



BOFAXE

MILITARY SUCCESS > GLOBAL FOOD SECURITY (Part 1)

Is Russia Violating the Right to Food Outside Ukraine Through the Invasion of Ukraine?

— “The right to food is not the right to be nourished, but first and foremost the right to nourish oneself in dignity from one’s own resources“, Jean Ziegler

However, the right to food remains denied to many people worldwide. Despite the United Nations’ Zero Hunger Goal, the world’s population is still far from a world without hunger. Since Russia launched an armed conflict against Ukraine in February 2022, global food insecurity has been rising again. Although Ukraine is one of the world’s largest suppliers of grain, corn and sunflower oil, it has been unable to export anything at the beginning of the war, as its ports have been blockaded by Russian troops. These blockades have been removed, since the Russian-Ukrainian grain agreement, dated July 2022, and brokered by the UN and Turkey, has been reached. In November 2022, the grain agreement has been extended and further discussions are envisaged. Nevertheless, corn and wheat prices have risen enormously since the attacks and blockades – with dire consequences for developing countries due to the lack of supplies and raised grain prices compared to the pre-war situation.

The question of how the grain acquisition through the blockades violated International Humanitarian Law (IHL), has been determined in another blogpost. For the IHL to be applicable, a case of declared war or of any other armed conflict arising between two or more parties must exist (see Art. 2 Geneva Conventions I-IV). As there are no declared wars or any other armed conflicts between Russia and other States than Ukraine, the IHL is not applicable outside of Ukraine. Here, the question will be discussed, if Russia violates any rights to food of people outside of Ukraine by blocking Ukrainian ports and destroying infrastructure that is essential for food production. Therefore, any discussion on the rights to food regulated in Geneva Convention IV (Art. 55) and the Additional Protocol I (Art. 54) as regards to the population outside of the Ukrainian territory is obsolete in the present blogpost.

The Human Right to Food and the States’ Obligations

The right to food as enshrined in Art. 11 International Covenant on Economic, Social and Cultural Rights (ICESCR) is explored in greater detail in this article. It is fulfilled if everyone is physically and economically able to access adequate food at all times, as prescribed by the UN Committee on Economic, Social and Cultural Rights (see General Comment Nr. 12, para. 6). At its core, it encompasses the idea that everyone must have access to sufficient solid, as well as liquid, food in times of peace and war. Moreover, as a safeguard for our livelihood, the right to food is inevitably related to the fulfilment of all other human rights.

The rights stipulated in ICESCR are designed as so-called “programmatic rights“, the path and goal is their progressive realisation (see General Comment No. 3, para. 9). In connection with Art. 2 ICESCR, all member states are obliged to realise the right to food step by step, as for its realisation active action is required (see Kommer, p. 66). However, the individual possibilities and resources of the states must be taken into due account (see Art. 2 para. 1 ICESCR). The obligation to respect, protect and fulfil is imposed on the states (General Comment No. 12, para. 15). These obligations are binding within the own state borders and opposite the respective state population.

Implications of Russia’s Actions

Before Russia attacked Ukraine, blocked the Ukrainian ports and destroyed the infrastructure necessary for grain processing and storage, Ukraine was able to supply around 400 million people around the world. Due to the attacks, Russia is actively preventing grain exports. This, in turn, severely limits the availability, access, stability, and use of food worldwide. Increasing food insecurity, hunger and crises (such as armed conflicts) are inevitably linked and crises affect global agricultural prices. At present, thirty-six countries depend on Russian and Ukrainian wheat exports (see A/HRC/52/40, para. 22). Due to the export-stops, global grain prices increased up to 50 percent. And even the states, which do not receive their grain from Ukraine, are affected by the implications of the export-stops. This is caused by the fact, that the grain price is connected to the global market and the world economy, which in turn affects all people around the world who suffer from the rising prices (see A/HRC/52/40, para. 21 et seq.). Grain is also indispensable for livestock, as animals need to be fed, thus this sector is also heavily impacted by the rising prices. In addition, Ukraine is one of the world’s biggest suppliers of chemical fertiliser. Today, farmers around the world can no longer afford fertiliser, although their growth and production of grain and other basic foods depend on the supply of fertiliser. Moreover, Russia respectively limited the export of oil and gas from Russian territory, which is essential to produce energy, another indispensable component of global food production. The actions inhibit and hinder the realisation of the right to food of the affected populations – it could ultimately even lead to immense famines. Especially in developing countries, this problem is omnipresent (see A/HRC/52/40, paras. 14, 22).

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Extraterritorial Applicability of ICESCR

Since the populations affected by hunger are not within Russian territory, the central question is whether Russia has any obligations vis-à-vis these individuals under Art. 11 ICESCR. In such a case, Art. 11 ICESCR needs to be extraterritorially applicable.

The idea of human rights is that they are limited to the territories of the respective states. Otherwise, the obligations of the state parties would extend enormously far, so that any state action with a negative impact on the realisation of ICESCR rights anywhere in the world would constitute a breach of the Covenant (see [Kanalán, p. 157](#)). Moreover, a globalised world, in every possible context of trade, politics, and even private existence, was beyond what was imaginable at the time – when the idea of human rights first emerged (see [Kanalán, p. 156](#)).

According to Art. 1 and 11 ICESCR, crossing state borders in the form of international cooperation is intended within the Covenant (see [Da Costa, p. 13](#)). There are no explicit provisions on the extraterritorial application of the obligations outlined in the ICESCR. But since transnational cooperation is anchored in the Covenant a transnational impact is easily possible – especially in the case of the right to food (see [General Comment No. 12, para 36, 37](#)). According to the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic Social Cultural Rights ([ETO Principles](#)), the territory is extended to areas outside the own national territory if it is possible to influence the ICESCR-rights beyond the state borders (see [ETO Principles II-IV](#)). This is justified by the fact that such a possibility of influence is precisely a characteristic of economic, social and cultural rights (see [Kanalán, p. 161](#) and [Kommer, p. 265](#)). These – as the emphasis on international cooperation shows – often depend precisely on the cooperation of different member states.

Due to globalisation and international structures in the field of economy, but also in social and cultural sectors, cross-border trade, agreements and influences have become an integral part of today's world (see [Kanalán, p. 161](#) and [Kommer, p. 265](#)). Therefore, states are obligated to respect the rights across borders and to refrain from measures that stand in the way of the realisation of the Covenant in other states (see [Kommer, p. 265](#)). According to the above said, extraterritorial obligations to respect, protect and even fulfil, exist if a transnational impact of the State's actions are possible. The UN General Assembly also emphasises the extraterritorial obligation to respect and protect and recommends that all states should ensure that their political and economic actions do not adversely affect the realisation of ICESCR rights in other states (see [A/Res/69/177, para 26](#)). The Resolution underlines the extraterritorial binding of the ICESCR-Rights and is also based on the requirement of friendly connection and international cooperation of all member states (Art. 56 in conjunction with Art. 55 UN Charter).

The extraterritorial applicability of the right to food arising from Art. 11 ICESCR is essential for justice to be served in exceptional situations – such as the war between Russia and Ukraine – against the background of the accompanying impact on global food security. This is made clear by the statements of the UN's highest organs mentioned above.

Human Rights Perspective of the Russian Actions

Following the implications of their actions, Russia should have evaluated these consequences for the population worldwide in order to uphold its obligation to respect the right to food. This assessment should have included a determination that their actions would have devastating consequences for international [food security](#). Nevertheless, the attacks were carried out and thereby the extraterritorial obligation to respect was violated worldwide (especially in the [Global South](#)).

The extraterritorial obligation to [fulfil](#) does not extend as far as that of the home states (see [Kanalán, p. 161](#)). Russia does not have a direct obligation to provide assistance to other citizens in foreign territories. But at least indirect support is required (see [Kanalán, p. 165](#)). Since Russia's actions led to severe food shortages, they should have assisted the affected states financially when was no longer possible for the home states to do so. However, Russia has not fulfilled this obligation. It is also particularly important to note that this obligation of fulfil has occurred because Russia has already breached its obligation to respect.

Concluding Remarks

Russia's targeted attacks impact the lives and dignity of all those [humans affected](#) and breach the extraterritorial obligations arising from Art. 11 ICESCR. Uninvolved civilians suffer from hunger because Russia wants to win the armed conflict; this currently takes precedence over all other goals of global political importance for them. Warlike tactics may be inevitable in such conflicts; their existence should not even be assessed here. But the devastating implications of the attacks for the entire world population exceed an acceptable level of those tactics. This valuation is also underscored by the rights to food within IHL because the existence of rights to food in this matter shows, that IHL places human life above military success. Moreover, Russia is literally taking global food supplies [hostage](#) with the aim of overturning economic [sanctions](#) imposed by the European Union. Intentionally using this suffering shows that Russia does not want to promote a globalised, functioning world that supports each other but ultimately opposes such a world. The actions are contrary to what they promised in their [voluntary review of progress](#) in implementing the 2030 Agenda for Sustainable Development and have so far been delivered through major [financial support](#). This is not being undone now, but it is inhibiting progress toward the goal of living in a world free from hunger.

VERANTWORTUNG Die BOFAXE werden vom Institut für Friedenssicherungsrecht und Humanitäres Völkerrecht der Ruhr-Universität Bochum herausgegeben: IFHV, Massenbergrasse 9b, 44787 Bochum, Tel.: +49 (0)234/32-27366, Fax: +49 (0)234/32-14208, Web: <http://www.ruhr-uni-bochum.de/ifhv/>. Bei Interesse am Bezug der BOFAXE wenden Sie sich bitte an: ifhv-publications@rub.de. **FÜR DEN INHALT IST DER JEWEILIGE VERFASSER ALLEIN VERANTWORTLICH.** All content on this website provided by Völkerrechtsblog, and all posts by our authors, are subject to the license [Creative Commons BY SA 4.0](#).