



THE RIGHT TO FOOD and GLOBAL ACTORS

The foundational paradigm of **international human rights law** is the accountability of sovereign states for ensuring the rights of individuals living within their jurisdiction. This paradigm is increasingly challenged by the **fragmentation and transformation of state sovereignty** in response to economic globalization.

The global power exerted by a handful of **states, transnational corporations, and international financial institutions** represents a significant shift in the international order.

The power imbalances created by this shift make it increasingly difficult for **weaker states** to assert full control over policies that are central to their ability to fulfil their social and economic rights obligations.

Under the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**

the “**right to food**” is defined as **the right to be free from hunger and to have sustainable access to food in a quantity and quality sufficient to satisfy one’s dietary and cultural needs.**

States that have **ratified this Covenant** are obligated to take steps to **progressively** achieve the full realization of the right to food for those within their territory or under their jurisdiction.

Implicit in this state-centric approach is the rationale that human rights are the by-product of relationships between governments and the individuals they govern, rather than relationships between global actors and individuals worldwide whose rights are affected by their actions.

In the age of economic globalization, a variety of state and non-state actors may be contributing to the state of world hunger, but not all actors are given equal consideration under international law.

The existing human rights legal framework is ill-equipped to deal with these actors and the effects of their policies abroad

it does not adequately address the obligations of transnational corporations (TNCs) and international financial institutions (IFIs);

States Parties' obligations are limited to individuals in their territory or under their jurisdiction; and states that do not ratify the ICESCR may escape right to food obligations altogether.

We seek to close some of these accountability gaps.

It proposes that three major doctrinal issues must be resolved if we are serious about using international law to promote the right to food.

These are:

- 1) Defining the extraterritorial application of the ICESCR;
- 2) Holding transnational corporations and international financial institutions accountable via their relationship to powerful states;
- 3) Locating the right to food outside the treaty framework in customary international law.

States often have obligations under multiple legal regimes, including conditions of contracts with IFIs and TNCs, which may come into conflict with their human rights obligations.

The development of norms outside the covenant model to reconcile the incompatibility of multiple legal regimes and to hold non-ICESCR ratifying states accountable for violations of the right to food is a necessary precursor to the realization of the right to food under globalization.

In many respects the right to food is a useful entry point for looking at the ways in which international law is in need of rethinking under globalization.

The problem is not with globalization per se;

globalization actually represents an enormous opportunity to involve multiple actors in solving pervasive human rights problems.

The end of world hunger and extreme poverty reduction is potentially within our grasp. Addressing the **accountability of powerful states**, TNCs and IFIs can lend support to this weighty effort.

If the state-centric and territorial constraints of international law remain unaddressed, however, the potential of the international human rights framework itself may be undermined.

Why Focus on Global Actors?

In 2000, the **U.N. Millennium Summit** declared that halving the proportion of people who suffer from hunger between 1990 and 2015 is a key Millennium Development Goal.

Also in 2000, the **U.N. Commission on Human Rights** appointed a Special Rapporteur on the Right to Food in order

to “respond fully to the necessity for an integrated and coordinated approach in the promotion and protection of the right to food.” In 2004, the U.N. Food and Agricultural Organization unveiled the Voluntary Guidelines on the Right to Adequate Food.

Right to food campaigns have also firmly taken root in countries all over the globe, including Brazil,⁴ India,⁵ South Africa, and New Zealand. Many of these

campaigns have availed of protections offered by domestic constitutions. To date, at least twenty countries explicitly refer to the right to food or a related norm in their constitutions.

Domestic right to food campaigns have met with some success.

These campaigns thrive in large part because of the democratic spaces in which they operate.

Campaigns in India and South Africa, for example, have made ample use of a free media, have mobilized civil society in support of their demands, and have called for judicial intervention to check against government inaction.

The success of these campaigns, albeit measured, necessarily raises the question of whether social and economic rights are best protected by using a civil and political rights framework that holds domestic government accountable for their failure to ensure the right to food.

If so, **then why focus on the social and economic rights obligations of global actors?**

And **does such a focus merely externalize a problem whose roots are in fact domestic?**

The focus on domestic factors—such as governmental oppression or ruling elite corruption—is not misplaced.

In Zimbabwe, for example, recent violations of the right to food were a result of policies pursued by the national government independent of—and even opposed to—policies advocated by international institutions.

Still, the notion that hunger and poverty can today be *fully* explained in terms of national and local factors is a fallacy. Trade liberalization, the inability to effectively regulate the power of TNCs, and burdensome external debt servicing obligations¹ may restrict the state's ability to fashion

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appropriate tools to promote the realization of the right to food.¹⁴ Here one could argue that developing country leaders have too often failed to protect the interests of their populations when negotiating the terms of foreign direct investment inflows, or of international trade and loan agreements. While this may be true, it does not take adequate account of the dramatically unequal bargaining power that frequently prevails in such dealings, nor does it factor in the extent of foreign complicity in domestic corruption.¹⁵

We focus on the **accountability of global actors** in order to supplement, and to some extent counterbalance, the existing legal scholarship's focus on the enforceability of the right to food in the domestic setting.

Unless and until the accountability of global actors is more clearly defined under international law, the potential impact of both domestic and U.N.-related initiatives will continue to be undermined.

The focus **on global actors is not, however, an attempt to externalize the problem or to minimize the importance of ensuring domestic accountability.** Holding local actors accountable is of fundamental importance—not least because it is a means of enabling societies to achieve a more equitable distribution of resources between the country's wealthy elite and its majority poor.