VISUALIZING AN INTERNATIONAL HUMAN RIGHT TO SELF-SUFFICIENCY

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More than half a century ago, the United Nations General Assembly adopted a set of standards and rights to institute global protections. State leaders believed that these international human rights were basic rights that all people deserved and needed. Over the years, new rights have grown from the original rights as necessary additions to international human rights law. One such emerging right has been inferred from other widely recognized human rights, but it has never been explicitly recognized. That right is the international right to live in an environment of self-sufficiency.

This article discusses how this right fits in the overall human rights regime. It analyzes the basic contours of the right and presents potential frameworks for its global implementation. Finally, this article hypothesizes the contours and limits of this emerging human right by recognizing and addressing possible legal problems that could arise with enforcing this right in the United States. The right to self-sufficiency has begun materializing in recent years, and people everywhere should be able to implement aspects of a self-sufficient lifestyle.

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INTRODUCTION

Until recently, Luki Muia was a poor Kenyan farmer, struggling to keep eight cows that produced barely enough milk for her and her family’s survival.1 Now with the help of the public-private partnership, USAID, she has received seeds, tools, and training to start banana and mango farms, expanded her dairy farm, and emerged from the generational poverty her family has lived through for so many years.2 With her newfound income, Luki is now able to provide for her family’s basic needs by securing their health care and schooling.3 In the summer of 2013, various American farmers began working to help their peers all around the world, like Luki in Machakos, Kenya, produce their own food and become more self-sufficient.4

A year earlier and halfway around the world, Hurricane Sandy hit the northeast coast of the United States, causing more than fifty million dollars in property damage5 and killing 117 Americans.6 But one family

2. Id.
3. Id.
4. Id.
living on the New Jersey coast rode out the storm successfully in an insulated, concrete home. The Sochacki family had built this home for the wife’s mother in 2003, right next door to their own home on Union Beach. Because of their investment, the concrete house sheltered the whole family and survived the storm. It endured as the only standing individual home along that beach.

Two vastly different stories affected by two vastly different challenges; but, the common thread that ties the two together is the individual investment in self-reliant survival strategies. These two stories provide perfect examples of why all people regardless of country, creed, or culture deserve and need a right to live in a self-sufficient environment. People worldwide will thrive when they can implement aspects of a self-sufficient lifestyle. If, in either case, state governments would have unreasonably restricted these families’ life-saving practices or allowed private parties to do so, then Luki Muia’s family could have


9. Id. For raw footage filmed by a member of the Sochacki family of the waves outside their home, see Hurricane Sandy Storm Footage (Union Beach, NJ), YOUTUBE (Oct. 29, 2012), https://www.youtube.com/watch?v=ady9me7fdTU.

10. Id.; see also Christopher Weaver, Waves of Hope in a Beach Town, WALL STREET JOURNAL, Nov. 2, 2012, http://online.wsj.com/news/articles/SB10001424052970204846304578095290218153654 (“The beach-front home of 60-year-old John Seth Sochacki III—with its view of Manhattan across the Raritan Bay—was among those worn down to its foundations by the surging ocean waters. His mother-in-law’s storm-proofed house next door was still standing.”).
starved and the Sochacki family would have been left with no shelter in the aftermath of Hurricane Sandy.\(^{11}\)

Due to the growing need for its recognition, the right to self-sufficiency is emerging from its implicit textual origins in international treaties.\(^{12}\) Without this right, state governments can infringe on people’s ability to live self-sufficiently and prepare themselves for potential disasters without fear of any repercussion.\(^{13}\) The contours of this right can be delineated into three distinct categories:

1. Food and Water storage and collection;
2. Fuel and Energy storage;
3. Agriculture and Livestock cultivation.


\(^{12}\) See infra Part I.B.

These three categories embody the basic pillars of the right to self-sufficiency because they cover the foundational physiological needs of all people.14 In sum, the international human right to self-sufficiency finds its origin in the text of various international treaties, is emerging as an international human right, and can be described as protecting three primary categories of self-sufficient living.

The remainder of this article proceeds as follows. Part I briefly reviews the history of international human rights law and reviews general state enforcement duties and various proposals. Part II shows where the right to self-sufficiency fits in the overall human rights regime, analyzes the basic contours of the right, and presents potential frameworks for its global implementation. Part III hypothesizes the contours and limits of this emerging human right by recognizing and addressing possible legal problems that could arise with enforcing this right in the United States. Part V briefly summarizes and concludes.

I. INTERNATIONAL HUMAN RIGHTS AND THEIR IMPLEMENTATION PROCESS

The international human right to self-sufficiency is based within various public international law treaties, and the necessity for its widespread recognition grows with each passing year. International scholars have often referred to the value of individual self-sufficiency when discussing other rights—like the right to self-determination.15 But this article is the first to both identify and define a human right to live in a self-sufficient environment, as more than a mere rationale for another

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well-recognized right. This section outlines a brief overview of the history of international human rights law and discusses existing international implementation frameworks that could be used in the right to self-sufficiency’s gradual progression.

A. Where the Right to Self-Sufficiency fits into International Human Rights Law

The primary spark for the Human Rights movement of the 20th century “arose out of the horrors of the Second World War and the Holocaust.”16 Once such horrors were exposed to the world, the international populace became justifiably concerned about the risk of state abuse.17 This pervasive concern prompted a widespread desire to codify basic human rights that individuals held—no matter their state, race, gender, or creed—against their governments.18 These rights include, for example, the inherent rights to life, liberty, freedom of expression and the rights to work, to social security and insurance, and to an adequate standard of living. These rights were initially documented in the Universal Declaration of Human Rights.19 Later they were codified in the two primary international human rights treaties: the International Covenant on Civil and Political Rights (“ICCPR”)20 and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”).21 Far from being static documents, these treaties are constantly evolving.22

17. See id.
18. See id.
Various United Nation (“U.N.”) committees meet throughout the year to monitor the implementation of the codified rights in the nations that have signed and ratified the treaties. For instance, the Committee on Economic, Social and Cultural Rights (“CESCR”), established in 1985, is a “body of 18 independent experts that monitors implementation of the [ICESCR] by its States parties,” or member states.23 The United Nations Human Rights Committee, also a body of 18 experts that meets several times each year, monitors the 162 member states on their compliance with the ICCPR.24

The widely understood purpose of human rights is to protect people from state actions that infringe on the bare necessities of life.25 So “the state is not only the ‘primary guarantor of human rights,’ it is also ‘the basic target for international human rights law.’”26 Thus, human rights must be documented and widely recognized to prevent states from

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violating the rights of people within their borders and also to require states to protect those rights.27

B. General Duties of Individual State Governments Regarding International Human Rights

Once human rights are documented and recognized as rights in the international community, state governments are responsible for implementing and fulfilling those rights in their nations.28 These rights can either be positive or negative rights.29

ICESCR rights are positive rights, requiring state governments to take affirmative actions to ensure those rights’ implementation.30 Each state thus has an obligation not only to execute international human rights but also to prevent private parties from violating those rights.31 This means that state governments can violate the right with both direct action and indirect action or inaction.32 For example, governments could directly

27. See Lu, supra note 13.
30. Ann M. Piccard, The United States’ Failure to Ratify the International Covenant on Economic, Social and Cultural Rights: Must the Poor Be Always with Us?, 13 SCHOLAR 231, 240–41 (2010) (stating that if ratified by the United States, “the ICESCR would provide a comprehensive set of positive rights that would . . . establish a framework for decisions about what the poor in this country need in order to live meaningful lives”); Hoffman, infra note 36, at 172.
32. See Michelle Foster, Protection Elsewhere: The Legal Implications of Requiring Refugees to Seek Protection in Another State, 28 MICH. J. INT’L L. 223, 276 (2007) (“Such non-refoulement obligations apply irrespective of whether serious violations of those rights guaranteed under the Convention originate from non-State
violate the international right to health by “preventing dissemination of health information or putting up roadblocks preventing access to hospitals.”

“Other violations—such as not having access to health insurance—may constitute indirect threats.”

Additionally, state governments could violate one’s right to work by failing “to take positive measures” for its realization or by failing to “protect refugees from violations of their right to work and rights at work by private actors.”

ICCPR rights are negative, unlike the positive rights recognized by the ICESCR. “Negative rights are rights to be free of interference from other people and from the government . . . .” To violate a negative right, the government must merely refrain from “restricting the activities of the rights holders,” but they need not take affirmative actions to ensure these rights’ exercise. Typical negative rights cover “areas such as political debate and religious worship.”

One scholar looked to the Chinese government for an example of a state’s violation of the ICCPR: “First, consider China. The Chinese government violates human rights. It
suppresses political dissent, censors the press, deprives people of fair trials, and harasses religious minorities.”

Regardless of whether rights are positive or negative, another component of state implementation responsibilities concerns the extent to which state governments are compelled to ensure the right’s implementation and how fast they must do so. The ICCPR “imposes an immediate obligation ‘to respect and to ensure’ the rights it proclaims and to take whatever other measures are necessary to bring about that result.” But a state’s enforcement obligations under the ICESCR are flexible according to available resources, including financial and natural. This means that despite a right’s clear status as an ICESCR right, state governments are only required to begin a gradual enforcement of that right. But to the extent that the states can fulfill the right, they are obligated to implement it as they are able. Then again, even the “immediate” requirement under the ICCPR only obligates state governments to put forth their best efforts, reducing the state’s obligations.

With each treaty, the ICCPR and the ICESCR, state governments are expected to take some affirmative steps to implement the rights included therein, even if it takes time. But the international expectations for state governments’ vigilance in implementing the right will vary with the degree of each state’s development. Professor Pierre-Marie Dupuy states that various factors should be taken into consideration when determining what “degree of vigilance” is required of each government.

40. Id. at 1776 (explaining that despite these clear human rights violations, the Chinese “government is also responsible for the greatest enhancement of human welfare in recent history”).
42. ICESCR, supra note 21, art. 2(1) (requiring states “to take steps . . . to the maximum of its available resources with a view to achieving progressively the full realization of the rights recognized in the [ICESCR]”).
43. Id.
44. Id.
46. Id. at 375-76.
47. Id. at 374.
Stephen C. McCaffrey applies this idea to the international right to water by concluding:

[W]hile a state could not be held legally responsible for a natural disaster such as a drought, it might be found not to have exercised due diligence if it did not have the legal, administrative and logistical infrastructure in place to deal with the consequences of the drought that a state in its circumstances and with its capabilities could be expected to have.48

The basic point being, states’ implementation obligations for international human rights vary depending on the circumstances. The degree of a state’s responsibilities depends on the nature of the right (positive or negative), the treaty under which the right was created (ICCPR- quick implementation; ICESCR- more gradual implementation), and the individual state’s current capacity and capability to implement elements of each right.

II. THE RIGHT TO SELF-SUFFICIENCY: ORIGIN, CONTOURS, AND INTERNATIONAL IMPLEMENTATION PROCESS

Currently, this emerging right faces many unknowns. While it is hard to predict exactly how the right to self-sufficiency will play out on an international stage, much information is already discoverable. The right to self-sufficiency’s origins can be ascertained from the text of international law treaties. Its general contours can be inferred from the physiological needs of all people. And the mirror image of its overall implementation process (including various state responsibilities to ensure the right’s fulfillment) can be seen in other various emerging human rights. This section discusses each of these subjects—textual origins, contours, and international implementation process—respectively to show how the right to self-sufficiency fits within the body of international human rights law.

A. Textual Support for the Right to Self-Sufficiency

Textually, the right to live in an environment of self-sufficiency finds its basis in several recognized international human rights, such as “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.”49 With natural disasters on the rise globally,50 self-sufficiency is an integral part of achieving these international social, economic, and cultural rights.

Although the right to self-sufficiency is more similar to the rights annunciated in the ICESCR, it also is justified and supported by language in the ICCPR. Article 6 of the ICCPR recognizes the “inherent right to life.”51 The text of Article 6 focuses primarily on a citizen’s right not to be killed or “arbitrarily deprived of his life,”52 but members of the Human Rights Committee53 and even the Committee as a whole have


51. ICCPR, supra note 20.

52. Id.; see also Yoram Dinstein, The Right to Life, Physical Integrity, and Liberty, in THE INTERNATIONAL BILL OF RIGHTS 114, 115 (L. Henkin ed., 1981) (stating that “[t]he human right to life . . . is a civil right, and it ‘does not guarantee any person against death from famine or cold or lack of medical attention’” and quoting N. ROBINSON, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 106 (1958)).

53. Rosalyn Higgins, The United Nations: Still a Force for Peace, 52 MOD. L. REV. 1, 4 (1989) (stating that “virtually all states have accepted that this broader reading of Article 6 is possible”).
noted the modern need to read that article broadly. While the Committee argued for a broader reading of Article 6 by specifically addressing states’ obligations to reduce the infant mortality rate and to increase the average life expectancy—"especially in adopting measures to eliminate malnutrition and epidemics"—these broad expressions of states’ responsibilities to uphold the ICCPR right to life can also be applied to the right to self-sufficiency.

If state governments ensure that all people can maintain self-sufficient practices, people will be able to successfully exercise their right to life even in times of scarcity or disaster. Thus, "the right to life, in its modern and proper sense, not only is protection against any arbitrary deprivation of life upheld, but furthermore States are under the duty ‘to pursue policies which are designed to ensure access to the means of survival’ for all individuals and all peoples." And the right to self-sufficiency comes under the umbrella of ensuring people adequate "access to the means of survival."

To clarify, the right to self-sufficiency is a positive right, which imposes a duty on state governments to protect this right against private deprivation and to take affirmative action to implement the right. But self-sufficiency is distinguishable from other positive rights "because the government need only enable the development of the right to self-

54. Human Rights Comm., General Comment No. 6: art. 6, ¶ 5 (16th Sess., 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 127 (2003) [hereinafter Comments of Human Rights Committee] (noting “that the right to life has been too often narrowly interpreted”). The Human Rights Committee further stated “[t]he expression ‘inherent right to life’ cannot properly be understood in a restrictive manner, and the protection of this right requires the States adopt positive measures." Id.

55. Id.


57. See id.

sufficiency, rather than provide everything necessary for the self-sufficiency of its citizens.”

B. Contours of the Right to Self-Sufficiency

Assuming that an international right to self-sufficiency is emerging and exists in its preliminary stages, what would this right look like? The right is best defined by breaking it into three distinct categories, which make up the three primary components of the right to live in an environment of self-sufficiency (the basic structure of the right):

1. Food and Water storage and collection;
2. Fuel and Energy storage;
3. Agriculture and Livestock cultivation.

These three categories embody the basic pillars of the right to self-sufficiency because they cover the foundational physiological needs of all people. Self-sufficiency has been generally defined as the ability “to maintain oneself or itself without outside aid” or the “capability of providing for one’s own needs.” Maslow’s Hierarchy of Needs is a


60. See Maslow, supra note 14, at 372–75.

psychology theory that depicts the need hierarchy in a pyramid fashion, suggesting that people must first fulfill basic needs before moving on to more advanced needs. The foundational needs at the bottom of the pyramid-hierarchy are the basic survival needs. Therefore, bringing the two concepts together reveals that the right to “maintain oneself” or, in other words, to survive without dependence on outside aid, is essentially a right to take care of one’s basic physiological needs to sustain life, including: food, water, and energy or fuel. The first two overall categories of this right directly encompass these needs; the third category, the right to sustain agriculture, is a less direct but a more lasting assertion of the self-sufficiency rights to sustenance.

C. State Duties for a Right to Self-Sufficiency and the Right’s International Implementation

Introducing an emerging international human right into states worldwide is naturally a long and difficult process. First, the international community must determine what each state’s obligations are for the right’s implementation, including the speed and degree of enforcement. Second, less developed nations will likely be hesitant about adding obligations to their already overloaded national agendas, and for a right to be successfully realized, its implementation must first be deemed possible. This section begins with a discussion of the nature of state responsibilities regarding the right to self-sufficiency. Next, it introduces possible solutions to the arduous implementation process, especially for poorer, developing states.

1. State Responsibilities for the Implementation and Preservation of the Right to Self-Sufficiency

To the extent that the international community recognizes the right to self-sufficiency, what are state governments compelled to do to enforce
this right? The previous section discussed the contours for this right in more depth, but at the very least, the right to self-sufficiency would have to include the ability of every citizen to cultivate the land he owns according to his wish—so long as the agriculture contributes to his goal of a self-sufficient lifestyle. Further, this right should include a citizen’s right to collect and store reasonable amounts of water, food, and fuel to prepare herself and her family for a disaster or shortage. And finally, this right should include an individual’s right to raise livestock on his property, so long as that livestock practice does not infringe upon the property rights and privileges of his neighbors.

State governments can violate this right in a variety of ways. As discussed previously, self-sufficiency, like other ICESCR rights, is a positive right, requiring state governments to take affirmative actions to ensure that their citizens can maintain a self-sufficient environment. State governments can therefore violate the right with both direct action and indirect action or inaction. A direct violation would occur if the government unreasonably infringed upon people’s right to farm their own land or to store their own food or if the government established impenetrable barriers to getting water collection or storage permits. The government could indirectly violate the right to self-sufficiency by either directly violating another human right that would lead to the violation of the right to self-sufficiency or by permitting private parties to infringe upon a person’s right to live self-sufficiently on his own property.

Because the right to self-sufficiency is textually based in international laws and treaties and is emerging as an independent right, the state has a responsibility to prevent private parties from violating this right. The

65. See supra Part II.B.
67. See supra Part II.A.
68. Id.
69. See, e.g., U.N. Educ., Scientific & Cultural Org. [UNESCO], Recommendation on Participation by the People at Large in Cultural Life and Their Contribution to It, Annex I, at 30 (Nov. 26, 1976), http://portal.unesco.org/en/ev.php-URL_ID=13097 (condemning obstacles to access to knowledge—concerning violations of the right to internet—“whether they are of political or commercial origin”).
70. See Jankowski, supra note 59.
right for all people to live in a self-sufficient environment is just as necessary as their rights to food, water, and even life.

But to what extent are state governments compelled to ensure the implementation of this right, and how quickly must they do so? The ICCPR requires immediate obligation, while the ICESCR imposes a more gradual and flexible implementation process. The right to self-sufficiency can be justified under the broader interpretation of the ICCPR’s right to life, in which case state governments would be required to take part in a timelier implementation. But this right (as it is positive and more cultural, economic, and social in nature than it is civil) fits more naturally under the ICESCR umbrella of rights. This means that despite the right’s clear place as an emerging ICESCR right, state governments would only be required to begin a gradual enforcement of the right to self-sufficiency. But states would still be required to fulfill the right as they are able, even under the ICESCR alone. In fact, even the immediate implementation mandated by the ICCPR allows for some flexibility in that all it requires is the state’s best efforts, minimizing the state’s immediate obligations. These obligations would be relatively easy to accomplish for the right to self-sufficiency because the right only requires governments to provide an environment susceptible to self-sufficient practices, not to give people the necessary land, food, or fuel to be self-sufficient.

Even if it takes time, state governments will be expected to take some affirmative steps to implement the right to self-sufficiency. But the international expectations for these state governments’ vigilance in implementing the right will vary with the degree of each state’s development. As mentioned earlier, various factors should be considered when determining what “degree of vigilance” is required of each government. Such factors would have to be considered in the right to self-sufficiency’s implementation process, much like they are

71. See supra Part I.B.
72. See supra notes 51–56 and accompanying text.
73. See supra notes 30-37 and accompanying text.
74. See Dupuy, supra note 45, at 374-75.
75. See supra note 14 and accompanying text.
76. See sources cited supra note 28.
77. Dupuy, supra note 45, at 375.
78. Id. at 374-77 and accompanying text.
considered when determining what states are required to do in the process of implementing other human rights.

For instance, a state may not be liable for a natural disaster or a national food shortage that clears out the state’s supermarket shelves for long spans of time. But that state could be held accountable by international committees if, before the emergency arose, the government prevented people from taking the necessary steps to prepare themselves or allowed private parties to impede such behavior. Then the people’s lack of resources would be blamed on the state’s failure to allow people to thrive self-sufficiently before disaster struck. Individuals and families that could have aided themselves and their communities would have been deprived of that opportunity. Instead, they would find themselves in a catastrophic condition that could have been alleviated with positive action beforehand from their state leaders.

Management, organization, and permits (which would allow people to purchase and store certain levels of various resources in their quests to living more self-sufficiently) are a few other issues that arise in the context of determining a state’s responsibility to enforce a right to self-sufficiency. States have a standing obligation to manage and safeguard their basic resources “for the benefit of present and future generations.”

The right to self-sufficiency by no means requires states to give all resources to whoever asks for them, nor does it allow anyone who wants water or food or farmland to take as much as he wants. This free-for-all system would lead to chaos or, potentially, anarchy. Rather, the right to an environment of self-sufficiency would merely require states to establish navigable permit systems and manageable safety standards for an orderly distribution of their natural resources.

For example, if people wish to set up a water collection aquifer or cistern on their land, the government must do more than sit back and observe such efforts. Instead, the positive nature of the right to self-sufficiency would require state governments to guide people through a reasonable permit process, finding a balance that would allow the water-

79. ICESCR, supra note 21.
80. Declaration of the United Nations Conference on the Human Environment, Principle 2, U.N. Doc. A/CONF.48/14/Rev. 1 at 3 (1973) (“The natural resources of the earth including the air, water, land, flora and fauna and especially representative samples of natural ecosystems must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.”).
collectors to achieve their goals and the government to keep track of public waters. Another example in the fuel or energy storage realm would be for the government to implement safety standards for storing fuel—standards that are not impossible to abide by but are practically necessary to prevent hazardous side-effects. More of these examples are explored in Part III.

2. International Implementation: Hurdles and Solutions

One hurdle the right to self-sufficiency will have to clear on its way to successful international realization is the fact that many states and people worldwide are barely able to take care of today’s basic needs, let alone provide for tomorrow’s.81 In other words, one out of every nine people in the world are living a paycheck-to-paycheck life, barely making it to the next day.82 These people are not augmenting their savings accounts to save for “rainy days.”83 People and entire states living this way simply cannot focus on refining people’s right to improve their standard of living by bolstering their self-sufficiency capabilities. Three solutions exist for these very real concerns, concerns that will surely be felt by state leaders from the poorest and most underdeveloped nations.

The first solution involves varying degrees of implementation expectations, as was briefly touched on in the previous section.84 Of course some states (and their inhabitants) are years and decades away from being able to realize the right to self-sufficiency because more


The United Nations Food and Agriculture Organization estimates that about 805 million people of the 7.3 billion people in the world, or one in nine, were suffering from chronic undernourishment in 2012-2014. Almost all the hungry people, 791 million, live in developing countries, representing 13.5 percent, or one in eight, of the population of developing counties.

Id.

82. Id.

83. See id. I mean this figuratively. Literal “rainy days” are both dreaded in those states that have more water than they know what to do with and hailed in those states which are perpetually in a drought season.

84. See supra notes 41–47 and accompanying text.
fundamental rights are just barely being introduced. But a fear of being overwhelmed by good intentions is no reason to abandon those aspirations. The better approach is to recognize that the process must be a gradual step-by-step approach. Also, state leaders must realize that they are not alone, which brings me to the next solution: international assistance.

Many states will need international assistance to get the self-sufficiency ball rolling. This right will vary by the needs and practical capabilities of each state. For example, self-sufficient solutions in developing countries will likely depend more heavily on local agriculture and livestock.85 But solutions in more developed countries will probably center more heavily on storage of fuel, energy, food, and water.86 In other words, the right to live in an environment of self-sufficiency is a flexible right, achievable based on the needs and solutions appropriate for the individual states. Whether people choose to use their right to self-sufficiency to prepare for disasters or just to live more self-reliantly, some aspects of self-sufficient living are more reasonable in certain states and communities than in others. When implementing the right, governments can take into account the potential, yet probable benefits from certain self-sufficient practices and the expected expense and practical difficulties from these practices. And state governments can weigh the two competing concerns against each other before arriving at a reasonable conclusion.

Finally, foreign aid has made up a hefty portion of every U.S. president’s international agenda for decades.87 What better “aid focus” is

85. See supra notes 1-14 [introduction] and notes 92-139 [Part III] and accompanying text.
86. See supra notes 92-139 [Part III] and accompanying text.
there than on the aided state’s self-sufficient development? The most effective U.S. aid is that which promotes programs and systems that will enable foreign independence from aid. The United Nations can also come together to provide assistance to developing nations by transforming these human rights goals into realities. U.N. organizations such as the U.N. Department of Economic and Social Affairs and the U.N. Environment Programme are already undertaking this challenge. But more is needed to incorporate the U.N.’s plan for Sustainable Development, Agenda 21. Through these international programs and aid plans, the right to self-sufficiency can be realized in all states, with time and adequate funding.

88. See Tony Blair & Kate Gross, From Dependency to Self-Sufficiency, STANFORD SOCIAL INNOVATION REVIEW, Winter 2013, http://www.ssireview.org/articles/entry/from_dependency_to_self_sufficiency; see also Food Assistance Increases Self-Sufficiency in Kenya: Farmers Learn New Methods to Address Climate Change, USAID, http://www.usaid.gov/results-data/success-stories/innovative-food-assistance-reduces-need-humanitarian-aid-kenya (last updated April 30, 2014). A U.N. World Food Program ("WFP") project makes food assistance conditional on participation in programs that boost food security and self-sufficiency. In southeastern Kenya, farmers are irrigating their crops with water from the Athi River by using donkeys to carry water from the river to their farms. WFP is teaching farmers simple skills such as creating sunken crop beds that help retain water.

In exchange for participating in this project, the farmers receive rations of either food or cash to help meet their food security needs during the hungry season before the harvest . . . [The] farmers learn new skills on communal land where they are each allocated a plot. They can then apply their skills on their individual farms. By adopting simple but more effective technologies to make better use of water in this semi-arid area, farmers are able to grow enough food for their families . . .

Id.


Enforcing the right to self-sufficiency would not be an easy task, even in the world’s most developed countries. This section examines potential legal hurdles facing the right’s enforcement in the United States. This U.S. case-study provides a more complete understanding of the qualities and limitations of this emerging right.

The United States has not unequivocally agreed to enforce the economic, social, and cultural rights enumerated in the ICESCR (by signing but failing to ratify the treaty). In other words, the CESCR does not monitor the United States’s implementation of the ICESCR because absent ratification, the United States is not yet bound by the terms of that treaty. Despite the United States’s failure to ratify the ICESCR, an analysis of the right to self-sufficiency and its implementation still adds a theoretical understanding of how the right to self-sufficiency would play out in a developed nation. Additionally, this section provides a starting point for implementation of this right if the U.S. government decides to recognize the right to self-sufficiency and other ICESCR rights in the future—a highly possible outcome if the ICESCR can be seen in a new light. Alternatively, if self-sufficiency can be couched as a civil right under the ICCPR, as discussed earlier, these implementation difficulties and solutions could be deemed national concerns with a need for immediate resolution. So the United States (under a broad interpretation of the right to life) arguably already has an obligation to begin implementing the right that its citizens have to live in an environment where self-sufficiency is feasible.

92. See Barbara Stark, At Last? Ratification of the Economic Covenant As A Congressional-Executive Agreement, 20 TRANSNAT’L L. & CONTEMP. PROBS. 107, 136–37 (2011) (arguing that the United States should ratify the ICESCR “because economic rights are what the United States lacks as a nation and what Americans hardly have words for, just as those in other states hardly have words for the civil liberties that many take for granted here”); Piccard, supra note 30, at 231.


95. See supra notes 36, 51-57 and accompanying text.
Regardless of the prevailing interpretation of the right to self-sufficiency as an ICESCR or ICCPR right, this section contributes a valuable analysis of the right’s contours and potential barriers. First, it discusses the possible (but minimal) fight that the government would put up against the right to food and water storage and collection. Second, Section B discusses the right’s inclusion of fuel and energy storage and its accompanying problems. Finally, this section ends with a discussion of the practical implications of the individual right to farm and raise livestock.

A. Food and Water Storage and Collection

The right to self-sufficiency would require the U.S. government to enable all people to store adequate amounts of food and water. Additionally, state governments would need to implement reasonably navigable permitting programs to allow some degree of individual water collection. In fulfilling its duty to allow people the opportunity to sufficiently collect and store enough food and water, the government may present some resistance based on a few existing legal clashes with this right. But while these clashes may exist, they can be overcome. The solution would allow people to have enough for their basic needs without disturbing other state safety and health laws.

First, will the government have any issues with the right to maintain a self-sufficient food storage? A person’s right to keep a backup supply of food to enable them to live self-sufficiently during an emergency already exists in the United States and, in fact, it is currently encouraged by the government. But occasionally, especially in the context of national emergencies, even the U.S. government threatens its people’s ability to keep personal food stores. For example, near the end of his first term, President Obama signed Executive Order 13603. This order authorized

96. But see infra section III.A (outlining the potential problems people may run into when trying to assert their right to water collection, especially in arid regions).
the government to take control of resources during declared national emergencies, “including the ability to seize, confiscate or re-delegate resources . . . as deemed necessary or appropriate to promote the national defense.” So although Congress has not yet enacted laws that bar people from storing food under everyday circumstances, various Presidents have signed executive orders that could stand in the way of a resident’s right to store food.

Perhaps more vital to self-sufficient human survival than food is a person’s individual consumption and storage of water. Despite its uncontested importance, the government will likely have a more difficult time guaranteeing the right to store and collect an adequate supply of water than it will have protecting food storage. Various water laws have been enacted over the years to preserve the public resource of water, particularly in the more dry and arid western half of the United States. Some of these laws have made it difficult for individuals to collect storm water in personal cisterns or aquifers. For example, a few states have started regulating and disallowing mere rainwater collection: “Washington and some other states have started to manage precipitation and stormwater runoff as a beneficial resource, rather than treating it as a waste stream” and allowing its citizens to capture and store it. But, as

99. Id.


104. Granted, none of these water laws have prohibited buying water in bulk from grocery stores and storing that water. This practice could be a solution for maintaining a self-sufficient water storage in the United States, but only in either (1) big cities where such water is accessible; and/or (2) times where water is easily available via this method—so not in times of scarce water supply.

105. Jeff Kray & Mandie MacDonald, Rain, Rain, Store Away, Use Again Another Day, ABA WATER RESOURCES COMMITTEE NEWSL. (ABA), Nov. 2009, at 23, 26.
with all big changes, many ramifications should “be considered in utilizing precipitation as a water source, including impacts to groundwater, impacts to surface water to which such runoff may be tributary, health concerns associated with a private water source, and regulatory compliance.”

Additionally, the United States could not simply issue one type of enforcement for the whole country because water levels vary so drastically state-by-state. One report summarized the water law regimes of eighteen western states, focusing on the issue of water reuse policies in the west. These summaries showed that the extent to which water reuse occurs and the assorted “factors that encourage or impede it vary considerably depending upon the individual circumstances of each state.” Further, even western states that share similar arid conditions, have a great variety of regulatory programs: “some states have highly developed regulatory programs specific to reuse, while others may not have any programs and may lack a statutory or regulatory definition for the practice.” But even with their differences in water law regimes, the “states reported various common barriers, including inflexible and duplicative regulations, concerns about how to protect senior water rights, lack of funding, and health concerns among the general public.”

These are the kinds of concerns that all state governments will have to deal with when determining how to assure the right to self-sufficient water storage and collection for every person. Also, many states model run-off irrigation and draining systems based on a public free-run-off regime. Thus, there would likely be a lot of governmental opposition to allowing any amount of private collection of a public resource.

But a viable solution exists for this administrative difficulty: issuing state permits for collecting water and making those permits more

106. Id.
108. Id.
109. Id.
110. Id. For more details on health concerns/problems associated with the possibility of creating standing water, see James Salzman, Is It Safe to Drink the Water?, 19 DUKE ENVTL. L. & POL’Y F. 1, 38 (2008).
111. See Bracken, supra note 107.
accessible to the everyday water-user. One way to smooth out the permit process to make it more “navigable,” is for states to implement rainwater harvesting laws. Currently, twelve states have enacted such laws, with the purpose of “utilizing a collection system to use rainwater for outdoor uses, plumbing, and, in some cases, consumption.” These laws can promote water collection projects at the individual and manageable scale, while still allowing the government to successfully monitor water rights. Furthermore, a state-by-state permitting system would eliminate difficulties that a nationwide federal plan would unavoidably face. If each state proceeds with its own permitting system, each can address the needs of its own populations while simultaneously considering its individual availability of water. Truly, such a system would model federalism at its best.

B. Fuel and Energy Storage

The right to self-sufficiency would require governments to allow their citizens to store reasonable amounts of fuel and to create their own energy (solar, wind, etc.). Reasonability should be determined, in this context, by weighing preparedness and sufficiency benefits against safety concerns.

Regarding these safety concerns, the government will want to be careful to avoid creating more problems than it would solve by allowing fuel storage. In fact, several examples of state laws and regulations that inhibit personal fuel storage already exist, and for good reason. These safety restrictions include limitations on maximum storage for fuel and


rules about where to keep the fuel. For instance, in some places, fuel can only be stored in detached sheds but not in homes or attached garages. While many of these restrictions are necessary to keep people safe, they also make it difficult for people who can barely afford extra fuel because they would impose an extra cost of building detached storage facilities in which to store the fuel. The solution to these safety regulations barring self-sufficient fuel storage is not to abandon safety concerns. Rather, federal and state governments should focus on creating financial incentives (like tax breaks or credits) for people who wish to store fuel. This way, the government could actively encourage people to store fuel, despite the safety regulations with which fuel-collectors will have to conform.

An additional problem may arise if people began making individual efforts to rely on renewable energy sources. The shift away from reliance on public utility companies and toward “green” houses and cars may burden state and local governments who administer these power companies. For example, the Environmental Protection Agency (“EPA”) “has recently banned the production and sale of 80 percent of America’s current wood-burning stoves, the . . . mainstay of rural homes and many of our nation’s poorest residents.” While wood is not the “greenist” method available, it is probably still the cheapest source of fuel that is at least renewable at an individual level, and the EPA’s ban “will affect many families.” “According to the U.S. Census Bureau’s 2011 survey


115. *Kaysville City Fire Department, supra* note 113.

116. *Id.*


119. *Id.*
statistics, 2.4 million American housing units (12 percent of all homes) burned wood as their primary heating fuel, compared with 7 percent that depended upon fuel oil.120 While these regulations are set in place to maintain the environment by improving air quality, they make fuel storage very difficult if not impossible for the middle and lower classes in the United States.121

Thus, real safety and environmental concerns regarding fuel storage undeniably exist, but the government should still incentivize storing fuel publicly and even financially so it is feasible for people to assert their right to self-sufficiency. In the long-run, incentivizing people to take self-sufficient preparatory actions will inevitably help the government because people will be able to take care of themselves in times of disaster and great need. Also, more resources will be conserved, so these incentives would solve more environmental problems than they could possibly cause.

C. Agriculture and Livestock Cultivation

The final primary component of the right to self-sufficiency is the right of all individuals to cultivate their own land and to, within reason, raise livestock. Just like all property privileges, people could only exercise their right to live self-sufficiently inasmuch as their exercises do not unreasonably interfere with the rights of surrounding property owners.

Granted, providing an environment in which people can raise agriculture and livestock is probably more of a solution in developing nations and rural lands,122 rather than heavily urbanized populations. But farming one’s own lands is still a right that even the smallest of landowners should be able to take advantage of. Even if the food they

120. Id.

121. Notably, the EPA’s regulation of wood-burning stoves did not ban the practice entirely. Instead, its purpose is to push people to use more efficient forms of heat-generators, including more environmentally friendly and technologically advanced wood-burning stoves (the 20 percent not banned). But for self-sufficiency purposes before making this decision, the government must first weigh the value of affordable heat generation against maintenance of clean air. The right to self-sufficiency ensures that these two goals are balanced and require the government to find and execute the middle ground.

122. See supra notes 1, 81.
grow would not necessarily provide a fully self-sufficient source of food, it is still a source of self-sufficient living that all people should be entitled to carry out under this emerging right.

Some laws already exist in the United States to protect people’s right to farm their own land; such laws are aptly named “Right to Farm Laws.” These laws pave a solid step on the road to establishing a right to self-sufficiency, but they do not go quite far enough to enable the widespread right to farm one’s own land that the right to self-sufficiency entitles. Right to farm statutes should limit local governments’ capacities to regulate agriculture. Instead, most merely defer to municipal regulations, allowing local governments to add regulations and thereby inhibit people’s right to farm.

Also, to conform to the emerging right to self-sufficiency, state governments would need to broaden the scope of their right to farm acts to include smaller-scale agriculture in their protections. For instance:


124. See UTAH CODE ANN. § 17-41-402 (West 1953) (“A political subdivision may not change the zoning designation of or a zoning regulation affecting land within an agriculture protection area unless the political subdivision receives written approval for the change from all the landowners within the agriculture protection area affected by the change.”). Other states also have local authorities preemption clauses in their codes. See ALA. CODE § 6-5-127(a) (1975); ALASKA STAT. ANN. § 09.45.235(c) (West 1986); ARK. CODE ANN. § 2-4-105 (West 2005); CAL. CIV. CODE § 3482.5(d) (West 1981); COLO. REV. STAT. ANN. §§ 35-3.5-102(5) (West 1981); FLA. STAT. ANN. § 823.14 (West 2012); IDAHO CODE ANN. §§ 22-4501-22-4504 (West 1981); KY. REV. STAT. ANN. § 413.072 (West 2010); LA. REV. STAT. ANN. § 3:3607 (2008).

125. States with no preemption clause regarding local/municipal authorities in their right-to-farm statutes or states that defer to municipal law include: Arizona (ARIZ. REV. STAT. ANN. § 3-112 (1981)); Connecticut (CONN. GEN. STAT. ANN. §19a-341(a) (West 2011)); Delaware (DEL. CODE ANN. tit. 3, § 1401 (West 2010)); Georgia (GA. CODE ANN. § 41-1-7 (West 2007)); Hawaii (HAW. REV. STAT. §§ 165-1-165-6 (West 1982)); Illinois (740 ILL. COMP. STAT. 70/0.01-70/5 (West 1990)); Indiana (IND. CODE ANN. §§ 32-30-6-1-32-30-6-1.5, 32-30-6-9, 32-30-6-11 (West 2002)); Iowa (IOWA CODE ANN. §§ 352.1-352.12 (West 1993)), Kansas (KAN. STAT. ANN. §§ 2-3201-2-3204 (West 1982)); Texas (TEX. AGRIC. CODE ANN. § 251.004(c) (West 1981)); Washington (WASH. REV. CODE ANN. §§ 7.48.300–7.48.320 (West 1979)).
A typical Right-to-Farm Act provides that an agricultural operation or activity shall not be considered a nuisance if the nuisance derives from changed conditions in the area surrounding the operation and if the operation was established first and operated for a defined period of time, typically one year, before the change in conditions occurred. Thus, while Right to Farm acts do protect farming to a certain extent, they do not go far enough either to bar local governments from infringing on people’s right to farm or to include smaller-scale farmers in their protection.

One protection included in Right to Farm statutes that should be expanded to smaller agriculture projects and, in some degree, to livestock-raising ventures, is a general protection for these people against nuisance lawsuits. States should broaden the reach of these anti-nuisance lawsuits to encourage small-scale farming as this state action would enable people to exercise their right to live self-sufficiently. Such reforms have already been advocated in the area of clean energy—scholars have argued that green energy projects should also be protected from anti-nuisance lawsuits under a Right to Farm system.

Another bar to self-sufficient agriculture is local government zoning regulations. “Zoning is the traditional and nearly ubiquitous tool


127. All fifty of the United States have passed their own versions of Right to Farm laws to protect farming and ranching businesses from being overrun by nuisance lawsuits filed by incoming neighbors. See Rumley, *supra* note 123.

128. Tyler Marandola, Comment, *Promoting Wind Energy Development Through Antinuisance Legislation*, 84 Temp. L. Rev. 955, 956 (2012) (“This Comment argues that wind energy projects should be protected from nuisance lawsuits, much like agricultural facilities are protected under the Right-to-Farm (RTF) regime.”).

129. Perhaps in some cases, the solution under a right to self-sufficiency is just for people to move away from these zoning regulations. But whether this is the best solution depends on a variety of factors including: what a person intends to use the land for; what surrounding land is used for; and to what degree the person’s self-sufficiency goals would infringe upon the right and enjoyment of nearby landowners. If under the self-sufficiency right’s balancing test, the proposed self-sufficient behavior would unreasonably infringe on surrounding owners’ land use, then it seems the only solution to appease both parties would be for the former to move. However, if the self-sufficient behavior proposed is minor and could be managed without unreasonably impacting neighbors, the zoning regulation should be changed, negating the need for anyone’s move.
available to local governments to control the use of land." 130 While such regulation is meant to benefit general aesthetics (and occasionally safety) of a neighborhood, it often bars self-sufficient practices like gardening or raising a personal store of livestock, especially in more residential areas. 131 A few categories that these types of local regulation can police include restrictions of "the style of home that you build, the number and type of outbuildings, limits on ‘for profit’ agriculture and the size of garden plots, livestock raising, timber harvesting, operation of a home-based businesses, pond and road construction, and hunting or target shooting on your own land." 132

One example of a municipal government infringing too far on a person’s right to cultivate his land under the emerging right to self-sufficiency occurred in DeKalb County, Georgia. 133 This county issued a $5,000 fine to local resident Steve Miller for growing too many organic vegetables on his land. 134 In Miller’s case, vegetable-growing was


131. Many zoning laws and restrictive housing codes have “become outdated or excessively complex as they are amended piecemeal in response to, among other things, growing human populations, expanding resource demands, and a shrinking resource base.” Julie Pennington, Zoning for Sharing, in PRACTICING LAW IN THE SHARING ECONOMY 519 (2012). So people who wish to engage in self-sufficient behavior by gardening or raising small-scale livestock, but who are barred from doing so by local ordinances, need to look carefully at these “codes to distinguish between unnecessary or discriminatory barriers to environmentally and socially beneficial housing solutions and codes that are needed to protect resources and infrastructure.” Id. at 520.


134. Id. For an insight regarding the expectation of privacy concerns that Miller’s plight raises, see You Couldn’t Make It Up! Georgia Man Fined $5000 for Growing Vegetables, INFOWARS (Sept. 16, 2010, 4:04 PM), http://www.infowars.com/you-couldn%E2%80%99t-make-it-up-georgia-man-fined-5000-for-growing-vegetables/.

To compare this to a parallel, Canadian example of farm owners facing potential jail time, see One-Acre “Farm” Owners Face Jail in Lantzville, British Columbia, FOOD
previously barred in urban areas by existing zoning regulations, despite the fact that small vegetable gardens do not create many of the issues that may arise with livestock ranches. It follows that while zoning laws and regulations can still be affectively carried out without violating people’s right to self-sufficiency to some extent, currently many of these regulations go too far in barring self-sufficient practices. These practices should be protected and encouraged by the government under the emerging human right to live in a self-sufficient environment.

While the right to self-sufficiency may face some legal barriers in the agricultural context, it is supported by recent national trends moving toward a more organic and self-sustaining culture, even in urban areas. For example, the trend toward legalizing backyard chicken farming is spreading. This trend toward a more organic lifestyle can also be seen within the context of personal beekeeping. But several urban areas continue to reject this trend due to concerns such as noise, expense, smell, damage to gardens and lawns, and predator attraction. While these are valid concerns, in most instances they are outweighed by the benefits of raising livestock and cultivating agriculture. For example, people will have more food security with a constant, neighborhood food source providing a priceless peace of mind for the owners and their


135. For a more in-depth discussion on the types of existing urban agriculture bans, see Sarah B. Schindler, Of Backyard Chickens and Front Yard Gardens: The Conflict Between Local Governments and Locavores, 87 Tul. L. Rev. 231, 239–44 (2012).

136. See Steinglass, supra note 133.


139. See Briggs, supra note 137.
neighbors. They know that even if a market shortage occurs, they will at least have one local food source to rely on. This security in an immediate and long-term food supply outweighs the concerns regarding chicken farms and beekeeping arenas, especially if they are subject to reasonable, but not over-restrictive regulations.

Looking at the big picture of the right to self-sufficiency’s enforcement in the United States, it is clear that the right will quite possibly face some barriers in the areas of agriculture and livestock-raising, but none of them will be impossible to overcome. In actuality, people nationwide, even in urban communities, are already moving in an organic direction, so these recent trends bare many similarities with the general goal of self-sufficiency, and, accordingly, they support the implementation this right.

CONCLUSION

The international human right to self-sufficiency is on the horizon. It has a textual basis in the earliest international treaties, and the need for its widespread recognition is constantly growing. Granted, states will have to make a few necessary adjustments to employ the right to self-sufficiency and to meet the various enforcement duties. Some steps in this process will be challenging, as is the case with every new right or proposal. But as this article discusses, these hurdles are far from insurmountable. Instead, states and people worldwide will be better off having faced and overcome the challenges accompanying this right.

The right to live in an environment of self-sufficiency fits into the backdrop of human rights law as either an offshoot of the ICESCR rights to work and to an adequate standard of living or as part of the ICCPR right to life. The contours of the self-sufficiency right can be summarized into three primary categories: (1) Food and Water Storage and Collection; (2) Fuel and Energy Storage; and (3) Agriculture and Livestock Cultivation. Furthermore, the right to self-sufficiency can be enveloped into a global implementation framework, and it should be because people everywhere need to feel protected in their efforts to sustain themselves through natural, terrorist, or even financial disasters.

Part III hypothesized the shape that this emerging right may take, and in doing so it recognized and dealt with potential legal and political problems that could arise with enforcing this right in the United States. But while governmental implementation of this right may be difficult,
the effort will prove worthwhile to state governments because the right’s implementation can save their people. Just as Luki Muia’s Kenyan family and the Sochacki’s New Jersey family found personal success and recovery through exercising their self-sufficient inclinations, many more people throughout the world will be able to find similar success by exercising their rights to self-sufficiency. But first, state governments need to fulfill and protect this right by openly recognizing it on the international stage.