciation that some of the older nursing assistants offered coffee to visitors | Good atmosphere around mealtimes | Appreciated, participation of staff a contributing factor. | Good atmosphere resulting in residents eating more. Time pressure around meals a challenge. | Appreciated, participation of staff a contributing factor. | Unfamiliar staff on weekends gave residents a feeling of unsafety. Time pressure around meals a challenge. |

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food preparation was attributed to residents being described as “dirty”. Arranging meals so as to promote participation of residents who may lack the will or energy to take part in everyday tasks can also be a challenge. According to staff at nursing home A, many residents could not manage to pass the plates to each other. The staff’s participation during meals promotes both active and social participation of the residents during meals and cooking, contributing to a pleasant eating environment. At nursing home B, meals were organised in a way that promoted the staff’s participation during the residents’ meals. They did not have a lunch break during their shift, but food was provided by the nursing home when they were eating together with the residents. The staff working at nursing home A did participate in some meals together with the residents, but to a lesser extent compared to nursing home B. Aspects promoting participation and how this was taken care of in the two nursing homes are illustrated in table 2.

Table 2: Aspects promoting participation in nursing homes A and B

<table>
<thead>
<tr>
<th>Aspects promoting participation</th>
<th>Nursing home A Opportunities and challenges promoting participation</th>
<th>Nursing home B Opportunities and challenges promoting participation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residents Staff</td>
<td>Residents Staff</td>
</tr>
<tr>
<td>Participation in dining room meals</td>
<td>Preparing own sandwiches</td>
<td>Preparing own sandwiches</td>
</tr>
<tr>
<td>Participation in decisions on food and mealtime, preparation and serving of food and cooking activities</td>
<td>Generally low</td>
<td>Residents who do not want to/do not have power to pass plates is a challenge. Less hygienic to involve residents in cooking/food preparation.</td>
</tr>
<tr>
<td>Participation of staff during meals promotes residents participation</td>
<td>Participation of staff during meals is appreciated.</td>
<td>Less focus on the residents’ participation in meal organisation.</td>
</tr>
</tbody>
</table>
Empowerment

“A grateful generation” describes the generation living in nursing homes today. It is reflected through their attitude to food, like eating all kinds of food, eating everything on the plate and not throwing food away. Many residents pointed out that they did not want to be perceived as complaining. At nursing home B, where mealtimes were more flexible, it seemed as though the nursing home staff were more focused on the residents’ self-determination. Being served meals when and where the residents wanted, adjusted to their desires and needs, was an option here to a greater extent compared to nursing home A. The residents living at nursing home A described scant, if any, opportunities to affect the food and mealtime situation.

The residents’ health condition was also a factor influencing the understanding of their opportunity to influence their food and mealtime situation. Reduced health, disabilities and reduced ability to communicate affected many of them. These residents were more dependent on others to perform their everyday routine activities. It also indicated an understanding by these residents regarding fewer opportunities to affect their own situation. This was the case at both nursing homes. Since the staff had an important role in providing meals to the residents, their understanding of their possibility to influence the situation was an important factor. The nursing home’s ideological perspective and how the kitchen and preparation of dinners was organised were important factors. At nursing home A, the staff described few possibilities to change the menu and adjust the food according to the residents’ needs, as dinners were prepared at a central kitchen.

The staff’s views on the residents, along with the nursing home’s roles, might also be an important factor. Residents were referred to as patients, residents, humans, elderly, being senile or “that generation”. The impression of moving to a nursing home, which implied abiding by prevailing routines where residents had little influence, was described by the staff at nursing home A in terms of “to get permission for something” or “something the residents should be allowed to”. At the same time, the staff at nursing home wanted greater user involvement. Also, nursing home A was described as the staff’s workplace; in contrast to nursing home B, which was viewed as the residents’ home. At nursing home B, resourceful relatives were described as having an important role in strengthening the residents’ empowerment.

The nursing home staff’s attitude towards the residents and the ideological perspective seemed to affect their involvement during the day with the residents.
As many residents are dependent on others to do their everyday tasks, a greater involvement between staff and residents can contribute to strengthening the residents’ empowerment (see table 3).

Table 3: Aspects promoting empowerment in nursing homes A and B

<table>
<thead>
<tr>
<th>Aspects promoting empowerment</th>
<th>Nursing home A Opportunities and challenges promoting empowerment</th>
<th>Nursing home B Opportunities and challenges promoting empowerment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residents</td>
<td>Experienced little opportunities to affect their own situation.</td>
<td>Experienced some opportunities to affect their own situation.</td>
</tr>
<tr>
<td>Making residents conscious of</td>
<td>Being a “grateful generation” and viewed as children is a challenge.</td>
<td>Being a “grateful generation” is a challenge.</td>
</tr>
<tr>
<td>opportunities, adapted to their physical and mental state</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Promote the staffs’ opportuni-</td>
<td>Having external kitchen a challenge in their ability to affect food offered.</td>
<td>Having kitchen at the nursing home promoted ability to affect food offered.</td>
</tr>
<tr>
<td>ties to affect residents situation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greater involvement by staff promotes residents empowerment</td>
<td>Less involved with residents during and between meals</td>
<td>Nursing home viewed as staff’s workplace</td>
</tr>
<tr>
<td></td>
<td>More involved with residents during and between meals</td>
<td>Nursing home viewed as residents’ home.</td>
</tr>
</tbody>
</table>

Equality and Non-Discrimination

The principle of non-discrimination means that no one should experience discrimination on the basis of age or disability. Discrimination of residents was highlighted, as were several challenges relating to financial and organisational conditions at both nursing homes. Having a kitchen located at the institution seemed to increase flexibility related to meals and variation in food consumption. A flexibility related to dining, as described in nursing home B, seemed virtually non-existent at nursing home A. The staff at nursing home A experienced frustration and lack of authority, and a power struggle seemed to prevail between the different levels of duty-bearers. The staff and the management gave an impression of not being heard when they gave feedback on the dinner menu to the kitchen which prepared and distributed the meals to the institution.
As nursing home A had a central kitchen, a distinction was made between the warm and dry food budget; while in nursing home B, all the costs were in the same food budget, making it challenging to compare food costs between the two nursing homes. The food budget was the same for both nursing homes. In nursing home B, they had never experienced a budget deficit, despite the fact that the food offered was viewed as more varied. It is possible that having one food budget opens up for more individual adoptions without incurring any additional costs. In contrast, economic priorities accounted for the lower variety of food, as described by the nursing home assistants at nursing home A.

The possibility of a variation in the menu is crucial for residents of a nursing home. However, the residents’ functional level had an impact and affected their food and meal situation. Residents with poor health may have a greater need for assistance and facilitation of eating than the others. Difficulty in expressing their needs due to reduced communication skills is a known problem among nursing home residents. Dietary modifications in the case of diabetes; allergies; and food intolerance affected food variety for the individual. Fruit compote for dessert without milk does not taste as good as with milk, resulting in less being consumed. Meat dinners could be difficult to chew and were therefore not eaten. In nursing home A, it appeared that some of the staff had a perception of what the residents wanted, but it did not necessarily correlate with the residents’ own eating habits. This may indicate that residents in need of adaptations are exposed to discrimination, as in practice they do not get an equally adequate food offer. As many nursing home residents are dependent on assistance to ingest food and drinks, a sense of insufficient resources may lead to them experiencing little opportunity to influence their own situation. Residents with impaired health status, especially those with reduced communication skills, were more likely to skip meals, get food served at other times or eat less.

Although the mealtimes can be enjoyed by some of the residents, there are others who chose not to eat together with the other residents. Several of the participants said that some residents isolated themselves in their room should they not feel comfortable during the meal situation. They may experience

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33 June Copeman, "Promoting Nutrition in Older People in Nursing and Residential Homes" (2000) 5 Br J Community Nurs 277.
34 Marianne Arvanitakis et al., "Nutrition in Care Homes and Home Care: Recommendations - a Summary Based on the Report Approved by the Council of Europe" (2009) 28 Clin Nutr 492; See Sellevold and Skulberg (n 17).
that they do not fit in with the others in the environment, not wanting to be identified with people with dementia. Indeed some residents did harass others during the meals. Many seniors have experienced multiple losses and, for many, mealtimes may be perceived as degrading. This can be further accentuated when they are bullied by other residents. On the other hand, the meals can also provide an opportunity to meet others. As far as possible, the staff tried to arrange seating together of those who matched well. The staff’s encouragement to participate in the meal situation can create a mutual understanding and help recover self-esteem.

Malnutrition has been shown to have a greater incidence among residents with a higher degree of impairment, compared with others. Malnutrition is associated with functional impairment and dissatisfaction, which renders nursing home residents particularly vulnerable. This indicates that the current nursing home practices are unsatisfactory. Duty-bearers have an important role when it comes to awareness of this issue and taking into account the individual residents’ own limited resources. At nursing home B, one of the nurses said she often served fruit salad or chocolate in the afternoon, especially with a view to the residents who ate little at meals earlier in the day. This is a measure that can help the most vulnerable residents cover their nutritional needs to a greater extent. It seems as though a resident-centred ideology promotes greater respect. This can help ensure that the vulnerable residents will have food and meals that better meet their nutritional needs. This will furthermore help to achieve optimal nutritional health for all residents and reduce discrimination. Aspects entailed in promoting equality and non-discrimination and how this is approached in the two nursing homes are illustrated in table 4.

36 See Gaskill et al. (n 19).
37 See Sellevold and Skulberg (n 17).
Accountability, Transparency and Respect of the Rule of the Law

There was a higher level of transparency at the nursing home B that had the ideology of being the residents’ home rather than the staff’s workplace. Here, there were also several forums where the staff and management met to discuss issues of concern to the residents. This contributed to allowing several voices to be heard. In both nursing homes, the staff experienced that it was the management who initiated any implementation of new routines and guidelines. It does seem as though a power struggle occurs when those who spend the least time with the res-

Table 4: Aspects promoting equality and non-discrimination in nursing homes A and B

<table>
<thead>
<tr>
<th>Aspects promoting equality and non-discrimination</th>
<th>Nursing home A Opportunities and challenges promoting equality and non-discrimination</th>
<th>Nursing home B Opportunities and challenges promoting equality and non-discrimination</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residents</td>
<td>Staff</td>
</tr>
<tr>
<td>Arrange foods and meals in relation to the residents’ health</td>
<td>Challenging to serve food meeting the needs of residents when there is little variety.</td>
<td>Lack of authority over the dinner menu.</td>
</tr>
<tr>
<td>Economic and political priorities Promote equal food and meal service to all nursing home residents</td>
<td>Same food budget. Residents generally less satisfied with the food available.</td>
<td>Lack of authority regarding the dinner menu and of “the little extra” on top of the budget for food.</td>
</tr>
<tr>
<td>A supportive environment to reduce harassment</td>
<td>Isolation</td>
<td>Less involved with residents during and between meals</td>
</tr>
</tbody>
</table>
idents initiate suggestions for change, even though it is related to achieving a better situation for the residents. In nursing home A, the fact that the staff closest to the residents were seldom involved in issues regarding the residents’ daily life, as well as issues that might affect their daily work was perceived with strong dissatisfaction. It also emerged from the analyses that the staff at nursing home A had an unresolved matter regarding who was in charge and accountable for the residents’ nutritional health. This issue seemed to be more clearly delineated at nursing home B. At nursing home A, it was discussed that it might not always be easy for the residents to complain as discussed earlier, given an asymmetrical relation between the rights holders and the duty bearers. As some staff put it, the residents are dependent on good care and it seems as if there is a barrier for the rights-holders to express that some things are not just good enough. There is also a bonding between the residents that can contribute to inhibit the rights-holders asking for guidance to meet their needs. Some residents might have a perspective that there are others who need more help than themselves and also that the staff do not have enough time and are generally too busy to help them.

The concept of respect for the law in regard to adequate food was discussed among the duty-bearers in the focus groups, giving an indication of the participants’ perception of what the right to adequate food implies. All participants had heard about human rights, stating that everyone has rights. Several also stated that there is a lot of rights-based work in nursing homes, but that they had not previously seen this in the context of human rights. The laws of Health Personnel and Patient Rights Act were mentioned by some participants.38 There was also some discussion in nursing home B that there is a strong focus on the staff’s rights, as implementation of new routines often happened in the interest of duty-bearers rather than that of the rights-holders. Several reported that they had not necessarily thought of human rights in the context of food and health earlier, but had considered it involved issues of a more serious nature, such as ethical dilemmas at the end of life. Only a few gave the impression that human rights should concern them in their everyday work. This does not necessarily reflect whether human rights are respected at the respective nursing home, but it can implicate the great potential of using a human rights-based approach at nursing homes, and fostering awareness and vigilance of human rights.

38 LOV-1999-07-02-63 Lov om pasient- og brukerrettigheter (pasient- og brukerrettighetsloven)
Decisions regarding food and mealtimes were mostly taken without the residents’ involvement and seemed to be beneficial for the residents. The care aspect of dining is closer discussed under the principle of dignity. Yet, certain events at both nursing homes indicated a lack of information and transparency concerning areas where residents could have a possibility of being influential. As an example, one of the residents in nursing home A was unsure whether she could ask for a sandwich outside of regular mealtimes. Lack of information was also present around Christmas. When the nurses had little information about the happenings at Christmas, it was difficult for residents to know what they could ask for.

Lack of information can lead to a perception of having little control over one’s own situation. The Additional Protocol to the European Social Charter emphasises that all seniors living in an institution should have the possibility of participating in decisions taken in the institution where they live. Sufficient information is critical in order for any such participation to be possible. Lack of information can have an impact on residents’ food and meal situation, and can contribute to a lower level of participation and weaken empowerment. Adequate information can contribute to give the residents more confidence regarding security. Being given adequate information can also improve the rights-holders’ opportunities to make their own choices regarding food and meals in their nursing homes. Sufficient information will also contribute to strengthening the residents’ empowerment and they can thus become more active participants in their own lives, and, in that way, attain their full potential within the opportunities they are allotted. Aspects of promoting accountability, transparency and respect for the rule of law and how these principles were observed in the two nursing homes are illustrated in table 5.

40 Council of Europe (n 19).
41 See FAO, ‘Voluntary Guidelines’ (n 8).
Table 5: Aspects promoting accountability, transparency and respect of the rule of law in nursing homes A and B

<table>
<thead>
<tr>
<th>Aspects promoting accountability, transparency and respect of the rule of law</th>
<th>Nursing home A Opportunities and challenges promoting accountability, transparency and respect of the rule of law</th>
<th>Nursing home B Opportunities and challenges promoting accountability, transparency and respect of the rule of law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residents</td>
<td>staff</td>
<td>residents</td>
</tr>
<tr>
<td>Awareness of the unbalanced relation that can occur between staff and residents and having the authority to act</td>
<td>Residents can be reluctant to ask for help or assistance.</td>
<td>An asymmetric relation between staff and the residents. Vulnerability over the weekends and holidays when there is reduced staff.</td>
</tr>
<tr>
<td>Better information about plans for Christmas day</td>
<td>Knowing little about Christmas plans in the nursing home gave rise to uncertain expectations.</td>
<td>Some uncertainty about Christmas plans.</td>
</tr>
<tr>
<td>Facilitated information in relation to health</td>
<td>Residents with impaired health, were least aware of the areas that they could affect.</td>
<td>The staff working closest to the residents experienced lack of authority in terms of influencing the residents’ will.</td>
</tr>
<tr>
<td>Better information about the areas where the residents can contribute. (This will also contribute to the achievement of participation and empowerment.)</td>
<td>A lack of information due to low degree of participation and empowerment.</td>
<td>Power struggles between the staff.</td>
</tr>
</tbody>
</table>
IV. Responsibility and Obligations of the Norwegian Authorities

For elderly rights-holders in institutions, the nursing home’s management and staff constitute the closest set of actors or duty-bearers in the “rings of responsibilities”. More distant duty-bearers of the right to adequate food for all residents in Norway (thereby including the elderly) are the local authorities at a municipal level and, ultimately, the state. As referred to in the brief situation analysis above, Norway recognises the many challenges in the elderly care services through, inter alia, nursing homes in the years to come. In the White Paper referred to previously the following is said about food and nutrition:

For most people the meals constitute a central event in daily life. The government will initiate research and consumer surveys to evaluate experiences with different production models and solutions for preparation, distribution and serving food in the care service, focusing both on the diet and on the social, cultural and nutritional significance of the meal. The Norwegian Directorate of Health will provide a technical guide for nutrition management. 42

In 2010, a guide was issued for those supervising the situation in hospitals and nursing homes, although this dealt more with the action required regarding under-nutrition among such residents.43 A new law in 2011 delineating the role of municipal authorities in healthcare and care services came into force on 1 January 2012.44 There is no mention in this law of institutions for elderly people. At the same time, the food and meal situation in such institutions has been frequently subject to discussion in the Norwegian media.

Is Norway omitting taking its obligations for elderly people’s right to adequate food in the widest sense seriously? General Comment No. 6 of the UN CESCR, on “The economic, social and cultural rights of older persons”,45 recognises that the ICESCR does not include age as a basis of discrimination (paragraph 10) nor

44 LOV 2011-06-24 nr 30: Lov om kommunale helse- og omsorgstjenester m.m. (helse- og omsorgstjenesteloven) (from the Norwegian Ministry of Health and Care Services); entered into force on 01.01.12. Lovdata.
does it contain any explicit reference to the rights of older persons (paragraph 11). Nevertheless, the Committee emphasises that ‘the unacceptableness of discrimination against older persons is underlined in many international policy documents and is confirmed in the legislation of the vast majority of States’ (paragraph 12), and is of the view that states’ parties to the covenant are obligated to pay particular attention to promoting and protecting the economic, social and cultural rights of older persons. The Committee underlines this by the fact that, unlike the case of other population groups such as women and children, no comprehensive international convention yet exists in relation to the rights of older persons and no binding supervisory arrangements are attached to the various sets of United Nations principles in this area. (paragraph 13).

The NGO HelpAge International launched, in 2010, an initiative towards a UN Convention on the rights of the elderly and to promote a dialogue to this end. 46 Norway should be an active partner in this dialogue.

V. Conclusion

The results of this study show that the nature of the meals and how they are organised play a major role in nursing homes. They are characterised by the participants as the highlights of the residents’ day. Nevertheless, the study shows that the food and meal situation did not contribute to a sufficiently “good” process regarding realising the right to adequate food. Among the aspects that weakened the process was meals controlled by structural factors, such as the staff’s working shifts and economics, rather than concern for the residents’ right to adequate food. These structural factors challenge the inherent dignity of the residents. On the other hand, the residents’ dignity was respected through food services and meals that catered to their nutritional needs, eating habits and cultural taste. The participants described that the residents can harass each other at mealtimes. The staff therefore had an important role to play in serving the meals. Their presence during the meals was an advantage, although time constraints could imply some limitations. The residents’ participation in relation to the food services, in terms

of preparation and serving of meals, was generally low. Such low participation diminishes residents’ empowerment.

The study also shows that different organisational solutions and ideologies may have a role in the realisation of the right to adequate food in a “good” process. The residents’ wishes related to the organisation of food, menu and meals were considered to a greater extent at the nursing home with a local kitchen and conception of the institution primarily as the residents’ home, rather than a “work place”. This contributed to empowerment of both the participants and residents. The nursing home with a kitchen preparing dinners on location contributed to a greater variety of the food being served. Adjustments to meet residents’ needs were also met to a greater extent at this nursing home.

In both nursing homes, the staff expressed a number of ethical dilemmas regarding the last phase of life for residents, related to food, nutrition and the residents’ dignity. In both institutions, the staff’s capacity also seemed to be challenged at several levels in a “good” process, with power struggles arising between both the staff and management, and between the residents and the staff. This resulted in reduced accountability, contributing to discrimination of the residents. Over time, this can potentially affect the residents’ nutritional status and challenge their dignity. A diverse and appetising selection of food offered at nursing homes is one factor that can promote dignity. As the world experiences a growing proportion of elderly people, a focus on the realisation of elderly rights has evolved. Nursing home residents are more prone to malnutrition, indicating that the elderly living in institutions can be a vulnerable group in terms of realisation of their right to adequate food. This study illuminates the possibilities and challenges in the process of realising the right to adequate food in nursing homes.

The future respect of human rights principles in the nursing home food and mealtime setting requires changes to the ideology governing nursing homes, organisation of meal provisions, and regulation of elderly care. This can be achieved by implementing a resident-centred ideology which favours proximate kitchens in charge of the food and meal situation in each nursing home. Such ideology also sees the assessment and adjustment of the food budgets in nursing homes in each municipality in Norway, in order to secure an equal food and meal situation for all nursing home residents. An increase in the presence of nutritionists within the field of nursing homes can strengthen the capacity of duty-bearers to fulfil their role. Finally, a United Nations convention on the rights of the elderly could provide the international legal framework for enhancing nursing home residents’ right to adequate food. Norway should take steps to further promote and support such a Convention.