



CHAPTER – 7

THE RIGHT TO FOOD IN A GLOBALIZED WORLD: HUMAN RIGHTS, CONSTITUTIONALISM, AND LEGAL RESPONSES TO FOOD INJUSTICE

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Abstract

Food is not merely a biological necessity for survival; it is a foundational element of human dignity, social justice, public health, and sustainable development. In an increasingly globalized world, the governance of food systems has shifted from localized agrarian and community-based structures toward transnational, market-driven, and corporatized frameworks, raising profound legal and ethical questions concerning access, affordability, equity, and sustainability. While globalization has improved food production, logistics, and international trade, it has simultaneously intensified food insecurity, widened socio-economic inequalities, weakened local agricultural autonomy, and concentrated control of food systems in the hands of multinational corporations. Against this backdrop, the right to food has emerged as a critical legal and human rights concern. This chapter examines the right to food through an interdisciplinary legal lens, focusing on international human rights law, constitutional jurisprudence, comparative legal frameworks, and the regulatory implications of globalization. It critically analyses the normative foundations of the right to food under international instruments such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and related interpretive frameworks, while also examining constitutional recognition and judicial enforcement in multiple jurisdictions. Particular attention is devoted to India's evolving jurisprudence, especially the transformation of food access from a welfare aspiration into a justiciable constitutional entitlement. The chapter argues that food insecurity is not merely a developmental challenge but a structural legal injustice shaped by unequal governance, inadequate state accountability, market concentration, and fragmented international regulation. It concludes that a robust rights-based approach, integrating constitutional protections, transnational accountability, sustainable governance, and social justice principles, is indispensable for addressing contemporary food injustice in a globalized era.

Keywords: Right to food, food justice, globalization, constitutional law, human rights, food governance, sustainability, social justice, food security, international law

1. Introduction

Food has historically occupied a central place in legal, philosophical, economic, and political thought because it lies at the intersection of survival, dignity, autonomy, and collective welfare. Unlike ordinary commodities, food constitutes an indispensable condition for the realization of life itself. A society that fails to secure access to adequate food for its people fails not only in governance but also in its legal and moral obligations toward human dignity. In contemporary

discourse, access to food is no longer viewed merely as an issue of charity, welfare distribution, or economic policy; rather, it is increasingly recognized as a matter of enforceable human rights and constitutional justice. The global food landscape has undergone radical transformation in recent decades. Traditional food systems rooted in local agriculture, cultural identity, and regional self-sufficiency have increasingly given way to integrated global supply chains dominated by trade liberalization, agribusiness expansion, technological intervention, and multinational corporate control. Globalization has facilitated efficiency, innovation, and broader market integration. Yet these gains have not been equitably distributed. Hunger persists despite abundant food production. According to the Food and Agriculture Organization, food insecurity continues to affect hundreds of millions globally, exposing the paradox of scarcity amidst abundance (FAO, IFAD, UNICEF, WFP, & WHO, 2023). This contradiction reveals a fundamental truth: hunger is rarely a consequence of insufficient food alone; it is often the product of structural legal, economic, and political exclusion. Poverty, discrimination, displacement, conflict, climate vulnerability, inequitable land ownership, exploitative trade systems, and weak governance frequently determine who eats and who does not. Thus, food insecurity is not merely a humanitarian concern but a systemic justice issue. The right to food emerges precisely within this normative context. Its intellectual foundation rests upon the recognition that access to adequate food is intrinsic to human dignity and inseparable from the realization of other rights, including the rights to life, health, equality, livelihood, and development. International human rights law has increasingly articulated food not as discretionary state benevolence but as a legal entitlement imposing obligations upon governments. Yet despite formal recognition, enforcement remains inconsistent. In many jurisdictions, socio-economic rights continue to be treated as aspirational rather than justiciable. Even where constitutional protections exist, implementation gaps remain severe.

Moreover, globalization complicates traditional models of state accountability. Food governance today often involves international financial institutions, trade organizations, multinational corporations, digital agricultural platforms, biotechnology enterprises, and transnational regulatory networks, thereby dispersing responsibility. This chapter addresses these complexities by examining the right to food as both a constitutional and international legal issue shaped by globalization. It argues that legal responses must move beyond narrow welfare paradigms toward structural rights-based governance. A purely market-driven approach to food distribution cannot guarantee justice where inequality defines access. Law must therefore intervene not merely to regulate scarcity but to correct systemic inequities in food governance. This study adopts a doctrinal, comparative, and critical legal methodology. It examines treaties, constitutional frameworks, judicial precedents, statutory mechanisms, and international governance instruments to understand how legal systems conceptualize and enforce food entitlements. Comparative analysis helps identify both convergences and divergences in constitutional treatment of food rights across jurisdictions. The chapter further explores India as a particularly important case study. India presents a compelling legal paradox: despite constitutional commitments to social welfare and landmark judicial recognition of socio-economic rights, hunger and malnutrition persist at alarming levels. The transformation of the right to food through judicial activism, public interest litigation, and statutory intervention provides important lessons for global constitutionalism. Ultimately, the right to food must be understood not merely as access to calories, but as access to adequate, nutritious, culturally appropriate, safe, and sustainable food secured through equitable legal governance.

2. Conceptual Framework: Understanding the Right to Food

The legal recognition of food as a human right requires conceptual clarity. The right to food is frequently misunderstood as a narrow claim to state-distributed food assistance. Such a simplistic interpretation obscures its deeper normative and legal dimensions. At its core, the right to food refers not simply to survival consumption, but to sustained access to adequate food necessary for a dignified human existence. This encompasses quantity, quality, nutritional adequacy, safety, cultural acceptability, and accessibility. The concept therefore extends far beyond anti-starvation relief. The legal discourse surrounding food rights intersects with several related but distinct concepts:

- **Food Security:** Generally, refers to a condition in which all persons, at all times, possess physical, social, and economic access to sufficient, safe, and nutritious food that meets dietary needs and food preferences for an active and healthy life (FAO, 2006). While widely accepted, this framework is often criticized for focusing primarily on availability and access without sufficiently addressing structural inequalities.
- **Food Sovereignty:** Represents a more politically transformative concept. It emphasizes the rights of peoples and communities to define their own agricultural, food production, and distribution systems free from exploitative global market domination.
- **Food Justice:** Broadens the inquiry further by emphasizing systemic inequities involving race, class, geography, labor exploitation, indigenous displacement, and environmental harm. It challenges the assumption that food governance is politically neutral.

Philosophically, the right to food finds justification in multiple traditions. A **dignity-based approach** regards food

deprivation as fundamentally incompatible with human worth. A **capability-based approach** (associated with Amartya Sen and Martha Nussbaum) emphasizes that human freedom requires substantive access to basic conditions enabling meaningful participation in social life. Sen's entitlement theory significantly transformed the understanding of famine causation, arguing that famines frequently occur not due to food shortages but because individuals lose legal and economic entitlements to food (Sen, 1981).

Legally, three dimensions are commonly recognized:

- **Availability:** Sufficient food must exist through production, distribution, or market systems.
- **Accessibility:** Food must be economically and physically accessible without discrimination.
- **Adequacy:** Food must be nutritionally appropriate, safe, culturally acceptable, and sustainable.
- **Sustainability (Emerging):** Food rights cannot be secured through ecologically destructive practices that undermine future generations.

Importantly, the right to food imposes differentiated obligations on states:

- **Obligation to Respect:** Prohibits arbitrary state interference with access to food.
- **Obligation to Protect:** Requires regulation against third-party deprivation, including corporate abuses.
- **Obligation to Fulfill:** Demands proactive measures ensuring access where individuals cannot secure food independently.

3. Historical Evolution of the Right to Food

The legal recognition of food as a human entitlement developed gradually through historical struggle rather than immediate normative consensus. Historically, access to food was framed largely through charity, feudal obligation, or sovereign paternalism. Medieval legal traditions occasionally recognized duties of rulers to prevent famine, but these obligations were political rather than rights based. Modern rights discourse emerged after the catastrophic humanitarian failures of the twentieth century, particularly the devastation of war, famine, and forced displacement. The Bengal Famine of 1943 remains a stark illustration of governance failure, where millions died despite food availability within broader markets—reinforcing later insights that hunger often reflects distributional injustice rather than absolute scarcity. Post-war international legal development transformed welfare concerns into rights discourse, creating space for recognizing socio-economic entitlements alongside civil and political liberties.

4. International Legal Framework of the Right to Food

International law does not treat food merely as a developmental aspiration; rather, it progressively conceptualizes access to adequate food as a legal entitlement linked with dignity, life, equality, health, and social justice.

Universal Declaration of Human Rights, 1948: The first major normative recognition appears in the Universal Declaration of Human Rights (UDHR), 1948. Article 25(1) provides: *"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food..."* This shifted food from the domain of charity into rights discourse, linked food with dignity, and framed food deprivation as a human rights concern.

International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966: The most authoritative treaty-based recognition appears in the ICESCR. Article 11 recognizes two related but distinct entitlements: the **right to adequate food** and the **freedom from hunger**. Freedom from hunger represents the minimum non-derogable baseline, whereas adequate food reflects a broader substantive entitlement.

General Comment No. 12 (1999): Definitional Clarity: The Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 12 provides authoritative clarification, defining the right to adequate food as existing when *"every man, woman and child... have physical and economic access at all times to adequate food or means for its procurement."* This broader approach protects livelihoods, employment, land access, and productive resources.

Targeted International Protections:

- **Convention on the Rights of the Child (CRC):** Addresses child malnutrition, which implicates growth impairment, cognitive harm, and long-term health deficits. States must prioritize child-sensitive food governance.
- **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):** Addresses structural imbalances, as women often sustain food systems while lacking land ownership, credit, and agricultural support.

- **Convention on the Rights of Persons with Disabilities (CRPD):** Requires equal access to social protection and barrier-free physical, delivery, and communication accessibility.
- **Indigenous Peoples (UNDRIP):** Recognizes that indigenous food rights extend beyond consumption into territorial justice, land, culture, and ecological continuity.

Structural Weaknesses in International Food Law: Despite normative development, international enforcement remains weak. Major limitations include non-justiciability, state-centric accountability that fails to capture corporate influence, conflicts between trade liberalization and domestic food justice measures, and fragmented governance spanning human rights, trade, environmental, and health law.

5. Globalization and the Transformation of Food Governance

Globalization has fundamentally altered how food is produced, regulated, traded, consumed, and governed. Historically localized systems are now transnational; seeds may originate in one jurisdiction, cultivation in another, processing elsewhere, and consumption across continents. Global food governance now involves states, the WTO, the FAO, multinational corporations, financial actors, technology platforms, and logistics chains. This interconnectedness creates efficiency but also vulnerability. The legal question becomes: who bears responsibility when access fails? Market logic prioritizes profitability, efficiency, and trade competitiveness, while rights logic prioritizes dignity, equity, inclusion, and justice. These paradigms frequently collide, leaving the paradox of abundance amid hunger as one of globalization's deepest legal failures.

6. WTO Governance, Trade Liberalization, and the Right to Food

The establishment of the World Trade Organization (WTO) in 1995 significantly reshaped agricultural governance, transforming food from a primarily domestic welfare concern into an internationally regulated commodity system.

Agreement on Agriculture (AoA): The AoA subjected agriculture to market-oriented disciplines across three pillars:

- **Market Access:** Sought reduction of tariff and non-tariff barriers, often exposing vulnerable domestic producers to international market pressures.
- **Domestic Support:** Categorized subsidies (Amber, Blue, Green Boxes) to distinguish trade-distorting and non-trade-distorting support, generating asymmetry between developed and developing states.
- **Export Competition:** Aimed to reduce unfair trade distortions, though historically entrenched agricultural advantages persist.

Public Stockholding and India's Food Security Debate: India maintains public stockholding mechanisms to support minimum support pricing, procurement from farmers, public distribution, and anti-hunger programs. Critics argue these mechanisms may exceed WTO subsidy limits. India argues that food security obligations justify regulatory flexibility. This profound legal conflict asks: *Can international trade disciplines constrain domestic anti-hunger obligations?* A rights-based interpretation prioritizes anti-hunger obligations over purely formal subsidy discipline.

TRIPS and Seed Sovereignty: The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) strengthened global IP protections for plant varieties, seed technologies, and genetic innovations. Traditional farming systems historically depended upon seed saving and exchange. Critics argue that excessive privatization of biological resources undermines farmers' autonomy, biodiversity, affordability, and food sovereignty.

7. Corporate Power, Market Concentration, and Food Governance

Global food systems are increasingly shaped by corporate actors who influence seeds, fertilizers, pesticides, logistics, retail, and digital agriculture.

- **Corporate Concentration:** Market concentration creates systemic vulnerabilities, including price manipulation, exclusionary contracting, and reduced farmer autonomy.
- **Human Rights Responsibilities:** Frameworks like the UN Guiding Principles on Business and Human Rights emphasize supply chain due diligence, though enforcement remains fragmented.
- **Land Grabbing:** Large-scale land acquisitions for industrial agriculture or export-oriented production often result in livelihood destruction, displacement, and environmental degradation.
- **Digital Agriculture:** While AI-driven agriculture and predictive analytics may improve efficiency, they risk data monopolization, algorithmic inequity, and the exclusion of small farmers.

8. Comparative Constitutional Approaches

Constitutional treatment of food rights varies significantly across jurisdictions:

- **South Africa:** Section 27 explicitly recognizes access to sufficient food and water, emphasizing reasonableness review and progressive realization.
- **Brazil:** Constitutionally embraces social rights and has developed strong anti-hunger governance frameworks through participatory governance and social policy programs.
- **Kenya:** The 2010 Constitution explicitly protects freedom from hunger and adequate food, making it expressly justiciable.
- **Colombia:** Strongly protects socio-economic entitlements through rights-expansive interpretation and structural constitutional remedies.
- **Europe:** Often protects food indirectly through dignity, social assistance, health, and welfare guarantees.

Comparative analysis reveals that while explicit constitutional recognition strengthens enforcement, judicial creativity can compensate for textual silence, provided there is robust legislative implementation.

9. The Indian Constitutional Framework: Foundations of the Right to Food

India presents a particularly significant case study. The Constitution does not explicitly mention a standalone right to food; however, judicial interpretation and Directive Principles collectively create a robust normative framework. Key constitutional provisions include:

- **Article 21:** Right to life
- **Article 14:** Equality
- **Article 15:** Non-discrimination
- **Article 19(1)(g):** Livelihood dimensions
- **Article 47:** Imposes a duty upon the State to improve nutrition and public health.

Historically, Directive Principles were considered non-justiciable. However, Indian constitutional jurisprudence increasingly integrated them into enforceable rights interpretation, transforming socio-economic constitutionalism.

10. Indian Judicial Jurisprudence and the Constitutional Evolution

Indian constitutional jurisprudence has consistently moved away from a narrow biological interpretation of life toward a substantive dignity-based framework.

- **Francis Coralie Mullin v. Administrator (1981):** The Supreme Court held that the right to life includes the right to live with human dignity, laying the foundation for socio-economic rights.
- **Olga Tellis v. Bombay Municipal Corporation (1985):** Linked livelihood with Article 21, broadening food rights analysis from distributional entitlement to structural access.
- **PUCL v. Union of India (Right to Food Case):** A landmark public interest litigation addressing the paradox of food grain surplus amidst widespread hunger. The Supreme Court progressively converted multiple schemes (Public Distribution System, Mid-Day Meal Scheme, maternity benefits) into enforceable entitlements, effectively constitutionalizing food access.
- **Swaraj Abhiyan v. Union of India (2016):** Examined failures in implementing drought relief and employment guarantees, reaffirming state accountability in food-related crises.

11. Statutory Food Governance in India

Legislative implementation remains essential to sustain systemic food justice.

- **National Food Security Act, 2013 (NFSA):** India's most important statutory food rights framework, transforming welfare schemes into legal entitlements (e.g., subsidized food grains, maternity benefits, school feeding). While legally significant, concerns persist regarding exclusion errors, corruption, and delivery inefficiency.
- **Essential Commodities Act:** Regulates hoarding, price volatility, and supply stabilization to ensure market affordability.
- **Food Safety and Standards Act, 2006:** Ensures food adequacy and safety, protecting public health and dignity.
- **Public Distribution System (PDS):** Central to anti-hunger governance, though plagued by leakages, targeting errors, and bureaucratic exclusion.

Despite progress, severe structural challenges persist in India, including pervasive malnutrition, gendered food inequality, caste-based and tribal exclusion, migrant vulnerability, and climate instability. This highlights a theoretical tension: rights recognition and judicial activism do not automatically ensure structural justice without equivalent administrative capacity.

12. Emerging Legal Challenges: Climate Change, Conflict, and Pandemics

The right to food must today be understood as a complex issue of resilience, sustainability, and transnational accountability.

- **Climate Change:** A severe long-term threat causing erratic rainfall, drought, and biodiversity collapse. When agricultural productivity drops, prices rise, and vulnerable populations lose access. Food rights increasingly intersect with climate justice and constitutional climate litigation.
- **Armed Conflict:** Deliberate starvation, crop destruction, and humanitarian blockades are devastating causes of food insecurity. International humanitarian law prohibits starvation of civilians as a method of warfare, raising potential war crimes liability.
- **Pandemics & Economic Volatility:** The COVID-19 pandemic exposed vulnerabilities in supply chains, informal labor, and migrant mobility. Furthermore, economic shocks, inflation, and debt crises demonstrate that food insecurity increasingly arises from economic instability rather than physical scarcity.

13. Reforming the Legal Architecture of Food Justice

Sustainable realization of the right to food requires coordinated structural reform:

1. **Explicit Constitutional Recognition:** Jurisdictions lacking express protection should adopt textual guarantees to improve clarity and enforceability.
2. **Stronger International Enforcement:** Evolving human rights law beyond declaratory protection toward stronger treaty monitoring and complaint mechanisms.
3. **Corporate Accountability:** Implementing mandatory due diligence, competition oversight, and human rights reporting for non-state actors in the food system.
4. **Rights-Compatible Trade Governance:** Prioritizing anti-hunger obligations over trade efficiency and addressing development asymmetry.
5. **Sustainable Governance:** Protecting biodiversity, soil conservation, and resilient agriculture for long-term food rights.
6. **Vulnerability-Sensitive Governance:** Prioritizing marginalized populations, recognizing that formal neutrality often masks substantive inequality.
7. **Better Grievance Redressal:** Ensuring accessible, time-bound, and independent oversight for food entitlement systems.

14. Conclusion

The right to food is among the most fundamental yet persistently violated human rights of the modern era. Its normative legitimacy is beyond serious dispute. International human rights law, constitutional jurisprudence, and domestic statutory systems increasingly recognize that access to adequate food is inseparable from human dignity, life, equality, health, and social justice. Yet recognition alone has not eradicated hunger. The paradox remains stark: humanity possesses extraordinary productive capacity and advanced governance frameworks, yet millions remain food insecure. Hunger is not merely a logistical problem; it is a structural legal injustice. Globalization has intensified this contradiction by commodifying food, fragmenting accountability, and subjecting essential survival systems to volatile market governance. A meaningful right to food cannot be confined to anti-starvation minimalism. It must be understood substantively, encompassing availability, accessibility, affordability, nutritional adequacy, safety, sustainability, and accountability. India's constitutional experience demonstrates the transformative potential of judicially developed socio-economic rights yet also shows that sustainable realization requires coordinated constitutional commitment, legislative execution, and transnational accountability. Ultimately, a legal order that tolerates preventable hunger amid abundance fails its most basic constitutional and human rights commitments.

References

1. Committee on Economic, Social and Cultural Rights. (1999). *General Comment No. 12: The right to adequate food (Art. 11)*. United Nations.
2. Food and Agriculture Organization. (2006). *Food security policy brief*. FAO.
3. Food and Agriculture Organization. (2004). *Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security*. FAO.
4. Food and Agriculture Organization, IFAD, UNICEF, WFP, & WHO. (2023). *The state of food security and nutrition in the world 2023*. FAO.
5. *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746.
6. *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.
7. *People's Union for Civil Liberties v. Union of India*, Writ Petition (Civil) No. 196 of 2001.

8. *Swaraj Abhiyan v. Union of India*, (2016) 7 SCC 498.
9. *Chameli Singh v. State of Uttar Pradesh*, (1996) 2 SCC 549.
10. *Shantistar Builders v. Narayan Khimalal Totame*, (1990) 1 SCC 520.
11. Sen, A. (1981). *Poverty and famines: An essay on entitlement and deprivation*. Oxford University Press.
12. United Nations. (1948). *Universal Declaration of Human Rights*.
13. United Nations. (1966). *International Covenant on Economic, Social and Cultural Rights*.
14. United Nations. (1989). *Convention on the Rights of the Child*.
15. United Nations. (1979). *Convention on the Elimination of All Forms of Discrimination Against Women*.
16. United Nations. (2006). *Convention on the Rights of Persons with Disabilities*.
17. United Nations. (2007). *United Nations Declaration on the Rights of Indigenous Peoples*.
18. World Trade Organization. (1994). *Agreement on Agriculture*.
19. World Trade Organization. (1994). *Agreement on the Application of Sanitary and Phytosanitary Measures*.
20. World Trade Organization. (1994). *Agreement on Technical Barriers to Trade*.
21. World Trade Organization. (1994). *Agreement on Trade-Related Aspects of Intellectual Property Rights*.