



TRANSCRIPT

**The Human Right to Food
Part II**

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1. I am Marsha Echols, the director of the World Food Law Institute in Washington D.C., and a professor at Howard University School of Law, also in Washington. This is Part II of our audiovisual lecture concerning the right to food. In Part I, we considered many documents, texts, and declarations about the right to food, but we didn't discuss *what is food*.

2. Given the human rights context in which we are discussing this right, I think it is important to understand that food has technical and cultural meanings and importance in the lives of persons around the world. So, again, the declarations about the right to food fail to say much about food. What is it that is so essential to human beings that its provision is raised to the level of a right in international law? What makes food a human right?

3. The concise definition of food found in most laws fails to carry the personal and cultural sense of what we eat and its importance in our lives personally. Certainly, food is a biological necessity. For our survival, we often discuss food nutrients, food safety in a scientific context, but what is food?

4. The idea of food and nutrients is assumed by the right to adequate food law, and it imposes obligations on nations, which must provide for the nourishment of citizens and sometimes others. These obligations must be addressed by each government as it provides

for the public welfare and the public good. But what about the need for food in the life we lead individually and in community? These definitions of food omit the fundamental point that food is a human right with social, even cultural meaning, as we have considered in Part I of the lecture.

5. The Intergovernmental Codex Alimentarius Commission, which produces the popularly termed “International Food Code”, defines food as any substance, whether processed, semi-processed, or raw, which is intended for human consumption, and includes drinks, even chewing gum, and any substance used in the manufacture, preparation, or treatment of food. Again, we have a definition of food using the word *food*. But in short, the Codex Alimentarius definition is not all inclusive of what people often consider food. It certainly includes edible products that are key to food security considerations. It mentions processed foods, but is less direct about products from new technologies, like foods from genetically modified organisms or cultured meats, although their inclusion is likely within this definition of food. Still, GMOs, or biotechnology as it’s usually termed, and technology driven foods that have contributed to extended discussions at the Codex Alimentarius have led to a trade dispute at the World Trade Organization, the first real WTO dispute at the World Trade Organization, and recently to another dispute at the US-Mexico-Canada Free Trade Agreement. So, some of these new types of foods and technology are certainly leading to discussion and maybe disputes.

6. So, for the food though, maybe the next point is to consider, whatever food is, looking at the definition, and food security. Food security is an essential of the right to food and refers to freedom from hunger – as we’ve talked about starvation, malnutrition. Food security, we should consider, is legally more significant, but is less comprehensive than the evolving views about food sovereignty. Food security is considered by many a precondition to the full enjoyment of the right to food. According to FAO, food security exists when all people, at all times have, physical, social, and economic access to sufficient, safe, and nutritious food that meets their dietary needs, and food preferences. The dietary needs we can think of are the nutrients, but the food preferences are cultural, and add this qualitative

aspect to our consideration of food and the related laws. Food security is one idea that certainly is accepted in discussions about the right to food.

7. There is another concept that we should bear in mind and is an active discussion as some groups, nations, local governments develop their food policy – and that second element is food sovereignty. Food sovereignty is an emerging concept according to which peoples, communities, define their own food and own model of food production – let’s say for agriculture and fisheries – and determine the extent to which they want to be self-reliant and protect domestic food production and their aim to regulate trade in order to attain, achieve, sustainable development objectives. So, it presents an alternative model for agriculture and also for trade policies because within the discussion of food sovereignty, are discussions about self-sufficiency, which can lead to reductions in the openness of markets to imports, or the closing of markets from exports of local products that are considered essential. For both, rice and grains are often considered the essentials that can fall into discussions about food import restrictions and food export restrictions that might be considered with regard to food sovereignty; and certainly are issues with regard to international trade law. Many believe that food and nutrition security can be assured through food sovereignty, but that is a contentious view.

8. Food sovereignty – again, the right of peoples to healthy and culturally appropriate food produced through ecologically sound practices and certainly food safety – is an issue which again leads us to some of the technical and scientific considerations as we consider the availability of food, the right to food around the world.

9. But again, what is food? How should we consider it? How could we consider it? As we begin to look at definitions, we move away from the social idea of food. What is on our dinner plates? What we enjoy at a family meal? What is a local feast? All of that again adds to the personal perspective of food moving away from that technical idea.

10. So, although the cultural aspect of food was not often recognized – or thoroughly recognized – at the international level, the UN Special Reporter for Food made the

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connection a key element of his definition of the right to food. He understood that food can be a statement of cultural identity, cultural or consumer acceptability and the idea that governments and others should take into account as far as possible perceived non-nutrient-based values attached to food and food consumption; and that informed consumer concerns regarding the nature of accessible food supplies should be considered.

11. Recently, the cultural aspect of a food was specifically debated in the trade dispute between Mexico and the United States regarding Mexico's barrier to imports of GM corn from the United States. Mexico's barrier was ruled inconsistent with the US-Mexico trade agreement but more particularly in conflict with the SPS agreement, the WTO's agreement on food safety which attempts to eliminate barriers to trade unless the importing government can prove that it had undertaken a risk assessment to show that there was a scientific and technical barrier. So, that certainly could be important as we consider food security and food sovereignty and developing ideas about the role of food and how it is addressed.

12. So, food security is legally more significant but is less comprehensive than the evolving views of food sovereignty. Food security is considered a precondition to the full enjoyment of the right to food. However, the concept of food security is not a legal concept *per se* and does not impose entitlements or obligations. In contrast, food sovereignty is recognized under some national laws and discussions but certainly is not a legal concept that is recognized generally. As I said, it is an emerging concept allowing under which peoples – and I say *peoples* – define their own food and own model of food production. This issue of food sovereignty was referenced by Mexico in the dispute about biotech corn between Mexico and the United States.

13. So, food sovereignty is suggested as a concept that promotes an alternative model for agriculture, for trade policies and practices that serve peoples' rights to food and to be safe, healthy and ecologically sustainable. All of these rights that we have talked about, the benefits extend to every man, woman and child alone or in community with

others, as I have said. And the question is what the government responses could be or should be to a biological necessity, to environmental disruption, the needs of communities around the world and to the culture of food – again, each human needs food for nutrition and for life and also for a rich cultural life.

14. Food sovereignty and this idea of pulling text from the special rapporteurs and food sovereign proponents provide a holistic explanation, a comprehensive view and references cultural identity while recognizing the vital nutritional importance of food. So, that discussion prepares us for the rule that food should be adequate, available and accessible for a full biological and cultural life, not merely for nutrition and physical food.

15. This takes us to the legal components of the right to food. Those essential components are that food – the right to food – food must be adequate, available and accessible. Governments must act progressively alone or with others, consistent with articles 55 and 56 to achieve these goals and other food-related rights.

16. The first idea is that food must be adequate, and it is perhaps the most important and aside from the voluntary guidelines, perhaps the most developed and extensive of the concepts we are considering now. The most fundamental and perhaps most frequently used of these three components – adequate, available and accessible – is that food must be adequate. The word *adequate* is often used in statements about the right to food. Again, the right to adequate food is a universal human right. In connection with gradually fulfilling this right, States are to take appropriate steps to ensure its realization through international cooperation based on free consent. And I just mentioned terms that often are repeated throughout the text about the right to food, the human right to adequate food – *appropriate steps, international cooperation* and *free consent* – again, ideas from the International Covenant that we discussed in Part I.

17. Adequacy means that the food must satisfy dietary needs as we have discussed, taking into account, among others, the consumer's age, living conditions, health, occupation, sex, and mental development so that the right to food and adequate food is a

decision, a discussion that varies with the consumer – to the right of the consumer to adequate food with a consumer particular perspective. One of the points is that for each consumer, there are considerations – there might be special considerations. For example, food that is energy dense and low nutrient in value, foods that contribute to obesity, to chronic disease like high blood pressure and other illnesses are examples of inadequate food if they are provided to consumers. So, many of these concerns are reminiscent of food safety considerations but thinking about them at home or for producers in the field, the growers or producers, processors in the plant facility, food should be safe for human consumption and free from adverse substances – contaminants, pesticide residues, unhealthy hormones or veterinary drugs are examples.

18. Considering this aspect of food adequacy, it is clear that the consideration and directions or proponents to everyone along the food chain sets requirements for the measures by both public and private entities prevent food adulteration, follow good agricultural practices, follow good manufacturing practices, and so on. Factors like these must be taken into account in determining whether particular foods or diets that are accessible are the most appropriate under given circumstances and populations. So, the human right to adequate food is foundational and is important for the enjoyment of all rights in part because the right applies to all people, to everyone and because it cross-references access.

19. The international Covenant deals more comprehensively than any other instrument with this right. Again, the right to adequate food is realized when all people have physical and economic access at all times to adequate food or the means for its procurement. Everyone has the right to an adequate standard of living for himself and his family, including adequate food, and is entitled to the continuous improvement of living conditions. In Comment no. 12, the Committee affirmed that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights. It is also inseparable from social justice requiring

appropriate economic, environmental and social policies, for example, regarding poverty alleviation and poverty eradication at both the national and international levels.

20. Then, there are some other considerations that have been developed with regard to the right to food. One is the notion of sustainability. Sustainability is intrinsically linked to the notion of adequate food and food security implying food being accessible for both present and future generations. We consider that and also that the precise meaning of adequacy is to a large extent determined by prevailing social, economic, cultural, climatic, ecological and other conditions.

21. Regarding sustainability, the idea is to have food and food production for long-term availability and accessibility. Just remembering going back to article 11 of the Covenant, we will return to the idea of article 11.a) which, as we are thinking about the right to food and its adequacy, we can consider practices along the food chain – the global food chain – and all of the entities who are involved along the chain. Even it is possible to think that the aspects of paragraph 11.a) seem linked to the idea of food sovereignty. Certainly, 11.b) is clearly related to food trade concerns and food sovereignty and food security.

22. So first, with regard to the food chain, sub-paragraph a) mentions methods of production, conservation and distribution of food, technical and scientific knowledge and reforming or developing agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources. b) with regard to international trade refers to taking into account the problems of both food importing and food exporting countries to ensure an equitable distribution of world food supplies in relation to need. That text – that sub-paragraph – is brief but can be more controversial than is apparent.

23. So, many countries that might have food or foods that are crucial to their populations or a part of their heritage certainly might decide not to share them, not to export, or the government might decide to block imports as food importers. And in blocking imports, they are often contravening WTO rules and certainly affecting global commerce

24. We should not forget that our consideration of the right to adequate food has important cultural perspectives, food must provide cultural or consumer acceptability, non-nutrient-based values and qualitative considerations. Acceptability is not normally a concept that can be measured and so can lead to conflicts and discussions about the right to adequate food and public policy and perceptions of what is properly cultural or consumer acceptability. Still, the idea of this acceptability concerns the nature of accessible food. It emphasizes the achievement of food security as an outcome of the realization of existing rights and includes certain key principles in the decision-making policies about realizing the right to adequate food especially for poor and vulnerable people, for indigenous people and others who are often excluded from or not fully involved with society. They should not suffer from discrimination.

25. So, a human rights-based approach requires not only addressing the final outcome of abolishing hunger but also proposing ways and tools to achieve the goal still using human rights principles.

26. Thank you.