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Series
Right to adequate food
as a human right



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Right to adequate food as a human right

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Preface

THE MANDATE

On the basis of a recommendation by the Sub-Commission (resolution 1982/7) approved by the Commission on Human Rights (resolution 1983/16), the Economic and Social Council by its decision 1983/140 of 27 May 1983 authorized the Sub-Commission to entrust Mr. Asbjørn Eide with the preparation of a study on the right to adequate food as a human right. The Economic and Social Council stated that the Special Rapporteur, in elaborating his study, should take into account all relevant work being done within the United Nations system. It was also stated that the Special Rapporteur should give special attention to the normative content of the right to food and its significance in relation to the establishment of a new international economic order.

A preliminary report was presented in 1984 (E/CN.4/Sub.2/1984/22 and Add.1-2). The present and final report supersedes the earlier one and contains the following chapters:

Introduction.

Chapter I. Food and hunger: the issues and the setting.

Chapter II. The nature of economic, social and cultural rights.

Chapter III. Existing recognition of the right to food in international law.

Chapter IV. State obligations.

Chapter V. International obligations.

Chapter VI. Monitoring and supervision.

Chapter VII. Conclusions and recommendations.

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INTRODUCTION

FREEDOM FROM WANT - FROM RHETORIC TO RESPONSIBILITY

1. Efforts to create a global international community started in the early years of the Second World War, at a time when the archaic international system of power was in severe crisis as manifested by the confrontation which was the Second World War. During the darkest of days in modern history, notions of global justice and freedom were emerging; the vision of a new international order gradually took shape. Widely known is the articulation given to this vision by the then President of the United States, Franklin D. Roosevelt, in his "Four Freedoms" speech in 1941. 1/
2. One of the four freedoms he outlined is directly relevant to the present study: The freedom from want. 2/
3. Through the efforts of moral leaders, publicists and politicians in all parts of the world, East, West and South, these principles were gradually refined and became the basis of the Charter of the United Nations, the foundation of the new international legal order.
4. Among the purposes to be achieved through international collaboration was solving problems of an economic, social, cultural or humanitarian character, and promoting respect for human rights and fundamental freedoms for all without distinction. 3/
5. Only a few years later, the list of human rights was clarified through the adoption of the Universal Declaration of Human Rights 4/. It encompassed the concern with freedom from want through the inclusion of economic and social rights in its listing. 5/
6. Forty-two years have passed, at the time of writing, since the adoption of the Charter at San Francisco. While freedom from want has been achieved for most of the inhabitants in the industrialized countries, there are large areas in the South where hunger is still widespread and significant pockets in the North where access to adequate food remains a daily problem.
7. The failure to achieve freedom from want shows how far we are still removed from the establishment of the international order foreseen by the founders of the United Nations. It is an urgent task of the present generation to move from rhetoric to realization; the purpose of the present study is to contribute to an analysis of how the right to food should be construed and implemented in order to advance that goal.

Chapter I

FOOD AND HUNGER: THE ISSUES AND THE SETTING

1. Statistics of food and hunger

8. While there are conflicting statistics, and in many places data are not available, divergencies in assessments of access to food do not obscure the enormity of the problem: hundreds of millions go hungry and malnourished, whatever the precise meanings of these terms.

9. Whatever way one counts or describes the situation, the picture is staggering. One may find it presented as follows:

"More than one billion people are chronically hungry. Every year 13 to 18 million people die as a result of hunger and starvation.

Every 24 hours, 35,000 human beings die as a direct or indirect result of hunger and starvation - 24 every minute, 18 of whom are children under five years of age.

No other disaster compares to the devastation of hunger. More people have died from hunger in the last two years than were killed in World War I and World War II together". 6/

10. The World Bank, in a different but no less serious language estimates that in 1980, 340 million people in developing countries (China excluded) did not have enough income to attain a minimum food energy standard (calories) that would prevent serious health problems and stunted growth in children, while 730 million fell below a standard that would allow an active working life.

11. Other figures and estimates are available; statistical details and estimates on the magnitude and distribution of malnutrition in different parts of the world, as well as information on how figures have been worked out, are found in, inter alia, the Fifth World Food Survey (FAO, 1985) and the annual reports on the State of the World's Children (UNICEF, 1987).

12. However, to determine with precision the exact scope of the global hunger problem is neither possible nor desirable. It is not possible because of both definitional problems and statistical deficiencies, it is not very useful since nobody would be able to make meaningful use of the information thus collected. There are, incidentally, plans for a Report on the World Nutrition, to be compiled by the Administrative Committee on Co-ordination - Sub-Committee on Nutrition in response to a mandate by the Economic and Social Council; this may provide a new contribution by synthesizing information from different sources to show differentials and trends in the nutritional situation, globally and regionally, and by suitable intervals.

13. As to statistics on overall food production and average food availability, FAO collects and compiles large amounts of basic data of differing quality from member countries for different use and users. For example, a 1986 report from the International Food Policy Research Institute in Washington estimates that in 1982 (the last year for which average data

were then available) world output of major food crops reached 1,830 million metric tons (measured in cereal food, non-cereal food having been converted to cereal equivalents, on an energy basis). The average amount produced per capita was calculated from this to be, given the world population in 1982 of 4,605 millions, more than 400 kilogrammes, or well over one kilogramme per person per day the world over. In 1987 the World Commission on Environment and Development, using the same but updated FAO source, estimates the average for 1985 to be "nearly 500 kilogrammes". 7/

14. Whatever the "exact" figure at any of the years cited, if the total amount of food could have been equally distributed to all inhabitants of our planet, there would be more than enough for all. "World supplies of dietary energy are now about 10 per cent more than the nutritional requirements of the population". 8/

15. But since food, for many reasons - some of them quite necessary and unavoidable - is not evenly distributed, the fact that there is, theoretically, a sufficient global food supply does not solve the hunger problem. It indicates however, that the world hunger problem is not one of sheer lack of overall supply. On the contrary, growth in food production has steadily outstripped world population growth. Yet each year there are more people in the world who do not get enough food.

16. The next "level" of statistical interest is the broad division between developed and developing countries. In 1982, the developed (industrialized) countries taken together produced half the total (51 per cent) of the basic food staples, though only a quarter of the world population (26 per cent) live in these regions. The developing countries taken together produced the other half, though having three quarters of the world population. The third world therefore produced only 260 kilogrammes per capita in 1982; the developed countries produced 760 kilogrammes, or three times as much as the third world.

2. The causes of hunger

17. Figures themselves, at whatever level they are aggregated and presented, are of limited use unless coupled to information which has explanatory value. In other words, one needs to know what is actually measured and why figures vary. This is necessary for the world society, nations, communities, and people themselves to give a sufficiently high priority to the issues of food and hunger and to harness the organizational skills necessary to solve the problem of distribution - which in essence means to ensure that the right food is produced at the right place and at the right time to reach consumers at reasonable cost, and that they have the resources to meet this cost. Admittedly the difficulties involved in doing so are staggering in their magnitude and complex in their dimensions.

18. For example, the figures above provide a succinct demonstration of the tremendous difference in food production in the industrialized countries versus the third world. One consequence is a great and increasing import of food by third world countries. These imports however often cause difficulties internally in the countries concerned, in so far as they may negatively affect domestic markets; moreover, due to the debt crisis and scarcity of foreign exchange, as well as low effective demand in these countries, imports will not be sufficient to close the food gap in the third world in the foreseeable future.

19. Great variations also exist in food production within the third world. More interesting than actual production figures are however, for our purpose, the broader perspectives on agricultural development, by regions. The following salient points to this end were suggested by the recent Report of the World Commission on Environment and Development: 9/

Regional Perspectives on Agricultural Development

Africa

- a drop in per capita food output of about 1 per cent a year since the beginning of the 1970s;
- a focus on cash crops and a growing dependence on imported food, fostered by pricing policies and foreign exchange compulsions;
- major gaps in infrastructure for research, extension, input supply, and marketing;
- degradation of the agricultural resource base due to desertification, droughts, and other processes;
- large untapped potential of arable land, irrigation, and fertilizer use.

West Asia and North Africa

- improvements in productivity due to better irrigation, the cultivation of high-yielding varieties, and higher fertilizer use;
- limited arable land and considerable amounts of desert, making food self-sufficiency a challenge;
- a need for controlled irrigation to cope with dry conditions.

South and East Asia

- increased production and productivity, with some countries registering grain surpluses;
- rapid growth in fertilizer use in some countries and extensive development of irrigation;
- government commitments to be self-reliant in food, leading to national research centres, development of high-yielding seeds, and the fostering of location-specific technologies;
- little unused land, and extensive, unabated deforestation;
- growing numbers of rural landless.

Latin America

- declining food imports since 1980, as food production kept pace with population growth over the last decade;

- government support in the form of research centres to develop high-yielding seeds and other technologies;
- inequitable distribution of land;
- deforestation and degradation of the agricultural resource base, fuelled partly by foreign trade and debt crisis;
- a huge land resource and high productivity potential, though most of the potentially arable land is in the remote, lightly populated Amazon Basin, where perhaps only 20 per cent of the land is suitable for sustainable agriculture.

North America and Western Europe

- North America the world's leading source of surplus foodgrain, though the rate of increase in output per hectare and in total productivity slowed in the 1970s;
- subsidies for production that are ecologically and economically expensive;
- depressing effect of surpluses on world markets and consequent impact on developing countries;
- a resource base increasingly degraded through erosion, acidification, and water contamination;
- in North America, some scope for future agricultural expansion in frontier areas that can be intensively farmed only at high cost.

Eastern Europe and the Soviet Union

- food deficits met through imports, with the Soviet Union being the world's largest grain importer;
- increased government investment in agriculture accompanied by eased farm distribution and organization to meet desires for food self-reliance, leading to production increases in meat and root crops;
- pressures on agricultural resources through soil erosion, acidification, salinization, alkalization, and water contamination.

20. Such a bird's eye perspective on regional trends gives useful hints to major problem areas underlying manifestations of hunger and malnutrition in various parts of the world. Several of those alluded to have intimate connections with each other, being interdependent and even mutually reinforcing.

A. Aspects of the "world food order".

21. It is increasingly recognized that the present "world food order" has deep roots in the general unfavourable world economic environment. The Third United Nations Development Decade which began in 1981, "ushered in a

period of recession, the worst since the pre-war depression of the 1930s", to cite a mid-decade review of food and agriculture of FAO. 10/ And it goes on:

"... agriculture was not isolated from these events. In fact, the growing interdependence of agriculture and other economic sectors, particularly through trade, had made the sector much more susceptible to the powerful economic forces."

22. The impact of the economic recession on agriculture, it is pointed out, was transmitted in several ways: rising unemployment, falling real incomes and worsening debt-servicing problems, which reduced the demand for food and agricultural products. The growth in agricultural trade, one of the features of the 1970s, was sharply cut back. Prices of most agricultural products became significantly weaker, and farmers in countries open to trade were subjected to an intense cost-price squeeze.

23. The most visible result of the recession was, according to the FAO document, in export prices of agricultural commodities, which had grown by over 7 per cent a year on average throughout the 1970s, and fell by more than 1 per cent a year during 1980-84. Among the developing regions, the impact was uneven, with Africa being noticeably affected.

24. For this continent, which has been the one most frequently in media focus in recent times after the crisis in some countries became so manifest as to warrant public campaigns in many parts of the world, the early 1980s was a period of great economic depression and hardship: the combination of debt, economic depression and drought led to downward spiralling effects in many ways. 11/

25. Both in Africa and in other continents the economic recession had a detrimental impact on access to food and nutrition on the weaker population groups. Moreover, certain adjustment policies, particularly those which are aimed at addressing balance of payment problems, have often aggravated the situation as an undesirable side-effect. Through reductions in public expenditures on health, education and other basic services, and certain alterations in price structures, complemented by unemployment and falling incomes, stable or even improving trends in malnutrition and child mortality rates are being reversed. 12/

26. It is clear that the question of "distribution" of the global food supply takes on very complex dimensions when viewed against such a background. It must nevertheless be remembered that these adverse situations do not just happen, but reflect, at a deeper level, fundamental conflicts of interest between rich and poor nations as well as between richer and poorer population groups within nations or communities; any analysis that does not take this fact into account remains a weak one.

27. The relation of the "world food order" to the wider issues of the international economic order, should in any case be obvious.

B. Environmental concerns and the food resource base.

28. Looking again at the regional trends in agricultural development, all regions are faced with problems of ecological degradation of the agricultural resource base, in one way or the other. This has been amply documented, and

eloquently expressed by the World Commission on Environment and Development, whose views are clear as to the "interlocking" effects of the economic and ecological crises of the present world:

"A mainspring of economic growth is the new technology, and while this technology offers the potential for slowing the dangerously rapid consumption of finite resources, it also entails high risks, including new forms of pollution and the introduction to the planet of new variations in life forms that could change evolutionary pathways. Meanwhile, the industries most heavily reliant on environmental resources and most heavily polluting are growing most rapidly in the developing world, where there is both more urgency for growth and less capacity to minimize damaging side-effects" 13/ (p. 4-5).

29. The Commission lists a number of examples on how impoverishing the local resource base can impoverish also wider areas:

"Deforestation by highland farmers causes flooding on lowland farms; factory pollution robs local fishermen and their catch. Such grim local cycles now operate nationally and regionally. Dryland degradation sends environmental refugees in their millions across national borders. Deforestation in Latin America and Asia is causing more floods, and more destructive floods, in downhill, downstream nations. Acid precipitation and nuclear fallout have spread across the borders of Europe. Similar phenomena are emerging on a global scale, such as global warming and loss of ozone. Internationally traded hazardous chemicals entering foods are themselves internationally traded. In the next century, the environmental pressure causing population movements may increase sharply, while barriers to that movement may be even firmer than they are now".

30. The recent crisis in Africa can, says the Commission, tragically but better than anything else illustrate the ways in which economic and ecological variations interact destructively, and "trip into disaster". The deeper causes, triggered by drought, are partly to be found in national policies that gave too little attention, too late, to the needs of smallholder agriculture and to the threats posed by rapidly rising populations. Their roots are however, the Commission maintains, also in the global economic system that "takes more out of a poor continent than it puts in":

"Debts that they cannot pay force African nations relying on commodity sales to overuse their fragile soils, thus turning good land to desert. Trade barriers in the wealthy nations - and in many developing ones - make it hard for Africans to sell their goods for reasonable returns, putting yet more pressure on ecological systems. Aid from donor nations has not only been inadequate in scale, but too often has reflected the priorities of the nations giving the aid, rather than the needs of the recipients. The production base of other developing world areas suffers similarly from both local failures and from the workings of international economic systems. As a consequence of the "debt crisis" in Latin America, that region's natural resources are now being used not for development but to meet financial obligations to creditors abroad. This approach to the debt problem is short-sighted from several standpoints: economic, political, and environmental. It requires relatively poor countries simultaneously to accept growing poverty while exporting growing amounts of scarce resources" (p. 6).

31. Gaps in institutions appropriate for handling the integrated nature of the global environment/development challenge - nationally and internationally - conclude a long list of concerns of the World Commission on Environment and Development: most relevant institutions were established on the basis of narrow production and consumption concerns. Governments have been reluctant to recognize the need to change themselves, and so have international organizations.

32. A realistic approach to the study of food as a human right means, indeed, to open the doors to the wider challenges ahead regarding economic, social and cultural rights, and to place them in the context of development, environment and peace. We shall have these concerns in mind while not losing our focus: access to food for people, to which we now turn.

C. Entitlements and command over food.

33. Information about gaps in the equation food production/food consumption provide only one part of the information we require. There are others: What are the gaps inside countries? There is obviously no point in having everyone produce food, but everyone should have access to food. Hence the basic question is not related to the overall food production/food consumption levels but to the differential access to food, or resources that can be used to procure food, by different population groups. Again, the underlying issues are interlocking and cannot be studied in isolation from each other.

34. Domestic variations in access to food may be caused by internal power structures and the increasing control of production and distribution on a few hands relative to the numbers who need food. In some regions or countries distribution may also be affected by the non-availability of adequate infrastructure to move food between different areas. Prices on domestically-produced staples may therefore, ironically, be higher than on imported. And as we have seen, technological, climatic and ecological aspects contribute to determining both total productivity and seasonal variations in access to food.

35. The way all this affects human beings may be understood through the concept of entitlements, or the ways in which different households or groups have access to food. Amartya Sen, in his elaboration of "entitlements" in relation to access to food and starvation, emphasizes that to say something about food supplies is to say something about a commodity only, not about the relationship between persons and that commodity.

In order to understand hunger and starvation, it is necessary to go into the structure of ownership by persons of food as a commodity. 14/

36. Sen lists four major types of entitlement relations (there are others):

- (a) Trade-based entitlement: one is entitled to own what one obtains by trading something one owns with a willing party (or, multilaterally, with a willing set of parties);
- (b) Production-based entitlement: one is entitled to own what one gets by arranging production using own's owned resources, or resources hired from willing parties meeting the agreed conditions of trade;

- (c) Own-labour entitlement: one is entitled to one's own labour power, and thus to the trade-based and production-based entitlements related to one's own labour power;
- (d) Inheritance and transfer entitlement: one is entitled to own what is willingly given to one by another who legitimately owns it, possibly to take effect after the latter's death (if so specified by him).

37. It emerges from Sen's work that an entitlement approach to the study of access to food and hunger is unavoidable, unless one wishes to perpetuate - in Sen's words - "the simplicity of focusing on the ratio of food to population that has persistently played an obscuring role over centuries, and continues to plague policy discussions today much as it has deranged anti-famine policies in the past".

38. It requires however a shift in thinking from what exists to who can command what. The entitlement approach therefore fits well with a human rights thinking, and can provide a link between the analysis of how various development processes affect people's command over food in different ways, and the right to have a command at all. It provides a bridge between legal and "development" thinking, making it possible to avoid simplistic assumptions such as the one that the fulfilment of the right to food for all can be achieved simply by distribution of available food resources. Concretization of the entitlements provides an opportunity to develop some of the indicators that will be needed to assess the impact on household food security of economic or social changes that take place at more distant levels.

Chapter II

THE NATURE OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

1. Some basic challenges

39. An examination of the right to adequate food as a human right cannot be undertaken without also considering the broader international legal framework within which it has been proclaimed. In particular, it is necessary to consider the precise nature and standing of the rights contained in the International Covenant on Economic, Social and Cultural Rights. This issue is important since the status of economic rights as human rights has been queried by a number of commentators. As the Secretary-General has noted in another report, "unless such challenges provoke an adequate response, there is a risk that the notion of indivisibility and interdependence will be undermined and that inadequate attention will be accorded to promotion of the set of rights which is under attack". ^{15/} Moreover the fact that no other studies have been undertaken within the framework of the human rights organs of the United Nations on any one of the specific rights proclaimed in the International Covenant on Economic, Social and Cultural Rights makes such a general consideration all the more necessary.

40. The indivisibility and interdependence of the two sets of human rights - civil and political rights on the one hand and economic, social and cultural rights on the other - is a fundamental tenet of the United Nations approach to human rights. But while this doctrine has frequently been reaffirmed by the various human rights organs, and most notably perhaps in General Assembly resolution 32/130, it has not always been reflected in practice whether at the national or international levels. Among the reasons for this discrepancy is the fact that both the precise content of a number of economic, social and cultural rights, as well as the specific obligations which they imply for States Parties to the International Covenant on Economic, Social and Cultural Rights, remain extremely vague. This vagueness, when contrasted with the degree of precision with which most civil and political rights have been elaborated, has tended to encourage the relative neglect of economic and social rights.

41. The question of the most appropriate measures and procedures by which to make the right to adequate food a reality will be dealt with in the later chapters of this report. At this point it is proposed to consider some of the objections which have been raised as to the juristic quality of economic, social and cultural rights.

42. It has been argued that, among other rights, the right to food is not an individual right but rather a broadly formulated programme for governmental policies in the economic and social fields. ^{16/} A provisional answer to this criticism is that article 11 of the Covenant, dealing with the right to food, proclaims it as "the right of everyone". It is thus formulated not as a broad collective proposition but as a human right belonging to individuals. Secondly, the suggestion that the right to food is merely programmatic implies that broad programmes for implementation are not necessary for other human rights. In fact whether a Government is dealing with hunger, torture or a widespread pattern of disappearances, a programme for eradicating the evil in question will often be necessary. This point will be further elaborated below.

43. A related objection which has been made to economic rights, such as the right to food, qua human rights is that they are not legally enforceable. Thus, for example, it has been argued that "the implementation of these provisions (including article 11) is a political matter, not a matter of law, and hence not a matter of rights". 17/ But it is highly questionable, at best, whether an enforceability test can appropriately be applied in order to ascertain whether a right can be deemed to be part of international human rights law. As van Hoof has argued, "one cannot simply 'transplant' conceptions and ideas derived from municipal systems into international law, because often these are not attuned to the realities of international relations". 18/ In fact, as he notes, "it is the exception rather than the rule that norms of international law can be enforced through courts of law". 19/ The mistake made is to confound the question whether a right has become a justiciable right, with the question whether the right exists under international law.

44. In any event a number of economic rights have been shown to be enforceable in the context of domestic law provided only that their component parts are formulated in a sufficiently precise and detailed manner. Such is the case, for example, with some of the economic rights which have been proclaimed in the International Covenant on Economic, Social and Cultural Rights and then spelled out in greater detail within the framework of the system of international labour conventions and recommendations adopted by the International Labour Organisation. 20/

45. Nevertheless, the objection of non-enforceability is a significant one and requires a more careful response, which will be given below.

46. It has also been argued that economic rights are of fundamentally different nature from civil and political rights in that the latter are "negative" rights the implementation of which is cost-free while the former are "positive" and costly. 21/ "Negative" means that they consist in freedom from the State, and "positive" that they require action by the State, and therefore are costly. However, it is a major proposition of this study that we cannot make a neat distinction around the axis "negative/positive" between civil and political rights on the one hand and economic, social and cultural on the other.

47. There are, nevertheless, important insights in these objections. The economic, social and cultural rights are broadly recognized, but the corresponding obligations are not. They are largely formulated as broad obligations of result rather than specific obligations of conduct. This has its strengths and weaknesses. Its strength is that it allows for flexibility, making it possible for States to comply with their obligations in ways which correspond to their particular situation. The weakness is that the obligations - and neglect of them - are very difficult to pinpoint.

48. The challenge of course is to identify criteria which would help to determine in any given situation whether or not a State is in fact doing its utmost to promote respect for a particular right in accordance with its obligations under the Covenant. Hopefully this study will contribute to this task.

49. We need, however, to carry out an in-depth examination of the rights-obligations relationship in order better to respond to the objections mentioned. In the present chapter, the focus will be on what is meant by a (human) right; in Chapter III we shall examine the recognition of the right to food and in Chapters IV and V the national and international obligations relating to the right to food will be examined.

50. We should briefly, however, examine a final objection to the concept of economic rights as human rights: It is sometimes claimed that it is too easily used as an excuse to justify the neglect or downplaying of civil and political rights. While there are inevitably problems in achieving an appropriate balance between the two sets of rights in a particular situation, and while there will always be some human rights violators who will seek to justify their actions by purporting to accord priority to one set of rights over the other, such difficulties or risks can never convincingly be used as a justification for dismissing economic rights qua human rights. If, in a situation of mass starvation which is avoidable by some form of concerted efforts, action is neglected under the argument that to take action would impose duties on individuals and therefore be contrary to their freedom, this would be an equally unacceptable excuse. One should avoid throwing out the baby with the bath water and thereby jeopardizing the fundamental principle of the interdependence of the two sets of rights.

2. From need to right: A theoretical approach

51. The right to food provides an opportunity to examine some of the challenges in greater depth.

52. Food is a basic need for all human beings. Everyone requires access to food which is (a) sufficient, balanced and safe to satisfy nutritional requirements, (b) culturally acceptable, and (c) accessible in a manner which does not destroy one's dignity as human beings.

53. Debating the nature of human rights, many authors draw analogies from theories of rights as understood in philosophy or law. Elements in the analysis resulting from such analogies will be briefly outlined; the conclusion which will here be drawn, however, is that such analogies lead us somewhat astray.

54. The notion of a right normally is understood to connote a justified demand by someone, the beneficiary or holder of right, on someone, the holder of a duty, that the latter does something or abstains from doing something. It is therefore a relationship between two parties.

55. General categorizations of demands have been used in relevant literature, based primarily on concepts drawn from laws of contract and other parts of private law. 22/ Hohfeldt (1913) used a collection of notions called "legal claims, liberties, powers and immunities", in what he considered a unified and structured system. Renger (1984) examined the rights contained in the Universal Declaration of Human Rights and categorized them into "claim rights, integrity rights, service rights, independence rights, and freedoms".

56. A distinction must be drawn between assertions of "moral rights" and legal rights. When rights are moral or social, neglect of the corresponding duty entails moral or social reprobation, but society does not systematically

organize effective action against the wrongdoer. In contrast, it is often said that a right of a legal nature necessitates a recourse procedure, or at least the possibility of one, whereby a victim of a violation can obtain from a competent third party an authoritative decision to that effect. Thus, in the transformation from a moral to a legal right, the nature and enforceability of the corresponding obligations, i.e. the intended consequences which arise from a non-fulfillment by the duty-holder of the obligations involved, alter and expand.

57. The requirement of at least a potential third party adjudication derives from the fundamental principle of jurisprudence that no one can be a judge in his own cause. Lauterpacht cites this as a general principle of law recognized by civilized nations, within the meaning of Article 38 (1)(c) of the Statute of the International Court of Justice. ^{23/} The absence of third party determination of rights and obligations would leave Governments in a position to unilaterally judge the nature and extent of their obligations. Unchecked discretion of this nature is inconsistent with the fundamental concept of law and the basic requirement of a legal system.

58. In many legal systems, third party determination is typically done by a judicial body. It is therefore frequently argued that for something to be a right it must be "justiciable", of such a nature as to be manageable for settlement by a court.

59. For a perfect legal right to exist there should also be a system of enforcement whereby the violation can be brought to a halt or redress be given to the victim.

60. The usefulness of the theory of rights, largely drawn from private law conceptions of contract, is limited when applied to human rights as expressed in contemporary international law, for two reasons:

(a) Human rights express relations between the individual and the State. Public rather than private law analogies would therefore be more helpful. Rather than examining the different categories of rights, we should explore the different levels of obligations of the State, which we will do below.

(b) In so far as human rights are incorporated into international legal instruments, we have first to determine whether they are rights under international law.

61. Human rights did not originate as legal rights. Alleged rights, existing only at the level of ideals, have been articulated by authors and thinkers through generations - such as Locke and Rousseau. ^{24/} When they are recognized by authoritative bodies of society in a positive statement of norms or principles, they move from ideals to rights, though perhaps only in a moral sense if the corresponding obligations are not yet formulated. In many domestic legal systems some human rights were incorporated, a century or more ago, into positive national law. At the international level, the process of transformation from ideals to positive law started with the adoption of the Universal Declaration in 1948. ^{25/} The process is still going on, at two levels: Internationally, human rights are gradually given more substance by

way of concretization of the obligations of States; nationally, the requirements of the international human rights system is gradually being implemented in national law and administration.

62. A conceptual clarification is required here, since the notion of rights are used in different meanings. In modern times, the human rights system finds its basis in the internationally adopted instruments, the Universal Declaration and the conventions. In regard to the former, many authors hold that it now forms part of international customary law; if so, the rights contained in it are rights under international law. The Covenants are binding on States which have become parties thereto; since these conventions contain human rights these must by definition be seen as legal rights at the international level, since State parties have undertaken to fulfil their obligations under that international instrument.

63. Whether the rights contained therein are full-fledged legal rights held by the individual, however, is a different matter. Here, precision is required. The issue at stake is whether, and in which sense, the individual can be seen as a subject of these rights. Every human being is undoubtedly a subject of human rights in the sense of having an interest in their realization. The individual is not, however, necessarily a subject of these rights in the sense of having a possibility to bring a complaint in case they are violated.

64. There may be at least two obstacles to be overcome: The lack of precision in regard to the corresponding obligations - without which it is difficult or near-impossible to determine whether the right has been violated - and the lack of recourse procedures or institutions to which the individual can turn in order to have a determination of an alleged violation.

65. In order to explore the content of the obligations corresponding to the various human rights, it must be kept in mind that they constitute, in the first instance, a relationship between the individual and the State. By State is meant here all components and all levels of public authority, at the federal, central State, and local government levels in all the varieties that exist. It should be kept in mind, however, that all members of society share a responsibility for the realization of human rights. The State can legitimately call on and oblige all individuals to participate in the realization of human rights. 26/

66. State responsibility for human rights can be examined at three levels: The obligation to respect, the obligation to protect, and the obligation to fulfil human rights.

67. The obligation to respect requires the State, and thereby all its organs and agents, to abstain from doing anything that violates the integrity of the individual or infringes on her or his freedom, including the freedom to use the material resources available to that individual in the way she or he finds best to satisfy the basic needs. In this context we should remember the indivisibility of human rights: The right to food cannot stand alone, but depends also on the respect for fundamental freedoms.

68. The obligation to protect requires from the State and its agents the measures necessary to prevent other individuals or groups from violating the

integrity, freedom of action, or other human rights of the individual - including the prevention of infringement of the enjoyment of his material resources.

69. The obligation to fulfil requires the State to take the measures necessary to ensure for each person within its jurisdiction opportunities to obtain satisfaction of those needs, recognized in the human rights instruments, which cannot be secured by personal efforts.

70. The role of the State is therefore double-faced, like Janus. The State must respect human rights limitations and constraints on its scope of action, but it is also obliged to be active in its role as protector and provider. By necessity there is some tension between these two aspects of the role of the State; it is both an ideological and a practical question whether the main emphasis should be on the constraint side or the action side. The real question is how the obligations of the State can be made operative in a way that ensures the optimal balance between freedoms and satisfaction of needs. This is a problem which should be tackled pragmatically, taking into account the different contexts and possibilities in various parts of the world. Different levels of development and variations in social organization call for different responses to achieve the results called for by the human rights system.

71. Having explored the three levels of responsibility, we shall now examine another, related and important distinction: That between obligations of conduct and of result. For the purpose of the present study, this distinction will be understood as follows: An obligation of conduct (active or passive) points to a behaviour which the duty-holder should follow or abstain from. An obligation of result is less concerned with the choice of the line of action taken, but more concerned with the results which the duty-holder should achieve or avoid. State agents are obliged not to torture - that is an obligation of conduct. States and their agents should eliminate the occurrence of hunger - that is an obligation of result.

72. The relationship between these two classifications of obligations is complex. The obligation to respect the freedom of the individual is an obligation of conduct, but it does not necessarily follow that an obligation of result necessarily requires that the State actively fulfils the needs of individuals, by being a provider of material goods. It may well be that the State can avoid hunger better by being passive, by not interfering with the freedom of the individuals and with their control over their own resources. Whether this is so depends on the concrete circumstances, the context, and cannot be answered in the abstract.

73. It follows from the above that many human rights, even if they are legal rights under international law, still may be imperfect as rights for the individual in one or more respects. This is the basis on which some authors have levelled understandable objections to internationally recognized human rights. Many recognized human rights have still not been elaborated in ways which ensure justiciability, nor has the possibility of redress and of enforcement been secured. These weaknesses, however, they share with most rights under international law. They still are rights, but their imperfection is a challenge to legal creativity.

74. Can they be strengthened as rights for the individuals? To which extent is it desirable to do so? There has, since 1948, in many areas been a dynamic development of human rights, through jurisprudential practice and through the adoption of specific instruments. This applies not only to civil and political rights (e.g. the Convention against Torture as an elaboration of one article in the Universal Declaration) but also to some social and economic rights (as mentioned earlier, some provisions in the Universal Declaration and in the Covenant have been substantially amplified through recommendations and conventions of the International Labour Organisation).

75. The right to food, as we shall see in Chapter IV, has also been amplified in various directions. There is, however, still no coherent content given to the right to food - the internal obligations (outlined in Chapter IV) and the international obligations (presented in Chapter V) are far-flung but vague and uncertain.

76. Recourse procedures for such rights at the national level may exist in some places but not everywhere; recourse procedures for economic, social and cultural rights at the international level are almost non-existent (see Chapter VI).

77. Hence, to move from rhetoric to reality, considerable efforts will have to be made both in regard to law and to institutions.

Chapter III

EXISTING RECOGNITION OF THE RIGHT TO FOOD IN INTERNATIONAL LAW

78. Within the framework of international law the right to adequate food has been recognized as a human right in a wide variety of instruments. In the present chapter it is proposed to review briefly the existing formulations of the right to food, first within the context of the International Bill of Human Rights and secondly in the context of other international instruments which are of varying degrees of "hardness".

1. The Universal Declaration of Human Rights

79. Article 25 (1) of the Universal Declaration of Human Rights of 1948 provides that "everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food ...". Several other articles are also of considerable significance. The most important of these are: (1) article 2 which states that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind ..."; (2) article 3 which provides that "everyone has the right to life ..."; (3) article 22 relating to the realization, through national efforts and international co-operation of economic, social and cultural rights; (4) article 28 which provides that "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized"; and (5) article 29 (1) which states that "everyone has duties to the community ...".

2. The International Covenants on Human Rights

80. Reference may be made to a number of provisions in the International Covenant on Economic, Social and Cultural Rights including: (1) article 2 (1) dealing with the basic obligations of States parties; (2) article 2 (2) requiring a guarantee that the rights enunciated in the Covenant "will be exercised without discrimination of any kind ..."; (3) article 6 proclaiming the right to work; (4) article 9 proclaiming the right to social security; (5) article 10 providing for special protection for mothers and children; and (6) article 12 which recognized the right to the highest attainable standard of physical and mental health.

81. Common article 1 of the two Covenants, recognizing the right of peoples to self-determination, is of great significance, in particular paragraph 2:

"All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based on the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence."

82. However, the most important single provision in the Covenants relating to the right to food is Article 11 which reads as follows:

"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."

83. The importance of article 11 was recognized in the following terms by FAO in its 1981 report on implementation of the Covenant:

"It is ... widely recognized that, by adopting the measures indicated in article 11.2 of the (Covenant), the international community would be in a position to eliminate completely the present state of chronic malnutrition and under-nourishment and to mitigate considerably the effects of calamities."

3. The place of the right to food and other economic and social rights in the evolution of the post-war system

84. The concern with the freedom from want was a source of inspiration from the very inception of the planning, during the Second World War, for the new international order to be created when the war was over. This applies not the least to the early preparations made within the United States administration for the establishment of the United Nations. 27/

85. The Charter provisions, Article 1.3 and Articles 55 and 56 represent the first steps towards international recognition; however, they focus on the obligation to participate in international co-operation for the advancement of economic and social rights. They were subsequently supplemented by numerous instruments, some of which will be briefly mentioned below.

86. During the preparations for the International Bill of Human Rights, several drafts were presented, on the basis of which the Secretariat developed its draft for the Universal Declaration of Human Rights. The most thoroughly developed drafts were presented by Latin American countries, which played a central role in the early evolution of the Universal Declaration. One of the drafts had been introduced already during the San Francisco conference and was again presented to the General Assembly in 1946. This text, which was presented by Panama but drafted during the Second World War by a group of lawyers from all over the continent, was the most complete version. 28/ On the right to food it had the following wording (art. 14 of the draft):

"Everyone has the right to food and housing. The State has a duty to take such measures as may be necessary to ensure that all its residents have an opportunity to obtain these essentials." 29/

87. The negotiations in the Commission prior to the adoption of the Universal Declaration on Human Rights reflected a broad consensus on the inclusion of economic and social rights. The only recorded opposition to the inclusion of these rights came from South Africa; Western countries actively supported the inclusion of these rights. 30/ The right to food was first included in the Universal Declaration, article 25; it was subsequently elaborated in the International Covenant on Social, Economic and Cultural Rights, article 11, which has been set out above. Paragraph 1 of article 11 was negotiated in the Commission in 1951 and 1952; article 2 was included in 1963 mainly at the request of the Director-General of FAO but vigorously supported by third world States.

88. Attention should also be given to some of the provisions in the International Covenant on Civil and Political Rights. Article 6 states that "everyone has the inherent right to life". This is a far-reaching provision which, as understood by the Human Rights Committee of the United Nations, also embraces the freedom from extreme want which endangers the right to life. 31/

4. Other instruments

89. Were we to explore all the instruments which directly or indirectly recognize the freedom from want, and thereby the right to food, the list would become very long, far beyond the scope of the present study. Fortunately, a comprehensive and highly useful guide and catalogue is now available, prepared by Dr. Katarina Tomasevski. 32/ At this stage, a survey only will be made; in the next section, elements from these provisions will be used to illustrate the various dimensions of the right to food which have found some recognition in international law. This does not imply that all elements referred to below contain legally binding obligations of States; some of them are recommendations only, contributing to the recognition of the right but leaving the obligations still in abeyance. Nor is it implied that all recommendations and conventions below relate directly to food; most of them seek in one way or another to secure the conditions under which livelihood can be ensured. The full implication of these provisions cannot be examined in this brief study.

90. Apart from the basic provisions in the Universal Declaration, article 25, and in the International Covenant on Social, Economic and Cultural Rights, article 11, the concern with food or freedom from hunger appears at least in the following contexts:

91. Freedom from hunger, 33/ safeguarding of the right to food in armed conflict, 34/ providing food for refugees, 35/ disaster relief, 36/ providing food for prisoners, 37/ international crimes involving deprivation of food, 38/ access to food and adequate nutrition, 39/ minimum wages, 40/ social security and social assistance, 41/ adequate nutrition for infants, 42/ consumer protection, 43/ food strategy, 44/ population policy, 45/ natural resources, 46/ fisheries, 47/ prohibition of slavery and forced labour, 48/ special categories of agricultural workers, 49/ education and vocational training in agriculture, 50/ rural organizations and associations, 51/

elimination of discrimination against women, 52/ elimination of racial and ethnic discrimination, 53/ and the rights of indigenous peoples. 54/

92. Provisions mainly relevant to international obligations include undertakings on international development strategies related to food and agriculture, 55/ on world food security, 56/ on international assistance for food security, 57/ on food aid, 58/ on commodity problems, 59/ and on transnational corporations. 60/

93. The right to food has therefore been recognized both in its broad outline and in more specific terms. The right to an adequate standard of living including food represents the broadest formulation of the rights of individuals; the right to be free from hunger is specified as the fundamental right which should be ensured at all times. The right of peoples to control their own natural resources is basic to the realization of these rights. The numerous other resolutions, declarations and conventions listed above have added to the understanding of the need for responses to specific situations in which the right to food may be endangered. As stated, many of them are not binding instruments, and others do not directly address the right to food, but they are all relevant to an understanding of the many dimensions to which attention has to be given. Recognition is not enough, however; the corresponding obligations have also to be examined. To this we turn in Chapter IV.

CHAPTER IV

STATE OBLIGATIONS

94. The main problem in regard to social and economic rights has been to define the obligations corresponding to the rights. This was the cause of major controversies in the drafting both of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. The obligations remain vague until the present. In the absence of effective international supervision, they have not been made clearer through case law. Most of what follows in this chapter is therefore in the nature of de lege ferenda.

1. Existing formulations of obligations

A. Economic, Social and Cultural Rights

95. The drafters of the Universal Declaration concentrated on the formulation of rights, avoiding the inclusion of corresponding obligations by States. This was not uncontroversial. Reference has been made above to the initial, preparatory texts presented by Latin American countries. These included extensive obligations, 61/ but the majority of the Commission decided to eliminate most references to obligations in the text. This turned out to be of particular significance for economic and social rights, since such duties of States that would flow from civil and political rights are often (though not always) self-evident.

96. Article 25 therefore contains no explicit reference to obligations, but they are implicit: everyone has "the right to social security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control". According to the Preamble, every organ of society shall by progressive measures, national and international, secure the universal and effective recognition and observance of this and all other rights contained in the Declaration. It was clearly expected that arrangements for social security would either be made by the State, or the State would ensure that such security, if organized privately, would reach out to all.

97. This becomes even more obvious when examining article 22: "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and the resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. 62/

98. Article 22 was a compromise text to accommodate the two competing views: one, the tenuous majority position that there should be no reference to the obligations of States in the Declaration, and the other that obligations should be spelled out in detail. 63/

99. A provision of wide-ranging potential significance is found in article 28: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized". The responsibility to create and to maintain that social order

must be on the State and on all members of society acting together. States, working together, in interplay with non-governmental organizations and (other) transnational groupings working towards the common goal, were also expected to create and maintain the international order envisaged in article 28.

100. Some State obligations were subsequently spelled out in the International Covenant on Economic, Social and Cultural Rights. Their formulation was the subject of considerable controversy, and the outcome a compromise between those who wanted obligations of conduct spelled out in relation to each of the rights, and those who wanted to avoid precise obligations altogether.

101. Of interest for the present study are, in particular, article 2 and article 11 of the Covenant. Article 2 is the basis of State obligations under the Covenant. 64/ It is largely formulated as a set of obligations of result:

"Each State party ... undertakes to take steps ... with a view to achieving progressively the full realization of the rights recognized in the present Covenant ..."

102. The obligation "to take steps" is an immediate one. It does not depend on the availability of additional resources. Each State party is under an immediate obligation to advance the realization of the rights under the Covenant by taking steps "to the maximum of their available resources". They shall take these steps "by all appropriate means, including particularly the adoption of legislative measures". Additionally, they are obliged under article 2 (para. 2) to guarantee that the rights be exercised without discrimination, and they are duty-bound under article 3 of the same Covenant to ensure the equal rights of men and women to the enjoyment of all the economic, social and cultural rights. 65/

103. Article 2 also contains obligations to participate in international assistance and co-operation, especially economic and technical. The significance of this will be explored in chapter V.

B. Obligations formulated for the right to food

104. In article 11 (para. 1), dealing specifically with the right to an adequate standard of living including food, similar but less precise obligations are contained. Article 11 (para. 2), which was added to the draft Covenant in 1963 through an initiative by the Director-General of FAO, is more vigorous regarding State obligations: States shall take the measures which are needed:

To improve methods of production, conservation and distribution of food;

To disseminate knowledge of the principles of nutrition;

To develop or reform agrarian systems.

105. Those efforts shall be aimed towards more efficient utilization of natural resources. "Efficient" must be understood in the light of the purpose, i.e. to eliminate hunger altogether. Hence, "efficiency" must clearly be measured by the extent to which all members of the society

concerned have access to food, not by the amount of food produced; 66/ the difference can be explained with reference to the concept of entitlements as discussed in chapter I.

106. Article 11, (para. 2(b)), also obliges States to "ensure an equitable distribution of world food supplies in relation to needs". The significance of this obligation, in which the problems both of food-importing and food-exporting countries shall be taken into account, is examined in section 6 below.

2. Individual responsibility and State obligations: a preliminary analysis

107. Fundamental to an understanding of State obligations for economic and social rights is that the individual is the subject of all development. This is stated in the following terms in the Declaration on the Right to Development, article 2. 67/

"1. The human being is the central subject of development and should be the active participant and beneficiary of the right to development.

"2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect of their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being ..."

108. No authoritative definition exists of the concept of development. For the purpose of the present study, development will be understood as a process of realization of all individual human rights, as envisaged in article 28 of the Universal Declaration of Human Rights. This understanding of development is implicit also in the Declaration on the Right to Development, article 1: The individual is by virtue of the right to development entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized. 68/

109. Hence, the individual is expected, whenever possible through own efforts and by use of own resources, to find ways to ensure the satisfaction of his or her own needs. 69/ This can be done individually, but more often in association with others. Most activities of an economic nature require co-operation between many.

110. The proposition that needs in the first instance have to be met by own resources, also has to be qualified: the resources may be owned or controlled by an individual alone, or in association with others. The latter would include the shared right to use communal land, and the land rights held by indigenous peoples. Furthermore, the realization of economic, social and cultural rights of an individual will usually take place within the context of a household as the smallest economic unit, although aspects of female and male division of labour and control over the produce, as well as various forms of wider kinship arrangements may present alternative alliances.

111. However, in order for the individual to be a subject of development, there must be access to food, not only because this is a right but because it is a need whose satisfaction is essential for the individual to be capable of contributing to development.

112. State obligations must be seen in the light of the above. States must, at the primary level, respect the freedom of the individuals - or groups, such as indigenous populations - to maintain their possessions and to take the necessary action relating to the resources necessary for their livelihood.

113. At the secondary level, States should protect the freedom of action and the use of resources as against third parties.

114. At the tertiary level, the State has - as a last resource - the obligation to fulfil the expectations of all for the enjoyment of the right to food. 70/

115. It has sometimes been argued that the economic and social rights differ from the civil and political in that the former require the use of resources by the State, while the obligation for States to ensure the enjoyment of civil and political rights does not require resources. This argument is tenable only in situations where the focus for economic and social rights is on the tertiary level (the obligation to fulfil), while civil and political rights are observed on the primary level (the obligations to respect). This scenario is however arbitrary. Some civil rights require State obligations at all levels - also the obligation to provide direct assistance, when there is a need for it. 71/ Economic and social rights can in many cases best be safeguarded through non-interference by the State, by respecting the freedom and use of resources possessed by the individuals.

116. In the light of the complexity of the issue, and the need for flexibility to respond to different situations, it now becomes understandable that some parts of the basic provisions (articles 2 and 11 of the International Covenant on Economic, Social and Cultural Rights) were drafted more in the form of obligations of result rather than obligation of conduct. It is also understandable that some of these obligations, taken at their highest and most general level, cannot easily be made justiciable (manageable by third party judicial settlement). Nevertheless, the obligations exist and can in no way be neglected.

117. The complexity and the need for flexibility was recognized in the Limburg Principles, referred to above:

"6. The achievement of economic, social and cultural rights may be realized in a variety of political settings. There is no single road to their full realization. Successes and failures have been registered in both market and non-market economies, in both centralized and decentralized political structures.

7. States parties must at all times act in good faith to fulfil the obligations they have accepted under the Covenant.

8. Although the full realization of the rights recognized in the Covenant is to be attained progressively, the application of some rights can be made justiciable immediately while other rights can become justiciable over time."

3. The broader framework for State obligations: Food security

118. State obligations must primarily address human rights in a national framework, and it must be considered a national goal to secure for all individuals or groups the enjoyment of the human rights concerned. 72/ Individual demands must also be reconciled with the goals of the nation as a whole. Ideally, the very purpose of a State - and a Government - should be to ensure the full realization of all human rights for everyone living under its jurisdiction. As pointed out above, the concept of national development could be taken to mean the gradual realization of all human rights - civil and political; social, economic and cultural - for everyone within the nation. The focus should be throughout on the individual, who is primarily the subject and only secondly the object of development. 73/

119. In the process there might be considerable conflict potential. The international human rights system should function both as a constraint on State action and a guideline to the direction in which State policies should be pursued.

120. It is proposed to use, as the framework for analysing de lege ferenda the range of State obligations in meeting the right to food, the concept of food security, and to give it a content which can accommodate both developmental and legislative perspectives. The concept as used here deviates somewhat from recent usage in food agencies.

121. National food security, as used in this study, should be considered as the ultimate achievement of food security for all members of a nation.

122. The concept of food security has been given different contents in different connections. FAO sought from the early 1970s to work out the basis for the theoretical and practical work with food security for nations; this work was considerably accelerated by the deliberations and recommendations by the World Food Conference in 1974. If nothing else it led to a number of publications on different aspects of food security such as short-term and long-term considerations, cereal stock policies, policy implications for specific countries and regions, trade aspects, the role of agriculture, technological and ecological aspects of food security. 74/

123. The debate in international forums, first of all the FAO on measures towards national food security, was for many years dominated by the international dimensions of world food security, or the means whereby the international community together could ensure that countries in need would have access to adequate flows of staple foods, mainly grains. 75/ This met with a number of difficulties relating to conflicting interests between grain exporting and food-deficit countries. Gradually more emphasis was being given to measures that needed to be taken at national level, reflected in the Plan of Action for World Food Security adopted by FAO Member States in 1979. This plan spells out a number of ways in which the distribution network can be improved.

124. Major shifts in "mainstream" development thinking that occurred during the later parts of the decade (supported and further developed through several international conferences such as the World Conference on Employment, Growth and Basic Needs (1976), the World Conference on Agrarian Reform and Rural

Development (WCARRD, 1979) and the United Nations Decade for Women (1975-1985)), gave further impetus to criticisms of the narrow focus on food security in terms of national supplies only. In 1982-1983 both the FAO 76/ and the World Food Council 77/ endorsed an expanded definition of the concept, to mean (a) an adequate food production, (b) an increasing stability in the flow of food supplies and (c) the securing of access at country and at household level to the existing supplies of food. 78/

125. Also the World Bank 79/ and more recently the World Commission on Environment and Development 80/ have discussed food security in terms of the needs of people rather than countries as such.

126. There are, however, still weaknesses in the prevailing conceptualization of and practice towards food security. Many still tend to ignore that distribution does not automatically follow from the existence of statistically adequate overall food supplies. Another problem is that the overwhelming attention regarding supplies continues to be given to cereals (including in agricultural research), disregarding many other staple foods which in some areas are more important than cereals, as well as other foods needed for a full and wholesome diet (variously called "subsidiary", "supplementary", "minor crops", "traditional" a.o.).

127. A recent report on Food Security for Southern Africa, 81/ points to the scarcity of research and policy experimentation, at least as far as that region is concerned, on the essential components of food security for people: Food availability and access to food. It emphasizes that moves towards addressing national or regional food security begin at the household/family levels, particularly in rural areas. It also warns against an over-emphasis on poverty factors in economic terms only, since there are many other factors determining food and nutrient demands and which should be addressed.

128. There are also a host of household and intra-household level determinants of availability of food and nutrients, the most important set of which relate to the status, roles and conditions of women who in many societies are the main procurers of food for household consumption. Ignorance of this fact over several decades may be the single most important factor behind the gradually worsening conditions of African smallholder agriculture and food production, the male farmers and their more typical domain of commercial agriculture having attracted the primary attention of investors, aid donors, expatriate and local experts and extension workers. The failure has been recognized in wide circles, the question remaining how to reverse the tide. 82/

129. It can safely be stated that household food security is only slowly gaining acceptance as an explicit goal for agricultural development. Even the recent and in many respects promising Farming Systems Research "movement" initiated by some of the agricultural research institutions under the CGIAR system (Consultative Group on International Agricultural Research) 83/ is, although by definition focusing on the smallholder household, mainly geared to increasing agricultural production (through so-called Adaptive Research and Planning for introduction of new technologies). Recently this approach has been seen as an opportunity to study the links between consumption and food production, within the dynamics of single households' production and reproduction patterns, for the promotion of nutrition-relevant extension services. 84/

130. But while agricultural production may be the essential source of income for many, through marketing of food or non-food products, the precise exchange relations will determine whether this will result in an adequate command over food. Higher production performance is in itself no guarantee that households will increase their command over food. 85/ There are indicators of the contrary, even when the product is food. In several countries in southern Africa it has been observed that malnutrition among children tends to be higher where there are good opportunities of selling the produce, be it maize, groundnuts or other, than where there are no organized marketing outlets for smallholders. 86/

131. The dearth of data on the nutritional impact of shifts from subsistence/semi-subsistence to commercial farming has prompted the International Food Policy Research Institute to organize a broad research programme on this. 87/

132. Eide et al. 88/ (1985, 1986) have developed a coherent "normative framework" for household food security, that can be made operational for use in agricultural and rural development efforts aiming at improving consumption and nutrition for people on a sustainable basis. The framework incorporates general nutritional, cultural and environmental concerns as well as aspects of procurement, and also takes into account basic needs other than food. It offers the following set of "guiding principles" for the formulation of context-specific frameworks that can give content and direction to analysis and action in actual situations.

133. Food must be adequate in terms of nutritional quantity and quality, it must be safe from adverse alien substances, and culturally acceptable in the context of prevailing food patterns. 89/

134. Food procurement should be possible for all without conflicting with the satisfaction of other material and non-material basic human needs. Otherwise food procurement may not be viable over time for the household concerned, whose members will choose their final strategies based on a range of priorities.

135. Finally, access to food must be sustainable over time. This implies that the physical and institutional environment in which food is procured must be optimally utilized, protected from erosion or distortion, and where necessary restored or replaced by effective alternative systems and arrangements to enable recovery after a crisis situation.

136. These guiding principles for analysis and action towards the goals of Household Food Security represent ideals or aspirations; they should wherever possible be applied simultaneously. It is however important to underscore that their relative weight will depend on the context. The balance between them may be drastically altered during situations of crisis and emergencies, when the overriding concern may be to keep victims free from overt hunger; here the "nutritional quantity" component (meaning calories) of the broader Food Adequacy aspiration may have to take precedence over concerns for aspects of the forms of procurement. Human dignity may be difficult to guarantee under circumstances where people have to be fed to survive in the first place.

137. This is not to say that the full set of principles entailed in Household Food Security should not serve as aspirations even under adverse conditions. Also relief organizations are becoming more and more aware of the roles that food plays apart from fulfilling physiological needs, in keeping up the general health, well-being and morale, precisely and not the least when other things give reason for despair.

138. In general, adherence to the guiding principles will prevent that food is seen in isolation from the overall development context; they point in fact to the direction in which economic and social development should ideally be steered to result in, among other things, food security. The goal of Household Food Security should be "aggregated" to national food security plans for the given State. Although the goal may never be fully reached for all, its progressive realization in all circumstances is essential; thus indicators of the direction and speed of improvement may be more significant than indicators of final outcome.

139. To obtain the desired process of change towards the aspirations, the corresponding obligations for given States must be defined. Furthermore, appropriate indicators must be identified to allow description and assessment of State performance.

4. An integrating perspective on State obligations

140. As a practical tool for exploring the content of State obligations, a "matrix" is proposed that integrates elements of the right to food with the corresponding obligations. Figure 1 depicts how one can combine the proposed set of guiding principles to analyse or formulate activities towards food security (horizontally) with the previously indicated levels at which State obligations may be defined (vertically). 90/

141. The matrix enables an identification of the nature and levels of obligations in a national context. These should be expressed both as obligations of result and of conduct (see chap. III), with emphasis on the latter.

142. It is the combination of the elements throughout the matrix which constitutes what is here understood as National Food Security. It contains the values and goals which must guide the efforts to realize the right to food for all, and it enables the identification of legislative, administrative and communicative measures required to implement the relevant State obligations. The implementation of these general development goals and the required measures can be approached logically and systematically on the basis of such a matrix.

143. Since National Food Security now reflects the totality of food security for all defined at the level of the household, which is considered the appropriate unit of analysis for the purpose of giving content to the right to food, National Food Security should be promoted as a concept to connote the "aggregate" of households' food security within a given State, or the goal to be set for national food security plans. 91/

Fig. 1 THE FOOD SECURITY MATRIX

guiding principles level of national obligations	FOOD ADEQUACY			VIABILITY IN PROCUREMENT	SUSTAINABILITY OF ACCESS
	Nutritional Adequacy	Safety	Cultural Acceptability	consistent (not conflicting) with the realization of other Basic Human Needs	
RESPECT	<u>recognize</u> the positive nutritional aspect of existing food patterns	n.a.	<u>recognize</u> the significance of food culture as part of a wider cultural identity	<u>recognize</u> customary rights to means of food procurement, consistent with Basic Human Needs; <u>recognize</u> the significance of informal and non-governmental institutions in facilitating food procurement	<u>recognize</u> the positive ecological significance of existing food production systems; <u>recognize</u> the significance of informal and NGO institutions in crisis management ("buffer systems")
PROTECT	<u>prevent</u> distortion of positive nutritional aspects of existing food patterns	<u>develop</u> national legislation on food safety; <u>participate</u> in developing international legislation on food safety ("Codex Alimentarius")	<u>counteract</u> when necessary influences which may negatively erode positive aspects of existing food culture	<u>develop</u> national legislation and administrative mechanisms and procedures to protect and facilitate a viable food procurement for all	<u>develop</u> national legislation to: counteract activities that may erode ecological balance; <u>protect</u> ecologically sound buffer systems in crisis management
FULFILL	<u>correct</u> negative aspects of existing food patterns; <u>guide</u> dietary change when necessary, consistent with the above; <u>incorporate</u> nutritional considerations in relevant development activities	<u>establish</u> a nationwide system of food control and inspection	<u>incorporate</u> positive aspects of food culture into relevant development activities (IRD, agricultural, health, educational, industrial, etc.)	<u>formulate</u> and execute policies, plans and programmes to facilitate and assist all groups in society (with emphasis on the socio-economically most vulnerable) in obtaining viable procurement of food, consistent with Basic Human Needs	<u>formulate</u> and execute policies, plans and programmes to facilitate the restoration of ecological balance; <u>support</u> and strengthen effective existing institutions and as necessary develop new ones for crisis management

144. National Food Security would also imply the existence of institutional and organizational arrangements (formal and informal) to ensure such security, related to (a) the nature of the food, (b) the procurement of it, and (c) the environment in which it will be procured (produced, purchased or exchanged).

145. Information from specific countries should be utilized to illustrate how State obligations can be formulated and the right to food at least partly be realized. To pick one example: the adoption by the Government of Botswana of the aim to ensure "at least a minimum acceptable diet for all Botswana, thus progressively eliminating malnutrition" bears witness of the will to realize as far as possible each individual's right to food. But it goes further: Taking into account that it is a drought-stricken country, Botswana's "National Food Strategy" has adopted also the following objectives: 92/

"The achievement of a broadbased recovery in arable production after the current drought period;

The achievement of national self-sufficiency in the main staple crops ... for both food and seed, as soon as practicable;

Building up and maintaining the national capacity to deal with drought and other emergencies."

146. We note the conviction by this Government that both inadequate food production and inadequate nutritional status give rise to concern, but also that the two are not automatically related. Rather, poor nutritional status is seen as "a function of low household incomes, rather than caused solely by low domestic food production".

147. Different elements of information from such and other relevant similar documentation, as well as experiences of a given country, can be inserted in the matrix format to provide a more or less comprehensive profile of the situation in that country; it also provides the opportunity to identify and include otherwise missing elements that may be important for a coherent mapping and planning of the specific State's obligations in realizing the right to food.

148. In practice, the very act of applying the matrix could constitute an essential part of the process towards community and national food security. Collecting and organizing appropriate information according to the logic suggested, may be conceived of as a continuing process that might enable government and non-government institutions, researchers, agencies and technical personnel better to comprehend the complexity of a system of State obligations taken together, and to become aware of how and where specific obligations, defined with regard to content and level, may fit into a whole in their own situation.

5. Poverty and the right to food

149. Non-access to food is in most cases related to poverty. This, however, is a statement of limited usefulness; what needs to be explored are the different manifestations of poverty and the underlying factors influencing it.

150. In the final account, poverty can be translated in terms of ability for procuring food, although other aspects of poverty will have to be taken into account.

151. Poverty is extensive in many third world countries, particularly but not only in those defined as Least Developed Countries. This is poverty in the meaning of non-satisfaction of basic needs, including food. As was briefly alluded to in chapter II, the factors underlying this poverty are partly exogenous, influenced by the structure of the international economic system as it has evolved over the last centuries; 93/ they are also partly endogenous, influenced by the internal distribution of resources and of unequal opportunities. 94/

152. Neglect of economic and social rights is a cause of violence and social conflicts. "The general and apparently well-founded belief is that in some countries the extreme poverty of the masses - the result in part of less-equitable distribution of the resources of production - has been the fundamental cause of the terror that afflicted and continues to afflict those countries. ... The essence of the legal obligation incurred by any Government in this area is to attain the economic and social aspirations of its people, by following an order that assigns priority to the basic needs of health, nutrition and education". 95/

153. There are also significant pockets of poverty in the developed countries. 96/ The Council of Europe recently organized a consultation, or exchange of views, on poverty in Europe. Some of the conclusions are of direct relevance to this study, the following excerpts are therefore included here: 97/

"... it must be remembered that poverty is not only a complex phenomenon, but also takes multiple forms. ... Many examples were given during the discussion: inadequate financial resources, illness, unemployment, under-employment, moonlighting, illiteracy, lack of education or vocational training, inadequate housing, cultural ostracism, marginalization, insecurity and lack of confidence in the future.

...

Poverty leads to exclusion from a life compatible with dignity as a human being: it is a reality experienced at individual and family level, but it is rooted in the structure of society." (paras. 17 and 20).

The consultation further concluded that strategies for the poor had to "give them an opportunity to take charge of their own destiny. ... But another important point must also be remembered: poverty exists because of those who are not poor. ... The drive to eradicate poverty is very largely a matter for those who are not poor. ..." (paras. 20 and 21).

"The problem of poverty in the third world, which was discussed at length during the exchange of views, has to be stated in the same terms. There again, the root causes of poverty are both endogenous and exogenous, but it is absolutely obvious that no significant result will be achieved without a major change in attitude among the wealthy countries. (para. 24).

In particular, it is important to grasp the part played by military expenditure in international relations as well as national policies. Working for peace means working for the development and welfare of poor countries and poor people. The consultation produced a clear appeal for

'expenditure of death' to be turned into 'expenditure on life': many of the problems which are said to be insoluble owing to lack of resources (at international as well as national level) could be solved if military expenditure were transformed into funds for combating poverty." (para. 25).

"Human rights, which the Council of Europe upholds, cannot be observed selectively. They are all of equal importance. Efforts must therefore be made to achieve respect for fundamental rights as a whole, whether social, cultural and economic or civil and political. The first right is the right to build one's own destiny, which means first and foremost giving people a genuine opportunity to free themselves from the restrictions imposed by their environment and take part in shaping their own lives." (para. 35).

6. Disasters, famines and the right to food

154. Those living in poverty experience what could be called - with a contradiction in terms - a "permanent emergency": they live on the brink of survival and are those who constitute the reality behind statistics on infant mortality, stunted lives, malnutrition and most contagious diseases. It would seem an obvious obligation both at national and international levels to bring these conditions to an end, but in reality these silent and protracted disasters rarely attract the moral outrage and the effective response they require.

155. This is different from those situations which emerge more suddenly and which disappear after some time. These are what commonly are called disaster situations. They are emergency situations in which the "normal" approaches to the satisfaction of needs are seen to be totally inadequate, and they therefore give rise to special measures, both at the national and the international level.

156. There are different kinds of disasters to be taken into account:

"The usual method of classifying disasters follows an etiological approach according to which the most basic distinction is that between man-made and natural disasters. Man-made disasters may in turn be divided into those which could be said to arrive either accidentally or from negligence, and those resulting from deliberate action; the former include industrial and technological disasters and increasingly may include disasters possessing an ecological or environmental component, while the latter include armed action in particular. A further category of man-made disasters resulting from the pursuit of ultra-hazardous activities in which great risks are inherent, such as nuclear and space activities, has also been proposed. According to the traditional view, natural disasters are those resulting from the effects of natural phenomena; for the purposes of scientific study they may be further divided according to meteorological, topological, telluric or tectonic causes. 98/

157. But also such disasters that are often described as primarily due to natural phenomena and thus inevitable, for example, the current drought in parts of Africa, may have several dimensions. Robert S. McNamara in his

foreword to a recent report on famines by the Independent Commission on International Humanitarian Issues, 99/ states:

"The crisis in Africa is profound - it is due to much more than merely drought. In a very real sense it is man-made. Overcoming it will take years of effort."

158. While some disasters may lead to famine, there are various ways to ensure for the population a capacity to endure the crisis situation and thus avoid a famine situation. This is an issue of profound significance for food security at the household, community, national and global levels. Appropriately prepared for at each of these levels, most of the conceivable threats of famine could be averted. Hence "sustainability" in supply and access is as important or more as are production levels at any one time.

159. But famines - according to Amartya Sen 100/ - "reflects widespread failure of entitlements on the part of substantial sections of the population. Such failure can arise from many different causes. 101/

160. Famines can occur even without an average decline in food production. As pointed out by Amartya Sen, there are many factors which cause famine, and only some of these include a sharp decline in food production; even when this is the case, overall food availability is not necessarily the main problem but the failure of certain groups to command access to food - i.e., a failure of their particular entitlement. (See further chap. II.2 c).

161. The literature cited, and many other documents and reports, leave no doubt that a long-standing and widespread confusion of supply of food with command over food (or resources that can be used for food), lies at the root of much of the human and ecological misery that we see in large parts of the third world today.

162. The special connection between food availability, access (or entitlement) to food, and ecological degradations makes the following statement by the World Commission on Environment and Development a special challenge to national legal systems:

"National and international law is being rapidly outdistanced by the accelerating pace and expanding scale of impacts on the ecological basis of development. Governments now need to fill major gaps in existing national and international law related to the environment, to find ways to recognize the rights of present and future generations to an environment adequate for their health and well-being ...". (Our Common Future, pp. 121-122, see note 9).

163. From the perspective of the right to food, three sets of obligations can be outlined, theoretically, for the specific situation of disaster.

164. The obligation to prevent disasters. This is more obvious in regard to what is described as man-made disasters: the prevention of nuclear accidents, rigorous prevention of negligent behaviour in hazardous enterprises, and the abstention from the use of force as a means to settle conflicts. Elements of all this can be found in present international law; the details cannot be spelled out in the present context. As to those aspects of ecological

degradation that can also be said to be man-made, the World Commission on Environment and Development requests Governments to

"... prepare under United Nations auspices a universal declaration on environmental protection and sustainable development and a subsequent convention, and to strengthen procedures for avoiding or resolving disputes on environment and resource management issues."

165. The second obligation is to reduce the scope of the disaster, through the abstention of certain kinds of behaviour which make the situation worse, 102/ by providing access for relief actions, 103/ and through adequate warning.

166. The third obligation is to assist those who are affected by a disaster. Provisions to this effect are also found in the Geneva Conventions and the Additional Protocol. 104/ In non-international armed conflicts, Governments are similarly prohibited from the use of starvation of civilians, and it is prohibited to attack, destroy and render useless objects indispensable for the civilian population. 105/

167. Among measures which might be used during overt disaster situations would be, inter alia, rationing with prices low and hoarding prohibited and prevented; effectuation of transport and other logistics in relation to distribution of food for markets; and where required, direct aid in a transitional period. It must be remembered that minor occurrences of hunger may spiral into large-scale famine if not properly handled, both at the national and the international level.

168. All disaster aid must be functional in nature, based on an understanding both of the specific causes of the disaster, the particular victims, and the reasons why just those victims do not have access to food. Much relief activity has inadequately analysed the situation and therefore inadequately responded. There are situations where there is surplus even in the famine-stricken area, and others where food is actually exported out of the area. The reason is simple: those who export food for sale need an income from their production, thus the victims are often those who are too poor to purchase the available food. In such situations, rather than giving direct food aid it might well be better to give the victims cash; this would enable the beneficiaries to purchase the food and encourage those producers who, in spite of the circumstances, are in a position to continue producing. 106/

7. Review of levels of State obligations for food security

169. We shall now review the three levels of State obligations 107/ for meeting the right to food, using the food security matrix.

A. The obligation to respect

170. The obligation to respect calls for non-interference by the State, in all cases where the individuals, or groups, can take care of their own needs without weakening the possibility for others to do the same. Special attention should here be given to collective or group rights. The resources belonging to a collectivity of persons, such as indigenous populations, must be respected for them collectively to control the conditions which makes it possible for them to be able to satisfy their needs by those resources. Similarly, the rights of peoples to exercise permanent sovereignty over their

natural resources may be essential for them to be able, through their own collective efforts, to satisfy the needs of the members of that collectivity. These are issues of far-reaching significance which in further work must be given greater attention. It might imply recognition of customary land rights (e.g. of indigenous peoples, and generally of peasants in rural communities), and customary fishing and hunting rights where these have been traditionally used for the basic livelihood needs of the group of persons concerned.

171. It might further imply the recognition and the respect of the right of individuals to seek an income by which they can satisfy their food and other basic needs, and at all times this should be combined with a recognition and respect for the choices individuals make and the strategies they develop in their efforts to satisfy their other material and non-material needs, including their enjoyment of human dignity and participation. Furthermore, there should be a recognition and respect for the value of the existing systems for the utilization of the environment and for crisis management, provided these systems by their nature do not lead to a deterioration.

172. It has been widely demonstrated that traditional food patterns in many parts of the world were reasonably balanced nutrition-wise, and that they have everywhere played a major role in the formation of cultural food patterns as a part of cultural identity. More often than not these have been in harmony with the ecological balance in the environment in which the local food was produced. Modern production systems, when implanted without recognition of the existence and value of local knowledge about the ecologically sound carrying capacity, easily contribute to undermine both the natural production potential and the nutritional balance.

173. This is not to advocate a status quo concerning traditional production systems, but to underline that States when seeking to promote more effective methods must take traditional knowledge and experience as the starting point, and translate it into approaches where modern science and traditionally adapted principles are combined in order to maximize the prospects for adequate food consumption, nutritionally balanced, and in respect of ecological constraints.

174. In international humanitarian law, the obligation to respect the access to food has been spelled out in several respects; see further under paragraph 98. The League of Red Cross Societies adopted in 1986 a resolution that recommended all actors in Red Cross relief operations to take into account the new "Red Cross Nutrition and Food Donation Policy in Red Cross Emergency Operations". This constitutes a comprehensive conceptual and practical guide to a disaster relief that should go a long way towards realizing the right to food in its broad sense under such conditions, inter alia, in recognizing the need to organize relief in ways that will enhance long-term local and national food security through government obligations. 108/

B. The obligation to protect

175. At the second level, the obligation to protect implies the responsibility of States to counteract or prevent activities and processes which negatively affect food security, particularly for the most vulnerable in society. Some degree of protection may be required against more assertive or aggressive subjects (more powerful economic interests when acting in a ruthless way,

protection against fraud, against unethical behaviour in trade and contractual relations, against the marketing and dumping of hazardous or dangerous products - to mention some examples from different fields). Significant components of the obligation to protect is spelled out in existing law, and more should be elaborated. The observations in the previous paragraph about groups, such as indigenous populations, are applicable also here.

176. The points made above are held on a high level of generality and are in need of a number of qualifications. Throughout, difficult balancing will have to be made by the State, between the respect for the freedom of action of individual (or group) A, and the protection of the resources and freedom of B.

177. It would in many cases imply legislative measures of various kinds. For example, legislative measures are everywhere considered necessary to protect consumers against harmful food products or against the commercial promotion of harmful practices. The Codex Alimentarius, operated by the joint FAO/WHO Codex Alimentarius Commission, covers a broad range of these issues, and a harmonization of national laws is taking place. 109/ The Commission also recommended, in 1979, a Code of Ethics for International Trade in Food. 110/ There are others in the same field: the International Code of Marketing of Breastmilk Substitutes, drawn up under the auspices of the World Health Organization and UNICEF secretariats, national Governments, infant health experts, the infant food industry and consumer and public interest groups, is a case in point. 111/

178. Protection is required, also, of the access by vulnerable groups to resources required to maintain their access to food. Protection of land rights and usufruct against invading and capital-intensive enterprises; legislation to prevent absentee land ownership and thereby prevention of deprivation of the control and ownership of the land for the tiller of that land; legislation to prevent local fishing or hunting grounds from being taken over and destroyed by stronger interests - such are the examples which can illustrate the second level of State obligation for the right to food. These and other measures, designed to protect a viable procurement and sustainability in the access to food, cannot be spelled out in detail here - it would depend on the context of each country and its situation. Above, it has been pointed out that difficult balancing is required between competing assertions of rights, and that a much more detailed analysis would be required in each specific situation.

179. More difficult would it be, and probably counterproductive, through legislation to protect against unwarranted destruction of culturally formed food habits. Obligations here might rather consist of responsible measures to modify alien and potentially harmful food patterns, by ensuring through education that the groups concerned acquire an understanding of basic nutritional principles to ensure a healthy diet, and also become able to resist misleading information through commercial marketing and frauds.

C. The obligation to fulfil

180. At the third level, the State is called on to fulfil the right to food through assistance or direct provision. This is the concern which came first to the mind of the drafters of the Universal Declaration of Human Rights. It is implicit in article 22 ("everyone, as a member of society, has a right to social security") and in article 25 ("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"). It is found also in the International Covenant on Economic, Social and Cultural Rights, article 9 ("The States parties to the present Covenant recognize the right of everyone to social security, including social insurance"). It is apparent that this was influenced mainly by the experience of industrialized States with a high level of urbanization; it is somewhat less applicable in countries with a predominantly rural population, where the major concern must be to ensure that everyone has access to resources from which they can derive a livelihood. Under disaster situations, or in regard to groups of peoples who have been marginalized during agricultural transformations, 112/ "handouts" and "food for work" are being used; they do not constitute desirable responses due to the inherent infringement of personal dignity in such situations, but as transitional measures pending solutions of the underlying problem they may be necessary. This may take two forms:

Assistance in order to provide opportunities for those who have not;

Direct provisions of food or resources which can be used for food (direct food aid, or social security) when no other possibility exists, e.g.

(1) when unemployment sets in (such as under recession); (2) for the disadvantaged, and the elderly; (3) during sudden situations of crisis or disaster (see further below); and (4) for those who are marginalized (e.g. due to structural transformations in the economy and production). 113/

181. More specific provisions could be mentioned: the obligations to provide food to prisoners (including prisoners of war), illustrate this third level of State obligations. These are situations where the persons do not have the freedom to move nor the access to resources required to take care of their own needs; in such situations there is an obvious obligation of the State to directly provide what is required for satisfaction of their basic needs.

Chapter V

INTERNATIONAL OBLIGATIONS

1. Background: Basic provisions and approaches

182. Do States have obligations, in regard to livelihood rights, to the international community and to the peoples of other States? This was clearly envisaged from the earliest drafting of the Charter of the United Nations. The freedom from want, according to President Roosevelt in his "Four freedoms speech", means - when translated into world terms - "economic understandings which will secure to every nation a healthy peace-time life for all its inhabitants - everywhere in the world".

183. Through the Atlantic Charter this theme was brought forward 114/ to the Declaration by the United Nations on 1 January 1942, where the Allied States (including the United States of America, the United Kingdom, the USSR, China, India and 21 other countries) pledged themselves to the aims contained in the Atlantic Charter. This, in turn, became the foundation on which the Charter of the United Nations was drafted.

184. In the Charter, the international responsibility for the freedom from want is implicit in Article 1, paragraph 3 ("to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character") and in particular in Articles 55 and 56. According to Article 55 (a), the United Nations shall promote "higher standards of living, full employment, and conditions of economic and social progress and development". Article 55 (b) and (c) reiterate Article 1, paragraph 3. In Article 56, all United Nations members pledge themselves to take joint and separate action in co-operation with the organization for the achievement of the purposes set forth in Article 55.

185. The same concern is expressed in a different way in the Universal Declaration, article 28: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."

186. In accordance with the International Covenant on Economic, Social and Cultural Rights, article 2, the States parties have undertaken to take steps, individually and through international assistance and co-operation, especially economic and technical, to achieve progressively the full realization of the rights contained in the Covenant.

187. In article 11, paragraph 1, this is apparently modified somewhat:

"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."

188. In article 11, paragraph 2, dealing with the fundamental right to be free from hunger, States again oblige themselves to take the steps, individually and through international collaboration, needed to achieve the aims set forth in that paragraph. They also undertake to ensure an equitable distribution of world food supplies in relation to need. In doing so, they shall take into account the problems of both food-importing and food-exporting countries.

189. The Universal Declaration on the Eradication of Hunger and Malnutrition, adopted by the World Food Conference in 1974 and endorsed by the General Assembly in its resolution 3348 (XXIX) of 17 December 1974, contains detailed provisions concerning international responsibility. Under article 12 of the Declaration, it is held to be the common responsibility of the entire international community to ensure the availability at all times of adequate world supplies of basic foodstuffs by way of appropriate reserves, and therefore all States should co-operate in the establishment of an effective system of world food security. 115/

190. Significant is also the International Undertaking on World Food Security, which was based on resolution 3/73 of the Seventeenth Session of the FAO Conference and on resolutions XVI, XVII and XVIII of the World Food Conference in 1974. The Undertaking was submitted by letter to Governments for acceptance 116/ and therefore has a status comparable to multilateral treaties. In the Undertaking, Governments "recognize that the assurance of world food security is a common responsibility of the entire international community". They undertake therefore to co-operate in doing their utmost to ensure the availability at all times of adequate world supplies of basic foodstuffs, primarily cereals. The Undertaking includes a commitment to the strengthening of the food production base of the developing countries. 117/

191. The World Food Security Compact, adopted by the General Conference of the Food and Agriculture Organization on 27 November 1985, contains recommendations to developing as well as developed countries. Among these are:

Art. 8: "Governments of developed countries, whether they be exporters or importers, should consider the interests of the world as a whole when making their policy decisions on food production, stocks and imports. ... The overall objective should be the development of a world food system characterized by stability and equity."

Art. 12: "Governments of developed countries should give a specially high priority to helping developing nations where a major effort is being made to overcome the problems of rural poverty, the principal cause of chronic hunger and malnutrition."

192. The Right to Development, article 4, paragraph 2, states:

"... sustained action is required to promote rapid development of developing countries. As a complement to the efforts of developing countries effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development."

193. The provisions quoted above are vague and general. Even so, many States have been reluctant to accept them. This indicates not only the need to elaborate more specific obligations, but also the strength of the obstacles which are likely to be encountered. There exist, however, significant elements slowly emerging in general international law on which we can build; to these we now turn.

2. Building blocks for international responsibility

194. Freedom from want, like other human rights, cannot be achieved only through the fulfilment of national obligations, held by Governments towards

those living under their jurisdiction. International co-operation and assistance under the Charter of the United Nations and under the International Covenant on Economic, Social and Cultural Rights is essential and "shall have as a matter of priority the realization of all human rights and fundamental freedoms, economic, social and cultural, as well as civil and political." 118/

195. International co-operation and assistance are not the only elements in a comprehensive international responsibility for the right to food, however. It is necessary to build on several other fundamental elements of modern international law. 119/ It is essential to underline that international obligations in regard to the right to food would not primarily - and certainly not exclusively - consist in providing food or transferring resources for which food could be obtained: it is possible to define international obligations on the same three levels as those used for the national systems above: to respect, to protect and to fulfil.

A. The foundation:

The obligation to respect the self-determination of other peoples
and their sovereignty over natural resources

196. A basic purpose of the United Nations is to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples (art. 1(2)).

197. As elaborated in article 1 common to the two International Covenants on Human Rights of 1966, there emanates from this right of self-determination permanent sovereignty over resources. The necessary foundation of any effort to secure the enjoyment of economic and social rights is that a people control its own destiny and utilize its resources for its own purposes; this includes national jurisdiction over economic activities and wealth.

198. Concomitant to the right of self-determination is a set of international obligations for States encompassed within the concept of respecting the right. Such obligations include the obligation to refrain from any forcible action to deprive a people of self-determination, the duty to refrain in international relations from the threat or use of force against the territorial integrity or political independence of another State, and to refrain from intervention.

199. Non-intervention and self-determination includes refraining from using or encouraging the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights, or to secure from it advantages of any kind. This is reflected not only in various United Nations instruments including the Declaration of Principles of International Law and the Charter of Economic Rights and Duties of States, but also in such regional instruments as the Charter of the Organization of American States, article 19 of which provides: "No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind."

200. Self-determination and the permanent sovereignty over resources are subject, of course, to the principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter. In the

context of development co-operation and assistance, specific obligations are often undertaken aimed at giving maximum effect to the assistance. 120/ Whenever such obligations are in conformity with the Charter, and particularly when their aim and effect is to improve the realization of the right to food and other human rights for all within that State, such obligations do not impair but rather strengthen the self-determination and sovereignty of the recipient State. It cannot be excluded, however, that at times there are conditions established which negatively affect the domestic human rights situation and for that and other reasons may impair national self-determination.

201. To respect the self-determination of peoples and their sovereignty is not enough, however. Peoples - and States - interact with each other with increasing intensity; self-sufficiency is often impossible in modern times and not necessarily to be desired. There is a high level of interdependence, which in many cases results in substantial benefits for those involved. There is, however, a profound problem involved: the asymmetry in this interdependence, whereby the outcomes are often different for the parties to the interaction. The asymmetry is the product of a long history of unequal development; the causes will not be explored here, but the effects are there for all to see. 121/

202. In the progressive development of international law, efforts have been made over the last 15 years to find legal responses to this asymmetry with a view to redress the tilted balance. An essential element has been the Declaration on the Establishment of a New International Economic Order, adopted by the General Assembly in 1974. 122/ This and other instruments served as the basis for the International Law Association's Declaration on a NIEO (see the preceding note) to formulate a number of principles which are becoming part of general international law, including those of equity and of solidarity. In the principle of equity is found the aim of a just balance between converging and diverging interests, and in particular between the interests of developed and developing countries.

203. The principle of solidarity, which flows from the growing interdependence of States, calls for abstention from measures which cause substantial injury to other States, in particular to the interests of developing States and their peoples. 123/

B. The obligation to respect the right of other States to shared resources

204. The protection, preservation and enhancement of the natural environment for all peoples today, as well as for future generations, is the common responsibility of all States. Each State is obliged to ensure that activities within their jurisdiction or control do not damage the common human environment. There is a particular responsibility for States sharing common natural resources such as rivers, lakes, or drainage basins, not to abuse their rights in such a way as to cause significant harm to the rights of the other States.

205. The principle of abuse of rights can be found in the Corfu Channel case in which the ICJ referred to "every State's obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States." This principle acknowledges the fact that sovereign rights are correlative and

interdependent and subject to reciprocal limitations. Thus, a State may not use its right in such a way that the harm to another State is greater than the benefit to the user State.

206. The Stockholm Declaration on the Human Environment acknowledges that the protection of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world and is thus the duty of all Governments. Principle 21 of the Declaration reiterates the concepts stated above: "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."

207. The World Commission on Environment and Development, established pursuant to a resolution by the General Assembly in 1983 and which presented its report in April 1987 ^{124/} has given substantial attention to the need for institutional and legal change in this area. Beyond calling for a strengthening and extension of existing international conventions and agreements in this field (p. 333) it also calls for the adoption, by the General Assembly, of a universal declaration and a convention on environmental protection and sustainable development:

"The Charter should prescribe new norms for State and inter-State behaviour needed to maintain livelihoods and life on our shared planet, including basic norms for prior notification, consultation, and assessment of activities likely to have an impact on neighbouring States or global commons."

208. The requirement of due regard for the rights of all States is also contained in the growing recognition of the principle of the common heritage of mankind. While the principle as formulated and applied pertains to resources outside national jurisdictions, including the sea bed and outer space, it recognizes a shared wealth which may be used by all peoples as a component in the satisfaction of their needs. In all formulations, the particular needs of developing countries are given special consideration.

C. The right to benefit from science and technology:
The obligation to respect the access, for others,
to a common pool of global scientific endeavour

209. There is a growing acceptance of the right of all peoples to benefit from the accumulated advances in science and technology. International organizations contribute to some extent in the promotion of scientific collaboration at a global level and facilitating the transfer of technology in a way which can benefit global development with particular attention to the interests of the developing countries. The rights and the duties of the holders and recipients of technology remains an important but controversial arena. ^{125/} Provisions concerning transfer of technology and sharing of scientific advances have been included in the 1982 United Nations Convention on the Law of the Sea. There have also been discussions on this topic in connection with remote sensing and other activities in outer space.

D. The duty to co-operate and regulate: The obligation to join in the protection against exploitative patterns

210. In our interdependent world, the duty to co-operate is already a firmly entrenched principle of international law. ^{126/} States have a duty to co-operate irrespective of differences in political, economic and social systems. Co-operation shall seek to promote universal respect for human rights and for elimination of racial discrimination and of religious intolerance; States should co-operate in the economic, social and cultural fields to promote economic growth in particular in the developing countries.

211. The ultimate purpose of this co-operation should be to create "a social and international order in which all the rights recognized in the present Declaration can be realized" (article 28 of the Universal Declaration); all specific acts of co-operation should be directed towards this aim. The higher the level of interdependence, the more it will be necessary to regulate the co-operation in order to obtain equitable outcomes and thereby creating a just and balanced international economic order.

212. Co-operation in the field of food - in terms of production, trade and distribution - is an important component in international economic interaction. Reviewing the modes of operation of international finance institutions and regulation of the activities of transnational corporations should form part of this concern.

213. It remains to give substance and detail to the duty to co-operate. One aspect of this may encompass the principle of abuse of rights, the obligation not to undertake activities which will result in substantial harm to the rights of other States. It may also be formulated as in those provisions of the 1982 United Nations Convention on the Law of the Sea which obligate States to pay "due regard" to the rights and duties of other States in particular contexts and in maritime zones in which there are potential rights in conflict.

214. This is an equitable notion of balancing rights and interests, as is made clear in article 59: "In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole."

215. Following the adoption of the convention the World Conference on Fisheries Management and Development was organized in 1984, to re-examine and adjust national and international objectives, policies and strategies for fisheries management and development. The conference underlined the global acceptance of the coastal States' authority to manage fisheries within their jurisdiction, but also that this created new opportunities and responsibilities for coastal States and brought problems of adjustments to countries operating distant-water fleets.

"... In this period of change, the challenge is to provide a new and improved basis for the rational management and utilization of world fisheries resources with due regard to the requirements of the new fisheries régime. The new fisheries régime, moreover, should enhance the

opportunities for fisheries to play a greater role in world food supplies, thereby helping to alleviate undernutrition and contribute to world food security."

(From the Report from the World Conference on Fisheries Resources and Management, FAO, 1984, p.).

216. For agricultural development, adjustments needed in developing and developed countries have been formulated through 11 Guidelines 127/ last time revised in 1983; they cover production, investments, agrarian reform, inclusion of rural people in decision-making, the setting of goals for integrated production and nutrition policies, measures for equitable distribution, improved terms of trade and reduction of tariff barriers, stabilization of world agricultural market prices, expansion of trade and co-operation between developing countries, world food security, and food aid.

217. Inevitably, guidelines which direct themselves to rich and poor countries simultaneously will meet conflicting interests, and, taken together, their significance for the right to food may be limited. The duty to co-operate may therefore first of all include the duty of prior notification of activities which may have substantial effect on the ability of other States to develop their food resources. There exists precedent for such obligation of notification in the Helsinki Rules on the Uses of the Waters of International Rivers, in the recently drafted Convention on Nuclear Accidents, and in the Nordic Convention on the Environment.

218. In any case, the duty to co-operate contains within it essential obligations of due regard for the rights of other States, an equitable notion of balancing of rights and duties, and perhaps a requirement of prior notification or consultation with States potentially affected by national activities.

E. Obligation to give assistance?

219. We can now briefly address what is often - and mistakenly - thought to be the main international obligation in regard to the right to food: The obligation to provide assistance, particularly but not only in terms of donations of foodstuffs.

220. Considering that each State has the primary responsibility to promote the economic, social and cultural development of its people, and to the extent that all the international obligations discussed in this section are complied with, there will be a decreasing need for direct, international assistance. Unfortunately, this will not be achieved until some time in the future. In the period of transformation of the international economic order, developing countries should be entitled to assistance to overcome temporary or structural obstacles for their own development. Long-term measures are required, however, to step up the food production of the developing countries, which is the only lasting way to obtain food security; "in doing so, they should be supported by the international community by financial and technical assistance, as well as by food aid." 128/ Commitment to provide such assistance has been expressed in numerous declarations, including the International Development Strategy for the Third United Nations Development Decade, section C (Food and Agriculture); in the WCAARD Programme of Action; 129/ and more particularly in the Food Aid Convention, 1980.

221. Over the last decades, the international community has also substantially increased its commitment to disaster relief. This is reflected inter alia, in the establishment and operation of the Office of the United Nations Disaster Relief Co-ordinator 130/ and in the activities of the International Committee of the Red Cross, The League of Red Cross and Red Crescent Societies and a wide range of voluntary organizations. The international operations of relief are, nevertheless, largely based on voluntary contributions, and the principle of national sovereignty has also impeded the global administration of relief. 131/ Further legal development in this area is urgently needed.

3. Towards a responsible global food security system: Status and further prospects

222. Obligations inherent in the operation of a national food security system have been explored in chapter IV. Great variations exist among the developing countries. Some of them would be able to create a viable national food security on the basis of their own resources, provided they took the steps foreseen in the Declaration on the Right to Development, article 8 132/ and thereby established a more just national economic order.

223. There is nevertheless a need, for many reasons, for a global food security system to complement and strengthen the national one. Such a system will have to be built on the elements discussed in the previous section in so far as they are relevant for food issues.

224. Steps in the direction of a global food security system have been taken during the last 15 years by the food agencies of the United Nations. Some of the resolutions of the World Food Conference, in particular regarding an International Undertaking on World Food Security have been mentioned above. A further step was taken through the adoption, by the FAO, of the World Food Security Compact in 1985. Until that time, the focus from the time of the World Food Conference in 1974 had been on stockholding of food, in particular, and on assistance to developing countries in building up their stocks of cereals. Experience and research during the late 1970s and the first part of the 1980s made it clear that this was too narrow an approach.

225. The World Food Security Compact is therefore more comprehensive. It distinguishes between three levels of food security - at the household level, at the national level, and at the global level. The significance of including the household level is substantial - it means a breakthrough for the right of the individual of access to food as the focus of world food security. Formerly, activities of food organizations had been concerned more with food production than with the access to food. For those who do not have the purchasing power or other entitlements to food, it does not help much that enough food is being produced.

226. In section III of the Compact, dealing with action by Governments, paragraph 7 applies the principle of solidarity by stating that Governments should reaffirm their moral as well as economic and political commitment to co-operation in strengthening global food security.

227. The principle of equity is also applied in the Compact: According to paragraph 8, the overall objective of policy decisions concerning food of all Governments, whether importers or exporters, should be to develop a global

food system characterized by stability and equity. This principle recalls the original goals of the Four Freedoms address and the Atlantic Charter on which the United Nations was based.

228. While emergency food aid and other forms of relief should continue to be provided generously to poorer countries, increasing attention should, according to paragraph 9 of this Charter, be given to measures which would prevent such emergencies from arising in the future, in particular the promotion of food production (in the recipient countries). Finally, Governments of developed countries should give a specially high priority to helping developing nations where a major effort is being made to overcome the problem of rural poverty, the principal cause of chronic hunger and malnutrition.

229. The Compact is, however, a non-binding document, exhortatory in content, and intended primarily as a solemn moral commitment. 133/

230. Major food-producing countries (Australia, Canada and the United States) have disassociated themselves from the text. the United States argued that the document was "neither fowl nor fish" 134/ - by using the word "compact", it did not present itself as a normal recommendatory text and as yet it had not been the subject of detailed negotiations. Similar points were made by other States who could not endorse the Compact.

231. Several issues divided the opinion and prevented a full consensus. Involved is, inter alia, the question of food self-sufficiency versus international trade in food and the location of food production. In theory, it might be argued that food should be produced where this can be done most efficiently. This is one of the arguments why some countries dissociate themselves from the Food Security Compact.

232. In practice, however, this presents a great problem. The principle of comparative advantage may, in general and in so far as food is concerned, be useful in the relations between countries which are reasonably equal in overall terms of economic sophistication and average income. Barring war situations where external supplies might be cut off, there seems to be little reason why there should not be different specializations where some countries rely more on agricultural exports while others paid for their agricultural imports by industrial and electronic production.

233. It is doubtful, however, whether this should be applied in the relationship between highly developed countries and the developing countries, in particular those with large rural populations. The principle of comparative advantage may not function well in situations of profound and comprehensive asymmetry. What has to be seriously examined is that happens to that rural population if food imports on a large scale take place.

234. As pointed out in the Compact, the greatest poverty, and the most severe problems in the access to food, is to be found in rural areas in the third world. There are two sets of reasons: In some cases, there is a lack of access to land. In other cases, there is non-access to the necessary inputs which would make it possible to produce more food. Such inputs cost money; they can thus be obtained (except when given as grants) only if the produce can be sold, and at prices which would cover the cost. The most likely purchaser would be the urban consumer in the same country, thus

providing for the rural peasant an income on the basis of which the rural area could further develop and prosper. If, however, food for the urban market is imported from abroad, there is not a sufficiently strong incentive to increase the production in the rural areas.

235. That the major problem is to increase income in rural areas, and issues of international trade should be seen in this light, is also spelled out in the Compact, chapter II, paragraph 2:

"Governments of developing countries should promote domestic food production as the first line of attack on food insecurity. They should avoid, as far as they can, the risks that result from an excessive dependence on food imports, notably for feeding urban populations. In particular, they should ensure that city-dwellers do not acquire a permanent preference for imported basic foods which cannot be grown locally."

236. As previously stated, one pre-condition for national development, as stated in the Declaration on the Right to Development, is to carry out appropriate economic and social reforms to eradicate all social injustice. ^{135/} International trade and other economic interaction should be of such a nature that it contributes to national economic and social reform. In any case it should not contribute to even greater national injustice.

237. It is submitted, therefore, that the World Food Security Compact should be taken seriously as the first comprehensive framework for international obligations in regard to the realization world wide of the right to food. It may need further negotiations in order to become acceptable to all involved. In such negotiations global concerns and the right to freedom from hunger for all should be given priority.

4. Co-ordinators of global food security: The food and other relevant agencies.

238. In undertaking international co-operation and assistance pursuant to article 2(1) of the Covenant, the role of the international organizations and the contribution of non-governmental organizations should be kept in mind. ^{136/} The purpose of the following section is not to discuss the dominant trends within the international food régime (Hopkins and Pujala, 1981; Bergesen, 1982), but to examine ways in which these agencies could function, if they were to give priority to the realization of the right to food.

239. The centre-piece of international food agencies is the Food and Agriculture Organization. It has a special responsibility for ensuring the right of everyone to food. The mandate of FAO, found in the preamble to the constitution, lists among purposes for which it is created the task to co-ordinate efforts to ensure humanity's freedom from hunger, and the raising of the levels of nutrition and standards of living; particular mention has been made of the task to better the condition of rural peoples. ^{137/}

240. The full mandate of FAO goes beyond this; nevertheless, it is the one international agency which comes closest to having a responsibility for ensuring the right to food for all. Like other agencies, however, it is

subject to many and competing influences; while FAO has given considerable verbal support to the realization of the right to food 138/ its activities have not equally well focused on that task.

241. Probably FAO's greatest endeavour in this direction has been the evolution of the International Undertaking on World food Security and subsequently the World Food Security Compact; what remains to be seen is whether both can be given an effective follow-up in advancing the access to food for those who are presently most deprived.

242. Other related bodies include the World Food Programme, established in 1961 for the effective utilization of available surplus foodstuffs, as a transitional means of alleviating the hunger and malnutrition of food-deficit peoples. 139/

243. The World Food Council was established in 1974, 140/ as one of the outcomes of the World Food Conference. Its mandate is to serve as a co-ordinating body to provide overall, integrated and continuing attention for the successful co-ordination and follow-up of policies concerning food production, nutrition, food security, food trade and food aid, as well as other related matters, by all the agencies of the United Nations.

244. As a compromise solution following rejection of a proposal from developing countries for a "World Food Authority", the World Food Council may never have been given sufficient trust to exert leadership in world food diplomacy; nor has it provided the hoped-for intellectual leadership that e.g. could have given direction to the well intended idea of national "food strategies" - meant to be an instrument for integrating policies and programmes over a range of issues relevant to food and nutrition security. 141/

245. A number of agencies and Programmes of the United Nations deal directly or indirectly with aspects of food security and therefore have specific potential to become partners in the promotion of the right to food. Some of these are mentioned below; the list is not exhaustive.

246. IFAD, the International Fund for Agricultural Development was proposed by the World Food Conference in 1974 and established as a Specialized Agency by a United Nations conference called for this purpose in 1976. Its activities are governed by the Agreement Establishing the International Fund for Agricultural Development, and its objective is "to mobilize resources to be made available on concessional terms for agricultural development in developing Member countries". Among its priorities has been the importance of improving the nutritional level of the poorest populations in developing countries and the conditions of their lives. Mandated to support projects that will promote agricultural development for the small farmers, 142/ IFAD's philosophy would come close to a "right to food" orientation.

247. The role of the ILO is important. A number of its Conventions, Recommendations and activities are relevant to the realization of the right to food. Special attention should be given to the Tripartite World Conference on Employment, Income Distribution and Social Progress, and the International Division of Labour. It was convened by ILO in 1976 and adopted the "Basic Needs Strategy". 143/ On this basis, the ILO has also consolidated and strengthened its action in rural areas.

248. The role of UNICEF is significant and may become more so in the years to come in relation to the right to food. UNICEF's mandate, although focusing on children and women as primary targets, is potentially more broadly developmental in orientation than any of the specialized agencies. The Child Survival and Development "revolution" is increasingly being understood as an attack on the shortcomings of the child's immediate and more distant environment. Household Food Security is seen as one measure to improve this environment. Given the proper content, the combined goals of Child Survival and Development and Household Food Security can serve as a "pull" on different sectors and national and international agencies to co-operate, from the household level and upwards, for joint contributions to the realization of the right to food. Recently UNICEF has taken an initiative to support efforts towards increased involvement and thereby higher social relevance also of academic institutions towards these goals. 144/

249. UNICEF is also currently promoting "Adjustment with a Human Face", 145/ pertaining to the impact for the poor of economic recession and policy adjustments. This could be explored for its stance on economic, social and cultural rights. Given the proper attention and content, it could provide a wider framework for State obligations for food as well as health and nutrition security under the prevailing economic conditions

250. The World Health Organization is also increasingly recognizing its responsibilities in intersectoral efforts towards food security, and has taken steps to elaborate its area of work where it interfaces with agriculture. 146/ Furthermore, its role as "lead agency" in the United Nations for the development of methodology, training and advice in monitoring hunger and malnutrition 147/ places WHO in an important position for work towards the right to food in the broad sense, alongside other agencies especially UNICEF and FAO.

251. UNEP's mandate is to stimulate, co-ordinate and provide policy guidance for environmental action throughout the United Nations system, regarding sustainable development. As such the organization will have an increasingly important role to play as the relationships between food production, food entitlements and the environment are becoming better understood. Measures towards this end have been proposed by the Commission on Environment and Development. 148/

252. UNIDO's contribution to food security would fall within the area of post-production food processing industries. In many third world countries the lack of local agro-industries and particularly food industries prevents the full utilization of the potential for food self reliance.

253. The United Nations University (UNU) sponsored, in 1981, one of the first steps towards an international expert discussion on food as a human right. 149/ It has also been active in the area of nutritional requirements, post-harvest technology, and the food-energy "nexus". Recently, the World Institute on Development Economics Research, as a part of the UNU, has organized a food economics study programme; however as yet there has been no follow-up of the work with food as a human right.

254. In the field of education, UNESCO has in particular been active in collecting and developing material pertaining to nutrition and utilization of local food resources, first of all for use in the formal school system.

255. The difficulties of co-ordination between relevant agencies, both in policy and methodological issues as well as in practical operations at field level, are well known. This generally critical situation is underlined by the lack of common frameworks for analysis and action, within which the specific mandates and terms of operation of an agency can be interpreted and concretized to better interface with and support those of other agencies.

Chapter VI

MONITORING AND SUPERVISION

256. There exists considerable information on food production and availability, but surprisingly little on the access to food by members of different groups in society.

1. National monitoring

257. Primary responsibility for ensuring the enjoyment of the right to food rests with the individual States. The national food security framework, outlined in this study, might be of help in complying with the relevant domestic State obligations.

258. In compliance with their responsibilities under the Covenant, States parties should as a minimum undertake regular, systematic and sufficiently detailed surveys of the extent to which the right to food is realized, giving particular attention to those sections of society where it is not realized. Each State should develop its own systems for research, training and decision-making regarding ways in which they can best comply with these obligations, including selection of indicators required to monitor the progressive realization of the right to food.

259. Monitoring will usually imply some form of evaluation i.e. assessment in relation to set standards based on prevailing conditions, resources and opportunities. The setting of such standards form a necessary part of progressive realization of the right to food. In all of this international assistance and co-operation should be drawn upon as needed.

260. The development of systems of monitoring and evaluation of the right to food could become a continuing learning process and help in raising awareness at different levels: In Government policy circles, administration, research, and among the public at large. Properly developed and implemented it could provide invaluable feedback for adjustments in priorities and re-orientation of procedures; it would thereby function as a tool in community and national development

261. It cannot be overlooked however, that efforts to realize the right to food may give rise to conflicts over allocation of resources, and that this might cause temptation by Governments to abstain from specific components of the monitoring task. This should be counteracted.

2. International monitoring

262. The organized international community has a responsibility to supplement, where required, the national efforts in this field, inter alia through the following approach:

Encouragement and promotion of national endeavours;

Advice, through technical assistance, in the establishment and utilization of national monitoring systems;

Assistance, where exogenous factors block or impede the national realization of the right to food;

Reactions, when - and only when - a given Government grossly neglects its obligations to realize the right to food;

263. For the relevant agencies of the international society to perform such functions, there is a need also for supplementary, international monitoring and supervision of what is done nationally and of the obstacles encountered. To this end, State reporting under the International Covenant on Economic, Social and Cultural Rights will be of help; however, efforts to obtain through such reporting a satisfactory assessment of the degree of realization of the right to food is bound to be unsatisfactory.

264. There does not, as of today, exist conceptual uniformity and appropriate skills in this area. Disciplinary, professional and sectoral interests may work at cross purposes, contributing to piecemeal policies and activities. Adequate communication is often missing between relevant government departments, between these and university and other research institutions. Such and other obstacles to the realization of the right will weaken the processes of monitoring.

265. It might improve the situation if national centres or focal points were established which could integrate practical and intellectual work in this field, linking governmental, non-governmental and academic institutions concerned with the right to food. Such centres could maintain contact with the international agencies for mutually beneficial exchange of information and advice.

266. The international organizations themselves suffer from a lack of shared norms, terminology and co-ordination. In the efforts to monitor, advise and assist in the realization of the right to food, better arrangements are required for co-ordination between the secretariats of the relevant agencies and other parts of the United Nations. Better links are in particular required, should economic and social rights be taken seriously within the human rights organs, between the Centre for Human Rights and the agencies concerned. While overall guidance for the secretariats must come from the decision-making bodies, the daily technical and preparatory work can hardly be achieved without closer contact between the Centre and the relevant agencies.

267. For many years, the Commission on Human Rights has expressed its concern that the promotion of economic and social and cultural rights has not received adequate attention within the framework of the United Nations. In 1985 it called on the specialized agencies to prepare "a concise report on the state of the implementation of the rights to work, food, education, and health, respectively, so that the Commission can undertake a global assessment of the progress being made and the problems being encountered in the implementation of these rights."

268. Underlying this resolution was the assumption that the specialized agencies did monitor the implementation of the rights mentioned. None of them do so, however, in a systematic way. Only ILO has procedures for direct supervision of the implementation of rights, but these relate only to the rights and obligations contained in the ILO instruments. Even less does the Food and Agriculture Organization approach its tasks on the basis of a

realization of the right to food. Only over the least few years, has FAO moved closer to such an approach, due to the shifts in understanding of the basis for national food security. The necessary institutional changes required to monitor the implementation of national food security have not, however, been made. 150/

3. International supervision of implementation

269. In regard to civil and political rights, there has been considerable evolution within the United Nations, and also within regional organizations, of procedures for supervising the implementation of civil and political rights.

270. Some of these procedures may in principle be used also for supervision of compliance with economic and social rights: Under its examination of situations which reveal a consistent pattern of gross violations, as provided in Commission resolution 8 (XXIII) and resolutions 1235 (XLII) and 1503 (XLVII), of the Economic and Social Council, the Commission can also examine violations of economic and social rights, but in practice this hardly ever occurs.

271. There is no doubt that the international mechanisms within the human rights field for supervision of the implementation of these rights are weak.

272. The main body concerned is the new Committee on Economic, Social and Cultural Rights which has been established by the Economic and Social Council; it started its activity in 1987 and supersedes the Working Group of Government Experts previously functioning under the Council.

273. The tasks of this Committee are vast, since it is expected to deal with all the economic, social and cultural rights; it is likely to face, in its effort to examine the national implementation of these rights, many of the same difficulties which more or less paralysed the now defunct working group of government experts:

(a) The vagueness of the obligations flowing from economic and social rights. The right to food, it has been shown in this study, is a composite right with a wide range of obligations specific to different situations and problems; to monitor compliance with these obligations requires a comprehensive framework which has not, so far, been developed.

(b) Unsatisfactory guidance to State parties on how to report. It follows from the previous point that States reporting on their realization of the right to food have not and cannot be given precise guidance unless their obligations are clarified.

A questionnaire has been drawn up for reporting under articles 10-12 of the Covenant; but that questionnaire cannot, in the light of the above analysis, be considered satisfactory.

(c) The non-involvement of non-governmental organizations in monitoring economic, social and cultural rights. An essential aspect of the evolution of supervision and monitoring in regard to civil and political rights has been the involvement of non-governmental organizations. They have been given access to the Sub-Commission and the Commission; they have provided information to

members of the Human Rights Committee, and they have been active in making proposals for the normative and institutional development in regard to the right to food.

There are, so far, very few organizations which address themselves explicitly to economic, social and cultural rights. The main exceptions are trade unions and employers' organizations in relation to ILO. Some NGOs have also played a significant role in the negotiations and lobbying around such instruments as the International Code of Conduct on Marketing of Mothers' Milk Substitutes (WHO), the Convention on International Food Trade (FAO), and the Convention on Plant Genetic Resources (FAO). However, in some specialized agencies the attention to NGOs' views seem lower than in the human rights organs.

(d) Inadequate co-operation with the specialized agencies. In drafting the Covenant, it was envisaged that the specialized agencies were to play a major role in the promotion of economic, social and cultural rights, 151/ and that the Economic and Social Council was to establish a close link with them in this regard. 152/

This has only to a very limited extent happened; primarily because (with the exception of ILO) the agencies do not approach their tasks from the perspective of rights and obligations.

(e) The limited time and capacity available to the Committee. Under the periodic reporting system as it now functions, there will be nine-year intervals between the reports from a given country dealing with articles 10 to 12 (thus including the right to food). This can hardly be expected to have a significant influence on the way in which States comply with their obligations. In addition, the members of the Committee have to deal with very different rights (work, food, social security, health, education, family rights) which require very different kinds of expertise; without proper secretariat services it will be difficult to handle this broad array of issues.

Chapter VII

CONCLUSIONS AND RECOMMENDATIONS

1. Conclusions

274. This study has shown that the right to food is widely recognized in international law, both in general and in more specific terms. In its most general formulation, it is found in the Universal Declaration of Human Rights, to which all members of the international community subscribe, whatever legal consequences they draw from it; in more unequivocal terms it is found also in the international Covenant on Economic, Social and Cultural Rights to which at present 85 States are parties.

275. In more specific terms, it is found in a great variety of contexts which have been listed above. They attest to a widely accepted view that access to food is an essential right which should be respected and protected under all circumstances.

276. The corresponding obligations, however, are less developed. In particular, the obligations found in the more general provisions are vague, diverse and found in many different instruments. In view of the urgent need to respond to hunger and malnutrition in the world today, it is necessary to consolidate and further develop existing law through the drafting of an appropriate instrument on the right to food. It might contain declaratory and obligatory parts. As a contribution by a non-governmental organization, the International Law Association has established a working group for this purpose.

277. At the national level, plans for national food security have obtained increasing attention. Properly approached, with a particular focus on the conditions necessary to promote food security at household and community level according to the principles in the "food security matrix" suggested in this report, such plans could constitute the agenda for the implementation of the right to food nation-wide. Country-specific application could then be made of the otherwise general and vague international obligations. This agenda accommodates a wide range of approaches.

278. There exists in many States the beginning of national arrangements for the monitoring of the progressive realization of the right to food; such efforts should be encouraged in all States where access to food for some groups presents particular problems, and where special attention therefore must be given to the situation of such groups.

279. It remains the primary responsibility of States to ensure enjoyment of the right to food by all within their jurisdiction. But States have obligations also to the peoples of other States and to the international community. These can be derived from provisions found within human rights law and from a set of principles of international law, as outlined in chapter V.

280. For the organized international community to be able to enhance the compliance with internal and external obligations of States, there is also a need for international monitoring and supervision. This should be carried out in order to supplement and strengthen the national efforts and to assist in the elimination of obstacles to the realization of the right to food.

281. It has been argued above that the functions served by international agencies and organs should be to encourage and promote the national efforts, to assist in overcoming obstacles and difficulties, and to react to gross neglect of these obligations wherever such occurs.

282. International monitoring may be of help in encouraging and promoting national food security efforts. Through international monitoring it may also become feasible to organize adequate international support and assistance, and to create awareness of situations where actions by other States are detrimental to the progressive realization of the right to food inside a State.

283. At present, however, such international monitoring and supervision is rather weak, as pointed out in chapter VI. The specialized agencies concerned have not approached the issue of food from the perspective of human rights.

284. The relevant body within the human rights field is the new Committee on Economic, Social and Cultural Rights, which started its work in March 1987, and which will have substantial difficulties to overcome in its important work. Five of the major difficulties have been outlined in chapter VI: (a) the lack of clarity of obligations, (b) the lack of guidance for State reporting (c) the limited co-operation from the specialized agencies, (d) the non-involvement of non-governmental organizations and (e) the limited time and capacity of the Committee itself.

2. Recommendations

States should:

Draw up plans for national food security according to the overall framework suggested in this study, focusing on household and community food security and building on a nation-wide system of identifying local needs and opportunities for achieving such food security;

Identify in particular within such plans the needs of groups which have the greatest difficulties in achieving food security, and set specific goals to ensure sustainable access to adequate food for those groups.

Ensure popular participation in periodically assessing and analysing local needs and opportunities, and facilitate inputs by the least privileged groups in society into the action plans that should follow from such assessment and analysis;

Indicate specifically the areas in which international assistance is required and spell out details of the assistance needed;

Ensure that an adequate system for monitoring the right to food is developed and put into action, guided by the principles of food security as suggested in this study (enough and adequate food in terms of nutrition and cultural acceptability, viable patterns of procurement of food, and a sustainable food resource base); such a system may build on and integrate information from different systems (e.g. Timely Warning, Nutritional Surveillance, etc., and national data bases in general), if necessary with appropriate assistance from international agencies;

Provide details of the national food security plans and of progress made and obstacles encountered in the implementation of these plans in their reports for States parties to the Covenant;

Recognize and comply with their obligations in regard to the peoples of other States arising from the right to food and from principles of general international law, as outlined in chapter VI of this study.

National non-governmental organizations, universities and research institutions dealing with development and human rights issues should:

Participate in the elaboration of local needs and opportunities for food security and in the formulation and implementation of food security action plans;

Disseminate information about international human rights standards and stimulate local and national debate on the implementation of the right to food.

The specialized agencies should:

Examine their mandates for their relevance and relationship to food as a human right, inter alia through establishing as needed interdivisional working groups or task forces for this purpose;

Pay increased attention to the food-related work of the human rights organs and be prepared to co-operate with them in setting up the overall framework for promoting the right to food in given national situations and to develop subsequent action plans;

Develop further, advise on and assist in establishing appropriate systems for monitoring aspects of food security within their domains according to the framework suggested in this study, and consider how relevant information from such systems may be utilized and integrated with that of other systems for the purpose of monitoring the realization of the right to food;

Explore the possibility of developing for such co-operation special mechanisms for inter-agency co-operation in this field under the Administrative Committee on Co-ordination or other existing co-ordinating mechanisms.

The Economic and Social Council should:

Consider requesting the Committee on Economic, Social and Cultural Rights to designate one or two of its members to pay particular attention to the right to food dimensions of the work of the Committee. These members could, from time to time, draft general comments for consideration by the Committee with a view to developing greater understanding of the normative and practical implications of the right to food;

Consider requesting a Working Group of the Committee on Economic, Social and Cultural Rights to undertake a series of hearings at which experts from relevant international agencies would make submissions and respond to questions with a view to developing a more sophisticated and mutually rewarding understanding of the best ways by which the international community could promote more effectively implementation of the right to food.

Consider the establishment of relevant intersecretariat and inter-agency co-operative arrangements that would facilitate closer working relations between the Centre for Human Rights and other relevant parts of the Secretariat as well as the specialized agencies, to ensure the best performance of the United Nations in promoting the right to food.

The Committee on Economic, Social and Cultural Rights should:

Improve its guidelines for States parties' reports so that more meaningful data are generated on the extent to which the right to food is not presently enjoyed and on the obstacles which block its enjoyment;

Encourage States parties to the Covenant to involve community groups and non-governmental organizations in the preparation of reports under the Covenant;

Improve the links with the relevant specialized agencies in order to obtain access to information which could be used to make the supervision process more meaningful;

Take measures to implement articles 22 and 23 of the Covenant by encouraging the provision of technical assistance to States parties which have encountered difficulties in realizing the right to food;

Emphasize to States that the obligation contained in article 2 (1) of the Covenant to "take steps" is of immediate application and does not necessarily depend on the availability of extra resources; the most appropriate step under article 2 (1) being the establishment of a system for the preparation of national food security action plans;

Reorganize the periodicity of the handling of reports in order to obtain shorter intervals; for this purpose, more time might need to be allocated to the Committee;

Indicate also, in its comments on State reports, the required compliance with external obligations of States necessary in order to facilitate a satisfactory realization of the right to food;

Make suggestions for further and improved co-operation between States on a voluntary basis, aimed at better world-wide realization of the right to food.

International non-governmental organizations should:

Support the efforts to realize the right to food world-wide, through information, awareness-formation and action as appropriate;

Base their food-related efforts on the right to food rather than on policy statements which are often vague and contentious;

Develop or strengthen their co-operation, on the basis of the right to food, with the relevant parts of the Secretariat and the specialized agencies, the Economic and Social Council, and the Committee on Economic, Social and Cultural Rights.

The Sub-Commission on the Prevention of Discrimination and Protection of Minorities should:

Seek authorization, through the Commission on Human Rights, from the Economic and Social Council to initiate an effort to consolidate and further develop existing law through the drafting of an appropriate instrument on the right to food. Such an instrument might contain declaratory and obligatory parts, and should give due account also to methods for monitoring and implementation.

In this endeavour, account should be taken of the efforts currently made within the International Law Association to prepare a model draft instrument on the right to food.

Notes

1/ The "State of the Union" message, delivered on 26 January 1941. Public Papers and Addresses of Franklin D. Roosevelt: War and Aid to Democracies, p. 672.

2/ The three others were: Freedom of speech and expression; freedom of worship; freedom from fear. He called for a future world in which all of the freedoms were to be enjoyed "everywhere in the world".

3/ The Charter of the United Nations, Article 1 (3).

4/ Adopted by the General Assembly on 10 December 1948, with no votes against and eight abstentions.

5/ Articles 22-27. For the purposes of this study, Article 28 is also relevant, as we shall later see.

6/ The Hunger Project: Ending Hunger, 1985, p. 7, building on data compiled by UNICEF.

7/ Both the IFPRI Report (Research Report No. 52: Food in the third world: Past trends and projections to 2000. By Leonardo A. Paulino, June 1986, IFPRI, Washington D.C.), and the World Commission on Environment (see note 9), use the FAO Production Yearbook for 1983 and 1985 respectively. It is doubtful whether the difference in the global per capita availability estimates give much meaning to the layman, which is why we have restricted such global statistical information to a minimum in this chapter.

8/ Report of the Food and Agriculture Organization to the Commission on Human Rights 1985, E/CN.4/1986/38/Add.2, para. 8.

9/ Our Common Future. Report of the World Commission on Environment and Development. Clarendon Press, Oxford, 1985, pp. 121-122.

10/ The State of Food and Agriculture, FAO 1985.

11/ For details, also regarding the other continents, see the World Food Review in The State of Food and Agriculture, 1985, op. cit.

12/ Statement by the Administrative Committee on Co-ordination - Sub-Committee on Nutrition - of the United Nations system, 13th Session, Washington, March 1987.

13/ Our Common Future. See note 9.

14/ Amartya Sen: Poverty and Famines. An Essay on Entitlements and Deprivation. Clarendon Press, Oxford, 1981.

15/ E/CN.4/1488, para. 131.

16/ E. Vierdag: "The legal nature of the rights granted by the International Covenant on Economic, Social and Cultural Rights", Netherlands Yearbook of International Law VI. IX (1978) p. 103.

17/ Ibid, p. 103.

18/ Fried van Hoof: The Legal Nature of Economic, Social and Cultural Rights: A Rebuttal of Some Traditional Views. In Alston and Tomasevski (ed): The Right to Food (Martinus Nijhof, Publishers, 1984) p. 100.

19/ Ibid, p. 101.

20/ See generally N. Valticos, Droit international de travail, Paris, Dalloz, 1983.

21/ Marc Bossuyt: La distinction juridique entre les droits civils et politiques et les droits économiques, sociaux et culturels", Revue des droits de l'homme - Human Rights Journal, vol. 8 No. 4, Paris, 1975.

22/ The debate in Western literature on the components which constitute a "right", and the corresponding obligations, is extensive. Highlights are Bentham 1782; Austin 1832; Hohfeldt 1913. Specifically for human rights, see Shue 1978 and Kanger 1984. Among theoretical contributions by Socialist authors, that of Imre Szabo, 1966, is of particular significance.

23/ Lauterpacht, E.: International Law 68-74, 8th ed., 1970.

24/ Locke and Rousseau, as well as many others, were concerned with civil rights and sought their justification in natural law. While natural law has undoubtedly been, and is likely to remain, an important source of inspiration for many, the present system of human rights is now based on positively recognized international instruments such as the Universal Declaration of 1948 and the many declarations and conventions since adopted. The justification therefore does not have to be sought in natural law.

Furthermore, in modern society with its complexities, we cannot derive all human rights from simple natural law propositions. The structures of society are more complex, there is a more delicate balance to be performed in weighing the different rights against each other and in balancing rights and duties.

25/ There were several precursors to this event: Prohibition of slavery and the slave-trade, humanitarian law in armed conflict, refugee protection and the protection of labour rights by ILO, as well as minority rights. But the broad recognition of individual rights for all started at the international level with the Universal Declaration.

26/ This is recognized in article 29 of the Universal Declaration.

27/ For a thorough study on this, see Ruth Russell: A History of the United Nations. The Role of the United States 1940-45, at pp. 32-34 and passim.

28/ See A/148 (General Assembly doc.)

29/ Ibid., Panama draft. The draft contained a comment on each article. On the right to food (art. 14) it stated: "Food has not been dealt with in constitutional instruments hitherto. Nutrition policies have

developed very rapidly since 1936. The United Nations Conference on Food and Nutrition, at which forty-four States were represented, recommended that Governments should recognize and embody in a formal declaration or agreement on their obligation to their respective peoples and to one another to raise levels of nutrition and distribution and standards of living This article ensures the individual "the opportunity to obtain" food and housing. The State is not required to provide food or housing unless the individual cannot under existing conditions obtain them through his own effort."

30/ This applies in particular to France and to the United States, both of which were in the forefront, together with socialist and Latin American countries, in drafting the Universal Declaration. The leader of the French delegation, Rene Cassin, was an active protagonist of social and economic rights; so was the United States delegation. Controversies arose at a later stage over the kind of obligations to attach to the rights, but there was no disagreement that social and economic rights should be included in the Universal Declaration.

31/ See Report of the Human Rights Committee, Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 40, (A/37/40, 1982): General Comment 6 (16) to article 6.: "Moreover, the Committee has noted that the right to life has been too often narrowly interpreted. The expression "inherent right to life" cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures. In this connection, the Committee considers that it would be desirable for States parties to take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics."

32/ Tomasevski, Katarina: The Right to Food Guide, Martinus Nijhoof, Publisher, 1987.

33/ Universal Declaration on the Eradication of Hunger and Malnutrition, adopted by the World Food Conference in 1974 and endorsed by the General Assembly in resolution 3348 (XXIX) of 17 December 1974.

34/ The Geneva Convention of 1949 Relative to the Treatment of Prisoners of War, articles 26 and 51, the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, articles 23 and 55, Protocol Additional to the Geneva Conventions, and Relating to Victims of International Armed Conflict, articles 54, 69 and 70, Protocol Additional to the Geneva Conventions, and Relating to the Protection of Victims of Non-International Armed Conflicts, articles 14 and 15, Declaration on the Protection of Women and Children in Emergency and Armed Conflicts, p. 6.

35/ Statute of the Office of the United Nations High Commissioner for Refugees, Convention Relating to the Status of Refugees, chapter IV.

36/ There is no explicit recognition of the obligation to give, or to receive, in times of disaster. But steps in this direction have been taken by the decision to establish the office of a United Nations Disaster Relief Co-Ordinator, and subsequent resolutions by the General Assembly in this area. See General Assembly resolution 2816 (XXVI), 1971, establishing UNDRO, and resolutions 36/225, 1981 and others strengthening the United Nations system to respond to natural disasters and other disaster situations.

37/ United Nations Standard Minimum Rules for the Treatment of Prisoners, European Standard Minimum Rules for the Treatment of Prisoners.

38/ Convention on the Prevention and Punishment of the Crime of Genocide art. II (c), International Convention on the Suppression and Punishment of the Crime of Apartheid article II (a) (iii).

39/ World Food Conference 1974 Res. V: Policies and programmes to improve nutrition; Mexico Declaration of the World Food Council.

40/ ILO Convention No. 131, 1970: Minimum Wage-Fixing Machinery (Agriculture) Convention; ILO Recommendation No. 135, 1970: Minimum Wage-Fixing Machinery (Agriculture) Recommendation.

41/ ILO Social Security (Minimum Standards) Convention; ILO Social Policy (Basic Aims and Standards) Convention; World Employment Conference: Basic Needs Strategy; Inter-American Charter of Social Guarantees; OAS Charter: Right to Nutrition and Well-Being; European Social Charter; European Convention on Social and Medical Assistance.

42/ Declaration of the Rights of the Child, Principle 4; International Code of Marketing of Breastmilk Substitutes, adopted in May 1981 as a Recommendation under article 23 of its constitution by the WHO conference.

43/ Code of Ethics for International Trade in Food, adopted by the Codex Alimentarius Commission of the FAO; Legal protection of collective interests of consumers by consumer agencies - recommendation R (81)2 by the Council of Europe, Committee of Ministers.

44/ World Conference on Agrarian Reform and Rural Development, convened by FAO in Rome 12-20 July 1979: Food Strategy Guidelines, contained in Program of Action, paras. 51-65.

45/ World Food Conference 1974 res. VIII: Achievement of a desirable balance between population and food supply; International Conference on Human Rights, Teheran 1968: Human Rights Aspects of Family Planning; World Population Conference, Bucharest 1974: World Population Plan of Action Section C.

46/ General Assembly resolution 1803 (XVII): Permanent Sovereignty over natural resources; General Assembly resolution 3281 (XXIX), Charter of Economic Rights and Duties of States; General Assembly resolution 37/7, 1982 (Annex): World Charter for Nature; Declaration of the United Nations Conference on the Human Environment, Stockholm 1972; United Nations Conference on Desertification: Plan of Action to Combat Desertification; General Assembly resolution 39/208: Countries stricken by desertification and drought.

47/ United Nations Convention on the Law of the Sea, 1982: Fishing Rights, articles 62 and 63.

48/ Slavery Convention, 1926; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956; ILO Forced Labour Convention (Convention No. 29), 1930; ILO Abolition of Forced Labour Convention (No. 105), 1959.

49/ ILO Tenants and Share-Croppers Convention (no.), Plantations Convention and Recommendation; Protocol to the Plantations Convention.

50/ Human Resources Development Convention and Recommendation; Special Youth Schemes Recommendation; Vocational Training (Agriculture) Recommendation.

51/ Co-operatives (Developing Countries) Recommendation; Rural Workers's Organizations Convention.

52/ International Convention on the Elimination of All Forms of Discrimination against Women (1979), articles 11 et seq., in particular article 14; World Food Conference 1974: Resolution on Women and Food; General Assembly resolution 37/59, 1982: Improvement of the situation of women in rural areas; World Conference of the United Nations Decade for Women, Copenhagen 1980: Women and nutritional self-sufficiency; World Conference of the United Nations Decade for Women, Copenhagen 1980: Women in agriculture and rural areas.

53/ International Convention on the Elimination of All Forms of Racial Discrimination, 1965, particularly article 5.

54/ ILO Indigenous and Tribal Populations Convention (No. 107, 1957) and Declaration; Second World Conference to Combat Racism and Racial Discrimination, Programme of Action, paras. 34-36: Indigenous Land Rights.

55/ General Assembly resolution 3202 (S-VI), 1974: Programme of Action on the Establishment of a New International Economic Order: Food; General Assembly resolution 3362 (S-VII), 1975, Development and International Economic Co-operation: Food and Agriculture; General Assembly resolution, 1980, International Development Strategy for the Third United Nations Development Decade: Food and Agriculture.

56/ FAO 1974: International Undertaking on World Food Security; FAO 1979: Plan of Action on World Food Security; FAO 1985: World Food Security Compact.

57/ International Fund for Agricultural Development: Lending Policies and Criteria, IFAD/8/Rev.1 (1978); United Nations Conference on the Least Developed Countries (Paris, September 1981): Substantial New Programme of Action for the 1980s for the Least Developed Countries, section A: Food and Agriculture; General Assembly resolution 39/165 1984: Critical situation of food and agriculture in Africa; EEC 11 July 1983: EEC Regulation Implementing a Special Programme to Combat Hunger in the World; EEC 8 December 1984: Third ACP-EEC Convention.

58/ Committee on Food Aid Policies and Programmes 1979: Guidelines and Criteria for Food Aid; Food Aid Convention 1980 (6 March, London).

59/ International Wheat Conference 1971: Wheat Trade Convention; UNCTAD 1980: Agreement Establishing the Common Fund for Commodities; IMF 1981: Compensatory Financing of Fluctuations in the Cost of Cereal Imports, Decision No. 6860-(81/81) of the Executive Board of the International Monetary Fund.

60/ OECD: Guidelines for Multinational Enterprises, 1976 (Annex to Declaration of 21 June 1976 by OECD Governments on Guidelines for Multinational Enterprises, National Treatment, International Investment Incentives and Disincentives, and Consultation Procedures); ILO 1977: Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy; World Conference on Agrarian Reform and Rural Development 1979: Foreign Investment and Transnational Corporations.

61/ It will be recalled that the draft presented by Panama (A/148, art. 14) on the right to food provided that the State "has a duty to take such measures as may be necessary to insure that all its residents have an opportunity to obtain these essentials".

62/ The formulation of this passage was inspired, inter alia, by an intervention by the head of the United States delegation who pointed out that the United States delegation favoured the inclusion of economic and social rights in the Declaration, for "no personal liberty could exist without economic security and independence. A man in need is not a free man". See E/CN.4/SR.64, at p. 5.

63/ It should be noted that even with this compromise, the Socialist countries of Eastern Europe found that the Declaration was too weak. Their abstention in the voting for the Declaration, on 10 December 1948, was said to be due in part to the non-inclusion of express State obligations in the text. See, e.g., the statement by Mr. Pavlov, E/CN.4/SR.81, p. 28.

64/ A detailed and penetrating restatement of the obligations contained in article 2 of the International Covenant on Economic, Social and Cultural Rights is contained in the Limburg Principles on the Implementation on Economic, Social and Cultural Rights, adopted at a meeting convened by the International Commission of Jurists and others at a meeting in Maastricht on 2-6 June 1986. The text can be found, inter alia, in Human Rights Quarterly, vol. 9, No. 2 (May 1987), p. 122.

65/ See further Philip Alston and Gerard Quinn: The Nature and Scope of State Obligations under the International Covenant on Economic, Social and Cultural Rights, Human Rights Quarterly, vol 9, No. 2 (1987).

66/ The concern with land reform was prominent in the drafting of article 11 (para. 2) in 1963. Discussion in the Third Committee of the General Assembly in 1963, Meeting 1267, Chile (on behalf of the sponsors), at para. 3, in reply to a question by the United Kingdom (para. 2) and endorsement by the United Kingdom of the reply (para. 5).

67/ Adopted by the General Assembly on 4 December 1986, as resolution 41/128.

68/ Included is also the full realization of the rights of peoples to self-determination and their sovereignty over natural wealth and resources, article 1, para. 2.

69/ This is the position taken already in the very first draft for the right to food, presented on behalf of Latin American lawyers by Panama already in 1945, see note 29.

70/ Interestingly, this corresponds to the approach taken in the very first draft for the right to food, the one presented by Panama in 1945. See in particular the comment to article 14 in the Panama draft, doc. A/148 of the General Assembly.

71/ Reference can be made to the General Comment of the Human Rights Committee in regard to the right to life, article 6 of the International Covenant on Civil and Political Rights.

72/ See Declaration on the Right to Development, art. 2, para. 3: "States have the right and the duty to formulate appropriate national development policies which aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom".

73/ The Declaration on the Right to Development, General Assembly resolution 41/128, article 2 (para. 1). Numerous delegations at the Commissions have expressed views in the same direction. In his intervention to the forty-second session of the Commission, the leader of the Australian delegation, Mr. Robertson on 20 February 1986 in referring to the development process said that "it is a concept that must apply principally to the right of individuals, consistent with the organization of their respective societies, to pursue measures which permit them to develop their full potential as human beings, free from want, hunger, disease, illiteracy and poverty. Hence, the principal responsibility rests with Governments to realize the processes that would promote just distribution and popular participation".

74/ See for references: Oshaug, 1985: The composite concept of food security. In Eide et al.: Introducing Nutritional Considerations into Rural Development Programmes with Focus on Agriculture, Report No. 1: A theoretical contribution. Institute for Nutrition Research, University of Oslo, 1985.

75/ See: Approaches to World Food Security. Selected working papers of the Commodities and Trade Division. FAO Economic and Social Development Paper No. 32, Rome, 1983.

76/ Food and Agriculture Organization, 1983: Progress in implementation of the plan of action to strengthen World Food Security - a reappraisal of concepts and approaches. FAO, C/83/20, Rome.

77/ World Food Council, 1982: Food security for people - direct measures to reduce hunger. Report by the Executive Director. WFC/1982/6.

78/ Food and Agriculture Organization, 1983: Progress in implementation of the plan of action to strengthen World Food Security - a reappraisal of concepts and approaches. FAO, C/83/20, Rome.

79/ The World Bank has defined food security as: "Access by all people at all times to enough food for an active, healthy life". See: Poverty and Hunger Issues and Options for Food Security in Developing Countries. World Bank, Washington D.C., 1986.

80/ Our Common Future. Report on the World Commission on Environment and Development, Oxford University Press, 1987. The WCED did not come up with

a precise definition of food security but implies in it, inter alia, "... agricultural systems that focus as much attention on people as they do on technology, as much on resources as on production, as much on the long term as on the short term" (p. 144). It also states that "... global food security also depends on ensuring that all people, even the poorest of the poor, can get food" (p. 129).

81/ Rukuni, M. and Eicher, C.K.: Food Security for Southern Africa. University of Zimbabwe/Michigan State University Food Security Project. University of Zimbabwe, Department of Agricultural Extension, 1987.

82/ There is a vast literature from the last 10-12 years on the role of women in food and agriculture and consequences for policy decisions. See for example: Women in development agriculture. In: The State of Food and Agriculture, FAO, 1985, chap. II.

83/ Farming Systems Research aims to complement conventional research-station based agricultural research and overcome some of the weaknesses of the latter, in providing extension services with technical packages that are appropriate to the circumstances of small farmers operating in particular rural environments. See e.g. Alan Low: Agricultural Development in Southern Africa. Farm-Household Economics and the Food Crisis. Heinemann, 1986; Joyce Lewinger Moock, (ed.): Understanding Africa's Rural Households and Farming Systems. Westview Special Studies on Africa, Westview Press, 1986.

84/ See for example: "Adding a consumption perspective to Farming Systems Research", United States Department of Agriculture/United States Agency for International Development, 1985. In Zambia, a nutrition expert has been added to the central Adaptive Research and Planning Team co-ordinating FSR in the provinces.

85/ See the discussion regarding entitlements to food in chapter II.

86/ Professor R.-G. Choto, Department of Pediatrics, University of Zimbabwe, personal communication, April 1987.

87/ This ongoing research programme attempts to explain and compare, with a common methodology, income and nutrition effects of shifts from semi-subsistence farming to commercial production, e.g. of maize, sugar, groundnuts, a.o., in different countries in Asia, Africa and Latin America. Results from this research, which are not yet available, may provide useful information on types of mechanisms behind varying impacts of such shifts, depending on the circumstances under which they take place.

88/ Eide, W.B., Holmboe-Ottesen, G., Oshaug, A., Perera, D., Tilakaratna, S. and Wandel, M: Introducing Nutritional Considerations into Rural Development Programs with Focus on Agriculture. 1. A theoretical contribution (1985); 2. Towards practice (1986). Institute for Nutrition Research, University of Oslo.

89/ This is not to say that food patterns are static, nor that they should be.

90/ From the perspective of the legal profession, such a matrix is unconventional and has been developed through interdisciplinary dialogue.

91/ The common use of this term has come to relate to national food reserves that can buffer overall shortages. Since these are almost exclusively thought of in terms of grain, it is proposed to maintain the term Strategic Grain Reserves for this purpose, which has been used on many occasions (and is still used in some situations), and which in any case better reflects what national reserves is about. It is of course appreciated that it may take time to change terminology which has become well established for macro-analysts and planners in the field of food policies. The search for a reorientation in food policy analysis and action directed towards the realization of the right to food may, however, warrant a reorientation also of terminology if found useful for intellectual clarity.

92/ National Food Strategy (As adopted by the National Assembly); Republic of Botswana, Government Paper No. 2 of 1985.

93/ It is in the light of this fact that the Declaration on the Right to Development (art. 4, para. 2) states: "... As a complement to the efforts of developing countries effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development."

94/ To this point, the Declaration on the Right to Development is addressed (see the final sentence of art. 8, para. 1): "Appropriate economic and social reforms should be made with a view to eradicate all social injustice". The same theme is found in a great number of other international instruments: in the International Covenant on Economic, Social and Cultural Rights (art. 11, para. 2); and in the Declaration of Principles of the World Conference on Agrarian Reform and Rural Development held in Rome in July 1978. (See, e.g., principles IV and VII. The latter reads: "... that equitable distribution of land and efficient use of land, water and other productive resources, with due regard for ecological balance and environmental protection, are indispensable for rural development, for the mobilization of human resources and for increased production for the alleviation of poverty". It would be beyond the scope of this study to include the wide range of international instruments dealing with redistribution and reform.)

95/ Annual Report of the Inter-American Commission on Human Rights, 1979-1980. OEA/Ser.L/V/II.50, pp. 151-152.

96/ See, e.g., the document "Hunger in America", prepared by the Physician Task Force on Hunger in America, Harvard University School of Public Health, 1985.

97/ Council of Europe: Exchange of views on poverty in Europe, 30 September - 1 October 1986. Conclusions as presented by the Special Rapporteur, Mr. G. Sarpellon. EVP (86) 5.

98/ Macallister-Smith, Peter: International Humanitarian Assistance. Disaster Relief Actions in International Law and Organization, Martinus Nijhoff Publishers, 1985, pp.2-3.

99/ Famine. A Man-made Disaster? A Report by the Independent Commission on Humanitarian Issues, Vintage Books, New York, 1985.

100/ Elmhurst Lecture given to the International Association of Agricultural Economics in Malaga (Spain) on 26 August 1985, published as Working Paper No. 1 of the programme "Hunger and Poverty: The Poorest Billion" of the United Nations University, World Institute for Development Economics Research, 1985. See also the following note.

101/ In the lecture quoted in the preceding note, Amartya Sen gives the following definition: "The entitlement of a person stands for the set of different alternative commodity bundles that the person can acquire through the use of various legal channels open to someone in his position. In a private ownership market economy, the entitlement set of a person is determined by his original bundle of ownership (what is called his "endowment") and the various alternative bundles he can acquire starting respectively from each initial endowment, through the use of trade and production (what is called his "exchange entitlement mapping").

102/ Protocol additional to the Geneva Conventions, relating to the protection of victims of international armed conflict, in article 54 not only prohibits the starvation of civilians as a means of warfare, but also prohibits any action - whatever the motive - to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural area for the production of foodstuffs, crops, livestock, drinking water installations and supplies, etc. This is but one example of the obligation not to deprive civilians of access to food.

103/ See, e.g., Protocol Additional to the Geneva Conventions and relating to the protection of international armed conflicts (arts. 69 and 70).

104/ The Geneva Convention of 12 August 1949, relative to the protection of the civilian population in times of war (art. 55) obliges the occupying power "to ensure the food and medical supplies of the population; it should, in particular, bring in necessary foodstuffs ... if the resources of the occupied territory are inadequate".

105/ Protocol relating to victims of non-international armed conflict (art. 14). On relief consignments, see art. 18.

106/ A thorough study of famines, their victims and responses has been made by Amartya Sen, particularly in his "Poverty and Famines", see note 9.

107/ See above, paras. 34-36 and 112-114.

108/ XXVth International Conference of the League of Red Cross Societies, Geneva.

109/ FAO collects and disseminates information on legislation in this field, in the semi-annual Food and Agriculture Legislation. See also FAO report to the Commission on Human Rights at its forty-second session, E/CN.4/1986/38/Add.2, para. 45 et seq.

110/ See note 38.

111/ Adopted by the 34th World Health Assembly on 21 May 1981 by a vote of 118-1 (United States voting against).

112/ The treatment of some indigenous populations fall in this category.

113/ It will be seen that most of these situations were already envisaged in the Universal Declaration, article 25, para. 1, in fine: ... 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.

114/ The relevant passages in the Atlantic Charter (Joint Declaration between the President of the United States and the Prime Minister of the United Kingdom, 22 August 1941) read: "Fifth, they" (i.e. the United States and the United Kingdom) "desire to bring about the fullest collaboration between all nations in the economic field with the object of securing for all, improved labour standards, economic advancement and social security; Sixth, after the final destruction of the Nazi tyranny, they hope to see established a peace ... which will afford assurance that all men in all the lands may live out their lives in freedom from fear and want".

115/ The article contains four specific responsibilities for all States, the most important of which is to adhere to the proposed International Undertaking on World Food Security, which points forward to the Compact on Food Security, adopted in 1985.

116/ More than 90 countries have accepted the Undertaking.

117/ Section IV, para. 9: "It is imperative to ensure the adequate availability of cereals and accordingly an acceleration of the rate of growth of their (i.e. the developing countries) agricultural production ... The concerned international financial and technical organizations, the developed and other potential contributor countries should urgently take the necessary measures to enable the developing countries to obtain the required financial, technical and material assistance ..."

118/ This is reflected in the Limburg Principles, para. 29. The Limburg Principles are found in E/CN.4/1987/17, annex. They were drawn up by a meeting of scholars and practitioners, convened by the International Commission of Jurists, at a meeting in Limburg in June 1986. The text, and supplementary material, can be found in Human Rights Quarterly. The Johns Hopkins University Press, vol. 9, No. 2 (1987).

119/ Most of these are found in Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States (hereinafter called "Declaration on Friendly Relations"), adopted by the General Assembly in resolution 2625 (XXV), 24 October 1970. Other declarations by the United Nations have since been added.

Non-governmental organizations have also contributed. Of considerable usefulness is a text unanimously adopted by the International Association of International Law at its 62nd Conference, held in Seoul 1986, entitled "Declaration on the Progressive Development of Principles of Public International Law Relating to a New International Economic Order" (hereinafter called "ILA Declaration on a NIEO").

120/ Obligations are assumed by the recipient State under agreements entered into with the World Food Programme, IFAD, etc. These may call for the improvement of infrastructure, for the allocation of domestic funds, or for the adoption of specified legislative measures.

121/ The asymmetry manifests itself not only in economic matters but also in science and technology. This has effect on the capability also for the right to food, in several ways: to develop new seeds, to produce and to distribute food. It has consequences also for military relations, since modern military capacity depends on technological sophistication much more than on manpower. This, in turn, brings many third world States to import high-technology and high-cost weapons from the developed countries, exporting in turn products which are much less processed and thereby exacerbating the inequitable economic relations.

122/ Resolution 3201 (S-VI).

123/ ILA Declaration on a NIEO, principle 3.

124/ Our Common Future. See note 9.

125/ The ILA Declaration principle 11.4 reads:

"All States and relevant international organizations should, accordingly, co-operate in the establishment, strengthening and development of the legal, scientific and technological infrastructure, scientific research and technological activities of the developing countries."

Principle 11.5 calls for rapid conclusion of negotiations on guidelines on the transfer of technology and the adaptation of existing international rules on the rights and duties of holders, suppliers and recipients of technology, taking into account, inter alia, the specific interests of developing countries.

126/ It is included as one of the seven basic principles of international law in the Declaration on Friendly Relations.

127/ International Agricultural Adjustments, Fifth Progress Report, FAO General Conference, twenty-third session, Rome 1985.

128/ International Development Strategy for the Third United Nations Development Decade, General Assembly resolution 35/56, 1980, para. 87

129/ The World Conference on Agrarian Reform and Rural Development, Rome 12-20 July 1979.

130/ General Assembly resolution 2816 (XXVI), 1971

131/ A comprehensive study on these matters is found in Peter MacAlister-Smith: International Humanitarian Assistance. Henry Dunant Institute, Geneva 1985.

132/ Reference is made here in particular to the final sentence of art. 8 para. 1: "Appropriate economic and social reforms should be made with a view to eradicating all social injustice".

133/ See the introduction of the Compact at the FAO Conference in 1985 by the Director General, Mr. Saouma: "Through a series of sustained efforts, we can reach the ultimate objective of ensuring that all people at all times have both physical and economic access to the basic foods they need. The World Food Security Compact ... is designed to foster a moral commitment to make such an effort. ... The Compact is a reaffirmation of the principles for which we strive, not FAO alone, but all people of goodwill. It is the culmination of efforts by FAO over the past decade. It started with the International Undertaking on World Food Security, adopted by the Conference in 1974. ..." FAO doc. C 85/I/PV/5 at p. 7).

134/ FAO doc. C 85/I/PV/6 at pp. 18-19.

135/ Declaration on the Right to Development (General Assembly resolution 41/128) art. 18, para. 1 i.f.

136/ Limburg principles, para. 34

137/ FAO, Basic Texts of the Food and Agriculture Organization of the United Nations vols. I and II, 1984

138/ "If human beings have a right to life at all, they have a right to food". From a speech of Mr. Addeke H. Boerma, Director General of FAO 1968-1975, on 18 October 1974, which has inspired the title of a collection of his speeches during the period: A Right to Food, FAO, Rome 1976.

139/ General Assembly resolution 1714 (XVI).

140/ General Assembly resolution 3348 (XXIX), 1974.

141/ The idea of National Food Strategies was launched by the WFC in 1979. See: National Food Strategies to Eradicate Hunger. United Nations World Food Council, Rome, 1982.

142/ Article 7 of the Agreement, which entered into force on 30 November 1977, requires that in allocating its resources, the fund should be guided by, *inter alia*, "the need to increase food production and to improve the nutritional level of the poorest populations in the poorest food deficit countries".

143/ World Employment Conference, 4-17 June 1976, doc. WEC/CW/E.1, ILO, Geneva 1976.

144/ See: Recommendation to the UNICEF Executive Board for "Noting": African Interregional Programme. Institutional Strengthening and National Capacity Building for Child Survival and Development, Final version, January 1987; also Mr. James Grant, Executive Director of UNICEF, strongly emphasized the need to mobilize the academic community as "think tanks" of society and thus partners in the child "revolution", in a recent address to the Hawaii Conference on Health Leadership Development and Child Survival, Honolulu, February 1987.

145/ Adjustment with a Human Face. Special Study. UNICEF, New York 1987.

146/ Intersectoral Action for Health. Background Document, Technical Discussions, WHO, Geneva, May 1986. Chapter 2: Agriculture - Food and Nutrition.

147/ Following recommendation by the World Food Conference in 1974 on the establishment of an international nutritional surveillance programme, work with nutritional surveillance began to take place in developing countries from 1976 onwards. See inter alia: "Nutritional Surveillance - review of progress", produced under the auspices of the ACC-Sub-Committee on Nutrition in 1981; also some bilateral agencies and universities have been active together with United Nations agencies to further develop and test frameworks and methodology for n.s. See: J.B. Mason, J.-P. Habict, H. Tabatai, and V. Valverde: Nutritional Surveillance, WHO, Geneva 1984

148/ Our Common Future (see note 9), chapter 13. The Commission emphasizes the need to strengthen the UNEP in particular in its monitoring functions and as a data base.

149/ Food as a Human Right. Edited by Eide, A., Eide, W.B., Gussow, H., Goonatillake, S. and Omawale. The United Nations University, Tokyo, 1984.

150/ It is conceivable that a useful arrangement might start with the establishment of a functional co-operative link between the Centre for Human Rights and one or more parts of the United Nations Secretariat in the area of economic and social development; together they could take a lead in promoting an amalgamation of the relevant parts of various monitoring systems organized with assistance from the United Nations or specialized agencies.

151/ This is reflected in the Covenant, article 16 (2) (b).

152/ See the Covenant articles 18, 20 and in particular article 22.

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