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# Food, Globalism and Theory: Marxian and Institutional Insights into the Global Food System

Charles R. P. Pouncy\*

## INTRODUCTION

In June 2009, the Food and Agriculture Organization of the United Nations reported that world hunger was expected to reach unprecedented highs as more than 100 million additional people were forced into the ranks of the hungry, resulting in 1.02 billion people being undernourished each day.<sup>1</sup> Although the numbers have moderated somewhat since that time, the first decade of the 21st century has witnessed a steady increase in the number of hungry people.<sup>2</sup> Importantly, the increase in hunger is not a problem of supply. Food production figures are generally strong, and it is largely conceded that there is enough food to feed everyone on the planet.<sup>3</sup> Instead, the problem results from the ideologies associated with food distribution. The processes of food production, distribution and consumption have become market processes and as a result, the ability to meet one's nutritional needs is a function

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1. *1.02 Billion People Hungry*, MEDIA CENTRE, FOOD AND AGRIC. ORG. OF THE UNITED NATIONS, (June 19, 2009), available at <http://fao.org/news/story/en/item/20568/icode/>.

2. *Id.*

3. "If all food produced in the world were to be divided equally among its inhabitants, every woman, man and child would consume almost 2800 Calories per day, which is 17% more Calories than 30 years ago, despite the fact that the population has grown by 70% over the last 30 years." Jacques Diouf, Dir. Gen., Food and Agric. Org. of the United Nations, Address at the Harvard University Kennedy School of Government (Jan. 30, 2003), available at <http://www.fao.org/english/dg/2003/kennedy3001.htm>.

of the ability to pay the price that the globalized food market has established for the commodities we consume as food.

This marks a distinct departure from the traditional relationship between people and food and has created a new opportunity for the subordination of peoples and societies in both the global South and North by the business and financial interests spearheading these transformations. The instrumentalities deployed are economic policies and processes based on neoclassical economic theory. Neoclassical economics is noteworthy for its reliance on markets to govern the distribution of societal assets, resources and opportunities,<sup>4</sup> and its attempt to convert its value premises, i.e., efficiency, utility, and rationality, from policy choices into social imperatives.<sup>5</sup> The use of these value premises in the construction of economic policy results in the preservation of the existing distribution of assets, resources and opportunities, where distribution subordinates most of the population of the planet to the interests of those who control the supposedly self-regulating markets.<sup>6</sup>

Therefore, if scholars, policy makers, and activists are to aggressively engage the processes of economic subordination being generated by the globalization of food production, they should abandon exclusive reliance on economic orthodoxy, or put another way, the neoclassical paradigm. Critical scholars, policy makers, and activists should instead adopt a heterodox approach to economic analysis, embracing all schools of economic study that provide useful critiques and solutions to the anti-subordination project. In contrast to neoclassical theory and its neoliberal analogs, heterodox schools of economics are more sensitive to the lim-

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4. The neoclassical economic paradigm represents the effort to transport economic thinking from the realm of philosophy to the realm of science. The fore parents of what would become the neoclassical paradigm sought to uncover the "laws" of economics and restructured the formulas associated with Newtonian physics into models purporting to describe economic processes. See E. RAY CANTERBURY, *THE MAKING OF ECONOMICS* 91-95 (Wadsworth Publishing Co. 1st ed. 1976); see also PHILIP MIROWSKI, *MORE LIGHT THAN HEAT: ECONOMICS AS SOCIAL PHYSICS, PHYSICS AS NATURE'S ECONOMICS* 107-08 (Cambridge Univ. Press 1st ed. 1989).

Despite its reliance on highly unreasonable assumptions, its mathematical elegance created the illusion of science, and it became mainstream economics in the United States. Charles R.P. Pouncy, *Contemporary Financial Innovation: Orthodoxy and Alternatives*, 51 SMU L. REV. 505, 542 (1998).

5. Charles R.P. Pouncy, *The Rational Rogue: Neoclassical Ideology in the Regulation of the Financial Professional*, 26 VT. L. REV. 263, 292 (2002).

6. Charles R.P. Pouncy, *Institutional Economics and Critical Race/LatCrit Theory: The Need for a Critical "Raced" Economics*, 54 RUTGERS L. REV. 841, 842 (2002).

its of markets and the cycles of instability they generate, as well as the role of history, subordination and inequality in understanding economic relationships and in constructing appropriate economic policies.<sup>7</sup> This paper constructs a preliminary analysis of the current state of globalized food production, distribution and consumption by applying perspectives originating in Marxian and intuitional economic analyses. Although much of these perspectives are familiar to scholars in the global South they remain something of a black box to U.S. scholars in the legal academy. My goal is to shed light on that box and inspire more heterodox research and analysis of the processes of subordination existing in the food system and elsewhere in the economy.

This paper is organized into four parts. Part I examines the recent food crisis and its underpinnings in the structure of the food system. Part II describes food regime theory and links it to contemporary changes in the way food is produced, distributed and consumed globally. Part III describes the structure of institutional processes and their significance to understanding the global food system. Part IV concludes with a discussion of the counter-movement to the status quo of food distribution, the response of people who have been affected by the corporate intrusion into traditions of food and their future.

## PART I - FOOD CRISIS

Recent years have seen the eruption of a number of crises associated with the processes of corporate and financial globalization.<sup>8</sup> The food crises of 2007-2009 were dramatic examples of the ways that financial decisions by Northern actors impacted the lives of people living in Southern economies.<sup>9</sup> Although corn pro-

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7. The limits of neoclassical economic theory are increasingly recognized in the legal academy. See, e.g., Athena D. Mutua, *Introducing Class Crits: From Class Blindness to a Critical Legal Analysis of Economic Inequality*, 56 BUFF. L. REV. 859 (2008).

8. They include: “. . .the financial and ‘real economy’ crises, growing unemployment and poverty crises; food supply/price crises and related hunger and health crises; energy and other resources extractions and environmental damages. Ecological destructions, climate change and ‘natural’ disasters. . .” DOT KEET, TRANSNAT’L INST., “THE CRISIS” AND THE CRISES OF GLOBAL CAPITALISM: CHALLENGES FOR, AND ALTERNATIVES FROM, “THE SOUTH” 2 (2010), available at <http://www.tni.org/paper/global-capitalism-challenges-and-alternatives-south>. Globalization has linked the economies of the North and South so the financial crises appearing in the “advanced” economies have increasingly severe consequences in “developing” economies. *Id.*

9. Nonetheless, 2006-2008 saw escalating food insecurity for children in the United States. See John Cook and Karen Jeng, *Childhood Food Insecurity: the*

duction has trended upward since 1961, in 2004 the demand for “renewable” energy sources changed the components of corn usage dramatically.<sup>10</sup> Growth in industrial corn usage, which includes animal feed and corn ethanol, greatly exceeded growth in corn used for food. During the period from 2004 to 2008, corn usage for feed and fuel increased an average of 9.6% per year while corn use for food increased by only 0.73% per year.<sup>11</sup> By 2007 rising food prices resulted in food riots in at least 13 countries from Mexico to Egypt and from Indonesia to Bangladesh.<sup>12</sup> In the U.S., egg prices increased by 24%; in Chile, ground beef prices increased by 8%; in Sierra Leone rice prices increased by 40%; and in Thailand, India and Pakistan, the price of rice doubled.<sup>13</sup> The price increases were attributed to dramatically rising gasoline prices, decreased food stocks, the diversion of agricultural land to livestock production, the diversion of grain production from food to feed, and the diversion of agricultural production from food to biofuel. The World Bank reported that biofuels may have forced food prices up by as much as 75 percent.<sup>14</sup>

Food price inflation was further stimulated by the success of developing economies as they moved into the ranks of “middle income countries,” and their citizens began demanding more meat products and automobiles.<sup>15</sup> Additionally, the monopolistic structure of the transnational food corporations,<sup>16</sup> financial speculation in agricultural commodities<sup>17</sup> and farm land,<sup>18</sup> as well as the devel-

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*Economic Impact on our Nation*, FEEDING AMERICA (2009), <http://feedingamerica.org/SiteFiles/child-economy-study.pdf>.

10. R. Wes Harrison, *The Food Versus Fuel Debate: Implications for Consumers*, 41 J. AGRIC. & APPLIED ECON. 493, 494 (2009).

11. *Id.*

12. Food riots took place in Italy, Uzbekistan, Morocco, Guinea, Mauritania, Senegal, West Bengal, Indonesia, Zimbabwe, Burkina Faso, Cameroon, Yemen, Jordan, Saudi Arabia, Egypt, Mexico, Argentina, and Haiti. Philip McMichael, *A Food Regime Analysis of the ‘World Food Crisis,’* 26 AGRIC. & HUM. VALUES 281, 282 (2009).

13. *Id.*

14. Tom Peterkin, *Biofuels to Blame for 75 Per Cent Increase in Price of Food*, THE TELEGRAPH, July 4, 2008, <http://telegraph.co.uk/news/worldnews/2244017/Biofuels-to-blame-for-75-per-cent-increase-in-price-of-fod.html>.

15. *Id.*

16. Carey Gillam, *U.S. Pledges to Probe, Bust Agribusiness Monopolies*, REUTERS, March 12, 2010, available at <http://www.reuters.com/article/2010/03/12/us-agriculture-antitrust-idUSTRE62B42O20100312>.

17. See Beat Balzli & Frank Hornig, *Speculators Worsening World Food Crisis*, BUSINESSWEEK, April 23, 2008, [http://www.businessweek.com/globalbiz/content/apr2008/gb20080423\\_366709.htm](http://www.businessweek.com/globalbiz/content/apr2008/gb20080423_366709.htm).

18. *Stop Land Grabbing now!*, Food Crisis and the Global Land Grab, FARMLANDGRAB.ORG (Apr. 22, 2010), <http://farmlandgrab.org/12200/>.

opment paradigm's focus on export agriculture all contributed to the price escalations.<sup>19</sup> Although it could be argued that the food price crisis resulted from "the market's" reaction to a number of separate events, it appears more plausible to recognize that these are largely interrelated consequences of the influence of transnational agribusiness and the consequences of global financialization. Agriculture generally, and contemporary globalized agriculture in particular, has changed, and that change has created new sets of economic relationships among the producers, distributors and consumers of food and other agricultural products.<sup>20</sup>

## PART II - FOOD REGIME THEORY

This is not the first time the economic structure of "global" agriculture has undergone a major transformation. Marxian economic theory has developed the concept of the food regime to explain the relationship between, among other things, geopolitics, social provisioning, cultural processes and ecology, as capitalism has developed over the last two hundred years.<sup>21</sup> Food regimes are relatively stable periods in which the production of food on a global scale functions as a component of the promotion and extension of hegemonic power.<sup>22</sup> Different food regimes are demarcated by the rise and fall of hegemons during the modern era, and as each regime sought to advance the goals of the hegemon, the processes associated with the production, distribution and consumption of food changed.<sup>23</sup>

Agriculture, like most social processes, has followed evolutionary paths. These paths can be understood in terms of, among

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19. See McMichael, *supra* note 12, at 282.

20. See Richard L. Brinkman & June E. Brinkman, *Corporate Power and the Globalization Process*, 29 INT'L J. SOC. ECON. 730, 730-731 (2002).

21. McMichael, *supra* note 12, at 281, 285.

22. *Id.*

23. Here, hegemony is used the Gramscian sense:

Gramsci developed the concept of hegemony to describe a condition in which the supremacy of a social group is achieved not only by physical force (which Gramsci called "domination" or "command") but also through consensual submission of the very people who were dominated (a phenomenon that Gramsci variously called "leadership," "direction," or "hegemony").

Douglas Litowitz, *Gramsci, Hegemony and the Law*, 2000 BYU L. Rev. 515, 516 (2000). Thus, a hegemon, whether a nation state, a social group or movement, or a set of institutions, dominates other states, groups or institutions through among other things, force, financial resources, or institutional corruption, robbing the dominated of agency and autonomy and rendering them the means of the hegemon's end. See WILLIAM M. DUGGER, *CORPORATE HEGEMONY* 4-5 (1989).

other things, the technological methodologies employed, the systems governing resource (land) use, and the structure of social relations. In Europe, for example, agriculture in pre-historic times involved slash and burn cultivation and then moved to cereal cultivation using an ard, to cereal cultivation using a plow, to varieties of crops and animal breeding, to mechanized, and then to industrialized processes of production.<sup>24</sup> Similarly, in some societies the resources associated with agriculture (land, in particular) developed from systems of free access, to community control, to private and or state ownership, depending, for example, on the degree of political organization present and whether the society recognized the concept of property.<sup>25</sup> However, in traditional societies, economic relations were embedded in culture and social relations, and social obligations were for the most part reciprocal.<sup>26</sup> All of these processes were subject to change as the bases and methodologies for the exercise of power in society changed.

Prior to the commencement of European colonial exploits at the middle of the last millennium, traditional societies had largely integrated systems of food production and food culture.<sup>27</sup> In agrarian peasant societies, food was grown, processed and consumed locally.<sup>28</sup> Surplus goods might be traded in exchange transactions at local markets, but food was not produced primarily for sale.<sup>29</sup> With social stratification came feudalism and the development of food production for sale both in local and external markets.<sup>30</sup> With the advent of colonialism, new systems of food production were introduced.<sup>31</sup> In some instances, colonial systems supplanted peasant agricultural economies or created new ones; in others, they usurped existing feudal systems or created new ones.<sup>32</sup> Nevertheless, the processes of colonialization forcibly integrated far flung societies into a global system of food production, distribution

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24. MARCEL MAZOYER & LAURENCE ROUDART, A HISTORY OF WORLD AGRICULTURE 21 (2006).

25. SUSANA NAROTZKY, NEW DIRECTIONS IN ECONOMIC ANTHROPOLOGY 26-27 (1997).

26. GEORGE DALTON, PRIMITIVE, ARCHAIC AND MODERN ECONOMIES: ESSAYS OF KARL POLANYI 7-8 (1967).

27. Harriet Friedmann, *Remaking "Traditions:" How We Eat, What We Eat and the Changing Political Economy of Food*, in WOMEN, FOOD, AND GLOBALIZATION 38 (D. Barndt ed., 1999).

28. *Id.*

29. Daryll Forde & Mary Douglas, *Primitive Economics*, in TRIBAL AND PEASANT ECONOMIES 18 (George Dalton ed., 1967)

30. See DALTON, *supra* note 28, at 18, 25.

31. Friedmann, *supra* note 29, at 38-39.

32. *Id.* at 38.

and consumption.<sup>33</sup> The global economy resulting from the colonial world order instituted new systems of food production which, among other things, created plantations, imported enslaved laborers and introduced monocultures which focused agricultural production around export crops.<sup>34</sup> This created a global division of labor which depended on colonies and quasi colonies in Africa, Asia and the Americas to produce primary commodities for export to the metropolises, a practice which in many respects persists to this day.<sup>35</sup>

The 19th century saw the British Empire develop into the hegemonic power of that age. The ability to exercise hegemonic power brings with it the capacity to establish policies that among other things, change the institutional environment in which the production, distribution and consumption of food occurs in ways that serve the interests of the hegemon.<sup>36</sup> The constellation of policies, rules, regulations and normative frameworks that establish relatively stable international economic, financial and political regularities have been characterized as international regimes.<sup>37</sup> Applying that analysis to the patterns of large-scale food production and their relationship to the exercise of hegemonic power led Harriet Friedmann and Philip McMichael to characterize the policies, rules and normative frameworks instituted by the British Empire circa 1860 with respect to international coordination of agriculture as a “world food regime.”<sup>38</sup> According to McMichael, the food regime concept provides an optic with which to observe the “geo-political, social, cultural, ecological, and nutritional relations at significant historical moments.”<sup>39</sup> As such, agricultural coordination necessarily involves the economic, financial and political deployment of capital; it also can be viewed as a “political regime of global value relations,” demonstrating the way hegemonic power is used instrumentally to serve its perpetuation.<sup>40</sup>

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33. M. SHAHID ALAM, POVERTY FROM THE WEALTH OF NATIONS 2 (2000).

34. Friedmann, *supra* note 29, at 38-39.

35. ALAM, *supra* note 35, at 43.

36. See Bill Winders, *The Vanishing Free Market: The Formation and Spread of the British and US Food Regimes*, 9 J. AGRARIAN CHANGE 315, 317 (2009).

37. See *id.* at 316.

38. See Harriet Friedmann & Philip McMichael, *Agriculture and the State System: The Rise and Decline of National Agricultures, 1870 to Present*, 29 SOCIOLOGIA RURALIS 93 (1989).

39. McMichael, *supra* note 14, at 281.

40. *Id.* at 283 (quoting Farshad Araghi, *Food Regimes and the Production of Value: Some Methodological Issues*, 30 J. PEASANT STUD. 41 (2003)). Araghi argued for a focus on labor rather than capital. *Id.*



"The food regime sets the market, which then structures the production and distribution of agricultural commodities throughout the world economy, thereby shaping the agricultural division of labour within the world economy."<sup>41</sup>

Food regime theorists have identified three food regimes: (i) the "Settler-Colonial" or British food regime spanning the period from 1870 to 1914; (ii) the "Surplus" or U.S. food regime arising after World War II and lasting at least until the early 1970s (although some would argue it persisted into the late 1990s); and (iii) the "third food regime," whose characterization remains subject to debate.<sup>42</sup> This paper adopts the view that the current food regime can appropriately be characterized as the corporate/financial food regime.<sup>43</sup>

The British food regime primarily involved the export of grains and meat products from settler states, and the import by settler states of finance and industrial products.<sup>44</sup> The British food regime was typified by relatively free markets, low trade barriers and minimal tariffs.<sup>45</sup> The settler states provided the food and raw materials, while the hegemon provided manufactured goods.<sup>46</sup> This resulted, among other things, in the provision of cheap food to British industrial workers, which in turn decreased the cost of labor, further enhancing Britain's ability to exploit its dominance in the export of industrially produced products.<sup>47</sup>

The second food regime was structured to achieve different political and economic goals. British power faded during World War I and was replaced by U.S. industrial power. The Great Depression and the dust-bowl ecological disaster left U.S. agriculture in disarray.<sup>48</sup> The U.S. government sought to support farming by introducing product subsidies, adopting protectionist trade

41. Winders, *supra* note 38, at 317.

42. Gabriela Pechlaner & Gerardo Otero, *The Neoliberal Food Regime: Neoregulation and the New Division of Labor in North America*, 75 RURAL SOC. 179, 182-83 (2010); Winders, *supra* note 38, at 318-19.

43. This characterization flows from McMichael's corporate food regime perspective, Pechlaner & Otero's neoliberal food regime analysis, and Burch & Lawrence's focus on the role of financialization in the operation of the current global food system. See, e.g., David Burch & Geoffrey Lawrence, *Towards a Third Food Regime: Behind the Transformation*, 26 AGRIC. & HUM. VALUES 267, 271 (2009).

44. See W. N. Pritchard, *The Emerging Contours of the Third Food Regime: Evidence from Australian Dairy and Wheat Sectors*, 74 ECON. GEOGRAPHY 64, 66 (1998).

45. See Winders, *supra* note 38, at 318.

46. See *id.*

47. McMichael *supra* note 14, at 284.

48. Winders, *supra* note 36, at 329.

policies, and encouraging the use of the products of the first 'green revolution' in revitalizing U.S. agriculture.<sup>49</sup> As a result, the U.S. found itself with a large surplus of wheat that could not be sold domestically without forcing wheat prices below the price the government guaranteed for farmers.<sup>50</sup> In 1954, the U.S. attempted to address its surplus problem in part by instituting its "Food for Peace" program.<sup>51</sup> Food for Peace provided cheap food to developing countries to meet those countries' domestic needs and to serve U.S. strategic ends in its competition with the Soviet Union for international influence.<sup>52</sup> The U.S. food regime sent primary food products to developing countries at prices that made the domestically produced agricultural products in those developing societies noncompetitive.<sup>53</sup> As a result, farmers in developing countries frequently were forced off the land and into cities in an attempt to find work, a process that has been characterized as de-peasantization.<sup>54</sup> Marxian theory views this as a process of capital accumulation by its creation of a surplus labor force that can be fed and paid cheaply.<sup>55</sup> By dispossessing the farmers in developing economies of their land and traditional sources of livelihood, the value of what they had lost inured to the benefit of those who were able to appropriate their land and labor.<sup>56</sup> Developing societies attempted to emulate U.S. and European industrial agricultural production which required the importation of equipment, seed, fertilizers and pesticides.<sup>57</sup> These developments were interrupted

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49. Friedmann, *supra* note 27, at 41-42.

50. *Id.* at 41.

51. *Id.* at 42-43.

52. *Id.* at 43.

53. During this period the U.S. resisted all efforts to include agriculture in the multilateral negotiations on trade and tariffs which encouraged the European Union and Japan also to subsidize their exports. Friedmann, *supra* note 28, at 43-44.

54. De-peasantization is the process by which large-scale commercial agriculture has destabilized small scale and peasant agriculture, creating surplus labor and marginalizing traditional farm cultures. McMichael, *supra* note 13, at 284.

55. *Id.* at 285.

56. Marx viewed primitive accumulation, the process by which labor was made available for industrial applications by depriving people of the ability to earn a living as traditional agriculturalists and forcing them into the cities to seek work in industry, as a stage in capitalist development. However, Rosa Luxemburg argued that primitive accumulation was a continual process by which the interests of capital marginalized traditional societies to appropriate both their resources and their labor, while creating capitalist social relations, i.e., accumulation by dispossession. Erik Olin Wright, *Alternative Perspectives in Marxist Theory of Accumulation and Crisis*, in *THE SUBTLE ANATOMY OF CAPITALISM* 133 (Jesse Schwartz ed., 1977); ROBERT BIEL, *THE NEW IMPERIALISM; CRISIS AND CONTRADICTIONS IN NORTH/SOUTH RELATIONS* 32-33 (2000).

57. Friedmann, *supra* note 29, at 44.

by the oil crisis of the early 1970s, which drastically increased the cost of fuel for industrial equipment and the cost of the petrochemical products used to augment agricultural production.<sup>58</sup> This forced developing economies to borrow extensively from Northern financial markets. When the borrowers subsequently defaulted on those loans, the defaults precipitated the so-called third world debt crisis and set the stage for the development of a new food regime.<sup>59</sup>

The loan defaults saw the introduction of the International Monetary Fund and the World Bank into the debt rescheduling process.<sup>60</sup> Unlike earlier periods marked by sovereign debt crises where creditors were able to exert limited economic and political pressure on debtor states, the IMF and the World Bank conditioned their lending and debt restructuring services on the debtor states' agreement to implement specific macroeconomic policies, characterized as conditionalities by the IMF and as structural adjustment by the World Bank.<sup>61</sup> These policies were based on the neoliberal ideology as expressed in the "Washington consensus," and corresponding economic principles expressed in the neoclassical paradigm.<sup>62</sup> Seventy-seven percent of the sovereign debts rescheduled by the end of 1986 included the adoption of structural adjustment or conditionalities.<sup>63</sup> These programs ostensibly sought to implement the policy prescriptions of neoclassical economics' development paradigm, i.e., large capital infusions to be invested in advanced technology geared toward producing products for export. These practices were coupled with the implementation of domestic policies to promote savings, "good governance,"

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58. *Id.* at 45-47.

59. See JAMES M. CYPHER & JAMES L. DIETZ, *THE PROCESS OF ECONOMIC DEVELOPMENT* 533-36 (1997).

60. See, e.g., Christian Suter & Hanspeter Stamm, *Coping with Global Debt Crises Debt Settlements, 1820 to 1986*, 34 COMP. STUD. IN SOC'Y AND HIST. 645, 664-65 (1992).

61. See Ruth E. Gordon & Jon H. Sylvester, *Deconstructing Development*, 22 WIS. INT'L L.J. 1, 37-42 (2004).

62. "The Washington consensus, arising out of Reagan-era geopolitics, consists of the belief that reliance on the private sector and market processes is the best, if not only, way to fuel economic growth and that economic growth is the only way to reduce poverty. Political democracy therefore was styled as the path to development because only Western-style democracy safeguarded economic freedom. Therefore, developing economies, by focusing on rapid technological development, would, in time, converge with developed economies, providing comparable levels of output per capita, income, and growth, thereby increasing general societal welfare." Charles R.P. Pouncy, *Stock Markets in Sub-Saharan Africa: Western Legal Institutions as a Component of the Neo-Colonial Project*, 23 U. PA. J. INT'L ECON. L. 85, 94-95 (2002).

63. Suter & Stamm, *supra* note 62, at 664.

and the adoption of policies to welcome foreign capital, including strong protection for property rights (including intellectual property rights), free markets, unrestrained capital mobility, privatization, currency devaluations, low government investment in social programs and austerity generally.<sup>64</sup> Despite their characterization as economic development policies, these interventions gave transnational corporate and financial interests unprecedented access to the resources and markets of developing economies, which predictably, generally did not enhance development opportunities.<sup>65</sup>

Thus, the third food regime emerged as transnational agribusiness and transnational finance, using the structural economic transformations characterized as globalization, reordered the relationship between food and society based on the financial interests of agribusiness and finance.<sup>66</sup> The new hegemonic interests were no longer political entities but businesses, and the hegemon's goal was no longer to serve specific national interests but the interests of business and finance, i.e., the elimination of all barriers to the influence of capital in restructuring trade and social relations.<sup>67</sup> Propelled by neoliberal economic and political theory, the corporate/financial food regime's transnational corporate and financial actors deputized states to advance their globalization agenda through the WTO, NAFTA, CAFTA, and other transnational and multilateral agreement. Import controls were demonized as obstacles to free trade. Transnational finance encouraged capital investment in Southern agriculture.<sup>68</sup> Production moved from small to increasingly larger units, marginalizing

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64. Pouncy, *supra* note 62, at 94; Antony Anghie, *Time Present and Time Past: Globalization, International Financial Institutions and the Third World*, 32 N.Y.U. Int'l L. & Pol. 243, 252-54 (2000).

65. Additionally, these conditionalities, which further promote the displacement of people from their means of existence through, among other things, privatization of water, electricity and other services, ecological injury and biopiracy, further the processes of accumulation by dispossession in the interest of transnational corporations. Gillian Hart, *Denaturalizing Dispossession: Critical Ethnography in the Age of Resurgent Imperialism*, 38 ANTIPODE 977, 983 (2006).

66. As Brinkman & Brinkman have argued, it is a mistake to view contemporary globalization merely as encompassing greater international trade and investment. Instead, it should be viewed as the development of a new economic structure which among other things centers the transnational corporation and transnational finance, rather than the state, as the central economic actors. See Brinkman & Brinkman, *supra* note 20, at 731-32.

67. Pechlaner & Otero, *supra* note 44, at 183.

68. See McMichael *supra* note 14, at 287.

small farmers in both the South and the North.<sup>69</sup> Transnational agribusiness became increasingly concentrated and integrated – by the turn of the 20th century six agribusiness firms controlled 80% of the global wheat and rice trade, and three countries exported 70% of exported corn.<sup>70</sup>

Agribusiness was not the only force at work in the development of the recent food crisis. By 2006, hedge funds and other speculators were beginning to acquire increasingly large positions in food commodity derivatives.<sup>71</sup> Recognizing the relationship between biofuels, energy and food commodities, financial firms and hedge funds began to speculate heavily in food commodity derivatives driving food costs above where they would have been based on supply and demand alone.<sup>72</sup> Some traders estimated in 2008 that financial firms controlled two years harvest of certain wheat futures.<sup>73</sup>

Prior to the food crisis of 2007-2008, the relationship between corporations and financial firms in dominating agricultural processes appeared sufficiently tenuous to have inspired a wide range of characterizations for the emerging food regime.<sup>74</sup> However, the structural interventions precipitating the 2007-2008 food crisis made it much easier to argue that the world had transitioned to a corporate/financial food regime. The role of finance capital was no longer limited to simply underwriting corporate control of land and resources in the South. Instead, finance capital has emerged as an independent player in the processes of food production, distribution and consumption. Some hedge funds have been created specifically to invest in agricultural commodities, others to invest in agricultural land and farm management businesses, and even others invest in agricultural inputs and

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69. Thomas A. Lyson et al., *Scale of Agricultural Production, Civic Engagement, and Community Welfare*, 80 SOC. FORCES 311, 315-16 (2001).

70. McMichael, *supra* note 14, at 287.

71. *See id.* at 282.

72. *See, e.g.*, Beat Balzi & Frank Hornig, *Speculators Worsening World Food Crisis?*, BUSINESSWEEK, Apr. 28, 2008, [http://www.businessweek.com/print/globalbiz/content/apr2008/gb20080423\\_366709.htm](http://www.businessweek.com/print/globalbiz/content/apr2008/gb20080423_366709.htm).

73. *Id.*

74. It was argued that the third food regime would be organized around new commodity complexes such as the current popularity of fresh fruits and vegetables and or natural foods would generate a 'clean and green' food regime. Burch & Lawrence, *supra* note 43, at 267; Pritchard, *supra* note 44, at 64. Friedmann has characterized it as the corporate-environmental regime, McMichael as the corporate regime, and Pechlaner and Otero as the neoliberal regime. *See* Pechlaner & Otero, *supra* note 44, at 183. Burch has labeled it the corporate-financial regime. *See* Burch & Lawrence, *supra* note 43, at 271-73.

logistics such as grain elevators, fertilizer distribution centers, barges and ships.<sup>75</sup> For example, in 2006 Goldman Sachs bought a 13% interest in China's second largest meat and poultry processor and in 2008 purchased ten poultry farms in China.<sup>76</sup> As these events demonstrate, when the food regime hegemon's goals are the self-interested pursuit of profit, the result is food insecurity and hunger for expanding numbers of peoples and societies.

However, the rise of the corporate/financial food regime is not merely a function of the raw exercise of economic and political power. It is also a consequence of the ability of transnational agribusiness and transnational finance to destabilize the institutional environment mediating the production, distribution and consumption of food. The next discussion examines institutional economic theory and the role of institutional processes in the development and perpetuation of the corporate/financial food regime.

### PART III - INSTITUTIONAL THEORY

Institutional economic theory teaches that economic processes are evolutionary. Therefore economic relationships, like the relationship between people and food, are mediated by the evolving institutional environment in which transactions, broadly defined, involving people and food occur.<sup>77</sup>

The processes of corporate and financial globalization operate to force a structural transformation in: (i) the way we think about food; (ii) the ways participants in agricultural production are coordinated; (iii) the political, technological, and symbolic resources deployed to establish and maintain structural change; and (iv) the products produced by the agricultural sector and the uses and places to which these products are directed. Although the corporate/financial food regime is a fairly recent development, the foundations of its power and influence have a much longer history. The corporate/financial food regime has appended itself to institutional processes that have sought to change agriculture from farming into industry, that have changed food from grains,

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75. Burch & Lawrence, *supra* note 45, at 271-72.

76. *Id.* at 272.

77. This paper applies "old" institutional economic theory as opposed to the "new" institutional economics of Oliver Williamson and Douglas North. For a synopsis of the history of institutional economics, see Charles R.P. Pouncy, *Institutional Economics and Critical Race/LatCrit Theory: The Need for a Critical "Raced" Economics*, 54 RUTGERS. L. REV. 841, 843-45 (2002).

legumes, vegetables, etc., into products with food and non-food applications, and that have shifted food preparation and consumption from family meals prepared and consumed at home to individual meal products prepared industrially and consumed at home, restaurants, or other eating establishments.<sup>78</sup> These institutional changes are most apparent in the global North, but the processes of globalization are increasingly exporting the Northern pattern to the global South.

In exploring the evolution of the institutional environment associated with the production, distribution and consumption of food, this paper will apply the analytical constructs developed by Hollingsworth to illustrate the structure of institutional environments.<sup>79</sup> Hollingsworth conceptualizes the institutional environment as being susceptible to five distinct levels of analysis: (1) The Institution; (2) The Institutional Arrangement; (3) The Institutional Sector; (4) Organizational Structures; and (5) Outputs and Performances.<sup>80</sup>

The application of this analytical structure will permit the construction of a schematic upon which we can chart a product or service (or other societal performance), from its expression in the market (or its performance in another societal sphere), the ultimate level, back to the habits of thought, the institutions, which underlie its existence, the foundational level.

### THE INSTITUTION

The changes in the institutional environment of food production, distribution and consumption begin with how we think about food. Institutional economics characterize the way we think about concepts as institutions, i.e., socially constructed belief systems about the ways things are and the way things should be that organize human thought and action.<sup>81</sup> So, for example, "a family meal," as that concept is understood in a particular culture or society and can be thought of as an institution. Institutions exist at the level of the individual.<sup>82</sup> Institutions are static, inherited from the past, tend to be past glorifying (the good old days), psychologi-

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78. Friedmann, *supra* note 29, at 49-50, 54-55.

79. J. Rogers Hollingsworth, *Doing Institutional Analysis: Implications for the Study of Innovations*, 74 REV. OF INT'L POL. ECON. 595 (2000).

80. *Id.* at 601.

81. Johan Stein, *How Institutions Learn: A Socio-Cognitive Perspective*, 31 J. ECON. ISSUES 729, 730 (1997).

82. WENDELL GORDON, INSTITUTIONAL ECONOMICS: THE CHANGING SYSTEM 16 (1980). Gordon characterizes the individuals understanding of the meaning of

cally defensible, dictatorial, and habitual.<sup>83</sup> The strongest institutions are tacit and generate institutionalized behavior patterns before reason, communication and the capacity for choice have been established in an individual.<sup>84</sup> Therefore, the strongest institutions are the ones that are experienced rather than communicated.<sup>85</sup> Institutions tend to be durable and persist until forced to change by, for example, technological change or the influence exerted by other institutions.<sup>86</sup>

For much of recent history a meal was something that was prepared at home by a family member or servant assembling a variety of foods according to recipes or traditions, cooking them and serving them to family members for consumption. Employing advertising and deploying the institutions of “progress” and “convenience” corporations have established competing versions of the meal as, for example, something purchased while in an automobile from a fast food restaurant and consumed in the vehicle or at a later point in time. Similarly, food for many, is no longer an assemblage of raw products for processing at home prior to consumption. Food has become, among other things, something purchased in the refrigerated section of a supermarket to be heated in a conventional oven like the original T.V. dinners, or heated in the microwave *à la Lean Cuisine*.

Advertising, in particular television advertising, has been instrumental in effecting these changes. The most powerful institutions are those that are absorbed before the development of reason, food corporations have targeted much of their advertising to young children. Foods are among the most heavily advertised items on children’s television programs.<sup>87</sup> Research demonstrates that pre-school children exposed to videos with embedded food ads were significantly more likely to select advertised food items for consumption than were members of a control group that had not been exposed to the ads.<sup>88</sup> Borzekowski and Robinson report that

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concepts like the family, the church, the social group, and the corporation as institutions. *Id.*

83. *See id.* at 17.

84. *See Stein, supra* note 83, at 732-33.

85. *Id.*

86. Gordon, *supra* note 84, at 17.

87. Dina G. Borzekowski & Thomas N. Robinson, *The 30-Second Effect: An Experiment Revealing the Impact of Television Commercials on Food Preferences of Preschoolers*, 101 J. OF THE AM. DIETETIC ASS’N 42 (2001).

88. Helen G. Dixon et al., *The Effects of Television Advertisements for Junk Food versus Nutritious Food on Children’s Food Attitudes and Preferences*, 65 Soc. Sci. & Med. 1311, 1311-12 (2007).



in the course of a 28-day study, 3 and 4 year olds made an average of 24.9 requests for candy, toys and snack foods they had seen advertised on television.<sup>89</sup> In another study of Latino American preschoolers, 63% of the mothers indicated that in the previous week their preschooler had made a request for a toy, 55% had requested a food or drink, and 67% had requested to go to a specific store or restaurant they had seen advertised on television.<sup>90</sup> The effectiveness of television ads is amplified by repeated exposure.<sup>91</sup> Thus, corporations using advertising and competing institutions are in a continual process of reshaping the traditional institutions associated with the consumption of food. It is likely that the institutions associated with food production, i.e., farming, are more durable although people across the world increasingly view food as something that comes from a supermarket rather than from a farm.

#### INSTITUTIONAL ARRANGEMENTS

Institutions are at the foundation of institutional analysis.<sup>92</sup> Institutional arrangements are at the next level of analysis and consist of the various methods available for coordinating the assorted economic actors present in a particular sector of the economy.<sup>93</sup> Economic actors function at the intersection of a number of economic sectors and therefore will be subject to the influence of multiple institutional arrangements.<sup>94</sup> The coordinating mechanisms include markets, communities, networks, associations, private hierarchies, government, and transnational and supranational organizations.<sup>95</sup> Each of the available coordinating mechanisms can express itself in a number of different ways, and the particular form of expression will influence the processes used for coordination.<sup>96</sup> For example, although governments are a broad category of institutional arrangements, the regulatory structure imposed, i.e., expressed, by socialist government, is likely to differ from the structure imposed by a free market government. Additionally, there could be significant differences between the structures imposed by an elected government as

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89. Borzekowski & Robinson, *supra* note 87, at 42.

90. *Id.*

91. Dixon et al., *supra* note 90, at 1313.

92. See Hollingsworth, *supra* note 79, at 600-605.

93. *Id.* at 605.

94. *Id.*

95. *Id.*

96. *Id.* at 605-613.

opposed to a dictatorship. Similarly, different sorts of markets, communities, and associations have the potential to express the processes of coordination differently. The specific types of institutional arrangements present in a society will be a function of the underlying societal institutions. Thus, in the United States food safety in the agricultural sector is coordinated by government at the national level through regulatory agencies, including the Food and Drug Administration and the Federal Trade Commission, and by government at the local level by business and professional licensing and inspection agencies. Simultaneously, the agricultural sector is coordinated by markets, including the commodity futures markets and local wholesale markets, some of which may be organized as cooperatives.<sup>97</sup> These arrangements also intersect with transnational coordinating mechanisms including the World Trade Organization.<sup>98</sup> The hegemons of the corporate/financial food regime seek uniformity across the range of their global activities and therefore have been encouraging arrangements located at the transnational level, as well as self-regulation and regulation by the so-called free market.

Transnational institutional arrangements, such as NAFTA, have been instrumental in reordering the production, distribution, and consumption of food in North America. In 1992, as a consequence of its joining the General Agreement on Tariffs and Trade (GATT) in 1986 and in anticipation of the implementation of NAFTA in 1994, Mexico enacted the New Agrarian Reform Law.<sup>99</sup> The law ended the state's commitment established in 1917 to

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97. *Id.* at 605.

98. *About the WTO – A Statement by the Director-General*, WORLD TRADE ORGANIZATION, [http://www.wto.org/english/thewto\\_e/whatis\\_e/wto\\_dg\\_stat\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/wto_dg_stat_e.htm) (last visited Apr. 9, 2011).

The WTO provides a forum for negotiating agreements aimed at reducing obstacles to international trade and ensuring a level playing field for all, thus contributing to economic growth and development. The WTO also provides a legal and institutional framework for the implementation and monitoring of these agreements, as well as for settling disputes arising from their interpretation and application. The current body of trade agreements comprising the WTO consists of 16 different multilateral agreements (to which all WTO members are parties) and two different plurilateral agreements (to which only some WTO members are parties).

*Id.*

99. See Carmen G. González, *An Environmental Justice Critique of Comparative Advantage: Indigenous Peoples, Trade Policy, and the Mexican Neoliberal Economic Reforms*, 32 U. Pa. J. Int'l L. 723, 735-36 (2011) citing Constitución Política de los Estados Unidos Mexicanos [C.P.], as amended, Diario Oficial de la Federación [DO],

redistribute land and maintain an inalienable agrarian reform sector, the ejidos and other agrarian communities.<sup>100</sup> As a result, small-scale Mexican farmers were forced to compete with giant U.S. agribusiness firms.<sup>101</sup> The Mexican food market was flooded with U.S. yellow corn, used for animal feed and ethanol production, which was cheaper than white corn grown in Mexico for human consumption.<sup>102</sup> Nevertheless, the low price of imported U.S. yellow corn has resulted in its increased use for human food products and a popular Mexican magazine, *Cambio*, estimated in 2002 that one out of every three tortillas in Mexico were made with imported corn.<sup>103</sup> The importation of yellow corn has resulted in a 70% decrease in the price of corn paid to Mexican farmers.<sup>104</sup>

A consequence of this transnational arrangement has been the privatization of land formerly used for domestic agriculture, resulting in a 24% decrease in agricultural employment.<sup>105</sup> This is deemed responsible for Mexico becoming the largest exporter of labor in the world with more than two million people leaving the country in search of a substitute livelihood.<sup>106</sup> A further consequence has been the erosion of Mexican food sovereignty as demonstrated by the tortilla riots in 2007 as U.S. agribusiness redirected its corn production to ethanol, which raised the price of flat corn bread, a staple of the Mexican peasantry, by 400 percent.<sup>107</sup> In this example, the switch from a nationally based set of institutional arrangements for the regulation of Mexican agriculture to a transnational institutional arrangement has dramatically altered the lives of millions of Mexicans.

### INSTITUTIONAL SECTOR

The institutional sector includes the constellation of activities

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5 de febrero de 1917 (Mex.), available at <http://www.juridicas.unam.mx/infjur/leg/constmex/pdf/rc121.pdf>.

100. Pechlaner & Otero, *supra* note 42, at 194-95.

101. David Lind & Elizabeth Barham, *The Social Life of the Tortilla: Food, Cultural Politics, and Contested Commoditization*, 21 *Agriculture and Human Values* 47, 56 (2004).

102. *NAFTA Truth and Consequences: Corn*, PUBLIC CITIZEN GLOBALIZATION AND TRADE, [http://www.citizen.org/trade/article\\_redirect.cfm?ID=11330](http://www.citizen.org/trade/article_redirect.cfm?ID=11330) (last visited Apr. 8, 2011).

103. *Id.*

104. *Id.*

105. See Pechlaner & Otero, *supra* note 42, at 201.

106. *Id.*

107. *Mexican State Tortilla Protest*, BBC NEWS, Feb. 1, 2007, <http://news.bbc.co.uk/2/hi/americas/6319093.stm>.

that are required for the performance of a particular function.<sup>108</sup> Institutional sectors are idiosyncratic consequences of the unique set of institutions and institutional arrangements present in a particular society.<sup>109</sup> Examples of institutional sectors include health care, law, and agriculture/agribusiness. The terrain of an institutional sector is delimited by its interaction with other institutional sectors, and institutional sectors that deploy politics, symbolism, technology and financial and other resources to defend their spheres of influence.<sup>110</sup>

What has become the agribusiness institutional sector in the United States has used the processes of business integration to restructure farming in the U.S. This has resulted, at the extremes, in a change from a “seed to plate” process, i.e., subsistence farming, a fully integrated food system under the control of the family farm, to a “seed to shelf” system of commercial agriculture under the control of a handful of agribusiness conglomerates.<sup>111</sup> Over the course of the 19th century, U.S. farms became increasingly separated from the ultimate consumers of their products as the food system segmented itself into a number of stages.<sup>112</sup> Farmers sold their products to firms that would then transport the products, and in turn sell them to firms that would process the product.<sup>113</sup> In time, the process also included firms that produced seed, firms that produced chemical inputs (fertilizers and pesticides), firms that produced mechanized farm equipment, and firms that supplied credit to farmers.<sup>114</sup>

By the turn of the 20th century, through expansions, mergers and acquisitions, a few of the food processing companies began to control significant markets.<sup>115</sup> The activities of Wilson, Smith, and Armour, the dominant companies in pork and beef slaughter and processing, inspired Upton Sinclair’s *The Jungle* (1906) which is deemed largely responsible for the Food and Drug Act of 1906.<sup>116</sup> The trend toward concentration has escalated in the second half of the 20th century to the point that by 2002 four firms controlled 81% of the beef packing industry; four firms controlled 59% of the

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108. See Hollingsworth, *supra* note 79, at 613.

109. *Id.* at 614.

110. *Id.*

111. William D. Heffernan, *Agriculture and Monopoly Capitalism*, 50 MONTHLY REV. 46, 54 (1998).

112. *Id.* at 46-47.

113. *Id.*

114. *Id.* at 47.

115. *Id.* at 49.

116. *Id.*

pork packing industry; three firms controlled 81% of corn exports and; four firms controlled 61% of flour milling.<sup>117</sup> Additionally, as some firms are dominant in multiple product lines, they are able to operate some lines at a loss in order to drive out competitors while still generating profits from their other product lines.<sup>118</sup> Globalization has enabled these firms to use the same process in eliminating competition in other countries. Cargill, a dominant firm in grain handling, corn, soybeans, flour milling and ethanol production has operations in seventy countries.<sup>119</sup> This geographic presence enables it to underprice in some countries to increase its market share while sustaining losses which are compensated by their operations in other countries.<sup>120</sup> Thus, the agribusiness institutional sector as dominated by a few companies is able to influence, if not control, the quality, type, location of production and price of food products at every stage of the food production and distribution processes across the world.<sup>121</sup>

### ORGANIZATIONAL STRUCTURES

Organizational structures, such as business firms, universities, and medical practices, are embedded in the institutional environment created by the interaction of institutions, institutional arrangements, and institutional sectors.<sup>122</sup> Therefore, orga-

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117. Mary Hendrickson & William Heffernan, *Concentration of Agricultural Markets*, FOOD CIRCLES NETWORKING PROJECT (February 2002), <http://www.foodcircles.missouri.edu/CRJanuary02.pdf>.

118. *Id.* For example, ConAgra is a dominant firm in beef packing, pork packing, broiler chickens and turkeys. *Id.* ConAgra describes itself as “one of North America’s largest packaged food companies, serving consumer grocery retailers, as well as restaurants and other foodservice establishments. Popular ConAgra Foods consumer brands include: Banquet, Chef Boyardee, Egg Beaters, Healthy Choice, Hebrew National, Hunt’s, Kids Cuisine, Marie Callender’s, Orville Redenbacher’s, PAM and many others.” See *The Freestorefoodbank, ConAgra Foods and America’s Second Harvest Recognize 10 Years of Feeding Hungry Children in Cincinnati*, CONAGRA FOODS, <http://media.conagrafoods.com/phoenix.zhtml?c=202310&p=irol-newsArticle&ID=1008277&highlight> (last visited Apr. 8, 2011).

119. Cargill “also makes barges, operates barge and shipping lines, and processes pig iron, scrap iron, and other metal and petroleum products.” Heffernan, *supra* note 111, at 57. Cargill describes itself as “an international provider of food, agricultural and risk management products and services. We have 75 businesses organized around five major segments: Agriculture Services, Food Ingredients and Applications, Origination and Processing, Risk Management and Financial, and Industrial.” *Cargill Incorporated—Strategic SWOT Analysis Review*, MARKET PUBLISHERS (Aug. 2011), [http://pdf.marketpublishers.com/296/cargill\\_incorporated\\_strategic\\_swot\\_analysis\\_review.pdf](http://pdf.marketpublishers.com/296/cargill_incorporated_strategic_swot_analysis_review.pdf).

120. See Heffernan, *supra* note 111, at 56.

121. *Id.* at 51.

122. Institutions, institutional arrangements and institutional sectors in

nizations operating in institutional environments with durable institutions, effective institutional arrangements, and organized and coordinated institutional sectors, tend to resemble each other and engage in similar organizational behaviors.<sup>123</sup> Conversely, organizations in institutional environments with contested institutions, ineffective institutional arrangements, and destructively competitive institutional sectors, may exhibit greater variation in form, practices and cultures.<sup>124</sup> The organizational structures associated with agriculture and agribusiness tend to operate in strong, well organized institutional environments which further increases the power of these firms as lack of variation minimizes opportunities for genuine competition. In the absence of real competition in markets, which is the institutional arrangement of choice for these firms, consumer power to influence products, processes and prices is minimized.

#### OUTPUTS AND PERFORMANCES

It is at the level of outputs and performance that organizations interact with each other, e.g., in production networks, in supply chains, and in market competition. The level of outputs and performance demonstrates the level of functioning of the society generally.<sup>125</sup> The character, quantity, and accessibility of outputs and performances indicate the distribution of assets, resources and opportunities among the individuals in the society.<sup>126</sup> For example, outputs and performances that are exported despite the fact that societal members need and lack access to them suggest a society's stage of development and its levels of political and economic equality.<sup>127</sup> However, the locus of decision-making concerning outputs and performances also indicates whether these decisions are being made in and by the society being affected, or are being made elsewhere in the interests of firms and individuals far removed from the societies in which

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combination are characterized by Hollingsworth as a "social system of production." The combination of the routines and thoughtways of institutions, the structure of institutional arrangements and the focus of the institutional sector produces a unique a unique system of nonlinear interaction in which each level of analysis has the potential to influence the others. However the social system of production has the ability to severely constrain the decisional processes and decisional options of individual actors. Hollingsworth, *supra* note 79, at 613-14.

123. *See id.* at 619-20.

124. *See id.*

125. *Id.* at 622.

126. *Id.*

127. *Id.*

these outputs and performances are being produced.<sup>128</sup>

Applying the tools of institutional analysis supports the argument that corporate and financial interests have achieved the status of hegemon with respect to the production, distribution, and consumption of food. Corporate advertising has intervened at the level of the institution to condition children to view food as the processed products manufactured by agribusiness. They have intervened at the level of the institutional arrangement to minimize national regulation of agriculture and substitute transnational and supranational regulation in conjunction with the operation of globalized markets. Similarly, transnational finance has relied on transnational and supranational regulation to enhance capital mobility. Transnational agribusiness has developed high degrees of economic concentration and integration at the level of the institutional sector, with individual firms spanning large scale industrial production of meat and agricultural products, seed manufacture and distribution, farm equipment and farm chemicals.<sup>129</sup> With this level of concentration, transnational agribusiness can exercise predatory power in the markets in which they participate, thereby minimizing the role of the consumer, whose decisions only become meaningful in the presence of real competition. The minimization of competitive processes is also supported at the level of organizational structures. Organizationally, the agribusiness sector has structured itself into diversified transnational corporations relying on oligopolistic and monopolistic practices to expand its global reach and economic power.<sup>130</sup> Finally, decisions made in corporate headquarters impact the products that are produced or not produced around the world.<sup>131</sup> These decisions are made, not with reference to the social provisioning of societies, but with reference to the profitability of business firms.

#### PART IV -THE COUNTER-MOVEMENT

In the Great Transformation, Polanyi described the origins of the self-regulating market as an economic and political institution in 19th century Europe.<sup>132</sup> Viewed as exogenously imposed rather

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128. *Id.* at 622-23; Friedmann, *supra* note 27, at 47-8.

129. *See* Heffernan, *supra* note 111, at 50.

130. *Id.* at 50-54.

131. Friedman, *supra* note 27, at 47-8.

132. *See generally* KARL POLANYI, *THE GREAT TRANSFORMATION: THE POLITICAL AND ECONOMIC ORIGINS OF OUR TIME* (Beacon Press 2001).

than as endogenously arising as market mythology suggests, Polanyi demonstrated that the modern free market was an intervention in societal institutions designed initially to increase state power and later to increase the power of capital.<sup>133</sup> The self-regulating market has freed capital from the control of society and now enables capital to control society. However, Polanyi recognized that these processes of economic evolution were neither linear nor uncontested.<sup>134</sup> The development of the self-regulating market in 19th century Europe was accompanied by institutional responses in the form of law and policy to restrict, in this instance, the labor market's power.<sup>135</sup> Polanyi characterized this process as the double movement; the expansion of the power of capital through markets generated a counter-movement to contest the more pernicious consequences of market processes.<sup>136</sup>

Similarly, the efforts of transnational agribusiness and finance in deploying their hegemonic power to reconfigure societal institutions associated with the food system are being resisted by counter-movements. For example, in 1993 the First Conference of La Via Campesina convened and established La Via Campesina, an international movement of peasants; small and medium sized producers; landless; rural women; indigenous people; rural youth; and agricultural workers.<sup>137</sup> It was organized to promote a model of local peasant or family-farm agriculture based on sustainable production in harmony with local culture and traditions.<sup>138</sup> It promotes food sovereignty, the prioritization of the food needs of local communities over the export agenda of states and transnational agribusiness, and decentralized food production and supply chains which limit the economic power of agribusiness stemming from the vertical integration of the various stages of food production and distribution.<sup>139</sup> Thus, La Via Campesina stands in direct opposition to the processes of de-peasantization that seek to drive

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133. *See id.* at 59-69.

134. *See id.*

135. The Poor Law Reform of 1834 did away with the Speenhamland Law established in 1795 to provide a minimum income for the poor tied to the cost of bread. *Id.* at 82. The existence of this income guarantee prevented the establishment of a national labor market by removing the compulsion to work at any wage. The Poor Law Reform of 1834 abolished the "right to live" established by Speenhamland and a system of welfare was replaced by the choice of wage labor or the workhouse. *Id.* at 84-86.

136. *Id.* at 79-80.

137. *See, e.g.,* LA VIA CAMPESINA, <http://www.viacampesina.org/en/> (last visited Apr. 8, 2011).

138. *Id.*

139. *Id.*



peasants and small farmers from their land and convert those lands to industrialized commercial agriculture.<sup>140</sup> However, protecting the interests of peasants and small farmers inures to consumers generally by preventing agribusiness from exploiting its near monopoly power in setting prices.<sup>141</sup>

To become an effective counter-movement, La Via Campesina and other opponents of contemporary globalization will have to engage transnational agribusiness and finance at each level of the institutional environment. The institutions associated with food production must be re-centered at the local level, where the concept of "food" should be defined in terms of cultural understandings and nutritional needs rather than as class proxies and status symbols. Similarly, the concept of the farm should again focus on enterprise at a human scale of production rather than at an industrial scale of production. This will be challenging, for no social movement has the resources to confront the advertising budgets of agribusiness. Additionally, the modern addiction to progress will cast the efforts to base future policies on what has worked in the past as reactionary and unscientific. However, to the extent that inroads are made at the level of institutional arrangements, in other words, to the extent that food policy is set at the national as opposed to the transnational arena, and food distribution is mediated by the goal of social provisioning rather than vagaries of market processes, the ability to reestablish traditional leaning food institutions will be facilitated.

At the level of the institutional sector, national and international law governing unfair competition, and restraints on trade and monopolies must be enforced, and limits on capital mobility must be established. This is of course is a double edged sword. One of the advantages of the current organizational structure of transnational agribusiness from the perspective of the opposing view is the limited number of players that the opponents of agribusiness must confront. Despite this, limiting the size and scope of firms will increase competition and consumer power, it will also permit the entry of new market participants, which can include cooperatives and nonprofit organizations. It will also enable states to elevate food sovereignty concerns above agribusinesses' fixation on maximum profitability. Reorienting organizational structures from highly concentrated firms with nearly identical goals, means, and opportunities, to a more diverse set of

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140. See McMichael, *supra* note 12, at 284.

141. *Id.*

actors whose success will not be determined by their ability to wield economic power but by their meeting a wide range of consumer concerns about safety, health, nutrition, the environment, will again refocus the food system on the interests of consumers as opposed to the interests that are instilled in consumers by agribusiness. Finally, the developmental narrative that emphasizes the production of export goods at the expense of local food must be displaced, and naked speculation in food commodities must be more effectively regulated.

Institutional economics teaches us that the economy is a process in evolution, so it is unrealistic to expect to be able to turn back the clock and replicate the practices that were in place in the past. It is nonetheless possible for a future system to embody the values that we associate with the traditional patterns of food production, distribution and consumption.

It should be anticipated that hegemonic power will resist efforts to curtail its strength. However, food regime theory suggests that the ability to exercise hegemonic power is of limited duration.<sup>142</sup> It is likely that the counter-movement will play some role in the ultimate decline of the corporate food regime. It should be anticipated that factors and forces that may have yet to be identified will be instrumental in affecting change. If the institutional structure associated with the current food regime is reconfigured, then it will provide the parameters within which a new regime may emerge, or within which an alternative process may be generated. If the reconfigured institutional structure emphasizes social provisioning, local small-scale production, sustainability, and national as opposed to transnational regulation, we have reason to be optimistic.

### CONCLUSION

The processes associated with the production, distribution, and consumption of food are at a critical moment. Although institutions, norms and values tend to be stable unless subjected to intentional contestation, there are nonetheless critical moments during which institutions and institutional processes can change dramatically.<sup>143</sup> Crisis and its aftermath can introduce a critical moment in which the way we think about things, organize processes, and distribute resources becomes contestable. As it

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142. McMichael, *supra* note 12, 284-285.

143. See Hollingsworth, *supra* note 79, at 605.

becomes increasingly clear that the problem of world hunger is not a problem of supply but of distribution, and that distribution is not a function of technical resources but of ideology, movement toward a food system in which no one is hungry, unless they choose to be, becomes possible.