REPORT NO. 1 OF THE
STANDING COMMITTEE ON
WORLD ORDER UNDER LAW
PRESENTED JOINTLY WITH THE
SECTION OF INDIVIDUAL RIGHTS
AND RESPONSIBILITIES

RECOMMENDATION*

BE IT RESOLVED, That the American Bar Association (1) acknowledges the existence of a fundamental right to food—the right to a nutritionally adequate diet—for every person throughout the world, and (2) urges the United States government to make the right to food a principal objective of U.S. foreign policy.

REPORT

The American Bar Association has adopted as one of its major goals Goal VIII, To Advance The Rule of Law in the World, of which one of the principal objectives is to foster legal initiatives for peace and human rights through law. The Universal Declaration of Human Rights, adopted unanimously by the United Nations General Assembly in 1948, proclaims in its preamble that “it is essential, if man is not to be compelled to have recourse as a last resort, to rebellion against tyranny and oppression, that human rights be protected by the rule of law.”1

The right to food is set out as a protected human right in Article 25 of the Universal Declaration, which states that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food...”, and in Article 11 of the International Covenant on Economic, Social and Cultural Rights2, signed by the United States in 1977, which provides that the States Parties “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food...”

*The recommendation was amended and approved. See page 39.
2Adopted by General Assembly Resolution 2200 a (XXI) of 16 December, 1966, reproduced in ibid., p. 69.
and recognize "the fundamental right of everyone to be free from hunger". Consistent with these instruments, the 94th Congress of the United States adopted a concurrent resolution reaffirming "...the right of every person...to food and a nutritionally adequate diet..."\textsuperscript{2a}.

\textbf{THE UNDERLYING PROBLEM}

In 1983, the Brandt Commission predicted that, unless significant progress is made soon in the fight to eradicate world hunger, a crisis of increasing proportions could not be averted. The Commission's warning that present levels of malnutrition in the world have increased and are likely to grow worse is particularly urgent. The warning is given in the context of a comprehensive analysis of the problems faced by developing nations afflicted with the most severe hunger problems. The following passage from the 1983 Commission Report, \textit{Common Crisis}, succinctly states the nature of the problem to be solved before the present levels of severe malnutrition in the world can be expected to decrease:

"The long-term prospects for developing countries generally are indeed worrying: if present production trends continue they are in the Food and Agriculture Organization's (FAO) words 'alarming'...for the poorer countries the amounts [of cereals imports by the 1990's necessary to meet their needs] would be far in excess of their capacity of pay. The appalling growth in the numbers of malnourished people, the degree of dependence on imports, the sheer physical problems of transporting such volumes of grain, the financial implications of delivering them all add up to a situation which would be "politically and economically unacceptable".\textsuperscript{3}

In other words, the problems faced by developing countries in feeding their own people have grown so large that their need cannot be met by mere transfers of food surpluses from the developed countries.

Yet, in order to achieve self-reliance, developing countries must overcome terrific obstacles. Their development plans, as the Brandt Commission makes clear, "call for considerable outside assistance,"\textsuperscript{4} which has not been forthcoming:

"Despite the recognition of needs by policy-makers of North..."
and South and the urgency of action, cooperative efforts have been wholly insufficient.\(^5\)

**A. DIMENSIONS OF THE PROBLEM OF WORLD HUNGER**

Reliable estimates on the incidence of malnutrition range from 340 million people to 900 million, depending on what level of caloric intake is used to define "hunger". Based on an energy standard that measures the number of people whose caloric consumption falls below the level necessary to avoid stunted growth or serious health risks, the World Bank has estimated that 340 million people—or a sixth of the people in eighty-seven developing countries—had energy deficient diets.\(^6\) If one measures the number of people who do not consume enough calories for an active working life, some 730 million people—or a third of the people in those same countries—live malnourished.\(^7\) Other estimates of the number of people suffering chronic malnutrition are as high as 900 million\(^8\) or as low as 500 million persons.\(^9\)

The geographic distribution of world hunger reflects the imbalance of resources between developed and developing nations internationally.

\(^2\)Id. at 123.


\(^4\)Id.


\(^7\)Id. at 123.


\(^9\)Id.


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ability, capacity to work, behavior
and well-being of large segments
of the population.”12 Clearly, the
chronically undernourished who
survive despite their disabling con-
dition cannot fully enjoy the ben-
fits of any civil and political rights.

Many of those suffering from
malnutrition do not survive.
“UNICEF estimates that 40,000
young children die every day (ie.
15 million per year) from malnu-
trition and related infection. In
1984, according to the United Na-
tions, half of Africa’s population
is immediately threatened by severe
hunger and malnutrition.”13 Three-
fourths of all hunger-related deaths
victimize children under the age of
five years.14

B. PRIMARY CAUSES OF
WORLD HUNGER

A strong consensus is emerging
that malnutrition is a reflection of
poverty and results from the mal-
distribution of income rather than
inadequate supplies of food world-
wide.15 Today “the world produces
10 percent more food than is need-
ed to feed everyone.”16 According
to an estimate of present world
agricultural output per capita, there
is enough grain alone to feed
everyone with 3000 calories and 65
grams of protein daily—more than
adequate nutrition.17 Despite steady
growth in the world population
over the past several decades, the
percentage of those—as a propor-
tion of the total population—who
are malnourished has decreased.18

The technological means exist to
allow developing countries to grow
enough food or to purchase that
food (on the world market)—de-
spite their fast rates of population
growth. Various scientific and tech-
nical means to further increase agri-
culture productivity—use of
irrigation techniques, fertilizers,
est control methods and various
seed technologies—have not yet
been applied in many areas of the
Third World. These capital-inten-
sive technologies have made it po-
sible to maintain a rate of growth in
worldwide food production that
will stay ahead of the rate of popu-
lation growth. The benefits of these
technologies will only be experi-
enced if developing countries ac-
quire means to pay for these pro-
ductivity gains. Also, numerous
strategies as yet untried can be ap-
plied in many of the poorest coun-
tries to raise the productivity of
rural farmers who constitute
60–90% of the population in de-
veloping countries and one-half of
the world’s population.19

In a world which has the capaci-
ty to produce two pounds of food
every day for each man, woman
and child on earth, it is a dangerous
oversimplification to blame wide-
spread hunger primarily on popu-
lation growth.

If recent trends continue—in the
distribution of worldwide eco-
omic growth and in the developing
countries historic responses to

12Phillip Alston, “International Law and the
Human Right to Food”, in Alston, P. Tomas-
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13Id.
14Supra n. 9 at 1309.
15Supra n. 2 at 11.
16Supra n. 11 at 6.
17Supra n. 2 at 11.
18Food and Agriculture Organization of the
32–3.
19Hopkins, R., Puchala, D., “Perspectives
on the International Relations of Food,” In-
ternational Organization 32:581 at 594.
(Summer 1978)
dilemmas presented by their agricultural needs within the constraints of their structural position—then the problems of world hunger will grow worse. This is due to several factors. The levelling off of per capita annual production of food in the world since 1973 has ended after the previous era of yearly (per capita) food supply increases. Third World nations have failed to respond to the challenge of increasing their agricultural productivity levels for a myriad of complex reasons. These reasons for their failures—both self-imposed and beyond their control—include: (1) inequitable land distribution, (2) land scarcity due to erosion and ecological disasters, (3) the denial of agriculture as a national (budgetary) priority (by, for example, distributing resources to military expenditures), and, finally, (4) the structurally inferior position of these developing countries that has resulted from historical relationships and trade patterns with resource-rich countries.

The complexity of the causes of world hunger justify an approach that focuses both on promoting national self-reliance in agricultural production and policy changes that will improve the distribution of land and resources—both within developing countries and worldwide.

Despite the consensus that any long-term solution to world hunger will require that developing countries achieve a greater degree of agricultural and economic self-reliance, Third World food imports are growing. For example, between 1970 and 1980, instead of becoming more independent of world markets, the level of food imports went from $2 billion to $10 billion. One-fifth of Africa is sustained by imported grain which illustrates the magnitude of this new market dependence.

The increased reliance of developing countries on food imports make them more vulnerable to periods of unexpected national food shortages. Since the mid-1970’s, there has been a marked tightening of internationally available supplies of food commodities. This is due to the convergence of several factors, but mainly because food-exporting nations have designed agricultural policies to buffer the shocks experienced as a result of export dependence in a market characterized by highly volatile price fluctuations. Developing countries who are net importers of food do benefit from access to these world food supplies and they badly need the imports they have bought. The fluctuations in the prices of these food imports have been extreme in relation to small changes in the overall supply of commodities on the market.

When prices become extremely high, food-deficit countries must use more resources to import the same amount. Periodic oversupply in world grain stocks makes more grain available at the same price but frustrates attempts to plan fu-

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23Supra n. 20 at 73.
24Supra n. 119 at 589–92.
economic self-sufficiency. World food imports are a matter of some concern, especially in view of the potential for food imports to support the agricultural sector and to provide a buffer against food shortages. However, the reliance on food imports is vulnerable to price fluctuations and the availability of food supplies can be unpredictable. This has implications for the stability of food prices and the ability of countries to respond to food crises.

C. INTERNATIONAL EFFORTS TO ALLEVIATE WORLD HUNGER HAVE BEEN INADEQUATE

International cooperation to coordinate long-term responses to the problem of world hunger is clearly necessary. Periodic and massive increases in food assistance cannot make up for the developing countries' tremendous shortfalls. The Food and Agriculture Organization of the UN estimated in 1981/1982 that food aid is expected to cover only 18% of the food import requirements of the developing countries' priority countries as against 28% as recently as 1976/1977. Thus, the amount of food aid from all nations has been declining in proportion to the developing countries' needs.

The amount of U.S. food aid has been declining relative to the European Economic Community (EEC) contributions since the mid-1970's. The U.S. contribution to world food relief as of 1980 was still an impressive 60% of total world food aid efforts. Yet, as Senator Paul Sarbanes explained at the World Food Day Teleconference in 1985,

"...a careful review of OECD statistics reveals that since the mid-1960's, U.S. development assistance as a proportion of GNP has been cut in half, from .48% to .24% in 1983. The U.S. compares unfavorably in this respect with other major industrial countries, for example, Japan (.33%), United Kingdom (.35%), Canada (.45%) and Germany (.49%). Several other nations like the Netherlands (.91%) and the Scandinavian countries (average .88%) even approach the 1% mark. At the same time it is of some significance that of all the world's major industrialized nations, the Soviet Union makes the smallest contribution."

There are limits to what food-rich donor nations like the U.S. can do. Moreover, reliance on food assistance produces undesirable dependence on an uncertain supply. Nevertheless, the U.S. could clearly do a great deal more to help solve the short-term food shortage problems plaguing African nations and other nations in the midst of famine and other unexpected food shortages or permanent supply shortfalls that cannot be remedied overnight.

The overall international response to the problems of world hunger has been disappointing in recent years. It seems clear that food aid assistance will not provide enough surplus to meet the tremendous need. Developing countries simply cannot afford to import enough food to meet present needs.

23Id. at 592.
27Supra n. 10 at 21.
Even when adequate food is donated, it often fails to reach hungry populations or is not accompanied by donations to pay for adequate transportation. Sometimes civil wars or other domestic strife block delivery of the aid. The Food and Agriculture Organization of the United Nations found in a recent report that:

"...food pledges to 21 African countries hardest hit by the 1984–85 famine are 2.2 million tons short of the minimum needed to prevent millions from starving to death. Moreover, only one-half of the aid pledged during 1984 was actually delivered."

Another reason for the national shortages of food is the failure to reach any international agreements over the past decade to significantly liberalize trade. Only minimal progress has been made. Food surplus nations in the developed world have been slow to sacrifice domestic farm policy objectives (such as the stabilization of farmer's incomes) or have been unwilling to consider the problem of world hunger at all in forming these policies.

The level of official development assistance contributed by developed nations is also far below the level of existing needs. This is particularly true in light of many Third World countries' greatly increased needs as a result of their responsibility to make debt service payments. Even though developing countries as a group have reduced their current accounts deficits—from more than $100,000 million in 1981 to about $45,000 million in 1984—they have done so by implementing "severe austerity measures, including cuts in public spending, domestic consumption and imports." Therefore, the ability of these countries to feed their malnourished populations is greatly diminished. In light of this situation, the FAO reported in its World Food Report of 1985 an assessment of the unmet needs in one program whose funds are targeted to help poor rural farmers and landless workers in developing countries:

"...it is particularly serious that official development assistance has declined again in 1983. Replenishment of the funds of the World Bank's International Development Association was limited to only $9,000 million rather than the $12,000 million expected or $15,000 million hoped for.... International Fund for Agricultural Development (IFAD) estimated that its available fund for 1985 would cover only one-third of the planned program (for rural assistance projects)."

Not only have important development programs received fewer funds; overall "multilateral concessional commitments to agricultural aid fell during 1983 (by about 13%) for the third consecutive year...," according to the FAO.

Clearly, there is a great need for increased efforts by the developed

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30 Supra n. 9 at n. 16, 1311.
nations to adopt trade and assistance policies that will increase their commitment to low-income nations facing serious food deficits.

D. AN INTERNATIONAL COMMITMENT TO GUARANTEE THE RIGHT TO FOOD IS ESSENTIAL TO THE ERADICATION OF WORLD HUNGER

This analysis of the causes of world hunger should make clear that the international community must reconceptualize the problem of world hunger. Rather than focusing on policies to slow population growth, or to increase world production of food commodities, or to pursue policies of promoting economic growth in the Third World while neglecting the needs of rural populations—instead, a broader focus is needed. The solutions to the problems of hunger must be conceived by developed and developing nations broadly as also related in integral ways to the formation of trade policy, international monetary reform, domestic food policy and patterns of land distribution. The access of the rural population to credit and the availability of technical and scientific assistance to the poorest regions of developing countries are key determinants of the success in most agricultural development programs.

The right to food poses stark questions about the gap between analysis and reality. It forces nations committed to the realization of the right to food to think about these interrelationships in the world food economy or be forced to do so by populations skeptical about their own nation’s observance of an international legal norm.

The mere assertion of a right to food that must be realized through international cooperation cannot change entrenched policies or alter international balances of power. But it may cause developing nations to take more seriously the demand of its citizens—coupled with international pressure—for structural reform of the system of land distribution. This is only an example. In general, the articulation of this norm will shift attention from technical issues to the fact that the vast majority of governments in the world have not, in practice, made the eradication of hunger and malnutrition a priority concern.35

International recognition of a right to food will have—and has had—a special impact on the activities of UN agencies such as the Food and Agricultural Organization (FAO), as well as upon the World Bank. By explicitly recognizing the existence of a right to food in international law, member nations codify a clear consensus which becomes a program mandate for the organizations charged with implementing the collective goals of their diverse members. The existence of a clear normative framework, namely, one that makes guaranteeing the right to food a goal that is superior to other goals, necessarily shapes these organizations’ setting of priorities among their development goals.

Within developing countries, the existence of an internationally recognized right to food is a powerful tool to mobilize local opposition to policies that lead to and exacerbate chronic malnutrition. These local efforts can combine with and gain strength from international pressures brought to bear on developing countries to end such policies as

35 Supra n. 12 at 60.
the inequitable distribution of land, the unwillingness by governments to give budgetary priority to the needs of rural populations or to pursue agricultural policies that promote self-reliance, or the failure of a government whose citizens face starvation during a famine to even admit its existence or the obstruction of donor countries’ efforts who are trying to channel aid to the hungry. In fact, the 1980 U.S. President’s Commission on World Hunger stated that the unwillingness of countries affected by famine to acknowledge the problem is “the major impediment to effective famine and emergency relief.”

In the absence of any international consensus on the right of everyone to adequate food, individual nations’ pleas on behalf of the malnourished in other countries have less effect. When no international laws recognize the right, persons in countries facing hunger cannot appeal to any source of international law to lend credence to their claims that a government has a responsibility to provide food security—or make reasonable efforts to do so—within available means.

Finally, the recognition of a right to food by the U.S. government, a major exporter of food grains and surplus commodities, will shape the debate in this country about (1) what is the proper level of food assistance to aid the hungry, (2) how to improve the access of the poorest nations to U.S. markets without unduly sacrificing other important goals of U.S. trade and agricultural policy, and, (3) by what means can international lending institutions (in which the U.S. government plays a substantial role) target their loans and design credit policies in order to achieve the greatest increase in world nutrition levels among the poorest nations.

In essence, the declaration of a right to food as an international legal norm means that certain realities widely accepted as inevitable—such as chronic malnutrition in entire regions—are viewed collectively as illegitimate and unnecessary. An international legal norm need not provide sanctions as detailed and certain to be enforced as the analogous domestic legal norm. In domestic jurisdictions, law typically gives rise to claims that are enforceable in a court of law. There is no such expectation in the international setting where no state holds a monopoly of force.

The right to food, because it is collectively recognized by many nations, promotes shared expectations and cooperative actions based on a legally defined consensus. Unless there is such international cooperation in such areas, for example, as (1) trade policy, (2) increases in the amount of scientific and technical expertise and concessional trade assistance provided to low-income nations by the developed countries, (3) and substantially greater amounts of food aid and development assistance made available from developed to developing countries, then there will be no alleviation of widespread hunger in the world. The costs of the present, morally outrageous, situation will be borne by those who suffer the effects of malnutrition, but also by the international community who will suffer from having to survive in a more unstable world.

36 Supra n. 22 at 184.
SOURCES IN INTERNATIONAL LAW OF A RIGHT TO FOOD

There is a strong basis in international law for recognition of the existence of a right to food which gives lawyers a special opportunity to participate meaningfully in the fight to alleviate hunger. This section discusses those sources and the kinds of international development programs to fight hunger that have been inspired by this collective belief in a right to food.

Several important international human rights instruments establish the legal basis of a right to food. Of primary significance among them are the Universal Declaration of Human Rights and the International Covenant of Economic, Social and Cultural Rights. In addition to these treaties, other international human rights instruments incorporate the right to food by direct reference to the International Covenant on Economic, Social and Cultural Rights (eg., the Helsinki Accord). Finally, various legal texts—recommendations, declarations, some treaties—adopted under the auspices of the United Nations, the Food and Agriculture Organization of the UN and other international organizations, declare their member nations' common recognition of a right to food.37

When these documents are read together, they demonstrate the existence of an "international consensus that everyone has the right to food and that states have corresponding obligations to respect, ensure, and fulfill this right."38 The exact dimensions of a state's duties may not be made unambiguously clear by these instruments, and it is fair to say that the specific duties imposed by the right to food in international law are in a process of change and evolution. Nevertheless, there is a relatively cohesive body of principles of international law that define a framework of international cooperation by which nations are striving to guarantee the right to food to all citizens in the world.39

This is significant regardless of whether the right to food does not legally bind nations to a specific set of actions guaranteed to implement this accepted human right. Whether there is a right to food among citizens of the world can no longer be seen merely as a matter of moral argument viewed in the context of abstract ethical philosophies. Attention must be focused on the issue as a matter of legal obligation between states and between individuals and states. The role of lawyers in this dialogue is to assess the evolving legal norm and to monitor the compliance which this developing sense of legal obligation demands.

A. UNIVERSAL DECLARATION OF HUMAN RIGHTS

The basic principle of a right to food was set out in the Universal Declaration of Human Rights, approved without dissent in 1948 by the United Nations.40 In Article 25 (1), the Universal Declaration states, everyone has the right to a standard of living adequate for the health and well-being of himself

37Supra n. 26 at 17.
38Supra n. 9 at 1312.
39Supra n. 12 at 2.
and his family, including food."  

The assertion of this basic principle in the Universal Declaration announced a common standard of achievement by which to measure the behavior of all member nations. At least with respect to the right of food, however, there was no indication of what was entailed by this principle. There were no specific steps intended to implement the rights set forth beyond the Declaration’s call to nations "to take measures nationally and internationally to implement the right to food."  

B. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The International Covenant on Economic, Social and Cultural Rights (Hereafter "International Covenant") adopted by the United Nations in 1966 clarifies the "fundamental right to be free from hunger."  

The International Covenant requires states to take "individual and cooperative measures that are necessary to ensure an equitable distribution of world food supplies."  

The International Covenant is the most significant international pronouncement on the right to food for a number of reasons. First of all, it establishes the most detailed specific, international legal norm on the right to food.  

Second, the International Covenant has been widely adopted by the UN member nations (85 states were parties as of January 1, 1986).  

Third, the International Covenant establishes a mechanism to monitor compliance though it does not contain an optional Protocol for individual petitions, unlike its companion treaty, the International Civil and Political Rights Covenant. Finally, the meaning of the principles enunciated in the International Covenant have been shaped by the Food and Agriculture Organization of the UN. The conduct of UN member nations supporting the FAO initiatives—including parties and non-parties to the International Covenant—help to confirm the status of the various FAO declarations and policy statements as sources of international legal norms.

The International Covenant significantly develops the concept of the right to food as a "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." (Article 11.1)  

The first paragraph instructs State parties to "take appropriate steps to ensure the realization of the right" while recognizing the importance of international cooperation "based on free consent."  

Article 11.2 of the International Covenant mandates States parties to take "individually and through international cooperation, measures, including specific programmes, which are needed" to realize and protect the right to

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41 Supra n. 26 at 2.  
42 Id.  
43 Id.  
44 Supra n. 9 at 1312.  
45 Supra n. 12 at 29.  
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“free(dom) from hunger.” The types of programmes envisioned by the language of Article 11.2 (a) and 11.2 (b) include all of the following:

“(1) improvements in food production at the national and international level attained by the full use of technical and scientific knowledge, as well as by the dissemination of knowledge on the principle of nutrition; (2) improvements in the distribution of food by various means including ‘developing and reforming agrarian systems’ (Article 11.2 (b); (3) improvements in the conservation of food (both pre-harvest and while it is in storage); (4) improvements in the conservation of the environment through the efficient development and proper utilization of natural resources; and, (5) taking into account the problems of food-importing and food-exporting countries by, for example, the liberalization of world trade. (Article 11.2 (b).)

The United States is a signatory but not a party to the International Covenant. David Weissbrodt explains what obligations are attendant to this status: “By signing the covenants, the United States accepts the responsibility to refrain from acts calculated to frustrate the objects of the treaty.”

There is widespread acceptance of the proposition that the International Covenant establishes prevailing international legal norms. Important western nations, including Australia, Austria, Belgium, Canada, Denmark, France, Western Germany, Greece, Italy, Japan, The Netherlands, New Zealand, Norway, Spain, Sweden, and the United Kingdom are among the eighty-five nations who have ratified the International Covenant (though some of these countries attached reservations to the treaty). Objections by the United States to the International Covenant have focused mainly on provisions other than those relating to the right to food, such as those provisions recognizing other economic and social rights (including the right to work, to health care, to housing, etc.). Article 2 of the International Covenant does not require immediate implementation by any State party and partially qualifies the extent of any one State parties’ obligation. It obligates each party “to take steps individually, and through international assistance and cooperation, especially economic and technical to the maximum of its available resources with a view to achieving progressively the full realization of the rights recognized in the present covenant by all appropriate means.”

President Carter’s message to the U.S. Senate in February 1978, transmitting the International Human Rights Covenants repeats the language of Article 2 for emphasis. A formal reservation to the treaty accompanied this Presidential message and it states that paragraph 1 of Article 2, as well as Article 11, “import no legally bind-

30Id.
31Supra n. 26 at 4-6.
ing obligation to provide aid to foreign countries.” Legal scholars have argued that “such an understanding is probably unnecessary because Article 2 does not impose an obligation to give aid.”

The International Human Rights Covenants do impose legal obligations, however. State parties to the International Covenant must, under certain circumstances, cooperate to ensure that the right to food is guaranteed, at least according to Philip Alston, past official of the UN Centre for Human Rights in Geneva and presently a lecturer at Harvard Law School. But only a coordinated response involving State parties is required. The “essential role of international cooperation” language is mentioned with respect to any other right in the covenant.

Of even more importance in determining the extent of a party’s obligation is Article 11(1) which “recognizes the essential importance of international cooperation based on free consent.” According to Philip Alston, this qualification—“based on free consent”—was “presumably inserted as a safety clause against any assumption that food-surplus states have an automatic responsibility to make transfers to food-deficit states.”

In sum, Article 11 of the International Covenant seems to encourage the provision of food aid assistance from richer to poorer nations but does not require it. The sovereign states within whose borders the problems of inadequate food supply and malnutrition occur retain the fundamental responsibility to assure an adequate supply of food to all citizens. The International Covenant only requires that State parties who are food-deficit countries seek to achieve “self-reliance” within their available resources and use whatever international assistance they receive to realize the right to food for all their citizens “without discrimination.”

Because Article 2 of the International Covenant requires that any State party only take steps to the “maximum of available resources,” no country would be required to give priority to needs of those being denied food—either at home or abroad—beyond their resource constraints.

C. HELSINKI ACCORD

The case for an internationally recognized right to food is especially strong, even in the absence of binding treaty provisions. The Helsinki Accord refers to and specifically incorporates the International Covenant. The United States and other parties to the Helsinki Final Act accepted a duty to “fulfill their obligations as set forth in the international declarations and agreements in this field, including, inter alia, the International Covenants on Human Rights, by which they may be bound.”

Though the Helsinki Final Act is not a treaty, David Weissbrodt has stated that “one might contend that Rights Law and Human Needs Program,” in Theodor Meron, ed., Human Rights in International Law, Vol. 1, (1984) at 216.

62Id. at 216–217.
63Supra n. 52 at n. 63, p. 43.
Within whose bords of inadequate alimentation occur-\ntual responsibilities yet to be met. The Interna\ntional Court of Justice, in its Advisory Opinion on the \nEffect of the Proliferation of Nuclear Weapons, stated that the U.S. is already bound by the principles enumerated in the covenants.\n
Numerous statements in the Final Act clearly express the \nassent of the states to follow the agreement.\n
With respect to the incorporation of preexisting obligations, such as the International Covenant, the Helsinki Accord, at the very least, "manifests the political will of the states to implement their legal obligations."\n
D. OTHER INTERNATIONAL AGREEMENTS

Philip Alston has summarized various other non-binding sources of the right to food:

"whether in the context of global statements of policy such as the Universal Declaration on the Eradication of Hunger and Malnutrition or the strategy of the Third World Nations Development Decade or in specific instruments such as the Food Aid Convention or though institutional arrangements such as those relating to the Food and Agriculture Organization (FAO), the International Fund for Agriculture and Development (IFAD), or the World Food Council (WFC), all states have unambiguously committed themselves to these principles," namely, "...the proposition that the continuation of widespread hunger in the world is unacceptable and the notion that individuals have a right not to die from hunger and not to suffer (either physically or mentally) from malnutrition (i.e. they have a right to food)."\n
These examples, that Alston cites, illustrate a willingness by the international community to recognize and seek to implement a right to food. Moreover, these agreements have been accompanied by a high level and consistent pattern of international cooperation to provide food and development assistance on the part of the developed nations.

The World Food Program represents a significant level of coordinated international action, begun in 1963, to provide multilateral food aid to low-income countries facing food shortages. Initiated by the Food and Agriculture Organization (FAO) pursuant to a UN General Assembly resolution, the WFP has involved about 120 countries—both developed and developing—who have pledged commodities or cash to the poorest countries.\n
The World Food Program is the largest source of assistance in the United Nations system, apart from the International Bank Group. Throughout its history, the program has provided over US $7,500 million worth of food aid to almost 250 million people, providing $1,000 million worth of assistence to developing countries in 1984 alone.\n
The majority of these funds were targeted to low-income food deficit countries.\n
"The United States contributed fully 51% of the resources of the United Nations’s World Food Program’s total outlays in the early years (1963–68)"…(the U.S. share

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64Id.
66Id. at 52.
67Supra n. 12 at 53.
68Supra n. 26 at 9.
69Supra n. 32 at 55.
70Id.
has now stabilized at 25% of the total world contributions.\footnote{Supra n. 27 at 63.}

The U.S. has also joined in other joint efforts, with numerous other State parties to the International Covenant, to plan comprehensive development strategies and contribute multilateral aid to implement these plans. For example, the Rome Food Conference, a meeting of UN member nations held in November of 1974, "reaffirmed the right of every individual to calories, mineral and vitamins sufficient to develop one's physical and mental facilities."\footnote{American Society of International Law Proceedings, “International Law and the Food Crisis,” 69th Annual Meeting (24-26 April, Washington, D.C.) at 55.}

Besides reaching agreement on the right to food, the World Food Conference expressed their consensus view that several strategies are essential to the eradication of world hunger:

1. that developing countries need to increase their food production with the aid of transfers from developed countries;
2. that the International Fund for Agriculture and Development (IFAD) be established with resources of $1.3 billion over a three year period (1978-80);
3. that a steady expansion of agricultural trade must be pursued by means of liberalizing the access of developing countries to world markets;
4. that the export earnings of developing countries must be increased;
5. that greater stability of prices in world agricultural markets is necessary; and, finally,
6. an expansion of food aid (to 10 million tons of grain each year) was agreed to as a collective goal.\footnote{Id. at 276.}

These consensus views, as well as many other points of agreement stated in "36 recommendations on trade and aid" were issued by the Conference.\footnote{Id. at 279.}

These concrete proposals comprise what Timothy J. O'Sullivan of Stanford University has called "the most comprehensive recent attempt to formulate an international agricultural policy that reflects the concerns of developing as well as developed nations."\footnote{Id. at 279.} It should be obvious that such an international agricultural policy cannot be implemented without significant changes in the national policies of powerful western nations and food surplus countries with respect to their trade policies, foreign assistance programs, monetary policies, etc.

The World Food Conference is most significant in that it moved its member nations toward a more comprehensive approach to the problems of hunger and development. The quantity of food aid promised at the World Food Conference virtually reached the target of 10 million tons of grain (though it took almost a decade to do so).\footnote{Id. at 279.} Second, "official development assistance to agriculture is now approaching $8 billion, up from less than $2 billion before the World
stability of prices; agricultural markets; and, finally, a deplorable lack of food aid (tons of grain each year are to a column...)

views, as well as acts of agreement.Recommendations on measures issued by the proposals come from Josling of St. Joseph. It is said that the recent attempt to internationalize the country reflects the coping as well as it. It should be an international policy based on significant international policies of nations and food aid programs, with respect to the foreign assistive policies, the Food Conference is...that it moved toward a more approach to the ger and development of food aid. World Food Conference reached the targets of grain (though they do not want to do so). Development assistance is now an option, up from less before the World Food Conference...In this respect, the focus of international attention on specific strategies to guarantee adequate food to everyone has achieved tangible gains.

Further evidence of a right to food in international conduct—which by itself does not show the existence of a legal norm—is the record of a consistently strong response to famine relief. In successive world crises in food supply—Involving India, African nations in the Sahel region, Bangladesh and other famine areas—the US. has joined other countries to provide extensive famine aid. A duty to assist in time of famine would fall within the rubric of the right to food.

These responses to famines have included emergency shipments of food aid and medical supplies, as well as comprehensive planning to predict and avert future famine situations. In 1973, the Food and Agriculture Organization of the UN drew up an International Undertaking on World Food Security, including an Early Warning System, to ensure the existence of an adequate food supply at all time to areas prone to unexpected shortages. Eighty-six member nations of the UN and European Economic Community (EEC) had “subscribed and pledged to implement national stock policies in order to help ensure a minimum safe level of basic food stocks for the world as a whole in times of crop failures and natural disasters.” The Plan of Action was developed by the FAO in 1979 and the “the Early Warning System is now in operation...and countries now have grain reserves and policies to manage those stocks.”

Together, these international agreements and extensive commitments to participate in long-term multilateral food aid and development assistance demonstrate an international willingness to work toward guaranteeing the right to food. The fact that the amounts of aid given did not meet the tremendous level of need does not diminish the value of this precedent of international cooperation. Nor can one detract from the participating nations’ stated intentions to do more. One can only argue that these nations should make clear affirmative commitments—by, in part, recognizing the right to food in international law—to maintain and increase their participation.

CONCLUSION

The right to food is a basic human right whose protection will promote stability and the rule of law around the world. One of the principal objectives of the Association’s Goal 8, To Advance the Rule of Law in the World, is to foster legal initiatives for peace and human rights through law. If the problems of world hunger, widespread poverty and malnutrition go unattended, respect for legal institutions will ultimately be undermined. The deprivation of necessities may temporarily impair the ability of malnourished peoples to act with due regard for moral and legal concerns. A continued failure to find solutions to severe worldwide malnutrition may further destabilize fragile attempts by Third World...
governments to preserve respect for the rule of law.

Furthermore, the existence of widespread malnutrition erodes the legitimacy of a legal order that does not address it or assumes its moral acceptability. A legal order lacks legitimacy when malnutrition and hunger occur where there exist sufficient resources and enough food to feed all who are hungry.

In its resolution submitted to the House of Delegates at the 1970 Annual Meeting, the Section of Individual Rights and Responsibilities proposed various measures to eliminate hunger and malnutrition in America. The Report declared that, "the existence of hunger and malnutrition is avoidable, in light of the technological capacity and economic and physical resources of the United States, and the continued existence of hunger and malnutrition is therefore inexcusable, humanly unconscionable, economically and socially shortsighted and unwise."81

This rationale should be expressed as a consensus view of the ABA House of Delegates and extended to the problem of world hunger by the endorsement of the right to food for everyone in the world. Nevertheless, only nations acting together, not the United States alone, can end world hunger. The strong basis that exists in international law for the recognition of a right to food gives lawyers a special role in the fight to alleviate world hunger. The efforts of the ABA are, therefore, properly focused on the establishment of a right to food.

Respectfully submitted,

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Section of Individual Rights & Responsibilities

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81 Report No. 2 of the Section of Individual Rights and Responsibilities. Report with Recommendation: "That the ABA urges...governmental units, and particularly the federal government, to make strenuous and increased efforts to eliminate hunger and malnutrition..." ABA Annual meeting, 1980, at 1114.