

**The architecture of the global system of governance: global public goods and human rights – the case of food security and international trade**

Francois Lerin  
Institut agronomique méditerranéen de Montpellier

**SUSTRA**

Workshop organised by Ecologic, Institute for International and European Environmental Policy  
Pfalzburger Str. 43-44, D-10717 Berlin, Tel.: +49-30-86880-0, Fax: +49-30-86880-100,  
E-mail: [office@ecologic.de](mailto:office@ecologic.de), Internet: [www.ecologic.de](http://www.ecologic.de)



# The architecture of the global system of governance: global public goods and human rights – the case of food security and international trade

Francois Lerin  
Institut agronomique méditerranéen de Montpellier  
Berlin 9/10 December 2002

## **I. Introduction: From Human Rights to Global Publics Goods – the step of the “ economic, social and cultural rights ” in international Bills.**

*For this introduction we made the hypothesis that definition and enforcement of social and economic rights are a building block for a mutually supportive relation between sustainable development and international trade.*

*Obviously we have not enough space to deal with concrete situations and the precise state of the discussions in international forums ; the purpose is only to propose some corner stones for a discussion.*

Point 1: a common basis (?) : “ *Les hommes naissent et demeurent libres et égaux en droits* ” (French *Déclaration des droits de l’Homme et du citoyen*, art. 1, 1789) – or, in the words of the Universal Declaration of Human Rights (1948, Preamble) there is an “ inherent dignity to all persons of the human family ”. This point is neither a controversial or contingent rule of society nor a moral point of view, it is a philosophical principle - the basic ground for the Constitutions of modern States and societies, approved by the leading Nations at least since the French Revolution. Without an agreement on this premise it is impossible to build a consensus on all fundamental human rights.

Let’s point out that a lot of societies in history have related the dignity (and by this way the Rights) to gender, religion, casts, blood, and that there is still today a potential conflict of theses heritages with the universal position – a kind of path dependency linked to historical patterns. Cultural Rights may be contradictory to other political, social and economical rights if they are including part of these patterns (underground or in the open light) (1).

Point 2 : from the political to the other rights : during the violent construction of the modern States definition of the social and economic Rights was the major source of political conflicts and in most cases the dividing line between Parties and political doctrines. The reason why, lies in the problems related with the enforcement of these rights which needs the provision of public goods. Rules, laws, budgets, income distribution means, taxes, etc. are basically linked to the different options a society can choose in terms of economic and social rights versus the provision of public goods, and how they are produced. These questions were almost exclusively handled within the borders of the national States.

The consequence of this historical process is that these basic rights are, in general, much more precise and better enforced in developed and long-term open societies than in less developed countries or “ transition ” countries. This may be called an historical bias we have to take in account.

Point 3: from national to international Rights. After WWI the question of an international Bill of Rights and organization was raised, but it is only after WWII that the agreement was reached, with the creation of the United Nations and the proclamation of the Universal Declaration of Human Rights, now signed by a majority of States in the world. This Declaration includes two basic points the first which mentioned that « *Everyone (...) has the right to social Security (...) and in accordance with the organization and resources of each State, of the economic and social rights indispensable for his dignity (...)* » (art 22) and « *Everyone has the right to an effective remedy by the competent national tribunals of acts violating the fundamental rights granted him by the constitution or by law* » (art.8). So, by principle and for geopolitical reasons (and above all the Cold War) these Rights remain basically a problem of each State. However during the past 20 years a globalization of the issue is clearly rising on the agendas and controversies of international meetings.

This Bill defines something like an international citizenship. But a citizenship without State, which duties and functions had to be covered by a complex set of rules, standards, organization and cooperatives coordination of State, non States actors - both profit and non profit oriented - and other institutions... This complexity is the heart of this difficult ongoing process and especially the gap between discussion and adoption of international bills and their enforcement, with adequate jurisdiction, both national and international.

## **II. Food Security as a basic social and economic Right.**

The right to access to food seems to be evident : no political or fundamental right makes sense if you are starving or if you're dead. But it is not much more than this evidence. And, indeed, food Security (especially when the question is related to poverty), above all when linked to the rules of international trade, may be one of the most difficult questions the global governance had to deal with.

As we have seen recently it was much more “ simple ” to find the way to “ resolve ” the question of health right in the case of tri-therapies against Aids and to built an agreement between TNC and governments aside from the general trade system: not one, but various markets for the same products due to non homogeneous capacity of the healthcare systems and the nature of the pandemic situation...

Nevertheless some 840 millions people in the world, according to FAO, are chronically hungry due to: natural disasters, civil wars, in some case the use of food as a “ political ” weapon, bad income distribution...

Point 1: A basic right. The human right to adequate food is recognized in several instruments under international law. As soon as the 1948, the Declaration of Human Rights adopted in its article 25 the principle that “ *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 Right was further

codified by the international Covenant on Economic, Social and Cultural Rights in 1966 – in this text, the article 11 “ *the fundamental right of freedom from hunger enjoys separate recognition* ”. The Covenant has been yet ratified by 145 States.

Point 2 : enlargement and ways of implementation : with the World food summit (1996 – FAO) the issue was pushed forward. The heads of states and governments reaffirmed “ *the right of everyone to have access to safe and nutritious food* ” and decided to elaborate “ *a set of voluntary guidelines to support Member State’ efforts to achieve the progressive realization of the right to adequate food in the context of national food Security* ”. Substantive issues were put on the table as propositions for this implementation – with contributions produced by various UN agencies, governments (as the workshop hosted by German government in Berlin may 2002 on “ Policies against Hunger ”), NGO and CSO, The next FAO meeting is going to be a crucial moment to know if all this work will be conclusive in effective commitments to resolve this tragic challenge for global governance.

Point 3: A State responsibility : basically the Covenant focuses the main responsibility on States. They have obligation to achieve progressively the realization of the right to adequate food “ *as expeditiously as possible* ”. They have to respect, protect and fulfill this right, providing the food as a public good (which should meet the dietary needs, be free from adverse substances, with consumer acceptability, availability and accessibility). For this they have to build national strategies that should not, at the same time interfere “ *with the enjoyment of other human rights* ”. These strategies had to cope with numerous aspects of economic organization such as : production, land property, processing, distribution, marketing, consumption, “ *as well as parallel measures in the field of health, education, employment and social Security* ”... The procedures for building this strategy should associate civil society, corporations, communities, etc. *Cerise sur le gâteau*: « *they have too to ensure the most sustainable management and use of natural resources at all levels.* » Governments are accountable in case of non-fulfillment and any person or group who is victim of it should have access to an effective jurisdiction.

You are not going to be surprised if at the end “ *good governance is essential* ” (sic!) for reaching these goals. In other terms if food is a global public good (2) (via one of the basic economic social and cultural Rights) it is by the provision by each State of this national public good.

Point 4 : international responsibility. It is one of the weakest points of the Covenant. Only “ a code of conduct ” proposed for TNC to respect the Right, the international organizations (multi- and bi- lateral) can be used for elaboration and monitoring of the strategies and had to cooperate more effectively; States “ *should refrain (!) at all time from food embargoes or similar measures which endanger conditions for food production and access to food in other countries* ”. Food aid should be provided if necessary and in time, without adverse effects on local producers and markets. FMI and World Bank should take in account this Right when dealing with debt crises, lending policies, credit agreements and structural adjustment programs.

To conclude this second part we can point out the bad and good sides of this programme :

- Under such conditions enforcing the Right means providing public goods and supposing, *de facto*, that the hunger problem is resolved: i.e. by a complete “ development strategy ” with growth and equity, justice and freedom...

- At the same time an international discussion on the target, the aims, the efficiency and accountability of such policies may be an incentive and a political tool in each country to deal, at last, with the food problem. This international process may oblige too the most developed countries to support these strategies with a huge amount of new money for development (3). In that case, and only in that case, the fight against food insecurity might be called a struggle for providing a global public good.

### **III. Food Security and trade related issues.**

To put it in a two-side opposition there is today:

**1.** Analysts who consider that trade liberalization, fair trade and the process of globalization are the basic road to alleviate poverty and fight food insecurity. Open growth has a huge distributive power and bias in trade conditions (especially subvention to production and exports from the most developed countries – namely: USA, EU, Japan) are responsible for a slower growth and less opportunities in developing agriculture...

**2.** Others argue that trade liberalization is directly responsible for food insecurity and increasing poverty notably in rural areas. They think that imports from developed countries had negative effects on local production especially in the poorest rural zones. Without credit, with not enough land, inputs, adapted varieties, bad transportation system and storage capacity etc. they are not, in any circumstances, able to compete with modern farming systems and giant food processors transformation and distribution capacities. Free trade in that case is a crook game in favour of the richest.

Point 1: position of antiglobalists related to trade issues. Food sovereignty and “ the right of the people to feed itself ” are absolute and protection is necessary. Like in the case of Via Campesina or Attac and some post Marxists academics, the return to protection in regional systems is the only solution to rural poverty. The social and economic Right had to prevail to the liberalization rules imposed by WTO and Bretton Woods Organizations. Endogenous development with the necessary amount of technological and money transfer from the richest countries to the poorest is the solution to trade disorder.

Point 2: a partial consensus on trade positive effects. Apart from these radical movements a consensus has grown (including some NGO sector, like Oxfam for example) to point out that trade, especially in a fair condition, had a positive effect on income and availability of food products, which means more Security. Trade liberalization in food products is a win-win game. At the same time it is impossible to deny the fact that poverty and food insecurity is still a major problem for millions of people... The solution of the problem does not lie in protection or trade limitation but in special programs for the poor. « Safety nets » may procure to the depressed area a solution in term of employment or availability of food products (4).

Point 3: markets failures. A certain amount of studies had described situations where markets are not efficient. This can be due to State failure (an efficient market needs an efficient State), to price instability, to the misuse of market power by corporation or groups (both internal and international). In that case protective actions should be undertaken by the authorities – national in

case of unfair management by corporation, both national and international in the case of strong instability and disorder in relative prices (national/international), and international in case of state failure... Protective actions should be taken due to the fact that there is neither an international nor national system of insurance that can cover the risks of such instability or effects of market failure. These are the main fields of contradiction between the common open trade system and the right to a correct amount of food.

Point 4: structural income depression and food crisis. In the case of food crisis there is a general acceptance that it is a non-trade concern and that emergency food aid is not only acceptable but also necessary. On the contrary structural income depression is not considered as it should be, especially when there is no unwillingness of the State to fulfill its commitments to food Security right. In that case, the idea of international citizenship and the provision of food as a global public good should be – by the way of income transfer or products – an international community responsibility.

#### Conclusive point.

Today the basic challenge of globalization is about sustainable development and, through equity cooperative behavior the fulfillment of the social and economic rights for all, including food. The right to food access is directly linked with the availability for all of food as a global public good – whether this availability is on market-based mechanisms or not. The global governance order and Security can't be defined only for the richest; and dealing with poverty and equity means that the trade regime (efficient and long time established) and the economic strategic consensus, had to compose with these problems, through a real concern, evaluation of the effects of the trade regime on social and economic rights – with if necessary new rules or exceptions – and that international public aid or international distributive mechanisms reach the enforcement of these rights.

I did not talk about the aspect of food Security related to the quality of products. The past ten years had seen a lot of disputes on GMO; hormone boosted meat, mad cow disease, etc.. In these cases the problem was mainly treated by developed countries, which had the capacities to insert these requirements in the trade issues with all the sophisticated arguments in the process of producing standards and rules. These conflicts may be tough and tortuous but we have no doubt that it is part of the evolving nature of a trade regime. The right to food for the poorest may be on the contrary excluded from the efficiency of a liberalized trade regime and in consequence source of permanent global inequity maintaining a huge number of persons out of the international citizenship - A pariah cast of the global order.

#### Notes and references.

(1) For the philosophical background of this debate see: Habermas/Rawls: *Débat sur la justice politique*. Paris : Cerf (Humanités), 1997; and for political economy : *Globalization and transnational politics : essays on the moral and political challenges of globalization* (De Greiff, Cronin editors). MIT, 2002.

(2) On GPG see, among various: Kaul, Grunberg, Stern: *Global Public Goods: Taking the Concept Forward*. NY: Oxford Uni. Press, 1999 ; *Courrier de la Planète: Naissance des Biens Publics Globaux ?* (N°55, 2000); J-M. Severino: *Refonder l'aide au développement au XXI<sup>e</sup>*

siècle in *Politique Internationale*, N°10, janvier 2001; Ministry of Foreign Affairs –Sweden: *Financing and Providing Global Public Goods*, 2001.

(3) Same conclusion about the access to fresh water as a right in « Problems of Publicness and Access Rights: Perspective from the Water Domain » Lila Mehta (in: *Providing Global Public Goods managing globalization*, eds. Kaul, Conceicao, Le Goulven, Mendoza, UNDP,2003).

(4) See for example: Serageldin, Landell-Mills (Eds.) *Overcoming Global Hunger*, WB/ESD, 1994.