

LOCALIZATION: IMPLEMENTING THE RIGHT TO FOOD

*J.M. Greene**

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I. INTRODUCTION

The concept of a universal human right to food is gaining traction in the international community. Although the United States has reacted to this development with some hostility, it has at the same time implemented domestic and international programs designed to address some of the direst food-related situations. Indeed, the situation is dire: “In 2001-03, FAO [the United Nations Food and Agriculture Organization] estimates there were still 854 million undernourished people worldwide: 820 million in the developing countries, 25 million in

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the transition countries and 9 million in the industrialized countries.¹ This estimate might even be low for industrialized countries; the United States Department of Agriculture found that 12.6 million United States *households* were food insecure in 2006.² In light of the developing human right to food, the United States' current efforts to implement this right (without acknowledging that the right exists), and the failures of these efforts, change appears to be in order.

This article presents a skeletal framework for the United States to implement the right to food at home and abroad. The article argues that the United States government could vastly improve the food system by shifting the balance of economic incentives to produce food from multinational corporations to smaller local producers. Such a shift is the best means of bringing the healthiest food to the most people, and therefore the policy most consistent with the right to food. Section II of this article will discuss the developing right to food and the United States' flirtations with this right, including American reticence on the international stage and simultaneous implicit recognition and implementation of the right. Section III of this article will discuss the failures of the current United States programs, focusing on the plight of the urban poor at home and the damage that domestic farm subsidies cause abroad. Section IV of this article will argue that providing incentives for local food production and consumption both domestically and internationally will increase access to affordable, healthy food. The article will conclude by arguing that shifting the United States' focus from large-scale food production to local food production is the best means of implementing the right to food, whether or not the United States officially chooses to recognize this right. Finally, it is worth noting that the realm of agricultural policy is rich and varied, and that this article does not purport to be comprehensive. It is the author's hope, however, that the ideas presented here will provoke at least some thought in the reader, if not some change in the system.

II. THE RIGHT TO FOOD

The starting point for examining the right to food is in human rights treaties. The first relevant treaty is the Universal Declaration of Human Rights,

1. JAKOB SKOET & KOSTAS STAMOULIS, *FOOD & AGRIC. ORG. OF THE UNITED NATIONS, THE STATE OF FOOD INSECURITY IN THE WORLD 2006*, at 8 (2006), *available at* <ftp://ftp.fao.org/docrep/fao/009/a0750e/a0750e00.pdf>.

2. MARK NORD ET AL., U.S. DEPT. OF AGRIC., *MEASURING FOOD SECURITY IN THE UNITED STATES: HOUSEHOLD FOOD SECURITY IN THE UNITED STATES, 2006*, at iv (2007), *available at* <http://www.ers.usda.gov/Publications/ERR49/ERR49.pdf>.

which in 1948 established “the right to a standard of living adequate for the health and well-being of himself and of his family, including . . . food.”³ In 1966, the International Covenant on Economic, Social, and Cultural Rights⁴ (hereinafter referred to as “ICESCR”) enshrined the right in very similar terms,⁵ but also committed signatory states to take action—”to ensure that all are free from hunger, including measures aimed at boosting ‘production, conservation, and distribution’ and measures designed to secure an ‘equitable distribution of world food supplies in relation to need.’”⁶ Other human rights treaties, for example the United Nations Convention on the Rights of the Child, further echo these two foundational documents: “States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: . . . To combat . . . malnutrition . . . through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution”⁷

Taking its cue from these treaties, the international community has generally recognized the existence of a right to food, and has sought to define this right more clearly. In 1996, the Rome Declaration produced a “Plan of Action” which listed as an objective: “To clarify the content of the right to adequate food and the fundamental right of everyone to be free from hunger as stated in the [ICESCR] and other relevant international and regional instruments”⁸ In 1999, the United Nations Committee on Economic, Social, and Cultural Rights released a report concerning the right to food.⁹ This report defined the right in both positive and negative terms, with a focus on adequacy:

3. Universal Declaration of Human Rights, G.A. Res. 217A, at 71, ¶ 25(1) U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948).

4. International Covenant on Economic, Social, and Cultural Rights, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (Dec. 16, 1966) [hereinafter ICESCR].

5. *Id.* at ¶ 11. The United States is not a full party to ICESCR.

6. SUSAN MARKS & ANDREW CLAPHAM, INTERNATIONAL HUMAN RIGHTS LEXICON 169 (2005) (citing ICESCR *supra* note 4, at ¶ 2).

7. Convention on the Rights of the Child, G.A. Res. 44/25, ¶ 24(2), U.N. Doc. A/RES/44/25 (Nov. 20, 1989); *see also* World Food Summit, Nov. 13-17, 1996, *Rome Declaration on World Food Security and Plan of Action*, (Nov. 13-17, 1996) [hereinafter *Rome Declaration*] (reaffirming the right to food).

8. *Rome Declaration*, *supra* note 7, at ¶ 61, Objective 7.4.

9. *See generally* U.N. Comm. on Econ., Soc. and Cultural Rights, *General Comment No. 12: The Right to Adequate Food (Art. 11)*, U.N. Doc. E/C.12/1999/5 (May 12, 1999).

The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The *right to adequate food* shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients.¹⁰

The report goes on to define adequate food as being comprised of two essential elements:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; [and] the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.¹¹

These elements suggest that adequacy, therefore, may be broken down further into quantity, quality, accessibility, and sustainability.¹²

In 2000, the United Nations Commission on Human Rights established the position of Special Rapporteur on the Right to Food, and “successive reports of the Special Rapporteur contain extensive commentary on the scope of [the right to food] and the obligations it entails, both in general terms and in relation to particular situations.”¹³ In his 2008 report to the United Nations General Assembly, Special Rapporteur Olivier De Schutter provided the following commentary on the parameters of the right to food:

It is not about being fed. It is about being guaranteed the right to feed oneself, which requires not only that food be available (that the ratio of production to the population be sufficient), but also that it be accessible—that each household either have the means to produce its own food or have sufficient purchasing power to buy the food it needs.¹⁴

Perhaps more importantly, the Special Rapporteur also discussed the importance of creating domestic legal frameworks to address both the domestic and international components of the right to food:

10. *Id.* at ¶ 6.

11. *Id.* at ¶ 8.

12. *See id.* at ¶¶ 6, 8.

13. MARKS & CLAPHAM, *supra* note 6, at 169 (2005) (citing Special Rapporteur, *Third Report of the Special Rapporteur on the Right to Food, delivered to the General Assembly* U.N. Doc. E/CN.4/2003/54 (Jan. 10, 2003)).

14. Special Rapporteur, *Report of the Special Rapporteur on the right to food, delivered to the General Assembly*, U.N. Doc. A/63/278, at ¶ 9 (Oct. 21, 2008).

As recognized both under these provisions and in customary international law, the right to food imposes on all States obligations not only towards the persons living on their national territory, but also towards the populations of other States. These two sets of obligations complement one another. The right to food can be fully realized only when both national and international obligations are complied with. National efforts will often continue to have a limited impact in combating malnutrition and food insecurity unless the international environment, including not only development assistance and cooperation but also trade and investment regimes or efforts to address climate change at a global level, facilitates and rewards those efforts. Conversely, efforts by the international community to contribute to the objectives will depend for their effectiveness on the establishment of institutional and legal frameworks at the national level and on policies that are effectively geared towards the realization of the right to food in the country concerned.¹⁵

The Special Rapporteur has therefore clarified that the right is more appropriately satisfied by a legal framework that ensures the availability of food to hungry populations than by the direct provision of food to hungry individuals. Such a systemic goal is consistent with the broadly recognized importance of food sovereignty—granting people “control over the production, processing and distribution of food.”¹⁶

In order to effectuate such a framework, the World Food Summit in 2002 adopted a Declaration inviting the United Nations Food and Agriculture Organization to “establish . . . an Intergovernmental Working Group . . . to elaborate, in a period of two years, a set of voluntary guidelines to support Member States’ efforts to achieve the progressive realization of the right to adequate food in the context of national food security”¹⁷ The Food and Agriculture Organization then supervised the development of a set of Voluntary Guidelines, which were adopted in 2004.¹⁸ Because their application is intended to be universal, the voluntary guidelines are necessarily quite broad; overall, they recommend re-evaluating domestic policies in order to determine how to bring those policies into line with the right to adequate food as it has been described above.¹⁹

While the world has been engaged in the developments described above, the United States has largely rejected the existence of a right to food. The United

15. *Id.* at ¶ 10.

16. MARKS & CLAPHAM, *supra* note 6, at 177.

17. International Alliance Against Hunger, June 10-13, 2002, *Declaration Of The World Food Summit: Five Years Later*, ¶ 10.

18. FOOD & AGRIC. ORG. OF THE UNITED NATIONS, VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY (2005).

19. *See id.* at 5-7.

States has only signed but not ratified ICESCR²⁰ and has issued statements explicitly denying a right to food.²¹ For example, in a recent address to the United Nations, a United States representative noted: “We remain convinced that, rather than focusing on a ‘right to food,’ the fundamental solution to the global scourges of hunger and poverty lies in appropriate policies and concrete actions taken in the national context.”²² Still more recently, in November 2008, the United States cast the sole vote objecting to a United Nations resolution regarding the right to food:

By a vote of 180 in favour to 1 against (United States) and no abstentions, the Committee also approved a resolution on the right to food, by which the Assembly would ‘consider it intolerable’ that more than 6 million children still died every year from hunger-related illness before their fifth birthday, and that the number of undernourished people had grown to about 923 million worldwide, at the same time that the planet could produce enough food to feed 12 billion people, or twice the world’s present population.²³

Indeed, the vehemence of the United States in rejecting a right to food has been such that, even if the right is now crystallized in customary international law,²⁴ the United States may be exempt as a persistent objector.²⁵

20. International Covenant on Economic, Social, and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, available at <http://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-3.en.pdf> (indicating the countries that have signed and ratified the ICESCR).

21. See, e.g., Peter Rosset, *U.S. Opposes Right to Food at World Summit*, WORLD EDITORIAL & INT’L L., June 30, 2002, <http://www.foodfirst.org/archive/media/opeds/2002/usopposes.html>.

22. U.S. Mission to the United Nations, U.S. Dep’t of State, U.S. Statement on FAO Committee on World Food Security (June 18, 2007), http://usunrome.usmission.gov/viewer/article.asp?idSite=1&article=/file2007_06/alia/a7061804.htm.

23. Press Release, General Assembly, Third Committee Draft Text Endorses Recommendations, Future Workplan of Human Rights Council’s Working Group on Right to Development, U.N. Doc. GA/SHC/3941 (Nov. 24, 2008), <http://www.un.org/News/Press/docs/2008/gashc3941.doc.htm>. However, the United States representative did say that “he was unable to support the text because he believed the attainment of the right to adequate food was a goal that should be realized progressively. In his view, the draft contained inaccurate textual descriptions of underlying rights.” *Id.* Acknowledging that “the right to adequate food [is] a goal that should be realized” is perhaps the strongest step the United States has taken toward recognizing such a right. *See id.*

24. See Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT’L L. 691, 771-96 (2006); Laura Niada, *Hunger and*

It is time for the United States to recognize the right to food. Whatever its binding obligations under international law, the United States is at least subject to the non-binding Universal Declaration of Human Rights, and for all its speech disparaging international law solutions to food problems, the United States has taken domestic actions that implicitly recognize and seek to implement all the substantive elements of the internationally recognized right to food.²⁶ The most relevant current policies, both affected by a complicated piece of legislation known as the Farm Bill, fall into two major categories: the first subsidizes production in order to ensure a constant stream of cheap food on the market,²⁷ and the second subsidizes consumption for low income persons.²⁸

The Farm Bill provides two major types of subsidies to farmers of certain commodities: direct subsidies and counter-cyclical payments.²⁹ Direct subsidies are based on a relatively simple formula which takes into account a certain set rate for each particular commodity, the acreage of that commodity, and the yield of that commodity.³⁰ In contrast to direct subsidies are counter-cyclical payments, which “are available whenever the commodity’s effective price is less than the target price.”³¹ Designed to stabilize the market by providing a buffer for farmers when prices fall,³² counter-cyclical payments are calculated according to a fluid rate for each commodity (which is in turn based on the target price and the market price),³³ the acreage of that commodity, and the yield of that commod-

International Law: The Far-Reaching Scope of the Human Right to Food, 22 CONN. J. INT’L L. 131, 166 (2006).

25. Narula, *supra* note 24, at 795.

26. See, e.g., Food, Conservation, and Energy Act of 2008, Pub. L. 110-234, 122 Stat. 923 (2008) (to be codified at 7 U.S.C. § 8702). The previous Farm Bill was the Farm Security and Rural Investment Act of 2002, Pub. L. 107-171, 116 Stat. 134 (codified at 7 U.S.C. § 7901 (2006)).

27. See Food, Conservation, and Energy Act of 2008, §§ 1101-1109, 122 Stat. at 937-53 (to be codified at 7 U.S.C. §§ 8711-8719).

28. Food and Nutrition Act of 2008 (formerly Food Stamp Act of 1977), 7 U.S.C. § 2011 (2006) (amended by Food, Conservation, and Energy Act of 2008, § 4001, 122 Stat. at 1092).

29. Food, Conservation, and Energy Act of 2008, §§ 1103-1104.

30. Food, Conservation, and Energy Act of 2008, § 1103.

31. Econ. Research Serv., U.S. Dep’t of Agric., Farm and Commodity Policy: Program Provisions: Counter-Cyclical Payments, <http://www.ers.usda.gov/Briefing/FarmPolicy/countercyclicalpay.htm> (last visited Dec. 1, 2009).

32. *Id.*

33. Food, Conservation, and Energy Act of 2008, § 1104 (commodity rate formula is contained in this Act).

ity.³⁴ In total, the U.S. government gave out over twenty-one billion dollars in subsidies in the year 2005.³⁵

The Food and Nutrition Act provides subsidies, formerly known as food stamps but recently renamed “supplemental nutrition assistance program benefits” and commonly abbreviated as SNAP benefits, for low income persons to purchase food.³⁶ The United States government gave out over 33 billion dollars in what were then food stamps in fiscal year 2007.³⁷

The United States Agency for International Development (USAID) also provides food assistance to other nations through its Food for Peace program.³⁸ Through Food for Peace and other programs, “[t]he United States provided more than \$2.2 billion of food aid to 82 developing countries, reaching some 55 million people worldwide, in fiscal year (FY) 2006.”³⁹

Cobbling these figures into a rough annual rate of food aid, the United States contributes approximately fifty-six billion dollars of food aid per year, the vast majority disbursed domestically. Altogether this represents a fairly sizable investment for a nation unconvinced that a right to adequate food exists. The price tag does, however, necessitate a closer look at whether the programs are succeeding, and this closer look requires a bit more context (thus covering both the proverbial forest and the trees). After all, even if the United States has successfully evaded any obligations under international law, the combination of widespread international acceptance of a human right to food and United States policies whose aims are compatible with this right suggests that it is in the interests of the United States to implement policies that work.⁴⁰ The next part of this

34. *Id.*

35. Env'tl. Working Group, Farm Subsidy Database: Total USDA Subsidies in United States, 2005, http://farm.ewg.org/farm/top_recips.php?fips=00000&progcode=total&yr=2005.

36. *See* 7 U.S.C. § 2013(a) (2006).

37. Food and Nutrition Serv., USDA, Supplemental Nutrition Assistance Program Participation and Costs, <http://www.fns.usda.gov/pd/SNAPsummary.htm> (last visited Dec. 1, 2009).

38. *See* Food for Peace Act (formerly the Agricultural Trade Development and Assistance Act of 1954), 7 U.S.C. § 1691 note, 104 Stat. 3633; *see also* U.S. Agency for Int'l Dev., Food for Peace, http://www.usaid.gov/our_work/humanitarian_assistance/ffp/ (last visited Dec. 1, 2009).

39. U.S. AGENCY FOR INT'L DEV., U.S. INTERNATIONAL FOOD ASSISTANCE REPORT 2006, at iv (2006), *available at* http://www.usaid.gov/our_work/humanitarian_assistance/ffp/cr_food_aid.pdf.

40. Moreover, focusing on domestic law is likely to be a stronger way to effect change in the short term—after all, domestic law has more teeth than international law, especially in the United States.

article therefore examines ways that current United States food aid actually contributes to domestic and foreign violations of the right to food.

III. CURRENT FAILURES

Before one can argue that American food aid actually contributes to the broad problem of inadequate food, one must demonstrate that such a problem exists. Domestically, as was mentioned in the introduction, in 2006, 12.6 million households were food insecure.⁴¹ Food insecurity affects those “households [which], at some time during the year, had difficulty providing enough food for all their members due to a lack of resources.”⁴² Unsurprisingly, food insecurity was most prevalent in poor households, minority households, single parent households, and in inner city and rural areas.⁴³

Hunger is not the only domestic problem that violates the right to food, which requires that individuals have access to food of a healthful quality.⁴⁴ According to the Centers for Disease Control and Prevention, in 2001-2004, 32.1% of the United States population was obese.⁴⁵ Broken down by wealth, 34.9% of those below the poverty level were obese compared to 30.6% of those making at least twice the poverty level.⁴⁶ These statistics show that obesity affects people from all walks of life but disproportionately affects the poor. Alongside people who cannot afford enough calories to sustain themselves are those who can only sustain themselves on calories derived from the cheapest, and therefore least healthy, food:

Although people don't knowingly shop for calories per se, the data show that it's easier for low-income people to sustain themselves on junk food rather than fruits and vegetables, says . . . Adam Drewnowski, director of the center for public health nutrition at the University of Washington. Based on his findings, a 2,000-calorie diet would cost just \$3.52 a day if it consisted of junk food, compared with \$36.32 a day for a diet of low-energy dense foods.⁴⁷ However, most people eat a mix of foods.

41. NORD ET AL., *supra* note 2, at iv.

42. *Id.*

43. *Id.* at 11.

44. CESCR, *supra* note 9, at ¶ 8.

45. NAT'L CTR. FOR HEALTH STATISTICS, U.S. DEP'T OF HEALTH & HUMAN SERVS., HEALTH, UNITED STATES 288 (2006), available at <http://www.cdc.gov/nchs/data/hus/hus06.pdf>.

46. *Id.*

47. For a discussion of energy density, see Jenny H Ledikwe et al., *Dietary Energy Density is Associated with Energy Intake and Weight Status in US Adults*, 83 AM. J. CLINICAL NUTRITION 1362, 1362 (2006) (“Energy density refers to the amount of energy in a given weight of

The average American spends about \$7 a day on food, although low-income people spend about \$4, says Dr. Drewnowski.⁴⁸

Even those who could afford healthier food are often stymied by lack of access to that food, particularly in urban environments.⁴⁹ For example, in Detroit, Michigan—a city of about a million people—there are only eight supermarkets.⁵⁰ Where supermarkets (and farmers' markets) are lacking, convenience stores and fast food tend to fill the gap.

It is beyond the provenance of this article to detail the plights of those outside the United States, but the number from the introduction is a testament to the scale of the problem: 820 million people in developing countries were estimated to be undernourished in 2001-03.⁵¹ Worldwide, “[m]ore than 1 billion people will be chronically hungry this year . . . up from 963 million in 2008 when food prices spiked, causing hoarding and riots over food in some nations.”⁵² Thus, the problem of inadequate food continues to get worse.

Although these problems may not seem related to one another, they are fairly traceable to the United States policies outlined above; in their current incarnation, farm subsidies (including counter-cyclical payments) in particular wreak havoc at home and abroad. The first way that farm subsidies contribute to these problems is by creating a surplus of unhealthy commodities. For example, a significant portion of the corn (a subsidized commodity) produced in the United States becomes corn syrup—530 million bushels of corn annually become 17.5 billion pounds of high-fructose corn syrup.⁵³ This means that the most affordable

food. Foods with a low energy density provide less energy per gram than do foods with a high energy density.”).

48. Tara Parker-Pope, *A High Price for Healthy Food*, <http://well.blogs.nytimes.com/2007/12/05/a-high-price-for-healthy-food/> (Dec. 5, 2007, 12:46 EST) (citing Pablo Monsivais & Adam Drewnowski, *The Rising Cost of Low-Energy-Density Foods*, 107 J. AM. DIETETIC ASS'N 2071 (2007)).

49. CHRISTOPHER D. COOK, *DIET FOR A DEAD PLANET* 20-22 (2004).

50. *Id.* at 21-22 (citing Gregg Krupa, *Groceries Cost More for the Poor*, DETROIT NEWS, Aug. 21, 2001).

51. SKOET & KOSTAS, *supra* note 1, at 8.

52. Roberta Rampton, *Food Aid Cheaper, Faster When Bought Locally*: GAO, REUTERS, June 4, 2009, available at www.reuters.com/article/domesticnews/idustre5536z120090604.

53. MICHAEL POLLAN, *THE OMNIVORE'S DILEMMA* 103, 108 (2006). As Pollan eloquently puts it: “Very simply, we subsidize high-fructose corn syrup in this country, but not carrots. While the surgeon general is raising alarms over the epidemic of obesity, the president is signing farm bills designed to keep the river of cheap corn flowing, guaranteeing that the cheapest calories in the supermarket will continue to be the unhealthiest.” *Id.* at 108.

foods are also the least healthy, a problem described in greater detail *supra*.⁵⁴ This in turn means that in areas of concentrated poverty—particularly urban environments—consumers cannot afford higher quality grocery store fare, driving grocery stores to the more profitable suburbs and compounding a lack of access to healthy food for the poor.⁵⁵ Urban environments aren't the only affected areas, however. Farm subsidies also create a huge market of exports that can sell abroad at below the actual cost of production (given that their production was subsidized).⁵⁶ These undervalued goods drive foreign farmers producing healthier food for local markets out of business.⁵⁷

Domestically, farm subsidies as currently implemented also favor industrial agriculture over independent farms. Because larger, corporate-owned farm operations are able to produce more food more cheaply than small farms, and because these corporate farms qualify for even greater subsidies than the small farms,⁵⁸ most domestic local farms cannot compete and operate at a loss or go out of business.⁵⁹ Indeed, “[f]rom 2003 to 2005, the top 10 percent of Crop Subsidy Program to beneficiaries accounted for 66 percent of [subsidy] payments.”⁶⁰ The top beneficiary in 2004 was King Ranch, Inc., a “\$300 million-a-year business empire,”⁶¹ which received around two and a half million dollars.⁶² Government

54. See Parker-Pope, *supra* note 48 (citing Monsivais & Drewnowski *supra* note 48, at 2071). For further discussion of this problem and its relation to corn subsidies, see Scott Fields, *The Fat of the Land*, 112 ENVTL. HEALTH PERSP. A820, A822 (2004); Tom Philpott, *I'm Hatin' It: How the Feds Make Bad-For-You Food Cheaper Than Healthful Fare*, GRIST, Feb. 22, 2006, <http://www.grist.org/news/maindish/2006/02/22/philpott/>.

55. “[T]he higher buying power of the community and the use of larger stores [have been] the most important factors related to the dominant patterns of suburban investment and inner-city grocery abandonment.” Kameshwari Pothukuchi, *Attracting Supermarkets to Inner-City Neighborhoods: Economic Development Outside the Box*, 19 ECON. DEV. Q. 232, 233-34 (2005).

56. COOK, *supra* note 49, at 238.

57. *Id.*

58. Larger operations earn more subsidy money because of their greater acreage and production, see Food, Conservation, and Energy Act of 2008, Pub. L. 110-234, § 1103(c), 122 Stat. at 943 (to be codified 7 U.S.C. § 8713).

59. See COOK, *supra* note 49, at 125-52 (discussing how the Farm Bill subsidy program drives small farms out of business).

60. Env'tl. Working Group, EWG Farm Bill 2007: Policy Analysis Database, <http://farm.ewg.org/sites/farmbill2007/progdetail1614.php?fips=00000&progcode=farmprog&page=conc> (last visited on Dec. 1, 2009).

61. Simon Romero, *Betting the Ranch, a Really Big One*, N.Y. TIMES, Aug. 17, 2003, §3, at 1.

policies therefore divert taxpayer money to wealthy corporations which produce commodity crops rather than protecting farmers who produce healthier foods.

Food stamps contribute to these problems by fostering dependence on a program that only provides enough to purchase the most affordable, least healthy foods.⁶³ This problem gets worse every year.⁶⁴ In 2007, “[f]ood stamp benefits average[d] only about one dollar per person per meal.”⁶⁵ In 2008, that number decreased by 8% for a family of three living at poverty, because of cuts in both the standard deduction used to calculate eligibility and the maximum benefit provided under the statute.⁶⁶ In addition to only raising the bar from “no food” to “inadequate food,”⁶⁷ food stamps essentially provide a further subsidy for the cheap goods that result from subsidies, contributing to an unhealthy cycle of production that affects people at home and abroad.

Foreign aid contributes to the problem in much the same way that the policies above do—by creating a market for the surplus that United States farm policies create. The United States purchases cheaply produced commodities at prices below the actual cost of production, so that only well-subsidized, vertically integrated⁶⁸ corporate farms can meet them. The food provided is likely to give its recipients sufficient calories, but to be generally unhealthy (as cheap food

62. Env'tl. Working Group Farm Subsidy Database, EWG Farm Bill: 2007: Policy Analysis Database, Crop Subsidy Program in the United States, 2004, http://farm.ewg.org/sites/farmbill2007/top_recips1614.php?fips=00000&progcode=farmprog&yr=2004&enttype=indv (last visited Dec. 1, 2009).

63. DOROTHY ROSENBAUM, CTR. ON BUDGET & POLICY PRIORITIES, FAMILIES' FOOD STAMP BENEFITS PURCHASE LESS FOOD EACH YEAR 1 (2007), available at <http://www.cbpp.org/3-6-07fa.pdf>.

64. *Id.*

65. *Id.*

66. *Id.* at 4.

67. Indeed, the United States has even studied whether the food stamp program, when isolated from other variables common to low income persons, causes obesity; the results were inconclusive. PAUL LINZ ET AL., U.S. DEP'T OF AGRIC. FOOD AND NUTRITION SERV., Rep. No. FSP-04-PO, OBESITY, POVERTY, AND PARTICIPATION IN NUTRITION ASSISTANCE PROGRAMS 20 (2005) (“Many low-income individuals are both obese and are participants in one or more of FNS’ food assistance programs. The sparse research that has been published provides no consistent evidence of association and no evidence to conclude that there is a sound empirical basis of a causal relationship . . .”).

68. Another problem with the subsidy economy is that economic power amasses in large farming operations, allowing them to take over every stage of production, from contracting small farms, to owning processing plants staffed by immigrant workers who are often treated as a fungible commodity. See COOK, *supra* note 49, at 133-35, 187-220. This continues the cycle of driving down prices and driving small farms out of business.

tends to be). Furthermore, the food provided is likely to drive local farms out of business in recipient countries, for the simple reason that free food is more economically desirable than food that comes at a cost⁶⁹—in the long term, “[f]ood aid can be ambiguous in its impact, bringing short-term relief from hunger, but also harming local producers by destroying their markets and ultimately putting them out of business.”⁷⁰

To summarize, United States policies (1) ensure that the cheapest foods will be the least healthy, by subsidizing both production and consumption of such foods, (2) create a market in which, because the poor can only afford the least healthy food, they do not even have access to healthy food, and (3) drive small farms out of business, thus decreasing access to healthy foods even in rural communities at home and abroad. These policies violate the right to food because they subsidize production of low-quality foods,⁷¹ because they leave millions hungry⁷² and encourage the inequitable distribution of high-quality foods.⁷³ Moreover, recent scholarship⁷⁴ has drawn a clear tie between the food production system in the United States and serious environmental degradation, thereby demonstrating that United States policies violate the right to food’s guarantee of a sustainable system of production.⁷⁵

Because American policies do, therefore, violate the right to food at home and abroad, the next part of this article will offer some suggestions as to how the United States might actually implement the right to food.

69. See Karol C. Boudreaux & Adam Aft, *Fighting the Food Crisis: Feeding Africa One Family at a Time*, 32 ENVIRONS ENVTL. L. & POL’Y J., 131, 176 (2008) (“When food-aid is monetized, local consumers benefit from access to cheap food only at the expense of local farmers, who are often unable to compete with the prices at which food-aid is sold. Farmers thus have disincentives to produce the food that is provided cheaply as a result of food-aid. . . . [I]f food-aid is available, recipient governments may pay local farmers less for purchases the public sector needs to make. Additionally, consumers who have access to food-aid do not need to buy locally produced food, further driving down prices on local markets.”).

70. MARKS & CLAPHAM, *supra* note 6, at 173.

71. See CECRSR, *supra* note 9, at ¶ 8 (regarding the requirement of access to quality foods enshrined in the right to food).

72. *Id.* at ¶ 6 (regarding the requirement of access to a sufficient quantity of food).

73. *Id.* at ¶ 12 (regarding the requirement that food be generally accessible).

74. See, e.g., Jennifer Hoffpauir, Note, *The Environmental Impact of Commodity Subsidies: NEPA and the Farm Bill*, 20 FORDHAM ENVTL. L. REV. 233 (2009).

75. CECRSR, *supra* note 9, at ¶ 8.

IV. IMPLEMENTING THE RIGHT TO FOOD

The most realistic way for the United States to implement the right to food involves using economic policies to shift food production from corporate producers to local producers and food consumption from multinational corporate-produced to locally produced goods. Given the United States' hesitancy to recognize human rights-oriented international law as binding, other commonly discussed methods (such as enforcing a right to food under customary international law against either the United States itself⁷⁶ or the corporate farm operations that operate within its borders⁷⁷) are likely not viable. Similarly, although it has been argued that there is a developing trend of recognizing human rights responsibilities in corporate codes of conduct,⁷⁸ leaving the problem to corporations or the market to solve is similarly not viable. The main reasons for this are, first, that the market has been skewed by government policies which deflate the value of agricultural commodities on the world market.⁷⁹ Second, the very consolidation of food production in corporate hands is itself part of the problem.⁸⁰ Corporations are responsible to their shareholders, and until the market allows the poor to demand healthy foods, corporations are likely to maintain production of cost-effective but unhealthy goods.⁸¹

Therefore, the best solution is to change, but not wholly abandon, current government policies: (1) to shift subsidies from large to small farms, (2) to create incentives for farms to serve local markets, perhaps by the proxy method of strengthening environmental incentives, (3) to provide more robust food

76. See, e.g., Narula, *supra* note 24, at 795-96.

77. See, e.g., David Kinley & Junko Tadaki, *From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law*, 44 VA. J. INT'L L. 931, 1007 (2004).

78. Douglass Cassel, *Corporate Initiatives: A Second Human Rights Revolution?*, 19 FORDHAM INT'L L.J. 1963, 1963-64 (1996).

79. For a straightforward discussion of the Farm Bill's overall effect on international markets, see INST. FOR AGRIC. & TRADE POLICY, A FAIR FARM BILL FOR THE WORLD'S HUNGRY 1 (2007), <http://www.agobservatory.org/library.cfm?refid=98205>.

80. This problem derives from corporations' core responsibility to their shareholders, succinctly summarized as follows: "Staunch advocates of laissez faire economics argue that it would actually be wrong for corporations to seek to improve social welfare. Accordingly, corporations could pursue this end only by violating their obligations to shareholders, for it is shareholders' money that would be spent on these efforts." Marion Danis & Amy Sepinwall, *Regulation of the Global Marketplace for the Sake of Health*, 30 J.L. MED. & ETHICS 667 (2002).

81. *Id.*

stamps whose purchasing power is greater for healthier foods, (4) to provide some form of credit—perhaps a tax credit—for buying or supporting local agriculture, (5) to decrease both food imports and exports, (6) to provide food aid by purchasing food from small, local producers, (7) to provide grants to NGOs that focus on capacity-building, and (8) to provide low-interest startup loans to local farmers. These solutions generally do not run afoul of standard United States policy, but would improve the availability of healthy foods. In particular, the solutions are based on the idea of food sovereignty, which was defined *supra* as granting people “control over the production, processing and distribution of food”⁸² Because food insecurity tends to be a local problem,⁸³ restoring food sovereignty at the community level is likely the best solution.

A. Domestic Policies

1. Production

Shifting subsidies from large to small farms may be accomplished by further limiting the total subsidy amount that a single farm operation may receive,⁸⁴ by setting acreage and yield caps, and by enforcing these caps through more rigorous investigations of subsidy requests.⁸⁵ Some of these changes already have mustered broad support, but can still be difficult to pass in practice:

Just this week, the Senate dealt a double blow to farm reform advocates by blocking twin proposals that would impose a tighter cap on annual payments per farm and begin to bar wealthy producers from receiving any subsidies. In both cases, a ma-

82. MARKS & CLAPHAM, *supra* note 6, at 177.

83. For a discussion of the reasons for conceptualizing food issues at a local or community level, see Kameshwari Pothukuchi & Jerome L. Kaufman, *Placing the Food System on the Urban Agenda: The Role of Municipal Institutions in Food Systems Planning*, 16 AGRIC. & HUMAN VALUES 213, 217-18 (1999).

84. The current Farm Bill imposes a limit of \$40,000 per person per year from direct subsidies and \$65,000 per person per year from counter-cyclical payments. See Food, Conservation, and Energy Act of 2008, Pub. L. 110-234, § 1603, 122 Stat. at 1002-03 (to be codified at 7 U.S.C. § 1308).

85. On the problem of farm subsidy oversight, see Brian Faler, *Farm Subsidy Rules Called Too Vague*, WA. POST, July 1, 2004, at A21, available at <http://www.washingtonpost.com/wp-dyn/articles/A19029-2004Sun30.html> (“The federal government is giving millions of dollars in farm subsidies to people who should not receive them, thanks to vague government regulations and insufficient oversight, according to congressional investigators.”).

jority of those senators voting supported the amendments, but neither initiative could summon the 60 votes needed to avoid a potential filibuster . . .⁸⁶

That this proposal garnered such broad support, however, shows that it is perhaps the solution most broadly recognized as necessary. Limiting payments to large farms, when combined with increasing subsidies for small, local farming operations, could help restore community food sovereignty.

The government could also encourage the creation of small farms and even urban food gardens or farmers' markets⁸⁷ by creating stronger incentives based on location, localization, and environmentally sound practices.⁸⁸ If an urban farm could receive a subsidy to produce vegetables rather than grains, and if that subsidy were provided simply because the farm were urban and sustainable, that would be a step toward improving local production and access to food, and therefore food sovereignty. Even better, the government could subsidize community supported agriculture—that is, if members of a community each contribute some small investment to a local farm in exchange for the food that farm produces, the government could provide a buffer for that farm to operate. This solution could be practicable even for poor communities, because the food costs to these communities would exclude factors such as advertising and shipping that contribute to higher prices of mass produced food.⁸⁹ All of the subsidies described above would have to be subject to strict caps in order to prevent abuse. Overall, however, environmental and localization incentives would strengthen local farms and increase the food sovereignty of local populations.

Some may argue either that the government should not take such an active hand in the farm economy or that the policies above would simply raise the overall cost of food, thus further limiting access. As for the first argument, food is such an integral ingredient to life that some government intervention is likely

86. David Rogers, *Senate Passes \$286 Billion Farm Bill, Expanding Subsidies for Growers*, WALL ST. J., Dec. 14, 2007, available at <http://online.wsj.com/article/SB119766516290730021.html>.

87. Tom Philpott, *Turn the Eat Around*, GRIST, Feb. 22, 2009, <http://www.grist.org/article/philpott7> (last visited Dec. 1, 2009); see Added Value, <http://www.added-value.org/> (last visited Dec. 1, 2009).

88. For a more thorough discussion of this proposal, see William S. Eubanks, *The Sustainable Farm Bill: A Proposal for Permanent Environmental Change*, 39 ENVTL. L. REP. 10,493, 10,506-07 (2009).

89. COOK, *supra* note 49, at 221 (discussing the factors that increase the cost of food).

necessary to ensure a strong supply—to stabilize the market.⁹⁰ Furthermore, the government has taken an active role in the farm economy for generations now, and to simply back out might cause not only destabilization in the market but who knows what other repercussions.⁹¹ And because the current government policies create problems for the poor, the government has an ethical obligation to remedy the situation it has created.⁹²

As to the argument that shifting subsidies from large producers to local producers would raise the overall cost of food, this policy would instead raise the cost of traditionally cheap mass-produced food while rendering locally produced food (which does not bear the added costs of processing, shipping, or advertising) much cheaper.⁹³ This would simply create incentives for the consumption of healthy, locally produced food.

90. See Jeffrey A. Peterson, *The 1996 Farm Bill: What to (Re) Do in 2002*, 11 KAN. J. L. & PUB. POL'Y 65, 65 (2001) (explaining that “[p]ast federal farm policies used . . . production controls to balance supply with demand”).

91. According to one commentator: “There are two dimensions to the threat that liberalization poses. First, changes in agriculture ensuing from liberalization may directly impinge on the accessibility and availability of food to the individual. Second, trade obligations may limit the ability of governments to avert or respond to potential violations of the right to food.” Chris Downes, *Must the Losers of Free Trade Go Hungry? Reconciling WTO Obligations and the Right to Food*, 47 VA. J. INT'L L. 619, 636 (2007).

92. This ethical obligation flows from principles of corrective justice. For an interesting analogous situation, albeit one in which the absence of regulation rather than affirmative government actions create harm, consider the following from Eric A. Posner & Cass R. Sunstein, *Climate Change Justice*, 96 GEO. L.J. 1565, 1592 (2008) (“In the context of climate change, the corrective justice argument is that the United States wrongfully harmed the rest of the world—especially low-lying states and others that are most vulnerable to global warming—by emitting greenhouse gases in vast quantities. On a widespread view, corrective justice requires that the United States devote significant resources to remedying the problem—perhaps by paying damages, agreeing to extensive emissions reductions, or participating in a climate pact that is not in its self-interest.”).

93. This conclusion relies on a consistent overall funding level. If a large farm operation receives \$1000 to produce corn, then consumers as a whole will end up paying approximately \$1000 less for the products of that corn at market. If that \$1000 is shifted to small farms and divided into ten \$100 payments, those farms’ savings—\$1000 in the aggregate—are still passed on to their consumers. It is possible that some efficiency will be lost by the transition to small farms, and therefore that overall prices will rise slightly, but it is only by reducing or eliminating subsidies that prices will rise significantly.

2. *Consumption*

Providing a sliding scale food stamp benefit, worth more for the purchase of vegetables than potato chips, would create an incentive to consume healthy foods without removing the choice from poor consumers who might want to buy less healthy foods. Far from controlling individual eating habits, this policy would allow the poor real choice in purchasing food. Moreover, increasing the purchase power of the poor would lessen economic disincentives for supermarkets and other food sellers to remain in poor areas.⁹⁴ This greater purchase power could also allow the poor to patronize urban farmers' markets. The greater cost of these sliding scale food stamps to the government could be offset by decreasing farm subsidies to huge farm operations as outlined above. Additionally, the program would not necessarily be much harder to implement than the current food stamp program; the main burden would be first creating the scale, and deciding which foods are deserving of greater subsidies. For a less radical solution, however, simply providing greater funding for the food stamp program—allowing greater benefits to individuals and ensuring that those benefits track inflation—could go a long way toward achieving some of the same benefits as the sliding scale program briefly discussed *infra*.

B. *Foreign Policies*

1. *Exporting and Importing Food*

Because exports of subsidized foods drive foreign farmers out of business and render foreign people dependent on U.S. food production,⁹⁵ the United States should decrease its exports. The regime described above, which provides incentives to localize, should cut down on the food surplus, with the natural re-

94. See Kameshwari Pothukuchi, *Attracting Supermarkets to Inner-City Neighborhoods: Economic Development Outside the Box*, 19 *ECON. DEV. Q.* 232, 233-34 (2005).

95. See Daniel G. De La Torre Ugarte & Alejandro Dellachiesa, *Advancing the Agricultural Trade Agenda: Beyond Subsidies*, 19 *GEO. INT'L ENVTL. L. REV.* 729, 746-47 (2007) ("In agriculture, the single most important issue should be the elimination of dumping [flooding the market with artificially low-cost goods]. The low prices caused by dumping directly affect the livelihood of almost two billion people whose economic livelihood is linked to agricultural production. The low prices that dumping creates generate benefits that are appropriated by the large firms, which dominate the agricultural marketing systems of developed and developing countries alike. The benefits of low prices very seldom reach consumers.").

sult that food exports would decline. Additionally, mass-produced food prices would likely rise, and without the government subsidies allowing them to sell below cost in foreign countries, local farmers might be able to compete. If, however, the United States were not to decrease subsidies for mass producers, then it would be appropriate to decrease food exports by imposing an export tax on food, thus allowing more room for local farmers in foreign markets. In either event, in order to avoid famines and allow foreign farmers to begin increasing their productivity, such policies should be phased in over a course of years. Additionally, because export taxes tend to benefit domestic consumers and governments but harm domestic producers,⁹⁶ the government would need to take some measure to offset this detriment to producers.

To accomplish that goal, the United States should allow local farms at home to flourish by imposing tariffs on food imports.⁹⁷ Tariffs would help to prevent other resource-rich nations from undercutting domestic production in the United States the same way the United States has undercut production in foreign countries. The main problems with these policies are again the free market argument that the United States should not meddle with food economics, and the corresponding argument that such policies might violate free trade agreements such as the World Trade Organization Agreement on Agriculture.⁹⁸ There are likely sufficient reasons outlined above in this paper to overcome the free market argument—between subsidies and food aid, the market isn't free from government influence now, and because current government policies have created problems, the government should remedy the problems. As for the treaty violation argument, the most practical solution might be for the United States to renegotiate free trade agreements. The United States has sufficient economic power

96. See Troy Schmitz, *Measuring Inefficiency in the Presence of an Export Tax, an Import Tariff, and a State Trading Enterprise*, 34 J. AGRIC. & APPLIED ECON. 81, 89-90 (2002) (study finding that the inefficiencies resulting from export taxes and import tariffs in Turkish cotton markets are small). "In addition, export taxes . . . cause significant transfers from producers to taxpayers and consumers. On the other hand, import tariffs . . . cause significant transfers from both domestic and foreign consumers to producers." *Id.*

97. See *id.* at 89-90 (discussing Turkey's implementation of tariffs in agriculture).

98. See Agreement on Agriculture, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, Legal Instruments—Results of the Uruguay Round, 33 I.L.M. 1125 (1994). The Agreement on Agriculture calls for "increased market access for agricultural products, decreased domestic support of farming, and reduced subsidising of agricultural exports." Chris Downes, *Must the Losers of Free Trade Go Hungry? Reconciling WTO Obligations and the Right to Food*, 47 VA. J. INT'L L. 619, 631 (2007). Eliminating the tariff suggestion, the other recommendations of this article may well comport with the Agreement on Agriculture.

that it can likely create an exception for food tariffs by bringing something else to the table—for example, the elimination of subsidies to mass-produced food. Even imposing export taxes will benefit other countries, and might provide some ballast for the imposition of tariffs. Finally, in considering the policy implications of the intersection between trade liberalization and food production, it is most important to keep in mind the words of the Special Rapporteur: “More than any other sector of production, agriculture provides a source of livelihood as well as sustenance for the world’s poor. It must therefore enjoy a special status in the world trading system.”⁹⁹

2. Food Aid

To the extent possible, the United States should purchase more of its food aid from small, local producers, as the Government Accountability Office recently recommended.¹⁰⁰ Presently, the policy of shipping domestically produced commodity crops and their derivatives as food aid is terribly inefficient in terms of both time and money,¹⁰¹ and also runs counter to various elements of the right to food inasmuch as the policy contributes to the destruction of markets that are more local to the recipients of United States food aid.¹⁰² Nonetheless, the requirement that international food aid be produced domestically is a legal requirement: “[m]ost funding for U.S. food aid is authorized under the Food for Peace Act and cannot be used to purchase foreign-grown food.”¹⁰³ Because of the inefficiency of this requirement, the Government Accountability Office issued the following statement to the House of Representatives and to the various agencies responsible for implementing international food aid:

99. Special Rapporteur, *supra* note 13, at ¶ 21.

100. *International Food Assistance: Testimony Before the Subcomm. on Africa and Global Health, Comm. On Foreign Affairs*, 100th Cong. 1 (2009) (statement of Thomas Melito, Director, International Affairs and Trade Team, Gen. Accountability Office) (explaining that U.S. Food aid can be enhanced through the use of local and regional procurement).

101. *See id.* at 3 (“We found that locally and regionally procured food costs considerably less than U.S. in-kind food aid for sub-Saharan Africa and Asia, though the costs are comparable for Latin America . . . We found that international in-kind donation took the longest, averaging 147 days. Local and regional procurements took on average 35 and 41 days. . .”).

102. *See id.* at 5, n.9 (“Transoceanic shipments of in-kind food aid, if not carefully targeted, can have the . . . detrimental market impact of depressing market prices by rapidly increasing the supply of food in markets.”).

103. *Id.* at 7.

[T]he timely provision of food aid is critical in responding to humanitarian emergencies and food crises, and LRP [local and regional procurement] has the potential to better meet the needs of hungry people by providing food aid in both a more timely and less costly manner. To fully realize this potential, however, challenges to its effective implementation must be addressed.¹⁰⁴

Indeed, although the flow of money to local markets runs the risk of driving up prices due to high demand,¹⁰⁵ this influx could also contribute to the revitalization of an agricultural sector in areas that have been the victims of U.S. commodity dumping.¹⁰⁶ By both providing food to the needy and encouraging the growth of local agricultural markets, purchasing food aid from local and regional sources is the policy most consistent with restoring food sovereignty and implementing the right to food.

The United States can also undo some of the harm it has imposed abroad by increasing grants to capacity-building non-governmental organizations (“NGOs”) for work abroad and perhaps even at home.¹⁰⁷ These grants could draw from the USAID funds that currently provide direct food aid abroad. While some direct food aid will likely be necessary under certain conditions, capacity building is far more useful in the long term, and has a much smaller chance of driving local farmers out of business.¹⁰⁸ The program could give NGOs grants for providing people in less developed nations with information on farming techniques (particularly sustainable techniques such as polyculture farming, in which crops are rotated in such a way that fertilizer is unnecessary because different plants return nutrients to the soil), seeds, and equipment. The idea of such grants

104. *Id.* at 10.

105. *Id.* at 5.

106. *See, e.g.*, INST. FOR AGRIC. & TRADE POLICY, *supra* note 79, at 8 (“U.S. food aid urgently needs to be reformed to better help the world’s hungry. While the world has seen increases in food production, food dependency in many developing countries has grown. . . . Most countries in sub-Saharan Africa, and many others in the developing world, need to increase their domestic food production in order to effectively combat hunger.”).

107. *See* Frank Tenente, *Feeding the World One Seed at a Time: A Practical Alternative for Solving World Hunger*, 5 NW. J. INT’L. HUM. RTS. 298, 310 (2007) (“The most logical change to the current foreign food aid programs is to move away from a top-down approach and instead provide the means to produce food to local rural communities in developing countries that depend on local food production for survival. Until recently, food production has been considered too costly for developing communities to grow high yielding harvests because such harvests previously required large amounts of costly pesticides and fertilizers to grown ample amounts of food. Today, tools are available that would allow developing countries to get around the impediments to successful harvests.”).

108. Boudreaux & Aft, *supra* note 69, at 176.

does not seem terribly objectionable, especially because that food aid money is already being spent. Furthermore, when the money is spent on capacity rather than direct aid, ideally the next year there will be less of a need for both kinds of aid because people will be producing for themselves.

Finally, the United States could provide low-interest startup loans to foreign farmers, thus encouraging development, promoting food sovereignty abroad, and not only recouping expenses but making a small profit.¹⁰⁹ If people abroad have the knowledge but lack some commodity—whether that be land or equipment—necessary for farming, low-interest loans could be a good way to get a farmers started without subjecting them to profit-centered private loans.¹¹⁰ Because farming will not always turn a large profit, such loans should be limited in scope, and the interest rate should be similar to that applied to educational loans—after all, food is perhaps even more necessary than education.¹¹¹

While they might not end food insecurity for good, the policies above at least take steps toward decreasing the power of large corporations and corporate farms over food production, restore that power to communities, increase access to healthy food, and thereby implement the right to food.

V. CONCLUSION

Although the right to food has been gaining traction worldwide, the United States refuses to recognize such a right in international law. At the same time, the United States spends billions of dollars a year subsidizing food production, subsidizing food consumption, and providing food aid abroad. While these United States policies work on a micro level—that is, they directly benefit those who receive them—they contribute on a macro level to an economy in which the poor do not have access to healthy food. Changing these policies to incentivize local food production both at home and abroad is the best way for the United States to implement the right to food without requiring the United States to ac-

109. For a discussion on the benefits of providing small loans to the rural poor, see Aaron Jones, *Promotion of a Commercially-Viable Microfinance Sector in Emerging Markets*, 13 *GEO. J. ON POVERTY L. & POL'Y* 187, 188-93 (2006).

110. *Id.* at 188-193.

111. Indeed, the amount the government currently spends farm subsidies is “substantially more” than the amount it spends on educational Pell grants. Tom Philpott, *The Short-Term Solution That Stuck*, *GRIST*, Jan. 30, 2007, http://www.grist.org/comments/food/2007/01/30/farm_bill2/.

tually recognize such a right.¹¹² While ideally the United States will eventually recognize the value of international human rights law, in the meantime bringing domestic policies into compliance with the norms of international human rights—particularly the truly fundamental right to food—is not a bad compromise.

112. Moreover, it has been suggested that “deficiencies [in U.S. implementation of human rights law] will be most effectively and legitimately rectified through targeted democratic lawmaking” Jack Goldsmith, *Should International Human Rights Law Trump U.S. Domestic Law?*, 1 CHI. J. INT’L L. 327, 334 (2000).