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SOVEREIGNTY AS STEWARDSHIP: THE RESPONSIBILITY OF STATES IN LAND MANAGEMENT TO ENSURE FOOD SECURITY

A Socio-Legal and Comparative Analysis

AUTHORED BY - NGUYEN DANG NGHIA

Designation / Institution: Ho Chi Minh City Open University

ABSTRACT

Land is the foundation of food production, yet it is also a contested asset subject to expropriation, speculative acquisition, degradation and climate stress. This article argues that State authority over land should be understood as stewardship: sovereignty carries a corresponding duty to govern land so as to secure the food and livelihoods of those who depend on it. Drawing on international human rights law, soft-law instruments such as the Voluntary Guidelines on the Responsible Governance of Tenure, and insights from economics and environmental science, it identifies six core State responsibilities: securing tenure, regulating land acquisitions and investment, protecting productive land, ensuring equitable access, promoting climate-resilient land use, and guaranteeing transparency and remedies. A comparative study of India, South Africa, Vietnam and Kenya shows that the principal challenge lies in implementation rather than in the articulation of principles. The article concludes with recommendations for legal and institutional reform.

Keywords: *land governance; food security; right to food; State responsibility; land tenure; land acquisition; comparative law.*

I. INTRODUCTION

Food is grown on land, and the legal arrangements that govern land are therefore, in a very direct sense, arrangements that govern hunger. The global food system presents a paradox: the world produces enough calories to feed its population, yet hundreds of millions of people remain chronically undernourished.¹ Amartya Sen's seminal work explained why. Famines and

¹ FAO, IFAD, UNICEF, WFP and WHO, *The State of Food Security and Nutrition in the World 2025* (FAO 2025).

persistent hunger are seldom the result of an absolute shortage of food; they arise from failures of "entitlements", the bundles of resources, work and legal claims through which people command food.² For rural populations, who make up a large share of the world's poor and food-insecure, secure access to land is the most important of these entitlements.

Land governance is under unprecedented pressure. Urbanisation and infrastructure consume fertile farmland. The food-price crisis of 2007–08 triggered a surge in large-scale acquisitions and leases of farmland, particularly in developing countries.³ Land degradation affects a substantial part of the planet's land surface,⁴ and climate change is altering the productivity of agro-ecosystems. In each of these processes the decisive actor is the State, which allocates, registers, taxes, zones, expropriates and protects land.

This article asks what responsibilities States bear in managing land so as to ensure food security, and how far national legal systems discharge them. It argues that State authority over land should be understood as a form of stewardship: sovereignty carries with it a duty to govern land in ways that secure the food, livelihoods and dignity of present and future generations. The analysis is socio-legal and comparative. It combines doctrinal analysis of international and constitutional law with insights from development economics, rural sociology and environmental science, and it compares India, South Africa, Vietnam and Kenya, jurisdictions that differ in tenure systems, legal traditions and levels of development.

Part II sets out the conceptual framework. Part III maps the international legal sources of State responsibility. Part IV identifies six core responsibilities. Part V examines comparative practice. Part VI discusses persistent challenges, Part VII offers recommendations, and Part VIII concludes.

II. CONCEPTUAL FRAMEWORK

A. Food security as a multidimensional concept

The 1996 World Food Summit defined food security as existing when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life.⁵ Four dimensions are conventionally distinguished: availability, access, utilisation and stability. More recently the High Level Panel of Experts of the Committee on World Food Security added agency and

² Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* (OUP 1981).

³ Lorenzo Cotula and others, *Land Grab or Development Opportunity? Agricultural Investment and International Land Deals in Africa* (IIED/FAO/IFAD 2009).

⁴ UNCCD, *Global Land Outlook* (2nd edn, 2022).

⁵ FAO, *Rome Declaration on World Food Security and World Food Summit Plan of Action* (1996).

sustainability, stressing that people must be able to shape the systems that feed them and that those systems must not erode the natural base on which future food production depends.⁶ Land bears on every one of these dimensions: it determines how much food can be produced (availability), who can produce or buy it (access), the diversity of what is grown (utilisation), and whether production can be sustained over time (stability and sustainability).

B. Land governance and tenure

Tenure describes the relationship, defined legally or customarily, between people and land. Governance of tenure refers to the rules, institutions and processes through which access to land and the authority to make decisions about it are determined.⁷ Because land rights are bundles of use, transfer, exclusion and inheritance rights held by individuals, households, communities and the State, a land-governance analysis must look beyond formal title to the lived reality of customary, informal and overlapping claims. Empirical economics supports this broader view: where tenure is insecure, farmers under-invest in soil, trees and irrigation, which depresses productivity.⁸

C. Sovereignty as stewardship

International law affirms the permanent sovereignty of peoples and nations over their natural wealth and resources, to be exercised in the interest of national development and the well-being of the people.⁹ Many constitutions go further and vest land in the nation or the people, with the State acting as manager or representative owner. In Vietnam, for example, land is owned by the entire people and the State exercises ownership as their representative.¹⁰ The idea that sovereignty entails responsibility is well known in international legal theory.¹¹ Applied to land, it implies that the State's authority is a trust: the more extensive the State's power over land, the heavier its duty to exercise that power in ways that protect the food security of those who depend on it. This stewardship idea frames the responsibilities analysed below.

⁶ HLPE, *Food Security and Nutrition: Building a Global Narrative towards 2030* (HLPE Report 15, 2020).

⁷ FAO, *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (CFS endorsed, 2012) (VGGT).

⁸ Timothy Besley, "Property Rights and Investment Incentives: Theory and Evidence from Ghana" (1995) 103 *Journal of Political Economy* 903.

⁹ UNGA Res 1803 (XVII) (14 December 1962).

¹⁰ Constitution of the Socialist Republic of Viet Nam 2013, art 53.

¹¹ Francis M Deng and others, *Sovereignty as Responsibility: Conflict Management in Africa* (Brookings Institution 1996).

III. THE INTERNATIONAL LEGAL FRAMEWORK

A. The right to food and its land dimension

No treaty guarantees a freestanding "right to land", but the right to adequate food is firmly established. Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the right to an adequate standard of living including adequate food, and the fundamental right to be free from hunger.¹² Article 11(2)(a) expressly directs States to develop or reform agrarian systems so as to achieve the most efficient development and use of natural resources, which is the textual hook for land reform and agrarian policy. The Committee on Economic, Social and Cultural Rights (CESCR) explains in General Comment No 12 that the right imposes three levels of obligation: to respect existing access to food, to protect it against interference by third parties, and to fulfil it by facilitating and, where necessary, providing food.¹³ Each level has a land dimension. Respecting means refraining from arbitrary evictions; protecting means regulating private investors and powerful landholders; fulfilling means redistributing land or supporting access where people cannot feed themselves.

B. Instruments protecting rural groups

The Convention on the Elimination of All Forms of Discrimination against Women requires States to ensure rural women equal treatment in land and agrarian reform and in resettlement schemes,¹⁴ a point of particular importance because women produce a large share of the world's food yet often lack secure land rights. The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) goes furthest, recognising a right to land, protection against arbitrary eviction, and the right to food and food sovereignty.¹⁵ The Declaration is not binding as such, but it consolidates emerging norms. Indigenous peoples' land rights are protected by the UN Declaration on the Rights of Indigenous Peoples, which requires free, prior and informed consent before relocation or before projects affecting indigenous lands are approved.¹⁶

¹² International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 11.

¹³ CESCR, *General Comment No 12: The Right to Adequate Food (Art 11)* (1999) UN Doc E/C.12/1999/5, para 15.

¹⁴ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 14(2)(g); CEDAW Committee, *General Recommendation No 34 on the Rights of Rural Women* (2016) CEDAW/C/GC/34.

¹⁵ UNGA Res 73/165 (17 December 2018), arts 15 and 17.

¹⁶ UNGA Res 61/295 (13 September 2007), arts 10, 26 and 32(2).

C. Soft law on land governance

The most detailed guidance on State responsibilities comes from soft-law instruments negotiated by States themselves. The VGGT, endorsed by the Committee on World Food Security in 2012, set out principles for recognising and protecting legitimate tenure rights, including customary and informal rights, and for governing investments, expropriation, restitution and redistribution. The FAO Right to Food Guidelines of 2004 contain a guideline on access to resources and assets, including land.¹⁷ The Principles for Responsible Investment in Agriculture and Food Systems (2014) address private investment,¹⁸ while the then UN Special Rapporteur on the right to food proposed minimum principles for large-scale land acquisitions, including transparency, consultation, benefit-sharing and protection of local food supplies.¹⁹ These instruments are voluntary, but they are widely used as interpretive benchmarks by courts, treaty bodies and national legislators.

D. Environmental and development law

The UN Convention to Combat Desertification commits States to address land degradation, and Sustainable Development Goal 15.3 sets the aim of a land-degradation-neutral world.²⁰ The Paris Agreement identifies safeguarding food security as a fundamental priority and calls for climate action that does not threaten food production.²¹ SDG 2 (targets 2.3 and 2.4) links food security to the productivity of small-scale producers and to sustainable, resilient agriculture, and targets 1.4 and 5.a call for equal rights to land and other resources.

E. Extraterritorial obligations and State responsibility

States also bear obligations beyond their borders. Article 2(1) of the ICESCR requires international assistance and cooperation, and CESCR has stated that States should respect and protect the right to food in other countries.²² The Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights (2011) apply this to

¹⁷ FAO, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (2004), Guideline 8.

¹⁸ CFS, *Principles for Responsible Investment in Agriculture and Food Systems* (2014).

¹⁹ Olivier De Schutter, *Large-scale Land Acquisitions and Leases: A Set of Minimum Principles and Measures to Address the Human Rights Challenge* (2009) UN Doc A/HRC/13/33/Add.2.

²⁰ United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (adopted 17 June 1994, entered into force 26 December 1996) 1954 UNTS 3; UNGA Res 70/1 (25 September 2015), Goal 15, target 15.3.

²¹ Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) preamble and art 2(1)(b).

²² CESCR, General Comment No 12 (n 13), para 36.

the conduct of investors headquartered in a State.²³ This matters for land, because many large acquisitions involve foreign investors and sovereign funds. Where a State breaches its obligations, general rules of State responsibility apply: conduct attributable to a State that breaches an international obligation, whether by act or omission, is an internationally wrongful act.²⁴ Since 2013 the Optional Protocol to the ICESCR has also allowed individual communications to CESCR from States that have ratified it.²⁵

IV. SIX CORE RESPONSIBILITIES OF THE STATE

Drawing on these sources, six core responsibilities can be identified. They are not a closed list, but together they describe what responsible stewardship of land for food security requires.

A. Securing tenure and protecting against arbitrary dispossession

The first responsibility is to recognise and protect legitimate tenure rights, whether registered, customary or informal. Insecure tenure undermines both the incentive to invest and the ability of households to feed themselves, and dispossession can destroy a household's only source of food and income. States must therefore limit expropriation to genuine public purposes, provide prompt and adequate compensation, and offer alternatives such as replacement land where compensation in cash cannot restore livelihoods. CESCR has condemned forced evictions that are carried out without due process and alternatives,²⁶ and regional bodies have treated dispossession of communities from ancestral land as a violation of rights, including the right to food.²⁷ Recognition of customary tenure is especially important in Africa and Asia, where large areas are held under unregistered customary systems.

B. Regulating land acquisitions and investment

The second responsibility is to ensure that investment in land supports, rather than undermines, local food security. The wave of land deals after 2007–08 showed the risks: contracts

²³ Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2011), principles 24–27.

²⁴ International Law Commission, *Articles on Responsibility of States for Internationally Wrongful Acts* (2001), arts 1–2.

²⁵ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (adopted 10 December 2008, entered into force 5 May 2013) 2922 UNTS 29.

²⁶ CESCR, *General Comment No 7: The Right to Adequate Housing (Art 11(1)): Forced Evictions* (1997) UN Doc E/1998/22, annex IV.

²⁷ *Social and Economic Rights Action Center (SERAC) v Nigeria* (2001) AHRLR 60 (ACHPR 2001), Communication 155/96; *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya* (2009) Communication 276/2003.

negotiated in secret, land classified as "idle" when it supported pastoralists and shifting cultivators, and export-oriented production on land previously feeding local people.²⁸ Madagascar's 2008–09 negotiations over a very large farmland lease with a South Korean firm, which became a political flashpoint, are often cited as a warning of what can happen when major land deals are made without public debate.²⁹ Responsible States require prior assessment of impacts on food availability and livelihoods, consultation and free, prior and informed consent where communities are affected, publication of contracts, fair benefit-sharing, ceilings on the size of acquisitions, and safeguards ensuring that a share of production serves local markets.

C. Protecting productive land from conversion and degradation

Third, States must safeguard the productive base itself. Conversion of prime farmland to urban, industrial or infrastructure use is typically irreversible, and market prices rarely reflect its long-term value for food security. Spatial planning, zoning, restrictions on converting highly productive land, and requirements to compensate or offset losses are the principal legal tools. The same stewardship duty extends to soil and water. Land degradation, caused by erosion, salinisation, desertification and unsustainable practices, reduces yields and displaces farmers, and SDG 15.3 expresses a global commitment to halt it.

D. Ensuring equitable access, including for women and marginalised groups

Fourth, States must ensure that access to land is fair. Where land is highly concentrated, landless and smallholder households are exposed to hunger even in food-surplus regions. Redistributive reform, tenancy regulation, land-ceiling laws and support for smallholders can widen access, and the VGGT address restitution and redistribution as tools of responsible governance. Gender equity deserves particular attention. FAO has documented that closing the gender gap in access to productive resources, including land, could raise agricultural output and reduce hunger.³⁰ Legal reform must therefore tackle discriminatory inheritance and marital-property rules and ensure joint or individual titling for women, as CEDAW requires.

²⁸ Olivier De Schutter, "How Not to Think of Land-Grabbing: Three Critiques of Large-Scale Investments in Farmland" (2011) 38 *Journal of Peasant Studies* 249.

²⁹ Cotula and others (n 3).

³⁰ FAO, *The State of Food and Agriculture 2010–11: Women in Agriculture: Closing the Gender Gap for Development* (FAO 2011).

E. Promoting sustainable and climate-resilient land use

Fifth, States must integrate food security into land-use and climate policy. The IPCC has found that land is both a source and a sink of greenhouse gases and that climate change threatens food security through effects on yields, water and land degradation.³¹ Responsible stewardship therefore requires planning that safeguards agro-ecological zones, supports sustainable intensification and agro-ecological practices, regulates competing uses such as biofuels and carbon-offset plantations that may displace food crops, and secures the land rights of the communities who manage landscapes. Such measures give practical effect to SDG 2.4 and to the Paris Agreement's concern for food production.

F. Ensuring transparency, participation and access to remedies

Finally, none of the above is credible without institutions that make State conduct visible and accountable. Reliable land registries and cadastres, public access to land information, participatory planning, anti-corruption safeguards, accessible dispute-resolution mechanisms, and independent courts are the machinery of responsibility. The right to a remedy is a general principle of human rights law and underpins the CESCR's approach to violations of the right to food. Land institutions are often among the least transparent in a State, which is why procedural responsibilities of disclosure, consultation and review are as important as substantive protections.

V. COMPARATIVE PERSPECTIVES

Four jurisdictions illustrate different ways of translating these responsibilities into law and different gaps between norm and practice. Table 1 summarises the comparison and the discussion follows.

Table 1: Comparative overview

Jurisdiction	Legal basis for food and land	Key land-related safeguard	Principal gap
India	Art 21 (livelihood); National Food Security Act 2013; LARR Act 2013	Social impact assessment, consent thresholds, last-resort rule for irrigated multi-cropped land	Implementation; pressure to dilute safeguards

³¹ IPCC, *Special Report on Climate Change and Land* (2019).

Jurisdiction	Legal basis for food and land	Key land-related safeguard	Principal gap
South Africa	Constitution ss 25 and 27	Constitutional duty of restitution, redistribution and tenure security	Slow reform; limited capacity and funding
Vietnam	Constitution 2013 arts 53–54; Land Law 2024	Household land-use rights; controls on conversion of rice land	Compensation, transparency and review in land recovery
Kenya	Constitution 2010 arts 43 and 60; African Charter jurisprudence	Land-policy principles; regional supervision of community rights	Community land disputes; historic injustices

A. India

India has no express constitutional right to food, but the Supreme Court has read the right to life under Article 21 to include the right to livelihood,³² and in the long-running *PUCL v Union of India* litigation it converted food-related schemes into legal entitlements through interim orders.³³ The National Food Security Act 2013 then established statutory entitlements to subsidised grain. On land, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 requires social impact assessment, sets consent thresholds for private and public-private projects, and provides that irrigated multi-cropped land is to be acquired only as a last resort, with compensating wasteland development.³⁴ The Act is an unusually explicit statutory link between land acquisition and food security. Its weakness lies in implementation and in recurring political pressure to relax its safeguards for faster project clearance, including an unsuccessful attempt to do so by ordinance in 2014–15.

B. South Africa

South Africa's Constitution combines a justiciable right of access to sufficient food, subject to

³² *Olga Tellis v Bombay Municipal Corporation* (1985) 3 SCC 545.

³³ *People's Union for Civil Liberties v Union of India*, Writ Petition (Civil) No 196 of 2001 (Supreme Court of India), interim orders from 2001.

³⁴ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, ss 2(2), 4–9 and 10.

progressive realisation within available resources, with a property clause that obliges the State to enable citizens to gain access to land on an equitable basis and to provide restitution and tenure security to those dispossessed under apartheid.³⁵ The Constitutional Court's reasonableness review, developed in the housing context in *Grootboom*, shows how courts can scrutinise State programmes for socio-economic rights without prescribing detailed policy.³⁶ Land reform through restitution and redistribution has nevertheless proceeded slowly, and the Expropriation Act 13 of 2024, which regulates expropriation in the public interest, has been politically contested. The South African experience shows that constitutional text alone does not secure land justice; institutional capacity, budgets and political will determine outcomes.

C. Vietnam

Vietnam offers an example of the State-ownership model. Land belongs to the entire people, with the State as representative owner, and individuals and households hold long-term land-use rights.³⁷ The household-based reforms of the late 1980s, beginning with Politburo Resolution No 10 of 1988, and subsequent land laws that granted households transferable land-use rights, are widely credited with the transformation of Vietnam from a food importer into a major rice exporter.³⁸ The Land Law 2024 continues to regulate the allocation of agricultural land to households, controls the conversion of land used for rice cultivation, and provides rules on compensation, support and resettlement when land is recovered for development.³⁹ Because the State is the formal owner and the allocator of use rights, its responsibility is correspondingly high: compensation must reflect real losses, recovery of land must be transparent and reviewable, and the protection of paddy land must be balanced against the pressure of industrialisation and urban growth. Vietnam's recent land-policy reforms seek to address precisely these issues, and their effect on rural livelihoods warrants continuing empirical study.

D. Kenya and the African human rights system

The Constitution of Kenya 2010 guarantees the right to be free from hunger and to adequate food of acceptable quality, and sets out principles of land policy including equitable access, security of land rights and sustainable and productive management.⁴⁰ The African

³⁵ Constitution of the Republic of South Africa 1996, ss 25(5)–(9) and 27(1)(b), 27(2).

³⁶ *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46 (CC).

³⁷ Constitution of Viet Nam 2013 (n 10), arts 53–54.

³⁸ Politburo of the Communist Party of Viet Nam, Resolution No 10-NQ/TW (5 April 1988) on renovating agricultural economic management.

³⁹ Land Law 2024 (Law No 31/2024/QH15).

⁴⁰ Constitution of Kenya 2010, arts 43(1)(c) and 60.

Commission's decisions in *SERAC* and *Endorois* show how a regional body can derive land- and food-related protections for communities from general human rights provisions, even in the absence of an express right to food in the African Charter. Kenya thus illustrates the potential of constitutional design together with regional supervision, while persistent disputes over community land and historic injustices remind us of the distance between principle and practice.

E. Synthesis

Three observations follow. First, successful systems link land law explicitly to food security, as India's acquisition safeguards and Vietnam's paddy-land controls do, rather than treating them as separate fields. Second, justiciable rights make a difference only where courts, commissions and civil society can enforce them, as the contrasting trajectories of the Indian and South African litigation show. Third, State ownership and private ownership models face the same fundamental task: ensuring that those who farm the land are secure in their rights and fairly treated when land is needed for other purposes.

VI. PERSISTENT CHALLENGES

Several obstacles impede the discharge of State responsibility. First, norms are fragmented: land governance is spread across human rights, environmental, investment and development law, and the most detailed standards are voluntary. Second, many States lack the administrative capacity, funding and reliable information needed for registration, planning and enforcement, and corruption in land administration diverts benefits from the poor. Third, international investment treaties and investor-State arbitration may constrain regulatory space, and States anxious to attract capital may under-regulate or over-promise.⁴¹ Fourth, competing policy objectives, including urban growth, energy, mining, biofuels and conservation, produce pressure to reallocate land away from food production, and the long-term interest in food security is often overridden by short-term fiscal or political gains. Finally, climate change multiplies all of these pressures and raises the cost of getting land policy wrong.

⁴¹ Lorenzo Cotula, *Human Rights, Natural Resource and Investment Law in a Globalised World: Shades of Grey in the Shadow of the Law* (Routledge 2012).

VII. RECOMMENDATIONS

On the basis of the analysis, the following measures are recommended for States seeking to discharge their responsibilities:

1. *Adopt framework legislation on the right to food* that expressly addresses access to land and natural resources, assigns institutional responsibility, and provides accessible remedies.
2. *Recognise and register all legitimate tenure rights*, including customary, communal and informal rights, through simple, low-cost and participatory procedures, with special measures for women and marginalised groups.
3. *Introduce a food-security test for land conversion and acquisition*, including impact assessment, limits on conversion of highly productive land, and offsetting obligations where conversion is unavoidable.
4. *Make land investments transparent and accountable*: publish contracts, require free, prior and informed consent of affected communities, cap the size of holdings, and provide for local food-supply and benefit-sharing obligations.
5. *Integrate land-use planning with climate and environmental policy* so that agro-ecological zones, water resources and soils are protected and competing uses are managed.
6. *Strengthen institutions and information systems*: modern registries, open land data, trained and independent dispute-resolution bodies, and monitoring by national human rights institutions and civil society.
7. *Cooperate internationally* by regulating the overseas conduct of investors, sharing data and technical assistance, and ratifying and implementing the relevant treaties, including the Optional Protocol to the ICESCR.

VIII. CONCLUSION

Land is the meeting point of law, economy, society and ecology, and the way States govern it largely determines whether the right to food is realised for rural communities. This article has argued that State authority over land is best understood as stewardship. International human rights law, environmental law and soft-law guidelines together impose six core responsibilities: securing tenure, regulating acquisitions and investment, protecting productive land, ensuring equitable access, promoting sustainable and climate-resilient use, and guaranteeing transparency and remedies. The comparative evidence from India, South Africa, Vietnam and

Kenya confirms that the main challenge is no longer the articulation of principles but their implementation.

Further research should examine, with empirical data, how particular land-law reforms affect household food security, and how courts and treaty bodies can develop more concrete standards for land-related State responsibility. For now, the guiding message is clear: a State that holds power over land holds it in trust for those who depend on it for their food, and it will be judged by whether they can eat.

