

(Ed. Note: The following article, prepared by student members of the International Human Rights Clinic at Willamette University College of Law in Salem, Oregon, USA, summarizes measures to address the human right of freedom from hunger through legal instruments applicable to individual nations as well as agreements between nations.)

International and National Law and the Right to Adequate Food

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There are numerous international declarations, covenants, resolutions and national constitutions that advocate for, discuss, or otherwise mention the right to adequate food.² 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.³

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

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

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² Yet, as of 2010, no global treaty solely dedicated to the right to food has ever been negotiated.

³ World Food Conference, Nov. 16, 1974, *Universal Declaration on the Eradication of Hunger and Malnutrition* <http://www2.ohchr.org/english/law/malnutrition.htm>.

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.⁴

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.⁵

b. Declaration of the World Food Summit (2002)

Some five years later, the 2002 Declaration of the World Food Summit reaffirmed the 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 2015.⁶

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.⁷

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

⁴ International Conference on Nutrition, Dec. 1992, *World Declaration and Plan of Action for Nutrition*. <http://whqlibdoc.who.int/HQ/1992/a34303.pdf>.

⁵ 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>.

⁶ World Food Summit, 2002, *Declaration of the World Food Summit: Five Years Later*. <http://www.fao.org/DOCREP/MEETING/005/Y7106E/Y7106E09.htm#TopOfPage>.

⁷ G.A. Res. 51/71, U.N. Doc. A/52/150 (July 18, 1997). <http://www.un.org/ga/52/agenda/provisi.htm>.

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.⁸

6. UN Millennium Development Goals (2000)

In 2000, the United Nations established the UN Millennium Development Goals to 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.⁹

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).¹⁰

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 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).¹¹ In these documents individuals are the right holders rather than the

⁸ Food Aid Convention of 1999, <http://www.fao.org/Legal/rtf/fac99-e.htm>.

⁹ Millennium Development Goals, 1990, *End Poverty Millennium Development goals 2015*.
<http://www.un.org/millenniumgoals/poverty.shtml>.

¹⁰ 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>.

¹¹ <http://www2.ohchr.org/english/law/>.

countries who are parties; however, the countries bear the obligations that come with being parties to these agreements.¹²

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.¹³ 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.¹⁴

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

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.¹⁵ 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:

¹² FAO, Guide on legislating for the right to food 9 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

¹³ 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).

¹⁴ Universal Declaration of Human Rights art. 25, Dec. 10, 1948, <http://www.un.org/en/documents/udhr/index.shtml#a25>.

¹⁵ 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&mtdsg_no=IV-3&chapter=4&lang=en.

- (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.¹⁶

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.¹⁷

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.¹⁸ Although the 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.¹⁹ 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.²⁰

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.²¹ Additionally, the CESCR has said that States should work to educate the public and private sectors about the right to hunger.²²

¹⁶ 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>.

¹⁷ 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).

¹⁸ FAO, Guide on legislating for the right to food 19-20 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

¹⁹ FAO, Guide on legislating for the right to food 20 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

²⁰ FAO, Guide on legislating for the right to food 20 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

²¹ Smita Narula, *The Right to Food: Holding Global Actors Accountable under International Law*, 44 Colum. J. Transnat’l L. 691, 707-708 (2006).

²² FAO, Guide on legislating for the right to food 25-26 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

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.²³ Although this covenant does not mention the right to food specifically, Article 8 declares, "Every human being has the inherent right to life."²⁴ 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 means of subsistence."²⁵

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.²⁶ 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.²⁷

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 more vulnerable to other human rights abuses, so too they are typically more vulnerable to malnutrition and abuses of the right to food.²⁸ These documents include:

²³ 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&mtdsg_no=IV-4&chapter=4&lang=en.

²⁴ 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>.

²⁵ 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>.

²⁶ 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>.

²⁷ 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>.

²⁸ FAO, Guide on legislating for the right to food 21 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

- United Nations Charter²⁹
- Beijing Declaration and Platform for Action, Fourth World Conference on Women (1995)³⁰
- Declaration on the Right to Development³¹
- The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action³²
- Vienna Declaration and Programme of Action³³
- The Geneva Convention III Relative to the Treatment of Prisoners of War³⁴
- Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War³⁵
- The Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) ³⁶
- The Convention on the Rights of the Child³⁷
- World Declaration on the Survival, Protection, and Development of Children (1990)³⁸
- Convention on the Elimination of All Forms of Discrimination against Women³⁹
- Convention on the Rights of Persons with Disabilities⁴⁰
- Standard Minimum Rules for the Treatment of Prisoners⁴¹
- The United National Principles for Older Persons adopted by the General Assembly⁴² Resolution 46/91 of 16 December 1991⁴³
- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the “Protocol of San Salvador”) (1988)⁴⁴
- Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa⁴⁵
- African Charter on the Rights and Welfare of the Child⁴⁶

²⁹ <http://www.un.org/en/documents/charter/>.

³⁰ <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>.

³¹ <http://www2.ohchr.org/english/law/pdf/rtd.pdf>.

³² <http://www.un-documents.net/ha-2.htm>.

³³ <http://www2.ohchr.org/english/law/pdf/vienna.pdf>.

³⁴ <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e63bb/6fef854a3517b75ac125641e004a9e68>.

³⁵ <http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>.

³⁶ <http://www.cier.org/ihl.nsf/FULL/475?OpenDocument>.

³⁷ <http://www2.ohchr.org/english/law/crc.htm/>.

³⁸ <http://www.un-documents.net/wsc-dec.htm>.

³⁹ <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

⁴⁰ <http://www2.ohchr.org/english/law/disabilities-op.htm>.

⁴¹ <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

⁴² http://www.un.org/esa/socdev/ageing/un_principles.html.

⁴³ <http://www2.ohchr.org/english/issues/food/standards.htm>.

⁴⁴ <http://www.oas.org/juridico/English/treaties/a-52.html>.

⁴⁵ http://www.achpr.org/english/_info/court_en.html.

⁴⁶ http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf.

- Declaration on Social Progress and Development⁴⁷
- Declaration on the Right to Development⁴⁸
- Declaration on the Protection of Women and Children in Emergency and Armed Conflict Proclaimed by General Assembly Resolution 3318 (XXIX) of December 1974⁴⁹
- Agreement Establishing the International Fund for Agricultural Development (1976)⁵⁰

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.⁵¹ 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 interpretation of other human rights.⁵²

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:⁵³

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...⁵⁴

⁴⁷ <http://www.un-documents.net/a24r2542.htm>.

⁴⁸ <http://www2.ohchr.org/english/law/pdf/rtd.pdf>.

⁴⁹ <http://www2.ohchr.org/english/law/protectionwomen.htm>.

⁵⁰ <http://www.ifad.org/pub/basic/agree/e/!01agree.pdf>.

⁵¹ FAO, Guide on legislating for the right to food 33 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

⁵² FAO, Guide on legislating for the right to food 34 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

⁵³ FAO, *Right To Food Map*, http://www.fao.org/righttofood/kc/maps/Map1_en.htm (last visited Feb. 15, 2010).

⁵⁴ 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).

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.⁵⁵

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 oppression.⁵⁶

Colombia

Article 44 Colombia's constitution states:

The following are basic rights for children... a balanced diet...⁵⁷

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.⁵⁸

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.⁵⁹

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.⁶⁰

⁵⁵ FAO, Guide on legislating for the right to food 35 (2009), available at http://www.fao.org/righttofood/publi09/guide_on_legislating.pdf (last accessed Feb. 15, 2010).

⁵⁶ 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).

⁵⁷ 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).

⁵⁸ 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).

⁵⁹ 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).

⁶⁰ 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).

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, housing, food and social security.⁶¹

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.⁶²

Haiti

Article 22 Haiti's Constitution states:

The State recognizes the right of every citizen to decent housing, education, food and social security.⁶³

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.⁶⁴

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 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.⁶⁵

⁶¹ 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).

⁶² 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).

⁶³ 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).

⁶⁴ 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).

⁶⁵ 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).

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.⁶⁶

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.⁶⁷

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...⁶⁸

Pakistan

Article 38 Pakistan's Constitution states:

The State shall provide basic necessities of life, such as food, clothing, housing, education and medical relief.⁶⁹

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...⁷⁰

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.

⁶⁶ 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).

⁶⁷ 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).

⁶⁸ 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).

⁶⁹ 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).

⁷⁰ 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 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...⁷¹

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...⁷²

Uganda

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.⁷³

Ukraine

Article 48 Ukraine's Constitution states:

Everyone has the right to a standard of living sufficient for himself or herself, and his or her family that includes adequate nutrition, clothing and housing.⁷⁴

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.

⁷¹ 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).

⁷² 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).

⁷³ 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).

⁷⁴ 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).

APPENDIX A

- **United Nations Charter**⁷⁵
 - **Article 55:**
 - With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations 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)**⁷⁶
 - **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 programmed 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.

⁷⁵ <http://www.un.org/en/documents/charter/>.

⁷⁶ <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**⁷⁷
 - **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**⁷⁸
 - **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**⁷⁹
 - **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, 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.

⁷⁷ <http://www2.ohchr.org/english/law/pdf/rtd.pdf>.

⁷⁸ <http://www.un-documents.net/ha-2.htm>.

⁷⁹ <http://www2.ohchr.org/english/law/pdf/vienna.pdf>.

- **The Geneva Convention III Relative to the Treatment of Prisoners of War⁸⁰**

- **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 War⁸¹**

- **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 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.

⁸⁰ <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e63bb/6fef854a3517b75ac125641e004a9e68>.

⁸¹ <http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>.

- **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)**⁸²
 - **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;

- **The Convention on the Rights of the Child**⁸³
 - **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;

⁸² <http://www.cicr.org/ihl.nsf/FULL/475?OpenDocument>.

⁸³ <http://www2.ohchr.org/english/law/crc.htm/>.

- **World Declaration on the Survival, Protection, and Development of Children (1990)**⁸⁴

- **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**⁸⁵

- **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**⁸⁶

- **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**⁸⁷

- **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.

⁸⁴ <http://www.un-documents.net/wsc-dec.htm>.

⁸⁵ <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

⁸⁶ <http://www2.ohchr.org/english/law/disabilities-op.htm>.

⁸⁷ <http://www.unhcr.org/refworld/docid/3ae6b36e8.html>.

- **The United National Principles for Older Persons adopted by the General Assembly⁸⁸ Resolution 46/91 of 16 December 1991⁸⁹**
 - **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)⁹⁰**
 - **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 Africa⁹¹**
 - **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 Child⁹²**
 - **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...

⁸⁸ http://www.un.org/esa/socdev/ageing/un_principles.html.

⁸⁹ <http://www2.ohchr.org/english/issues/food/standards.htm>.

⁹⁰ <http://www.oas.org/juridico/English/treaties/a-52.html>.

⁹¹ http://www.achpr.org/english/_info/court_en.html.

⁹² http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf.

- **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**⁹³
 - **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**⁹⁴
 - **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 December 1974**⁹⁵
 - **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.

⁹³ <http://www.un-documents.net/a24r2542.htm>.

⁹⁴ <http://www2.ohchr.org/english/law/pdf/rtd.pdf>.

⁹⁵ <http://www2.ohchr.org/english/law/protectionwomen.htm>.

- **Agreement Establishing the International Fund for Agricultural Development (1976)**⁹⁶

- **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.

⁹⁶ <http://www.ifad.org/pub/basic/agree/e/!01agree.pdf>.