

# End Hunger Through Law: An International Food Security Treaty

*Prepared by the International Human Rights Clinic at Willamette University College of Law for the International Food Security Treaty Campaign*

The number of people who suffer from inadequate food is higher than it has ever been in history, even though there is enough food to feed every person on the planet. There have been numerous efforts over the years to greatly reduce and even end hunger, including various resolutions, declarations, and World Conferences. But the problem remains. The International Food Security Treaty Campaign believes the surest way to end hunger throughout the world is through the International Food Security Treaty to establish enforceable international law guaranteeing the right to be free from hunger, and to oblige countries to establish their own related national laws.

## **I. The Hunger Problem**

Currently there are an estimated 1.02 billion people living with hunger and the number continues to grow.<sup>1</sup> One billion of those going hungry are in the developing world.<sup>2</sup> In 2009 alone, the number grew by approximately one-hundred million people.<sup>3</sup> Although the

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<sup>1</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, (2008), <http://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>2</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 11(2008), <http://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>3</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 11 (2008), <http://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

international community has made progress over the past forty years by reducing the percentage of the world's population who suffer from hunger, the total number of people living with hunger continues to increase as the world's population increases.<sup>4</sup>

## **A. *International Goals Regarding the Elimination of Hunger***

### **1. The 1996 World Food Summit and Plan of Action**

In 1996, the World Food Summit, at the United Nation's Food and Agriculture Organization meeting in Rome, convened and declared that it was intolerable that more than 823 million people throughout the world did not have enough food to meet their most basic nutritional needs.<sup>5</sup> Over eighty countries joined at this Summit and participated in creating the Rome Declaration on World Food Security to protect what they deemed a fundamental human right of adequate food. The World Food Summit concluded that the right to adequate food is "firmly established in international law, but its operational content and means of application are generally little understood."<sup>6</sup> The goal of the World Food Summit of 1996 was to reduce the amount of hungry people in the world by half in twenty years.<sup>7</sup> To do this, the countries participating in the Summit, through the Rome Declaration, set forth seven commitments in its Plan of Action to act as guiding principles for States to form policies on food security.<sup>8</sup>

As of 2004, there were still approximately 820 million undernourished people in the world (resulting in only a 3 million person decrease from the baseline number of the World Food

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<sup>4</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 11(2008), <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>5</sup> FAO, *The Right to Food: In theory and in practice*, p. vi (1998), <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 11, 2010).

<sup>6</sup> FAO, *The Right to Food: In theory and in practice*, p. vi (1998), <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 11, 2010).

<sup>7</sup> FAO, *The Right to Food: In theory and in practice*, p. 2 (1998), <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 11, 2010).

<sup>8</sup> FAO, *Rome Declaration on World Food Security and World Food Summit Plan of Action*, (1996), [http://www.fao.org/wfs/index\\_en.htm](http://www.fao.org/wfs/index_en.htm) (last visited Feb. 17, 2010).

Summit).<sup>9</sup> Although there was a decrease before the economic crisis of the late 2000s, hunger has now expanded to over 1 billion people, and the international community is far from achieving the goals of the World Food Summit. Under the current international and national legal frameworks, reducing the number of hungry people in half by 2015 clearly is no longer attainable.

## **2. U.N. Millennium Development Goals**

After the World Food Summit released its goals in 1996, the United Nations had a meeting of world leaders in September 2000 to develop and adopt the U.N. Millennium Development Goals. The purpose of the Millennium Development Goals was to bring together all of the world's countries to agree to a plan of action sponsored by the United Nations. The goals range from halving extreme poverty to ending the spread of HIV/AIDS, from providing universal education to ending hunger.<sup>10</sup>

Not only is ending hunger one of the Millennium Development Goals, it is the first on the list. The Millennium Project recognized that poverty and hunger go hand-in-hand and thus stated its first goal as: Eradicate extreme poverty and hunger. The Goals mirror the goals of the World Food Summit of 1996 in hopes of decreasing hunger by one-half by the year 2015. The United Nations releases updates on the status of each goal periodically, and in 2008 it published some alarming findings. The U.N. found that although the percentage of hungry people in the world has decreased since the early 1990s, the number of people lacking access to food has risen.

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<sup>9</sup> Karen Kong, *The Right to Food for All: A Rights-Based Approach to Hunger and Social Inequality*, 32 SUFFOLK TRANSNAT'L L. REV. 525, 527(2009).

<sup>10</sup> United Nations, *United Nations Millennium Development Goals: Background*, (2000), [www.un.org/millenniumgoals/bkgd.shtml](http://www.un.org/millenniumgoals/bkgd.shtml) (last visited Feb. 23, 2010).

Due to increases in food prices, they estimated that 1 billion people in the world will go hungry and 2 billion more will lack the necessary nutrients to live healthy lives.<sup>11</sup>

## **B. *Defining the Right to Adequate Food***

The question of what constitutes adequate food has been widely debated, and universal agreement to the term has remained elusive. The Rome Declaration and Plan of Action of 1996 stated that the “right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”<sup>12</sup> A comment within the Declaration defined the term “adequate food” as:

The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.<sup>13</sup>

This means that the right to food entails not just physical access to food or the ability to grow food in a sustainable way, but economic accessibility as well. The monetary costs required to obtain adequate food should be at a level that doing so would not compromise other basic fundamental human rights or needs.<sup>14</sup>

The Food and Agriculture Organization of the U.N. has stated that food insecurity exists when people do not have adequate physical, social, or economic access to food that is sufficient, safe and nutritious enough to meet their dietary needs. In most literature surrounding the topic of global hunger, the terms “hunger” and “undernourishment” are used interchangeably.

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<sup>11</sup> U.N. Department of Public Information, *End Poverty 2015: Millennium Development Goals Make it Happen*, (2008), <http://www.un.org/millenniumgoals/2008highlevel/pdf/newsroom/Goal%201%20FINAL.pdf> (last visited Feb. 23, 2010).

<sup>12</sup> U.N. Con. & Soc. Council, Committee on Economic Social and Cultural Rights, General Comment 12, The Right to Adequate Food, U.N. Doc. E/C. May 12 1999.

<sup>13</sup> U.N. Con. & Soc. Council, Committee on Economic Social and Cultural Rights, General Comment 12, at paragraph 8, The Right to Adequate Food, U.N. Doc. E/C. May 12 1999.

<sup>14</sup> U.N. Con. & Soc. Council, Committee on Economic Social and Cultural Rights, General Comment 12, at paragraph 13, The Right to Adequate Food, U.N. Doc. E/C. May 12 1999.

Undernourishment is caused when the caloric intake is below the minimum dietary energy requirement. These caloric requirements vary depending on the country and the culture, but are measured as the energy needed for light activity and a minimum acceptable weight for a person's height.<sup>15</sup>

A country has three obligations to their people concerning their right to adequate food: 1) to *respect*, 2) to *protect* and 3) to *fulfill* their citizens' rights to adequate food.<sup>16</sup> The first, *respect*, means that nations have an obligation to respect the right to food of the people living in its territory and the duty not to interfere with access to sufficient and adequate food. This also means nations must refrain from taking measures likely to deprive anyone of such access to sufficient, adequate food.<sup>17</sup> Second, nations must *protect* the right to food by ensuring that neither individuals nor companies deprive people of this permanent access to adequate and sufficient food.<sup>18</sup> Lastly, the third obligation is to *fulfill* the right to food by: interceding when the food security situation is most desperate; ensuring there is sufficient, adequate food in case of an emergency; and ensuring that every individual has permanent access to adequate food at all times.<sup>19</sup>

### **C. Causes of Hunger and Food Insecurity**

Although there is global consensus that food security is a major problem,

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<sup>15</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 8 (2008), <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>16</sup> U.N. ECOSOC, Sub-Comm. on Prevention of Discrimination & Prot. of Minorities, *The New International Economic Order and the Promotion of Human Rights: Report on the Right to Adequate Food as a Human Right*, U.N. Doc. E/CN.4/Sub.2/1987/23 (July 7, 1987) (submitted by Asbjørn Eide).

<sup>17</sup> Caitlin Firer, *Free Trade Area of the Americas and the Right to Food in International Law*, 1 U. ST. THOMAS L.J. 1054, 1059 (2004).

<sup>18</sup> Caitlin Firer, *Free Trade Area of the Americas and the Right to Food in International Law*, 1 U. ST. THOMAS L.J. 1054, 1059 (2004).

<sup>19</sup> FAO, *Guide on legislating for the right to food 25* (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

particularly in developing countries, there is no consensus regarding the causes of hunger. Scholars and organizations at the forefront of the hunger problem agree that there are three primary issues associated with food insecurity: poverty, economic fluctuations, and the impact of transnational businesses and international financial institutions. The combination of these three conditions is allowing the hunger problem to persist and creating further obstacles in trying to reach world goals toward defeating hunger.

### **1. Poverty**

Not surprisingly, the areas with the highest hunger rates coincide with the areas of highest poverty: Sub-Saharan Africa and South Asia. These regions account for 72% of the world population living on less than one U.S. dollar a day.<sup>20</sup> The International Food Policy Research Institute (IFPRI) divides the extent of a population's poverty into three subcategories: subjacent, medial, and ultra poor. Subjacent poor live on between \$0.75 and \$1 per day; medial poor live on between \$0.50 and \$0.75 per day; and the ultra poor live on less than \$0.50 per day. Those who live in these extreme states of poverty find themselves without education, with fewer assets, and with little to no access to markets. They spend the little money they have on food, but it is rarely enough. Their hunger and malnutrition in turn reduce their productivity.<sup>21</sup>

These conditions of extreme poverty make it nearly impossible to escape and gain financial access to the food they need to survive.<sup>22</sup> Contrary to intuitive thought, food scarcity is generally not the main problem in developing countries.<sup>23</sup> Food production has been ahead of

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<sup>20</sup> IFPRI, *Global Hunger Index The Challenge of Hunger 2008*, (2008), <http://www.ifpri.org/sites/default/files/publications/ghi08.pdf> (last visited Feb. 8, 2010).

<sup>21</sup> IFPRI, *Global Hunger Index The Challenge of Hunger 2008*, p. 19 (2008), <http://www.ifpri.org/sites/default/files/publications/ghi08.pdf> (last visited Feb. 8, 2010).

<sup>22</sup> IFPRI, *Global Hunger Index The Challenge of Hunger 2008*, p. 21 (2008), <http://www.ifpri.org/sites/default/files/publications/ghi08.pdf> (last visited Feb. 8, 2010).

<sup>23</sup> Pedro A. Freyre, *Symposium: Whither Goes Cuba? Prospects for Economic & Social Development Part II of II*, 14 *TRANSNAT'L L. & CONTEMP. PROBS.* 418, 422 (2004).

population growth for over half a century now.<sup>24</sup> People do not go hungry because there is a lack of food; they go hungry because they lack the resources to purchase or grow their own food.<sup>25</sup> It is the combination of low income and the rising costs of food, discussed next, that create a large portion of hunger in the world.

## 2. The Rising Costs of Food

Recent world economic problems have also contributed to the rise of global hunger; much of the increase can be attributed to the rising food prices of recent years.<sup>26</sup> This rise in food prices, combined with the fact that an estimated 61.5% of the world lives below the poverty line, has had devastating effects.<sup>27</sup> For example, according to one study by the Congressional Research Service, “[o]nce food prices rise, the poor tend to decrease their intake of nutritious foods, such as fruits and vegetables and replace them with food that is more filling but less expensive, like roots.”<sup>28</sup> This, in turn, results in malnourishment of the poor, which can lead to further health complications.<sup>29</sup> Furthermore, the World Bank has stated that high food prices are

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<sup>24</sup> Pedro A. Freyre, *Symposium: Whither Goes Cuba? Prospects for Economic & Social Development Part II of II*, 14 TRANSNAT’L L. & CONTEMP. PROBS. 418, 422 (2004).

<sup>25</sup> Pedro A. Freyre, *Symposium: Whither Goes Cuba? Prospects for Economic & Social Development Part II of II*, 14 Transnat’l L. & Contemp. Probs. 418, 422 (2004).

<sup>26</sup> Tiaji Salaam-Blyther & Charles E. Hanrahan, *The Impact of Food Insecurity and Hunger on Global Health: Issues for Congress*, Congressional Research Service (January 12, 2009), [https://www.policyarchive.org/bitstream/handle/10207/19405/R40127\\_20090112.pdf?sequence=2](https://www.policyarchive.org/bitstream/handle/10207/19405/R40127_20090112.pdf?sequence=2), (last visited Feb. 8, 2010).

<sup>27</sup> Tiaji Salaam-Blyther & Charles E. Hanrahan, *The Impact of Food Insecurity and Hunger on Global Health: Issues for Congress*, Congressional Research Service, p. 4 (January 12, 2009), [https://www.policyarchive.org/bitstream/handle/10207/19405/R40127\\_20090112.pdf?sequence=2](https://www.policyarchive.org/bitstream/handle/10207/19405/R40127_20090112.pdf?sequence=2), (last visited Feb. 8, 2010).

<sup>28</sup> Tiaji Salaam-Blyther & Charles E. Hanrahan, *The Impact of Food Insecurity and Hunger on Global Health: Issues for Congress*, Congressional Research Service, p. 4 (January 12, 2009), [https://www.policyarchive.org/bitstream/handle/10207/19405/R40127\\_20090112.pdf?sequence=2](https://www.policyarchive.org/bitstream/handle/10207/19405/R40127_20090112.pdf?sequence=2), (last visited Feb. 8, 2010).

<sup>29</sup> Tiaji Salaam-Blyther & Charles E. Hanrahan, *The Impact of Food Insecurity and Hunger on Global Health: Issues for Congress*, Congressional Research Service, p. 4 (January 12, 2009), [https://www.policyarchive.org/bitstream/handle/10207/19405/R40127\\_20090112.pdf?sequence=2](https://www.policyarchive.org/bitstream/handle/10207/19405/R40127_20090112.pdf?sequence=2), (last visited Feb. 8, 2010).

pushing poor people deeper into poverty across the globe, particularly in countries that import most of their foods and have limited capacity to cushion the shock of high prices.<sup>30</sup>

As analyzed by the Economic Research Service of the U.S. Department of Agriculture in May 2009, factors contributing to rising food include: decreased international stocks of staple grains and cereals; increased commodity prices brought about by drought, floods, and global climate change; increased food and fuel consumption by middle-income countries; and increased pressure on land use and production of basic cereals for greater cultivation of bio-fuels.<sup>31</sup> Although there is still a sufficient amount of grains and other foods to feed the world's population, the decrease in the surplus of food stocks has caused the prices of food to rise.

The increase in fuel prices over the last decade has also contributed to the rising cost of food due to increased cultivation, transport, and exporting costs. These factors have caused the prices of even the most basic grains and cereals to soar.<sup>32</sup>

### **3. Impact of Transnational Businesses and International Financial Institutions**

There once was a time that developing countries could be resistant to economic fluctuations in the global marketplace.<sup>33</sup> However, as these countries have become more integrated in the world market through trade and investments, these fluctuations have had much stronger effects on them.<sup>34</sup> In fact, countries with the highest levels of hunger have been the

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<sup>30</sup> The Department of International Development, *The Global Financial Crisis, Developing Countries and Policy Responses*, at 1, UNICEF, (March 2009), [http://www.unicef.org/eapro/The\\_Global-Financial\\_Crisis\\_-\\_Developing\\_Countries\\_and\\_Policy\\_Responses.pdf](http://www.unicef.org/eapro/The_Global-Financial_Crisis_-_Developing_Countries_and_Policy_Responses.pdf) (last visited Feb. 8, 2010).

<sup>31</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 23 (2008), <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>32</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 23 (2008), <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>33</sup> IFPRI, *2009 Global Hunger Index The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality*, (2009), <http://www.ifpri.org/sites/default/files/publications/ghi09.pdf> (last visited Feb. 8, 2010).

<sup>34</sup> IFPRI, *2009 Global Hunger Index The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality*, (2009), <http://www.ifpri.org/sites/default/files/publications/ghi09.pdf> (last visited Feb. 8, 2010).



most vulnerable to the recent global food crisis.<sup>35</sup> Since hunger levels rise with poverty, those most affected by the financial crunch beginning in the late 2000s in terms of hunger have been poor farm workers who have seen their already low wages reduced even further and who are losing their jobs altogether.<sup>36</sup>

The integration of these developing countries into the world market can be largely attributed to private corporations and international financial institutions (IFI's), and therefore, food insecurity can also be attributed to them.<sup>37</sup> In the 1980s and 1990s, IFI's created structural adjustment programs that encouraged developing countries to focus their farming on the production of export "cash crops," while foregoing the production of food crops for their own consumption.<sup>38</sup> However, while the IFI's promised increased financial stability and decreased hunger, the programs had the opposite effect due to fluctuating prices of the cash crops and dependency on imports for food consumption.<sup>39</sup> In fact, at the Global Initiative Conference of 2009, former U.S. President Bill Clinton said that during his presidency, he erred by focusing on energy food aid instead of on food security development.<sup>40</sup> As he put it, "One of the mistakes that I and all my predecessors made when we stopped helping people feed themselves from 1981 forward, is we forgot the dignity element of being able to feed yourself."<sup>41</sup>

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<sup>35</sup> IFPRI, *2009 Global Hunger Index The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality*, (2009), <http://www.ifpri.org/sites/default/files/publications/ghi09.pdf> (last visited Feb. 8, 2010).

<sup>36</sup> IFPRI, *2009 Global Hunger Index The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality*, (2009), <http://www.ifpri.org/sites/default/files/publications/ghi09.pdf> (last visited Feb. 8, 2010).

<sup>37</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 711 (2006).

<sup>38</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 713 (2006).

<sup>39</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 713 (2006).

<sup>40</sup> Deepti Hajela, *Clintons Close Out NYC Global Issues Conference*, Omaha World Harold, Sept. 22, 2009, <http://www.omaha.com/article/20090922/AP09/309229787> (last visited Mar. 7, 2010).

<sup>41</sup> Deepti Hajela, *Clintons Close Out NYC Global Issues Conference*, Omaha World Harold, Sept. 22, 2009, <http://www.omaha.com/article/20090922/AP09/309229787> (last visited Mar. 7, 2010).

Furthermore, private transnational corporations (TNC's) have contributed to this process by driving countries to reallocate production from domestic food crop to export crops.<sup>42</sup> It is estimated that each year there are a million hectares that are thus shifted.<sup>43</sup> Not only does this have detrimental effects on hunger, it also is damaging to local ecosystems, resulting in lower amounts of crop production by hectare.<sup>44</sup> For example, the International Rice Research Institute has found that rice yields have steadily declined since the 1960s, from ten tons per hectare in the 1960s to seven tons per hectare in the late 1990s (meaning that it now takes more land to produce the same amount of rice).<sup>45</sup> The TNC's also contribute to food insecurity by often failing to pay their workers enough to purchase sufficient import food for their families.<sup>46</sup> Many of these workers fail to complain about insufficient wages because they believe it is better to be underpaid than it is to be unemployed, and with the high unemployment rates in these developing countries, they do not want to risk losing their current jobs.<sup>47</sup>

#### **D. *Effects of Food Insecurity and Hunger***

##### **1. Detrimental Health Impacts**

As the level of hunger in the world increases, the lives of the poor and hungry are affected by more than just the rumbling in their stomachs. Health experts are concerned not only with the short-term impacts of the food crisis, but also the long-term impacts on health. As food prices continue to soar, these families begin to live off of diets that are nutritionally deficient,

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<sup>42</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 719 (2006).

<sup>43</sup> John Madeley, Big Business, *Poor Peoples: The Impact of Transnational Corporations on the World's Poor* 39 (1999).

<sup>44</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 719 (2006).

<sup>45</sup> John Madeley, Big Business, *Poor Peoples: The Impact of Transnational Corporations on the World's Poor* 39 (1999).

<sup>46</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 722 (2006).

<sup>47</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 722 (2006).

consisting mainly of roots and grains, and are lacking in fruits, vegetables, and protein.<sup>48</sup> The malnourishment that is caused by this nutrient deficient diet causes a plethora of health problems, making these people more likely to succumb to disease.<sup>49</sup> Chronically poor families who have been struggling to make due in the past are suddenly faced with further difficulties. They are forced to make decisions between basic human rights: food, housing, health, or education.

## **2. Children are the Most Vulnerable**

Children are the most vulnerable to food insecurity. The Food and Agriculture Organization has stated that the majority of the 10 million children who die each year in developing countries “would not die if their bodies and immune systems had not been weakened by hunger and malnutrition.”<sup>50</sup> Studies have shown that malnourishment was present in 45% of children who died after contracting measles and 60% of children who died after severe diarrhea.<sup>51</sup>

The possible long-term damage to children and infants is nearly immeasurable. Children have special nutritional needs at a young age to ensure proper physical and mental development. If the children’s nutritional needs are not met, they face permanent consequences of stunted growth, reduced cognitive development, and decreased immune system development leaving them susceptible to disease. Furthermore, families who are already barely surviving may avoid taking their children to the doctor. Thus, if the nutritional needs of children are not met, even for

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<sup>48</sup> IFPRI, *Global Hunger Index The Challenge of Hunger2008*, (2008), <http://www.ifpri.org/sites/default/files/publications/ghi08.pdf> (last visited Feb. 8, 2010).

<sup>49</sup> IFPRI, *Global Hunger Index The Challenge of Hunger2008*, p. 4 (2008) <http://www.ifpri.org/sites/default/files/publications/ghi08.pdf> (last visited Feb. 8, 2010).

<sup>50</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 18 (2008), <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>51</sup> Tiaji Salaam-Blyther & Charles E. Hanrahan, *The Impact of Food Insecurity and Hunger on Global Health: Issues for Congress*, Congressional Research Service, p. 5 (January 12, 2009), [http://assets.opencrs.com/rpts/R40127\\_20090112.pdf](http://assets.opencrs.com/rpts/R40127_20090112.pdf) (last visited February 13, 2010).

a short period of time, their performance and productivity later in life will be detrimentally affected.<sup>52</sup>

Children are affected by rising food insecurity in additional ways. For example, when these families and other individuals can no longer cut their food budget any further, they begin to decrease spending on other necessities. Many will remove their children from school so that they can spend their money on more food instead of on education, thus damaging the children's education and possibilities for a successful future. Children who are pulled out of school to save money, and possibly forced to work to bring in more money for the family, are very vulnerable to exploitation. According to some scholars, young girls who have been pulled out of school are likely to become domestic or sex workers, as this is the most common and economic route for these girls to maximize their utility, since they have not learned any employable skills in school.<sup>53</sup>

#### **E. Case Studies:**

The International Food Policy Research Institute releases a study each year called the Global Hunger Index (GHI). This study shows the worldwide progress in reducing hunger. The GHI incorporates three different indicators to calculate a hunger rating for these countries: (1) the proportion of undernourished population as a percentage; (2) the prevalence of underweight children under the age of five; and (3) the mortality rate of children under the age of five. By using all three factors, rather than just the percentage of undernourished people, the GHI is able

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<sup>52</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 27 (2008), <http://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>53</sup> Tiaji Salaam-Blyther & Charles E. Hanrahan, *The Impact of Food Insecurity and Hunger on Global Health: Issues for Congress*, Congressional Research Service, p. 7 (January 12, 2009), [http://assets.opencrs.com/rpts/R40127\\_20090112.pdf](http://assets.opencrs.com/rpts/R40127_20090112.pdf) (last visited February 13, 2010).

to analyze the longer lasting effects of the types of food available to these countries (since quality of nutrition is measured as well as quantity of food).<sup>54</sup>

Following are some country case studies to display what these GHI ratings look like at the country level.

### **1. Zambia (GHI = 25.7 [alarming]):**

Zambia is a country in the Sub-Sahara African region that has a population of twelve million people.<sup>55</sup> The poverty rate in Zambia is approximately 64% (with half of the population being extremely poor).<sup>56</sup> The Zambian diet is mainly composed of cereals and grains (two-thirds), most of which is maize, and consists of very few fruits and vegetable (less than one-third).<sup>57</sup> The reliance on maize is very high and makes Zambia very vulnerable to climate shocks that affect the production of maize.<sup>58</sup> In 2005, an estimated 45% of the population of Zambia was undernourished (up from 40% in 1992).<sup>59</sup>

The drastically high rate of undernourishment in Zambia can be attributed to its high dependence on maize, the inadequate availability of alternate staple crops, and the high poverty level.<sup>60</sup> Undernourishment seems only to be increasing due to the reduction in maize

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<sup>54</sup> The Department of International Development, *The Global Financial Crisis, Developing Countries and Policy Responses*, at 8, UNICEF, (March 2009), [http://www.unicef.org/eapro/The\\_Global-Financial\\_Crisis\\_-\\_Developing\\_Countries\\_and\\_Policy\\_Responses.pdf](http://www.unicef.org/eapro/The_Global-Financial_Crisis_-_Developing_Countries_and_Policy_Responses.pdf) (last visited Feb. 8, 2010).

<sup>55</sup> FAO, *Nutrition Country Profile: The Republic of Zambia*, (2009), <ftp://ftp.fao.org/ag/agn/nutrition/ncp/zmb.pdf>, (last visited Feb. 14, 2010).

<sup>56</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, p. 37 (2008), <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>57</sup> FAO, *Nutrition Country Profile: The Republic of Zambia*, (2009), <ftp://ftp.fao.org/ag/agn/nutrition/ncp/zmb.pdf>, (last visited Feb. 14, 2010).

<sup>58</sup> FAO, *Nutrition Country Profile: The Republic of Zambia*, p. 3 (2009), <ftp://ftp.fao.org/ag/agn/nutrition/ncp/zmb.pdf>, (last visited Feb. 14, 2010).

<sup>59</sup> The Department of International Development, *The Global Financial Crisis, Developing Countries and Policy Responses*, UNICEF, p. 43 (March 2009), [http://www.unicef.org/eapro/The\\_Global-Financial\\_Crisis\\_-\\_Developing\\_Countries\\_and\\_Policy\\_Responses.pdf](http://www.unicef.org/eapro/The_Global-Financial_Crisis_-_Developing_Countries_and_Policy_Responses.pdf) (last visited Feb. 8, 2010).

<sup>60</sup> FAO, *Nutrition Country Profile: The Republic of Zambia*, p. 21(2009), <ftp://ftp.fao.org/ag/agn/nutrition/ncp/zmb.pdf>, (last visited Feb. 14, 2010).

production,<sup>61</sup> which has fallen drastically over the past decade and a half (57% between 1996 and 2001 alone), yet still accounts for 86% of the domestic cereal supply.<sup>62</sup> Furthermore, Zambia's heavy reliance on maize places its food supply and economy at risk due to recurring weather related issues: droughts and floods.<sup>63</sup>

Since Zambians have not been able to reduce their dependency on their maize crops while international food prices remain high, they are forced to choose between food and other fundamental human rights. The main coping mechanisms in the country are to reduce spending on health care and education, reduce food consumption, and eat wild foods.<sup>64</sup>

## **2. Brazil (GHI = <5 [low]):**

Brazil is the largest country in South America with a population of approximately 192 million people.<sup>65</sup> Brazil is one of the twenty-two countries in the world that addresses a right to food in their constitutions.<sup>66</sup> Article 227 of the Brazil Constitution states:

It is the duty of the family, of society, and of the State to ensure children and adolescents, with absolute priority, the right to life, health, food, education, leisure, professional training, culture, dignity, respect, freedom, and family and community life, in addition to safeguarding them against all forms of negligence, discrimination, exploitation, violence, cruelty, and oppression.<sup>67</sup>

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<sup>61</sup>In the 1970's and 1980's the Zambian government guaranteed the purchase of maize at fixed prices to drive the economy. In the 1990's the government took a step back and as a result the production of maize has been steadily decreasing. FAO, *Nutrition Country Profile: The Republic of Zambia*, p. 21 (2009),

<ftp://ftp.fao.org/ag/agn/nutrition/ncp/zmb.pdf>, (last visited Feb. 14, 2010).

<sup>62</sup> FAO, *Nutrition Country Profile: The Republic of Zambia*, p. 21 (2009), <ftp://ftp.fao.org/ag/agn/nutrition/ncp/zmb.pdf>, (last visited Feb. 14, 2010).

<sup>63</sup> FAO, *Nutrition Country Profile: The Republic of Zambia*, p. 22 (2009), <ftp://ftp.fao.org/ag/agn/nutrition/ncp/zmb.pdf>, (last visited Feb. 14, 2010).

<sup>64</sup> FAO, *Nutrition Country Profile: The Republic of Zambia*, p. 22 (2009), <ftp://ftp.fao.org/ag/agn/nutrition/ncp/zmb.pdf>, (last visited Feb. 14, 2010).

<sup>65</sup> FAO, *Nutrition Country Profiles: Brazil*, (2000), <ftp://ftp.fao.org/es/esn/nutrition/ncp/BRAmmap.pdf> (last visited Feb. 14, 2010).

<sup>66</sup> FAO, *The Right to Food: In theory and in practice*, p. 42 (1998), <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 11, 2010).

<sup>67</sup> FAO, *The Right to Food: In theory and in practice*, p. 42 (1998), <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 11, 2010).

Although not every country that designates a constitutional right to food is successful, Brazil has been able to maintain one of the lowest rates of undernourishment among the developing countries—about 6% as of 2005.<sup>68</sup> What sets Brazil apart from many other countries that address a right to food in their constitutions is the action that Brazil has taken to ensure food security in their country.

In 2006, the Brazilian Parliament approved “Brazil’s National Food and Nutritional Security Framework Law” (LOSAN) that gives the government a tactical way of approaching food security in their country.<sup>69</sup> LOSAN acknowledges that adequate food is a basic human right and is indispensable in realizing the other rights that are set forth in their federal constitution.<sup>70</sup> Since passing LOSAN into law, Brazilian hunger has continued to decrease.<sup>71</sup> Although Brazil still has a long trek ahead in increasing health and nutrition to more acceptable levels, it is improving at a rapid rate.<sup>72</sup>

### **3. Malawi (GHI = 18.5 [serious]):**

The Republic of Malawi is a southeastern African country with a very high potential for agricultural capacity.<sup>73</sup> It is also one of the twenty-two developing countries to address a right to food in its constitution.<sup>74</sup> Article 13 of the Malawi Constitution states:

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<sup>68</sup> The Department of International Development, *The Global Financial Crisis, Developing Countries and Policy Responses*, at 41, UNICEF, March 2009, [http://www.unicef.org/eapro/The\\_Global-Financial\\_Crisis\\_-\\_Developing\\_Countries\\_and\\_Policy\\_Responses.pdf](http://www.unicef.org/eapro/The_Global-Financial_Crisis_-_Developing_Countries_and_Policy_Responses.pdf) (last visited Feb. 8, 2010).

<sup>69</sup> FAO, *The Right to Food: Lessons Learned in Brazil*, p. 34 (2007), <ftp://ftp.fao.org/docrep/fao/010/a1331e/a1331e.pdf>, (last visited Feb. 14, 2010).

<sup>70</sup> FAO, *The Right to Food: Lessons Learned in Brazil*, p. 34 (2007), <ftp://ftp.fao.org/docrep/fao/010/a1331e/a1331e.pdf>, (last visited Feb. 14, 2010).

<sup>71</sup> FAO, *The Right to Food: Lessons Learned in Brazil*, p. 34 (2007), <ftp://ftp.fao.org/docrep/fao/010/a1331e/a1331e.pdf>, (last visited Feb. 14, 2010).

<sup>72</sup> FAO, *Nutrition Country Profiles: Brazil*, (2000), <ftp://ftp.fao.org/es/esn/nutrition/ncp/BRAMap.pdf> (last visited Feb. 14, 2010).

<sup>73</sup> FAO, *Nutrition Country Profile: Republic of Malawi*, p. 3 (2008), <ftp://ftp.fao.org/ag/agn/nutrition/ncp/mwi.pdf> (last visited Feb. 14, 2010).

<sup>74</sup> FAO, *The Right to Food: In theory and in practice*, p. 43 (1998), <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 11, 2010).

The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goals: Nutrition: To achieve adequate nutrition for all in order to promote good health and self-sufficiency.<sup>75</sup>

However, in 2005, Malawi still had 29% of its population undernourished (although this was down from 45% in 1992).<sup>76</sup> According to the GHI released by the International Food Policy Research Institute, Malawi is still in a serious state of hunger.<sup>77</sup>

Vast improvements have been made in the past decade in decreasing overall hunger, but the nutritional status of the Malawian population remains in a critical state and in need of attention.<sup>78</sup> Among the contributing factors to the country's food insecurity are: adverse climate conditions, low agricultural productivity and poverty. Furthermore, although undernourishment has decreased in the past decade, there is still an insufficiency of dietary diversity and micronutrient-rich foods. The Malawian diet is composed primarily of maize and other cereals, potatoes, and plantains.

One of the main contributing factors is that Malawi's agriculture is primarily rain-fed, rendering Malawi vulnerable to droughts.<sup>79</sup> Furthermore, in times of climate shock, Malawians are unable to access food due to poor road construction and extreme poverty, making imports incredibly difficult.<sup>80</sup> In times of trouble, Malawians tend to cope by eating less preferred foods,

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<sup>75</sup> FAO, *The Right to Food: In theory and in practice*, p. 43 (1998), <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 11, 2010).

<sup>76</sup> IFPRI, *2009 Global Hunger Index The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality*, <http://www.ifpri.org/sites/default/files/publications/ghi09.pdf> (last visited Feb. 8, 2010).

<sup>77</sup> The Department of International Development, *The Global Financial Crisis, Developing Countries and Policy Responses*, at 13, UNICEF, March 2009, [http://www.unicef.org/eapro/The\\_Global-Financial\\_Crisis\\_-\\_Developing\\_Countries\\_and\\_Policy\\_Responses.pdf](http://www.unicef.org/eapro/The_Global-Financial_Crisis_-_Developing_Countries_and_Policy_Responses.pdf) (last visited Feb. 8, 2010).

<sup>78</sup> The Department of International Development, *The Global Financial Crisis, Developing Countries and Policy Responses*, at 3, UNICEF, March 2009, [http://www.unicef.org/eapro/The\\_Global-Financial\\_Crisis\\_-\\_Developing\\_Countries\\_and\\_Policy\\_Responses.pdf](http://www.unicef.org/eapro/The_Global-Financial_Crisis_-_Developing_Countries_and_Policy_Responses.pdf) (last visited Feb. 8, 2010).

<sup>79</sup> IFPRI, *2009 Global Hunger Index The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality*, p. 20 (2009), <http://www.ifpri.org/sites/default/files/publications/ghi09.pdf> (last visited Feb. 8, 2010).

<sup>80</sup> IFPRI, *2009 Global Hunger Index The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality*, p. 20 (2009), <http://www.ifpri.org/sites/default/files/publications/ghi09.pdf> (last visited Feb. 8, 2010).



regularly reducing the amount food intake, or not eating for days at a time to reserve food supplies.<sup>81</sup>

## **II. International and National Law on the Right to Adequate Food**

There are numerous international declarations, covenants, resolutions and national constitutions that advocate for, discuss, or otherwise mention the right to adequate food.<sup>82</sup> This section includes a discussion of the international documents that focus specifically on the right to adequate food. It is followed by a list of other international documents that otherwise mention the right to adequate food, and then by a list of countries whose national constitutions also discuss a right to food.

### ***A. International Agreements Focused on the Right to Adequate Food***

#### **1. The Universal Declaration on the Eradication of Hunger and Malnutrition (1974)**

The 1974 Universal Declaration on the Eradication of Hunger and Malnutrition declared that every human being has the fundamental right to be free from hunger and malnutrition so that they can fully develop. It declared that every country in the position to help has the responsibility to do so in ensuring that the right to food is realized. The Declaration recognized that there was a food crisis greatly affecting people in developing countries. It also explained that the welfare of many of the world's people depends on the ability to adequately produce and distribute food, establish a system where all people have access to food, and to have reasonably priced food so that food is available to all.<sup>83</sup>

#### **2. World Declaration and Plan of Action for Nutrition (1992)**

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<sup>81</sup> IFPRI, *2009 Global Hunger Index The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality*, p. 21 (2009), <http://www.ifpri.org/sites/default/files/publications/ghi09.pdf> (last visited Feb. 8, 2010).

<sup>82</sup> Yet, there is no treaty that is solely dedicated to the right to food.

<sup>83</sup> World Food Conference, Nov. 16, 1974, *Universal Declaration on the Eradication of Hunger and Malnutrition* <http://www2.ohchr.org/english/law/malnutrition.htm>.

The 1992 World Declaration and Plan of Action for Nutrition represented consensus among 159 countries that the levels of hunger and malnutrition are unacceptable in a world that has both the knowledge and resources to end this human catastrophe. The 1992 Declaration reiterated that the right to adequate food is a right of each individual, and that access to food is the main problem. The 159 countries signing the Declaration pledged to work together to find a solution. Their main objectives were: 1) ensuring sufficient supplies of food for everyone to have a nutritionally adequate diet; 2) working to achieve and maintain optimal health and nutrition for all; 3) achieving an environmentally sound and sustainable way to develop food and contribute to health and nutrition; and 4) eliminating the existence of famines and famine related deaths.<sup>84</sup>

### **3. World Food Summit Declarations (1996 and 2002)**

The World Food Summits of 1996 and 2002 both addressed food insecurity and both produced declarations regarding the right to adequate food.

#### **a. The Rome Declaration on World Food Security (1996)**

The 1996 Rome Declaration on World Food Security committed its signers to reduce by half the number of hungry people in the world by 2015. It also committed to eradicate poverty, provide nutritionally adequate and safe food, pursue sustainable food, promote fair agricultural trade, provide emergency food supplies, promote rural development, and create cooperation within the international community.<sup>85</sup>

#### **b. Declaration of the World Food Summit (2002)**

Some five years later, the 2002 Declaration of the World Food Summit reaffirmed the

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<sup>84</sup> International Conference on Nutrition, Dec. 1992, *World Declaration and Plan of Action for Nutrition*. <http://whqlibdoc.who.int/HQ/1992/a34303.pdf>.

<sup>85</sup> World Food Summit, 1996, *Rome Declaration on World Food Security*. <http://www.chestateafao.it/fileViewAction.do?xclass=Multimediafile&field=file&width=0&height=0&mime=application/pdf&id=39>.

right to access food that is both safe and nutritious and renewed the commitments made in the 1996 Declaration to reduce the number of hungry in the world by half by the year 2015.<sup>86</sup>

#### **4. General Assembly Resolution 51/71 (1997) – Food and Sustainable Agricultural Development**

This 1997 General Assembly Resolution recognized that the hunger problem is widespread and chronic, particularly among women, children, and people of developing countries. The Resolution also recognized that the right to be free from hunger is a fundamental right under international law, and urges the international community and the United Nations to cooperate to implement the World Food Summit Plan of Action.<sup>87</sup>

#### **5. The Food Aid Convention (1999)**

The Convention has four main objectives: 1) make appropriate levels of food aid available on a predictable basis; 2) encourage member nations to ensure that the food aid provided is aimed particularly at the alleviation of poverty and hunger of the most vulnerable groups and is consistent with agricultural development in those countries; 3) include principles for maximizing the impact, the effectiveness and quality of the food aid provided as a tool in support of food security; and 4) provide a framework for cooperation, coordination and information-sharing among members on food aid related matters to achieve greater efficiency in all aspects of food aid operations and better coherence between food aid and other policy instruments.<sup>88</sup>

#### **6. UN Millennium Development Goals (2000)**

In 2000, the United Nations established the UN Millennium Development Goals to

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<sup>86</sup> World Food Summit, 2002, *Declaration of the World Food Summit: Five Years Later*.  
<http://www.fao.org/DOCREP/MEETING/005/Y7106E/Y7106E09.htm#TopOfPage>.

<sup>87</sup> G.A. Res. 51/71, U.N. Doc. A/52/150 (July 18, 1997). <http://www.un.org/ga/52/agenda/provisi.htm>.

<sup>88</sup> Food Aid Convention of 1999, <http://www.fao.org/Legal/rtf/fac99-e.htm>.

achieve by the year 2015. The primary development goals are to: 1) end poverty and hunger, 2) secure universal education, 3) ensure gender equality, 4) improve child health, 5) improve maternal health, 6) combat HIV/AIDS, 7) achieve environmental sustainability, and 8) create a global partnership for development. Included in the first goal of ending poverty and hunger are three target goals: first, by 2015, reduce by half the number of people whose income is less than one dollar a day; second, to achieve full productive employment and decent work for all, including women and young people; and third, by 2015, reduce by half the proportion of people who suffer from hunger.<sup>89</sup>

### **7. Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (2004)**

According to the Voluntary Guidelines, food security exists when safe and nutritious food is available to all people, at all times. This includes not just physical access to food, but economic access. Available food should also meet people's dietary needs so that they can lead healthy and active lives. The Voluntary Guidelines recognize four pillars of food security: 1) availability of food, 2) stability of supply, 3) accessibility to food, and 4) utilization of the available food. Compliance with these guidelines requires the fulfillment of human rights obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the U.N.'s Universal Declaration of Human Rights (UDHR).<sup>90</sup>

#### ***B. The International Bill of Rights and the Right to Food***

In addition to the human rights documents outlined above, which are specifically focused on the right to adequate food, three other major human rights documents that together constitute

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<sup>89</sup> Millennium Development Goals, 1990, *End Poverty Millennium Development goals 2015*.  
<http://www.un.org/millenniumgoals/poverty.shtml>.

<sup>90</sup> Committee on World Food Security, Nov. 22, 2004, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*.  
<http://www.fao.org/docrep/meeting/008/J3345e/j3345e01.htm>.

the International Bill of Rights specifically address the right to adequate food among other rights: (1) The Universal Declaration of Human Rights (UDHR), (2) The International Covenant on Economic, Social and Cultural Rights (ICESCR), (3) The International Covenant on Civil and Political Rights (ICCPR).<sup>91</sup> In these documents individuals are the right holders rather than the countries who are parties; however, the countries bear the obligations that come with being parties to these agreements.<sup>92</sup>

As discussed below, the UDHR and the ICESCR specifically address the right to food; the ICCPR discusses the right to life and the right to use one's own means of subsistence.

### **1. The Universal Declaration of Human Rights (1948)**

In 1948 the “contemporary international human rights system” was created when the United National General Assembly adopted the Universal Declaration of Human Rights (UDHR). The purpose of the UDHR was to achieve promotion and respect for fundamental human rights and freedoms. This is to occur through progressive measures, both at the national and international level, in hopes of securing a universal and effective recognition and observance of these rights.<sup>93</sup> The UDHR specifically addresses the right to food. Article 25 of The UDHR states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.<sup>94</sup>

This provision of the UDHR is an important foundation for the right to food.

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<sup>91</sup> <http://www2.ohchr.org/english/law/>.

<sup>92</sup> FAO, Guide on legislating for the right to food 9 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

<sup>93</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice 2* 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf>. (last visited Feb. 15, 2010).

<sup>94</sup> Universal Declaration of Human Rights art. 25, Dec. 10, 1948, <http://www.un.org/en/documents/udhr/index.shtml#a25>.

## 2. International Covenant on Economic, Social, and Cultural Rights

The right to food was again recognized in the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1966 and came into force in 1976. The ICESCR also further clarified the right to food. There are currently 160 parties to the ICESCR.<sup>95</sup> Article 11 states:

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.<sup>96</sup>

As seen in Section 2 of Article 11, parties have a legally binding obligation to work towards the realization of the rights presented in the ICESCR, including the right to adequate food.<sup>97</sup>

The ICESCR requires parties to take steps towards the realization of economic, social, and cultural rights within a reasonable period of time after ratifying the treaty.<sup>98</sup> Although the

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<sup>95</sup> International Covenant on Economic, Social and Cultural Rights Jan. 3, 1976, 993 U.N.T.S. 3.

[http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg\\_no=IV-3&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-3&chapter=4&lang=en).

<sup>96</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-19, 6 I.L.M. 360 (1967), 993 U.N.T.S. 3. <http://www2.ohchr.org/english/law/cescr.htm#art11>.

<sup>97</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 3 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf>. (last visited Feb. 15, 2010).

<sup>98</sup> FAO, Guide on legislating for the right to food 19-20 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

treaty recognizes that ending hunger will not occur quickly, parties are required to take steps such as creating legislation and “economic, financial, educational or social reforms” in order to decrease the number of hungry people in the world.<sup>99</sup> Parties are not obligated to use all their available resources to realize the right to food, but they should do everything in their power to ensure that all people have access to food.<sup>100</sup>

The United Nation’s Committee on Economic, Social and Cultural Rights (CESCR) has stated that the availability of food needs to be both quantitatively and qualitatively sufficient within a given culture so that each individual is able to realize their fundamental right to food.<sup>101</sup> Additionally, the CESCR has said that States should work to educate the public and private sectors about the right to hunger.<sup>102</sup>

### **3. International Covenant on Civil and Political Rights**

The International Covenant on Civil and Political Rights (ICCPR) also came into force in 1976. There are 169 parties to the ICCPR.<sup>103</sup> Although this covenant does not mention the right to food specifically, Article 8 declares, "Every human being has the inherent right to life."<sup>104</sup> While the language "an inherent right to life" does not expressly mention food, it can be inferred that the right to food is included because it is such a necessary part of life.

The ICCPR further states in Article 2, “[I]n no case may a people be deprived of its own

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<sup>99</sup> FAO, Guide on legislating for the right to food 20 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

<sup>100</sup> FAO, Guide on legislating for the right to food 20 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

<sup>101</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable under International Law*, 44 Colum. J. Transnat'l L. 691, 707-708 (2006).

<sup>102</sup> FAO, Guide on legislating for the right to food 25-26 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

<sup>103</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171. [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=IV-4&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-4&chapter=4&lang=en).

<sup>104</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171. <http://www2.ohchr.org/english/law/ccpr.htm>.

means of subsistence.<sup>105</sup>

### ***C. Food and Agricultural Organization Guidelines on Legislating the Right to Food (2004)***

In 2004, the Food and Agriculture Organization (FAO) created guidelines on legislating the right to food which recognize that food security is a human right. The FAO recognizes that hunger is not caused by a lack of food, but by a lack of political will. The FAO Guidelines on Legislating the Right to Food have been adopted by 187 States.<sup>106</sup> The human rights principles can be spelled with the acronym PANTHER: 1) **P**articipation in the design, implementation and evaluation of programs and services designed to strengthen self-reliance; 2) **A**ccountability of politicians and civil servants for what they do and what they do not do; 3) **N**on-discrimination with an emphasis on improving the status of disadvantaged groups; 4) **T**ransparency so that people know what the policies are, and where the money is being spent; 5) **H**uman dignity, to treat people in a dignified and not humiliating way; 6) **E**mpowerment so that people can change their own lives and improve their destinies; and 7) **R**ule of law so that every member of society follows the laws and are held accountable.<sup>107</sup>

### ***D. Other International Documents Relevant to the Right to Food***

The right to food also arises in other international human rights documents that set forth special protections for women, children, minorities, prisoners of war, and civilians in combat areas, and other groups who are especially vulnerable to human rights abuses. Just as they are

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<sup>105</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171. <http://www2.ohchr.org/english/law/ccpr.htm>.

<sup>106</sup> FIAN International, July 2005, *FAO, Voluntary Guidelines for the Right to Food: Lasting Solutions against Hunger*. <http://www.fian.org/resources/documents/others/fao-voluntary-guidelines-for-the-right-to-food-lasting-solutions-against-hunger/pdf>.

<sup>107</sup> FIAN International, Nov. 2004, *How to use the Voluntary Guidelines on the Right to Food*. <http://www.fian.org/resources/documents/others/how-to-use-the-voluntary-guidelines-on-the-right-to-food/pdf>.



more vulnerable to other human rights abuses, so too they are typically more vulnerable to malnutrition and abuses of the right to food.<sup>108</sup> These documents include:

- United Nations Charter<sup>109</sup>
- Beijing Declaration and Platform for Action, Fourth World Conference on Women (1995)<sup>110</sup>
- Declaration on the Right to Development<sup>111</sup>
- The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action<sup>112</sup>
- Vienna Declaration and Programme of Action<sup>113</sup>
- The Geneva Convention III Relative to the Treatment of Prisoners of War<sup>114</sup>
- Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War<sup>115</sup>
- The Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)<sup>116</sup>
- The Convention on the Rights of the Child<sup>117</sup>
- World Declaration on the Survival, Protection, and Development of Children (1990)<sup>118</sup>
- Convention on the Elimination of All Forms of Discrimination against Women<sup>119</sup>
- Convention on the Rights of Persons with Disabilities<sup>120</sup>
- Standard Minimum Rules for the Treatment of Prisoners<sup>121</sup>

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<sup>108</sup>FAO , Guide on legislating for the right to food 21 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

<sup>109</sup> <http://www.un.org/en/documents/charter/>.

<sup>110</sup> <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

<sup>111</sup> <http://www2.ohchr.org/english/law/pdf/rtd.pdf>.

<sup>112</sup> <http://www.un-documents.net/ha-2.htm>.

<sup>113</sup> <http://www2.ohchr.org/english/law/pdf/vienna.pdf>.

<sup>114</sup> <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e63bb/6fef854a3517b75ac125641e004a9e68>.

<sup>115</sup> <http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>.

<sup>116</sup> <http://www.cicr.org/ihl.nsf/FULL/475?OpenDocument>.

<sup>117</sup> <http://www2.ohchr.org/english/law/crc.htm/>.

<sup>118</sup> <http://www.un-documents.net/wsc-dec.htm>.

<sup>119</sup> <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

<sup>120</sup> <http://www2.ohchr.org/english/law/disabilities-op.htm>.

- The United National Principles for Older Persons adopted by the General Assembly<sup>122</sup> Resolution 46/91 of 16 December 1991<sup>123</sup>
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the “Protocol of San Salvador”) (1988)<sup>124</sup>
- Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa<sup>125</sup>
- African Charter on the Rights and Welfare of the Child<sup>126</sup>
- Declaration on Social Progress and Development<sup>127</sup>
- Declaration on the Right to Development<sup>128</sup>
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict Proclaimed by General Assembly Resolution 3318 (XXIX) of December 1974<sup>129</sup>
- Agreement Establishing the International Fund for Agricultural Development (1976)<sup>130</sup>

The relevant provisions from the above listed declarations, agreements and resolutions can be found in Appendix A.

### **E. National Constitutions on Right to Food**

Inclusion of the right to food in a country’s constitution provides a strong basis for protecting the right.<sup>131</sup> The right to food typically arises in one of three ways within a national constitution:

- (i) explicit recognition as a human right or as part of another, broader human right;
- (ii) recognition as a principle of state policy; and (iii) implicit recognition, through broad

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<sup>121</sup> <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

<sup>122</sup> [http://www.un.org/esa/socdev/ageing/un\\_principles.html](http://www.un.org/esa/socdev/ageing/un_principles.html).

<sup>123</sup> <http://www2.ohchr.org/english/issues/food/standards.htm>.

<sup>124</sup> <http://www.oas.org/juridico/English/treaties/a-52.html>.

<sup>125</sup> [http://www.achpr.org/english/info/court\\_en.html](http://www.achpr.org/english/info/court_en.html).

<sup>126</sup> [http://www.africa-union.org/official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf](http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf).

<sup>127</sup> <http://www.un-documents.net/a24r2542.htm>.

<sup>128</sup> <http://www2.ohchr.org/english/law/pdf/rtd.pdf>.

<sup>129</sup> <http://www2.ohchr.org/english/law/protectionwomen.htm>.

<sup>130</sup> <http://www.ifad.org/pub/basic/agree/e/!01agree.pdf>.

<sup>131</sup> FAO, Guide on legislating for the right to food 33 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

interpretation of other human rights.<sup>132</sup>

The countries that mention the right to food in their constitutions vary as to the extent of the right to food they provide. While some countries address the right to food for children or women, others simply mention a right to “adequate food.” Currently twenty-two countries explicitly or implicitly recognize the right to food at the national constitution level. The relevant provisions from these State constitutions encompassing all three types of right to adequate food are:<sup>133</sup>

### **Bangladesh:**

Article 15 Bangladesh’s Constitution states:

It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement of the material and cultural standard of living of the people, with a view to securing to its citizens... the provision of the basic necessities of life, including food, clothing, shelter...<sup>134</sup>

### **Bolivia**

Article 15 Bolivia’s Constitution states:

Every person has the right to water and food. The State has the obligation to guarantee food security for all through a healthy, adequate and sufficient food.<sup>135</sup>

### **Brazil**

Article 227 Brazil’s Constitution states:

It is the duty of the family, of society, and of the State to ensure children and adolescents, with absolute priority, the right to life, health, food, education, leisure, life, in addition to safeguarding them against all forms of negligence, discrimination, exploitation, violence, cruelty, and

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<sup>132</sup> FAO, Guide on legislating for the right to food 34 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

<sup>133</sup> FAO, *Right To Food Map*, [http://www.fao.org/righttofood/kc/maps/Map1\\_en.htm](http://www.fao.org/righttofood/kc/maps/Map1_en.htm) (last visited Feb. 15, 2010).

<sup>134</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>135</sup> FAO, Guide on legislating for the right to food 35 (2009), available at [http://www.fao.org/righttofood/publi09/guide\\_on\\_legislating.pdf](http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf) (last accessed Feb. 15, 2010).

oppression.<sup>136</sup>

## **Colombia**

Article 44 Colombia's constitution states:

The following are basic rights for children... a balanced diet...<sup>137</sup>

## **Congo**

Article 34 Congo's constitution states:

The State is the guarantor of public health. Every citizen shall have the right to a level of life sufficient to assure his health, his well-being and that of his family, notably food, clothing, shelter, medical care as well as necessary social services.<sup>138</sup>

## **Cuba**

Article 8 Cuba's constitution states:

...as the power of the people and for the people, guarantees:... That no child be left without schooling, food and clothing.<sup>139</sup>

## **Ecuador**

Article 19 Ecuador's constitution states:

...The right to a standard of living that ensures the necessary health, food, clothing, housing, medical care and social services.<sup>140</sup>

## **Ethiopia**

Article 90 Ethiopia's constitution states:

To the extent the country's resources permit, policies shall aim to provide all Ethiopians with access to public health, education, clean water,

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<sup>136</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>137</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>138</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>139</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>140</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

housing, food and social security.<sup>141</sup>

## **Guatemala**

Article 51 Guatemala's Constitution states:

The State will protect the physical, mental and moral health of minors and the Elderly. It will guarantee them their right to food, public health, education, security and social insurance.<sup>142</sup>

## **Haiti**

Article 22 Haiti's Constitution states:

The State recognizes the right of every citizen to decent housing, education, food and social security.<sup>143</sup>

## **India**

Article 47 India's Constitution states:

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.<sup>144</sup>

## **Iran**

Article 3 Iran's Constitution states:

The planning of a correct and just economic system, in accordance with Islamic criteria, in order to create welfare, eliminate poverty, and abolish all forms of deprivation with respect to food, housing, work, health care, and the provision of social insurance for all.

Article 43 further states:

The economy of the Islamic Republic of Iran, with its objectives of achieving the economic independence of the society, uprooting poverty

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<sup>141</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>142</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>143</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>144</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

and deprivation, and fulfilling human needs in the process of development while preserving human liberty, is based on the following criteria: The provision of basic necessities for all citizens: housing, food, clothing hygiene, medical treatment, education, and the necessary facilities for the establishment of a family.<sup>145</sup>

## **Malawi**

Article 13 Malawi's Constitution states:

The State shall actively promote the welfare and development of the people of Malawi by progressively adopting and implementing policies and legislation aimed at achieving the following goals: Nutrition: To achieve adequate nutrition for all in order to promote good health and self-sufficiency.<sup>146</sup>

## **Nicaragua**

Article 63 Nicaragua's Constitution states:

It is the right of Nicaraguans to be protected against hunger. The State shall promote programmes which assure adequate availability and equitable distribution of food.<sup>147</sup>

## **Nigeria**

Article 16 of Nigeria's Constitution states:

The State shall assure, within the context of the ideals and objectives for which provisions are made in this constitution, that suitable and adequate shelter, suitable and adequate food, reasonable living wages, are provided for all citizens...<sup>148</sup>

## **Pakistan**

Article 38 Pakistan's Constitution states:

The State shall provide basic necessities of life, such as food, clothing,

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<sup>145</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>146</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>147</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>148</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

housing, education and medical relief.<sup>149</sup>

## **Paraguay**

Article 53 of Paraguay's Constitution states:

Every parent has the right and obligation to care for, to feed, to educate, and to support his children while they are minors. The laws will punish those parents who fail to comply with their duty to provide their children with food...<sup>150</sup>

## **South Africa**

Article 27 South Africa's Constitution states:

1) Everyone has the right to have access to: a) health care services, including reproductive health care; b) sufficient food and water; and c) social security, including, if they are unable to support themselves and their dependant, appropriate social assistance. 2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.

Article 28 goes on to state:

1) Every child has the right to: a) a name and a nationality from birth; b) family care or parental care, or to appropriate alternative care when removed from the family environment; c) basic nutrition, shelter, basic health care services and social services...<sup>151</sup>

## **Sri Lanka**

Article 27 Sri Lanka's Constitution states:

The State is pledged to establish in Sri Lanka a democratic socialist society, the objectives of which include... the realization by all citizens of an adequate standard of living for themselves and their families, including adequate food, clothing and housing...<sup>152</sup>

## **Uganda**

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<sup>149</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>150</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>151</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>152</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

Article 14 Uganda's Constitution states:

The State shall endeavor to fulfill the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that... all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, decent shelter, adequate clothing, food, security and pension and retirement benefits.<sup>153</sup>

## **Ukraine**

Article 48 Ukraine's Constitution states:

Everyone has the right to a standard of living sufficient for himself of herself, and his or her family that includes adequate nutrition, clothing and housing.<sup>154</sup>

Although numerous national constitutions as well as international declarations, treaties, and agreements discuss the right to food, there are still over a billion hungry people in the world today. For the reasons set forth in Part III, a food security treaty that specifically addresses the fundamental right to food and sets forth specific obligations of parties toward realization of this right is needed, and it is needed now.

## **APPENDIX A**

- **United Nations Charter**<sup>155</sup>
  - **Article 55:**
    - With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations

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<sup>153</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>154</sup> Food and Agriculture Organization [FAO], *The Right to Food in Theory and in Practice*, 42-43 1998, available at <http://www.fao.org/legal/rtf/booklet.pdf> (last visited Feb. 15, 2010).

<sup>155</sup> <http://www.un.org/en/documents/charter/>.



among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- (1) higher standards of living, full employment, and conditions of economic and social progress and development;
- (2) solutions of international economic, social, health, and related problems; and international cultural and educational cooperation;

- **Beijing Declaration and Platform for Action, Fourth World Conference on Women (1995)**<sup>156</sup>

- **Article 58:**

- (f) Develop policies and programmes to promote equitable distribution of food within the household
- (j) Develop and implement anti-poverty programmes, including employment schemes, that improve access to food for women living in poverty, including through the use of appropriate pricing and distribution mechanisms
- (n) ...appropriate infrastructure and technology in order to increase women's incomes and promote household food security, especially in rural areas and, where appropriate, encourage the development of producer-owned, market-based cooperatives.

- **Article 82:**

- (f) Promote women's central role in food and agricultural research, extension and education programmes.

- **Article 106:**

- (w) Promote and ensure household and national food security, as appropriate, and implement programmes aimed at improving the nutritional status of all girls and women by implementing the commitments made in the Plan of Action on Nutrition of the International Conference on Nutrition...

- **Article 147:**

- ...take all appropriate measures to eliminate discrimination against women and girls in order to ensure equal access to appropriate and adequate food, water and shelter, education, and social health services, including reproductive health care and maternity care and services to combat tropical diseases.

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<sup>156</sup> <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

- **Article 166:**
  - (e) Create and modify programmes and policies that recognize and strengthen women's vital role in food security and provide paid and unpaid women producers...
  
- **Article 250:**
  - ...Women in many communities provide the main labour force for subsistence production, including production of seafood; hence, their role is crucial to the provisions of food and nutrition, the enhancement of the subsistence and informal sectors and the preservation of the environment....
  
- **Declaration on the Right to Development**<sup>157</sup>
  - **Article 8:**
    - States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income....
  
- **The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action**<sup>158</sup>
  - **Article 25:**
    - (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
  
- **Vienna Declaration and Programme of Action**<sup>159</sup>
  - **Article 31:**
    - The World Conference on Human Rights calls upon States to refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of the human rights set forth in the Universal Declaration of Human Rights and international human rights set forth in the rights of everyone to a standard of living adequate for their health and well-being, including food and medical care,

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<sup>157</sup> <http://www2.ohchr.org/english/law/pdf/rtd.pdf>.

<sup>158</sup> <http://www.un-documents.net/ha-2.htm>.

<sup>159</sup> <http://www2.ohchr.org/english/law/pdf/vienna.pdf>.

housing and the necessary social services. The World Conference on Human Rights affirms that food should not be used as a tool for political pressure.

- **The Geneva Convention III Relative to the Treatment of Prisoners of War**<sup>160</sup>
  - **Article 20:**
    - The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.
  - **Article 26:**
    - The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.
  - **Article 46:**
    - The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.
  - **Article 51:**
    - Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions.
- **Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War**<sup>161</sup>
  - **Article 15:**
    - When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The

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<sup>160</sup> <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e63bb/6fef854a3517b75ac125641e004a9e68>.

<sup>161</sup> <http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>.

agreement shall fix the beginning and the duration of the neutralization of the zone.

- **Article 23:**
  - Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.
  
- **Article 55:**
  - To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.
  
- **Article 89:**
  - Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees.
  
- **Article 127:**
  - The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health, and also with the necessary clothing, adequate shelter and the necessary medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during transfer, and shall establish before their departure a complete list of all internees transferred.
  
- **The Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)<sup>162</sup>**
  - **Article 5:**
    - (b) the persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;

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<sup>162</sup> <http://www.cicr.org/ihl.nsf/FULL/475?OpenDocument>.

- **The Convention on the Rights of the Child**<sup>163</sup>
  - **Article 24:**
    - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- **World Declaration on the Survival, Protection, and Development of Children (1990)**<sup>164</sup>
  - **Article 10:**
    - Enhancement of children's health and nutrition is a first duty, and also a task for which solutions are now within reach. The lives of tens of thousands of boys and girls can be saved every day, because the causes of their death are readily preventable. Child and infant mortality is unacceptably high in many parts of the world, but can be lowered dramatically with means that are already known and easily accessible.
- **Convention on the Elimination of All Forms of Discrimination against Women**<sup>165</sup>
  - **Preamble:**
    - Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs.
- **Convention on the Rights of Persons with Disabilities**<sup>166</sup>
  - **Article 28:**
    - State Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
- **Standard Minimum Rules for the Treatment of Prisoners**<sup>167</sup>

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<sup>163</sup> <http://www2.ohchr.org/english/law/crc.htm/>.

<sup>164</sup> <http://www.un-documents.net/wsc-dec.htm>.

<sup>165</sup> <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

<sup>166</sup> <http://www2.ohchr.org/english/law/disabilities-op.htm>.

<sup>167</sup> <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

- **Article 20:**
  - (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
- **The United National Principles for Older Persons adopted by the General Assembly<sup>168</sup> Resolution 46/91 of 16 December 1991<sup>169</sup>**
  - **Article 1:**
    - Older persons should have access to adequate food, water, shelter, clothing and health care through the provision of income, family and community support and self-help.
- **Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the “Protocol of San Salvador”) (1988)<sup>170</sup>**
  - **Article 12:**
    - 1. Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development.
    - 2. In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production, supply and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies.
- **Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa<sup>171</sup>**
  - **Article 15:**
    - (a) provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food
    - (b) establish adequate systems of supply and storage to ensure food security
- **African Charter on the Rights and Welfare of the Child<sup>172</sup>**

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<sup>168</sup> [http://www.un.org/esa/socdev/ageing/un\\_principles.html](http://www.un.org/esa/socdev/ageing/un_principles.html).

<sup>169</sup> <http://www2.ohchr.org/english/issues/food/standards.htm>.

<sup>170</sup> <http://www.oas.org/juridico/English/treaties/a-52.html>.

<sup>171</sup> [http://www.achpr.org/english/info/court\\_en.html](http://www.achpr.org/english/info/court_en.html).

<sup>172</sup> [http://www.africa-union.org/official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf](http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf).

- **Article 14:**
  - 2(c) To ensure the provision of adequate nutrition and safe drinking water
  - 2(d) To combat disease and malnutrition within the framework of primary health care through the application of appropriate technology
  - 2(h) To ensure that all sectors of the society, in particular, parents, children, community leaders and community workers are informed and supported in the use of basic knowledge of child health and nutrition...
  
- **Article 20:**
  - 2(a) To assist parents and other persons responsible for the child and in case of need provide material assistance and support programmes particularly with regard to nutrition, health, education, clothing and housing.
  
- **Declaration on Social Progress and Development**<sup>173</sup>
  - **Article 18:**
    - (c) The adoption of measures to boost and diversify agricultural production through, inter alia, the implementation of democratic agrarian reforms, to ensure an adequate and well-balanced supply of food, its equitable distribution among the whole population and the improvement of nutritional standards;
  
- **Declaration on the Right to Development**<sup>174</sup>
  - **Article 8:**
    - States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.
  
- **Declaration on the Protection of Women and Children in Emergency and Armed Conflict Proclaimed by General Assembly Resolution 3318 (XXIX) of**

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<sup>173</sup> <http://www.un-documents.net/a24r2542.htm>.

<sup>174</sup> <http://www2.ohchr.org/english/law/pdf/rtd.pdf>.

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- **Article 6:**
  - Women and children belonging to the civilian population and finding themselves in circumstances of emergency and armed conflict in the struggle for peace, self-determination, national liberation and independence, or who live in occupied territories, shall not be deprived of shelter, food, medical aid or other inalienable rights, in accordance with the provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration of the Rights of the Child or other instruments of international law.
  
- **Agreement Establishing the International Fund for Agricultural Development (1976)<sup>176</sup>**
  - **Article 2:**
    - The objective of the Fund shall be to mobilize additional resources to be made available on concessional terms for agricultural development in developing Member States. In fulfilling this objective the Fund shall provide financing primarily for projects and programmes specifically designated to introduce, expand or improve food production systems and to strengthen related policies and institutions within the framework of national priorities and strategies, taking into consideration: the need to increase food production in the poorest food deficit countries; the potential for increasing food production in other developing countries; and the importance of improving the nutritional level of the poorest populations in developing countries and the conditions of their lives.

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<sup>175</sup> <http://www2.ohchr.org/english/law/protectionwomen.htm>.

<sup>176</sup> <http://www.ifad.org/pub/basic/agree/e/!01agree.pdf>.



### III. Why the World Needs the International Food Security Treaty

#### A. Introduction

Without specific international obligations focused on the right to food, hunger will persist. It is a sad fact that the levels of hungry and undernourished people in the world have risen since the first World Food Summit in 1996.<sup>177</sup> By 2009, the number of hungry and malnourished people in the world was estimated to be 1.02 billion people.<sup>178</sup> This means that one out of every six people in the world is still hungry or malnourished.<sup>179</sup> International action without a specific treaty has not been very encouraging in moving towards the goal of international food security<sup>180</sup> given that the total number of people living hungry continues to increase. The solution lies with the International Food Security Treaty (IFST), a product of years of work and dedication beginning in the 1990's. Through their joint effort, volunteers in the United States and Canada active in struggle to secure an international right to food, worked to place the Human Right to food in an international document. The result is a treaty that will be used to achieve the goal of ending world hunger and securing everyone's right to food.

World hunger is on the rise, while nationally only a relatively few states have officially recognized the right to adequate food by incorporating it into their domestic legislation.<sup>181</sup> In fact, only twenty-two out of the 192 United Nations (U.N.) member states have incorporated the right to food into their constitutions. By recognizing a fundamental right to be free from hunger and working to protect this right through an international treaty, the international community can

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<sup>177</sup> Karen Kong, *The Right to Food for All: A Right-Based Approach to Hunger and Social Inequality*, 32 SUFFOLK TRANSNAT'L L. REV. 525, 527 (2009).

<sup>178</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, at 11 <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>179</sup> FAO, *The State of Food Insecurity in the World: Economic crises-impacts and lessons learned*, at 11 <ftp://ftp.fao.org/docrep/fao/011/i0291e/i0291e00.pdf> (last visited Feb. 10, 2010).

<sup>180</sup> Karen Kong, *The Right to Food for All: A Right-Based Approach to Hunger and Social Inequality*, 32 SUFFOLK TRANSNAT'L L. REV. 525, 527 (2009).

<sup>181</sup> Karen Kong, *The Right to Food for All: A Right-Based Approach to Hunger and Social Inequality*, 32 SUFFOLK TRANSNAT'L L. REV. 525, 527 (2009).

finally take a united and effective stance against hunger.<sup>182</sup> The IFST would compel nations to never again acquiesce to this terrible form of oppression that hunger embodies and would respect and enforce an individual's legal claim to the right to food, promoting his or her emancipation from hunger.<sup>183</sup> Outlined below are seven key reasons which will demonstrate why the international community cannot wait any longer for the International Food Security Treaty.

## ***B. Seven Key Reasons Why the International Food Security Treaty is Needed***

### **1. Ensuring Government Accountability**

The IFST will ensure that governments are held accountable for any violations of the fundamental right to be free from hunger. A treaty provides a clear outline of guaranteed rights that countries must protect. There are many references in international human rights documents to the fundamental right to food and the right to be free from hunger, including the International Covenant on the Economic, Social, and Cultural Rights (ICESCR)<sup>184</sup> which states in Article 11(1),

The State Parties to the present Covenant recognize the *right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing and to the continuous improvement of living conditions. The State Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.*<sup>185</sup>

The ICESCR does not, however, provide for the extent and nature of a party's duty to ensure realization of the right to food, and allows for "progressive realization" without sufficient explanation.

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<sup>182</sup> Laura Niada, *Hunger and International Law: The Far-Reaching Scope of the Human Right to Food*, 22 CONN. J. INT'L L. 131, 144 (2006).

<sup>183</sup> Laura Niada, *Hunger and International Law: The Far-Reaching Scope of the Human Right to Food*, 22 CONN. J. INT'L L. 131, 144 (2006).

<sup>184</sup> International Covenant on Economic, Social and Cultural Rights, Jan. 3, 1976.  
<http://www2.ohchr.org/english/law/cescr.htm#art11>.

<sup>185</sup> International Covenant on Economic, Social and Cultural Rights art. 11(1), Jan. 3, 1976 (emphasis added).  
<http://www2.ohchr.org/english/law/cescr.htm#art11>.

The IFST is needed to clearly and outline signing parties' obligations and duties to effectively decrease the levels of world hunger and malnutrition. The current approach, where participating nations agree to non-binding standards that they cannot require others to follow, has not worked. The ineffectiveness of this approach is shown in the alarming rate of worldwide hunger. The IFST will serve as a reminder that the right to food for all is not just a political choice, but a legal duty.<sup>186</sup> A uniform treaty is needed to confront this international epidemic of hunger because, as legal scholar Smita Narula has reasoned, “[u]nless and until the accountability of global actors is more clearly defined under international law, the potential impact of both domestic and U.N.-related initiatives will continue to be undermined.”<sup>187</sup>

## **2. Requiring International Enforcement and Reporting**

The IFST defines mechanisms for enforcement and reporting that all parties to the treaty would be required to follow. The treaty's reporting requirements, both regarding the number of hungry in a country and how well a party is complying with its duties, are critical to ensuring compliance. The IFST will require parties to provide information on the level of hunger to the U.N. which is needed for the enforcement of the right to food. If hunger conditions prove to be dire, then resources can more easily be allocated to those who need it the most. It is “only by knowing who the hungry are, why they are hungry, and where they reside, can we design truly effective policies to remove or lower the obstacles to their enjoyment of the right to food.”<sup>188</sup>

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<sup>186</sup> Karen Kong, *The Right to Food for All: A Right-Based Approach to Hunger and Social Inequality*, 32 SUFFOLK TRANSNAT'L L. REV. 525, 566 (2009).

<sup>187</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 698 (2006).

<sup>188</sup> Olivier De Schutter, *The Right to Food and the Political Economy of Hunger*, Twenty-sixth McDougall Memorial Lecture Opening of the thirty-sixth Session of the FAO Conference, by Special Rapporteur on the right to food, p. 3.

However, obtaining reliable data remains a major challenge.<sup>189</sup> Even in countries where data is available, policy-makers often ignore or hide the information and claim ignorance to justify remaining passive.<sup>190</sup> As one commentator put it, “[T]hey must know nothing, in order to be allowed to do nothing.”<sup>191</sup> Provisions in the IFST will ensure that parties who sign will never again be able to hide behind a lack of information when they choose to do nothing to stop world hunger. The old approach used by countries, where ignorance was bliss, would now qualify as a direct violation of the responsibilities to guarantee the right to food security under the IFST’s reporting requirements.<sup>192</sup>

Accurate information makes enforcement possible. Even if the IFST does not solve the hunger problem right away, it can exact pressure against the indifference to hunger and thus obviate enforcement by preventing a hunger crisis from arising in the first place. The shame of not taking appropriate action regarding a country’s obligations toward reducing the levels of preventable hunger may give incentive to parties to fulfill their obligations. A country that ratifies the treaty will never again be able to passively let hunger exist in the world because it would have agreed to do everything in its power to fight it.

### **3. Establishing Accountability of Transnational Corporations and International Financial Institutions**

A treaty will also increase the accountability of Trans-National Corporations (TNCs) and International Financial Institutions (IFIs) working worldwide. While such IFIs and TNCs

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<sup>189</sup> Olivier De Schutter, *The Right to Food and the Political Economy of Hunger*, Twenty-sixth McDougall Memorial Lecture Opening of the thirty-sixth Session of the FAO Conference, by Special Rapporteur on the right to food, p. 3.

<sup>190</sup> Olivier De Schutter, *The Right to Food and the Political Economy of Hunger*, Twenty-sixth McDougall Memorial Lecture Opening of the thirty-sixth Session of the FAO Conference, by Special Rapporteur on the right to food, p. 3.

<sup>191</sup> Olivier De Schutter, *The Right to Food and the Political Economy of Hunger*, Twenty-sixth McDougall Memorial Lecture Opening of the thirty-sixth Session of the FAO Conference, by Special Rapporteur on the right to food, p. 3.

<sup>192</sup> Laura Niada, *Hunger and International Law: The Far-Reaching Scope of the Human Right to Food*, 22 CONN. J. INT’L L. 131, 197 (2006).

themselves are not obligated by the treaty, the countries where they are either incorporated or do business, being parties to a treaty, will be obligated to respect, protect, and fulfill the right to food. As a consequence, they will need to consider their obligations vis-a-vi IFI's and TNC's within their borders.<sup>193</sup> In the absence of enforceable national and international law for private international institutions to follow, the incentive to make money at the cost of driving up the levels of hunger up may continue to be too great.

#### **4. The Inadequacy of a Purely Economic Approach**

The purely economic approach that has been previously employed to combat hunger will not solve the hunger problem. In the past, financial organizations such as the World Trade Organization (WTO) have been responsible for trying to solve the world's hunger problem because food supplies are classified in the same category as other international imports and exports. This approach, while an attempt to solve the world hunger problem, makes the mistake of applying an economic approach to food. Given past criticism over the WTO's methods, it would "seem improbable that the legal framework constructed by the WTO would offer an adequate basis for defending the human right to food against potential threats."<sup>194</sup>

The trickledown economic approach, where it is assumed money will flow from the rich who receive it all the way down to the poor who need it, has been shown not to work. Often, when developing nations are given money to help solve their hunger issues, those who are most vulnerable to oppressive hunger are least likely to get help.<sup>195</sup> In fact, studies have illustrated

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<sup>193</sup> Laura Niada, *Hunger and International Law: The Far-Reaching Scope of the Human Right to Food*, 22 CONN. J. INT'L L. 131, 164 (2006).

<sup>194</sup> Chris Downes, *Must the Losers of Free Trade Go Hungry? Reconciling WTO Obligations and the Right to Food*, 47 VA. J. INT'L L. 619, 641 (2007).

<sup>195</sup> See Caitlin Firer, *Free Trade Area of the Americas and the Right to Food in International Law*, 1 U. ST. THOMAS L.J. 1054 (2004).

that economically-focused trade liberalizations exacerbate the economic inequalities, hurting the rural poor and taking away protections while increasing the profits of business.<sup>196</sup>

Economic approaches to dealing with hunger, including various WTO policies, are often argued to be the most efficient, but sometimes the most economically efficient policy is often morally unacceptable.<sup>197</sup> This is because the economic approach emphasizes mere averages and not individual rights.<sup>198</sup> An approach that focuses more on individual human rights obligates countries to ensure the fulfillment of basic human rights without discrimination at the individual level.<sup>199</sup> The International Foods Security Treaty emphasizes that food is no ordinary international commodity, but a fundamental human necessity. For that reason, it will emphasize that trade in food should be distinguished from the other trading sectors.<sup>200</sup>

## **5. Hunger Levels will Decrease with a Treaty**

When the International Food Security Treaty comes to fruition, hunger will decrease significantly even if it is not eradicated. The IFST will bring the right of access to food to the forefront of international human rights law by creating an obligation to enforce that right.

## **6. Improving National Security**

The right to food could stand solely on moral grounds, but it also serves to enhance national security. If everyone has enough to eat, then those who have plenty to eat are safer. People can become desperate when they do not have enough to eat while others around them have more than enough. United States Secretary of State Hillary Clinton spoke out about the

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<sup>196</sup> Caitlin Firer, *Free Trade Area of the Americas and the Right to Food in International Law*, 1 U. ST. THOMAS L.J. 1054, 1070 (2004).

<sup>197</sup> Chris Downes, *Must the Losers of Free Trade Go Hungry? Reconciling WTO Obligations and the Right to Food*, 47 VA. J. INT'L L. 619, 642 (2007).

<sup>198</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 702-703 (2006).

<sup>199</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 702-703 (2006).

<sup>200</sup> Ruosi Zhang, *Food Security: Food Trade Regime and Food Aid Regime*, 7 J. INT'L ECON. L. 565, 569 (2004).

issue of national security as it relates to food security during the Clinton Global Initiative Conference in 2009,<sup>201</sup> pointing out how “Massive hunger poses a threat to the stability of governments, societies, and borders.”<sup>202</sup> The IFST will improve national security by improving access to food worldwide and preventing events such as the food riots that have occurred in more than sixty countries since 2007.<sup>203</sup> The nations of the first-world cannot afford to continually be seen as indifferent to the suffering of the developing world around them when the levels of hunger in the first-world nations are so much lower than they are everywhere else.

## 7. The Treaty is the Start

Social problems very rarely solve themselves without a plan of action. As legal scholar Henry J. Steiner put it, “No program springs full blown from the bare declaration of the right.”<sup>204</sup> The IFST provides a plan of action toward a goal that can no longer be seen as an impossible objective. At a certain point, rights discourse gives out and action becomes a necessity.<sup>205</sup>

An effective plan of action counters feelings of complacency and helplessness in the face of world hunger. The law is a force that motivates people to do things that they would not otherwise feel that they could or should do. As countries are getting more and more interdependent, the right to food becomes an issue that cannot be effectively addressed solely with within national boundaries.<sup>206</sup> Only a mechanism like the IFST can ensure food security

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<sup>201</sup> Deepti Hajela, *Clintons Close Out NYC Global Issues Conference*, Omaha World Herald, Sept. 22, 2009. <http://www.omaha.com/article/20090922/AP09/309229787> (last visited Mar. 7, 2010).

<sup>202</sup> Deepti Hajela, *Clintons Close Out NYC Global Issues Conference*, Omaha World Herald, Sept. 22, 2009. <http://www.omaha.com/article/20090922/AP09/309229787> (last visited Mar. 7, 2010).

<sup>203</sup> Deepti Hajela, *Clintons Close Out NYC Global Issues Conference*, Omaha World Herald, Sept. 22, 2009. <http://www.omaha.com/article/20090922/AP09/309229787> (last visited Mar. 7, 2010).

<sup>204</sup> Henry J. Steiner, *Social Rights and Economic Development: Converging Discourses?*, 4 BUFF. HUM. RTS. L. REV. 25, 40-41 (1998).

<sup>205</sup> Henry J. Steiner, *Social Rights and Economic Development: Converging Discourses?*, 4 BUFF. HUM. RTS. L. REV. 25, 40-41 (1998).

<sup>206</sup> Ruosi Zhang, *Food Security: Food Trade Regime and Food Aid Regime*, 7 J. INT'L ECON. L. 565, 566 (2004).

worldwide. Individually, countries might not be completely able to feed their populations, but internationally, hunger does not stand a chance when different nations work together.

Without the uniform, enforceable law that this treaty seeks to create, there will continue to be “gaps in the legal analysis and theoretical holes which fail to adequately address the right to food,” leaving the concept of food security open to criticism which allows it to “be dismissed as impassioned rhetoric.”<sup>207</sup> International treaties work as a sword to fight seemingly insurmountable social problems and as a shield that can protect the most vulnerable members of the global society.

#### **IV. International Agreements That Involve Social Issues**

With the number of people going hungry, ending the problem of hunger via the International Food Security Treaty can seem like a daunting task. However, as this section will demonstrate, it is possible to create international agreements which address social ills and make necessary improvements, even in the face of seemingly difficult odds. Examples of such agreements include the following: the Slavery Convention; the Global Polio Eradication Initiative; the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the International Convention on the Elimination of All Forms of Racial Discrimination; the United Nations Convention on the Rights of the Child; the Convention on the Elimination of All Forms of Discrimination Against Women; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the United Nations Convention on the Rights of Persons with Disabilities.

Despite some of the challenging requirements incorporated in international agreements, these agreements have made lasting impacts on nations, communities, and especially, people in

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<sup>207</sup> Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 COLUM. J. TRANSNAT'L L. 691, 776 (2006).



dire situations. In addition to outlining examples of international agreements that have come to fruition through the dreams and persistence of those committed to social justice, this section will also discuss the progress and changes that have come about from countries' fulfillment of their obligations under these international agreements.

### ***A. Slavery Convention (1927)***

This Convention illustrates how the goal of an international agreement is possible to achieve, regardless of how difficult the provisions may seem.

For more than 350 years, use of slaves was legal and encouraged by Western governments.<sup>208</sup> Slavery was a prominent source for a country's economic growth, which was one of the main reasons for its prevalence.<sup>209</sup> For example, in the first ten years of the 1800's alone, approximately 609,000 African slaves crossed over the Atlantic Ocean to reach the United States.<sup>210</sup> The African governments participated in the slave trade as well by supporting the trafficking of African citizens.<sup>211</sup> Governments on each side of the slave trade benefited.<sup>212</sup>

Eventually, however, countries began to prohibit the importation of slaves into their territory. Subsequent peace treaties that were created included the denouncement of slavery. However, enforcing the termination of this practice was nearly impossible because enforcement mechanisms were not implemented. Due to sovereignty issues, parties could not verify if other parties were in compliance with the peace treaties. In 1922, the League of Nations initiated talks about slavery and created a commission to investigate the problem of slavery. This

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<sup>208</sup> Paul Finkelman, *The American Suppression of the African Slave Trade: Lessons on Legal Change, Social Policy, and Legislation*, 42 AKRON L. REV. 431, 432 (2009).

<sup>209</sup> Paul Finkelman, *The American Suppression of the African Slave Trade: Lessons on Legal Change, Social Policy, and Legislation*, 42 AKRON L. REV. 431, 434 (2009).

<sup>210</sup> Jenny Martinez, *Antislavery Courts and the Dawn of International Human Rights Law*, 117 YALE L.J. 550, 555 (2008).

<sup>211</sup> Paul Finkelman, *The American Suppression of the African Slave Trade: Lessons on Legal Change, Social Policy, and Legislation*, 42 AKRON L. REV. 431, 433 (2009).

<sup>212</sup> Paul Finkelman, *The American Suppression of the African Slave Trade: Lessons on Legal Change, Social Policy, and Legislation*, 42 AKRON L. REV. 431, 433 (2009).

commission found that the slave trade was still being practiced and was prevalent. This finding prompted the League of Nations to create the Slavery Convention. Soliciting countries to ratify the treaty was not difficult. Upon its entry into force on March 9, 1927, fourteen countries had ratified the treaty; by 1931, forty countries had ratified the treaty. Countries that ratified the Convention obligated themselves to implement measures within their own countries to suppress the slave trade in hopes of eventually bringing an end to slavery. It also allowed parties to the Convention to search vessels in specified zones as long as it was believed that there was contraband in the vessel.<sup>213</sup>

A Committee of Experts on Slavery was formed to examine the effects of the Convention. It ultimately found that the Convention gave the necessary push for parties to pass laws prohibiting slavery. For example, because of the Convention, those countries which were under the control of Britain outlawed the status of slavery.<sup>214</sup> Today, all countries prohibit the use of slaves.<sup>215</sup>

### ***B. Global Polio Eradication Initiative (1988)***

Another agreement that arose out of international cooperation and has had a profound effect is the Global Polio Eradication Initiative (GPEI). The GPEI was launched in 1988.<sup>216</sup> Because there is no cure for polio, the goal of the GPEI was to prevent polio from developing in children.<sup>217</sup> The GPEI was created via the collaboration of national governments, the World

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<sup>213</sup> Renee Redman, *Freedom: Beyond the United States: The League of Nations and the Right to Be Free from Enslavement: The First Human Right to Be Recognized as Customary International Law*, 70 CHI.-KENT L. REV. 759 (1994).

<sup>214</sup> Renee Redman, *Freedom: Beyond the United States: The League of Nations and the Right to Be Free from Enslavement: The First Human Right to Be Recognized as Customary International Law*, 70 CHI.-KENT L. REV. 759 (1994).

<sup>215</sup> Paul Finkelman, *The American Suppression of the African Slave Trade: Lessons on Legal Change, Social Policy, and Legislation*, 42 AKRON L. REV. 431 (2009).

<sup>216</sup> World Health Organization, *Poliomyelitis*, (2008), <http://www.who.int/mediacentre/factsheets/fs114/en/index.html> (last visited March 7, 2010).

<sup>217</sup> World Health Organization, *Poliomyelitis*, (2008),

Health Organization, Rotary International, United Nations Children’s Fund (UNICEF), and the U.S. Centers for Disease Control and Prevention.<sup>218</sup> The GPEI includes all the member nations of the World Health Organization.<sup>219</sup>

Since its implementation, over five million people have been immunized and polio cases have decreased by 99%.<sup>220</sup> In 1988, there were approximately 350,000 annual cases of polio. In 2000, 15 years after the GPEI was launched, only 3,500 new cases were found worldwide.<sup>221</sup> Before the GPEI, over 125 countries were inflicted with polio.<sup>222</sup> Today, because of the GPEI, only four countries are considered to be polio-endemic: Afghanistan, India, Nigeria, and Pakistan.<sup>223</sup>

To ensure that the GPEI’s mission remains successful, the Advisory Committee on Polio Eradication provides strategic guidance and research which are used to develop post-eradication polio immunization policy options. Additionally, regions are required to undertake surveillance to prevent polio from returning.<sup>224</sup>

Even in countries considered to be polio-endemic, progress has been made to eliminate polio. In Afghanistan, for example, most of the country is polio free.<sup>225</sup> Afghanistan is also

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<http://www.who.int/mediacentre/factsheets/fs114/en/index.html> (last visited March 7, 2010).

<sup>218</sup> Global Polio Eradication Initiative, *The History*, <http://www.polioeradication.org/history.asp> (last visited March 7, 2010).

<sup>219</sup> Global Polio Eradication Initiative, *The History*, <http://www.polioeradication.org/history.asp> (last visited March 7, 2010).

<sup>220</sup> World Health Organization, *Poliomyelitis*, (2008), <http://www.who.int/mediacentre/factsheets/fs114/en/index.html> (last visited March 7, 2010).

<sup>221</sup> Global Polio Eradication Initiative, *The History*, <http://www.polioeradication.org/history.asp> (last visited March 7, 2010).

<sup>222</sup> World Health Organization, *Global Polio Eradication Initiative Strategic Plan 2004-2008*, p. 6, (2003), <http://www.polioeradication.org/content/publications/2004stratplan.pdf> (last visited March 7, 2010).

<sup>223</sup> World Health Organization, *Poliomyelitis*, (2008), <http://www.who.int/mediacentre/factsheets/fs114/en/index.html> (last visited March 7, 2010).

<sup>224</sup> World Health Organization, *Poliomyelitis*, (2008), <http://www.who.int/mediacentre/factsheets/fs114/en/index.html> (last visited March 7, 2010).

<sup>225</sup> Global Polio Eradication Initiative, *Afghanistan*, p.1, (2009), <http://www.polioeradication.org/content/factsheets/AfghanistanFactSheet2009October.pdf> (last visited March 7, 2010).

implementing measures for vaccination teams to gain easier access to reach those still in need immunization.<sup>226</sup> Similarly, in India, polio has been contained to only two out of thirty-five states.<sup>227</sup> The Indian government has allocated approximately \$657 million to eradicate polio.<sup>228</sup> Likewise, the all the states within Nigeria, toward commitment to the GPEI, have recently signed the “Abuja Commitment” which provides leadership in this mission to eradicate polio.<sup>229</sup> In Pakistan, efforts have been launched to spread the awareness of polio.<sup>230</sup> Additionally, the Pakistani federal government is supportive of the GPEI.<sup>231</sup>

### ***C. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2003)***

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the “Trafficking Protocol”) is another example of an international agreement created to combat a social ill.<sup>232</sup> It was entered into force on December 25, 2003 and currently has 117 parties.<sup>233</sup> By becoming parties to the Protocol, countries are required to adopt legislation regarding criminal punishment for acts such as trafficking,

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<sup>226</sup> Global Polio Eradication Initiative, *Afghanistan*, p.1, (2009), <http://www.polioeradication.org/content/factsheets/AfghanistanFactSheet2009October.pdf> (last visited March 7, 2010).

<sup>227</sup> Global Polio Eradication Initiative, *India*, p.1, (2009), <http://www.polioeradication.org/content/factsheets/IndiaFactSheet2009October.pdf> (last visited March 7, 2010).

<sup>228</sup> Global Polio Eradication Initiative, *India*, p.1, (2009), <http://www.polioeradication.org/content/factsheets/IndiaFactSheet2009October.pdf> (last visited March 7, 2010).

<sup>229</sup> Global Polio Eradication Initiative, *Nigeria*, p.1, (2009), <http://www.polioeradication.org/content/factsheets/NigeriaFactSheet2009September.pdf> (last visited March 7, 2010).

<sup>230</sup> Global Polio Eradication Initiative, *Pakistan*, p.1, (2009), <http://www.polioeradication.org/content/factsheets/PakistanFactSheet2009October2.pdf> (last visited March 7, 2010).

<sup>231</sup> Global Polio Eradication Initiative, *Pakistan*, p.1, (2009), <http://www.polioeradication.org/content/factsheets/PakistanFactSheet2009October2.pdf> (last visited March 7, 2010).

<sup>232</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, *opened for signature* Jan. 8, 2001, A/RES/55/25.

<sup>233</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, *opened for signature* Jan. 8, 2001, A/RES/55/25.

attempting to traffic, or participating as an accomplice in trafficking of another person.<sup>234</sup>

Furthermore, parties are also required to assist victims of trafficking.<sup>235</sup>

The Trafficking Protocol is considered a law enforcement instrument.<sup>236</sup> The United Nations Office on Drugs and Crime (UNODC) assists countries to implement measures to fight trafficking, provides necessary training to law enforcement agencies, assists in sharing of information between countries, and facilitates extradition.<sup>237</sup> The UNODC also collaborates with governments to further develop international cooperation to combat organized crime.<sup>238</sup>

While it is difficult to assess the widespread nature of this practice, the estimated number of trafficking victims is 2.5 million people worldwide.<sup>239</sup> Furthermore, human trafficking is found in almost every country of the world.<sup>240</sup> The enactment of the Trafficking Protocol, however, has resulted in changes worldwide. Because of the Trafficking Protocol, over 60% of those countries who have ratified the Trafficking Protocol have implemented legislation to combat trafficking.<sup>241</sup> There have been official human trafficking prosecutions in ninety-one countries.<sup>242</sup>

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<sup>234</sup> Elizabeth Warner, *Behind the Wedding Veil: Child Marriage as a Form of Trafficking in Girls*, 12 AM. U. J. GENDER SOC. POL'Y & L. 233, 206 (2004).

<sup>235</sup> United Nations Office of Drugs and Crime, *Human Trafficking Facts*, (2010), <http://www.unodc.org/unodc/en/human-trafficking/faqs.html> (last visited March 7, 2010).

<sup>236</sup> Ann D. Jordan, *The Annotated Guide to the Complete UN Trafficking Protocol*, The International Human Rights Law Group, (2002), <http://www.walnet.org/csis/papers/UN-TRAFFICK.PDF> (last visited March 7, 2010).

<sup>237</sup> United Nations Office of Drugs and Crime, *UNODC and Organized Crime*, (2010), <http://www.unodc.org/unodc/en/organized-crime/index.html> (last visited March 7, 2010).

<sup>238</sup> United Nations Office of Drugs and Crime, *UNODC and Organized Crime*, (2010), <http://www.unodc.org/unodc/en/organized-crime/index.html> (last visited March 7, 2010).

<sup>239</sup> United Nations Office of Drugs and Crime, *Human Trafficking Facts*, (2010), <http://www.unodc.org/unodc/en/human-trafficking/faqs.html> (last visited March 7, 2010).

<sup>240</sup> United Nations Office of Drugs and Crime, *Human Trafficking Facts*, (2010), <http://www.unodc.org/unodc/en/human-trafficking/faqs.html> (last visited March 7, 2010).

<sup>241</sup> United Nations Office of Drugs and Crime, *Global Report on Trafficking in Persons*, p. 8, (2009), [http://www.unodc.org/documents/human-trafficking/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf) (last visited March 7, 2010).

<sup>242</sup> United Nations Office of Drugs and Crime, *Global Report on Trafficking in Persons*, p. 8, (2009), [http://www.unodc.org/documents/human-trafficking/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf) (last visited March 7, 2010).

The Trafficking Protocol demonstrates that by using international agreements, achievements toward ending social ills that affect the most vulnerable can be made.

***D. International Covenant on the Elimination of All Forms of Racial Discrimination (1969)***

Despite its overwhelming goals, the International Covenant on the Elimination of All Forms of Racial Discrimination (CERD) demonstrates the ability to create a treaty addressing an ingrained social ill – racial discrimination. The United Nations had recognized that racism was occurring on a governmental level, with policies implemented by the government, such as apartheid and segregation. This prompted the implementation of the CERD.<sup>243</sup>

The CERD currently has 173 parties.<sup>244</sup> It entered into force on January 4, 1969.<sup>245</sup> Parties to the Convention are obligated to enact legislation to eliminate racial discrimination and promote acceptance among all the different races.<sup>246</sup> The Committee on the Elimination of Racial Discrimination ensures that parties who ratify the CERD comply with its obligations. The parties must submit a report which provides information on the parties' compliance with the Convention.<sup>247</sup> Additionally, the Committee also monitors the parties by three other methods: 1) early warning procedure; 2) examination of inter-state complaints; and 3) examination of individual complaints.<sup>248</sup> The early warning procedure works to prevent an existing racial

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<sup>243</sup> Office of United Nations High Commissioner for Human Rights, *Committee on the Elimination of Racial Discrimination*, (2007), <http://www2.ohchr.org/english/bodies/cerd/> (last visited March 7, 2010).

<sup>244</sup> International Covenant on the Elimination of All Forms of Racial Discrimination, *opened for signature* March 7, 1966, 660 U.N.T.S 195.

<sup>245</sup> International Covenant on the Elimination of All Forms of Racial Discrimination, *opened for signature* March 7, 1966, 660 U.N.T.S 195.

<sup>246</sup> International Covenant on the Elimination of All Forms of Racial Discrimination, *opened for signature* March 7, 1966, 660 U.N.T.S 195.

<sup>247</sup> Office of United Nations High Commissioner for Human Rights, *Committee on the Elimination of Racial Discrimination*, (2007), <http://www2.ohchr.org/english/bodies/cerd/> (last visited March 7, 2010).

<sup>248</sup> Office of United Nations High Commissioner for Human Rights, *Committee on the Elimination of Racial Discrimination*, (2007), <http://www2.ohchr.org/english/bodies/cerd/> (last visited March 7, 2010).

conflict from escalating and requires the party to use mechanisms to diffuse the situation.<sup>249</sup> The second method, the examination of inter-state complaint, occurs when one nation makes a complaint that another nation is not abiding by its treaty obligations.<sup>250</sup> Lastly, the examination of individual complaints occurs when a complaint is brought by an individual who claims that his or her rights under the obligation have been violated.<sup>251</sup>

The achievements of this treaty can be seen by the countries' reports. A number of countries have made amendments to their constitutions which now provide for prohibiting discrimination and protecting human rights.<sup>252</sup> For example, in Columbia, human rights provisions have been added to the Constitution which recognize ethnic and cultural diversity.<sup>253</sup> Countries such as Peru and Poland have enacted laws which prohibit discrimination in businesses and employment.<sup>254</sup> In Ethiopia, the Constitution expressly states that all people,

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<sup>249</sup> Office of United Nations High Commissioner for Human Rights, *Committee on the Elimination of Racial Discrimination – Early Warning Measures and Urgent Procedures*, (2007), <http://www2.ohchr.org/english/bodies/cerd/early-warning.htm#about> (last visited March 7, 2010).

<sup>250</sup> Office of United Nations High Commissioner for Human Rights, *Human Rights Body – Complaint Procedures*, (2007), <http://www2.ohchr.org/english/bodies/petitions/index.htm#interstate> (last visited March 7, 2010).

<sup>251</sup> Office of United Nations High Commissioner for Human Rights, *Human Rights Body – Complaint Procedures*, (2007), <http://www2.ohchr.org/english/bodies/petitions/index.htm#interstate> (last visited March 7, 2010).

<sup>252</sup> United Nations Office at Geneva, *Committee on Elimination of Racial Discrimination Concludes Seventy-Fifth Session*, (2009), [http://www.unog.ch/unog/website/news\\_media.nsf/%28httpNewsByYear\\_en%29/3AE373C232B07877C12576200052B88D?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/3AE373C232B07877C12576200052B88D?OpenDocument) (last visited March 7, 2010).

<sup>253</sup> United Nations Office at Geneva, *Committee on Elimination of Racial Discrimination Concludes Seventy-Fifth Session*, (2009), [http://www.unog.ch/unog/website/news\\_media.nsf/%28httpNewsByYear\\_en%29/3AE373C232B07877C12576200052B88D?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/3AE373C232B07877C12576200052B88D?OpenDocument) (last visited March 7, 2010).

<sup>254</sup> United Nations Office at Geneva, *Committee on Elimination of Racial Discrimination Concludes Seventy-Fifth Session*, (2009), [http://www.unog.ch/unog/website/news\\_media.nsf/%28httpNewsByYear\\_en%29/3AE373C232B07877C12576200052B88D?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/3AE373C232B07877C12576200052B88D?OpenDocument) (last visited March 7, 2010).

regardless of the nationality, have the right to speak their own language.<sup>255</sup> Many countries, such as China and the Philippines, have adopted measures to aid indigenous people.<sup>256</sup>

#### ***E. United Nations Convention on the Rights of the Child (1989)***

Another international agreement that came to fruition despite an initial lack of government interest is the United Nations Convention on the Rights of the Child (CRC). The CRC, entered into force on November 20, 1989 and has been ratified by 190 countries.<sup>257</sup> By ratifying the treaty, countries are committed to protect and ensure children's rights.<sup>258</sup> The four core principles of the CRC encapsulate the main goals of this Convention, which are: 1) non-discrimination regardless of the child's immutable characteristics; 2) devotion to the best interests of the child; 3) children's right to life, survival, and development; and 4) respect for the views of the child.<sup>259</sup>

During the initial stages of creating this Convention, governmental interest was minimal. Yet, due to the perseverance of those who were committed to the rights of the child, a treaty was in fact born. Non-Governmental Organizations (NGOs) played a significant role in the drafting of the Convention. The NGOs coordinated dialogue between themselves and governmental delegations and enabled the governmental delegations to bring additional articles to the Working

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<sup>255</sup> United Nations Office at Geneva, *Committee on Elimination of Racial Discrimination Concludes Seventy-Fifth Session*, (2009), [http://www.unog.ch/unog/website/news\\_media.nsf/%28httpNewsByYear\\_en%29/3AE373C232B07877C12576200052B88D?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/3AE373C232B07877C12576200052B88D?OpenDocument) (last visited March 7, 2010).

<sup>256</sup> United Nations Office at Geneva, *Committee on Elimination of Racial Discrimination Concludes Seventy-Fifth Session*, (2009), [http://www.unog.ch/unog/website/news\\_media.nsf/%28httpNewsByYear\\_en%29/3AE373C232B07877C12576200052B88D?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/3AE373C232B07877C12576200052B88D?OpenDocument) (last visited March 7, 2010).

<sup>257</sup> UNICEF, *Convention on the Rights of the Child – Path to the Convention to the Rights of the Child* [http://www.unicef.org/crc/index\\_30197.html](http://www.unicef.org/crc/index_30197.html) (last visited March 7, 2010).

<sup>258</sup> UNICEF, *Convention on the Rights of the Child - Protecting and Realizing Children's Rights*, [http://www.unicef.org/crc/index\\_protecting.html](http://www.unicef.org/crc/index_protecting.html) (last visited March 7, 2010).

<sup>259</sup> UNICEF, *State of the World's Children*, p. 6, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).



Group. Eventually, through this process, governments became more devoted to this Convention.<sup>260</sup>

Compliance with the CRC is monitored by the UN Committee on the Rights of the Child. The Committee, comprising of eighteen members, meets three times a year.<sup>261</sup> Countries that have ratified the Convention are required to submit regular reports detailing the status of the country's children's rights.<sup>262</sup> The Committee reviews the report and offers recommendations to the country so as to increase the protection of the country's children.<sup>263</sup> Additionally, the committee appoints two rapporteurs whose duties include examining the countries' reports and engaging in a dialogue with the parties.<sup>264</sup>

According to the United Nations Children's Fund (UNICEF), the progress of countries pertaining to children's rights and protection can be partially attributed to the Convention and the dedication of parties to the CRC.<sup>265</sup> For example, by 2008, the annual number of global deaths of children under the age of five had dropped to less than nine million (from 12.5 million in 1990).<sup>266</sup> This decrease can be attributed to a fair degree to work accomplished by governments and international health community, which have strived to enable children to get immunized and

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<sup>260</sup> Cynthia Cohen, *The Developing Jurisprudence of the Rights of the Child*, 6 ST. THOMAS L. REV. 1 (1993).

<sup>261</sup> UNICEF, *State of the World's Children*, pp. 6, 8, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>262</sup> UNICEF, *Convention on the Rights of the Child – Frequently Asked Questions*, [http://www.unicef.org/crc/index\\_30229.html](http://www.unicef.org/crc/index_30229.html) (last visited March 7, 2010).

<sup>263</sup> UNICEF, *State of the World's Children*, p. 8, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>264</sup> UNICEF, *State of the World's Children*, p. 8, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>265</sup> UNICEF, *State of the World's Children*, p. 16, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>266</sup> UNICEF, *State of the World's Children*, p. 16, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

to fulfill their obligations to the CRC.<sup>267</sup> Because of their immunization programs, diseases such as tetanus, hepatitis and diphtheria have been less prevalent.<sup>268</sup> Specifically, because of immunization, measles death rates have dropped by 74% since 2000.<sup>269</sup>

A child's ability to obtain education has also improved. Around 84% of age appropriate children are enrolled in primary school.<sup>270</sup> From 2002 to 2007, the number of children who were out of school decreased by 14 million.<sup>271</sup> Generally, the gender gaps between boys and girls going to school have virtually disappeared.<sup>272</sup>

The CRC also encourages countries to ensure that children's human rights are considered when developing legislation, to establish an ombudsperson for children, and to focus on the importance of child development.<sup>273</sup>

Results of the CRC can be found by analyzing changes that have occurred in specific countries. For example, in Hungary, before its ratification of the CRC, the opinion of children in divorce proceedings were considered only if the child was over twelve years old and in the custody of a legal guardian. After its ratification of the CRC, Hungary changed its law to allow children who were deemed capable of making decisions about their lives, to express their living

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<sup>267</sup> UNICEF, *State of the World's Children*, p. 15, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>268</sup> UNICEF, *State of the World's Children*, p.15, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>269</sup> UNICEF, *State of the World's Children*, p. 15, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>270</sup> UNICEF, *State of the World's Children*, p. 15, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>271</sup> UNICEF, *State of the World's Children*, p. 15, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>272</sup> UNICEF, *State of the World's Children*, p. 15, (2009), [http://www.unicef.org/publications/files/SOWC\\_Spec\\_Ed\\_CRC\\_Main\\_Report\\_EN\\_090409.pdf](http://www.unicef.org/publications/files/SOWC_Spec_Ed_CRC_Main_Report_EN_090409.pdf) (last visited March 7, 2010).

<sup>273</sup> UNICEF, *Convention on the Rights of the Child – Frequently Asked Questions*, [http://www.unicef.org/crc/index\\_30229.html](http://www.unicef.org/crc/index_30229.html) (last visited March 7, 2010).

preference and their opinions. Children in divorce proceedings are now given in the ability to be heard. Similarly, under Hungary's Child Protection Act, which followed the Convention of Rights of the Child, steps are in place to ensure that children live with their natural families, regardless of a family's financial problems. Instead of removing the child from destitute homes, the government provides financial assistance to these homes to allow the children to remain with their biological families.<sup>274</sup>

#### ***F. The Convention on the Elimination of All Forms of Discrimination Against Women (1981)***

Similarly, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) also demonstrates that establishing a treaty for the purpose of dealing with seemingly insurmountable social issues is possible. A total of 186 parties have ratified the CEDAW, which entered into force on September 3, 1981.<sup>275</sup> It obligates parties to undertake measures to ensure that all acts of discrimination against women are eliminated.<sup>276</sup>

To ensure compliance, the Committee on the Elimination of Discrimination against Women consists of twenty-three women's rights experts who monitor the compliance of parties by requesting reports detailing how CEDAW's rights are being implemented.<sup>277</sup> Pursuant to the Optional Protocol to the Convention, the Committee can initiate inquiries regarding violations of women's rights, as well as consider complaints of violations from individuals or groups.<sup>278</sup>

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<sup>274</sup> Emilia Weiss, *Changes in the Modern Era Lead to the Evolution of Hungarian Family Law and Children's Rights*, 31 CAL. W. INT'L L.J. 75 (2000).

<sup>275</sup> Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Dec. 18, 1979, 1249 U.N.T.S.14.

<sup>276</sup> Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Dec. 18, 1979, 1249 U.N.T.S.14.

<sup>277</sup> Office of the United Nations High Commission for Human Rights, *Committee on the Elimination of Discrimination against Women*, (2010), <http://www2.ohchr.org/english/bodies/cedaw/index.htm> (last visited March 7, 2010).

<sup>278</sup> Office of the United Nations High Commission for Human Rights, *Committee on the Elimination of Discrimination against Women*, (2010), <http://www2.ohchr.org/english/bodies/cedaw/index.htm> (last visited March 7, 2010).

Because of the Convention, countries have established measures to curb discrimination towards women, combat violence against women, and promote more equality between men and women. For example, Saudi Arabia has established methods to protect women from violence<sup>279</sup> and has established a committee to specialize in women's affairs.<sup>280</sup> Similarly, France implemented the Charter on Equality between Women and Men, resulting in ministries advancing gender equality.<sup>281</sup> France has also established the High Authority to Combat Discrimination and Promote Equality, whose duty it is to investigate complaints of discrimination against women.<sup>282</sup> Another example is that women in Lebanon are given a more active role in deciding how to develop and rehabilitate villages that have been destroyed by conflicts.<sup>283</sup> There are numerous other examples of how the CEDAW is making a real difference in women's lives and in the lives of communities all across the globe.

#### ***G. United Nations Convention on the Rights of Persons with Disabilities (2006)***

While this treaty is relatively young, the UN Convention on the Rights of Persons with Disabilities also demonstrates that establishing treaties addressing ingrained social problems is possible and social changes can be made from them.

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<sup>279</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Committee of the Elimination of Discrimination Against Women, *Concluding Comments of the Committee of the Elimination of Discrimination Against Women, Saudi Arabia*, ¶¶ 2, 3, U.N. Doc. CEDAW/C/SAU/CO/2 (2008).

<sup>280</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Committee of the Elimination of Discrimination Against Women, *Concluding Comments of the Committee of the Elimination of Discrimination Against Women, Saudi Arabia*, ¶ 6, U.N. Doc. CEDAW/C/SAU/CO/2 (2008).

<sup>281</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Committee of the Elimination of Discrimination Against Women, *Concluding Comments of the Committee of the Elimination of Discrimination Against Women, France*, ¶ 6, U.N. Doc. CEDAW/C/FRA/CO/6 (2008).

<sup>282</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Committee of the Elimination of Discrimination Against Women, *Concluding Comments of the Committee of the Elimination of Discrimination Against Women, France*, ¶ 5, U.N. Doc. CEDAW/C/FRA/CO/6 (2008).

<sup>283</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Committee of the Elimination of Discrimination Against Women, *Concluding Comments of the Committee of the Elimination of Discrimination Against Women, Lebanon*, ¶ 7, U.N. Doc. CEDAW/C/LBN/CO/3 (2008).

The U.N. Convention on the Rights of Persons with Disabilities entered into force on December 13, 2006.<sup>284</sup> There are currently 79 parties to the Convention.<sup>285</sup> The purpose of this convention is to promote, protect, and ensure that the human rights are being enjoyed by persons with disabilities.<sup>286</sup> It also serves to change society's mindset and attitudes regarding people with disabilities.<sup>287</sup> This Convention has eight principles: 1) respect for persons, which include one's inherent dignity, individual autonomy, and independence; 2) non-discrimination; 3) full and effective participation and inclusion as members of society; 4) respect for difference and acceptance of persons with disabilities; 5) equality of opportunity; 6) accessibility; 7) equality between men and women; and 8) respect for the changing capacities of children with disabilities and respect for the right of these children to preserve their identities.<sup>288</sup>

Those with disabilities are often not afforded the basic human rights that other people are afforded. They are viewed as members of society who require government assistance rather than simply members of society. Disabled people often have poor nutrition, have difficulties obtaining clean drinking water, and work in unsafe conditions. Around 98% of disabled children who live in developing countries do not attend school.<sup>289</sup>

The Convention requires that parties take a more active role in monitoring their own compliance.<sup>290</sup> Each party must establish a committee within their respective government to

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<sup>284</sup> United Nations Convention on the Rights of Persons with Disabilities, *opened for signature* Dec. 13, 2006, G.A. Res. 61/106, U.N. Doc. A/RES/61/106.

<sup>285</sup> United Nations Enable, (2009), <http://www.un.org/disabilities/> (last visited March 7, 2010).

<sup>286</sup> United Nations – Enable, *Convention on the Rights of Persons with Disabilities*, (2009), <http://www.un.org/disabilities/default.asp?id=150> (last visited March 7, 2010).

<sup>287</sup> United Nations – Enable, *Convention on the Rights of Persons with Disabilities*, (2009), <http://www.un.org/disabilities/default.asp?id=150> (last visited March 7, 2010).

<sup>288</sup> United Nations – Enable, *Guiding Principles of the Convention*, (2009), <http://www.un.org/disabilities/default.asp?navid=15&pid=156> (last visited March 7, 2010).

<sup>289</sup> United Nations – Enable, *Overview*, (2009), <http://www.un.org/disabilities/default.asp?id=215> (last visited March 7, 2010).

<sup>290</sup> United Nations – Enable, *Monitoring the Implementation of the Convention*, (2009), <http://www.un.org/disabilities/default.asp?navid=17&pid=157> (last visited March 7, 2010).

monitor compliance as well as create an independent monitoring mechanism system.<sup>291</sup> The Committee on the Rights of Persons with Disabilities also monitors the parties' progress.<sup>292</sup> This committee consists of eighteen experts who review each party's reports.<sup>293</sup> The reports explain what measures the party has undertaken which will allow the Committee to determine if the party has made progress in its obligation to the Convention.<sup>294</sup>

As of 2010, this Convention is only a few years old and there are not yet any progress reports available. However, this Convention ensures that people with disabilities are able to enjoy their human rights, despite having disabilities. Ultimately, this convention may serve as the key to enable disabled members of society to enjoy the same human rights as those without disabilities.

#### ***H. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)***

Similar to the above mentioned agreements, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was created to deal with the social issues plaguing a vulnerable and sometimes invisible segment of society. Currently, there are approximately 185 to 192 million international migrants. The United Nations recognized that migrant workers were being dehumanized, many to the point of being deprived of basic human rights, resulting in the creation of this Convention.<sup>295</sup>

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<sup>291</sup> United Nations – Enable, *Monitoring the Implementation of the Convention*, (2009), <http://www.un.org/disabilities/default.asp?navid=17&pid=157> (last visited March 7, 2010).

<sup>292</sup> United Nations – Enable, *Monitoring the Implementation of the Convention*, (2009), <http://www.un.org/disabilities/default.asp?navid=17&pid=157> (last visited March 7, 2010).

<sup>293</sup> United Nations – Enable, *Monitoring the Implementation of the Convention*, (2009), <http://www.un.org/disabilities/default.asp?navid=17&pid=157> (last visited March 7, 2010).

<sup>294</sup> United Nations – Enable, *Monitoring the Implementation of the Convention*, (2009), <http://www.un.org/disabilities/default.asp?navid=17&pid=157> (last visited March 7, 2010).

<sup>295</sup> Jeanette Bloom, United Nations Convention on Migrants' Rights, *Information Kit*, pp. 5-8, (2005) [http://portal.unesco.org/shs/en/files/3454/11401039211English\\_Kit.pdf/English%2BKit.pdf](http://portal.unesco.org/shs/en/files/3454/11401039211English_Kit.pdf/English%2BKit.pdf) (last visited March 7, 2010).

This Convention entered into force on December 18, 1990 and currently has 42 parties.<sup>296</sup> The Convention's goals are to protect migrant workers' rights and to prevent exploitation.<sup>297</sup> Essentially, the Convention calls upon parties to create a minimum standard of rights which should be enjoyed by all migrant workers and their family members, regardless of their status.<sup>298</sup>

Because the Convention required 20 countries to ratify this Convention before it could enter into force, the Convention did not come into force until thirteen years after it was drafted and presented. Currently, all of the ratifying nations are countries from which migrants come. However, since 2005, the European Parliament has encouraged its member nations to ratify the treaty.<sup>299</sup>

The Committee on Migrant Workers is responsible to ensure that parties comply with their obligations.<sup>300</sup> The Committee is comprised of members from countries from which migrants come and countries to which migrants seek to settle.<sup>301</sup> Similar to other conventions, parties are required to submit a report with information on actions taken in compliance with the

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<sup>296</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, *opened for signature* Dec. 18, 1990, Doc. A/RES/45/158.

<sup>297</sup> Office of the United Nations High Commissioner for Human Rights, *The International Convention on Migrant Workers and its Committee*, p. 8, (2005), <http://www.ohchr.org/Documents/Publications/FactSheet24rev.1en.pdf> (last visited March 7, 2010).

<sup>298</sup> Office of the United Nations High Commissioner for Human Rights, *The International Convention on Migrant Workers and its Committee*, p. 8, (2005), <http://www.ohchr.org/Documents/Publications/FactSheet24rev.1en.pdf> (last visited March 7, 2010).

<sup>299</sup> Jeanette Bloom, United Nations Convention on Migrants' Rights, *Information Kit*, p. 14, (2005) [http://portal.unesco.org/shs/en/files/3454/11401039211English\\_Kit.pdf/English%2BKit.pdf](http://portal.unesco.org/shs/en/files/3454/11401039211English_Kit.pdf/English%2BKit.pdf) (last visited March 7, 2010).

<sup>300</sup> Office of the United Nations High Commissioner for Human Rights, *Committee on Migrant Workers*, (2007), <http://www2.ohchr.org/english/bodies/cmw/> (last visited March 7, 2010).

<sup>301</sup> Office of the United Nations High Commissioner for Human Rights, *The International Convention on Migrant Workers and its Committee*, p. 10-11, (2005), <http://www.ohchr.org/Documents/Publications/FactSheet24rev.1en.pdf> (last visited March 7, 2010).

Convention, as well as migration flows and problems endured.<sup>302</sup> The Committee also considers violations brought by individuals.<sup>303</sup>

Parties to the Convention, such as Bolivia and Syria, view the issue of migration as a priority and have subsequently adopted measures to promote and protect migrant workers and their families.<sup>304</sup>

This treaty demonstrates that, despite challenging propositions included within it, creating a treaty that addresses social issues of a vulnerable and sometimes invisible population is possible

## **V. Conclusion**

History has shown that creating international agreements and accomplishing the goals established in them are possible. Despite having some international documents and some national constitutions that address the right to food, the number of people in the world who are living in hunger continues to increase. For this trend to continue is unacceptable. The International Food Security Treaty will realize the right to be free from hunger. It will both compel and assist signing countries to fulfill their obligations to promote food security. History has shown that both creating an international agreement and accomplishing the goals established in an international agreement are possible. The International Food Security Treaty can and will make a difference. Simply put, the International Food Security Treaty is the key to ending hunger worldwide.

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<sup>302</sup> Office of the United Nations High Commissioner for Human Rights, *The International Convention on Migrant Workers and its Committee*, p. 10-11, (2005),

<http://www.ohchr.org/Documents/Publications/FactSheet24rev.1en.pdf> (last visited March 7, 2010).

<sup>303</sup> Office of the United Nations High Commissioner for Human Rights, *Committee on Migrant Workers*, (2007), <http://www2.ohchr.org/english/bodies/cmw/> (last visited March 7, 2010).

<sup>304</sup> United Nations Office at Geneva, *Committee on Protection of Rights Of Migrant Workers Concludes Eighth Session*, (2008),

[http://www.unog.ch/unog/website/news\\_media.nsf/%28httpNewsByYear\\_en%29/200931362817A52BC12574350032B331?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/%28httpNewsByYear_en%29/200931362817A52BC12574350032B331?OpenDocument) (last visited March 7, 2010).



