

**Constitutional Protection of the Right to Food in Bolivia, Cambodia, Ghana and Kenya:
Converging with or Diverging from International Human Rights Norms?**

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Abstract

International human rights mechanisms have emphasized the need for States to include the right to food and other economic, social and cultural rights within domestic legal systems, including their constitutions. Constitutional incorporation is particularly important given that most international treaty provisions on the right to food are characterized as non self-executing. Even in settings where economic, social and cultural rights guarantees contained in international treaty law are directly applicable within the national legal order, the complex nature of the right to food and its interdependent relationship with other human rights benefit from the clarity and additional interpretive guidance that constitutional recognition provides.

Globally, many national constitutions take into account the right to food or some of its core attributes. Each of the four countries discussed in this paper has incorporated the right to food within its constitutional order in a slightly different manner. The countries selected are being studied within the context of two ongoing multidisciplinary research projects on food security, which are being supported through the Swiss Programme for Research on Global Issues for Development.¹ Kenya's 2010 Constitution explicitly recognizes that everyone has 'the right to be free from hunger and to have adequate food of acceptable quality.' In a similar vein, the Bolivian Constitution of 2009 also directly acknowledges the rights to food and to food security. In Cambodia, the right to food is indirectly protected in the 1993 Constitution that recognizes the obligation of the State to ensure citizens enjoy a 'decent standard of living.' The Ghanaian Constitution of 1992 provides that economic action to ensure 'an adequate means of livelihood' for everyone is a directive principle of State policy.

This draft paper will discuss the manner in which the countries have incorporated the right to food and related human rights guarantees into their constitutional orders and examines if and how this differential incorporation has affected the implementation of the right to food in practice. The extent to which these divergent approaches effectively transpose international human rights treaty obligations into national constitutional law is assessed and some preliminary conclusions concerning the relationship between international and national law on the right to food are put forward.

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¹ The countries selected are the focus of two different projects on food security supported by the Swiss Programme for Research on Global Issues for Development, <http://www.r4d.ch/modules/food-security>. The DEMETER Project addresses land commercialisation, gendered agrarian transformation and the right to food in Cambodia and Ghana, <http://demeter-project.info>. The FoodSAF Project examines food sustainability and reshaping the coexistence of different food systems in South America and Africa with case studies in Bolivia and Kenya, http://www.cde.unibe.ch/research/governance_of_land_and_natural_resources/research_themes_and_projects/towards_food_sustainability/index_eng.html.