



Section II

Progress on the Right to Food

Special Issue: Mapping the Global Food Landscape

The right to food: Many developments, more challenges

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The right to food (RTF)¹ has enjoyed growing recognition in the last decade. It has achieved legitimacy and visibility in international governance debates, where it is increasingly perceived as a useful “policy guide” (De Schutter, 2009). The realization of the right to food is recognized as a goal of the reformed UN Committee on World Food Security (CFS), both in its mandate and in its Global Strategic Framework. The reports and interventions of the UN Special Rapporteur on the right to food have received a lot of attention in recent years. Despite these developments, the RTF is still actively resisted and rejected by some states (notably the U.S. and Canada) on the grounds that economic, social, and cultural rights (ESCR) are not justiciable and hence not “true” human rights (Anderson, 2008; Chilton, 2009). Yet in many countries, the justiciability of the RTF is firmly established, as demonstrated by some famous court cases in India (school meals program) and South Africa (fisheries) (Courtis, 2007; Golay, 2011).

2014 marked the ten year anniversary of the Voluntary Guidelines on the RTF; and at the national level, a number of institutional developments have taken place over last decade. Constitutional recognition of the RTF is on the rise (Wittman, this issue), and a series of countries have adopted framework laws and/or RTF strategies, in particular in Latin America, often with the involvement of parliamentarians (De Schutter, 2013), but also in Africa (Rae,

¹ The RTF can be defined as the human right “to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear” (Ziegler 2008, p. 17).

2014). These essentially legal developments tend to embody “change from the top”² and suffer serious implementation and enforcement problems. They have, so far, had very little impact on food insecurity. They nevertheless mark the beginning of a new stage in the global struggle for the RTF: the end of a period of intense normative elaboration,³ which enabled the codification and interpretation of the RTF in nearly all of its dimensions (Eide, 2007), and a new era where the focus is on its promotion, adoption and implementation (Frison & Claeys, 2014).

An important development over the last decade is the appearance of new actors in the field of right to food advocacy that had long been dominated by a small group of non-governmental organizations (NGOs) working on economic, social and cultural rights such as FoodFirst Information and Action Network (FIAN) and Center for Economic and Social Rights (CESR) and by church-based NGOs (such as Misereor). Today development and social justice NGOs, such as Oxfam and Action Aid, have endorsed a rights-based approach⁴ to food security; however, with a relatively broad interpretation of a “rights-based” approach (Uvin, 2007) and a focus on process and accountability. Also, mainstream human rights organizations such as Amnesty International and Human Rights Watch, which had long refused to tackle the RTF, have slowly expanded their mandate to include it (often following pressure from members but also in order to attract new constituencies) (Chong, 2008).

In parallel, the transnational RTF advocacy network has consolidated alliances with rural constituencies (in particular peasant movements, fisherfolk, pastoralists but also indigenous peoples) at the local/national but also international level. Particularly important are interactions with the International Planning Committee for Food Sovereignty (IPC) and the Civil Society Mechanism of the CFS (see McMichael in this issue). The IPC, a global network of civil society organizations (CSOs) and NGOs concerned with food sovereignty, has focused on advocacy and institutional dialogue with the Food and Agriculture Organization (FAO) in Rome (see McKeon in this issue).

Beyond the CFS, ad-hoc coalitions between RTF advocates and rural constituencies have also been established to conduct joint advocacy in other international arenas, for example to advance new rights for peasants, such as the right to land, at the UN Human Rights Council. This is exemplified by the ongoing process to negotiate a Declaration on the Rights of Peasants and other people living/working in rural areas initiated by La Via Campesina in conjunction with human rights experts and the backing of the Bolivian government (Claeys, 2015a).

² For Kennedy, these developments are somewhat symptomatic of the human rights community’s attachment to “legal formalization” and to the establishment of legal machinery as an end in itself (Kennedy, 2002, p. 110).

³ It should be noted here, however, that if normative elaboration of the RTF is almost completed, applying the RTF lens to “new” food security issues remains highly relevant, in a context marked by constantly emerging new global and national as well as local food security challenges (from land/green grabbing, to contract farming, new business models, re-localization and climate change).

⁴ The much advertised mainstreaming of rights-based approaches to development in the 1990s has been a complete failure, and has not been implemented in UN agencies and only barely by the NGO community, with few exceptions.

Key challenges facing the right to food

The most central challenge facing the right to food today is no doubt the almost complete absence of implementation at the national level, and persistent food insecurity in both the global South and North. Lack of implementation of the right to food is partly hindered by a disproportionate focus placed by the human rights framework (and the human rights community) on State obligations that leaves the human rights responsibilities of non-state actors inadequately considered. A number of renowned human rights experts have sought to remedy this “gap” in recent years by proposing extra-territorial obligations (ETOs) to attribute legal responsibilities to international organizations, transnational corporations (TNCs), and on states operating outside of their territories. This welcome development indicates a move away from the dominant “statist framework” (Falk, 1988, p. 18), but it is far from being endorsed by states and the actors concerned. The main target of human rights (HR) advocacy remains the state, although recent developments at the UN Human Rights Council that seek to elaborate on the human rights obligations of TNCs are promising (FIAN International, 2014).

A related challenge facing the RTF is the fact that economic, social and cultural rights advocacy is by definition ambivalent toward the State (Nelson & Dorsey, 2008). In alignment with the *respect, protect, fulfill* typology of States’ obligations, RTF advocacy demands an end to the HR violations caused by the state, while simultaneously turning to the state to demand the delivery of “state services” (more state). This dual nature of RTF advocacy is noticeable in the significant tension between a structural approach to the RTF (embodied in demands such as the redistribution of resources, access to land and agrarian reform, an alternative trade framework, etc.) and a social-democratic approach (Stammers, 1995) to the RTF (embodied in demands such as social security, improved focus on nutrition, safety nets).

A key challenge facing RTF work in the years to come is to ensure that structuralist and social-democratic approaches be integrated into a progressive and coherent RTF framework. Two factors are likely to influence how this tension plays out in the future. The first is the outcome of future RTF court cases. Growing recognition of the justiciability of the RTF has contributed to an increased focus on the “fulfillment” dimensions of the RTF (social security, food aid) at the expense of the “respect” and “protect” dimensions, leading to an under-exploration of the structural implications of the RTF (control over land and resources, redistribution). As pointed out by Lambek (2014), the right to food is too often imagined as solely a positive right, placing obligations on the State to provide food to the hungry, at the expense of the obligations that derive from the negative dimensions of the right to food, i.e. the obligations of the state not to hinder the ability of individuals to meet their own food needs. This tension between the structural and social-democratic approaches to the RTF was salient during debates around the *Right to Food* bill in India (Joshi, 2009) and on the question of addressing structural obstacles to the realization of human rights within the Inter-American Human Rights System (Abramovich, 2009).

The second factor is the persistent “lack of constituency” for economic, social and cultural rights in general (Nelson & Dorsey, 2008, p. 83) and for the RTF in particular. More than 60 years after the adoption of the Universal Declaration of Human Rights, which recognized the RTF, the number of hungry people in the world remains unacceptably high (at almost 870 million people chronically undernourished in 2010–12) (FAO, 2012). The fact that there is no global movement⁵ demanding the RTF (unlike other rights such as women’s rights or indigenous rights) is troubling and highly paradoxical in the “age of rights” (Henkin, 1990). The lack of constituency is puzzling, considering the prominence of rights in the discourse of peasant and other rural movements who represent the bulk of the hungry and have developed a rights-based “food sovereignty” frame (Desmarais, 2007; Rosset & Martínez-Torres, 2010). While many agrarian movements have included the RTF in their list of claims, these movements have refrained from using the RTF as their main collective action frame, and have articulated their claims around the demand for new human rights for rural people (Claeys, 2012).

Progress on the RTF in the future

A combination of the respective strengths of the RTF and “food sovereignty” frameworks—and actors—could be very effective in creating social change (Claeys & Lambek, 2014). This articulation, however, has proven difficult to achieve for reasons I discuss in detail elsewhere (Claeys, 2015b). So has the alliance with other local and national movements and organizations working towards food justice (Holt-Gimenez, 2011), agroecology (Holt-Giménez, 2010), climate justice (Bullard & Müller, 2012), critical consumption (Pleyers, 2011), and transition (Sage, 2014).

The idea of a human right to land and territory (Künnemann & Monsalve Suárez, 2013) could emerge as a galvanizing and alliance-creating frame in the years to come. This is possible if institutional developments—such as the recognition of a new human right to land (De Schutter, 2010) in international law—works hand in hand with social mobilizations around “land sovereignty” (Borras & Franco, 2012). Such a frame is increasingly powerful in the global South, where struggles against land grabbing and the appropriation of nature are countless (Margulis, McKeon, & Borras, 2013). It is having greater resonance in the global North where access to land by young farmers is now recognized as a major problem. By extension,⁶ the advancement of the human right to land and territory would require that rural and urban, peasant, indigenous and other social movements find ways to articulate, respectfully and meaningfully,

⁵ Contrary to what the UN Special Rapporteur affirms in his 2013 report to the UN General Assembly (De Schutter, 2013), there is no global right to food movement emerging, in my opinion. Rather there is a transnational RTF network that has a “right to food and nutrition” dimension (with a focus on nutrition and urban poor) and a “right to land and resources” dimension (with an agrarian focus, and a strong emphasis on supporting agrarian movements).

⁶ The process of “frame extension” designates efforts by movement activists to depict social movement interests and frames as extending beyond its primary interests (Benford & Snow, 2000).

the various understandings of the rights to land that circulate among their constituencies; this is particularly pressing in the North where the “local food” frame remains a central axis for latent social change (Starr, 2010).

At the same time, considering the opening of new spaces for civil society participation (e.g. the CFS) at the global level (Duncan & Barling, 2012) and the emergence of new models of global norm-making that are tied to new understandings of legitimacy, the advancement of the RTF could benefit from advocates redefining their strategies and reconsidering where to put their efforts. Should they work inside or outside? Should they target the state or other actors? Should they create new transnational alliances, and if so, with whom? How to articulate the development of local alternatives that seek to carve out autonomous spaces “away” from the system with efforts to change the rules that regulate the ways in which the system works? How the actors defending the right to food and food sovereignty will address these challenges in the future will be worth exploring closely, and will be a matter of great academic interest.

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