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The Right to Food in Latin America and the Caribbean: How International Covenants influence Constitutions

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Abstract

The problem of starvation and malnutrition in the world is still an important concern for states and the international community, despite great victories in the last decades. Some countries in Latin America and the Caribbean have responded to this challenge by adopting the right to food through national or international judicial means. These states have successfully promoted this human right via the ratification of international covenants, the protection of this norm domestically in constitutions or through framework laws, and by showing that the right to food can be diffused internally through the direct applicability of international covenants. The purpose of this thesis is to test whether international covenants have the ability to influence national constitutions to adopt articles for the protection of the right to food in Latin America and the Caribbean. I base this assumption on scholarly theories that claim the universalization of human rights is an ongoing process and that international treaties use signals and supplementation mechanisms to extend their reach over national constitutions. I assess if my hypothesis is likely by matching the language found in the covenants with the one found in the constitutional articles of each ratifying country, and check for cross-contamination of the chosen norm between the international and national legislation. I find that this is indeed the case, but that different covenants have varying levels of influence over the adoption of the right to food in a country's constitution. I conclude with a call for more research in this fascinating subject area.

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Glossary of Acronyms

CEDAW - Convention on the Elimination of all forms of Discrimination Against Women (1979)

CRC - Convention on the Right of the Child (1989)

CRPD - Convention on the Rights of Persons with Disabilities (2006)

ECLAC - United Nations Economic Commission for Latin America and the Caribbean

FAO - Food and Agriculture Organization

ICCPR - International Covenant on Civil and Political Rights (1966)

ICESCR - International Covenant on Economic Social and Cultural Rights (1966)

MDG - Millennium Development Goal 1C

OP ICESCR - Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008)

UDHR - Universal Declaration of Human Rights (1948)

WFS -World Food Summit

WHO - World Health Organization

Introduction

Recent years have seen an increased attention towards the right to food and food security, particularly during and after the 2007-2008 global world food price crisis. This worldwide emergency saw many poor but also developing nations fall into periods of economic and political instability, followed regrettably by famine, malnutrition and widespread outbursts of social unrest.¹ Progress continues in the global fight against hunger, yet as of today an outrageous large number of people around the planet still fall short of the minimum required food needed to lead an active and healthy life. Latest available estimates by the Food and Agriculture Organization (FAO) point out that roughly 795 million people around the world (about 10.9% or 1/9th of the total) were undernourished in the 2014-2016 biennium. The vast majority of these hungry people (an estimate of 780 million individuals) live in developing regions of the world.²

In an effort to secure access and availability of food for their citizens, some countries have taken the bold step of protecting the right to food (understood as part of the growing family of human rights) domestically, by codifying and enshrining it in their national constitution, sometimes explicitly, others times more broadly. This movement has been particularly active in the Americas and Africa. As of 2015, 21 out of 33 countries in Latin America and the Caribbean report some form of constitutional protection of the right to food³, an unparalleled level of inclusion when compared to the rest of the world. In other areas of the world that are generally understood to be more food secure this human right is often not spelled out precisely, but in many cases it is still protected by more general commitments to human rights or by direct applicability of international treaties into national jurisprudence. Furthermore, the last decade has seen a rise of framework laws in both developed and developing countries as a legislative technique to address cross sectional issues such as the right to food. Obviously, there are many factors at play in concluding whether a country is food secure or not, and safeguarding the right to food with legal means is not enough to rid a nation of famine and malnutrition. Food security does not just magically appear, but is achieved throughout the years by the combined efforts of governmental, civil society and corporate actors in the national and international arena, authorities which are for the most part outside of the scope of this study. But as research later on in this thesis will point out, a clear recognition of the right to food in a country's legal landscape can only benefit the individuals or groups seeking its establishment and diffusion across communities and nations.

The literature on constitutional and human rights convergence provides ample evidence that human rights norms are being diffused and adopted by more and more countries around the globe despite vastly different legal, cultural and governmental traditions.⁴ The right to food is understood as belonging to this growing human rights family: scholars identify it as a “second generation right” together with other economic, social and cultural rights that have the purpose of guaranteeing, when possible, equal opportunity and treatment to citizens living in a state.⁵ Is the right to food being embraced and circulated correspondently to fellow human right norms?

¹ New York Times (2008)

² FAO (2015) *The State of Food Insecurity in the World 2015*, pg. 8

³ FAOLEX (2015), see Annex IV for a detailed overview of each country in Latin America and the Caribbean.

⁴ See in particular Law (2008), Tushnet (2008), Weinrib (2006), Goodman and Jinks (2004), Law and Verteeg (2011) Elkins, Ginsburg and Simmons (2013).

⁵ See Vasak (1977). A summary of his tripartite definition of human rights is also available later on in this thesis.

Just as the Universal Declaration of Human Rights (UDHR) and its complementary treaty, the International Covenant on Civil and Political Rights (ICCPR) have played crucial roles in the spreading of formal human rights into national constitutions⁶, in my study I set out to test if four international treaties pertaining to the right to food (the International Covenant on Economic Social and Cultural Rights (ICESCR), The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), The Convention on the Rights of the Child (CRC) and The Convention on the Rights of Persons with Disabilities (CRPD))⁷ have influenced countries in Latin America and the Caribbean to act similarly, pushing for the adoption of the right to food domestically, in their national constitutions. My research question is summarized in the following question:

To what extent does ratification or accession of international binding covenants protecting the right to food influence countries in Latin America and the Caribbean to defend this norm domestically, by incorporating it in their national constitutions?

To begin testing my research question, I analyzed which countries in Latin America and the Caribbean adopted which of the four chosen international treaties, and when each covenant was ratified or accessed by the individual nations. The next step was to establish which nations adopted the right to food in their domestic constitutions, what form of constitutional recognition was chosen by each country (explicit protection of the right to food, implicit protection of the right to food or directive principles of state policy) when each national constitution was adopted amended or rewritten (to realize when the different constitutions were altered to include the right to food) and finally which states recognized the direct applicability of international treaties over their national jurisprudence.

With this information in mind, I was able to then track the effects of the international covenants on national constitutions. I proved the existence of a linguistic cross-contamination between the international and domestic legal frameworks with a simple test: I chose some key words in each of the four international treaties that I then tried to pinpoint in the articles of each national constitution. I recognized a match only when a constitutional article was observed to contain a sentence with exact or comparable language to that found in the related international covenant. After every confirmed match I ran a temporal test to assess if enough time had elapsed for the international treaty protecting the right to food to have affected the domestic constitutional enshrining process of each nation.

The investigations over matching texts between international covenants and national constitutions found that the ratification of ICESCR, CEDAW, CRC and CRPD produced a direct and mediated pressure on the domestic constitutional adoption of the right to food, but also that the four treaties are not equally influential. While the treaty language of the ICESCR was found in a large majority (60%) of constitutions in the region, the other three covenants contaminated respectively 30% (CRC), 18% (CEDAW) and 14% (CRPD) of constitutions in Latin America and the Caribbean. My research establishes that adopting binding international law on the right to food undeniably leads to some states adopting similar norms domestically, but also that this process is far from being universally effective. I speculate that the effectiveness of each international covenant depends a lot on factors such as time, popularity and language complexity.

⁶ Elkins, Ginsburg and Simmons (2013) pg. 63

⁷ See Annex III for the relevant section of the chosen covenants.

My interest in this research topic stems from an awareness and esteem of worldwide initiatives to curb hunger and malnutrition, which have sought to combat this endemic plight institutionally through the realization of the right to food. But despite fulfilling personal curiosity, I believe this research fulfills the dual objective of adding to the literature that is currently available on this topic and providing practical real life answers to the public. From a societal standpoint, determining the impact and influence of international covenants championing the right to food on national constitutions can help actors and institutions fighting against world hunger gauge if cooperation based on UN administered international treaties is an effective approach to solving this thorny problem. While my research only looks at the impact of a small number of international treaties on the constitutions of a limited number of countries in a specific geographical region of the world the lessons that can be drawn from this case study are applicable worldwide. With this research in mind, groups globally can look at what has been accomplished in Latin America and the Caribbean regarding the protection and proliferation of the right to food and decide if a similar approach is practical and realistic in their corresponding domestic circumstances. Academically, this research explores the link between national and international jurisprudence, building on previous research that explores how international law influences the national constitutional enshrinement process. It also adds to the knowledge of the strength and influence of supranational institutions over the development of states' policy networks, with the goal of facing the many challenges of our modern world. Again, while my research only looks at how the right to food migrates from an international sphere to a domestic one, a similar process (with the proper and necessary modifications) can be undertaken to test whether other specific human rights behave similarly. Thus, the lessons learned from this case study can act as a building block for future research in the interesting subject area of human rights. This thesis also touches on how the right to food is becoming a well respected and widespread norm among the international community, a factor that may be of interest to scholars monitoring the proliferation of human rights around the globe.

In terms of configuration, this thesis is structured in a series of separate but linked sections. Part I introduces the problem of hunger, with an overview of malnutrition at the global level and a thorough analysis of this predicament regionally, sub-regionally and at the individual state level. The section also provides examples of initiatives with the ambition of reducing this threat. Part II begins with a description of human rights, suggesting a way to categorize them. It then launches the concept of the right to food, around which the entire thesis revolves, and lists the international binding and non-binding covenants of which it is part. The section ends with a meticulous description of how international treaties are created, to better understand how they operate. Part III looks at the right to food domestically. It introduces constitutional enshrinement as a popular method of internal recognition, defines constitutions and reveals the four ways by which the right to food can be recognized through them. The section touches also on the direct applicability of international treaties and the use of framework laws as alternative methods of domestic recognition of the right to food. Part IV is the theoretical framework of my thesis. In this section I talk about the academic discourse over the universalization or convergence of human rights in the international arena, with different viewpoints from several scholars. I also introduce the fundamental idea on which my research is based, namely the process by which ratification of a human right treaty leads to the incorporation of that treaty's language into national constitutions through signals and supplements. Part V expounds the research design and methods used in my work, with a step by

step explanation of the process that I employed to test my research question and a practical example of how this was achieved Part VI is data description, in which I present ratification rates of the international treaties, and how each country in Latin America and the Caribbean adopted the right to food constitutionally. Part VII is the analysis, in which I matched the language of the international covenants to the constitutional recognition of the right to food in each of the region's countries. This helped me determine the contamination or influence of the international covenants over the domestic sphere of legislation. In Part VIII I discussed the findings of my analysis, and in section IV I conclude my argument, providing suggestions on future research. Part X is the references section of my thesis with a list of cited works, and is followed by Part XI, the appendix, which acts as a storage area for the data used in this treatise.

I. The State of Hunger in Latin America and the Caribbean

While not unified politically or economically like the countries of the European Union (EU), nations in Latin America and the Caribbean retain some common features amongst each other. All 33, without exception, share a tradition of independence from European colonial rule (from Spain, France, Portugal, Great Britain or the Netherlands), are traditionally Christian (90% of the region's population, with 70% self identifying as Roman Catholic)⁸, and are principally Spanish (60% of the population) or Portuguese Speaking (34%)⁹. Taken as a unitary area, Latin America and the Caribbean would rank as the world's fourth largest economy, behind the EU, the United States and China. However, according to the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) it also ranks as the most unequal region in the world.¹⁰ UNICEF reports that the area has the distressing record of the highest combined income inequality in the world, with a measured net GINI coefficient¹¹ of 4.3, considerably higher than the world's average of 39.7.¹²

In 1990, 14.7% of the population living in Latin America and the Caribbean was affected by hunger. By 2015 this number had fallen to 5.5%¹³, and latest estimates by the FAO, IFAD and WFP confirm that the region has achieved (and surpassed) the 1C Millennium Development Goal (MDG) of halving the number of undernourished people. Furthermore, the region has also been successful at achieving the thornier goal set by the World Food Summit (WFS) in 1996, reducing the absolute number of people suffering from hunger to 34.3 million, thus securing food access to 30 million hungry individuals in less than 20 years.¹⁴ In contrast, the global struggle against hunger appears more meager: to this day, 10.9% of the world's population remains undernourished, almost double the rate measured in Latin America and the Caribbean.¹⁵ This outstanding success was not fortuitous, but rather the result of 25 years of integrating food security policies in the regional political agenda. The fight against hunger was further sustained and strengthened by a period of widespread political stability in the region, and generally favorable macroeconomic conditions which helped raise several million people away from poverty. In fact, another regional success was the decline of poverty, which went from 44% in 2002 to 28% in 2015, although extreme poverty has risen in the last two years.¹⁶

⁸ Pew Research Center (2012)

⁹ Other important languages in the continent include: English, French, Quechua, Mayan languages, Guaraní, Aymara, Nahuatl, Dutch and Italian.

¹⁰ Cecchini, Martinez (2011)

¹¹ Statistical measurement used to measure income distribution across entire nations.

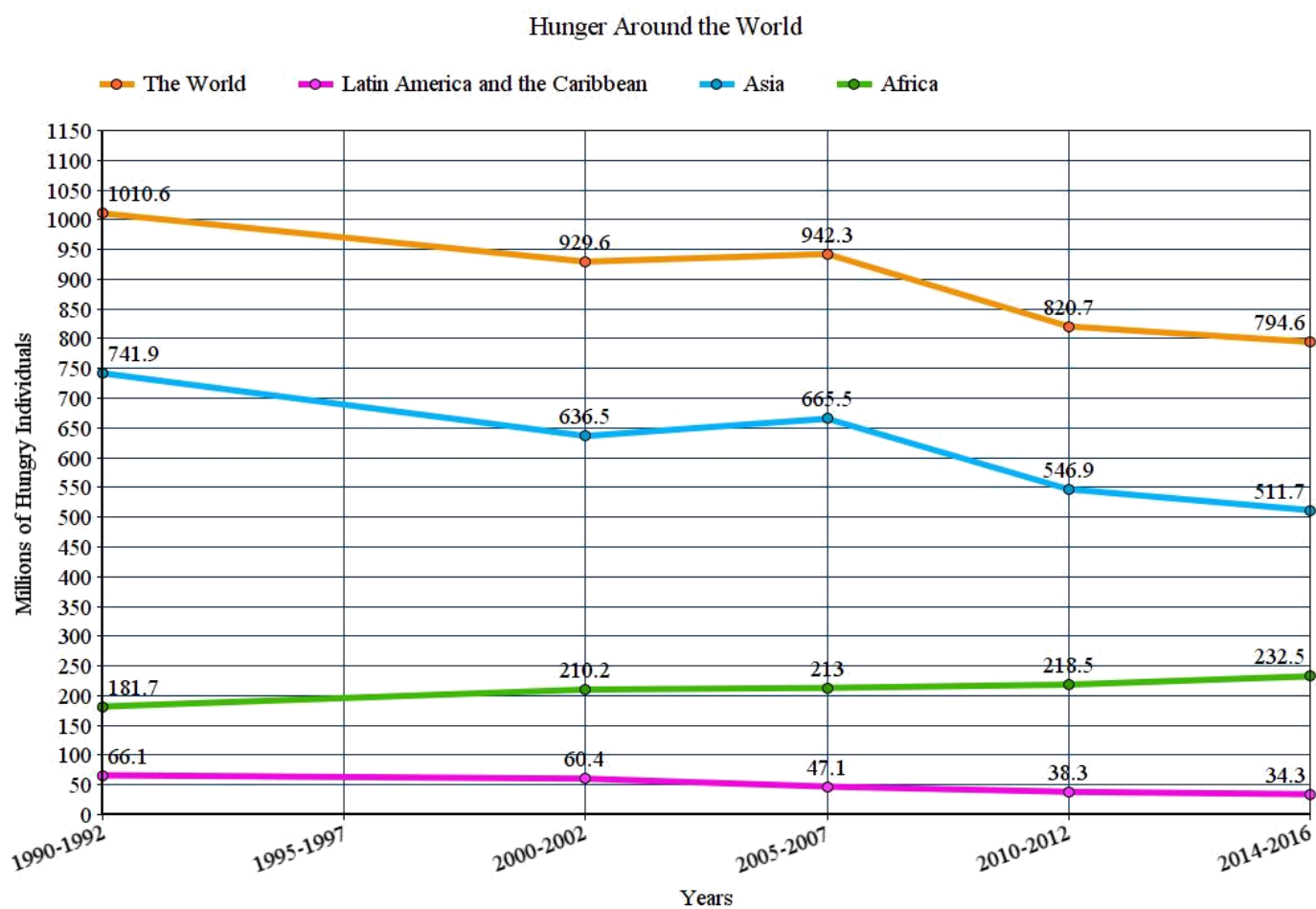
¹² Ortiz, Cummings (2011)

¹³ See Annex I or Table B for details

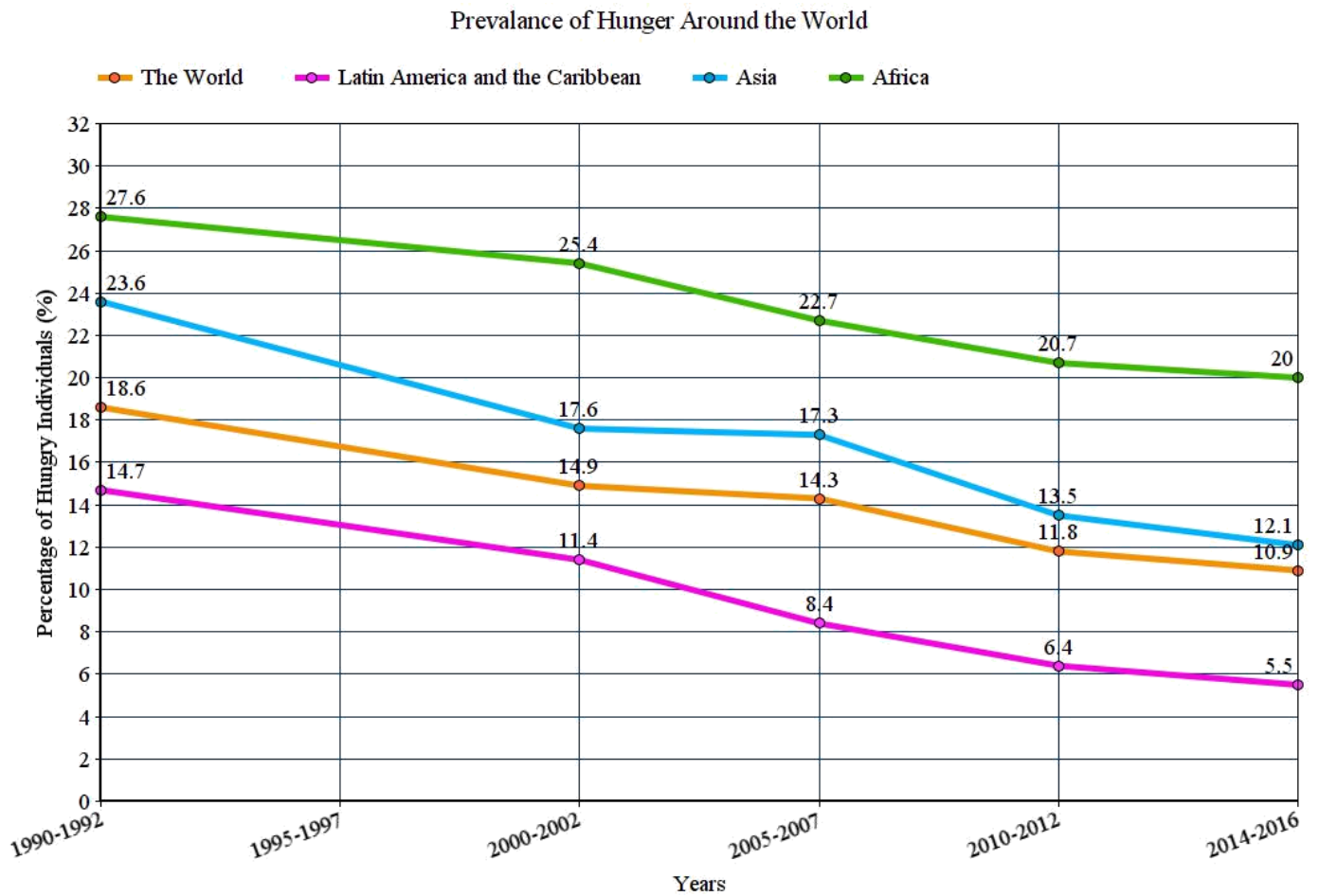
¹⁴ See Table A for an overview of hunger around the world.

¹⁵ FAO (2015) Regional Overview of Food Insecurity in LAC pg. 1

¹⁶ Ibid.

Table A¹⁷

¹⁷ Data from: FAO (2015) The State of Food Insecurity in the World 2015, pg.8 table 1

Table B¹⁸

¹⁸ Data from: FAO (2015) The State of Food Insecurity in the World 2015, pg.8 table 1

In its attempts to rid its people of hunger and malnutrition, Latin America and the Caribbean has become known internationally for a wide variety of programs, ranging from conditional cash transfers to support of family farming or school feeding. These public policies do not work alone, but are supported by strong legal food right frameworks and legislative support of parliamentary alliances against hunger.¹⁹ Numerous national and multilateral initiatives from the last decade are listed below to illustrate the point. In 2005 for example all 33 countries in the region decided to exceed their MDG commitments, and pledged to fully eradicate hunger by 2025, with the “Hunger Free Latin America and Caribbean Initiative 2025” (HFLACI). This pioneering pledge was further spelled out by the Community of Latin America and the Caribbean States (CELAC)²⁰ with the adoption, in January of 2015, of the “Plan for Food Security, Nutrition and Hunger Eradication”.²¹ This plan is based on four pillars; with the goal of creating a hunger free Latin America and the Caribbean through specific areas of action that take into consideration the diversity of the political and social projects currently being implemented by the countries in the region.²² Other initiatives in the region include the “Mesoamerica without Hunger Program” a \$15 million cooperation agreement with the aim of eradicating malnutrition in Central America, the Dominican Republic and Colombia²³, or the “Hugo Chavez Frias” plan²⁴ in the countries of the “Bolivarian Alliance for the Peoples of Our America” (ALBA)²⁵ and Petrocaribe.²⁶ On a national scale, prominent policy projects to eradicate hunger include Brazil’s “Fome Zero”²⁷ (Hunger Zero) and “Brasil sem Miséria”²⁸ (Brazil without extreme poverty) or Mexico’s “Cruzada Nacional Contra el Hambre”²⁹ (National Crusade Against Hunger). These numerous initiatives denote a keen interest in resolving the problem of hunger, a plausible sign that these policies have reached a prominent space in the region’s political agenda.

As the data above shows, the outcome in the fight against hunger in Latin America and the Caribbean has been overall very positive, reducing the number of hungry individuals in the region by 9.2%.³⁰ But there are important differences when the area is analyzed in sub-regions rather than as a whole. The largest absolute number of undernourished people live in South American countries (from 44.5 million in 1990-92, to 15.4 million today.) but the sub-region achieved both the MDG and WFS goals, and the prevalence of undernourished individuals today accounts to less than 5% of the area’s total population.³¹ This is because South America is the largest and most populous sub-

¹⁹ FAO (2015) Regional Overview of Food Insecurity in LAC pg. V

²⁰ The organization includes all sovereign and independent nation states in the Americas except the United States and Canada.

²¹ CELAC (2014) Executive Summary

²² FAO (2015) Regional Overview of Food Insecurity in LAC pg. 5

²³ FAO (2014) News Article, May 8th

²⁴ FAO (2015) News Article, May 11th

²⁵ ALBA countries include: Antigua and Barbuda, Bolivia, Cuba, Dominica, Ecuador, Grenada, Nicaragua, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Venezuela. (Suriname and Haiti intend to join the organization).

²⁶ Petrocaribe is an “oil alliance” of some Caribbean states with Venezuela to purchase oil on conditions of preferential payment. Partners include: Antigua and Barbuda, Bahamas, Cuba, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname and Venezuela.

²⁷ Introduced by Brazilian President Luiz Inácio Lula da Silva in 2003. The Bolsa Família social welfare program is part of this network of federal assistance.

²⁸ A regional specific expansion of Fome Zero, introduced by President Dilma Rousseff in 2011.

²⁹ Started in January 2013 by Mexican President Enrique Peña Nieto.

³⁰ See Annex I or Table B for details

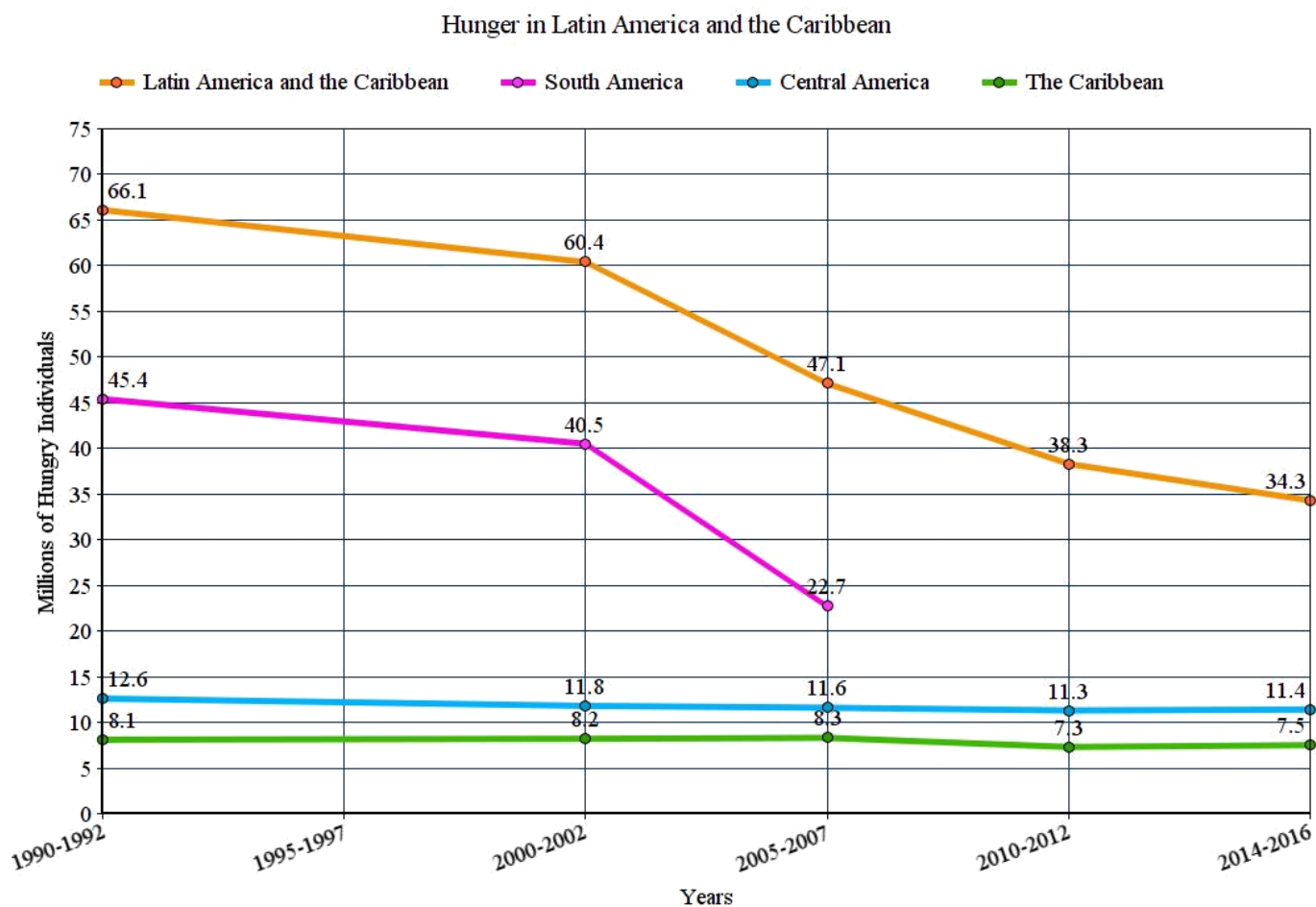
³¹ FAO (2015) Regional Overview of Food Insecurity in LAC pg. 2

region, being home to 65.9% of people living in Latin America and the Caribbean. In the last two decades and a half, this sub-region has been at the forefront of this movement, making the greatest progress in reducing both the percentage and the number of undernourished people.³² Central America on the other hand, while successful, has managed to reduce hunger by a much slower pace. The number of hungry individuals went from 12.6 million people in 1990-92 to 11.4 million in 2014-16, a change from 10.7% to 6.6% of the population, accounting for 77% of the needed progress to achieve the MDG target.³³ Of the three sub-regions that make up the area, the Caribbean has been the least effective at combating hunger. Today, 7.5 million people suffer from hunger in the island nations of the American continent, a meager change from the starting point of 8.1 million in 1990-92. Proportionately, malnourished in the sub-region went from 27% in 1990-92 to 19.8% today. Only 53% of the MDG target has been met, but the responsibility rests primarily on Haiti, home to 75% of the hungry living in the Caribbean.³⁴

³² Periodic data showcasing this change is available in Annex I. Table C and D provide a graphical representation

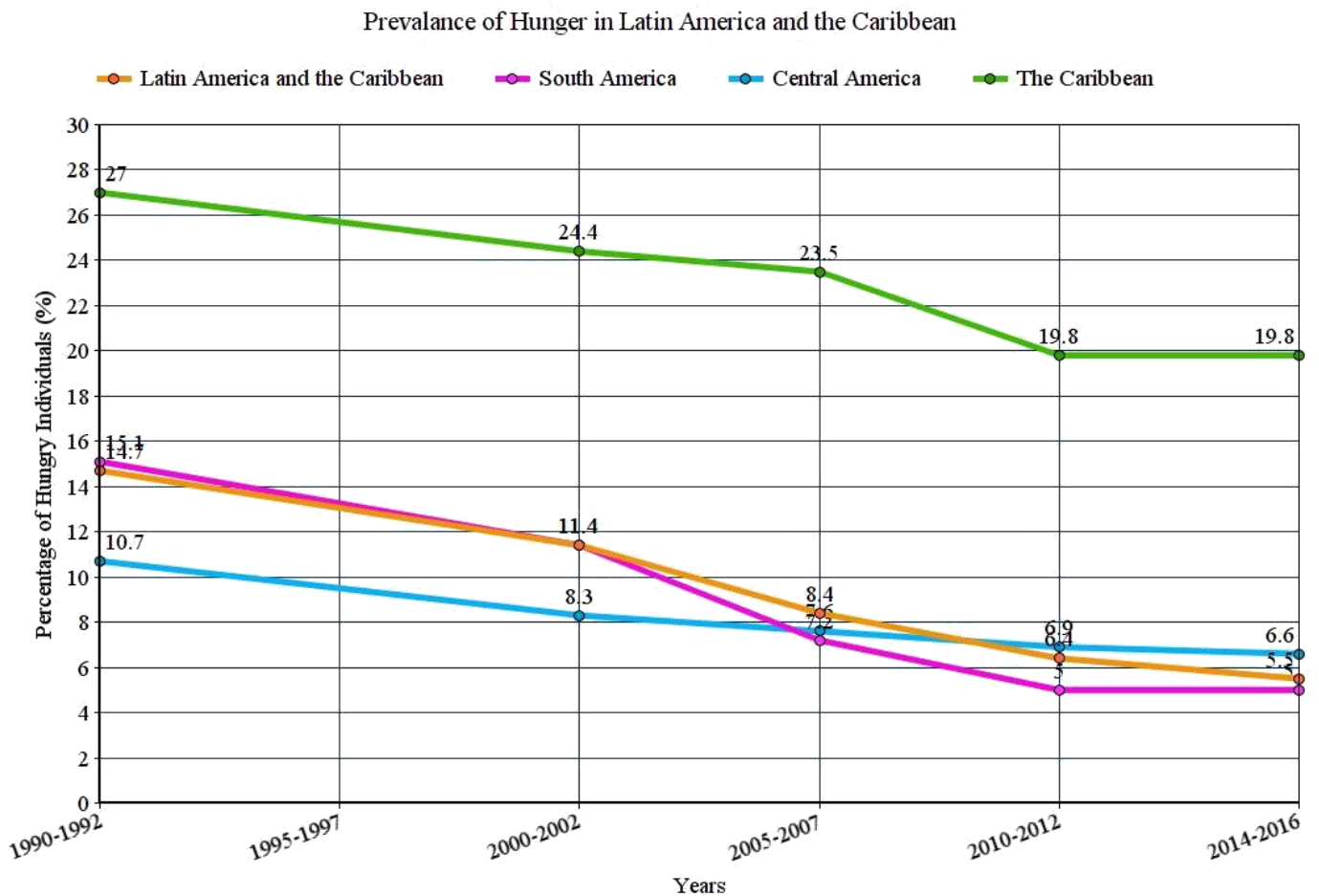
³³ FAO (2015) Regional Overview of Food Insecurity in LAC pg. 3

³⁴ FAO (2015) Regional Overview of Food Insecurity in LAC pg. 3

Table C³⁵³⁶

³⁵ Source: FAO (2015) The State of Food Insecurity in the World 2015, pg.8 table 1, also FAO (2015) Hunger Map Data Repository. Data available in table form in ANNEX 1.

³⁶ The number of malnourished individuals in South America for the 2010-2012 and 2014-2016 bienniums was not available because deemed to be too small to be statistically significant when compared to the overall population of the region.

Table D³⁷³⁸

³⁷ Source: FAO (2015) The State of Food Insecurity in the World 2015, pg.8 table 1, also FAO (2015) Hunger Map Data Repository. Data available in table form in ANNEX I.

³⁸ The prevalence of malnourished individuals in South America for the 2010-2012 and 2014-2016 bienniums is graphed at 5% in this table, but in reality account to an undefined <5 percentage. See ANNEX I for details.

At the individual level, 17 countries in Latin America and the Caribbean have successfully met the MDG target of halving population hunger on their territory.³⁹ Of those, nine have reduced their level of undernourishment below 5%.⁴⁰ Four countries⁴¹ are getting close to this target, with over 80% of the MDG goal having been met. All except Guatemala have made some progress. Regarding the WFS goal, 11 countries⁴² have met the terms proposed. As noted above, one exceptional case was Haiti: while there have been an improvement (decrease) in the percentage of hungry individuals on the island nation, the total number of people suffering from undernourishment has increased, thanks to a slower increase in the number of hungry compared to the growth in the country's population (translating into progress achieving MDG targets but regress in achieving those set by the WFS).⁴³ Despite differences by sub-region and at the individual national level, the region's progress in the struggle against hunger is indisputable. But with 34.3 million people still suffering from undernourishment⁴⁴, food security remains an important contemporary concern, and will probably continue to do so until hunger is completely eradicated from Latin America and the Caribbean.

Unlike disease, epidemics or pestilence, hunger cannot be cured once and for all. Periods of economic instability, war or the simple volatility of food prices can quickly plunge even the more prosperous communities into famine stricken areas. What if we tried targeting hunger from a different angle? Can a human rights approach to malnutrition help prevent future escalations of starvation? Obviously edicts and proclamations do not feed people, but a long term campaign with the goal of sensitizing governments and citizens to the importance of the right to food might truly be what tips the scales.

³⁹ Argentina, Barbados, Bolivia, Brazil, Chile, Costa Rica, Cuba, Dominican Republic, Guyana, Mexico, Nicaragua, Panama, Peru, St. Vincent and the Grenadines, Suriname, Uruguay and Venezuela.

⁴⁰ Argentina, Barbados, Brazil, Chile, Costa Rica, Cuba, Mexico, Uruguay and Venezuela

⁴¹ Honduras, Paraguay, Ecuador, Trinidad et Tobago

⁴² Argentina, Brazil, Chile, Cuba, Guyana, Nicaragua, Peru, Dominican Republic, St. Vincent and the Grenadines, Uruguay and Venezuela

⁴³ See Annex II for an overview of each country's status in achieving the MDG and the WFS Goal

⁴⁴ FAO (2015) Regional Overview of Food Insecurity in LAC pg. 3

II. The Right to Food and International Covenants

Our post WWII world has been described by prominent international law scholar Louis Henkin as the “Age of Human Rights”. In his work, the scholar noted how these rights as the only political-moral idea that has achieved universal acceptance in our contemporary world, approved through the Universal Declaration of Human Rights (UDHR) of 1948 by virtually all governments and societies in our world, notwithstanding their numerous and often conflicting differences.⁴⁵ Despite these promises, however, in some countries around the world human rights violations remain a daily occurrence that negatively affect the lives of millions. Sometimes these abuses happen behind closed doors, while in other situations governments openly repudiate previous commitments without fear of international retribution. Nonetheless, the age of human rights is far from over: worldwide appeal continues to grow, international courts increasingly punish guilty perpetrators and every year new rights are developed, strengthened, diffused and adopted internationally. But what are human rights exactly?

Human rights are the rights that are fundamentally inherent to all human beings. We are all entitled to them simply by existing as people. These rights have a twofold capacity: on one hand they limit the power of states to unfairly obstruct people’s free exercise of their will, while on the other they require these political communities to take positive actions to develop and permit the existence of an environment in which these rights are to be enjoyed by all humans.⁴⁶ Governments, as representatives of these political communities known as states have the obligation of respecting, protecting and fulfilling human rights, and must ensure legal entitlements and corrections when these criteria aren’t met for any reason.⁴⁷ From a legal standpoint, human rights are the individual and collective rights recognized by states and enshrined in their constitutions and in international treaties as part of international law. Human rights are most effective when in motion: to influence the largest possible number of individuals they must be given the possibility of moving unrestrictedly from the international to domestic sphere of public life. Human right treaties bring international norms to the attention and consideration of national audiences, while constitutional rights can influence the international community with new models developed from internal experience. This circular model guarantees a constant flow of new ideas, but also a proto-system of checks and balances to ensure that the various human rights are not trampled upon. This relationship is at the core of my research and will be explored to some extent in the subsequent chapters.

Despite a shared dual capacity, human rights are quite heterogeneous, with a diverse set of roles and spanning different aspect of human behavior. To truly understand their differences and why some societies have shown interest in some but not others, it is crucial to classify and organize them in different categories. Karel Vasak identifies three generations of human rights.⁴⁸ The first generation rights are civil and political rights, those that deal essentially with liberty and participation in public life. Very generally, their purpose is to protect individuals from the unrestrained behavior of the state. First generation rights include the right to life, freedom of

⁴⁵ Henkin (1990) pg. xvii

⁴⁶ Knuth, Vidar (2011) pg. 3

⁴⁷ OHCHR. (2005). pg. 1

⁴⁸ Vasak (1977)

speech, freedom of religion, equality before the law, the right to a fair trial and many others. At the global level they can be found in the 1948 UDHR (articles 3-21) and the ICCPR of 1966.⁴⁹

Second generation rights are instead economic, social and cultural rights. Their purpose is to guarantee citizens in a state equal conditions and treatment. The government has the duty to respect and promote them, but their effectiveness depends on the availability of resources. Second generation rights include among others the right to food, housing, healthcare, the right to be employed, the right to social security and unemployment benefits. Like their first generation cousins they can be found in the UDHR (articles 22-28) and also the 1966 ICESCR.⁵⁰ Third generation or solidarity rights are all the rights that go beyond the civil and social sphere. Third generation rights include the right to peace, the right to a clean or healthy environment and many others. These rights are expressed in many progressive documents worldwide, but because of their inspirational nature they are difficult to enact in legally binding documents, and are usually found as soft non-binding law among the international community.⁵¹

As a “second generation” and predominantly economic (but also cultural and social) right, the right to food is defined by the UN Special Rapporteur on the Right to Food as “the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.”⁵² Historically this human right has been acknowledged and reaffirmed by a large number of binding and non-binding international instruments. These include:

- *The Universal Declaration of Human Rights (UDHR)*. The mother of all modern international human rights conventions. This document was the first global expression of the human rights movement, consisting of 33 articles in defense of the rights to which all human beings are inherently entitled. Article 25 of the declaration recognizes the right to an adequate standard of living, including food. Created and ratified in 1948, this document is non-binding.⁵³
- *The International Covenant on Economic, Social and Cultural Rights (ICESCR)*. A multilateral treaty committing its parties to work towards granting second generation rights such as labor rights, the right to health and education. Article 11 recognizes the right to an adequate standard of living, including adequate food, and the fundamental right to be free from hunger as a separate right. Adopted by the UN General Assembly in 1966, the treaty has been in force since January 1976. Along with the UDHR and the International Covenant on Civil and Political Rights (ICCPR, in charge of protecting first generation rights) it is part of the International Bill of Human Rights. Internationally, the covenant has 164 state parties as of 2015, and an additional six have signed but not ratified the treaty. The

⁴⁹ Vasak (1977)

⁵⁰ Vasak (1977)

⁵¹ Vasak (1977)

⁵² OHCHR definition

⁵³ UN (1948)

document is binding for all state parties, and is monitored by the UN Committee on Economic Social and Cultural Rights.⁵⁴

- *The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. Known in the international community as the international bill of rights for women, it was adopted by the UN General Assembly in 197 and became effective in 1981. Article 12 recognizes the right of pregnant and lactating women to special protection with regard to adequate nutrition, while article 14 provides the right of rural women to equal access to land, water, credit and other services, social security and adequate living conditions. The convention is overseen by the UN committee on the Elimination of Discrimination against Women. It is a binding agreement, with 189 state parties as of 2015.⁵⁵
- *The Convention on the Rights of the Child (CRC)*. This human right treaty was created specifically to protect the civil, political, economic, social and cultural rights of children, defined as any human under the age of 18. Article 25 recognizes the right to the highest attainable standard of health, while article 27 provides the right to an adequate standard of living. In both articles these definitions include food and nutrition. A binding treaty, it was adopted by the UN General Assembly in 1989 and came into force on September 2nd 1990. Compliance to its norms is monitored by the UN Committee on the Rights of the Child. As of 2015, the convention has 196 state parties, this includes all United Nations members except the United States, which has signed but not ratified the document.⁵⁶
- *The Convention on the Rights of Persons with Disabilities (CRPD)*. Created to protect the rights and the dignity of individuals with disabilities, it requires signatories to ensure that the disabled are in full enjoyment of human rights and in full equality under law. The convention was the first human right treaty of the third millennium and the only UN human right treaty with an explicit sustainable development dimension. Article 28 recognizes an adequate standard of living and social protection for people with disabilities, including food, clothing and housing. The convention is a binding treaty, and states' commitments to its principles are closely monitored by the Committee on the Rights of Persons with Disabilities. The text of the convention was adopted by the UN General Assembly in 2006, and came into force in May of 2008. As of February of 2016 it has 162 state parties.⁵⁷
- *The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP ICESCR)*. As an option protocol it has the objective of establishing complaint and inquiry mechanisms for the ICESCR. It is a binding covenant, adopted by the UN General Assembly in December of 2008, and entered into force on May 5th 2013. As of August 2015 it has 45 signatories but only 21 state parties.⁵⁸
- *The Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Right to Food Guidelines)*. Adopted by the Food and Agriculture Organization (FAO) in 2004 it has the aim of guiding states to implement the right to food. Unlike other covenants described in this section is it a non-binding document, directed towards states parties of the ICESCR.

⁵⁴ UN 1966

⁵⁵ UN 1979

⁵⁶ UN 1989

⁵⁷ UN 2006

⁵⁸ UN 2008

Additionally, the normative content of the right to food and what this means in terms of responsibilities for states have been explained in several reports by the FAO⁵⁹, the Committee on Economic, Social Cultural Rights (CESCR) and the Office of the High Commissioner for Human Rights (OHCHR). For example, the CESCR has adopted an analytical framework for the “obligation to respect, protect and fulfill the right to food”⁶⁰, while the FAO developed a 7 step right to food implementation program. It is important to note that with the exception of the right to food guidelines, no international treaty or covenant has been created to defend and protect the right to food independently. The right is mentioned both explicitly and implicitly in all of the documents presented above, but always in combination with other important human rights, and never as the sole focus of a document.

The process by which the right to food is recognized and avowed globally is similar to that of other human rights. It involves the creation of an international human right treaty; a multilateral agreement negotiated between states that band together to produce a satisfactory set of standards. International human rights treaties are usually discussed and agreed upon in international fora set up or backed directly by the United Nations. As noted in the previous paragraphs, the right to food is no exception to this rule, finding a home in a variety of different international conventions, accords and covenants. Because my research focuses specifically on the influencing effect of these agreements, I will devote the next section to explaining how exactly these treaties are developed.

The formal act by which the shape and content of a proposed treaty text is agreed upon is called adoption. Generally, a treaty’s text is adopted when all nations participating in the treaty making process form a consensus. Treaties that are negotiated within the jurisprudence of an international organization will be usually adopted through a resolution crafted by an organ of the organization in question. A treaty can also be adopted by an international conference set up specifically to introduce the treaty. In this case, a simple two third majority vote of those present is required, unless a different voting rule is set up beforehand.⁶¹ Later on, individual states decide whether or not to be legally bound by a treaty, choosing to abide and respect the agreed upon norms and to suffer the consequences of a lack of compliance. There are two ways for a state to become party to an international treaty, by signature and ratification or by accession. Both acts represent a legal commitment to the norms presented in the treaty. Optional protocols are considered independent from the convention from which they developed, and must be ratified or acceded to in a separate move, even though the process is identical. Conventional ratification is not a prerogative for countries wishing to sign on to an optional protocol.⁶² The first official endorsement of an international treaty or protocol is the signature. Despite its name a signature does not create a legal obligation for the state, but it does signify the party’s interest and intent in examining the convention or protocol in the domestic forum, with the goal of eventually ratifying it. It is interesting to note that even though a signature does not commit a country to any binding prerogative, it does compel the signer to abstain from undertaking acts that would undermine the treaty’s objectives and purpose.⁶³

⁵⁹ Bojic-Bultrini (2009)

⁶⁰ UN 1995

⁶¹ Vienna Convention on the Law of Treaties (1969) Art. 9

⁶² Unicef (2014)

⁶³ Unicef (2014)

The next step is the ratification or accession of the treaty, by which the nation agrees to be legally bound to the terms specified in the convention. While accession and ratification are virtually indistinguishable legally, the process by which they are each achieved is slightly different. With ratification, the state first signs and then ratifies the treaty. During accession on the other hand, the treaty does not need to be signed first.⁶⁴ In some specific cases, a treaty can also be understood to have been accepted or approved. While legally this means the convention has been ratified, these terms are used in the instances in which, at the national level, constitutional law does not require the treaty to be ratified by the head of state.⁶⁵ The formal procedures behind the ratification and accession of a treaty vary according to the national legislative requirements of each state. Usually, before ratification or accession can take place, a country must first review the convention to see if national laws are consistent with its requirements, and must also take into account how treaty compliance can be achieved domestically.⁶⁶ Typically, countries that are sponsors of a certain treaty sign on to it shortly after it has been adopted. They then make sure all required internal legal procedures have been fulfilled so the treaty can be ratified smoothly and painlessly. Other more cautious countries might decide to win domestic approval first and then accede to the treaty when it has gained momentum and their domestic procedures are all in order. In this case, as discussed above, a signature is not needed. Both ratification and accession involve two physical steps. First the appropriate national organ of the country (the parliament, the senate the head of state or government or these forces combined) makes a formal decision to become a party to the treaty. Then the instrument of ratification or accession, usually a sealed letter signed by the responsible authority, is prepared and sent to the United Nation Secretary General in New York City, who accepts and deposits it as proof of the country's commitment.⁶⁷

The date upon which a treaty enters into force is usually determined by specific provisions. If no date is specified by the treaty itself, it is presumed that the treaty will come into force upon the end of country negotiations, when all interested states have consented to be bound by the norms agreed upon in the convention. Since international multilateral treaties base their success on the globalization and spread of their espoused rights, it is common to wait until a fixed number of states has expressed their consent before declaring that that treaty has been entered into force. Some treaties require additional conditions to be satisfied, for example by specifying that a certain category of states must be among those consenting. Naturally, a treaty can only come into force for those states which have given consent through ratification or accession. A treaty can also come into force provisionally until certain specific conditions have been met.⁶⁸

⁶⁴ Unicef (2014)

⁶⁵ Vienna Convention on the Law of Treaties (1969), Arts.2 (1) (b) and 14 (2)

⁶⁶ Unicef (2014)

⁶⁷ Unicef (2014)

⁶⁸ Vienna Convention on the Law of Treaties (1969) Art. 24

III. The Right to Food Domestically: Constitutions, Direct Applicability and Framework Laws

As discussed in the previous section, the right to food can be binding on states that have ratified a treaty relevant to it. However the processes of ratification or accession do not guarantee that individuals within a specific state may be automatically able to enjoy this right. First, national legislations have the responsibility of making this right applicable domestically. In fact, many international treaty provisions on the right of food are not self-executing, meaning they cannot be given effect without incorporating legislation at the national level.⁶⁹ This process can happen in various ways, including the incorporation of the right to food into a national constitution (ensuring legislative and judicial protection) or the development of framework laws that provide a series of guidelines for the executive powers (governments, bureaucratic entities etc.) to act upon. In some countries such as Argentina, Guatemala or Peru⁷⁰ international treaties are directly applicable, meaning that the right to food would be protected and eventually enforced even if it is not recognized specifically in the constitution or through the promulgation of national law.⁷¹

But what exactly is a constitution? A nation's constitution is the supreme law of the land codified in word form. It is the foundation of government in almost every society around the world. Constitutions have the power to concurrently create, empower and limit the institutions that govern a society. More precisely, scholars identify three main ideas that are at the basis of constitutions.⁷² The first is that a constitution acts as a limitation of government power. Constitutions create a set of unfringeable principles or provisions, the rules of the game to which future legislation and executive activity must figuratively play. Without this obligation, a state can maneuver for the short term benefit of those in positions of power, and against the minority leaving it virtually unprotected. By limiting the force of government and requiring public servants to abide by certain limits, constitutions make government more in tune with the rights and liberties of citizens. A constitution's second function is the symbolic one of delineating the nation's spirit and its goals. In this function, the constitution acts as a set of practices that define the political unit and facilitates the emergence of a constitutional identity. The third function of constitutions is very practical. National charters in fact have the power to define patterns of authority and set up government institutions, distributing power in a state.⁷³ A country's upshots such as democracy, economic performance and human rights protection are all associated with the content of its constitution. Not surprisingly, situations of prolonged economic or political instability lead often to a call for constitutional change.⁷⁴ Constitutions can be of three types: codified (the vast majority), un-codified fully written (San Marino, Israel, Saudi Arabia) and un-codified partially written (Canada, New Zealand, United Kingdom). A codified constitution is one that is contained in a single document, which acts as the single source of constitutional law in that state. An un-codified constitution on the other hand is not restricted to a single document, but is spread out on several different sources which can be written

⁶⁹ Bojic- Bultrini (2009) pg. 2

⁷⁰ For a full list of countries in Latin America and the Caribbean whose constitutions allow the direct applicability of international treaties see Annex IV

⁷¹ Knuth, Vidar (2011) pg. 10

⁷² Elkins, Ginsburg, Melton (2009) chapter 3

⁷³ Elkins, Ginsburg, Melton (2009) chapter 3

⁷⁴ Elkins, Ginsburg, Melton (2009) chapter 3

or unwritten.⁷⁵ Today, all countries in Latin America and the Caribbean have codified constitutions.⁷⁶

When the right to food becomes enshrined in a constitution as part of a provision, the constitutional court of that state gains the ability to strike down any laws that violates that right, thanks to the supremacy of constitutional law over national law. In some cases, it even grants citizens the ability to be compensated if this human right was wrongfully breached by an act of the state. A successful claim may lead to the reform of legislation or policies that violate that right.⁷⁷ A constitutional enshrinement of the right to food can act as a powerful tool in the war against malnutrition and starvation, so it is no surprise that recent years have seen this practice flourish globally. But how commonly is this right included into national charters? Is the right to food always recognized in the same way?

In their research, Knuth and Vidar⁷⁸ identify four different ways this right can be categorized⁷⁹:

- 1) Explicit and direct recognition of the right to food, as a human right in itself or as part of another broader human right.
- 2) Right to food implicit in a broader human right.
- 3) Explicit recognition of the right to food, but as a goal or directive principle within the constitutional order.
- 4) Indirect recognition of the right to food, through the interpretation of other human rights by the judiciary.

The first category, explicit and direct recognition of the right to food is further subdivided in right to food as an independent human right or as part of a broader human rights family. Despite this confusing difference, the explicit and direct recognition of the right to food is the easiest to observe and to identify. It is also important to note that in this category some countries recognize the right to food as an independent right that is applicable to everyone, while others stipulate the right to food for a specific category only (children, the elderly or disabled, prisoners).⁸⁰ The second category, the implicit recognition of the right to food, gathers those countries whose constitutions do not make explicit reference to food or nutrition, but guarantee other human rights that encapsulate the right to food indirectly. These constitutions often talk about the right to an adequate or decent standard of living, about personal development, a minimum wage, social security, etc, a full set of values that provide for the right to food circuitously.⁸¹ The third category includes those constitutions that do not recognize the right to food explicitly, but rather talk about the right to food or food security as directive principles of state policy. These countries aspire to certain set of values that they would like to see constitutionalized, although at the time of drafting these norms may not reflect a broad societal reality. It is often the case that these constitutional provisions guide governmental action, but are not understood as providing individual or justiciable rights to

⁷⁵ Tetley (1999)

⁷⁶ FAOLEX provides all 33 constitutions in their most recent/updated version, available in the original language and in most cases in an English translation.

⁷⁷ Knuth, Vidar (2011) pg. 13

⁷⁸ Knuth, Vidar (2011) pg. 14

⁷⁹ A list of explicit, implicit and the directive principles of state policy regarding the right to food in the 33 countries of Latin America and the Caribbean is available in Annex IV of this paper.

⁸⁰ Knuth, Vidar (2011) pg. 15

⁸¹ Knuth, Vidar (2011) pg. 15

citizens.⁸² The fourth and final category is composed of countries whose charting documents guarantee other human rights, but in these rights food is not necessarily implicit. The absence of a direct recognition of the right to food in these national constitutions does not however mean that the right to food is totally missing from that country. A combination of other constitutional provisions together with general state policy commitments or directive principles may be used to advance the implementation of this important norm.⁸³ In my research I decided to employ Knuth and Vidar's definition to make sense of the different ways constitutions protect the right to food, as it is a straightforward method of identification already widely in use among experts in this field.⁸⁴ I chose to look at the first three categorization methods for reasons that will be explained later on in this thesis.

Enshrining a human right such as the right to food in a constitution is not the only way for it to become part of that country's legal framework. In some systems the process may be more straightforward, requiring simply the applicability of a ratified international treaty. Depending on how a state legal system is set up, after an international treaty is ratified, its norms and regulations may become applicable automatically even if that country's constitution does not include a direct reference to it. This process is known as direct applicability of a treaty. Direct applicability also means that in some systems, individuals may invoke the international provisions on the right to food in national courts, even if there aren't any explicit constitutional provisions on the right to food or of implementing legislation.⁸⁵ Direct applicability of international treaties was another factor that I chose to look at while gathering data for my research.

Every country is different: whether a treaty is applicable directly domestically or not depends on two main factors, the national legal system in the country that has ratified that treaty and the nature of the treaty provision. Depending on these features, national courts may hold that the specific treaty does not apply because it lacks sufficient precision.⁸⁶ In numerous cases around the world, international human rights treaty law is subordinate but not equal to a country's constitution, but superior when compared to ordinary national legislation. Direct applicability of an international treaty happens when, instead, the status of the international human rights treaty is higher or equal to the national constitution. In these cases the treaty norm is said to be "constitutionalized", and is given a form of constitutional status which is almost equivalent to the nation's own constitution.⁸⁷ Direct applicability is the norm in monist countries (most common law countries, some civil law countries) those that view international and national law as part of a single legal order. In these nations international law is directly applicable to the domestic legal order once ratified, international treaties become part of domestic law by design and do not require supplemental legislation to become part of the national rule of law, a process also known as "automatic incorporation"⁸⁸ In contrast, dualist countries view international and national law as two distinct orders of law. International law can only apply domestically if it accepted by domestic legislative

⁸² Knuth, Vidar (2011) pg. 15

⁸³ Knuth, Vidar (2011) pg. 19

⁸⁴ Chiefly, the FAO's right to food team is a proponent of this categorization, using it extensively in their publications and online reference material.

⁸⁵ Knuth, Vidar (2011) pg. 24

⁸⁶ Ospes, Meulen (2009) pg. 38-40.

⁸⁷ Knuth, Vidar (2011) pg. 24

⁸⁸ Bojic- Bultrini (2009) pg. 2

measures, transforming the international rule into a national one. In these countries “legislative incorporation” is the only way for international legislation to have a binding effect domestically.⁸⁹

A third way for the right to food to become operational domestically is through the use of framework laws. A framework law is a legislative technique used to address cross sectional issues. Its purpose is to lay down a series of general principles and obligations for competent authorities, a sort of guide map for the executive powers.⁹⁰ Adopting a framework law on the right to food can be very advantageous. It allows for the content of the right as well as the obligation of the state authorities to be spelled out with more detail, providing a means of enforcement at the administrative, judicial and quasi judicial levels and a better distribution of responsibilities and coordination between branches of government.⁹¹ Framework laws also strengthen government accountability by allowing for a better monitoring system, access to courts and administrative mechanisms, and can also help government officials gain a better understanding of their role.⁹² The FAO guide by Bojic- Bultrini⁹³ even provides a full analysis of what one of these optimal framework laws should look like according to them. The adoption of framework laws on the right to food has become a very widespread tool in recent years, as countries struggle to apply constitutional or treaty directive to the world of domestic law and policy. Such laws are also known as food security laws and usually have a similar effect, as long as the right to food is clearly spelled out.⁹⁴ Existing framework laws tend to define the right to food and establish institutional arrangements for food security, frequently thanks to the participation of civil society. Despite their popularity, according to Knuth and Vidar their obligations and remedies are not always very thorough (or better yet, not as thorough as expected), nor is it clear if they add substantially to the justifiability of the right to food.⁹⁵ Framework laws were not tested in this study, but in the concluding section of this thesis I argue why it might be a good idea to do so in future research.

⁸⁹ Bojic- Bultrini (2009) pg. 2

⁹⁰ Bojic- Bultrini (2009) pg. 4

⁹¹ Bojic- Bultrini (2009) pg. 53-54

⁹² Knuth Vidar (2011) pg. 30

⁹³ Bojic- Bultrini (2009)

⁹⁴ Knuth, Vidar (2011) pg. 31

⁹⁵ Knuth, Vidar (2011) pg. 31

IV. Theoretical Framework

The past half century has seen a “universalization” or convergence of human rights. In other words, countries around the world are adopting similar legal texts and human rights discourses despite vastly different legal, cultural and governmental traditions. The following section provides a literary review of this phenomenon with insights from various scholars of international relations, to try and explain why and how this happens.

David Low argues that human right and constitutional convergence is a result of globalization, and more specifically of the mobility of capital and skilled labor that comes with it. In his article, the authors discusses the existence of a global “race to the top”, propelled by competition among countries for capital and skilled migrants. As these two factors of production become more mobile, countries are driven to compete for both by adopting a series of human and economic rights that investors and elite workers might find alluring.⁹⁶ These elites are likely to look for nation states that promise and actively respect first generation individual freedoms such as civil liberties and property rights. Therefore, the author contends, changing pattern of investment and migration influence the establishment of human and property rights and vice versa. Low backs this hypothesis with various empirical measurements that confirm this direct link, proving that globalization brings a profound transformation of the economic and political environment of competing countries, rendering certain constitutional practices more attractive or rewarding than others.⁹⁷ However, the author also maintains that this “race to the top” argument does not apply to all human rights equally. Second generation rights, part of the human right family that includes basic necessities such as food, housing and free education do not benefit in the same way from mobility and globalization.⁹⁸ Competing countries may be reluctant to offer such rights for two distinct reasons. Cost is the first concern: the establishment and promotion of second generation rights comes with a higher price tag than their first generation counterparts as they require a plethora of social programs and reforms. Secondly, such rights are more likely to be of interest to indigents and low skilled labor rather than the targeted wealthy or educated elite, a section of the population which favors individual freedom over substantive equality and generally with the means and resources to provide its own basic necessities.⁹⁹

Mark Tushnet agrees with Low, claiming that globalization fosters convergence among national constitutional systems, particularly of their structures and of their protections of fundamental human rights.¹⁰⁰ The content of rules upon which national constitutions may converge is far reaching, and stretches from abstractions to mid range concepts and details.¹⁰¹ But this process is not linear, and is often offset by internal counter-pressures, particularly in certain nations that have a tradition of constitutional exceptionalism (the United States comes to mind as a prime example of this)¹⁰². While the author claims that convergence and harmonization are inevitable, he

⁹⁶ Law (2008) pg. 1282

⁹⁷ Law (2008) pg. 1298-1306

⁹⁸ Law (2008) pg. 1282

⁹⁹ Law (2008) pg. 1283

¹⁰⁰ Tushnet (2008)

¹⁰¹ Tushnet (2008) pg. 887

¹⁰² Tushnet (2008) pg. 886

notes that we cannot talk about a uniformity of constitutional systems, as differences between countries are still copious. The author also does not provide a rate at which globalization will affect the convergence of domestic constitutional law and the spreading of human right principles, as the magnitude of counter-pressures working against it is difficult to quantify.¹⁰³ Tushnet identifies two types of forces spearheading the globalization of constitutional law and the protection of fundamental rights: the “top down” and “bottom up” approaches.¹⁰⁴ Most scholarship in this subject area focuses on the first force, probably because of its greater visibility. A famous example of top down forces is Annemarie Slaughter’s research on the cross national network of constitutional court judges.¹⁰⁵ In her work the author gives judges of the world’s constitutional courts a pivotal role in the development of globalized constitutional law. She suggests that their personal interaction in various transnational bodies and in academic or legal conferences encourages them to consider and implement solutions to problems that they view as common across constitutional systems.¹⁰⁶

Another top down force pushing towards the globalization of constitutional law are nongovernmental organizations (NGOs) focusing on the protection and diffusion of fundamental human rights.¹⁰⁷ These organizations either have a transnational structure (Amnesty International, Human Rights Watch) or act as permanent alliances of groups arranged at the national level. These NGOs are active in domestic constitutional disputes of numerous countries, offering a universalist understanding of human rights. Tactically providing their services as “constitutional advice giving” they provide constitutional structures and rights as worthwhile models for countries to follow and embrace. This advice giving can range from informing domestic courts on creative approaches developed by fellow nations to solving problems, or adopting the organization’s preferred solutions with well reasoned explanation of why this would be the most beneficial course of action. A third example of top down force stems from transnational treaties. These bodies of law have domestic constitutional implications, either through the force of law itself or more diffused mechanisms such as reputational consequences.¹⁰⁸ National courts under the watchful eye of these treaty bodies tend to emulate their jurisprudence, to avoid setbacks, international embarrassment and financial sanctions against their domestic government. The bottom down approach is seen predominantly as a market process¹⁰⁹, and is best described by Law’s “race to the top” hypothesis discussed previously in this paper.

Other scholars including Weinrib, presume that convergence has already occurred, a pattern which took hold with the end of the second world war.¹¹⁰ The WWII period inflicted on the world a toxic combination of totalitarianism, imperialism, racism and devastation. Inevitably, the cessation of hostilities lead to the creation of a consensus, echoing long after the war had ended, claiming that an integrated set of international and domestic norms could help prevent similar crises in the future. The foundation of the postwar constitutional order was born, a force with the intent and power to claim as supreme law of the land the stabilization of democracy, the safeguard of equal citizenship

¹⁰³ Tushnet (2008) pg. 887

¹⁰⁴ Tushnet (2008) pg. 987

¹⁰⁵ Slaughter (2004) pg. 65-103

¹⁰⁶ Slaughter (2004) pg. 65-103

¹⁰⁷ Tushnet (2008) pg. 989

¹⁰⁸ Tushnet (2008) pg. 990

¹⁰⁹ Tushnet (2008) pg. 991

¹¹⁰ Weinrib (2006) pg. 86

and the respect for innate human dignity. These principles were not only inspiration for the formal reconstruction of defeated nations, but they also successfully took root in the constitutions of the victorious nations as well, spreading globally.¹¹¹ The coalescing of these human rights principles is what the author calls the postwar constitutional paradigm, a process born from comparative engagement of governments and people and which keeps feedings modern proliferation of human rights.¹¹²

Elkins, Ginsburg, and Simmons distinguish between two types of convergence in rights. According to them, universalization can be either coordinated by the outside influence of international arrangements or actors, meaning states would look to obey the rules set by international or regional covenants; or by a more horizontal peer to peer process, in which case we would expect adoption of core documents stemming from fellow national models.¹¹³ An example of the former process is the influencing power of the Universal Declaration of Human Rights (UDHR) and its two 1966 international covenants that provided it with a binding legal form, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR). These three documents are known to have formed the basis for many national bills of rights around the world, intertwining national constitutions and treaties in their joint effort to construct text and proving the ability of international instruments to act as mechanisms of convergence.¹¹⁴

Also in reference to the human rights realm, Goodman and Jinks identify convergence as happening through three main mechanisms: coercion, persuasion and acculturation. The former two devices are conventional wisdom among international relations scholars, having been identified as ways by which international law and international regimes change and influence other states' behavior.¹¹⁵ It is fair to say that rationalist scholars emphasize the effectiveness of the coercion mechanism, while constructivists favor persuasion as an explanatory tool of how things work in the international arena. However, the authors note that the two "classical" mechanisms do not exhaust the influence of actors and institutions on others, so they hypothesize acculturation as a third method by which conformity is brought forth via a process of socialization.¹¹⁶

The first mechanism, coercion, occurs when states seek to encourage their peers to adopt norms through carrots (rewards) or sticks (punishments).¹¹⁷ Under this logic, states and institutions influence the cost-benefit calculations of the target state rather than forcing it to directly re-orientate its preferences. In our context, coercion occurs when one state which adheres to a certain set of international human right norms forces another to adopt them, pressuring it to sign international treaties or constitutional impositions that it may have otherwise ignored.¹¹⁸ Persuasion on the other hand happens when one actor convinces another that norms are worth adopting, and it usually involves a form of learning for this to happen.¹¹⁹ The first and most important technique by which

¹¹¹ Weinrib (2006) pg. 90

¹¹² Weinrib (2006) pg. 86

¹¹³ Elkins, Ginsburg, Simmons (2013) pg. 206

¹¹⁴ Elkins, Ginsburg, Simmons (2013) pg. 206

¹¹⁵ Moravcsik (2000) pg. 220

¹¹⁶ Goodman, Jinks (2004) pg. 630

¹¹⁷ Goodman, Jinks (2004) pg. 633-34

¹¹⁸ Goodman, Jinks (2004) pg. 633-34

¹¹⁹ Goodman, Jinks (2004) pg. 635

persuasion takes root is through framing. If an issue is strategically framed and is made to resonate with norms that a certain nation state has already accepted, that same nation will find that issue to be more sensible, even more appealing, despite viewing it as counter-attitudinal.¹²⁰ A second technique typical of the persuasion mechanism is the act of cuing the target audience into thinking harder about the merits of a norm or message that they may dismiss or have dismissed as unappealing for any reason. Cuing is based on the idea that new information may be an effective tool of persuasion. Fresh data may prompt actors to engage in a renewed process of cognition, reflection and argument, which may very well convince them of the fallacy of their previous stance.¹²¹ Acculturation is defined as the general process by which beliefs and behavioral patterns of the surrounding culture are adopted, an internalized “logic of appropriateness”. This mechanism pushes for behavioral changes among nation states through a pressure to assimilate, to “fit in” in the international arena. Some of these changes will be inevitably imposed by other actors, others on the other hand will be self-imposed by decision makers.¹²² In their work, Goodman and Jinks argue the important role of acculturation in spreading human rights around the world, noting that neither wealth nor external pressure are an effective explanation of why these norms are now a cherished part of our discourse. According to them, constitutional rights and international human rights share the same ideological origins and the same process of diffusion, which bears little relation to the conditions on the ground (the “status” of a right in a certain nation state).¹²³ Acculturation can happen in various ways. Government decision-makers may be “acculturated” themselves, compelling the system that they work in to change and adopt particular norms. Transnational interest groups may be the “acculturators”, seeking to change norms and behaviors by changing the rules at high levels. Acculturation may also be a grassroots movement, with the people themselves pressuring leaders to adopt shared norms.¹²⁴ International instruments (treaties in particular) appear as the evidence and the channels through which these accultured global norms operate and affect the citizens and environments of the world.

Law and Versteeg recognize constitutional and human rights convergence as a phenomenon they dub as “generic rights constitutionalism”. This occurrence sees an increasing proportion of the world’s constitutions holding a mounting number of rights in common.¹²⁵ They also distinguish a “rights creep” phenomenon by which constitutions tend to increase their number of rights over time. But their most remarkable discovery is that two variables are responsible for the vast majority of variations in the human rights content of the world’s constitutions.¹²⁶ The first variable is constitutional comprehensiveness, meaning the propensity of these documents to contain either a greater or lesser number of rights provisions. The second variable is the ideological spirit of each constitution. With empirical evidence they prove that the world’s constitutions can be set down on a single ideological dimension spanning from libertarian¹²⁷ to statist¹²⁸, ranking them ideologically with a numerical score that measures their position on the spectrum. The scores allow the authors to

¹²⁰ Keck, Sikkink (1998) pg. 17-18

¹²¹ Johnston (2001) pg. 496

¹²² Goodman, Jinks (2004) pg. 635

¹²³ Goodman, Jinks (2004) pg. 646-53

¹²⁴ Goodman, Jinks (2004) pg. 653-654

¹²⁵ Law, Versteeg (2011) pg. 1164

¹²⁶ Law, Versteeg (2011) pg. 1164

¹²⁷ Personifying the common law tradition of negative liberty, but also judicial defense from unlawful incarceration or bodily harm at the hands of the state.

¹²⁸ Assuming a far reaching role for the state in various domains, giving it a broad range of powers and responsibilities.

chart the ideological evolution of the world's constitutions. With their research they discovered an increased junction of many constitutions around either a libertarian or statist cluster. They found that constitutions in each cluster are becoming progressively more similar to the ones close to them ideologically, but also that the two clusters are increasingly drifting apart, two processes that they define as ideological convergence and ideological polarization.¹²⁹

Law and Versteeg also hypothesize the mechanisms by which constitutions are converging. The first one they recognize is convergence as the result of learning.¹³⁰ Countries in fact improve themselves by copying legal and constitutional innovations that they deem successful from fellow nations, with the hope of achieving a similar success. The more times this process is repeated, the more constitutions will become similar. Countries may also converge by developing a consensus on what constitutional practices or models should be avoided, a process which the authors define as "aversive constitutionalism".¹³¹ While often bringing many benefits for the adopting country, the process of learning is often irrational and is characterized by a series of cognitive biases. Similarly to fellow policymakers, constitutional drafters lack the information and capacity to make the best possible choice at all times, habitually adopting rights without first testing whether their benefits are transferable and duplicable locally. Hence some well known constitutions may be widely imitated on the basis that they are well known or popular, instead of their proven track of effectiveness.¹³² The second mechanism that the authors recognize is constitutional conformity, the incentive for countries to conform their behavior to that of others. Conformity can be beneficial because it helps solve coordination problems.¹³³ International law itself bases its existence on this principle, and is often seen as a series of codified expectations that countries agree to adopt to achieve mutual benefit.¹³⁴ Conformity can also stem from acculturation or socialization. States may adopt the same norms as their neighbors because it is the fashionable thing to do: others in the international community are doing exactly that. Sometimes conformity carries a more tangible reason, as a means of currying favor or acceptance from dominant states and securing recognition and approval from the international community. Similarly, countries with a strong international influence may choose to reward constitutional conformity among their followers, or demand or impose a constitutional template on weaker nations.¹³⁵ Marginal states, those that struggle for whatever reasons to acquire and preserve international recognition, may find constitutional conformity as particularly appealing.¹³⁶

Bobbitt elaborates on this concept, claiming the existence of a world constitution to which countries face concrete pressures to conform to.¹³⁷ This world constitution is not a tangible artifact, but rather a set of norms based on the 1990 charter of Paris, which reaffirms amends and extends the charter of the United Nations.¹³⁸ The charter of Paris singles out the protection and promotion of human rights and fundamental freedoms as the first responsibility of government. This document,

¹²⁹ Law, Versteeg (2011) pg. 1164

¹³⁰ Law, Versteeg (2011) pg. 1173

¹³¹ Law, Versteeg (2011) pg. 1174

¹³² Law, Versteeg (2011) pg. 1174-1175

¹³³ Law, Versteeg (2011) pg. 1177

¹³⁴ Goldsmith, Posner (2005) 32-43

¹³⁵ Law, Versteeg (2011) pg. 1178

¹³⁶ Law, Versteeg (2011) pg. 1181

¹³⁷ Bobbitt (2002) pg. 636-37

¹³⁸ Bobbitt (2002) pg. 635-36

claims the author, is the source of an overarching constitutional order sets the standard to which all national legal and political institutions must conform.¹³⁹ This example is further illustrated by the willingness of the international community to use force on humanitarian and political grounds when observance of certain basic rights is not met.¹⁴⁰ It is important to note however that the existence of a pressure towards conformity as required by the international community does not necessarily mean that countries will comply on a single constitutional model, as other important influences such as religion, ideology or post colonial struggle may provide differentiation.¹⁴¹

The third mechanism by which constitutions are converging according to Law and Versteeg is that of constitutional networks.¹⁴² The strength of these networks is particularly evident when analyzing shared legal standards across nations, particularly those of a corporate nature. If the legal regime is widespread enough, users are able to take advantage of accumulated strata of legal capital, a coveted benefit for both existing users and those wishing to join in. In the EU for example, shared and agreed upon legal rules mandate the manufacture, sale and movement of goods, benefitting producers and consumers by lowering trade barriers and promoting exchange. Being part of a certain legal network may also mean added investment from other network members, since the “rules of the game” are known, respected and protected.

Constitutional systems work similarly to these corporate law regimes. When a country chooses to adopt a constitutional framework that is already in widespread use elsewhere, it gains the ability to access and boost a corpus of tailor-made constitutional jurisprudence loaded with precious collective experience.¹⁴³ Constitutional networks are also a step towards more peace and prosperity at the global level. In day to day interactions, individuals naturally cluster with others who share similar characteristics, may they be of an educational, socioeconomic or religious nature. The same principle affects countries: members of the same constitutional network have stronger and more harmonious ties with fellow members rather than with countries on the network’s exterior.¹⁴⁴ The authors go on, claiming that there exists substantial empirical evidence that membership of a constitutional network brings added influence to members, such as more economic prosperity and more military security. The constitutional similarities between two liberal democracies chosen at random will, in the majority of cases, assist interaction between them. It is no surprise then that all else being equal, liberal democracies have more peaceful and more prosperous relations with their peers rather than with authoritarian, communist or fundamentalist regimes (which are nations lying clearly outside the libera-democratic constitutional network). The authors’ view stands on the shoulders of a previous scholarly consensus, the “democratic peace” thesis, which claims that democracies tend not to fight one another if given the choice.¹⁴⁵

From the numerous examples from different scholars it is clear that the convergence of human rights is a well respected theory among members of the academic community. Despite slight divergences the message is always the same, albeit in various different flavors. However, the most interesting aspect of the universalization theory for my research is the coordination of human rights

¹³⁹ Bobbitt (2002) pg. 638

¹⁴⁰ Bobbitt (2002) pg. 638

¹⁴¹ Go (2003) pg. 87-90

¹⁴² Law, Versteeg (2011) pg. 1183

¹⁴³ Law, Versteeg (2011) pg. 1185

¹⁴⁴ Law, Versteeg (2011) pg. 1185

¹⁴⁵ Reiter, Stam (2002)

by an outside influence, commonly an international binding covenant, as theorized by Elkins, Ginsburg and Simmons.¹⁴⁶ As discussed previously in this paper, the difference in strength between binding and non binding treaties means the two types are viewed and treated very differently by the international community. Even a strong non-binding agreement like the UDHR does not have the “teeth” to reward or punish nations fulfilling its obligations or ignoring its proposed norms. Binding agreements on the other hand are much more capable of directly influencing the behavior of those states that decide to comply, and will do so with a variety of methods. Again, according to the authors, one peculiarity of binding treaties compared to their non binding cousins is their ability to raise the issue of legal consistency of the norms that they espouse. The authors find that states that ratify a binding international agreement will in many cases adopt those norms in their domestic constitution, and at a much higher rate than states that refuse to sign on those treaties.¹⁴⁷ But how exactly does the ratification of a human right treaty lead to the incorporation of that treaty into a national constitution? The process is built upon two ideas: signals and supplements.

Signaling is the process by which a constitutional law clarifies policy priorities that the state wishes to see enacted. As the highest legal instrument in the nation, the constitution has the unique position to send this message detailing its preferences to the country’s partners and all its internal actors, public and private.¹⁴⁸ Supplementing on the other hand refers to the act of complementing an international treaty and its prescribed norms with the same right at multiple levels of government. This practice rests on the idea that adopting rights at different levels of government is neither redundant nor wasteful, but instead strengthens the effectiveness of those norms by calcifying them to the state’s inner structure.¹⁴⁹

Traditionally the burden of signaling is carried over by the constitutional coalition, a set of elites with the ability to control and change the constitutional text. This coalition can vary widely between countries, and depends on the country’s nature (democratic, autocratic) and its level of plurality. In both democracies and autocracies the goal of the constitutional coalition is to see fundamental values expressed by the constitution, but doing so is not straightforward. Including a provision into the constitution is in the majority of cases a very hefty affair, thanks to high drafting and deliberation costs. As discussed previously, the audiences for such constitutional signals can be inside the state, such as citizens and firms, or on its perimeter like fellow treaty signers, international organization and the rest of the international community.¹⁵⁰ Even if constitutional enshrinement does not mean a policy will be universally observed by the state, this process expresses a stronger commitment and has greater credibility than the adoption of an ordinary law. Certainly, because a signal has the goal to let everyone know a new set of rights has been adopted by the state, violating that policy will be inevitably be more costly, even without a formal process of enforcement.¹⁵¹

The signaling process is a very effective tool for countries wishing to develop a well established set of constitutional rights in place before an international treaty is adopted. However the purpose of this article is to determine the effects of treaty ratification on domestic constitutions,

¹⁴⁶ See above for details

¹⁴⁷ Elkins, Ginsburg, Simmons (2013) pg. 221

¹⁴⁸ Färber (2002) pg. 83-85

¹⁴⁹ Elkins, Ginsburg, Simmons (2013) pg. 222

¹⁵⁰ Färber (2002) pg. 98

¹⁵¹ Elkins, Ginsburg, Simmons (2013) pg. 222

so I will focus on signaling that occurs in instances where treaty ratification occurs before rights are fully adopted constitutionally. In these cases signaling becomes a mechanism that increases its potency the number of times it is used. Adopting a norm at both the international and domestic level strengthens the signal for the relevant audiences. The international level helps make certain rights visible to spectators in the international public, while the constitutional adoption brings international ideas to the domestic field. Nonetheless the opposite is also true: international audiences may view constitutional enshrinement as an enforceable practice than an international agreement enforced by weak international machinery.¹⁵²

Besides signaling, the process that allows the migration of rights from the international to the internal and domestic sphere can also be explained by the act of supplementation. The same way international rights can fill the gaps or supplement the weaknesses of the world's constitutions¹⁵³, so can constitutional rights reinforce or spell out what has already been agreed upon in international fora. Constitutional incorporation adapts the international norms to the uniqueness of each national system, for example by adding greater specificity to certain rights. In the case of countries with a rich history of judicial power, supplementation allows better monitoring tolls than the distant and overburdened international apparatus.¹⁵⁴ Supplementation of rights at different levels of government also adds accountability to the system, and allows local groups interested in making sure the rights are enforced to challenge any government wrongdoing through multiple platforms. Dual monitoring (by both the international and local bodies) can help identify violations more swiftly and efficiently.¹⁵⁵

The presence of a ratified international obligation enforcing a certain human right or group of rights does not always mean that those norms will be duplicated in the country's constitution. Sometimes the constitutional coalition treats the international obligation as a substitute for domestic institutions, meaning that the right is not enshrined domestically because it already exists internationally, and obviously, the opposite is also possible.¹⁵⁶ Reasons why this happens abound. In some cases, supplementation is seen as a superfluous and excessive cost by an already overburdened judiciary. In other systems, international commitments trump constitutional provisions so a duplicate at the highest domestic level is unnecessary. Playing the more cynical card, an international treaty may be just "smokes and mirrors" a decoy for states with no actual interest in enforcing the promises embodied in the rights provisions. In general, if jurisdictions are seen as substitutable for whatever reason, a country should expect its national and international rights to diverge rather than to come together and reinforce one another.¹⁵⁷ When international commitments such as treaties are transformed into constitutional enshrinement of human rights it is difficult to determine whether a state is driven more by the desire to signal commitment or by the wish to render the rights more enforceable with supplementation. Sometimes states are driven by both motives, so the two are virtually indistinguishable. In any case, at least one of these intentions supports a logical link between international ratification of human rights and domestic

¹⁵² Elkins, Ginsburg, Simmons (2013) pg. 223

¹⁵³ Gardbaum (2008)

¹⁵⁴ Elkins, Ginsburg, Simmons (2013) pg. 223

¹⁵⁵ Ibid

¹⁵⁶ Ibid

¹⁵⁷ Elkins, Ginsburg, Simmons (2013) pg. 224

constitutional commitment to them,¹⁵⁸ so specifying which one explains the relationship between covenant and constitution is superfluous.

The mechanisms theorized by Elkins, Ginsburg, Simmons¹⁵⁹ allow and even encourage the migration of human rights from an international sphere characterized by international covenants to a domestic field represented by constitutions. If these methods apply to international human rights as a whole, it would make sense to claim that they should also apply to all individual human rights, which include the right to food. On this premise I develop my research question:

To what extent does ratification or accession of international binding covenants protecting the right to food influence countries in Latin America and the Caribbean to defend this norm domestically, by incorporating it in their national constitutions?

¹⁵⁸ Elkins, Ginsburg, Simmons (2013) pg. 224

¹⁵⁹ Elkins, Ginsburg, Simmons (2013)

V. Research Design and Methods

To test my chosen research question, I began my work by mapping the adoption of the right to food via binding international treaties among the countries of Latin America and the Caribbean. Geographically, I chose to define the region as every sovereign nation-state in the Americas with the exception of the United States and Canada. The region was chosen for a variety of factors. First and foremost, I chose to analyze Latin America and the Caribbean for its extensive commitment to the ratification or accession of international human right treaties.¹⁶⁰ This dedication to adopting international law provided the large sample needed to test my theory. Secondly, I knew from previous studies that the countries in the region were well known for adopting the right to food constitutionally. This practice proved to be quite widespread regionally, particularly in comparison to other continents where this custom has not taken hold quite as strongly. Again, the commonality of this practice provided the necessary sample to be able to test my research question. Countries in Latin America and the Caribbean also share a common political history (particularly in the colonial era) similar governmental institutions (all have written constitutions, most are presidential republics with a full presidential system) and cultural-religious customs. These similarities helped reduce variability, allowing for a smaller sample size, and diminished but did not eliminate the possibility of a rogue confounding factor affecting the relationship between international covenants and constitutional recognition of the right to food.

The chosen definition includes 33 different countries: Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts & Nevis, Santa Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad et Tobago, Uruguay and Venezuela. Not considered in this research are dependencies and areas of special sovereignty present in the region. I chose to exclude these entities from the grand total because their decision making powers (particularly in the international relations sphere) rest, for the most part, in the hands of political actors in Europe or the United States.¹⁶¹

The international treaties that I set out to analyze are the following:

- the International Covenant on Economic Social and Cultural Rights (ICESCR).
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- The Convention on the Rights of the Child (CRC).
- The Convention on the Rights of Persons with Disabilities (CRPD).

I chose these four covenants for my case study because all four are UN sponsored binding international agreements that protect the right to food to some extent. I decided to exclude the

¹⁶⁰ See Annex IV for a detailed description.

¹⁶¹ Dependencies and areas of special sovereignty in the Latin America and Caribbean area include: Puerto Rico, the United States Virgin Island (U.S.A); Guadalupe, Martinique, French Guiana (France); Curaçao, Aruba, Sint Maarten, Caribbean Netherlands (Netherlands); Cayman Islands, Turks and Caicos Islands, British Virgin Islands, Anguilla, Montserrat and the Falklands/Malvinas (U.K.).

Universal Declaration of Human Rights and the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Right to Food Guidelines) from my study. Both are very influential documents, that have done much to spearhead the spreading of the right to food around the world¹⁶², but both are also non binding agreements, so their direct effect on the constitutionalization of this norm is harder to quantify. I also decided to rule out The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP ICESCR) from my research. While OP ICESCR is a fully functioning binding international optional protocol, its purpose is that of establishing complaint and inquiry mechanisms for the ICESCR, so it does not mention the right to food directly in its text. In addition, as of 2016, the protocol has failed to gather a substantial number of ratifiers among the countries of Latin America and Caribbean, so the sample number of countries it would potentially affect is too small to be statistically significant. Obviously, as their names imply, the chosen documents have vastly different goals, and none try to protect the right to food singularly, but instead coalesce it with a series of other important human norms, probably with the ambition of having each norm strengthen and assist its ideological neighbors. With this information in mind, I moved on to the next step, that of reading and analyzing the selected covenants to identify what specific articles or sections in each text referred directly or indirectly to the right to food. Annex III below presents the international treaties that were examined and the language that in each refers to my chosen human right. The next stage of my research was to explore how each country in my chosen region received the four selected international treaties. As discussed in great detail in the section above, when it comes to treaty ratification and entry into force, the international community is guided by a very specific protocol, so understanding what a country has expressly agreed upon is critical. Thus, I went ahead and carefully determined whether each country in Latin America and the Caribbean ratified or accessed my four chosen international binding covenants. Countries that simply signed the treaties to signify interest were grouped together with the non signatories, as a signature alone does not legally bind the nation to the chosen convention.

With a clear picture of which countries ratified or accessed which international conventions, I moved on to the domestic aspect of my research question. The choice of international covenants also provided the timeframe upon which my research was based: the influence of international treaties on constitutional enshrinement of the right to food was tested from the year each country ratified or accessed each international treaty to the year of that country last adopted, amended or rewrote its constitution. Using FAOLEX¹⁶³, a comprehensive and up to date legislative and policy database managed by the FAO, I was able to scan the full text of all 33 national constitutions. The database helped me determine four things which I then used to test my theory:

- 1) Which nations adopted the right to food in their domestic constitution.
- 2) What form of constitutional recognition was chosen (explicit protection of the right to food, implicit protection of the right to food, directive principle of state policy) by each nation.
- 3) When each constitution was adopted, amended or rewritten to include the right to food in one of its forms.¹⁶⁴

¹⁶² See section above for an overview of these important treaties.

¹⁶³ See FAOLEX. Legislation Database of the FAO Legal Office.

¹⁶⁴ Data available in Table 5 below

- 4) Which nations recognized the direct applicability of international treaties over their national jurisprudence.

With the exception of #3, I organized this data in Annex IV, which can be found in the final section of this document. For constitutional documents only available in Spanish, I used my knowledge of the language and the help of translation software to determine the exact meaning of each article. I chose to analyze only three of the four forms of constitutional recognition of the right to food described by Knuth and Vidar¹⁶⁵ as the fourth type (indirect recognition of the right to food) was too ambiguous to test effectively. I also decided not to test the impact of international covenants on framework laws for two main reasons. My first problem was that I was not able to access a comprehensive and up to date list of all the framework laws on the right to food enacted by countries in Latin America and the Caribbean. Secondly, I did not find any theoretical proof in the literature of a relationship between international covenants and framework laws. Seeing that framework laws are, like constitutional articles, tools of the state, it may very well be that they are affected by the adoption of international treaties in the same way as constitutional provisions. However, there was not enough evidence in the literature that I analyzed to state that fact, so I decided against testing this hypothesis.

The last step of my research was to determine the effect of the international covenants on the national constitutions. Since I expected the covenants to have inspired the creation of articles protecting the right to food in the national constitutions, I explored the possibility of finding similar wording in both international and domestic documents. To accomplish my goal, I tried to find a match between the language referring to the right to food found in each of the international treaties and the legal articles explicitly or implicitly protecting the right to food in each constitution. I carried out this scrutiny by selecting some key words in each treaty that I then tried to locate in the articles of each national constitution. I identified a match only when the constitutional article was found containing a sentence with exact or comparable language to that found in the corresponding covenant. The example below can help to better illustrate the procedure I used, with key words being analyzed tagged in bold.

Hypothetical text of the international covenant being analyzed:

“This covenant mandates the **right of children** to an **adequate standard of living**.... Including **adequate food**”

Hypothetical rights enshrined in national constitutions:

Country A: the state will guarantee the **right of children** to an **adequate standard of living**.. including **adequate food and water**.

Country B: the state will guarantee the right of **young individuals** to an **adequate standard of life** including **adequate nutrition**.

Country C: the state will guarantee the right of ~~elderly individuals~~ to an **adequate standard of living** including **adequate food and water**.

¹⁶⁵ Knuth, Vidar (2011)

Countries A, B and C all include an explicit constitutional recognition of the right to food. However only 2 (A and B) can be identified as a match when their language is compared to that of the hypothetical international treaty. Country A presents the exact same key words found in the international covenant and is thus a perfect match. Country B is also considered a match. While the key words are not the same, they are acceptable synonyms, so the message presented in the international treaty is the same, albeit with a slightly different language. Country C instead cannot be considered a match. The constitutional article does indeed talk about the right to an adequate standard of living and food, but the subject demographic is different and was not mentioned in the hypothetical covenant. Obviously, analyzing constitutional articles and international covenants with this key word method is not as easy and as clear cut as the example presented above. Wording is often ambiguous, sentences or key words can be included more explicitly or implicitly in either the international or domestic document and translations can stretch the definition of acceptable synonyms (are children and infants analogous term or are they different?) Nonetheless it is not at all impossible, and a combination of common sense and intuition helped resolve the few more complicated or equivocal cases.

Another factor that was kept in mind when using the matching language method was that similar language between an international treaty and a constitutional article does not prove with 100% certainty that the former was the inspiration for the latter. The confounding factors that could affect the relationship between these two variables could be numerous and difficult to pinpoint exactly. Other than mere coincidence, there's always the possibility of a spurious relationship between international treaties and constitutional recognition of the right to food not immediately apparent to the author of this thesis. However, because the constitutional coalition of a country is usually also in charge of reviewing international treaties adopted by that nation, cross-contamination of ideas from the international to the domestic sphere is highly expected.

Finally, after each match, I made sure to check if the date in which the country ratified or accessed the international treaty and the date of the last time the country updated or consolidated its constitution allowed enough time for the covenant to have affected the constitutional right (temporal test) If, for example, a country last updated its constitution before having ratified the treaty that was being tested, any potential match found between the two texts could not be counted towards proving my theory, as the impact of the treaty on the constitution would be anachronistic. This test ensured a better reliability of my data.

VI. Data Description

An historical investigation of the international commitments embraced by countries in Latin America and the Caribbean shows an enthusiastic approach to UN sponsored treaties. The number of binding human rights adopted through the ratification of international treaties increased significantly between the mid 1970s and the mid 1990s in the region. While three and a half decades ago most Latin American states were governed by authoritarian regimes routinely engaging in undemocratic practices such as torture, disappearances, subjective and unlawful detentions or executions, the situation has since changed, and mostly for the better. Today, people living in the region have the benefit of living under electoral regimes that in most cases comply with fundamental human rights norms.¹⁶⁶ Participation in ICESCR, CEDAW, CRC and CRPD was no exception, with a large majority of countries in the continent ratifying or accessing these critical covenants protecting the right to food.

Membership of ICESCR, the oldest binding international covenant encapsulating the right to food since WWII was not widespread at first. The first decade following its adoption by the United Nations General Assembly saw a modest number of ratifications in the region. Eventually however its popularity surged: today in 2016, of the 33 sovereign countries in the region, 15 have ratified it, 14 have accessed it, 1 has signed it (Cuba) but has yet to implement further action, and only 3 (Antigua and Barbuda, Saint Kitts and Nevis, Saint Lucia) have chosen not to become covenant members.¹⁶⁷ CEDAW has fared even better than its predecessor. All countries in the region have either ratified or accessed the treaty as of 2016. The first were Barbados, Cuba, Dominica and Guyana in 1980, and the most recent accession was that of Suriname in 1993.¹⁶⁸ CRC membership was also an outstanding success in the region. All 33 nations ratified the covenant, and 20 of them did so by 1990, the year in which the treaty became effective.¹⁶⁹ The most recent ratification has been that of Haiti in 1995. Even though participation in CRPD was not as universal as that of earlier binding international treaties, the covenant was able to gather the approval of a very substantial number of countries in Latin America and the Caribbean. As of 2016, only the federation of Saint Kitts and Nevis has chosen not to become a treaty member. 4 countries (Antigua and Barbuda, Argentina, Saint Lucia, and Suriname) have signed the treaty but have not moved forward with it.¹⁷⁰

Not surprisingly, the success of Latin America and the Caribbean in adopting binding covenants on the right to food at the international level was replicated productively even in the domestic sphere, via the inclusion of this norm into national constitutions. Thanks to a history of independence, revolutions, dictatorships and recurrent government changes, constitutions in Latin America and the Caribbean have been important building blocks of state identity and are predictably numerous and varied. The region shows a great diversity in patterns: some countries exhibit a great constitutional instability, sometimes even burning through several different versions in the time of a human lifespan. Other nations have constitutions that are bastions of preservation,

¹⁶⁶ Lutz, Sikink (2000) pg. 633

¹⁶⁷ Table 1 provides a chronological overview of when each country ratified or accessed ICESCR

¹⁶⁸ For ratification and accession dates for CEDAW see Table 2

¹⁶⁹ See Table 3 for details on CRC

¹⁷⁰ See Table 4 for details on CRPD

with very few changes throughout their history despite the passing of generations.¹⁷¹ Occasionally, these patterns have even changed over time within a specific nation. Most countries in the region have had multiple constitutions since independence, and big constitutional overhauls or consolidation has been the norm rather than the exception. Important constitutional amendments are also quite common. Some of the oldest constitutions include those of Argentina, adopted in 1853 but recently overhauled in 1994¹⁷², and that of Mexico, adopted in 1917 and amended more than 200 times. Among the newest constitutions in the region we have that of Nicaragua, adopted very recently (2014) and those of Dominica, Bolivia and Ecuador, adopted respectably in 2010, 2009 and 2008.¹⁷³ Despite or maybe because of this constitutional flux, a clear look at the recognition of the right to food through constitutional means (explicitly, implicitly and as a direct principle of state policy) shows that it is a very widespread practice among nations of Latin America and the Caribbean. This is even more evident when the region is compared to other areas of the world, which do not have such an extensive acknowledgement of this right.¹⁷⁴ It is also important to note that other than a constitutional pervasiveness of the right to food, approximately half of the investigated countries included in their charter at least one article recognizing the direct applicability of international covenants over their national jurisprudence.

Looking at the data more specifically, as of October of 2015, 16 countries in Latin America and the Caribbean had explicit recognition (and thus explicit constitutional protection) of the right to food. They are, strictly in alphabetical order: Bolivia (article 16 I, II), Brazil (article 6, 7, 227) Colombia (article 43, 44, 46), Costa Rica (article 82), Cuba (article 9), the Dominican Republic (article 57), Ecuador (article 13, 42, 46, 51, 66), Guatemala (article 51), Guyana (article 40.1), Haiti (article 22), Honduras (article 123), Mexico (article 4.3, 4.8, 27 XX), Nicaragua (article 63), Panama (article 56.2) Paraguay (article 54, 57) and Suriname (article 24).¹⁷⁵

The implicit recognition of the right to food was even more widespread in the region, with 17 countries choosing to include it in their constitutions: Argentina (section 14 bis), Bolivia (article 35.I, 46.I), Brazil (article 208), Costa Rica (article 56, 57), Cuba (article 9, 47, 48), the Dominican Republic (article 62.9), Ecuador (article 32, 33), El Salvador (article 37, 38.2) Guatemala (article 102), Haiti (article 19), Honduras (article 142), Nicaragua (article 82), Panama (article 64, 66, 113, 122), Paraguay (article 92), Peru (article 2, 10, 24), Suriname (article 36) and Venezuela (article 80, 83, 87, 91)¹⁷⁶

Furthermore, 12 countries provided for the protection of the right to food or food security through the constitutional embedment of directive principles of state policy. They include: Bolivia (article 9.2), Costa Rica (article 50), Dominican Republic (article 8, 54, 61.1), Ecuador (article 3, 281), Guatemala (article 94, 99, 119), Mexico (article 2.B), Nicaragua (article 4), Panama (article 4,

¹⁷¹ See Table 5 for an overview of when each country in the region adopted and last amended or consolidated its constitution.

¹⁷² Elkins, Ginsburg, Melton (2009) pg. 2

¹⁷³ Data from FAOLEX

¹⁷⁴ See FAO (2015) *The Right to Food around the Globe* for more details

¹⁷⁵ See Annex IV for details

¹⁷⁶ See Annex IV for details

110), Paraguay (article 176.2), Suriname (article 4, 6) Uruguay (46.2) and Venezuela (article 3, 19, 299, 305)¹⁷⁷

Despite substantial participation, constitutional embedding of the right to food was not a completely universal practice in Latin America and the Caribbean. 12 nations in the region chose not to include explicit, implicit or directive principles of state policy in their national constitutions. They are: Antigua and Barbuda, The Bahamas, Barbados, Belize, Chile, Dominica, Grenada, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines and Trinidad and Tobago. Only 8 of the 33 countries in the region (Bolivia, Costa Rica, The Dominican Republic, Ecuador, Guatemala, Nicaragua, Panama and Suriname) included all three types of constitutional recognition of the right to food in their constitution. Overall, 21 of the 33 analyses countries chose to protect the right to food with at least one of these methods, a generous majority.¹⁷⁸

In 16 of the 33 countries in Latin America and the Caribbean, the impact of ICESCR, CEDAW, CRC and CRPD was felt more directly over the national jurisprudence thanks to constitutional articles recognizing the direct applicability of these covenants over domestic law. The nations with this particular decrees are the following: Argentina (section 75.22, 75.22.1), Bolivia (article 13,14,256,257), Brazil (article 5), Colombia (article 93), Costa Rica (article 7), Dominican Rep. (article 26.2), Ecuador (article 10, 417), El Salvador (article 144), Guatemala (article 46), Haiti (article 276), Honduras (article 18, 119), Mexico (article 1), Nicaragua (article 46, 71.2), Paraguay (article 137), Peru (article d55) and Venezuela (article 23). As per previous sources, this data accounts to changes up to October of 2015.¹⁷⁹

¹⁷⁷ See Annex IV for details

¹⁷⁸ See Annex IV for details

¹⁷⁹ See Annex IV for details

VII. Analysis

With data from the previous section detailing treaty ratification rates and constitutional recognition of the right to food in Latin America and the Caribbean, I embarked on the analytical section of my research. The first step was to match the language found in each of the chosen covenants with the constitutional articles referring to the right to food found in each constitution. The first international covenant whose bearing on national constitutions I set out to test was the ICESCR. To do this, I sought to locate key words and phrases from article 11 of this important treaty. I attempted to find in the constitution of every ratifying country in Latin America and the Caribbean any mention of “the right of everyone to an adequate standard of living for himself and his family, including adequate food”, “the fundamental right of everyone to be free from hunger”, “improving methods of production, conservation and distribution of food”, “disseminating knowledge of the principles of nutrition”, “developing or reforming agrarian systems” and “ensuring an equitable distribution of world food supplies in relation to need.”¹⁸⁰

Of the 29 member parties to the convention, 19¹⁸¹ have constitutional articles protecting the right to food with language unambiguously similar to that found in the ICESCR. However, among the matches, 2 countries were not taken into consideration as they did not fit the temporal framework discussed above. Cuba did not ratify the international treaty, while Haiti accessed it in 2013, and last updated its constitution in 2012. This analysis showed how the right to unadulterated access to adequate food is a popular prerogative of several nations in Latin America and the Caribbean. Bolivia’s article 16 maintains that “everyone has the right to water and food” Haiti, Peru Suriname and Ecuador agree with this statement, and profess the same in article 22, 10, 24 and 66 of their respective constitutions. Mexico adds the caveat that the food should be nutritious, and that the state should guarantee it (article 4.3). In its constitution, Ecuador also states that when possible, the food should be produced locally and in accordance with the different cultural identities and traditions (article 13). Guatemala (article 99) and the Dominican Republic (article 57) on the other hand are concerned with general wellbeing of their citizens: food and nutrition should meet the minimum health requirements of the population. Suriname also looks at the big picture: article 4 declares that the state should secure the means of livelihood for the entire nation.

Again mirroring the language found in article 11 of the ICESCR, six countries talk about agricultural technology and the need to develop and reform the agrarian system in their constitution. The Dominican Republic notes in article 54 the need for “The State... to promote research and technology transfer for the production of food and raw materials of agricultural origin, in order to increase productivity and ensure food security”. Venezuela claims a similar aspiration in article 305: “The State shall promote sustainable agriculture as the strategic basis for overall rural development to ensure food security of the population...”. Ecuador chimes in with article 281: “Food sovereignty is a strategic objective and an obligation of the State to ensure..self-sufficiency..”Mexico responds to the plight of farmers with article 27.XX: “The State shall promote conditions for overall rural development, with the aim of generating employment and ensuring the rural population welfare and participation and inclusion in national development” a similar call is

¹⁸⁰ The full text of article 11 of the ICESCR can be found below in Annex III

¹⁸¹ In alphabetical order: Bolivia, Brazil, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname and Venezuela.

made by Panama with article 122: “the State will pay special attention to the integral development of the agricultural sector, promote optimum land use, ensure rational distribution and proper use... in order to maintain productivity and to guarantee the right of every farmer to a decent existence.” Costa Rica wraps up with article 50: “The state shall seek the greatest welfare for all inhabitants of the country, organizing and promoting production and the most appropriate distribution of wealth.”

Nine nations among the ones analyzed include a provision in their constitution granting working individuals the right to an adequate standard of living. Costa Rica’s article 57 asserts that “Every worker is entitled to a minimum wage... which will provide for his welfare and a decent living.” A concept imitated by article 62.9 of the constitution of the Dominican Republic, article 92 of that of Paraguay, article 24 of Peru’s, art 102 of Guatemala’s and art. 91 of Venezuela’s. Cuba’s article 9 pledges instead that “no person capable of work...will go without the opportunity to get a job to contribute to the goals of society and to the satisfaction of his/her own needs”. El Salvador talks instead of using state resources to ensure every worker and their families the economic conditions for a dignified existence. (art. 37 and 38.2) Honduras’s article 142 deviates slightly from the norm, stating that “everyone has the right to security of their economic livelihoods in case of incapacity to work or obtain gainful employment.” Brazil instead proposes with article 7 “a nationally unified minimum monthly wage, established by law, capable of satisfying their basic living needs of individuals and their families. Nicaragua and Guyana are the only countries whose constitution clearly states that it is the right of its citizens to be protected against hunger (article 63 of the former and article 40.1 of the latter). The Central American country further claims that “the State shall promote programs that ensure adequate food availability and an equitable distribution of the same.” Both the constitution of Colombia (article 46) and that of the Dominican Republic swear that “the state shall guarantee the services of the comprehensive social security and food subsidies in case of destitution.”¹⁸²

CEDAW’s influence was assessed in a similar way. I scanned the national constitutions for any mention of the most salient points from article 12 and 14 of the convention. I looked for any reference to “ensuring women have appropriate services”, “... adequate living conditions” “...adequate nutrition during pregnancy and lactation” and also any “measures to eliminate discrimination against women in rural areas”.¹⁸³ I found that among the 33 countries that either ratified or accessed the convention, only 6¹⁸⁴ mentioned some of the statements brought up in CEDAW’s articles, but all countries qualified in terms of temporal ratification. Specifically, Brazil’s article 6 mentions “protection of motherhood” and so does Nicaragua, whose article 82 ensures “social security for comprehensive protection and livelihood in case of maternity.” Honduras legislated in a similar fashion, with article 123 providing the ability for “mothers to develop in good health, particularly during the prenatal period.” Cuba approached women and nutrition from a more implicit direction. Article 9 of the island nation ensures that “every man or woman able to work should have a chance to get a job and satisfy his or her own needs.” A similar concept is introduced by Venezuela, article 91 posits that “every worker, male or female is entitled to a wage sufficient to cover himself and his family’s basic needs.” Colombia’s constitution was the most specific. Article 43 claimed that “Women and men have equal rights and opportunities, and

¹⁸² See Annex IV for the full texts of the constitutional articles presented in this section

¹⁸³ The full text of article 12 and 14 of CEDAW can be found below in Annex III

¹⁸⁴ Brazil, Colombia, Cuba, Honduras, Nicaragua, Venezuela.

that women may not be subjected to any kind of discrimination.” and also that “During pregnancy and after delivery women will enjoy special assistance and protection from the state and shall receive an allowance from it if they are unemployed or homeless.”¹⁸⁵

I repeated the same procedure for the CRC. From article 24 of the convention I looked for recognition of “the right of the child to the enjoyment of the highest attainable standard of health” and that “no child is deprived of his or her right of access to such health care”. I also paid attention to any constitutional article with the goal to “combat disease and malnutrition... through the provision of adequate nutritious foods and clean drinking-water”. Moreover, I inspected the texts for any sign of “the right of every child to an adequate standard of living” and any state plan of providing “material assistance and support programs, particularly with regard to nutrition... to assist parents and others responsible for the child to implement this right”, two concepts affirmed by article 27 of CRC.¹⁸⁶ I found that of the 33 nations party to the agreement, 10¹⁸⁷ included childhood nutrition concerns in their respective constitutions, and all qualified.

Colombia’s article 44 stressed the fundamental rights of all children to “life, physical integrity, health and social security, a balanced diet...” Costa Rica on the other hand approached the norm from an educational angle with article 82, promising that “the State shall provide food and clothing for indigent pupils, in accordance with the law.” Brazil followed suit, pledging in article 208 “assistance to students in all grades of basic education, by means of supplementary programmes providing school materials, transportation, food and health care.” The lusophone nation also mentioned protection of childhood as one of its fundamental social rights (article 6), and claimed it “It is the duty of the family, the society and the State to ensure children and adolescents, with absolute priority, the right to life, health, nourishment.” in article 227 of its constitution. Paraguay claimed a similar argument in article 54, declaring that “the family, society and the state have an obligation to ensure children’s harmonious and comprehensive development and the full exercise of their rights, protecting against neglect, malnutrition...” Noticeably, defending the rights of children as a duty of the state was a recurring theme in other constitutions as well. Guatemala underlined with article 51 the duty of the state to “...protect the physical, mental and moral health of minors.. guaranteeing them their right to food , health, education and social security and welfare .” Panama’s article 56.2 and Cuba’s article 9 are virtually indistinguishable to Guatemala principles, while Ecuador brings a similar premise but distinguished between children under six and adolescents in article 46. Predictably, Honduras does not stray away from the recurring message claiming in article 123 that “Every child shall enjoy the benefits of social security and education... and be entitled to enjoy food, housing, education, recreation, sports and medical services.” Mexico conveyed a very similar message with article 4.8, but also brought to the table the novel idea of establishing “social policies to support [...] with special education and nutrition programs for children and youth from migrant families.” (article 2B VIII)¹⁸⁸ probably in response to the north-south migratory crisis that has enveloped the country in recent years.

Last but not least, I analyzed CRPD’s sway on the constitutions of Latin America and the Caribbean. From article 28 of the convention, I looked for any constitutional allusion to the “right

¹⁸⁵ Please see Annex IV for the full texts of the constitutional articles presented in this section.

¹⁸⁶ The full text of article 24 and 27 of the CRC can be found below in Annex III

¹⁸⁷ Brazil, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Panama, Paraguay.

¹⁸⁸ Again see Annex IV for the full texts of the constitutional articles presented in this section.

of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing.”¹⁸⁹ Among the 28 nations that either ratified or accessed the convention, only 4¹⁹⁰ had a clear reference to the norm explicitly included in the CRPD, and all did it through implicit rather than explicit right to food. The country that with its constitutional recognition most resembled the analyzed human right treaty was Cuba. Despite the resemblance however the country did not qualified the requirement set by my hypothesis: it ratified the treaty in 2007 and its last constitutional amendment was made in 2002, meaning the matching language was already present in its constitution before the treaty was signed. Nonetheless, with article 9 of its constitution the island nation guarantees that, thanks to the state, there won't be disabled people who do not have a decent means of sustenance. The state also assures that "Through the social security system, it will protect all workers incapacitated by age, illness or disability, and that if the worker dies this protection will be extended to his family.”(article 47). And that “through social assistance it will protect.. anyone unable to work... and with no relatives in a position to help” (article 48). The same principle of an assured livelihood granted by the state in case of disability and incapacity to work is proclaimed by Honduras with article 142, Nicaragua's article 82 and Panama's 113. The transcontinental country also asserts, with article 56.2 that “The state shall protect the physical, mental and moral health of the disabled, guaranteeing them the right to food, health, education, social security and welfare.”¹⁹¹ It is interesting to note that despite no other country in the region extending the right to an adequate standard of living specifically to people with a disability (a principle clearly championed by CRPD), many do so for the elderly, infirm and destitute, which have as many food rights as children in a substantial number of the constitutions that I analyzed.

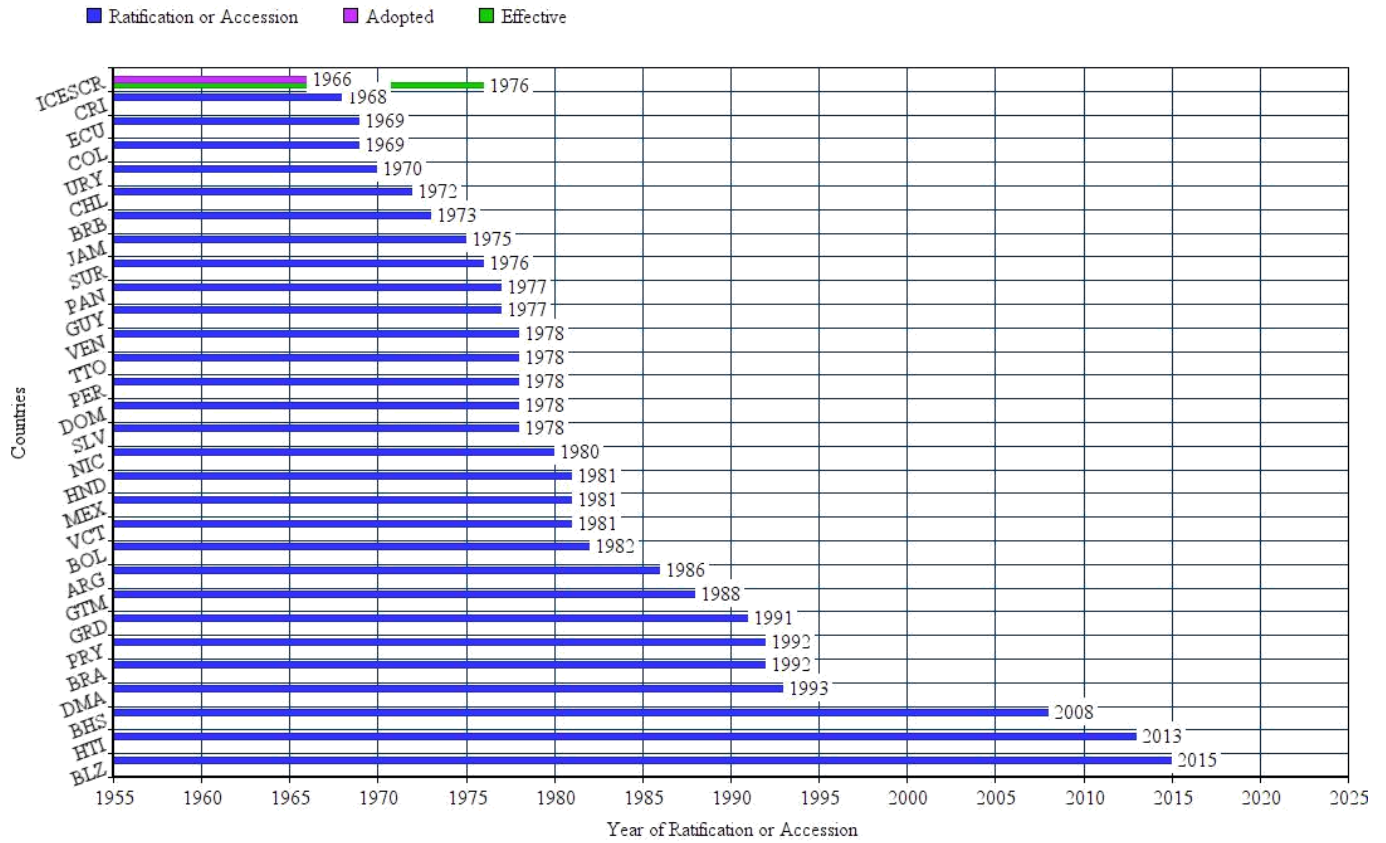
¹⁸⁹ article 28 of the CRPD can be found in its entirety in Annex III below

¹⁹⁰ Cuba, Honduras, Nicaragua, Panama

¹⁹¹ See Annex IV for the full texts of the constitutional articles presented in this section.

Table 1¹⁹²

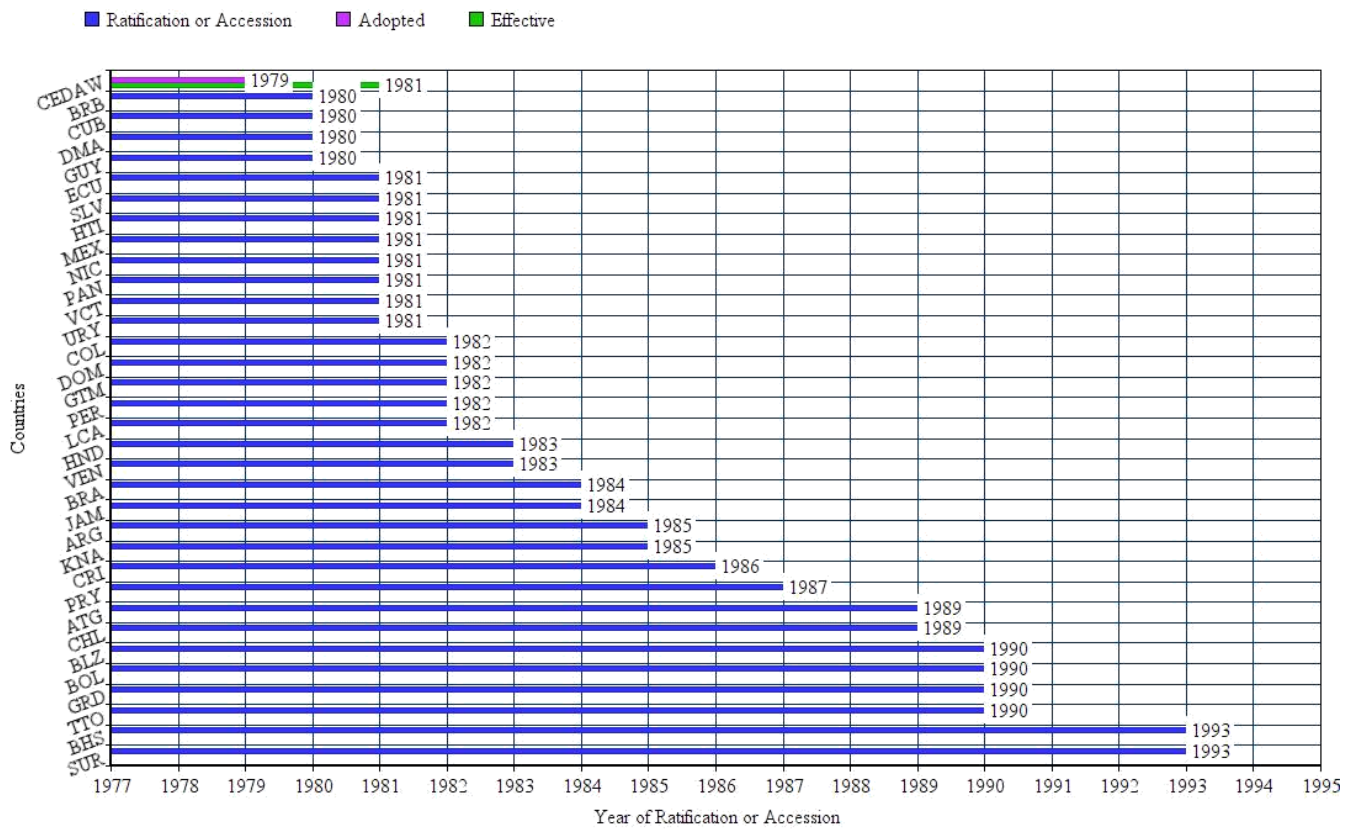
ICESCR Ratification or Accession



¹⁹² Dates from FAOLEX, Also available in Annex IV. See Annex V for country abbreviations.

Table 2¹⁹³

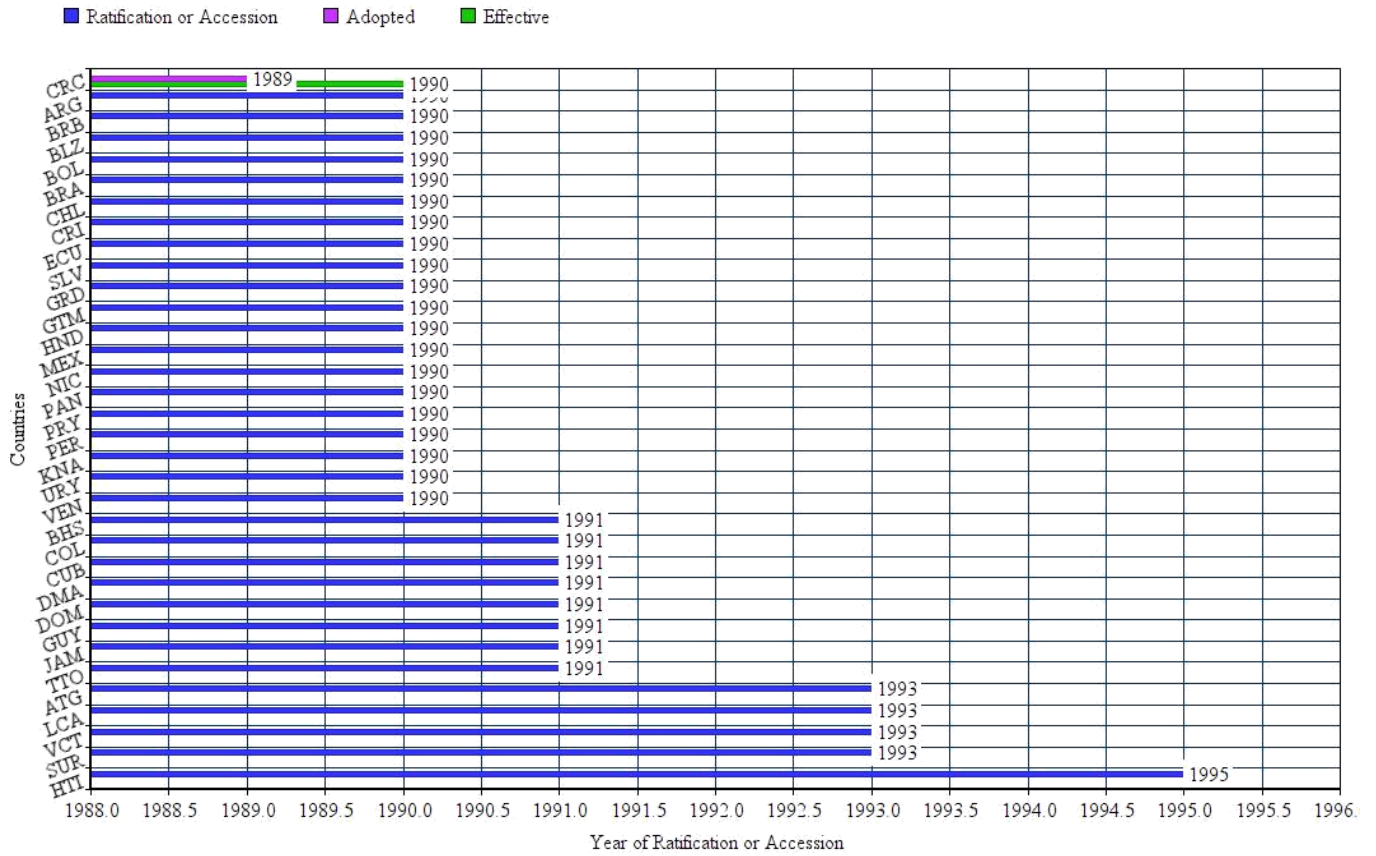
CEDAW Ratification or Accession



¹⁹³ Dates from FAOLEX, Also available in Annex IV. See Annex V for country abbreviations.

Table 3¹⁹⁴

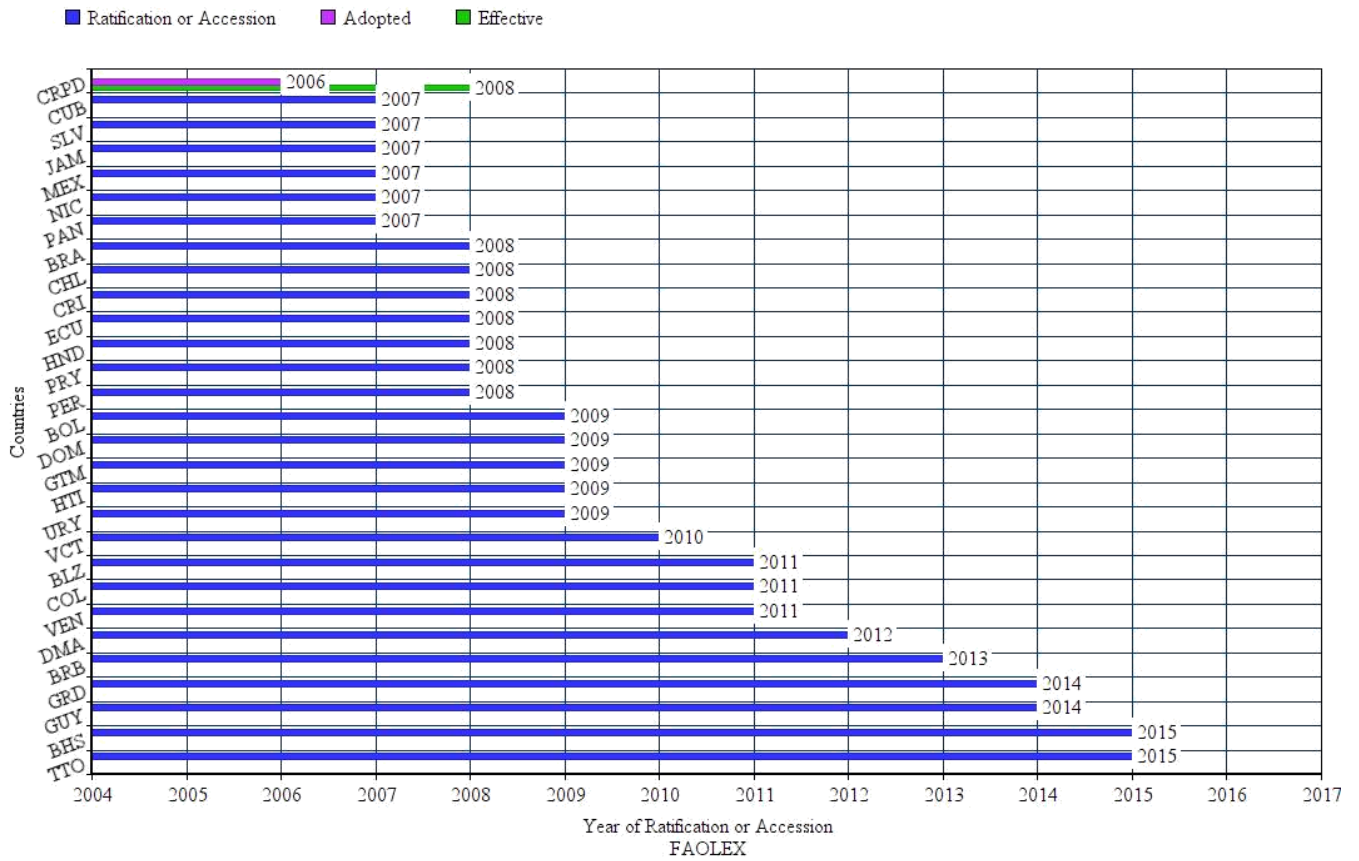
CRC Ratification or Accession



¹⁹⁴ Dates from FAOLEX, Also available in Annex IV. See Annex V for country abbreviations.

Table 4¹⁹⁵

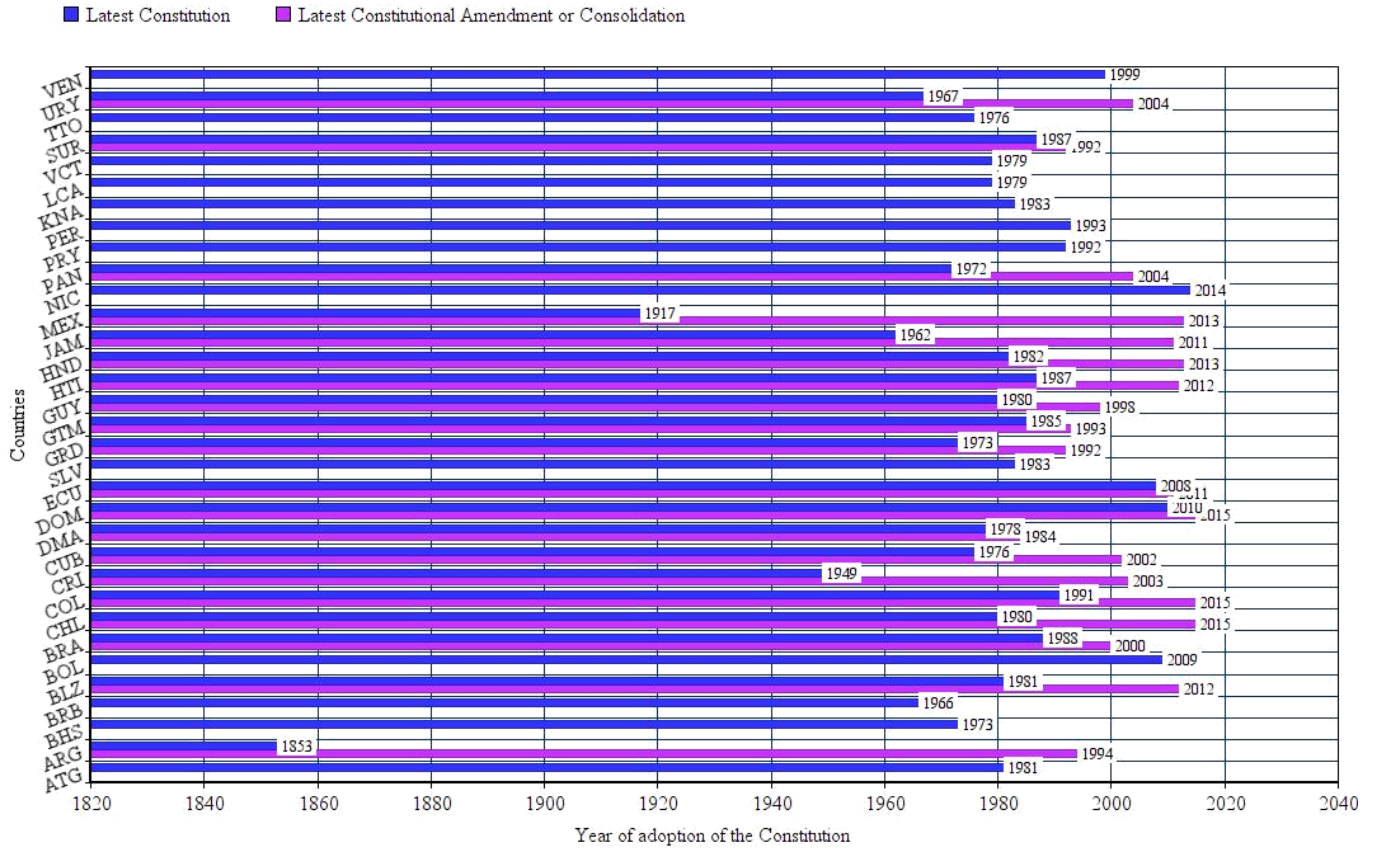
CRPD Ratification or Accession



¹⁹⁵ Dates from FAOLEX, Also available in Annex IV. See Annex V for country abbreviations.

Table 5¹⁹⁶

Constitutions of Latin America and the Caribbean



¹⁹⁶ Constitutional DATA from FAOLEX, See Annex V for country abbreviations.

VIII. Discussion of Findings

The success of ICESCR, CEDAW, CRC and CRPD in Latin America and the Caribbean proves that the region is at the vanguard of international negotiations, passionately embracing binding treaties from their establishment onwards. The commitment to ratifying or accessing these covenants demonstrates that the governments in the region are interested in defending and safeguarding the fundamental human rights of its citizens, at least on paper and under the watchful eye of the United Nations. Furthermore, the eagerness to adopt these documents also sends an important signal to members of the international community, informing them that the region's governments are keen to cooperate internationally, even beyond essential norms such as the right to food.

As expected, countries in Latin America and the Caribbean also showed a keen interest in protecting the right to food domestically. About half of the countries in the region reported an explicit recognition of the right to food, and a similar percentage claimed implicit recognition. Directive principles of state policy concerning the right to food were provided for in about a third of the countries. Overall 21 out of 33 nations chose to defend the right to food with at least one of these principles, roughly 2/3 of the total. While these percentages do not seem particularly high overall, they are high enough to place the region at the forefront of constitutional protection of the right to food worldwide, ahead of Africa, Asia, Oceania and Europe. It is important to note however that the protection of the right to food is not spread evenly in the region. With the exception of Chile, the nations that chose not to include the right to food in their constitutions are all located in the Caribbean sub-region. This proves a discrepancy of values between the small island nations in the Caribbean that almost completely reject the constitutional protection of the right to food and the large continental countries largely in favor of it.

And what about the vertical universalization of the right to food through the influence of outside international agreements as hypothesized by Elkins, Ginsburg and Simmons¹⁹⁷? Truthfully, the impact of the international covenants on the adoption of the right to food in national constitutions was unexpected. Through my analysis of the "contaminated" constitutional texts I established that the four treaties are rather disproportionately influential when it comes to affecting national constitutions in Latin America and the Caribbean. The most influential covenant is without any doubt the ICESCR. With 17 confirmed matches out of 29, this international agreement shows that signaling and supplementation are more than just theoretical arguments, but real life mechanisms with the ability to extend the power and influence of covenants in the domestic sphere. The treaty clearly has a strong impact on constitutions in the region, having cross-contaminated about 60% of the total with its norms and principles. This result was not at all surprising. The covenant has been around since 1966, meaning that for 50 years the treaty has been given the opportunity to influence the drafting of constitutional rights around the globe. ICESCR success probably also stemmed from its generalist nature. Unlike the other three covenants that include highly specific language in their texts, ICESCR presents general norms which are highly sharable and thus probably more easily adopted into national constitutions. The second most influential international covenant among the ones that I chose to analyze was CRC. The treaty had 10

¹⁹⁷ Elkins, Ginsburg, Simmons (2013) pg. 221

confirmed matches among the 33 constitutions of Latin America and the Caribbean. This means that its rights directly influenced about a third of the national constitutions in the region to adopt the right to food, a small but relevant effect for a covenant that has been around for slightly over a quarter of a century.

CEDAW and CRPD did not fare as well as their fellow international covenants. The Convention on the Elimination on Discrimination Against Women cross contaminated with its norms only 6 national constitutions, a mere 18% of the total. This result was the most surprising, seeing the convention is one of the oldest to incorporate the right to food. CRPD was even less influential. With only 4 constitutions referencing its norms out of 28, the covenant can claim to have spread the right to food to only 14% of the region's constitutions. In its defense, the latter convention has been around only since 2006, so its influence over the adoption of the right to food in national constitutions could very well grow in the future. This would be in accordance with the rights creep phenomenon explained earlier¹⁹⁸, by which constitutions tend to increase their number of rights over time. As recalled above, the highly specialist language found in CEDAW and CRPD probably worked against them in the long run. Only a handful of countries chose to include norms stemming from these covenants in their national constitutions. Despite the fact that the four covenants in most cases only influenced a fraction of the national constitutions in the region with their language, the extent that I set forth to test in my research question is a positive one. With this paper I proved the existence of a definite cause- effect mechanism that pushes international treaties to influence the constitutional adoption of the right to food. Time will tell if this process is still ongoing, and whether these covenants will end up strengthening their impact over future constitutions in the region.

¹⁹⁸ Law, Versteeg (2011) pg. 1164

IX. Conclusion

The right to food has grown exponentially since the beginning of the human rights era. Today it is a widespread and well respected right in Latin America and the Caribbean, but also around the world, and if theories of universalization are correct, its impact will continue to grow in the future. In my thesis I set out to test my research question, or to what extent the ratification or accession of international binding covenants protecting the right to food influences countries in Latin America and the Caribbean to protect this norm domestically, by incorporating it in their national constitutions. The results proved that this extent is indeed positive, demonstrating the existence of a liaison between international and national jurisprudence and strengthening the signaling and supplementation powers of the selected norm. More importantly however the results established that the four covenants that I chose to test are disproportionately influential over the spreading of the right to food in the regional constitutions, with the ISCESCR defined as the most influential and the CRPD as the least influential in the group. Unfortunately, the age of each treaty and consequentially its presence in the international arena, other than the difference in specific versus general language used are just some of the treaty characteristics that might have prejudiced the observed divergence in influence.

To continue the understanding and appreciation of the right to food I now put forward some suggested future research avenues. The most obvious one is to test whether the relationship between international treaties and domestic constitutions is actually reversed versus the one that I tested in my thesis. Maybe international covenants that defend the right to food are created and opened up for international ratification only after a certain number of countries have adopted a similar constitutional article domestically. One could test this simply with a detailed list of amendments in each national constitution, to track exactly when a certain article was included domestically. It would also be interesting to determine if international covenants on the right to food have an influence on framework laws rather than just simply on constitutions. To test this, I would compile a list of framework laws enacted in each country, and test their language for contamination from international binding covenants. A third and more fascinating inquiry would be to determine if the incorporation of the right to food in constitutions, international covenants and framework laws has a positive and replicable influence on a country's malnutrition levels. I would start by investigating in more detail the Caribbean island nations. These countries have been the least effective at combating hunger in recent years,¹⁹⁹ but also suspiciously the least committed to international treaty ratification and adoption of the right to food constitutionally.²⁰⁰ Is this only a coincidence or could an indirect relationship between malnutrition and commitment to the adoption of the right to food (domestically or internationally) be in fact a reality?

¹⁹⁹ FAO (2015) Regional Overview of Food Insecurity in LAC pg. 3

²⁰⁰ See Annex IV

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XI. Appendix

ANNEX I: Number (in millions of people) and Prevalence (%) of Hunger in Latin America and the Caribbean²⁰¹

Country/Region	Millions of Hungry People					Prevalence of Hunger				
	1990-92	2000-02	2005-07	2010-12	2014-16*	1990-92	2000-02	2005-07	2010-12	2014-16*
1. Antigua and Barbuda	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data
2. Argentina	ns	ns	ns	ns	ns	<5%	<5%	<5%	<5%	<5%
3. The Bahamas	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data
4. Barbados	ns	<0.1	<0.1	ns	ns	<5	5.2	5.2	<5	<5
5. Belize	<0.1	<0.1	<0.1	<0.1	<0.1	9.7	5.8	<5	5.7	6.2
6. Bolivia	2.6	2.8	2.8	2.5	1.8	38.0	32.8	29.9	24.5	15.9
7. Brazil	22.6	19.9	ns	ns	ns	14.8	11.2	<5	<5	<5
8. Chile	1.2	ns	ns	ns	ns	9.0	<5	<5	<5	<5
9. Colombia	5.0	3.9	4.2	5.3	4.4	14.6	9.6	9.7	11.2	8.8
10. Costa Rica	0.2	0.2	0.2	0.3	ns	5.2	5.1	5.6	5.3	<5
11. Cuba	0.6	ns	ns	ns	ns	5.7	<5	<5	<5	<5
12. Dominica	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data
13. Dominican Republic	2.5	2.5	2.3	1.6	1.3	34.3	28.4	24.2	15.9	12.3
14. Ecuador	2.0	2.4	2.6	2.0	1.8	19.4	18.6	18.8	12.8	10.9
15. El Salvador	0.9	0.6	0.7	0.8	0.8	16.2	10.6	10.7	12.6	12.4
16. Grenada	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data
17. Guatemala	1.4	2.3	2.1	2.2	2.5	14.9	20.4	15.9	14.8	15.6
18. Guyana	0.2	<0.1	0.1	0.1	<0.1	22.8	9.7	10.4	11.8	10.6
19. Haiti	4.4	4.8	5.4	4.9	5.7	61.1	55.2	57.1	49.3	53.4
20. Honduras	1.2	1.2	1.2	1.1	1.0	23.0	18.5	16.4	14.6	12.2
21. Jamaica	0.2	0.2	0.2	0.2	0.2	10.4	7.3	7.0	8.3	8.1
22. Mexico	6.0	ns	ns	ns	ns	6.9	<5	<5	<5	<5
23. Nicaragua	2.3	1.6	1.3	1.2	1.0	55.4	31.3	23.2	19.5	16.6
24. Panama	0.7	0.9	0.8	0.5	0.4	26.4	27.6	22.9	13.4	9.5
25. Paraguay	0.9	0.7	0.7	0.8	0.7	19.5	12.9	11.2	11.1	10.4
26. Peru	7.0	5.4	5.3	3.2	2.3	31.6	20.7	18.9	10.7	7.5
27. Saint Kitts and Nevis	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data
28. Saint Lucia	no data	no data	no data	no data	no data	no data	no data	no data	no data	no data
29. Saint Vincent and the Grenadines	<0.1	<0.1	0.0	0.0	<0.1	20.7	16.8	9.2	6.4	6.2
30. Suriname	<0.1	<0.1	0.1	0.0	<0.1	15.5	13.9	11.5	8.3	8.0
31. Trinidad and Tobago	0.2	0.2	0.2	0.1	0.1	12.6	11.9	11.7	9.9	7.4
32. Uruguay	0.3	ns	ns	ns	ns	8.6	<5	<5	<5	<5
33. Venezuela	2.8	3.8	2.5	ns	ns	14.1	15.3	9.0	<5	<5
South America	45.4	40.5	22.7	ns	ns	15.1	11.4	7.2	<5	<5
Central America	12.6	11.8	11.6	11.3	11.4	10.7	8.3	7.6	6.9	6.6
The Caribbean	8.1	8.2	8.3	7.3	7.5	27.0	24.4	23.5	19.8	19.8
Latin America and the Caribbean	66.1	60.4	47.1	38.3	34.3	14.7	11.4	8.4	6.4	5.5
World	1010.6	929.6	942.3	820.7	794.6	18.6	14.9	14.3	11.8	10.9

*Projections. ns- indicates values that are not statistically significant.

²⁰¹ FAO (2015) Hunger Map Data Repository

ANNEX II: Status of the Millennium Development Goal and the World Food Summit Goal in Latin America and the Caribbean²⁰²

Country-Region	Millennium Development Goal 1C (Halving the Proportion of Hungry)	World Food Summit Goal (Halving the number of Hungry)
1. Antigua and Barbuda	Missing or Insufficient Values	Missing or Insufficient Values
2. Argentina	Achieved	Achieved
3. The Bahamas	Missing or Insufficient Values	Missing or Insufficient Values
4. Barbados	Achieved	Not Achieved, with lack of progress or deterioration
5. Belize	Not achieved, but slow progress	Not Achieved, with lack of progress or deterioration
6. Bolivia	Achieved	Not achieved, but slow progress
7. Brazil	Achieved	Achieved
8. Chile	Achieved	Achieved
9. Colombia	Not achieved, but slow progress	Not achieved, but slow progress
10. Costa Rica	Achieved	Not Achieved, with lack of progress or deterioration
11. Cuba	Achieved	Achieved
12. Dominica	Missing or Insufficient Values	Missing or Insufficient Values
13. Dominican Republic	Achieved	Achieved
14. Ecuador	Not Achieved, but slow progress	Not achieved, but slow progress
15. El Salvador	Not achieved, but slow progress	Not achieved, but slow progress
16. Grenada	Missing or Insufficient Values	Missing or Insufficient Values
17. Guatemala	Not Achieved, with lack of progress or deterioration	Not Achieved, with lack of progress or deterioration
18. Guyana	Achieved	Achieved
19. Haiti	Not Achieved, but slow progress	Not Achieved, with lack of progress or deterioration
20. Honduras	Not achieved, but slow progress	Not achieved, but slow progress
21. Jamaica	Not Achieved, but slow progress	Not achieved, but slow progress
22. Mexico	Achieved	Not achieved, but slow progress
23. Nicaragua	Achieved	Achieved
24. Panama	Achieved	Not achieved, but slow progress
25. Paraguay	Not achieved, but slow progress	Not achieved, but slow progress
26. Peru	Achieved	Achieved
27. Saint Kitts and Nevis	Missing or Insufficient Values	Missing or Insufficient Values
28. Saint Lucia	Missing or Insufficient Values	Missing or Insufficient Values
29. Saint Vincent and the Grenadines	Achieved	Achieved
30. Suriname	Achieved	Not achieved, but slow progress
31. Trinidad and Tobago	Not Achieved, but slow progress	Not achieved, but slow progress
32. Uruguay	Achieved	Achieved
33. Venezuela	Achieved	Achieved
South America	Achieved	Achieved
Central America	Not Achieved, but slow progress	Not Achieved, but slow progress
The Caribbean	Not Achieved, but slow progress	Not Achieved, but slow progress
Latin America and the Caribbean	Achieved	Achieved
World		

²⁰² FAO (2015) Hunger Map Data Repository

Annex III: Articles Referring to the Right to Food in International Treaties²⁰³

Universal Declaration of Human Rights (UDHR)
Ratified 1948
<p>Article 25</p> <p>1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.</p>

International Covenant on Economic, Social and Cultural Rights (ICESCR)
Adopted in 1966, Effective in 1976.
<p>Article 11</p> <p>1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.</p> <p>2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:</p> <p>(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;</p> <p>(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.</p>

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)
Adopted 1979, Effective 1981.
<p>Article 12</p> <p>2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.</p> <p>Article 14</p> <p>2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:</p> <p>(b) To have access to adequate health care facilities, including information, counselling and services in family planning;</p> <p>(c) To benefit directly from social security programmes;</p> <p>(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;</p> <p>(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;</p> <p>(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.</p>

Convention on the Rights of the Child (CRC)
Adopted 1989, Effective 1990
<p>Article 24</p> <p>1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p>

²⁰³ FAO (2015) The Right to Food Around the Globe

<p>2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>Article 27</p> <p>1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.</p> <p>2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.</p> <p>3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.</p>

<p>Convention on the Rights of Persons with Disabilities (CRPD)</p> <p>Adopted 2006, Effective 2008</p>
<p>Article 28 - Adequate standard of living and social protection</p> <p>1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.</p>

ANNEX IV The Right to Food in Latin America and the Caribbean²⁰⁴

(as of October 16th 2015)

Country	Constitutional Recognition ²⁰⁵	National Status of International Regulations	International Treaties ²⁰⁶
Antigua and Barbuda	No	Unknown	UDHR-Yes ICESCR- No CEDAW - Accession 1989 CRC- Ratified 1993 CRPD -Signed 2007 OPICESCR- No
Argentina	Implicit Protection: Section 14bis: "Labor in its several forms shall be protected by law, which shall ensure to workers: dignified and equitable working conditions; limited working hours; paid rest and vacations; fair remuneration; minimum vital and adjustable wage..."	Direct Applicability: Section 75.22: "Treaties and concordats have a higher hierarchy than laws." Section 75.22.1: "The American Declaration of the Rights and Duties of Man; the Universal Declaration of Human Rights; the American Convention on Human Rights; the American Convention on Human Rights; the International Pact on Economic, Social and Cultural Rights; the International Pact on Civil and Political Rights and its empowering Protocol; the Convention on the Prevention and Punishment of	UDHR-Yes ICESCR- Ratified 1986 CEDAW – Ratified 1985 CRC- Ratified 1990 CRPD -Signed 2008 OPICESCR- 2011

²⁰⁴ Data Sources: FAOLEX (official texts of the national constitutions), United Nations Treaty Collection (status of the international treaties), University of Minnesota Human Rights Library (status of the international treaties), Office of the High Commissioner for Human Rights (Official texts of the international treaties)

²⁰⁵ The constitutional articles pertaining to the right to food of each analyzed country are presented in this section in either English (when an official translation of the constitution was available) or Spanish.

²⁰⁶ See the glossary section for acronym explanation.

		Genocide; the International Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Elimination of all Forms of Discrimination against Woman; the Convention against Torture and other Cruel, Inhuman or Degrading Treatments or Punishments; the Convention on the Rights of the Child; in the full force of their provisions, they have constitutional hierarchy, do not repeal any section of the First Part of this Constitution and are to be understood as complementing the rights and guarantees recognized herein.”	
Bahamas	No	Unknown	UDHR-Yes ICESCR- Ratified 2008 CEDAW – Accession 1993 CRC- Ratified 1991 CRPD – Ratified 2015 OPICESCR- No
Barbados	No	Unknown	UDHR-Yes ICESCR- Accession 1973 CEDAW – Ratification 1980 CRC- Ratification 1990 CRPD-Ratification 2013 OPICESCR- No
Belize	No	Unknown	UDHR-Yes ICESCR- Ratified 2015 CEDAW – Ratified 1990 CRC- Ratified 1990 CRPD –Ratified 2011 OPICESCR- No
Bolivia	Explicit Protection: Artículo 16: I. Toda persona tiene derecho al agua y a la alimentación. II. El Estado tiene la obligación de garantizar la seguridad alimentaria, a través de una alimentación sana, adecuada y suficiente para toda la población.” Implicit Protection: Artículo 35.I: “El Estado, en todos sus niveles, protegerá el derecho a la salud, promoviendo políticas públicas orientadas a mejorar la calidad de vida, el bienestar colectivo y el acceso gratuito de la población a los servicios de salud.” Artículo 46.I.1: “Toda persona tiene derecho: Al trabajo digno, con seguridad industrial, higiene y salud ocupacional, sin discriminación, y con remuneración o salario justo, equitativo y satisfactorio, que le asegure para sí y su familia una existencia digna.” Directive Principles of State Policy: Artículo 9.2: “Garantizar el bienestar, el desarrollo, la seguridad y la protección e igual dignidad de las personas, las naciones, los pueblos y las comunidades.”	Direct Applicability: Artículo 13.IV: “Los tratados y convenios internacionales ratificados por la Asamblea Legislativa Plurinacional, que reconocen los derechos humanos y que prohíben su limitación en los Estados de Excepción prevalecen en el orden interno. Los derechos y deberes consagrados en esta Constitución se interpretarán de conformidad con los Tratados internacionales de derechos humanos ratificados por Bolivia.” Artículo 14.III: “El Estado garantiza a todas las personas y colectividades, sin discriminación alguna, el libre y eficaz ejercicio de los derechos establecidos en esta Constitución, las leyes y los tratados internacionales de derechos humanos.” Artículo 256.I: “Los tratados e instrumentos internacionales en materia de derechos humanos	UDHR- Yes ICESCR- Accession 1982 CEDAW – Ratified 1990 CRC- Ratified 1990 CRPD –Ratified 2009 OPICESCR- Ratified 2012

		que hayan sido firmados, ratificados o a los que se hubiera adherido el Estado, que declaren derechos más favorables a los contenidos en la Constitución, se aplicarán de manera preferente sobre ésta.” Artículo 257.I: “Los tratados internacionales ratificados forman parte del ordenamiento jurídico interno con rango de ley.”	
Brazil	Explicit Protection: Article 6: “Education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute are social rights, as set forth by this Constitution. (CA No. 26, 2000; CA No. 64, 2010).” Article 7: “The following are rights of urban and rural workers, among others that aim to improve their social conditions: (CA No. 20, 1998; CA No. 28, 2000; CA No. 53, 2006). IV – nationally unified minimum monthly wage, established by law, capable of satisfying their basic living needs and those of their families with housing, food, education, health, leisure, clothing, hygiene, transportation, and social security, with periodical adjustments to maintain its purchasing power, it being forbidden to use it as an index for any purpose;” Article 227: “It is the duty of the family, the society and the State to ensure children and adolescents, with absolute priority, the right to life, health, nourishment (...).” Implicit Protection: Article 208: “The duty of the State towards education shall be fulfilled by ensuring the following: (CA No. 14, 1996; CA No. 59, 2009) VII – assistance to students in all grades of basic education, by means of supplementary programmes providing school materials, transportation, food and health care.”	Direct Applicability: Article 5: “All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property, on the following terms: (CA No. 45, 2004) LXXVIII – a reasonable length of proceedings and the means to guarantee their expeditious consideration are ensured to everyone, both in the judicial and administrative spheres. Paragraph 3. International human rights treaties and conventions which are approved in each House of the National Congress, in two rounds of voting, by three fifths of the votes of the respective members shall be equivalent to constitutional amendments.”	UDHR- Yes ICESCR- Accession 1992 CEDAW – Ratified 1984 CRC- Ratified 1990 CRPD –Ratified 2008 OPICESCR- No
Chile	No	Unknown	UDHR-Yes ICESCR- Ratified 1972 CEDAW –Ratified 1989 CRC- Ratified 1990 CRPD –Ratified 2008 OPICESCR- Signed 2009
Colombia	Explicit Protection: Artículo 43: “La mujer y el hombre tienen iguales derechos y oportunidades. La mujer no podrá ser sometida a ninguna clase de discriminación. Durante el embarazo y después del parto gozará de especial asistencia y protección del Estado, y recibirá de éste subsidio alimentario si entonces estuviere desempleada o desamparada.” Artículo 44: “Son derechos fundamentales de los niños: la vida, la integridad física, la salud y la seguridad social, la alimentación equilibrada [...] Gozarán también de los demás derechos consagrados en la Constitución, en las leyes y en los tratados internacionales ratificados por Colombia.” Artículo 46: “El Estado, la sociedad y la familia concurrirán para la protección y la asistencia de las personas de la tercera edad y promoverán su integración a la vida activa y comunitaria. El Estado les garantizará los servicios de la seguridad social integral y el subsidio alimentario en caso de indigencia.”	Direct Applicability: Artículo 93: “Los tratados y convenios internacionales ratificados por el Congreso, que reconocen los derechos humanos y que prohíben su limitación en los estados de excepción, prevalecen en el orden interno. Los derechos y deberes consagrados en esta Carta, se interpretarán de conformidad con los tratados internacionales sobre derechos humanos ratificados por Colombia.”	UDHR-Yes ICESCR- Ratified 1969 CEDAW – Ratified 1982 CRC- Ratified 1991 CRPD –Ratified 2011 OPICESCR-No
Costa Rica	Explicit Protection: Article 82: “The State shall provide food and clothing for indigent pupils, in accordance with the law.” Implicit Protection: Article 56: “Work is a right of the individual and an obligation to society. The State shall seek to ensure that everyone has lawful, useful and properly remunerated employment, and to prevent the establishment of conditions that in any way curtail human freedom or dignity or degrade labour to the status of mere merchandise.” Article 57: “Every worker is entitled to a minimum wage, to be fixed periodically, for a normal working day, which will provide for his welfare and a decent living.” Directive Principles of State Policy: Article 50: “The State shall seek the greatest welfare for all inhabitants of the country, organising and promoting production and the most appropriate distribution of wealth.”	Direct Applicability: Article 7: “Public treaties, international agreements and concordats duly approved by the Legislative Assembly shall have a higher authority than the laws upon their enactment or from the day that they designate.”	UDHR-Yes ICESCR- Ratified 1968 CEDAW – Ratified 1986 CRC- Ratified 1990 CRPD –Ratified 2008 OPICESCR- Ratified 2014

Cuba	<p>Explicit Protection: Artículo 9: “El Estado: b) como Poder del pueblo, en servicio del propio pueblo, garantiza: 4- que no haya niño que no tenga escuela, alimentación y vestido.”</p> <p>Implicit Protection: Artículo 9: “El Estado: a) realiza la voluntad del pueblo trabajador y 3- garantiza la libertad y la dignidad plena del hombre, el disfrute de sus derechos, el ejercicio y cumplimiento de sus deberes y el desarrollo integral de su personalidad; b) como Poder del pueblo, en servicio del propio pueblo, garantiza: 1- que no haya hombre o mujer, en condiciones de trabajar, que no tenga oportunidad de obtener un empleo con el cual pueda contribuir a los fines de la sociedad y a la satisfacción de sus propias necesidades; 2- que no haya persona incapacitada para el trabajo que no tenga medios decorosos de subsistencia.”</p> <p>Artículo 47: “Mediante el sistema de seguridad social, el Estado garantiza la protección adecuada a todo trabajador impedido por su edad, invalidez o enfermedad. En caso de muerte del trabajador garantiza similar protección a su familia.”</p> <p>Artículo 48: “El Estado protege, mediante la asistencia social, a los ancianos sin recursos ni amparo y a cualquier persona no apta para trabajar que carezca de familiares en condiciones de prestarle ayuda.”</p>	Unknown	UDHR- Yes ICESCR- Signed 2008 CEDAW – Ratified 1980 CRC- Ratified 1991 CRPD –Ratified 2007 OPICESCR- No
Dominica	No	Unknown	UDHR- Yes ICESCR- Accession 1993 CEDAW – Ratified 1980 CRC- Ratified 1991 CRPD –Ratified 2012 OPICESCR- No
Dominican Republic	<p>Explicit Protection: Artículo 57: “La familia, la sociedad y el Estado concurrirán para la protección y la asistencia de las personas de la tercera edad y promoverán su integración a la vida activa y comunitaria. El Estado garantizará los servicios de la seguridad social integral y el subsidio alimentario en caso de indigencia.”</p> <p>Implicit Protection: Artículo 62.9: “Todo trabajador tiene derecho a un salario justo y suficiente que le permita vivir con dignidad y cubrir para sí y su familia necesidades básicas materiales, sociales e intelectuales.”</p> <p>Directive Principles of State Policy: Artículo 8: “Es función esencial del Estado, la protección efectiva de los derechos de la persona, el respeto de su dignidad y la obtención de los medios que le permitan perfeccionarse de forma igualitaria, equitativa y progresiva, dentro de un marco de libertad individual y de justicia social, compatibles con el orden público, el bienestar general y los derechos de todos y todas.”</p> <p>Artículo 54: “El Estado promoverá la investigación y la transferencia de tecnología para la producción de alimentos y materias primas de origen agropecuarios, con el propósito de incrementar la productividad y garantizar la seguridad alimentaria.”</p> <p>Artículo 61.1: “El Estado debe velar por la protección de la salud de todas las personas, el acceso al agua potable, el mejoramiento de la alimentación, de los servicios sanitarios, las condiciones higiénicas, 2) El Estado garantizará, mediante legislaciones y políticas públicas, el ejercicio de los derechos económicos y sociales de la población de menores ingresos y, en consecuencia, prestará su protección y asistencia a los grupos y sectores vulnerables; combatirá los vicios sociales con las medidas adecuadas y con el auxilio de las convenciones y las organizaciones internacionales.”</p>	Direct Applicability: Artículo 26.2: “Las normas vigentes de convenios internacionales ratificados regirán en el ámbito interno, una vez publicados de manera oficial;”	UDHR- Yes ICESCR- Accession 1978 CEDAW – Ratified 1982 CRC- Ratified 1991 CRPD –Ratified 2009 OPICESCR- No
Ecuador	<p>Explicit Protection: Artículo 13: “Las personas y colectividades tienen derecho al acceso seguro y permanente a alimentos sanos, suficientes y nutritivos; preferentemente producidos a nivel local y en correspondencia con sus diversas identidades y tradiciones culturales.El Estado ecuatoriano promoverá la soberanía alimentaria.”</p> <p>Artículo 42: “Se prohíbe todo desplazamiento arbitrario. Las personas que hayan sido desplazadas tendrán derecho a recibir protección y asistencia humanitaria emergente de las autoridades, que asegure el acceso a alimentos, alojamiento, vivienda y servicios médicos y sanitarios.”</p> <p>Artículo 46: “El Estado adoptará, entre otras, las siguientes medidas que aseguren a las niñas, niños y adolescentes: 1. Atención a menores de seis años, que garantice su nutrición, salud, educación y cuidado diario en un marco de protección integral de sus derechos.”</p> <p>Artículo 51: “Se reconoce a las personas privadas de la libertad los siguientes derechos: 5. La atención de sus necesidades educativas, laborales, productivas, culturales, alimenticias y recreativas.”</p> <p>Artículo 66: “Se reconoce y garantizará a las personas: 2. El derecho a una vida digna, que asegure la salud, alimentación y nutrición,</p>	Direct Applicability: Artículo 10: “Las personas, comunidades, pueblos, nacionalidades y colectivos son titulares y gozarán de los derechos garantizados en la Constitución y en los instrumentos internacionales.” Artículo 417: “Los tratados internacionales ratificados por el Ecuador se sujetarán a lo establecido en la Constitución. En el caso de los tratados y otros instrumentos internacionales de derechos humanos se aplicarán los principios pro ser humano, de no restricción de derechos, de	UDHR- Yes ICESCR- Ratified 1969 CEDAW – Ratified 1981 CRC- Ratified 1990 CRPD –Ratified 2008 OPICESCR- Ratified 2010

	<p>agua potable, vivienda, saneamiento ambiental, educación, trabajo, empleo, descanso y ocio, cultura física, vestido, seguridad social y otros servicios sociales necesarios.”</p> <p>Implicit Protection: Artículo 32: “La salud es un derecho que garantiza el Estado, cuya realización se vincula al ejercicio de otros derechos, entre ellos el derecho al agua, la alimentación, la educación, la cultura física, el trabajo, la seguridad social, los ambientes sanos y otros que sustentan el buen vivir.”</p> <p>Artículo 33: “El trabajo es un derecho y un deber social, y un derecho económico, fuente de realización personal y base de la economía. El Estado garantizará a las personas trabajadoras el pleno respeto a su dignidad, una vida decorosa, remuneraciones y retribuciones justas y el desempeño de un trabajo saludable y libremente escogido o aceptado.”</p> <p>Directive Principles of State Policy: Artículo 3: “Son deberes primordiales del Estado:</p> <p>1. Garantizar sin discriminación alguna el efectivo goce de los derechos establecidos en la Constitución y en los instrumentos internacionales, en particular la educación, la salud, la alimentación, la seguridad social y el agua para sus habitantes.</p> <p>5. Planificar el desarrollo nacional, erradicar la pobreza, promover el desarrollo sustentable y la redistribución equitativa de los recursos y la riqueza, para acceder al buen vivir.”</p> <p>Artículo 281: “La soberanía alimentaria constituye un objetivo estratégico y una obligación del Estado para garantizar que las personas, comunidades, pueblos y nacionalidades alcancen la autosuficiencia de alimentos sanos y culturalmente apropiado de forma permanente.”</p>	<p>aplicabilidad directa y de cláusula abierta establecidos en la Constitución.”</p>	
El Salvador	<p>Implicit Protection: Artículo 37: “El trabajo es una función social, goza de la protección del Estado, y no se considera artículo de comercio. El Estado empleará todos los recursos que estén a su alcance para proporcional ocupación al trabajador, manual o intelectual, y para asegurar a él y a su familia las condiciones económicas de una existencia digna.”</p> <p>Artículo 38.2: “Todo trabajador tiene derecho a devengar un salario mínimo, que se fijará periódicamente. Para fijar este salario sea tenderá sobre todo al costo de la vida, a la índole de la labora los diferentes sistemas de remuneración, a las distintas zonas de producción y a otros criterios similares. Este salario deberá ser suficiente para satisfacer las necesidades normales del hogar del trabajador en el orden material, moral y cultural.”</p>	<p>Direct Applicability: Artículo 144: “Los tratados internacionales celebrados por El Salvador con otros estados o con organismos internacionales, constituyen leyes de la República al entrar en vigencia, conforme a las disposiciones del mismo tratado y de esta Constitución.”</p>	<p>UDHR- Yes ICESCR- Ratified 1979 CEDAW –Ratified 1981 CRC- Ratified 1990 CRPD –Ratified 2007 OPICESCR- Ratified 2011</p>
Grenada	No	Unknown	<p>UDHR- Yes ICESCR- Accession 1991 CEDAW – Ratification 1990 CRC- Ratification 1990 CRPD – Ratification 2014 OPICESCR- No</p>
Guatemala	<p>Explicit Protection: Artículo 51: “El Estado protegerá la salud física, mental y moral de los menores de edad y de los ancianos. Les garantizará su derecho a la alimentación, salud, educación y seguridad y previsión social.”</p> <p>Implicit Protection: Artículo 102: “Son derechos sociales mínimos que fundamentan la legislación del trabajo y la actividad de los tribunales y autoridades:</p> <p>a) Derecho a la libre elección de trabajo y a condiciones económicas satisfactorias que garanticen el trabajador y a su familia una existencia digna.”</p> <p>Directive Principles of State Policy: Artículo 94: “El Estado velará por la salud y la asistencia social de todos los habitantes. Desarrollará, a través de sus instituciones, acciones de prevención, promoción, recuperación, rehabilitación, coordinación y las complementarias pertinentes a fin de procurarles el más completo bienestar físico, mental y social.”</p> <p>Artículo 99: “El Estado velará porque la alimentación y nutrición de la población reúna los requisitos mínimos de salud. Las instituciones especializadas del Estado deberán coordinar sus acciones entre sí o con organismos internacionales dedicados a la salud, para lograr un sistema alimentario nacional efectivo.”</p> <p>Artículo 119: “Son obligaciones fundamentales del Estado:</p> <p>d. Velar por la elevación del nivel de vida de todos los habitantes del país procurando el bienestar de la familia.”</p>	<p>Direct Applicability: Artículo 46: “Se establece el principio general de que en materia de derechos humanos, los tratados y convenciones aceptados y ratificados por Guatemala, tienen preeminencia sobre el derecho interno.”</p>	<p>UDHR- Yes ICESCR- Accession 1988 CEDAW – Ratified 1982 CRC- Ratified 1990 CRPD –Ratified 2009 OPICESCR- Signed 2009</p>
Guyana	<p>Explicit Protection: Article 40.1: “Every person in Guyana is entitled to the basic right to a happy, creative and productive life, free from hunger, disease, ignorance and want.”</p>	Unknown	<p>UDHR- Yes ICESCR- Ratified 1977 CEDAW – Ratified 1980 CRC- Ratified</p>

			1991 CRPD –Ratified 2014 OPICESCR- No
Haiti	<p>Explicit Protection: Article 22: “The State recognizes the right of every citizen to decent housing, education, food and social security.”</p> <p>Implicit Protection: Article 19: “The State has the absolute obligation to guarantee the right to life, health, and respect of the human person for all citizens without distinction, in conformity with the Universal Declaration of the Rights of Man.”</p>	<p>Direct Applicability: Article 276. 2: “Once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them.”</p>	UDHR- Yes ICESCR- Accession 2013 CEDAW – Ratified 1981 CRC- Ratified 1995 CRPD –Accession 2009 OPICESCR- No
Honduras	<p>Explicit Protection: Artículo 123: “Todo niño deberá gozar de los beneficios de la seguridad social y la educación. Tendrá derecho a crecer et desarrollarse en buena salud, para lo cual deberá proporcionarse, tanto a el como a su madre, cuidados especiales desde el período prenatal, teniendo derecho a disfrutar de alimentación, vivienda, educación, recreo, deportes y servicios médicos adecuados.”</p> <p>Implicit Protection: Artículo 142: “Toda persona tiene derecho a la seguridad de sus medios económicos de subsistencia en caso de incapacidad para trabajar u obtener trabajo retribuido.”</p>	<p>Direct Applicability: Artículo 18: “En caso de conflicto entre el tratado o convención y la ley prevalecerá el primero.”</p> <p>Artículo 119: “El Estado tiene la obligación de proteger a la infancia. Los niños gozarán de la protección prevista en los acuerdos internacionales que velan por sus derechos.”</p>	UDHR- Yes ICESCR- Ratified 1981 CEDAW –Ratified 1983 CRC- Ratified 1990 CRPD – Ratified 2008 OPICESCR- No
Jamaica	No	Unknown	UDHR- Yes ICESCR- Ratified 1975 CEDAW – Ratified 1984 CRC- Ratified 1991 CRPD – Ratified 2007 OPICESCR- No
Mexico	<p>Explicit Protection: Artículo 4.3: “Toda persona tiene derecho a la alimentación nutritiva, suficiente y de calidad. El Estado lo garantizará.”</p> <p>Artículo 4.8: “En todas las decisiones y actuaciones del Estado se velará y cumplirá con el principio del interés superior de la niñez, garantizando de manera plena sus derechos. Los niños y las niñas tienen derecho a la satisfacción de sus necesidades de alimentación, salud, educación y sano esparcimiento para su desarrollo integral. Este principio deberá guiar el diseño, ejecución, seguimiento y evaluación de las políticas públicas dirigidas a la niñez.”</p> <p>Artículo 27.XX: “El Estado promoverá las condiciones para el desarrollo rural integral, con el propósito de generar empleo y garantizar a la población campesina el bienestar y su participación e incorporación en el desarrollo nacional [...] El desarrollo rural integral y sustentable a que se refiere el párrafo anterior, también tendrá entre sus fines que el Estado garantice el abasto suficiente y oportuno de los alimentos básicos que la ley establezca.”</p> <p>Directive Principles of State Policy: Artículo 2.B: “La Federación, los Estados y los Municipios, para promover la igualdad de oportunidades de los indígenas y eliminar cualquier práctica discriminatoria, establecerán las instituciones y determinarán las políticas necesarias para garantizar la vigencia de los derechos de los indígenas y el desarrollo integral de sus pueblos y comunidades, las cuales deberán ser diseñadas y operadas conjuntamente con ellos. Para abatir las carencias y rezagos que afectan a los pueblos y comunidades indígenas, dichas autoridades, tienen la obligación de:</p> <p>III. Asegurar el acceso efectivo a los servicios de salud mediante la ampliación de la cobertura del sistema nacional, aprovechando debidamente la medicina tradicional, así como apoyar la nutrición de los indígenas mediante programas de alimentación, en especial para la población infantil.</p> <p>VIII. Establecer políticas sociales para [...] apoyar con programas especiales de educación y nutrición a niños y jóvenes de familias migrantes.”</p>	<p>Direct Applicability: Artículo 1: “En los Estados Unidos Mexicanos todas las personas gozarán de los derechos humanos reconocidos en esta Constitución y en los tratados internacionales de los que el Estado Mexicano sea parte; Las normas relativas a los derechos humanos se interpretarán de conformidad con esta Constitución y con los tratados internacionales de la materia favoreciendo en todo tiempo a las personas la protección más amplia.”</p>	UDHR- Yes ICESCR- Accession 1981 CEDAW – Ratification 1981 CRC- Ratified 1990 CRPD –Ratified 2007 OPICESCR- No
Nicaragua	<p>Explicit Protection: Artículo 63: “Es derecho de los nicaragüenses estar protegidos contra el hambre. El Estado promoverá programas que aseguren una adecuada disponibilidad de alimentos y una distribución equitativa de los mismos.”</p> <p>Implicit Protection: Artículo 82: “Los trabajadores tienen derecho a condiciones de trabajo que les aseguren en especial:</p> <p>1. Salario igual por trabajo igual en idénticas condiciones [...] que les asegure un bienestar compatible con la dignidad humana.</p> <p>7. Seguridad social para protección integral y medios de subsistencia en casos de invalidez, vejez, riesgos profesionales, enfermedad y maternidad; y a sus familiares en casos de muerte”.</p> <p>Directive Principles of State Policy: Artículo 4: “El Estado promoverá y</p>	<p>Direct Applicability: Artículo 46: “En el territorio nacional toda persona goza de la protección estatal y del reconocimiento de los derechos inherentes a la persona humana, del irrestricto respeto, promoción y protección de los derechos humanos y de la plena vigencia de los derechos consignados en la Declaración Universal de los Derechos</p>	UDHR- Yes ICESCR- Accession 1980 CEDAW – Ratified 1981 CRC- Ratified 1990 CRPD –Ratified 2007 OPICESCR- No

	garantizará los avances de carácter social y político para asegurar el bien común, asumiendo la tarea de promover el desarrollo humano de todos y cada uno de los nicaragüenses, protegiéndolos contra toda forma de explotación, discriminación y exclusión.”	Humanos; en la Declaración Americana de Derechos y Deberes del Hombre; en el Pacto Internacional de Derechos Económicos, Sociales y Culturales; en el Pacto Internacional de Derechos Civiles y Políticos de la Organización de las Naciones Unidas; y en la Convención Americana de Derechos Humanos de la Organización de Estados Americanos.” Artículo 71.2: “La niñez goza de protección especial y de todos los derechos que su condición requiere, por lo cual tiene plena vigencia la Convención Internacional de los Derechos del Niño y la Niña.”	
Panamá	Explicit Protection: Artículo 56.2: “El Estado protegerá la salud física, mental y moral de los menores y garantizará el derecho de éstos a la alimentación, la salud, la educación y la seguridad y previsión sociales. Igualmente tendrán derecho a esta protección los ancianos y enfermos desvalidos.” Implicit Protection: Artículo 64: “El trabajo es un derecho y un deber del individuo, y por lo tanto es una obligación del Estado elaborar políticas económicas encaminadas a promover el pleno empleo y asegurar a todo trabajador las condiciones necesarias a una existencia decorosa.” Artículo 66: “La Ley establecerá la manera de ajustar periódicamente el salario o sueldo mínimo del trabajador, con el fin de cubrir las necesidades normales de su familia, mejorar su nivel de vida, según las condiciones particulares de cada región y de cada actividad económica; podrá determinar asimismo el método para fijar salarios o sueldos mínimos por profesión u oficio.” Artículo 113: “Todo individuo tiene derecho a la seguridad de sus medios económicos de subsistencia en caso de incapacidad para trabajar u obtener trabajo retribuido.” Artículo 122: “El Estado prestará atención especial al desarrollo integral del sector agropecuario, fomentará el aprovechamiento óptimo del suelo, velará por su distribución racional y su adecuada utilización y conservación, a fin de mantenerlo en condiciones productivas y garantizará el derecho de todo agricultor a una existencia decorosa.” Directive Principles of State Policy: Artículo 4: “ La República de Panamá acata las normas del Derecho Internacional.” Artículo 110: “En materia de salud, corresponde primordialmente al Estado el desarrollo de las siguientes actividades, integrando las funciones de prevención, curación y rehabilitación: 1. Desarrollar una política nacional de alimentación y nutrición que asegure un óptimo estado nutricional para toda la población, al promover la disponibilidad, el consumo y el aprovechamiento biológico de los alimentos adecuados.”	Unknown	UDHR- Yes ICESCR- Ratified 1977 CEDAW – Ratified 1981 CRC- Ratified 1990 CRPD – Ratified 2007 OPICESCR- No
Paraguay	Explicit Protection: Artículo 54: “La familia, la sociedad y el Estado tienen la obligación de garantizar al niño su desarrollo armónico y integral, así como el ejercicio pleno de sus derechos, protegiéndolo contra el abandono, la desnutrición, la violencia, el abuso, el tráfico y la explotación.” Artículo 57: “Toda persona de la tercera edad tiene derecho a una protección integral. La familia, la sociedad y los poderes públicos promoverán su bienestar mediante servicios sociales que se ocupen de sus necesidades de alimentación, salud, vivienda, cultura y ocio.” Implicit Protection: Artículo 92: “El trabajador tiene derecho a disfrutar de una remuneración que le asegure, a él y a su familia, una existencia libre y digna.” Directive Principles of State Policy: Artículo 176.2: “El Estado promoverá el desarrollo económico [...] con el objeto [...] de asegurar el bienestar de la población.”	Direct Applicability: Artículo 137: “La ley suprema de la República es la Constitución. Esta, los tratados, convenios y acuerdos internacionales aprobados y ratificados, las leyes dictada por el Congreso [...] integran el derecho positivo nacional en el orden de prelación enunciado.”	UDHR- Yes ICESCR- Accession 1992 CEDAW – Accession 1987 CRC- Ratification 1990 CRPD – Ratification 2008 OPICESCR- Signed 2009
Peru	Implicit Protection: Artículo 2: “Toda persona tiene derecho: 1. A la vida, a su identidad, a su integridad moral, psíquica y física y a su libre desarrollo y bienestar. El concebido es sujeto de derecho en todo cuanto le favorece.” Artículo 10: “El Estado reconoce el derecho universal y progresivo de toda persona a la seguridad social, para su protección frente a las contingencias que precise la ley y para la elevación de su calidad de vida.” Artículo 24: “El trabajador tiene derecho a una remuneración equitativa y suficiente, que procure, para él y su familia, el bienestar material y espiritual.”	Direct Applicability: Artículo 55: “Los tratados celebrados por el Estado y en vigor forman parte del derecho nacional.”	UDHR- Yes ICESCR- Ratified 1978 CEDAW – Ratified 1982 CRC- Ratified 1990 CRPD – Ratified 2008 OPICESCR- No
Saint Kitts and Nevis	No	Unknown	UDHR- Yes ICESCR- No CEDAW –

			Accession 1985 CRC- Ratified 1990 CRPD - No OPICESCR-No
Santa Lucia	No	Unknown	UDHR- Yes ICESCR- No CEDAW – Accession 1982 CRC- Ratification 1993 CRPD –Signed 2011 OPICESCR- No
Saint Vincent and the Grenadines	No	Unknown	UDHR- Yes ICESCR- Accession 1981 CEDAW – Accession 1981 CRC- Ratified 1993 CRPD –Accession 2010 OPICESCR- No
Suriname	Explicit Protection: Article 24: “The state shall take care of the creation of conditions in which an optimal satisfaction of the basic needs for work, food, health care, education, energy, clothing and communication is obtained.” Implicit Protection: Article 36: “1. Everyone shall have a right to health. 2. The State shall promote the general health care by systematic improvement of living and working conditions and shall give information on the protection of health.” Directive Principles of State Policy: Article 4: “The concern of the State is aimed at: b. A Secured means of livelihood for the entire nation” Article 6: “The social objectives of the State shall aim at: c. Guaranteeing a government policy aimed at raising the standard of living and of well-being of the society, based upon social justice, the integral and balanced development of State and society”	Unknown	UDHR- Yes ICESCR- Accession 1976 CEDAW – Accession 1993 CRC- Ratified 1993 CRPD – Signed 2007 OPICESCR- No
Trinidad and Tobago	No	Unknown	UDHR- Yes ICESCR- Accession 1978 CEDAW – Ratified 1990 CRC- Ratified 1991 CRPD –Ratified 2015 OPICESCR- No
Uruguay	Directive Principles of State Policy: Artículo 46.2: “El Estado combatirá por medio de la ley y de las Convenciones Internacionales, los vicios sociales.”	Unknown	UDHR- Yes ICESCR- Ratified 1970 CEDAW – Ratified 1981 CRC- Ratified 1990 CRPD – Ratified 2009 OPICESCR- Ratified 2013
Venezuela	Implicit Protection: Artículo 80: “El Estado garantizará a los ancianos y ancianas el pleno ejercicio de sus derechos y garantías. El Estado, con la participación solidaria de las familias y la sociedad, está obligado a respetar su dignidad humana, su autonomía y les garantizará atención integral y los beneficios de la seguridad social que eleven y aseguren su calidad de vida. Las pensiones y jubilaciones otorgadas mediante el sistema de seguridad social no podrán ser inferiores al salario mínimo urbano.” Artículo 83: “La salud es un derecho social fundamental, obligación del Estado, que lo garantizará como parte del derecho a la vida. El Estado promoverá y desarrollará políticas orientadas a elevar la calidad de vida, el bienestar colectivo y el acceso a los servicios.” Artículo 87: “Toda persona tiene derecho al trabajo y el deber de trabajar. El Estado garantizará la adopción de las medidas necesarias a los fines de que toda persona pueda obtener ocupación productiva, que le proporcione una existencia digna y decorosa y le garantice el pleno ejercicio de este derecho.” Artículo 91: “Todo trabajador o trabajadora tiene derecho a un salario suficiente que le permita vivir con dignidad y cubrir para sí y su familia las	Direct Applicability: Artículo 23: “Los tratados, pactos y convenciones relativos a derechos humanos, suscritos y ratificados por Venezuela, tienen jerarquía constitucional y prevalecen en el orden interno, en la medida en que contengan normas sobre su goce y ejercicio más favorables a las establecidas en esta Constitución y en las leyes de la República, y son de aplicación inmediata y directa por los tribunales y demás órganos del Poder Público.”	UDHR- Yes ICESCR- Ratified 1978 CEDAW – Ratified 1983 CRC- Ratified 1990 CRPD – Accession 2013 OPICESCR- Signed 2011

	<p>necesidades básicas materiales, sociales e intelectuales.”</p> <p>Directive Principles of State Policy: Artículo 3: “El Estado tiene como fines esenciales la defensa y el desarrollo de la persona y el respeto a su dignidad, el ejercicio democrático de la voluntad popular, la construcción de una sociedad justa y amante de la paz, la promoción de la prosperidad y bienestar del pueblo y la garantía del cumplimiento de los principios, derechos y deberes reconocidos y consagrados en esta Constitución.”</p> <p>Artículo 19: “El Estado garantizará a toda persona, conforme al principio de progresividad y sin discriminación alguna, el goce y ejercicio irrenunciable, indivisible e interdependiente de los derechos humanos. Su respeto y garantía son obligatorios para los órganos del Poder Público, de conformidad con esta Constitución, con los tratados sobre derechos humanos suscritos y ratificados por la República y con las leyes que los desarrollen.”</p> <p>Artículo 299: “El régimen socioeconómico de la República Bolivariana de Venezuela se fundamenta en los principios de justicia social, democracia, eficiencia, libre competencia, protección del ambiente, productividad y solidaridad, a los fines de asegurar el desarrollo humano integral y una existencia digna y provechosa para la colectividad. El Estado, conjuntamente con la iniciativa privada, promoverá el desarrollo armónico de la economía nacional con el fin de generar fuentes de trabajo, alto valor agregado nacional, elevar el nivel de vida de la población y fortalecer la soberanía económica del país, garantizando la seguridad jurídica, solidez, dinamismo, sustentabilidad, permanencia y equidad del crecimiento de la economía, para lograr una justa distribución de la riqueza mediante una planificación estratégica democrática, participativa y de consulta abierta.”</p> <p>Artículo 305: “El Estado promoverá la agricultura sustentable como base estratégica del desarrollo rural integral a fin de garantizar la seguridad alimentaria de la población; entendida como la disponibilidad suficiente y estable de alimentos en el ámbito nacional y el acceso oportuno y permanente a éstos por parte del público consumidor. La seguridad alimentaria se alcanzará desarrollando y privilegiando la producción agropecuaria interna, entendiéndose como tal la proveniente de las actividades agrícola, pecuaria, pesquera y acuícola. La producción de alimentos es de interés nacional y fundamental para el desarrollo económico y social de la Nación. A tales fines, el Estado dictará las medidas de orden financiero, comercial, transferencia tecnológica, tenencia de la tierra, infraestructura, capacitación de mano de obra y otras que fueren necesarias para alcanzar niveles estratégicos de autoabastecimiento. Además, promoverá las acciones en el marco de la economía nacional e internacional para compensar las desventajas propias de la actividad agrícola.”</p>		
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ANNEX V: Country Abbreviations

Country Name	2 letter codes	3 Letter codes
Antigua and Barbuda	AG	ATG
Argentina	AR	ARG
Bahamas	BS	BHS
Barbados	BB	BRB
Belize	BZ	BLZ
Bolivia	BO	BOL
Brazil	BR	BRA
Chile	CL	CHL
Colombia	CO	COL
Costa Rica	CR	CRI
Cuba	CU	CUB
Dominica	DM	DMA
Dominican Republic	DO	DOM
Ecuador	EC	ECU
El Salvador	SV	SLV
Grenada	GD	GRD
Guatemala	GT	GTM
Guyana	GY	GUY
Haiti	HT	HTI
Honduras	HN	HND
Jamaica	JM	JAM
Mexico	MX	MEX
Nicaragua	NI	NIC
Panama	PA	PAN
Paraguay	PY	PRY
Peru	PE	PER
Saint Kitts & Nevis	KN	KNA
Saint Lucia	LC	LCA
Saint Vincent and the Grenadines	VC	VCT
Suriname	SR	SUR
Trinidad et Tobago	TT	TTO
Uruguay	UY	URY
Venezuela	VE	VEN