The Right to Food: A Global Overview

Susan Randolph
University of Connecticut, Dept. of Economics

Shareen Hertel
University of Connecticut, Dept. of Political Science & Human Rights Institute

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Abstract:
Access to food is essential to human survival and the "right to food" is a fundamental human right whose fulfillment impinges on the realization of most other human rights. Yet the pervasiveness of human hunger worldwide starkly illustrates the ongoing failure to fulfill the "right to food." This chapter defines the right and analyzes its evolution in international human rights law. It then examines the extent to which commitments to respect, protect, and fulfill the right to food at the international and national levels are upheld in practice. The chapter finds that failure to fulfill the right to food in part reflects old challenges including the failure to integrate human rights law with the commitments, agendas, and laws governing international financial institutions, transnational corporations, trade agreements, and other aspects of the international economic governance architecture. Additionally, however, it reflects new challenges posed by climate change, increased meat consumption on the part of a growing global middle class, and the shift toward biofuel production.

I. Introduction

The "right to food" is a fundamental human right. Its realization is essential to the fulfillment of other human rights. The "right to life" and the "right to health" are inextricably linked to the "right to food". Hunger and undernourishment directly or indirectly account for over half of the deaths in the world (UNDP, 2000). Malnutrition turns common childhood diseases into killers; roughly half of the deaths due to diarrhea, malaria, pneumonia, and measles can be attributed to malnutrition (Black et al. 2003, Bryce et al. 2005). Enjoyment of the right to food is contingent upon the realization of the right to education and the right to work as well. Malnutrition impedes learning and psychosocial development (Pridmore 2007, Alaimo et al. 2001). Poor health, and low education and skill development, in turn, limit access to decent work that is safe and provides incomes above the poverty level.

Paradoxically, while global per capita food production has risen to unprecedented levels, hunger remains a pervasive reality in the world today: 925 million of the world's nearly 7 billion people are undernourished (UN Food & Agriculture Organization 2010) and someone in the world is dying of hunger or its complications every several minutes of every day. This paper offers a comprehensive overview of the evolution of the right to food in international law and analyzes factors affecting progress towards respecting, protecting, and fulfilling the right to food at the international and national levels.

II. What is the Right to Food?

The history of the right to food can be mapped on two levels: on one, as a formal, legal obligation of states under international law; and on another, as a popular demand for access to food as a means of survival. At times, the two levels seem miles apart. Yet we attempt to draw them together here in order to fill an important gap in the broader human rights historical narrative, which has tended to overlook the place of food rights advocacy in particular, and economic rights advocacy in general (Moyn 2010; see Chong 2010 as an exception).

Analyzing contemporary food rights advocacy exposes another central paradox: an embrace of the rhetoric of rights by advocates but a rejection of the formal UN system by the most radical activists among them, who in favor a discourse of food sovereignty instead (Shiva 2000; Uzondu 2010). In this chapter, though mindful of the food sovereignty critique, we choose to frame the right to food both in terms of food security and with reference to UN treaty law. We do so because the concrete benchmarks available to evaluate fulfillment of the right to food are as of yet calibrated around food security and the normative framework remains grounded in human rights law. We pay special attention as well to the role of both domestic legal norms and domestic political discourses as alternative sources of impetus for food rights mobilization. Accordingly, we analyze comparative constitutionalization of the right to food, and contrasting approaches to national implementation.

A. The Right to Food Under International Law

In legal terms, the concept of food as a human right emerged along with the rest of contemporary international law in the aftermath of World War II. The right to food was initially codified in the *UN Declaration of Human Rights*, Article 25 (UN General Assembly Resolution

217 A, III) and was reaffirmed in Article 11 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR); this treaty was opened for signature in 1966 and came into force in 1976, at the height of the Cold War. The monitoring committee for the ICESCR has since written General Comment #12 on the Right to Food (in 1999) -- largely in response to a request for guidance on interpretation and implementation put forward by states involved in the 1996 UN World Food Summit (CESCR 1999, para. 2). The full scope of the right to food has evolved under international law not only in response to global efforts to combat hunger and malnutrition but also as a function of growth in our understanding of the factors that contribute to hunger and malnutrition.

Article 25, paragraph 1, of the UN *Declaration on Human Rights* refers to the right to food as one aspect of the right to a standard of living adequate to ensure the health and well-being of each person. The right to food is thus explicitly linked to individuals' health and well-being. Article 11 of the ICESCR goes beyond identifying the right to food as an aspect of the right to an adequate standard of living and articulates two separate, but related norms: the right to adequate food (Art. 11, para. 1) and the right to be free from hunger (Art. 11, para. 2). Article 11 obligates State Parties to the Covenant to take specific measures individually and through international co-operation to ensure the right to adequate food and to eliminate hunger.

The right to adequate food is a "relative standard," in that it is subject to progressive realization. That is, States which are party to the Covenant are required to put in place measures, policies, and programs that lead to its full realization over time. But the right to freedom from discrimination in accessing adequate food is an "absolute standard," meaning it is immediately actionable and universally applied equally (see Article 2, para 2 of the ICESCR). States party to the ICESCR must implement non-discriminatory food policies immediately, even if the general level of fulfillment of access to adequate food is less in some countries than others (given the relative nature of progressive realization). Similarly, the right to be free from hunger is also an "absolute standard" and must be fulfilled with immediate effect because a minimum level of basic subsistence (i.e., the right to be free from hunger resulting in death) is essential to enjoy the right to life. The right life, in turn, is the only right identified as fundamental in both the ICESCR and the International Covenant for Civil and Political Rights, ICCPR (Narula 2006).

Article 11 of the ICESCR lays out a three-part rubric for fulfilling these rights, based on the following policy measures:

- First, increasing food **availability** nationally and internationally by increasing production, specifically by harnessing and disseminating technical and scientific knowledge to improve "methods of production, conservation and distribution of food" (Article 11, paragraph 2a);

- Second, enhancing **access** to food at the country level by "ensuring an equitable distribution of world food supplies in relation to need" (Article 11, paragraph 2b);

- Third, targeting food **utilization** by identifying good nutrition as a crucial link between food access and health outcomes at the individual level. Article 11, paragraph 2 thus

instructs countries to disseminate "knowledge of the principles of nutrition" to ensure adequate utilization of food.

Yet other than these measures, the right to food remains relatively opaque in Article 11 of the ICESCR, as do the obligations of States Parties acting individually and collectively.

Sparked in part by a request from Member States during the 1996 World Food Summit, General Comment 12 was issued by the Committee on Economic, Social, and Cultural Rights, the monitoring body of the ICESCR, in 1999. General Comment 12 provides the most comprehensive definition of the substantive content of the right to food under international law and expands on the three core dimensions of the right—food availability, food access, and food use. The aim was to provide guidance on the sorts of information that States Parties to the ICESCR would need to monitor implementation of Article 11 of the Covenant and to further delineate other core elements of the right to food beyond food security. It thus offers a detailed interpretation of the nature and scope of the right to food included in the ICESCR, drawing both on the Committee's analysis of country reports submitted by States Parties to that treaty since 1979 and on the accumulation of knowledge to date regarding the economic, social, political, environmental and other factors that influence the fulfillment of the right to food.

As elaborated in General Comment 12, the right to food encompasses "physical and economic access at all times to adequate food or means for its procurement" (CESCR 1999, para.6). A prerequisite to physical and economic access is physical availability of adequate food at the national and local level; ensuring physical availability, in turn, entails putting in place sustainable production and procurement methods for current and future generations (para. 7). Physical accessibility requires that adequate food be available to every man woman and child, including those with medical problems, and physical or mental limitations (para. 13b). Economic accessibility requires that the financial cost of acquiring adequate food not be so high as to jeopardize the realization of other rights (para. 13a). This extends from the individual to the national level.

General Comment 12 defines "adequate food" more broadly than simply meeting the caloric needs of typical men, women and children. Adequacy has several dimensions. First it requires that the food contain sufficient macro and micro nutrients for optimal physical and mental development and maintenance and to support desired activity levels (para. 9). As such it differs across individuals even of the same age, sex, and activity level according to all the other factors that influence the physiological need for nutrients (micro and macro) and food utilization; these include factors such as pregnancy and medical status. Second, food adequacy requires that food be "free from adverse substances." Hence, protective measures must be put in place to prevent contamination or adulteration of food stuffs and to destroy any toxins (para. 10). Finally, food adequacy requires that access to food be ensured in a way that meets cultural or consumer acceptability standards and does not violate social norms (para. 11). Thus adequacy must be interpreted in light of the physiological and social utilization of food.

Beyond providing the legal substantive scope of the right to food, General Comment 12 also sets forth the procedural elements of the right and corresponding State obligations with

regard to fulfilling the right. States are obligated to "take steps to achieve *progressively* the full realization of the right to adequate food" (para. 14) and are required to ensure "at the very least, the minimum essential level [of food] to be free from hunger" (para 17). As is the case of other economic, social, and cultural rights, the nature of State obligations is three-fold. States are obligated to respect the right; this means restraining itself from taking measures that restrict access to food. States are also obliged to protect the right, which entails ensuring that third parties (individuals or corporations) do not deprive people of access to food.

Finally, fulfilling the right to food (para 15) creates a two-fold obligation for states: an obligation to facilitate and an obligation to provide. The former entails taking proactive measures (including legislative, administrative, budgetary, and judicial measures) that strengthen people's access to adequate food and their ability to utilize it to enhance their health. The latter entails directly providing food and complementary resources when it is not feasible for people to access adequate food or the complementary resources necessary to utilize it effectively. General Comment 12 also confirms that the procedural rights of participation, non-discrimination, accountability and remedy apply with equal force to the right to food. It also imposes obligations on each state with regard to other states.

Specifically, states are obligated to refrain from taking measures that endanger the realization of the right to food in other countries. States are also obliged to take proactive measures to facilitate the realization of the right to food in other countries. And state must act collectively to fulfill the right to food -- including by meeting the commitments for the *Rome Declaration of the World Food Summit* (para. 36). General Comment 3 of the CESCR more fully specifies the obligations of States under the Covenant. The approach throughout is state-centric.

Yet this state-centric approach is increasingly problematic on several grounds. First, it fails to address the responsibilities of key global actors such as transnational corporations and international financial institutions that are not themselves states but can influence human rights outcomes significantly. As Narula notes (2006, 691): "[i]mplicit in this state-centric approach is the rationale that human rights are the byproduct 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." Second, the current state-centric approach adopts far too narrow a view of state responsibilities -- unduly limiting them to the responsibilities of states for their "own" citizens, rather than extending such responsibilities to include "extra-territorial obligations" to prevent harm to people affected by the state's economic or other policy actions, who happen to live in other states. Only by taking such extraterritorial obligations seriously, Skogly and Gibney argue (2007), will states meaningfully engage in the "international cooperation" they are obliged to carry out both under the UN Charter (Article 1) and under the ICESCR (Article 2, para 1). Third, the current state-centric approach does not acknowledge the individual complicity of comparably well-off people, worldwide, who benefit from maintaining an unjust global economic order (Pogge 2008).

B. Popular Demands for the Right to Food

As countries in the "global South" de-colonized in the 1960s, intellectuals based in those countries such as Guyanese historian Walter Rodney, Philippine sociologist Walden Bello, and

Malaysian economist Martin Khor all argued passionately for a re-working of the global institutional order, which they charged had perpetuated gross inequality from colonialism through the present (Rodney excerpted in Broad 2002). Nongovernmental organizations and popular networks of activists from industrialized and developing countries coalesced around hunger issues and formed new organizations such as: Food First, the San Francisco-based NGO founded in 1975 by Francis Moore Lappé, author of *Diet for a Small Planet* (1971; see also International Forum on Globalization & Anderson 2000); Third World Network (founded in 1972 by Martin Khor); the Institute for Policy Studies (founded in 1963); and Enda Tiers Monde (formed in 1972 by Senegalese activists).

All of these groups engaged in popular outreach on food issues and broader trade and development policy analysis and critique (Chong 2010; Hilton 2008). They added new voices and perspectives to an advocacy landscape heretofore dominated by European and US-based NGOs such as Oxfam (founded in 1942), which in its early years had focused on food principally as a vehicle of humanitarian assistance. These new groups were more critical of the global trade and finance regime and the place of food assistance and development aid in maintaining the global hegemony of the United States. They were more radical intellectually than NGOs such as the US-based Bread for the World (founded in 1972), which focused on ending hunger in the USA and abroad by lobbying for reforms of US policies but not for restructuring of global trade rules. Their advocacy paved the way for the modern "food sovereignty" movement referenced above, whose proponents argue that hunger is perpetuated not only by neoliberal globalization but also by the system of state sovereignty, which the modern human rights regime re-inscribes.

C. Monitoring Compliance with Global and National Level Obligations Toward the Right to Food

When assessing States' compliance with their obligations under the ICESCR and well as international commitments with regard to the right to food, the obligations to respect, protect, and fulfill are typically associated with structural, process, and outcome indicators, respectively:

- ***Structural indicators*** reflect commitments. At the global level, this includes global declarations, treaties, the adoption of global action plans, and the setting of goals. At the country level, it includes signing onto declarations, ratifying treaties, and putting in place the institutional structures and strategies necessary to secure the right to food.

- ***Process indicators*** reflect the accumulation of state efforts towards the realization of the right (i.e., the impact of multiple state-level factors that affect realization of the right to food).

- ***Outcome indicators*** focus directly on the extent to which the right to food is realized.

The principle of "progressive realization" has posed a particular challenge with regard to monitoring States' compliance on all three levels. In practice, most measures assess the extent to which individuals within a country's jurisdiction enjoy the right as opposed to assessing the extent to which States are meeting their broader obligations under the Covenant. A notable exception is the Right to Food Index associated with the Social and Economic Rights Fulfillment

(SERF) Index developed by Randolph, Fukuda-Parr, and Lawson-Remer (2010; Fukuda-Parr, Lawson-Remer, and Randolph 2011), which we analyze in this chapter.

III. Respect for the Right to Food

The responsibility to *respect* the right to food obliges states to make specific global and national commitments to do so. These commitments are the structural indicators we analyze below. Notably, this is an area where states appear to be making progress - namely, in outlining specific commitments at the global and national level for safeguarding the right to food. Skeptics would argue that talk is cheap, however, so we analyze the nature, quality and effectiveness of mechanisms for national implementation as well.

A. World Commitments

The first World Food Conference took place in 1974, two years prior to the year the ICESCR came into force, and proclaimed the willingness of governments to engage in international co-operation towards the realization of the right to food by all people in all countries. The representatives of 135 countries issued the *Universal Declaration on the Eradication of Hunger and Malnutrition*, formally affirming that "every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop their physical and mental faculties" (para. 1) and acknowledging that governments have the responsibility in addition to working individually, "to work together for higher food production and more equitable and efficient distribution of food between countries and within countries" (para. 2).

The specific measures enumerated and resolutions adopted to promote the right to food focused on increasing food availability -- globally, by country, and by region within countries. The commitment of countries to act collectively to respect, protect, and fulfill the right to food has strengthened over time and the focus of commitments to this end has shifted and evolved as increased consciousness of globalization, global warming, and other factors impinging on the right has taken hold.

The Food and Agricultural Organization of the United Nations (FAO) together with the World Health Organization (WHO) sponsored the first International Conference on Nutrition (ICN) in December of 1992. Delegates from 16 United Nations organizations, 11 intergovernmental organizations, 159 countries and the European Economic Community, and 144 non-governmental organizations shared their expertise on the factors influencing hunger and malnutrition and discussed ways to eliminate hunger and malnutrition. Coming a decade after Amartya Sen's book *Poverty and Famines: An Essay on Entitlement and Deprivation* (1981) -- in which he demonstrated that famines were the result of a lack of access to food rather than inadequate food production -- the *World Declaration on Nutrition* (FAO, 1992) recognized that "globally there is enough food for all and that inequitable access is the main problem" (para. 1).

The issues of food access and utilization dominated the conference; while food availability was not entirely dismissed, it was taken up instead within the context of promoting environmentally sound and socially sustainable agricultural practices and reducing micronutrient deficiencies. *The Declaration and Plan of Action for Nutrition* (FAO, 1992) adopted by the

conference illuminated the multiple factors that influence food access and utilization and articulated a series of strategies and actions necessary to eliminate hunger and malnutrition, many of them requiring intersectoral coordination. Notable also was the explicit recognition that poverty and inequality are major drivers of hunger. The conference's *Plan of Action* paid particular attention to reaching vulnerable groups (including women and children, refugees and displaced persons, and indigenous peoples), consistent with the procedural right to non-discrimination.

The *Plan of Action* emphasized a multi-faceted approach to improving access that included increasing the availability of food at affordable prices, extending social safety nets, and implementing pro-poor development policies. Programs to enhance food utilization emphasized expanding access to safe drinking water and primary health care, extending nutritional education, and implementing programs (including food supplementation) to eliminate critical micro-nutrient deficiencies. The *Plan of Action* also stressed the development of early famine warning systems and the creation of emergency food reserves and distribution plans. The *Plan of Action* identified enhanced participation at the local level and increased cooperation among developing countries and between developed and developing countries as important forces for eliminating malnutrition and hunger. Finally, it called on developing countries to increase the allocation of resources to the social sectors, and on developed countries to increase official development assistance in order to reach the United Nations target of 0.7 % of GNP.

The World Food Summit of 1996 marked a watershed in international co-operation to end hunger. Convened at FAO headquarters in Rome, this summit brought together nearly 10,000 participants including representatives from UN agencies and other international organizations, government and inter-government agencies, and non-governmental agencies. It led to the enunciation of *Rome Declaration on World Food Security* and the adoption of the *World Food Summit Plan of Action* (endorsed by 112 Heads or Deputy Heads of State and 70 other high level representatives of States, all of whom were present at the meeting). Representatives of the182 countries involved pledged "political will and [their] common and national commitment to achieving food security for all and to an ongoing effort to eradicate hunger in all countries, with an immediate view to reducing the number of undernourished people to half their present level no later than 2015" (para. 2).

The World Food Summit articulated a commitment to ensure food security at all levels by committing states to support and implement the *World Food Summit Plan of Action*. The plan included six broad commitments, encompassing efforts to address factors impeding the realization of the right to food (such as poverty, inequality, civil strife and gender inequality) as well as efforts to directly increase food availability, access, and utilization at the individual, household, national, regional and global levels. A seventh commitment obliged states to monitor progress towards realizing the right to food. The *World Food Summit Plan of Action* specifically defined food security. Its opening paragraph states: "Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life." This definition of food security has come to be accepted as the authoritative definition and to be viewed as a central element of the right to food. As noted previously, the World Food Summit also requested

guidance from the Committee on Economic, Social, and Cultural Rights (CESCR) which subsequently clarified the content of the right by issuing its General Comment 12.

Heads of States have met repeatedly since the issuance of General Comment 12 to renew their commitment collectively to work towards fulfilling the right to food and assess progress towards that end. The *Millennium Development Goals* (MDG) issued at the Millennium Summit of the UN member states in 2000 incorporate the World Food Summit's goal of reducing the percentage of hungry people to half its 1990 value by 2015 as part of Millennium Development Goal One (UN General Assembly 2000, Res. #, Section 3, para 19), and set up a monitoring framework to track progress to that end. While the goal of halving the *percentage* of hungry people is not as ambitious as halving the *number* of hungry people (Pogge 2010), it was deemed a more realistic goal and remains the stated priority. In June 2002, the FAO held a follow-on World Food Summit (commonly referred to as the World Food Summit: Five Years Later) to assess progress made since the 1996 summit and discuss measures to accelerate it.

The dramatic increase in global food prices in 2007 and 2008 -- along with the global financial crisis -- have eroded food security for many of the world's poorest and most at risk people. These twin factors have reversed progress toward the goal of halving the percentage of hungry people by 2015. The reversal precipitated the establishment by the UN Secretary General of a High-Level Task Force (HLTF) on the Global Food Security Crisis. The HLTF brought together experts from international agencies (heads of UN specialized agencies, funds, and programs, the Bretton Woods Institutions, the Organization for Economic Cooperation and Development, and the World Trade Organization) to craft a coordinated response to the crisis.

In June of 2008, the FAO convened a High-Level Conference on World Food Security that was attended by Heads of State and Government, Ministers, and Representatives of 180 countries and the European Union. Those attending issued a declaration (i.e., the *Declaration of the High-Level Conference on World Food Security: the Challenges of Climate Change and Bioenergy)* which outlined both immediate/short term measures and more intermediate/long-term measures that its signatories committed to undertake in order to overcome the crisis and ensure the realization of the goals of the 1996 World Food Summit. One month later, in July 2008, members of the High Level Conference issued a detailed analysis of the drivers of the global food crisis and a corresponding detailed set of measures, the *Comprehensive Framework for Action* (United Nations, 2008) to catalyze action at all levels—civil society, government, regional and international.

Measures to increase and stabilize food production and thus food availability re-emerged as essential elements of the solution to the crisis (United Nations, July 2008). The 2009 World Summit on Food Security renewed commitments to eradicate global hunger and adopted an agenda for action which emphasized investment and other measures to increase agricultural production and productivity. The *Comprehensive Framework For Action* (CFA) identified two sets of action: the first focused on meeting immediate needs of vulnerable populations, and the second on mediating the long-term trend in food prices and building food and nutrition resiliency and security. We discuss the substantive issues connected with these recommendations later in this chapter.

B. State Level Commitments

While international law and global policy commitments have indeed influenced the evolution of food as a human rights issue, national level factors matter as well. Variation in state-level institutional and policy frameworks affects not only local understandings of food rights but also the likelihood of realizing such rights in practice. If a state intends to ratify a treaty, it must ensure that its domestic legal regime is in conformance with the principles central to the treaty. This can entail amending or revoking existing laws if they conflict with the central purposes and obligations of the treaty. Ratification also obliges a state to create a policy framework for ensuring that the central purposes of the treaty can be achieved. In the case of the right to food, this means creating a policy framework to ensure access to adequate food at progressively more comprehensive levels over time.

Designing the national policy framework necessary to implement the right to food is an intrinsically political process. The state can play a variety of different roles in fulfilling human rights and can use various forms of domestic law and social policy to do so (Gauri and Brinks 2010). A state may opt to constitutionalize the right to food, for example, and/or it may employ statutory law to ensure provision of this right. Even when the right to food is entirely absent from the constitution, there may be a broader social commitment to it -- what legal scholar Cass Sunstein has termed a "constituitive commitment" (Sunstein 2004; Albisa 2011) -- manifested through policies and programs.

Social policy design, in turn, can vary widely. Some states opt for a robust set of social welfare guarantees in the constitution and a correspondingly dense network of institutions, policies and programs aimed at undergirding state-sponsored social welfare delivery. Other states emphasize a minimalist approach in which the market principally determines the allocation of food and only the most marginalized people are directly provided for by government. Writing on economic rights fulfillment more generally, legal scholar Wiktor Osiatynski notes that the state can carry out a protective role; a regulatory role; a role of direct provisioning; or may opt to craft "values and directives that can at best be the goal for social policy but they are to be implemented by non-state actors or through international measures" (2007, 56-57). The choice depends upon local political culture, institutional legacies, and economic constraints, among other factors.

Review of Constitutional Provisions

If a state chooses to constitutionalize the right to food, it can either render the right justiciable or non-justiciable. In the former case, the state creates a firm legal basis for entitlement by explicitly stating that citizens can take legal action to ensure fulfillment of the right. There is typically some form of provision for judicial review included in a constitution of this type, and individual citizens have access to the review process.[1] In the latter case, there is no

[1] Legal scholars David S. Law and Mila Versteeg (2010; forthcoming) have conducted one of the first large-N studies of comparative constitutional evolution worldwide, and find an overarching trend toward inclusion of an increasing number of rights over time, and a growing proportion of constitutions that include similar types of rights and forms of legal guarantee (including judicial review). But there is a simultaneous widening in the ideological

comparable legal basis for enforcement. Osiatynski describes different modes of constitutionalization, as follows (2007; 1996):

- a state can place all types of rights (i.e., civil, political, economic, social and cultural rights) on an equal footing in the constitution, offering identical review mechanisms and standing to claimants, regardless of the type of right for which they are making claims against the state;

- a state can offer differing levels of review and enforcement for different type of rights included in the constitution;

- a state may choose to group all the economic and social rights in a separate chapter within the constitution, and may phrase them therein simply as "goals" or as "directive principles"

- a state may include in the constitution "just one general clause that is used by governments to introduce social and welfare policies on a statutory level" (Osiatynski 2007, 61)

- a state may refer to social "goals" only in the constitution's preamble

- or a state may leave economic rights entirely out of the constitution

As Osiatynski observes, the desire to constitutionalize economic rights (including the right to food) stems from the goal of safeguarding those rights against political pressure: "The poor, discriminated against, and most needy people -- even when they are a numeric majority -- usually do not have sufficient say about laws and budgets. People who care about their interests and needs want to formulate them as constitutional rights and put them above politics" (1997, 61). The FAO has thus urged states to create strong legal guarantees for the right to food: "The obligation to ensure that national laws respect, protect and fulfil[sic] the right to food, naturally goes beyond ensuring that sectoral legislation does not impede people's access to adequate food. If the law is truly to support the progressive realization of the right to food, there is a strong case for this orientation to be explicitly affirmed, whether in the constitution or a bill of rights or in specific laws " (FAO 2006, 14).

According to FAO researchers, 20 countries worldwide include the right to food in their constitutions: Bangladesh, Brazil, Colombia, Congo, Cuba, Ecuador, Ethiopia, Guatemala, Haiti, India, Islamic Republic of Iran, Malawi, Nicaragua, Nigeria, Pakistan, Paraguay, South Africa, Sri Lanka, Uganda, and Ukraine (FAO 1998). But how robust are these rights? Scholars Courtney Jung (2011) and Lanse Minkler (2009) have developed parallel research projects aimed

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orientation of constitutions -- namely, a divergence between statist and libertarian constitutions. Economic rights provisions are increasingly included in statist, not libertarian, constitutions.

at distinguishing between the different types of constitutional protections for economic rights. The core elements of their coding systems are similar, relying on the distinction between "justiciable" rights versus "directive principles" versus the entire absence of economic rights from the constitution. Jung (2011, 2) further specifies that her coding process includes analysis of:

- "the review mechanism...constitutions that enshrine justiciable [social and economic rights] usually have provisions for people to make claims in court to demand the review of alleged human rights violations"

- "the standing of individuals in the review process...individuals have the power to initiate judicial review" in systems with strongly justiciable social and economic rights

- "the language and context of the relevant clauses," including the nature of the language in which the right is specified, its placement in the constitution, and the types of "obligations of the state versus rights of the people" that this language includes.

A cursory review of the language in the 20 constitutions cited by FAO as including the right to food reveals that only 2 of them included what could be judged as strongly justiciable provisions on the right to food (i.e, Guatemala, South Africa) and another 2 (i.e., Cuba and Pakistan) included somewhat less strongly worded but still justiciable provisions.[2] The remaining constitutions in that sample of 20 included the right to food, but in non-justiciable language. These findings parallel those by Goderis and Versteeg (forthcoming, 20-21), whose analysis of trends in global constitutionalism reveals that only 15% of the world's 188 constitutions include provisions on the right to food. Although this number has increased steadily over the past six decades -- from no constitutions including the right to food in 1946, to 4% a decade later, to 6% by 1976 (the year the ICESCR came into force globally) to 15% by 2006 -- the percentage of constitutions which include provisions on right to food still pales in comparison to that including more conventional civil and political rights.

Ositayniski (2007), Guari and Brinks (2010) and others note that courts play a vital role in interpreting constitutional provisions on economic and social rights. In some states such as India, despite the fact that the right to food is included in the constitution only as a directive principle of state policy, it has nevertheless been judicially interpreted as being intrinsic to justiciable rights such as the right to life (FAO 2006, 14-15; Gonsalves, Naidoo, Kumar and Bhat 2004). State and private sector institutions, in turn, have a significant impact on the quality of food delivery, as discussed in the next section.

Review of national implementing legislation

[2] This assessment is based not on Jung's criteria, but on Minkler's coding rubric; we are grateful to Shaznene Hussein (a participant in the Minkler project) for related data analysis and to Christopher Jeffords for insights on both the Minkler and Jung coding criteria.

Although there is currently little uniformity in how states implement right to food legislation, the FAO nevertheless argues that each state should review "all [of its] relevant legislation and institutions" to assess "the degree in which, in addition to achieving their own sectoral objectives, they contribute to an adequate regulatory and enabling framework for the realization of the right to food....[N]ational legislation can also establish the framework within which the review and practical measures take place by: establishing general principles for the implementation of the right to adequate food; setting targets and deadlines; and establishing the institutional framework for policy-making and the monitoring of progress" (1998).[3]

Legislation can "clarify the roles and responsibilities of different agencies, define entitlements and recourse and monitoring mechanisms, and in general give direction to policy and underscore the prime importance of the right to food" (FAO 2006, 15). In some states, people whose right to food is violated can appeal to a national obudsperson or to a national human rights commission for redress of right to food violations. Redress may include "restitution, satisfaction or guarantees of non-repetition" (FAO 2006, 16). In other states, victims can appeal to lower courts and, eventually, the constitutional court. In some states, there are specially mandated institutions created to foster stakeholder dialogue around food security issues, such as Brazil and Bolivia's national food security council's or Sierra Leone's Right to Food Secretariat (FAO 2006, 20-21). These and similar institutions play a key role in monitoring national progress on progressive implementation of the right to food. They often provide data not only to the national legislature and executive but also to international treaty monitoring bodies.

State Budgetary Allocations

To the extent states rely on state-sponsored social welfare delivery mechanisms to ensure the right to food, trends in public expenditures on budget items that influence the right to food reveal shifts in government commitments. Even when states emphasize a minimalist approach and only the most marginalized people are provided for by the government, trends in public expenditures reveal changes in the level of commitment to those who are least able to provide for themselves through the market.

Comparable data on public expenditures on many factors influencing food availability, access and use are sparse, but reasonably comprehensive data are available on trends in public expenditures on education and health over the past decade or so. As touched on above, and will be elaborated further in the section below, poverty is a major driver of hunger. Ill-health and limited education, in turn, are major drivers of poverty. **Table 1** shows regional trends in public expenditures on health and education as a share of country GDP. Public expenditures on health increased in all regions between 1995 and 2009. Although not all countries mirrored their respective regional averages, this finding reflects a general strengthening of national level commitments to promoting the right to food.

[3] See related work on assessing macroeconomic policymaking and national budgeting from a human rights perspective: Balakrishnan (2005); Balakrishnan, Elson and Patel (2009); and Balakrishnan and Elson (2011, forthcoming).

However, evidence of a growing commitment is less pronounced with regard to education's role in reducing poverty, although the available series is shorter. Public expenditures on education as a percentage of country GDP rose on average in Europe and Central Asia, South Asia, and Sub-Saharan Africa, but fell in East Asia and the Pacific, Latin America and the Caribbean, the Middle East and North Africa.

IV. Protecting and Promoting the Right to Food

As discussed earlier, the state has a three-fold set of obligations to respect, protect and fulfill rights. We evaluate compliance with these obligations by analyzing structural, process and outcome indicators, respectively. Having discussed structural indicators at some length (i.e., the commitments states make to protect the right to food), we turn now to the process indicators used to evaluate states' efforts to protect this right in practice, and then to the outcome indicators used to evaluate fulfillment in terms of individual realization of food security.

A. Global Drivers of Hunger

The full scope of the right to food has evolved under international law not only in response to global efforts to combat hunger and malnutrition but also as a function of growth in our understanding of the factors that contribute to hunger and malnutrition. Below, we discuss several of the immediate causes, and several of the less proximate but no less significant ones.

In the immediate run, the dramatic increase in global food prices in 2007 and 2008 (see **Figure 1**) -- along with the global financial crisis -- eroded food security for many of the world's poorest and most at risk people. A confluence of shocks in during this period sent food prices soaring, including: extreme weather incidents in major food-producing countries; increased fertilizer prices and other increased food production costs in the face of a spike in oil prices; and speculative investments in grain futures markets. Measures to stem rising food prices by some countries (specifically, the imposition of food export restrictions in some food-exporting countries) and increased grain purchases in some food importing countries only amplified the rise in global prices.

The above-mentioned 2008 UN High Level Conference on Food Security identified long term supply and demand dynamics that deepened the impact of the crisis. On the *supply side*, these included a long-run decline in agricultural investment; the conversion of farmland to non-agricultural uses in the face of rapid urbanization; the shift to higher return crops instead of food crops; and land degradation, soil erosion, nutrient depletion, and water scarcity. On the *demand* side, population growth and dietary diversification -- in particular, increased meat consumption which accompanies rising incomes in large developing countries (especially China) -- have induced a secular increase in the demand for food.[4] The diversion of food crops for biofuels production has also served to amplify the increase in demand (Brown 2011).

These longer term causes of the food crisis include the growing consolidation of the food chain over the past four decades -- specifically in food distribution and retailing (Anderson 2008;

[4] According to Richard Fielding (2011), feedlot-raised meat production involves highly inefficient use of water and 66% of the world's supply of grain.

Paarlberg 2010; Fielding 2011; Patel 2010) -- along with the monopolization of key parts of the supply chain by a small number of large corporations, including seed producers.[5] Such consolidation has been fueled at the global level by the World Trade Organization's member states' unwillingness not only to regulate agricultural subsidies but also to address the potentially negative impact that the patenting of seeds and other life forms may have on food security. At the national level, uneven enforcement of national anti-trust regulation in countries such as the United States (Anderson 2008, 597) has accelerated the consolidation of key segments of the global food chain, while de-regulation of the financial services sector nationally and internationally has allowed for intensified financial speculation on commodities futures (Ghosh 2010) which, in turn, has increased global food insecurity.

Jean Ziegler, the U.N. Special Rapporteur on the Right to Food, argues that the combined effects of trade liberalization under the auspices of the WTO and recent bilateral trade agreements, along with agricultural liberalization and austerity programs under stabilization and structural adjustment agreements, have exacerbated hunger and food insecurity (ECOSOC 2001). In many cases, government accountability to international financial institutions has taken precedence over government accountability to a country's citizens to uphold their human rights commitments under the ICESCR -- for example, when a state's repayment of multilateral debt has come ahead of ensuring the right to food. Further, structural adjustment programs have often undermined social safety nets, reducing production and exchange and production entitlements by reducing wages and employment opportunities for those with fewer skills; increasing the price of basic foodstuffs, water, health care, and education; and increasing the price of agricultural inputs.

In the face of agricultural and trade liberalization, cash crop production for export has replaced subsistence food crop production for domestic use in many countries, further undermining food security -- particularly when local regulatory environments in developing countries are weak. To a significant degree, the apparent comparative advantage of non-food cash crops in developing countries is artificial. Developing country food producers cannot compete in the face of the extensive subsidies provided to agricultural producers of foodstuffs in developed countries. Beyond reducing locally produced food supplies, as noted by Narula (2006), the shift to cash crop production all too often damages local ecosystems due to heavy use of pesticides and the extensive tracts put under monoculture. Monoculture reduces biodiversity while excessive pesticide use introduces new pesticide resistant pests and viruses damaging food crop production. In some countries, agricultural and trade liberalization have resulted in deforestation and consequent soil erosion in semi-arid regions.

Trends in Foreign Aid to Enhance Food Security

The pattern of foreign aid has shifted in response to the evolving understanding of the most critical factors affecting food security at any given time, and dominant views regarding the best means to influence food security. **Table 2** shows the trend in total foreign aid (bilateral plus multilateral) for agriculture by 3 year averages.[6] The total amount of AID to agricultural

[5] William D. Shanbacher reports that "the top three seed companies (Monsanto, Dupont, and Syngenta) account for 47 percent of the global proprietary seed market" (2005, 58).

[6] The data available reflect aid commitments rather than disbursals. Commitments made in a given year are often disbursed over the life of a project lasting several years and as a result, aid flows fluctuate substantially. By

increased 2.2 fold from 1973-1975 to 1982-1984; decreased slightly until 1988-1990; fell precipitously to less than half its 1988-1990 value by 2003-2005; and then began to rise again. The share of foreign aid targeted to the agricultural sector increased from the early 1970s to the mid-1990s, mirroring the increase in the amount of AID to agriculture; but the share of assistance targeted to agriculture declined sooner and the recent recovery (2006-8) is less marked when viewed as a percentage of total aid. The substantial increase in assistance to agriculture during the 1970s and early 1980s is consistent with the consensus view of the time that increasing food production offered the best prospect for ending hunger, and reflects the seriousness of the commitments made by the global community during the first World Food Conference.

The decline in AID to agriculture during the 1990s and early 2000s reflects both a decrease in total AID to all sectors during the 1990s, and the recognition that a lack of *access* to food -- rather than a lack of food *availability* -- was the driving force of hunger and malnutrition at the time. In line with this shift, foreign assistance priorities were redirected as well towards poverty alleviation, including support for expanding access to basic education (including adult literacy); basic health care (including material and child health care and nutrition supplementation); and investment in physical and economic infrastructure (including water supply and sanitation).

Table 3 shows the total level of aid since 1990, and the share going to sectors deemed critical to ensuring food security.[7] The share of total aid allocated to social infrastructure and services increases by 13 percentage points with substantial increases observed for the education, health, and population policies/programs and reproductive health sub-sectors. Within the education and health sectors, aid was increasingly targeted to basic services. Aid targeted to basic health services increased from 15 to 25 percent of total aid for health between 1996 and 2005, while aid targeted to primary education increased from 15 percent to nearly 50 percent of total aid for education over the same period (OECD 2004). Beginning with the last period for which data are available (2006-2008), there is some evidence of a reversal in the downward trend in AID to the agricultural sector, perhaps in response to the *Comprehensive Framework for Actions's* call for increasing aid to boost small holder food production.

Despite the commitment to end hunger pronounced by the global community, direct Commodity Food Aid and Food Security Assistance has fallen sharply from 19.7% of total bilateral aid in 1970 to 1.2% of total bilateral aid in 2008 with only modest reversals of the trend in 1985-7 and 2000-2 (Islam, 2011, **Table 1**, p. 2). As a result, the number of countries where food aid provides as substantial portion of calories has fallen dramatically. As **Table 4** shows, the number of countries where food aid provides more than 5% of total calories has fallen from 45 to 16, and the number of countries where food aid provides more than 15% of total calories

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considering three year averages, fluctuations in aid flows are reduced and more closely track average annual disbursals.

[7] The percentage share of aid to agricultures in Tables XX and YY differ reflecting discrepancies between the underlying data sources. The underlying source for Table XX is the OECD/CRS (Credit Reporting System) whereas the underlying source for Table YY is the OECD/DAC (Development Assistance Committee) data.

has fallen from 13 to 3. However, the above figures do not include food aid provided in the context of humanitarian assistance.

The FAO (2010, 4) characterizes 22 states as being in "protracted crisis" and within them, 40% of the population is undernourished -- representing one-fifth of all undernourished people globally. The most basic governing institutions are often imperiled in these states and social protection institutions are frayed to non-existent. Food aid thus plays a critical role in human survival. Humanitarian aid constitutes an increasing share of total bilateral aid; its share in total bilateral aid increased from 1% in 1970-72 to 7.4% in 2006-8 with the sharpest increase taking place at the beginning of the 1990s (Islam, 2011, Table 1, p. 3). In 2009, it accounted for forty-four percent of the Humanitarian Appeal (FAO 2010). According to the FAO (2010), food aid and other forms of food assistance (such as the provision of cash or vouchers enabling recipients to purchase food) is the best-funded sector of humanitarian aid. It comprises a substantial portion of total aid for countries in protracted crises: from a low of 10% in Uganda to a high of 64% in Somalia over the 2000-2008 period. Indeed, food aid and other forms of food assistance comprise a crucial means of reducing hunger for countries in protracted crises. During the acute phase of a crisis they are life-saving. By safeguarding nutrition, and especially the nutrition of vulnerable groups including women and children, they support longer-term development and human well-being.

Unfortunately, as **Table 3** shows, there has been a substantial decline in the share of aid directly targeted to reducing hunger in the short-term, revealed if one adds to the categories of Development Food Aid/ Food Security Assistance (under commodity Aid / General Program Assistance) forty-four percent of the funding for Humanitarian Aid. As a share of total aid (bilateral plus multilateral), humanitarian assistance fell from 5.9% in the 1997-9 period to 3.8% in the 2006-8 period. Given the substantial increase in total aid commitments since the late 1990s, the absolute amount of aid targeted to reducing hunger in the short run increased slightly over the same period -- although not nearly to the extent called for by in international forums.

B. National Drivers of Hunger

Hunger is not solely dependent on the presence (or absence) of food aid. National policy choices and constraints matter just as much. Article 11 of the ICESCR defines three central elements of securing the right to food—increasing availability, improving access, and enhancing utilization—as we discussed in Section II. These three elements of food security are hierarchical in nature: food is necessary, but not sufficient to ensure access, and access is necessary, but not sufficient, to ensure utilization supportive of good health.

The three elements also focus on different levels of analysis. The issue of food *availability* concerns whether a country's supply of food is sufficient. The issue of food *access* concerns whether households are able to acquire sufficient food. Finally the issue of food *utilization* concerns whether individuals within each household have eaten sufficient food and have access to the necessary complementary inputs to ensure their optimal nutritional well-being. Each of the three elements of food security is influenced by a tangle of interconnected factors. Measures for monitoring each of the three elements include indicators for tracking these underlying factors. **Table 5** lists primary determinants of each of the three elements along with a

selection of related process indicators that can be used to monitor the outcome of efforts to protect and promote the right to food.

Food *availability* constitutes the supply side of food security. Ensuring sufficient food production at the national and global levels is a pre-requisite to fulfilling the right to food. Public investment or policies encouraging private investment in research to increase the efficiency and sustainability of food production coupled with extension of improved processes, and investment in agricultural infrastructure (such as irrigation, rural road networks, storage and processing facilities) foster increased food availability as do policies enhancing access to productive inputs (e.g., improved seed varieties, fertilizer) and credit. Foreign aid can be instrumental here as well. Countries that do not produce sufficient food to meet their population's needs must rely more heavily on global markets to ensure sufficient food is available to enable the realization of the right to food. Here, global food prices play a crucial role as does the price countries can command for their exports and their export capacity. Unless export earnings are sufficient to cover the cost of sufficient imported food and other critical imports -- such as capital goods and intermediate inputs for domestic industry -- and foreign exchange obligations (e.g., debt service obligations), then food availability is jeopardized. In the absence of sufficient food aid or financial aid, food availability will fall short of food needs.

Given sufficient food availability at the national, regional, and local levels, household entitlements—production, exchange, and social—determine *access* to sufficient food at the household level. Given sufficient access, household allocation determines the adequacy of an individual's own access. Access to productive land along with knowledge of production techniques, access to extension services, productive inputs, and credit, as well as the cost of inputs and the sale price of output determine production entitlements. Inequality in the distribution of land is a major source of food insecurity in rural areas. Households with limited access to land and productive inputs or insufficient knowledge to make effective use of available land will need to rely on exchange and/or social entitlements to ensure their access to food. The same will be true should the farm gate price of crop production be insufficient to cover input costs.

Urban households must necessarily rely on exchange and social entitlements. When employment opportunities are limited and/or wages are low relative to the price of food, exchange entitlements will not be sufficient to ensure access to food. Global food prices closely track domestic food prices, but domestic trade policies play a role as well as do policies directly or indirectly subsidizing or taxing basic food. Poverty is the primary cause of food insecurity, and policies increase inequality drive up poverty rates at any given per capita income level. Social entitlements (both customary and State-sponsored) enable households facing a collapse in production and exchange entitlements to maintain access to food, but are seldom sufficient to ensure access alone or over the long term.

Ill-health and limited education are both a cause and a result of hunger and malnutrition and are intimately related to food *utilization*. Hunger and malnutrition increase susceptibility to disease but tend to reduce food absorption, thus creating a vicious cycle. Impure water and inadequate sanitation initiate and intensify the downward spiral by reducing food utilization and

increasing disease risk. Education increases knowledge of good sanitation and nutritional practices, but hunger and malnutrition reduce concentration and can lead to permanently reduced mental functioning, mental health problems, and compromised psychosocial functioning. These factors, in turn, limit the benefits of education and cut education short. Inadequate access to food and poor food utilization result in poor child growth and excess mortality among all age groups, but especially children.

To analyze country performance with regard to food utilization, available indicators reflect both the determinants of utilization (such as physiological status and access to sanitation) and the adverse health outcomes of poor utilization, discussed above. The most common indicators of food utilization are those based on child anthropometry -- specifically, weight for age, height for age, and weight for height.[8] Both stunting and wasting result in a child's being underweight for age. Low weight for age is defined as the percentage of children under 5 whose weight is more than two standard deviations below WHO weight-for-age norms.[9] **Figure 5** shows trends in the percentage of children that are more than two standard deviations below the weight for age norms and accordingly are severely undernourished, and reveals that global progress in reducing the child undernourishment rate has been marginal at best. Globally (blue), it stands at 22%, a decline of a mere 3 percentage points since 1990. Rates in South Asia (green), and Sub-Saharan Africa (brown), remain staggeringly high, at 40% and 25% respectively, and have only fallen by about 2 percentage points since 1990. The child undernourishment rate is considerably lower in East Asia and the Pacific (light blue), the Middle East and North Africa (red) and Latin America and the Caribbean (gold), but even in these regions the improvement was marginal.

Virtually all of the indicators discussed thus far look at the *enjoyment* of the right to food; they ignore the *obligation* side of the equation. We thus employ the SERF Index, an innovative methodology that evaluates state economic and social rights practice against what could reasonably be achieved, given a country's per capita income level and following best practices (Randolph, Fukuda-Parr, Lawson-Remer 2010, Fukuda-Parr, Lawson-Remer, and Randolph 2011). The Right to Food component of the SERF Index adopts a unique methodology to assess the extent of a country's *obligations of result*. Specifically, SERF assesses a country's obligation relative to the "best practice" achievement level, given the country's resource level. The Right to Food component of the SERF Index is the ratio of the percentage of children who are **not** malnourished (as assessed by the child stunting rate) to the feasible percentage. It can be

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[8] Here we track trends in the percentage of children under 5 that are low weight for age. Low height for age, also known as the stunting rate, reflects insufficient nutrient absorption over the long term and is defined as the percentage of children under 5 whose height is more than two standard deviations below WHO height for age norms. Low weight for height is an indicator of acute caloric insufficiency (often referred to as the wasting rate) and is defined as the percentage of children under 5 whose weight is more than two standard deviations below WHO weight for height norms.

[9] Parents tend to protect their children's nutrition -- so in this sense, child anthropometric indicators reflecting severe malnutrition actually underestimate the percentage of the population suffering from the cumulative effects of the three elements of food insecurity (i.e., inadequate availability, access, and utilization). Yet the cause of child undernourishment often has more to do with disease prevalence, and lack of access to clean water, sanitation, and medical services -- so in this sense, child anthropometry indicators overestimate food insecurity.

interpreted as the percentage of what is actually achieved relative to what is possible to achieve with regard to ensuring the right to food.

Table 8 shows the scores of developing countries on the Right to Food component of the Core SERF Index. Most countries have the resources to substantially improve food security, many of them dramatically so. Yet only 19 countries succeed in achieving between 90 and 100% of what is feasible given their per capita income level, Brazil and China among them. Thirty countries achieve less than 50% of what is feasible, India among them.

V. Fulfilling the Right to Food

Why are so many countries falling short of what they could achieve in terms of ensuring their people's right to food? The answer lies in a complex mix of local, national, and international factors.

A. Progress in Attenuating National Drivers of Hunger

Figure 4 shows regional trends in FAO's food production index.[10] As can be seen, there has been a dramatic increase in food production in developing countries in every region except Europe and Central Asia. The gains were particularly pronounced in East Asia and the Pacific. The decline in the food production index in Europe and Central Asia reflects the dislocations in the wake of transition from planned to market economies. These countries have now nearly regained the food production levels achieved at the outset of that transition.

The trend in the food production index reflects the success of measures undertaken to increase food production, such as public expenditures on infrastructure for food production, storage, processing, and marketing, the adoption of trade and other policies fostering private sector food production, and the successful extension of improved food production technologies. But it does not necessarily ensure improved access to food.

The increase in global food prices (**Figure 1**) depresses exchange entitlements. Countries implementing pro-poor policies can offset this at least to a degree. Here, we consider whether countries are doing as much as they could to reduce poverty. A given level of inequality in the distribution of income results in a lower absolute poverty rate as per capita income rises, and accordingly it is feasible to reduce poverty rates to a greater extent in countries with a higher per capita income. Using the SERF Index again, and setting the absolute poverty line at $2 per capita per day (2005 PPP$), **Table 6** identifies those countries that are doing extremely well (i.e., achieving 90% of what is reasonably feasible); those doing extremely poorly (achieving less than 50% of what is reasonably feasible); as well as countries falling somewhere in between the extremes.[11] While 47 of the 115 countries for which the index could be computed are doing an

[10] The food production index is the sum of price-weighted volume of net food production (i.e., production minus the amount used for feed and seed) excluding coffee and tea, relative to the same value in a base year, multiplied by 100. The price weights used are the international prices prevailing in the base year. The food production index shows amount of food produced and available for consumption relative to the base year. Values greater than 100 indicate an increase in domestic food production relative to the base year, while those less than 100 show a decrease.

[11] The resultant indicator is the same as the Right to Work Index, one of the five components of the SERF Index. See also www.serfindex.org.

admirable job of holding down absolute poverty, absolute poverty rates in 28 of the 115 countries are dramatically higher than they need be.

While the absolute poverty rate closely tracks the population with inadequate exchange entitlements to achieve food security, it only roughly tracks the percentage of the population with inadequate access to food. The translation between the poverty rate and the percentage of individuals with insecure access to food differs between countries as a reflection of differences in production and social entitlements between countries. Even in countries where no one falls below the "dollar a day" poverty line, up to 10 to 15% of households in some cases have insecure access to food. For example, the US Department of Agriculture's recent briefing on food insecurity in the United States revealed that 14.7% of US households had insecure access to food in 2009.[12] FAO's indicator of "percentage population undernourished" (also referred to as the percentage hungry) is a more direct indicator of the percentage of the population with inadequate access to food, and is also among the Millennium Development Goal indicators. Specifically, it is defined as "[t]he proportion of the population below the minimum level of dietary energy consumption…." (United Nations Statistical Office, 2011).

The MDG of reducing the percentage of hungry people to half its 1990 value by 2015 remains elusive. As **Table 7** shows, globally, 13 percent of the world's population was undernourished in 2007, the latest year for which data are available. This represents a decline of less than 20% in the incidence of hunger since 1990. The incidence fell by only 15% in sub-Saharan Africa, the region with the highest incidence of hunger, to 26% in 2007. The incidence of hunger is nearly as high in Southern Asia as in Sub-Saharan Africa: in Southern Asia, the incidence did not even budge, standing at 21% in 1990 as well as 2007. Eastern Asia only region likely to reduce hunger to half its 1990 value by 2015 -- and here, only because of the progress made in reducing hunger in China.[13]

B. Progress in Attenuating Global Drivers of Hunger.

We are further from reaching the 1996 World Food Summit's goal of reducing the number of hungry people by half by 2015 than we were in 1996. Despite all the commitments (i.e., the structural indicators of progress), the number of hungry people continues to increase as **Table 7** also shows. Globally, the number of undernourished people stood at 847.5 million in 2007, an increase of 60 million people since 1996. The reality appears less grim if one looks back to 1990: the number of poor people has "only" increased by 4.1 million since 1990.

An urgent question is why has so little progress been made by so many states in fulfilling their obligations to ensure the right to food? Why have the commitments made failed to yield more progress? The dramatic increase in food prices from 2007-2008 was reversed, but only

[12] http://www.ers.usda.gov/Briefing/FoodSecurity/stats_graphs.htm

[13]Most of the world's hungry people live in Southern Asia, primarily India, and in Southern Asia the number of undernourished people rose by over 30%, from 263 million to 344 million people between 1990 and 2007. China is the one country where there hunger decreased dramatically; there the number of undernourished people fell by close to 40% since 1990 (from 210.4 to 130.4 million people) and as a result, Eastern Asia is not only expected to reduce by half the incidence of hunger from its 1990 value by 2015, it is also likely to reduce the number of hungry people by half.

temporarily. **Figure 1** shows the long-run trend in FAO's Food Price Index.[14] The spike in global food prices ensuing in January of 2007 reached a peak indexed value of 184.7 in June of 2008 and then declined to 121.4 by February of 2009. Pronouncements that the crises had abated, however, were premature. In August of 2010 food prices soared again: the FAO's Food Price Index peaked at 209.1, the highest level ever, in February of 2011. It has remained above 200 since then. Demand factors continue to put upward pressure on prices.

Figure 2 shows per capita kilogram consumption of meat globally, by region, and for China. Globally, per capita meat consumption increased 20% between 1990 and 2007; over the same period per capita meat consumption in China increased by over 100%. There is no offsetting downward trend in high income countries. Progress in building food stocks to mediate food price swings has been similarly limited, as **Figure 3** shows. Immediately after the 2007-8 price surge, global efforts and accommodating weather enabled cereal stocks to be increased by 25%. However, since the end of 2009, cereal stocks have fallen again. The forecast for 2011 is that stocks will remain at roughly their 2010 value.

By the early 1990s the devastating impact of debt burdens on poor countries as well as the adverse impact of classic stabilization and structural adjustment programs was widely acknowledged, even by the International Monetary Fund (IMF) and World Bank (WB). In 1996, the *Heavily Indebted Poor Country (HIPC) Initiative* was launched to reduce debt to sustainable levels in poor countries and to release funds for social service provision, and in particular poverty reduction (International Monetary Fund, 2011). In 1999, the IMF and WB began requiring countries to develop a "Poverty Reduction Strategy Paper" mapping out their strategy to reduce poverty as a condition for debt relief through the HIPC Initiative. Conditionality for IMF stabilization and especially World Bank structural adjustment loans has also been reformed to better facilitate attainment of the Millennium Development Goals (World Bank 2004). Agreements increasingly protect continued spending on social services comprising a safety net for vulnerable groups. However, many claim these reforms do not go far enough and several case studies find evidence that stabilization and structural adjustment programs continue to contribute to hunger (UNDP 2001, ESOCOR Jan 2008).[15]

The Doha Round of trade negotiations launched by the World Trade Organization in November 2001 proclaimed the goal of reforming the global trading system in order to redress past imbalances and thereby reduce global poverty by fostering the development of poor countries. Among other imbalances remaining at the conclusion of the Uruguay Round of trade negotiations, agricultural producers in developing countries could not compete globally in the face of high farm subsidies in high income countries: "after implementation of Uruguay commitments, at more than US$300 billion, they … accounted for 48 per cent of all [OECD]

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[14] FAO's Food Price Index is a weighted average of five underlying indices, FAO's Cereal Price Index, Dairy Price Index, Oils/Fat price Index, Meats Price Index, and Sugar Price Index. Each of these indices compares prices of a basket of foods within the category concerned with the prices prevailing in 2002-4. The weights are the average export share of each food group in 2002-2004. The base period 2002-2004 value of the index is set at 100, so a value of 200 implies food prices have doubled since the base year.

[15] The 2005 Nigerian famine is a case in point.

farm production made agricultural production and in particular food crop production distorted trade against developing country agricultural production" (Stiglitz and Charlton, 2005, p. 50).

Yet agricultural subsidies as a percentage of the value of farm production have hardly budged, although there has been some change in the form of the subsidies. Meanwhile, further liberalization of trade in services under the WTO's General Agreement on Trade in Services as well as bilateral trade agreements between the EU and US and various developing countries have further liberalized the laws governing the provision of formerly public services by transnational corporations (TNCs), including water crucial to food security.

The UN launched the Global Compact in 2000 with the goal of increasing TNCs respect for international human rights, including the right to food.[16] Participation, is, however voluntary. In his 2003 report, the U.N. Special Rapporteur on the Right to Food, Jean Zigler, argued that states have "extra-territorial obligations" including a duty to prevent their companies operating abroad from violating human rights abroad (ECOSOC), though the nature of such obligations remains debated. In 2005, the UN Secretary General Kofi Annan appointed a Special Representative, John Ruggie, to define more clearly the responsibilities of companies and to build consensus between TNC's home and host countries with regard to human rights. Ruggie's six-year effort yielded a set of guiding principles for business and human rights that the United Nations Human Rights Council endorsed in 2011. If adhered to, the standards integral to these guiding principles would address the potentially adverse impacts of business activity on human rights - including the right to food. But it is still too early to assess their impact.

VI: Conclusion

There is no doubt but that the global community has articulated a strong commitment to ensuring fulfillment of the right to food, as demonstrated by the evolution of international law and by repeated international conferences and corresponding action plans signed by the majority of nations. But law makes little difference unless it can be implemented in practice, and conference documents remain mere rhetoric unless undergirded by political will.

There is enough food on the planet to adequately feed everyone alive today. But the rules governing national agricultural policy and international trade, along with the economic incentives in the global food production system, do not currently result in fulfillment of access to adequate food for all. In this chapter, we have analyzed the interplay of local, national, regional and international factors that combine to make realizing the right to food an ongoing challenge. We have shown that states have been far more effective at putting in place normative commitments (i.e., structural indicators of progress) than they have been at affecting policy that would change the reality of pervasive and increasing hunger (i.e., measured using process and outcome indicators). We have also argued that the state-centric discourse on obligations to ensure adequate access to food underplays both the nature of states' own extraterritorial obligations and the crucial role of non-state actors with the power to significantly affect food policy.

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[16] For an overview of the Global Compact see the UN website on the Compact at http://www.unglobalcompact.org/COP/index.html .

We take seriously Pogge's injunction (2010) that each of us bears personal responsibility for transforming the systems that give rise to gross inequality. By framing hunger in human rights terms, we have sought to marshal the best existing indicators of progress to demonstrate how far we are collectively from respecting, protecting and fulfilling this right. We have also sought to marshal public shame at the dying that happens each minute -- needlessly given the availability of food, but constantly given ongoing problems of access and utilization.

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