

RESEARCH ARTICLE	State Obligations Regarding the Right to Food: An Analysis of International and Domestic Frameworks with a Focus on Algeria	
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Abstract		
<p>This study examines state obligations concerning the right to food under the International Covenant on Economic, Social and Cultural Rights (ICESCR), alongside its constitutional and legal embodiment within Algeria. The right to food is presented not merely as a response to malnutrition but as a fundamental human entitlement imposing enforceable duties on both states and the international community. The research analyzes both international and domestic state obligations, emphasizing the principles of treaty supremacy over domestic law and the right to an effective remedy. It delves into implementation mechanisms, including reporting procedures and administrative and judicial avenues, while highlighting the core duties to respect, protect, and fulfill the right to food. Regarding Algeria, the study reviews the constitutional and legislative provisions that enshrine economic, social, and cultural rights, identifying implicit references to food security within the Algerian Constitution and legal framework, particularly in the Family Code and the Code of Criminal Procedure.</p>		
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Introduction

Economic, social, and cultural rights include the right to adequate food, housing, education, health, social security, participation in cultural life, access to water and sanitation, and work ¹

To achieve food security, individuals, families, or populations must have physical and economic access to sufficient food at all times. In other words, food availability and access must not be threatened by sudden shocks, such as economic crises, climate fluctuations, or recurring events like seasonal food insecurity. Ensuring food security requires fulfilling its four core pillars while aligning with related Sustainable Development Goals ²

The issue of food represents a fundamental aspect of human rights and ranks as a top priority for nations when drafting political strategies that address society's needs. It requires sufficient financial capacity and external cooperation while adapting to political, economic, and social conditions to ensure continuous food availability—even during times of reduced domestic production or international market volatility ³

Accordingly, this study raises the following question:

What are the obligations of States under the International Covenant on Economic, Social and Cultural Rights (ICESCR) regarding the right to food in general, and how is this right enshrined in the Algerian Constitution and legal framework in particular?

To address this question, the following plan is proposed:

Chapter One: Legal Obligations of State Parties under the ICESCR

Section One: International Obligations of State Parties

The right to food is not merely a response to malnutrition or a reflection of ineffective policies. It is a deeply rooted human entitlement that places enforceable obligations on both States and the international community. Historically, marginalized populations have fought for this right through revolutions against monarchies, religious institutions, feudalism, monopolies, and governments that failed to fulfill their duty to secure adequate food.

In the modern international order, the right to food has acquired strong legal and procedural connotations. It has become an enforceable obligation requiring States to adopt legal measures that prevent any failure in fulfilling this right. Food insecurity generally stems from two main causes: either the **unavailability of food** or the **inability of individuals to access available food**, usually due to poverty, political instability, poor distribution, or corruption at both local and national levels ⁴

International experts confirm that famines rarely result from food scarcity, but rather from victims' lack of access to it—driven by poverty, conflict, poor governance, or environmental degradation ⁵.

According to Article 2 of the ICESCR, States parties are bound by three layers of legal obligations (paragraphs 1, 2, and 3), rooted in two key principles of international law:

1. **The Principle of Treaty Supremacy over Domestic Law**, as enshrined in **Article 27 of the Vienna Convention on the Law of Treaties**, which prohibits States from invoking domestic legal provisions as a justification for failing to fulfill international treaty obligations.
2. **The Right to Effective Remedy**, as affirmed in **Article 8 of the Universal Declaration of Human Rights**, which states:

¹ <https://www.ohchr.org/ar/human-rights/economic-social-cultural-rights>

² FAO, *Commission on Genetic Resources for Food and Agriculture*, Rome, 2017, p.6. <http://www.fao.org/3/my594ar/my594ar.pdf>.

³ Ali Farhan Dhiab, *Self-Food Security in Iraq*, University of Babylon Journal, College of Agriculture, Vol. 15, No. 4, 2008, pp. 1280–1293)

⁴ Jane Goodall, Gary McAvoy, Gail Hudson, *Harvest for Hope*, Arabic translation by Hala Al-Khatib, Obekan Publishing, 2008, p.87

⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 12, *The Right to Adequate Food*, p.228.

<http://hrlibrary.umn.edu/arab/M12.pdf>

“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the constitution or by law.”

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Section Two: Domestic and International Obligations of States Regarding the Right to Food

States must adopt effective policies and measures to progressively realize the right of all people to access adequate food, and to mobilize all available resources to protect those unable to secure food for themselves—be they men, women, or children, whether alone or with others. This must align with the principles of the right to adequate food, including access to essential nutrition and the fundamental right to be free from hunger ⁷

Importantly, the legal guarantee of this right does not mean individuals are encouraged to depend on state-provided food. Rather, people generally prefer to feed themselves when given the opportunity, and the state’s duty is to create the conditions that enable self-sufficiency while supporting those in real need.

State obligations concerning the right to food are twofold:

An international (external) obligation, as part of cooperation under treaties and international covenants.

A national (internal) obligation, reflected in domestic legislation and constitutional mandates.

According to **Articles 7 and 10 of the Limburg Principles** on the implementation of the ICESCR:

“States Parties shall at all times act in good faith in fulfilling their obligations under the Covenant.”

Article 10 emphasizes that:

“States Parties are accountable to both the international community and their own people for compliance with the Covenant.”

Domestically, **Article 17 of the ICESCR** requires states to utilize all appropriate means—legislative, administrative, judicial, economic, social, and educational—to achieve the rights enshrined in the Covenant. Moreover, **Article 18** mandates revising domestic laws that conflict with Covenant obligations.

Failure to fulfill the **minimum core obligations** constitutes a violation of the ICESCR. For instance, a country in which large numbers of people are deprived of essential food, primary healthcare, basic shelter, or elementary education, is considered non-compliant ⁸

The first concrete obligation is **reporting**, as required by **Article 16** of Part IV of the Covenant. This reporting mechanism is designed to assist States in fulfilling their duties and provides the UN system with a framework to monitor compliance and progress in realizing economic, social, and cultural rights—especially the right to food ⁹.

Reporting thus serves as a vital monitoring tool. It ensures transparency and allows for the evaluation of government policies, showing whether actual efforts are made to fulfill the Covenant’s commitments ¹⁰

States are also held publicly accountable through this mechanism—especially when misleading reports are submitted—while independent NGOs and UN agencies offer parallel reports ¹¹

According to **Article 2 of the ICESCR** ¹²

⁶ UN OHCHR, *Economic, Social and Cultural Rights: Handbook for National Human Rights Institutions*, Training Series No. 12, New York and Geneva, 2005, p.28. <https://www.ohchr.org/Documents/Publications/training12ar.pdf>

⁷ Committee on World Food Security, *Global Strategic Framework for Food Security and Nutrition*, 3rd ed., Rome, 2014, p.6. <http://www.fao.org/3/a-ml166a.pdf>

⁸ Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, p.3; OHCHR, *Training Manual No. 12*, 2005, p.127. <https://www.ohchr.org/Documents/Publications/training12ar.pdf>.

⁹ Najm Aboud Al-Samarrai, *Principles of Human Rights*, Beirut: Dar Al-Kutub Al-Ilmiyya, 2018, p.153

¹⁰ Nu'man Attallah Al-Hayti, *Human Rights: International Norms and Mechanisms*, Damascus: Ruslan Publishing, 2011, p.212

¹¹ Abdel Aal Al-Deerbi, *Obligations Arising from Global Human Rights Instruments*, Egypt: National Center for Legal Publications, 2011, p.105

¹² OHCHR, *Training Manual No. 12*, p.10

, each State Party undertakes to:

“... take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

This means states are legally obligated to begin implementing all appropriate **administrative, judicial, economic, political, and educational measures** to ensure the enjoyment of all the rights listed in the Covenant—including the right to food.

Judicial and Administrative Remedies in Enforcing the Right to Food

It is important to note that judicial remedies are not always mandatory. In many cases, **administrative mechanisms** are sufficient and more effective in realizing rights. This is particularly valid where administrative authorities have, in good faith, taken appropriate actions to fulfill their obligations under the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**. Individuals retain the **right to seek judicial redress** when administrative measures fall short or violate the guaranteed rights, and **such access must be free from discrimination**¹³

Under **Article 11** of the Covenant, States are required to ensure that every person has the **right to an adequate standard of living**, including access to food, clothing, housing, and continuous improvement of living conditions. States must fulfill this obligation through three core duties¹⁴

- **The duty to respect:** refraining from enacting laws or policies that violate the right to food, including through discriminatory practices or misinformation.
- **The duty to protect:** taking necessary measures to prevent third parties from interfering with individuals’ access to food.
- **The duty to fulfill:** implementing policies and programs that enable the realization of the right to food, including through national institutions and administrative frameworks.

These obligations can only be realized through **effective domestic implementation** of the Covenant.

Paragraph One: Implementation of the Covenant in National Legal Systems

¹³To implement the ICESCR at the national level, States must:

- Undertake the **primary obligation** to realize the rights recognized in the Covenant. The ICESCR provides flexibility in implementation, allowing for adjustments based on the legal and administrative structures of each State.
- Ensure the availability of **effective remedies** and accountability mechanisms for individuals or groups whose rights have been violated.

Apply the Covenant based on two foundational principles of international law:

- **Article 27 of the Vienna Convention on the Law of Treaties**, which prohibits invoking domestic law as a justification for failing to implement treaty obligations.
- **Article 2 of the Universal Declaration of Human Rights**, which guarantees non-discrimination in rights enforcement.

Paragraph Two: Legal Status of the Covenant in National Systems

The **direct and immediate applicability** of human rights norms in national legal systems is essential for individuals to **claim their rights before courts and legal bodies**. While the Covenant does not prescribe specific methods for implementation, it demands **tangible outcomes** aligned with the State’s full compliance.

Due to the flexibility of the Covenant, some States have:

- Incorporated it directly into **domestic law**;

¹³ ICESCR, Article 2(2)

¹⁴ UN CESCR, General Comment No. 14, 2000, p. 70

¹⁵ UN CESCR, General Comment No. 9, 2000, p. 38

- **Amended national laws** to conform to the Covenant;
- Granted it **constitutional supremacy**, giving international treaties precedence over conflicting domestic laws.
- The **effective enforcement** of the ICESCR requires choosing the best methods for domestic implementation that produce immediate and meaningful results, particularly in the protection of human rights.

Paragraph Three: Legal Remedies and Enforcement Mechanisms¹⁶

States may adopt various remedies to enforce economic and social rights, depending on the legal tools and **jurisdictional competence** of national courts. Enforcement mechanisms include:

1. Administrative and Judicial Mechanisms

Effective redress does not always require a judicial route. In many cases, **administrative procedures**—when conducted in good faith—are **faster and sufficient** to enforce rights. Administrative authorities must act reasonably, efficiently, and in line with the ICESCR, ensuring that procedures are timely and accessible.

However, when individuals or groups are unable to obtain their rights through administrative means, **judicial remedies must be available**. States should also establish **special committees or complaint bodies** to receive individual or collective claims concerning violations of Covenant rights¹⁷

2. Judicial Competence and Applicability

The ICESCR includes provisions that are **immediately applicable**, particularly **Articles 3, 7, 8, 10, 13, and 15**. Courts can directly invoke these articles without further legislative action¹⁸.

Failure to recognize these rights as enforceable would contradict the **principle of indivisibility and interdependence** of human rights. Whether civil, political, economic, or collective (e.g., the right to development or self-determination), **the denial of one right weakens the protection of others**, especially for vulnerable and marginalized groups. Ensuring judicial enforcement is therefore **an essential part of a State's commitment to all categories of human rights**.

Third: Direct Applicability (Self-Execution) of the Covenant

The International Covenant on Economic, Social and Cultural Rights (ICESCR) contains numerous precise and clearly articulated provisions, much like other core human rights treaties, which are deemed self-executing by many legal systems. As a result, courts are expected to determine whether treaty provisions can be directly enforced without requiring enabling legislation. This entails that national courts and judicial bodies assess the legal nature and legal effects of the Covenant and the role judicial remedies play in its implementation.

Consequently, many countries encourage the interpretation of domestic law in a manner consistent with their treaty obligations, either by incorporating the Covenant directly into domestic law or by using it as an interpretive tool. In some jurisdictions, courts have explicitly recognized the ICESCR as a source for interpreting national legal provisions.

The continued applicability of the Covenant is tied to the principle of the rule of law, which encompasses respect for international obligations related to human rights. Generally accepted legal doctrine mandates that domestic law be interpreted, wherever possible, in accordance with international legal commitments, particularly those designed to protect economic, social, and cultural rights without discrimination¹⁹

Chapter II: Implementation of Economic, Social, and Cultural Rights in Algeria

Economic, social, and cultural rights form an integral part of the broader human rights framework. These rights ensure the essential conditions for a dignified and free life and encompass rights to work, social security, healthcare, education, food, water, housing, a healthy environment, and access to culture. Given that constitutions and domestic legal systems

¹⁶ UN OHCHR, *Training Manual No. 12*, p. 28.

¹⁷ UN, *Guide to Final Clauses of Multilateral Treaties*, 2005, p. 39. <https://treaties.un.org/doc/source/publications/FC/Arabic.pdf>.

¹⁸ UN CESCR, General Comment No. 9, 1990, p. 70; UN Doc. E/1999/22.

¹⁹ [ICESCR, Article 2(2): "States Parties undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination..."]

serve as the foundation for human rights protection, most modern states, including Algeria, have enshrined these rights within their constitutional frameworks.

Section One: Rights Enshrined in the 2020 Algerian Constitution

The 2020 Constitution of Algeria consolidated a comprehensive chapter of 44 articles devoted to fundamental rights and freedoms. These constitutional protections build upon earlier Algerian constitutions (1963, 1976, 1989, 1996), which recognized both civil and political as well as economic, social, and cultural rights²⁰

Specifically, the 2020 Constitution reaffirmed Algeria's commitment to international cooperation and the principles of the United Nations Charter, the Universal Declaration of Human Rights (1948), and the two 1966 Covenants, as highlighted in Article 33. This continues the tradition established by the 1989 Constitution, which formalized Algeria's acceptance of international human rights treaties, including the African Charter on Human and Peoples' Rights (ratified in 1987).

The 1996 Constitution expanded these rights further in Articles 31 to 73, clearly specifying individual rights such as the right to work, education, property, and intellectual freedom. The 2016 constitutional amendment strengthened these protections by creating the National Council for Human Rights (NCHR) under Articles 198 and 199, tasked with monitoring, issuing alerts, and evaluating the state of human rights in Algeria²¹

In Article 199, the Council is empowered to investigate and report on human rights violations, promote awareness, and advise the government on appropriate actions, publishing annual reports to the President, Parliament, and Prime Minister.²²

Section Two: Legal Rights Reflected in Algerian Legislation

In addition to constitutional provisions, Algeria has embedded human rights principles within various legislative texts, including:

- Criminal Code
- Code of Criminal Procedure
- Family Code
- Nationality Law
- Labour Law
- Commercial Law

These laws serve to protect both individual rights and the interests of the State, ensuring that the broad guarantees of the Constitution and international human rights treaties are reflected in concrete, enforceable norms²³

First: The Penal Code

While punishment entails a reduction of individual rights, it simultaneously serves as a safeguard for freedoms and a mechanism to regulate behavior for the protection of both the individual and society. The relationship between criminal law and human rights is evident in several provisions of the Algerian Penal Code, including:²⁴

²⁰ Halimi Souria, Constitutional Guarantees for the Protection of Human Rights in Algeria, Master's thesis, Kasdi Merbah University, 2015

²¹ Abdelhadi Drar, The National Human Rights Council under Law 16-13 and its Rules of Procedure, Journal of the Research Professor, Faculty of Law and Political Science, Mohamed Boudiaf University of Moussila, Algeria, Vol. 3, No. 1, 2018, pp. 773-784.

²² Noura Yahyaoui, Protection of Human Rights in International and Domestic Law, third edition, Algeria: Dar Houma for Printing, Publishing and Distribution, 2008, p. 3.

²³ Halimi Souria, *ibid.*, p.13.

²⁴ Sadouk Omar, A study in the sources of human rights, third edition, Algeria: Bureau of University Publications, 1995, p. 13.

- The right to self-defense or defense of others or property (Articles 39–40).
- The right to protect individual liberties and to punish violators (Articles 107–111).
- Protection against abuse of power (Articles 135–137 bis).
- Protection of public officials from insult or assault in the performance of duties (Articles 144–149).
- Protection from murder and intentional violence (Articles 254–283).
- Protection of personal honor and private life (Articles 296–303).
- Protection of children and the elderly from neglect and endangerment (Articles 314–320).
- Protection of property from theft, extortion, and embezzlement (Articles 350–371).
- Legal protection of literary and artistic property (Articles 390–394).
- To ensure these rights, various punishments are codified based on the nature of the offense, ranging from capital punishment, life imprisonment, fixed-term imprisonment, to fines (Article 5 of the Penal Code).

Second: The Code of Criminal Procedure

The Code of Criminal Procedure outlines legal procedures for arrest, investigation, and trial, ensuring the protection of individual rights—even for the accused. It guarantees humane treatment during detention as per Article 60 of the Constitution and Articles 51, 51 bis 1 of the Code, which ensure family contact, visitation, and medical examination²⁵

Other articles ensure:

Protection during searches and investigation procedures (Articles 44–48),

Limits on search timings (Article 159),

Fair trial guarantees such as public hearings and the right to defense (Articles 113, 285, 495).

Notably, the Code does not explicitly enshrine the right to food in the same way as the rights to education, health, or housing. The only clear reference appears in the 2017 Annual Report of the National Human Rights Council, which interpreted Article 68 of the Constitution as implicitly addressing food security.²⁶

However, Article 78 of the Algerian Family Code stipulates that:

“Maintenance includes food, clothing, healthcare, and housing or its equivalent, as well as other necessities based on local custom.”

Thus, the legislator incorporates food within the concept of legal maintenance, not as an independent right. Articles 74–80 of the Family Code address maintenance obligations, placing food alongside clothing and healthcare.²⁷

Failure to provide court-ordered maintenance is criminalized under Article 331 of the Penal Code, allowing the custodian (usually the mother) to file legal action against a negligent spouse²⁸. The law obligates the continuation of maintenance for children until the age of legal majority, and beyond that in cases of disability or continued education²⁹

Conclusion

²⁵Ramadan Ghassmoun, *The right to a fair trial through Algerian national and international legislation*, Algiers, Algeria: Dar Alalmaia Publishing and Distribution, 2010, p. 57.

²⁶CNDH, 2017 Report, p. 38.

²⁷Chouar Hamidou Zakia, *The interest of the ward in the light of Islamic jurisprudence and positive laws, Part I*, Beirut: Dar al-Kutub al-Alamiya for Publishing and Distribution, 2008, p. 139.

²⁸Abdul Rahman Khalfi Darji, *The Right to Complain as a Limitation on Criminal Prosecution: An analytical and comparative study*, Lebanon: Halabi Law Publications, 2012, p. 385

²⁹Isaac Ibrahim Mansour, *Commentary on the Algerian Penal Code: Criminal offences against persons, morals, property and state security*, Algeria: Bureau of University Publications, 1988, p. 134

The ability to control food access poses a profound and ongoing threat that requires the formulation of sustainable strategies. As emphasized by the International Covenant on Economic, Social and Cultural Rights (ICESCR)—especially during global food crises—food security must be ensured for all individuals at all times. This includes availability, accessibility, utilization, and sustainability. However, the current global food system is heavily influenced by multinational corporations that produce 80% of the world's food supply, often reducing states' autonomy.

True food sovereignty lies in developing independent agricultural strategies, centered on small-scale farmers, cooperatives, and public sectors. It relies on local production and traditional agricultural skills, not genetically modified seeds or proprietary technologies controlled by large agro-industrial firms. This model would reduce chemical risks and reinforce national health and sovereignty.

While Article 11 of the ICESCR establishes a clear legal definition of the right to adequate food, enforcement remains limited by global economic forces. States must enact legal, administrative, and judicial mechanisms to ensure this right, not only to guarantee social justice but also to preserve political stability. The fulfillment of the right to food is ultimately intertwined with the equitable use of natural resources and the exercise of national sovereignty.

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