

**POLICY BRIEF, MARCH 2024**

# **International Human Rights Law, Economic Policy and Food Security in Pakistan**

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## **Executive Summary**

### **Issue**

The issue of food security in Pakistan is of vital importance. The presumption is that liberal economic principles shall save the country from food shortages. However, these policies only work to exacerbate the problem. As a result, Pakistan violates various provisions of International Human Rights Law.

### **Recommendations**

- Agricultural Policy Institute needs to form and maintain a monitoring system which sufficiently handles the data for the technicalities in relation to nutritional reporting for national and international purposes.
- In bilateral discussions leading to IMF loan agreements, the linchpin of the negotiations must be to preserve food security. It needs to be highlighted in these discussions that IMF is responsible to respect international frameworks especially in relation to food security stemming from the corpus of human rights law.
- Pakistan needs to ratify the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights which shall enable Pakistan to launch a complaint against European countries in the Committee for Economic and Social Rights for infringing the economic and social rights of Pakistani citizens. However, Pakistan needs to make reservations in relation to Article 2 of the Optional Protocols.
- Establishment of an agency is required which can issue continuous electronic guidelines keeping in view of the consumer price index for updating wages in different parts of the country and for updating the minimum safety nets to protect people from falling in chronic poverty.
- To achieve sustainable food security, equitable access to land holding is essential.

## **Overview**

The situation of food security around the world is abysmal but it is horrifying in Pakistan. According to the World Food Program, 20.5% of the population in Pakistan is undernourished and 44% of the children in Pakistan are stunted.<sup>1</sup> Therefore, it is clear that Pakistani State has failed to keep the obligations under International Human Rights Law which require them to preserve food security. The panacea to solve this issue that Western educated development consultants prescribe is to adopt liberal economic policies of investment via Trans-national corporations ('TNCs') and ideas such as Sustainable Development Goals ('SDGs'). However, these ideals have often exacerbated the problem primarily due to their detachment from the local conditions and due to their short – term shallow goals. They have also trapped Pakistan in violations of International Law while TNCs and International Financial Institutions ('IFIs') evade responsibility. This brief shall argue that a fundamental shift in economic policy and philosophy is actually required to solve the crisis of food security in Pakistan. For this purpose, the Government of Pakistan ('GoP') must stop adopting the prescription of liberal development agents. This shall allow country the breathing space to uphold international human rights law and to slowly adopt fundamental shifts which are essential for the larger policy of ensuring food security in Pakistan.

## **Analysis**

### **I) Legal Liabilities on Pakistan in relation to Food Security**

The International Law and various treaties make the Pakistani State liable to protect people from food insecurity. Article 25 of the Universal Declaration of Human Rights ('UDHR') states that 'everyone' deserves an adequate level of food and well – being. Article 11 of International Covenant on Economic, Social and Cultural Rights ('ICESCR') further reiterated this right and stated that States which are parties to the Covenant recognize the right to adequate food and to undertake all steps which are essential for securing this right. The parties to the Covenant must also recognize this

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<sup>1</sup> Country Brief, World Food Program < <https://www.wfp.org/countries/pakistan> >

right to everyone, and for that purpose, the States shall take measures to improve methods of production.

It must be noted that right to adequate food is on a relative standard as reflected in Article 11(1) of ICESCR while right to be completely free from hunger is absolute. The steps should be progressive which means that they are required as expeditious as possible. The action must be prompt if there is a natural disaster. The 'core content' of this right must be to provide food which is available in terms of quality and quantity to provide enough dietary needs. The States must respect, protect, and fulfil human rights. The ambit of respect requires that there should be no interference and should not take measures which restrict the access of these rights. The protection requires that there should be no individual or any institution which should restrict the access of food. The duty to fulfil means to facilitate and to ensure provision in a way that is secure, sustainable, and comprehensive.<sup>2</sup>

## **II) Absence of Legal Liabilities on IFIs and TNCs**

It must be noted that IFIs and TNCs are not liable under International Law although they are primarily controlled and backed by powerful states. Both IFIs and TNCs can have considerable leverage in the States they operate. Similarly, the States in which they are going to operate must conduct all the due diligence before allowing the companies or international organizations to operate in the country. Generally, the violations of ICESCR, under the Maastricht Guidelines, generally are imputed towards the State in which these violations.<sup>3</sup>

The 'effective control test' is traditionally used for the armed conflicts, however, even if it is used for economic purposes, there must be some level of control which the States should exert over the economic policies. There is also considerable emphasis on the international cooperation and there should not be any space for food embargoes and to use such things as a way for political pressures. For imposing the liability on TNCs and IMF for violating the right to food, there must be accountability

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<sup>2</sup> Office of the High Commissioner for Human Rights, General Comment No.12: The Right to Adequate Food (Article 11)

<sup>3</sup> Jason Morgan Foster, 'The Relationship of IMF SAPs to ESRs: The Argentine Case Revisited', 24:2 Michigan Journal of International Law 577, 623

through States. Mostly, it is through the State in which the TNCs and IFI is operating.<sup>4</sup> This was best manifested in the *Ogoniland* case wherein it was reasoned that Nigeria has failed to uphold the legal obligations as it did not hold the private oil companies accountable for their actions in violating human rights of the local people.<sup>5</sup> However, in terms of the current global system where the private companies are generally much more powerful than these States, there is no doubt that companies collude with the local elite and governments so that they can easily invest and reap profits. The investments put the TNCs much in the realm of the power in these countries in which they invest, and this causes the local government to have less access in holding them accountable.<sup>6</sup>

### **III) Liability for States Controlling IFIs and TNCs**

There is considerable leeway in holding Western States accountable for the external activities of their international organizations under Maastricht guidelines. Within these guidelines, there is a provision which does require States to protect human rights externally if the States participate in international organizations such as IMF. As a result, the influence of these States on these international organizations must be considered especially when these policies are implemented in countries which do not have enough power to resist their pressure in protecting their economic, social, and cultural rights. It must be noted that countries are in desperate need when they contact IMF, and IMF should use the influence to provide contingencies in relation to safeguarding the rights of humans. Most of the times, the rulers of these states are not accountable to their citizens as well and can be prone to not following their interests.<sup>7</sup> In line with these interpretations, it is plausible to say that obligations in relation to ICESCR are *erga omnes* especially considering right to food and that the States must consider such obligations when conducting themselves internationally whether in the form of bilateral or multilateral level.<sup>8</sup> At the same time, there is considerable

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<sup>4</sup> Ibid, 630

<sup>5</sup> Decision Regarding Communication 155/96 (Social and Economic Rights Action Center/Center for Economic and Social Rights v. Nigeria). Case No. ACHPR/COMM/A044/1

<sup>6</sup> Narula, S. (2006) 'The Right to Food: holding global actors accountable under international law', Columbia Journal of Transnational Law, Vol 44 Issue 3, 691, 756-758

<sup>7</sup> Narula, S. (2006) 'The Right to Food: holding global actors accountable under international law', Columbia Journal of Transnational Law, Vol 44 Issue 3, 691, 740-741

<sup>8</sup> Ibid, 759

understanding that the States shall be liable for the non – state actors and the States must conduct human right due diligence to protect their citizens when interacting with any of these non – state actors.<sup>9</sup>

Article 5(7) of the Food Assistance Convention also requires States to contribute towards the food security. Similarly, the Article 4 of the draft presented at the World Food Summit also requires that the national and local governments to ensure accountability in terms of food security as improving access to the poor and vulnerable would require consideration of this right without discrimination. For this purpose, Structural Adjustment Programmes can be suspended if they infringe the right to food. The 2012 Food Assistance Convention also make States liable to make food assistance and not to indulge in such practice on voluntary basis. It sets the benchmarks, and the parties should make the commitments which are in accordance with the predictability of the food resources.<sup>10</sup>

#### **IV) IFIs, TNCs and Violations of Right to Food in Pakistan**

Pursuant to Structural Adjustment Programs ('SAPs') of International Monetary Fund ('IMF'), privatization and deregulation of essential facilities such as water and wheat leads to a limited access of clean water and food which causes food insecurity. This results in more diseases for low-income groups causing further reliance on healthcare. Similarly, the currency devaluation does result in food prices to increase which leads to malnutrition especially for labour who conduct physically intensive work. Household income and food intake has clear causality which results in malnutrition with decreasing purchasing power. In terms of Foreign Direct Investment, commercial objective of profit appropriation of foreign companies causes essential services such as water to become a product of profit maximization.<sup>11</sup> Considering this detrimental impact on the health of people through lack of access to adequate food and healthcare, any austerity measures which IMF posits combined with rising inflation and unemployment violate the GoP's obligations towards International Human Rights Law.

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<sup>9</sup> Ibid

<sup>10</sup> A La Chimia (2016). FOOD SECURITY AND THE RIGHT TO FOOD: FINDING BALANCE IN THE 2012 FOOD ASSISTANCE CONVENTION. *International and Comparative Law Quarterly*, 65, pp 133,137

<sup>11</sup> Liam Clegg, 'The IMF Record on Social Protection: Pro-poor or Poor?' (2017) *Assessment: The IMF and Social Protection* Washington, 699, 702 - 705

In purely legal terms, austerity measures can only be justified in terms of factors which are beyond the control of State and States are required to view totality of rights. Therefore, ideas such as savings and fiscal discipline cannot be used to cut down essential services like right to food.<sup>12</sup>

## **V) IFIs, TNCs and Violations of Right to Food in Similar Countries**

From experiences of other countries, increasing behaviour is observed from the TNCs such as Monsanto in causing the adverse effects on right to food. Monsanto increased their prices of agricultural production, but reduced the money given to farmers. UN Global Compact of 2000 highly urged the corporations to respect their sphere of influences. This could also make the country which controls such TNCs liable for the international conduct of the organization.<sup>13</sup>

The cases in Niger were even more interesting as the 2005 famine was caused due to the intervention of IMF policies. In this case, both the Niger government and the countries which were key stakeholders of IMF shall be responsible. The government supported the market-based subsidy approach and did not provide free grains to the people in line with the reasoning of IMF. Even in these conditions, the IMF argued that the Value Added Tax on milk and sugar was necessary to provide revenue for poverty reduction programs. Niger was forced in a situation of devil and the deep sea wherein they had the choice either to accept the IMF conditionalities or the UN requirements of food security.<sup>14</sup>

Haiti is another example where effect of the international organization's insistence of neo – liberal economics was responsible for causing the adverse effect on the right to food. Haiti's economy opened to international trade. In 1980, Haiti imported only 16,000 metric tons of rice while Haiti imported almost 270,000 metric

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<sup>12</sup> Ibid

<sup>13</sup> Narula, S. (2006) 'The Right to Food: holding global actors accountable under international law', Columbia Journal of Transnational Law, Vol 44 Issue 3, 691, 723

<sup>14</sup> Conceição, Pedro and Ronald U. Mendoza (2009) 'Anatomy of the Global Food Crisis', Third World Quarterly, Vol 30 No 6, 1159, 1162

tons of rice by 2004.<sup>15</sup> This caused Haiti to be an import dependant country having severe food insecurity.<sup>16</sup>

## **VI) Ineffectivity of Sustainable Development Goals ('SDGs') for Prevention**

The Open Working Group proposal for SDGs stated that the poverty eradication is the greatest global challenge in terms of SDGs. People are at the centre of development and high focus should be placed on their inclusive growth as well protection of them from environmental degradation. The Working Group also considers that there is a need to consider data and measurable outcomes to understand the policies and move forward with them. SDGs from Goal 1 to Goal 17 relates with the idea of ending of poverty and inequality, having food security with all nutritional aspects as well as having a proper clean system of cities with good and clean back – up of water, sanitation, and energy.<sup>17</sup>

*Prima facie*, SDGs appear to be an advocacy tactic for food security. Sachs considers that SDGs do provide some noble ideas which are devoid of the previous Western smugness about economy and society. It recognizes that the previous fashion of development is detrimental for planet, and subsistence is more important than affluence. SDG does recognize the harms of materialism. It also does not frame the issues in 'catching up' of Global South while framing Global North as the benchmark of development.<sup>18</sup> However, SDGs still does not challenge the basis of the assumptions of the global capitalistic system which values the idea of economic growth, investment, and globalization which caused food insecurity through the web of TNCs and IFIs in Global South as analysed above. The conception of SDGs is still very much rooted in the economic system which values individualism, autonomy of companies, and does not consider anyone a legal personality except a person or a company or a State.

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<sup>15</sup> Conceição, Pedro and Ronald U. Mendoza (2009) 'Anatomy of the Global Food Crisis', Third World Quarterly, Vol 30 No 6, 1159, 1162

<sup>16</sup> Conceição, Pedro and Ronald U. Mendoza (2009) 'Anatomy of the Global Food Crisis', Third World Quarterly, Vol 30 No 6, 1159, 1182

<sup>17</sup> Volume 38, 2017 - Issue 12: Special issue: The Development Dictionary @25: Post-Development and its consequences.

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<sup>18</sup> Ibid



## **VII) Recommendations**

- Pakistani State needs to form and maintain an electronic monitoring system within Agricultural Policy Institute which sufficiently handle the data for the technicalities in relation to nutritional reporting for national and international purposes. Moreover, a framework is required within Agricultural Policy Institute which keep record of the country's domestic and international obligations in relation to food security which would sufficiently allow them to keep guard of their commitment to food security.<sup>19</sup>
- In bilateral discussions leading to IMF loan agreements, the linchpin of the negotiations must be to preserve food security which shall be backed with the data and legal obligations. It needs to be highlighted in these discussions that IMF is responsible to respect to international frameworks especially in relation to food security stemming from the corpus of international law.<sup>20</sup> Therefore, recommendations of currency devaluation and privatization of health services leads to malnutrition of people which is a violation of international legal and development objectives.<sup>21</sup>
- Pakistan needs to ratify the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights ('Optional Protocol') with a reservation that complaints under Article 2 of the Optional Protocols shall only be admissible if the country is not adopting IMF programs to avoid fiscal default. This shall enable Pakistan in making a complaint under Article 10 of the Optional Protocols to the Committee of Economic, Social and Cultural Rights against European countries which have ratified the Optional Protocols; have made a declaration under Article 10 of the Optional Protocols and which have significant controlling interests in IMF and TNCs operating in Pakistan. Pakistan can also advocate that USA needs to ratify Optional Protocols considering the huge advocacy of the USA for human rights.
- It shall be preferable for the GoP to focus on including sustainable and equitable holding of land. To achieve this outcome, an access to equitable land is

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<sup>19</sup> Para 130, E/CN.4/Sub.2/1999/12 28 June 1999

<sup>20</sup> The 1997 Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, 291, 262; Jason Morgan Foster, 'The Relationship of IMF Structural Adjustment Programs to Economic, Social, and Cultural Rights: The Argentine Case Revisited', (2003) 24:2 MJLI 578, 630

<sup>21</sup> Michael Thomson, Alexander Kentikelenis, and Thomas Stubbs, 'Structural adjustment programmes adversely affect vulnerable populations: a systematic-narrative review of their effect on child and maternal health', (2017) 38:13 Thomson et al. Public Health Reviews <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5810102/>

important for food security to create purchasing power which shall be a corollary of alleviation of stress of landlessness.<sup>22</sup> This is essential to prevent a person from a trapping in cycle of chronic poverty. In the transitional phase, investment in the safety nets to protect transitory poor is essential. For this purpose, heavy digitalization of wages' data and link with consumer price index shall be required and a creation of an agency for ensuring the outcomes.<sup>23</sup>

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<sup>22</sup> Amartya Sen (1999) *Development as Freedom*, Cambridge, Cambridge University Press, p. 36; Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* (Oxford: Oxford University Press, 1987), 165-66

<sup>23</sup> Barrett and Maxwell (2006) *Food Aid after Fifty Years, Recasting its role* (Routledge) 118 – 119

Note: This brief is inspired by author's own research. Any potential similarity in similarity softwares shall be from author's own submissions.

## Recommendations and Action Matrix

### Legal Options for Government

Recommendations	Pathways to Solution	Implementation of Solution	Actors Responsible	Implementation Timelines
<p>Focusing on Access to Equitable Land</p>	<p>Increasing equitable entitlement to land with ensuring each household has a stake in land ownership which shall allow access to sustainable employment of dignity.</p>	<p>Massive land reforms shall be required which shall ensure communitarian access to land to preserve stakes in land ownership but also not dilute the agricultural produce.</p>	<ol style="list-style-type: none"> <li>1. Council of Islamic Ideology</li> <li>2. Federal and Provincial Ministries of Finance, Revenue and Economic Affairs</li> <li>3. Federal and Provincial Ministries of Law</li> <li>4. Ministry of Human Rights</li> <li>5. Ministry of National Food Security and Research</li> </ol>	<p>6 Months for consultation and research.</p> <p>12 Months for legal policy Amendments</p> <p>24 Months for effective enforcement.</p>
<p>Proportional Increase in Safety Nets with Inflation</p>	<p>An effective digital mechanism to ensure that safety nets and common salary data are linked with consumer price index. In addition, an agency shall be required for wage and salary increase compliance.</p>	<p>Whenever there is a massive hike in inflation which decreases premium on wages, heavy use of government machinery to ensure wage compliance shall be required.</p>	<ol style="list-style-type: none"> <li>1. Federal and Provincial Ministries of Finance, Revenue and Economic Affairs</li> <li>2. Federal and Provincial Ministries of Law</li> <li>3. Ministry of Human Rights</li> <li>4. Pakistan Bureau of Statistics</li> <li>5. Ministry of Information Technology</li> <li>6. Ministry of National Food Security and Research</li> </ol>	<p>6 - 12 Months to formulate the data and to ensure structure of agencies for compliance.</p>

<p>Monitoring System and IMF Negotiations</p>	<p>Creation of a monitoring system which handles the data for the technicalities in relation to nutritional reporting for national and international purposes as well as treaty compliance.</p>	<p>Using this data and legal requirements under International Law to negotiate with IMF to obtain conditions which preserve food security.</p>	<ol style="list-style-type: none"> <li>1. Federal and Provincial Ministries of Finance, Revenue and Economic Affairs</li> <li>2. Federal and Provincial Ministries of Law</li> <li>3. Ministry of Human Rights</li> <li>4. Pakistan Bureau of Statistics</li> <li>5. Ministry of Information Technology</li> <li>6. Ministry of National Food Security and Research</li> </ol>	<p>3 Months for the Parliamentary Legislation</p> <p>6 Months for the creation of monitoring system.</p>
<p>Ratification of Optional Protocols of ICESCR</p>	<p>Pakistan needs to clearly sign and ratify the Optional Protocols for inclusivity within the complaint procedure of Committee on Economic, Social and Cultural Rights.</p>	<p>Under Article 10 of Optional Protocols, Pakistan should launch an inter – state complaint against EU powers having most voting rights within IMF causing violations of economic and social rights of Pakistani citizens under ICESCR. Pakistan should also advocate that USA need to ratify Optional Protocols.</p>	<ol style="list-style-type: none"> <li>1. Federal Ministry of Law</li> <li>2. Ministry of Human Rights</li> <li>3. Ministry of Foreign Affairs</li> </ol>	<p>3 Months for the Parliamentary Legislation for ratification</p> <p>3 Months for the preparation of the complaint and starting the complaint procedure.</p>