

The Right to Food

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Abstract

With the development of society, new agricultural technologies have been widely introduced and effectively applied to agricultural cultivation. Agricultural productive capacity has greatly improved and the world's food producers are capable of providing all the people on this planet with sufficient food to satisfy everyday dietary needs for a healthy life. Ironically, food insecurity continues to be a critical issue in the contemporary world. More than 923 million people suffer from chronic hunger, malnutrition or related diseases, and this number grows with continually rising food prices. This article responds to the current food insecurity by addressing a new issue: is there any legal basis for both the international community and national governments to protect vulnerable people from hunger and malnutrition?

Keywords: food crisis, right to food.

A. Introduction

I. *The 2008 Food Crisis: Global Issue or Regional Problem? Food Shortage or Distribution Ineffectiveness?*

Food crisis has frequently occurred throughout history and is said to be “as old as the history itself”.¹ The phenomena of hunger as well as concerns with crop failures have been recorded by ancient Chinese, Greek, and many medieval scholars.² With the development of society, new agricultural technologies have been widely introduced and effectively applied to agricultural cultivation.³ Under these circumstances, agricultural productive capacity has greatly improved, and the problem of food insecurity should now be solved or at least mitigated. But ironically, it continues to be a critical issue in the contemporary World.^{4,5}

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1 J. Vernon, *Hunger: An Unnatural or Modern History?* (2007) <<http://history.berkeley.edu/faculty/Vernon/H39Z/index.html>>, (last visited: 2 February 2009).

2 D. Shelton, 'The Duty to Assist Famine Victims', 70 *Iowa L. Rev.* 1309, at 1309, (1985).

3 For instance, the Green Revolution in the 1960s and the 1970s. The Green Revolution refers to a series of technological transformation which includes improved seeds, farm technology, better irrigation and chemical fertilizers. FAO, *Women and Green Revolution*, <www.fao.org/focus/e/women/green-e.htm> (last visited 22 February 2009).

4 J. Madeley, *Food for All: The Need for a New Agriculture*, 2002, p. 34.

5 UN Comm. On Econ., Soc., & Cultural Rights, General Comment No. 12, *The Right to Adequate Food*, U.N. Doc. E/C. 12/1999/5 (12 May 1999).

Based on a recent report by the United Nations (UN), there are 1.2 billion vulnerable people in the World – about one fifth of the total population⁶ – continue living on less than one dollar a day.⁷ Moreover, the Food Agriculture Organization of the United Nations (FAO)⁸ estimates that more than 923 million⁹ people are suffering from chronic hunger, malnutrition, or related diseases,¹⁰ and this number grows with continually rising food prices.¹¹ Recently the prices of agricultural commodities surged to record-high levels,¹² causing the world to experience a severe food crisis, which constitutes an unprecedented threat to the livelihood of millions of poor people on this planet.¹³ Food insecurity generates economic instability, social unrest, political tensions, and even armed conflicts in some developing countries.¹⁴ For instance, in 2008 food riots “from Haiti to Ban-

- 6 The total population is 6.6 billion. See Population Reference Bureau, *2007 World Population Data Sheet* (2007), available at: <www.prb.org/pdf07/07WPDS_Eng.pdf> (last visited 4 March 2009).
- 7 See World Food Program, *Reducing Poverty and Hunger: The Critical Role of Financing for Food, Agriculture and Rural Development*, (2002), available at: <www.wfp.org/policies/introduction/background/documents/JointPaper.pdf> (last visited: 12 December 2008).
- 8 The Food and Agriculture Organization of the United Nations (FAO) leads international efforts to mitigate and alleviate hunger and malnutrition. It serves both developed and developing countries and acts as a neutral forum where all nations meet to negotiate agreements. FAO's activities include four major areas: putting information within reach; sharing policy expertise; providing a meeting place for nations and bringing knowledge to the field. See FAO, *About FAO*, <www.fao.org/about/about-fao/en/> (last visited: 4 March 2009).
- 9 FAO, *Briefing paper: Hunger on the rise - Soaring prices add 75 million people to global hunger rolls*, <www.fao.org/newsroom/common/ecg/1000923/en/hungerfigs.pdf> (last visited: 17 September 2008)
- 10 FAO estimates show that the number of people suffering hunger in 2007 increased by 75 million, which is over FAO's estimate of 848 million undernourished in 2003-2005. Due to the continued and drastic increase in food prices in 2008, the number of people suffering from chronic hunger and related diseases is likely to have increased further. See *id.*
- 11 923 million people are chronically hungry. See *id.*; Every day, almost 16,000 children die from hunger-related diseases, in other words, one child dies every five seconds. See Black et al, 'Where and Why Are 10 Million Children Dying Every Year?', *The Lancet* 361, at pp. 2226-2234 (2003).
- 12 G.P. Zachary, 'A Brighter Side of High Prices', *New York Times*, 18 May 2008, p. 4. See also *Oxfam International*, 'The Time is Now: How World Leaders Should Respond to the Food Price Crisis', available at <www.oxfam.ca/news-and-publications/publications-and-reports/the-time-is-now-how-world-leaders-should-respond-to-the-food-price-crisis/file> (3 June 2008). See also Duffield et al., 'Ethanol Policy: Past, Present, and Future', 53 *S.D. L. Rev.* 425, at 425, (2008). It states that corn ethanol industry has grown very fast recently in the United States. Corn ethanol production increased from about 175 million gallons in the 1980s to about 6.5 billion gallons in 2007. And this has benefited the US farmers who grow corn; however, it pushes the prices of corn and other agricultural products to record-highs.
- 13 K.V. Grebmer et al., *Global Hunger Index: The Challenge of Hunger 2008*, (2008) available at: <<http://purl.umn.edu/45914>> (last visited: 6 March 2009). It states that the 2008 Global Hunger Index report shows that high food prices threaten the food security of millions of people. And hunger and malnutrition attracted worldwide attention.
- 14 See *supra* note 7; see also 'World Hunger and International Trade: An Analysis and A Proposal for Action', 84 *Yale L. J.* 1046, at 1069 and 1070, (1975). It describes that the crush of undernutrition and a rising population can lead to political instability. See also R. Zhang, 'Food Security: Food Trade Regime and Food Aid Regime', 7 *J. Int'l Econ. L.* 565, at 566, (2004). It describes that under some circumstances, food insecurity may result in international and regional conflicts threatening peace and security.

gladesh to Egypt” brought the current food crisis up to a “boiling point”¹⁵ and captured the whole world’s attention on this issue.¹⁶ The negative economic, social, and political effects of this food crisis have forced poor countries to shift their export and import policies, which impairs international trade and global economy.¹⁷ Increasing globalization causes the scourge of hunger in developing countries to negatively affect the global community as a whole.¹⁸ The food crisis is, therefore, a global issue rather than a regional problem.

Moreover, great inequities exist between developed countries that have surplus food and developing countries that are short of food. To be fair, current global food production still exceeds the need of the total world population.¹⁹ Despite natural or man-made disasters, the world’s food producers are capable of providing all the people on this planet with sufficient food to satisfy the everyday dietary needs of a healthy life.²⁰ But developed countries employ trade policies that subsidize their domestic farmers; they dispose surplus food to developing countries in a distorted way, and they use advanced technologies to promote bio-fuels from their surplus food.²¹ All the while, developing countries struggle with hunger, malnutrition and related economic, social, and political problems.²² Apparently, the current food crisis is not absolute food scarcity²³ but the consequence of ineffective food distribution.²⁴

II. *The Issue of the Right to Food*

This article responds to the current food crisis by addressing a new issue: whether there is any legal basis for both the international community and national governments to protect poor people from hunger and malnutrition. In general, this

15 CNN News, *Riots, Instability Spread as Food Prices Skyrocket*, (14 April 2008), available at: <www.cnn.com/2008/WORLD/americas/04/14/world.food.crisis/> (last visited: 6 March 2009).

16 D.E. Buckingham, ‘A Recipe for Change: Towards an Integrated Approach to Food Under International Law’, 6 *Pace Int’l L. Rev.* 285, at 287, (1994).

17 J. Schatan & J. Gussow, *Food As A Human Right*, at 22 and 24, (1984).

18 A.P. Kearns, III, ‘The Right to Food Exists Via Customary International Law’, 22 *Suffolk Transnat’l L. Rev.* 223, at 223, (1998).

19 C.G. Gonzalez, ‘Trade Liberalization, Food Security, and the Environment: The Neoliberal Threat to Sustainable Rural Development’, 14 *Transnat’l L. & Contemp. Probs.* 419, at 422, (2004).

20 G.W. MacKenzie, ‘ICSID Arbitration as a Strategy for Leveling the Playing Field Between International Non-Governmental Organizations and Host States’, 19 *Syracuse J. Int’l L. & Com.* 197, at 198, (1993). See also D.E. Buckingham, *supra* note 16, at 287. It describes that despite natural or man-made disaster, enough food is produced to feed all the people on the planet. Moreover, for both developing and developed countries, the capacity to produce food has been improved and food production has been significantly increased over the past decade.

21 *Oxfam International*, ‘Another Inconvenient Truth, How Biofuel Policies are Deepening Poverty and Accelerating Climate Change’, <www.oxfam.org/files/bp114-inconvenient-truth-bio-fuels-0806.pdf>, (June 2008). See also R. Cardwell, *Food Aid and the WTO: Can New Rules Be Effective?* at 77, (2008), available at: <<http://purl.umn.edu/6313>>. It states that food aid has been used as a tool to dispose surplus agricultural commodities and the negotiating parties seek the use of coercive WTO legislation to prevent surplus disposal.

22 See D.E. Buckingham, *supra* note 16, at 288.

23 C.G. Gonzalez, *supra* note 19, at 428.

24 *Id.*

article upholds the existence of the right to food and the legal status of that right in international law.

In accordance with International Human Rights Law, every human being on earth has an inalienable equal right to life²⁵ and undoubtedly, the realization of the human right to life depends on the ability to satisfy the most fundamental human needs: food, water, housing and security.²⁶ Without satisfaction of these basic human needs, the other rights are meaningless.²⁷ Therefore, as one of the essential elements for human beings to survive, food is particularly important. It is not fair that poor people, who cannot access adequate food, must suffer from hunger, malnutrition, and related diseases.

This article primarily analyzes the right to food and its legal basis. It starts by discussing the definition of the right to food and then concentrates on the analysis of its legal basis. From an international perspective, this article examines the contents and binding effects of the international treaty instruments that already recognize the right to food as an inalienable right of every human being, even though it is not widely established. As a disputed issue, this article offers a detailed discussion on whether the right to food is a rule of customary international law concluding that it is. From a national perspective, the constitutions of countries around the world are investigated and compared in order to examine whether the right to food has been explicitly promulgated at the national level and how much commitment the national governments are devoting to ensuring that people are free from hunger and have access to sufficient food. In the end, this article concludes that both the international community and national governments are obligated to make their best efforts to reduce hunger and to explicitly address the right to food as a fundamental human right which supersedes any economic, social, cultural, and political rights.²⁸ In addition, an appendix attached to this article compares constitutions of countries all over the world one by one and clearly presents the national governments' attitudes regarding the recognition and implementation of the right to food.

B. Is There a Human Right to Food?

The issue of whether there is a human right to food has long been debated. Many treaty instruments and international organizations explicitly uphold the protec-

25 Article 3 of the Universal Declaration of Human Rights (UDHR), "Everyone has the right to life, liberty and security of person." See *supra* note 62. Article 6.1 of International Covenant on Civil and Political Rights states that "Everyone human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life". See International Covenant on Civil and Political Rights, *supra* note 25.

26 D.E. Buckingham, *supra* note 16 at 285.

27 *Id.*

28 P. Alston, *Food as a Human Right*, at 162 (1984)

tion and promotion of the right to food,²⁹ many countries explicitly endorse their citizen's right to food, and most expressly affirm their citizen's fundamental right to be free from hunger and to have nutritiously adequate food for their dietary needs.³⁰ The United States (US), however, differs from these countries. Despite its status as a world super power, the US government has consistently opposed the recognition of the right to food, labelling it as inconsistent with the US Constitution.³¹ In the light of this opposition, does the right of food really exist? Before addressing this question, several international definitions of the right must be reviewed.

I. Definition

The right to food is well defined by the International Covenant on Economic, Social and Cultural Rights (ICESCR) as "the right to be free from hunger and to have sustainable access to food in a quantity and quality sufficient to satisfy one's dietary and cultural needs".³² All Member States are obligated to recognize, respect, and fulfill the right to food.³³ The General Comment No. 12 also defines the right to food as "the right of every man, woman and child alone and in community with others to have physical and economic access at all times to adequate food or means for its procurement in ways consistent with human dignity".³⁴ Similarly, the FAO defines the right as every individual's basic human right to have sustainable access to adequate food, not only for mitigating hunger, but also for ensuring the livelihood and well-being of every human being.³⁵ The FAO further interprets the right to food stating that (1) the government itself must not deprive or abuse its people's right to food,³⁶ (2) the government must protect every individual from being deprived this right in any way,³⁷ and (3) when anyone

29 This will be discussed in subsequent chapters regarding the right to food in treaty instruments. See also S.K. Huffman & H. H. Jensen, *Social Assistance Programs and Outcomes: Food Assistance in the Context of Welfare Reform*, at 1, (2006). Available at <<http://purl.umn.edu/18579>>. It states that the right to food has been formally recognized since the adoption of the United Nations Universal Declaration of Human Rights in 1948.

30 US General Accounting Office, *Food Security: Preparations for the 1996 World Food Summit*, NSIAD-97-44, Washington, D.C., 1996.

31 *Id.* See also General Assembly Draft Resolution XX. Available at: <www.un.org/News/Press/docs/2008/ga10801.doc.htm>. See also E. Messer & M.J. Cohen, *The Human Right to Food as a Nutrition Concern, 1976-2006*, at 2, (2007). Available at <<http://purl.umn.edu/42368>>. It states that despite the fact that the US government has consistently "expanded food and nutrition assistance", it has continually "opposed formal right to food legislation". Draft resolution XX is regarding the widespread and explicit recognition of the right to food. It was approved on 24 November by a recorded vote of 180 in favor to 1 against. The only 1 against is the United States (Press Releases GA/SHC/3940 and GA/SHC/3941).

32 S. Narula, "The Right to Food: Holding Global Actors Accountable Under International Law", 44 *Colum. J. Transnat'l L.* 691, at 694, (2006).

33 *Id.*

34 See *supra* note 5.

35 FAO, *What is Right to Food?* (2007). Available at: <www.fao.org/righttofood/wfd/pdf2007/what_is_rtf_en.pdf> (last visited: 6 March 2009).

36 FAO, *The Right to Food in Practice: Implementation at National Level*, (2006). Available at <www.fao.org/docs/eims/upload/214719/AH189_en.pdf> (last visited: 5 March 2009).

37 *Id.*

lacks adequate food, the government is obligated to provide sufficient support “within its resources ability”³⁸ in order to ensure its people’s full enjoyment of this right. Additionally, the Center for Economic and Social Rights (CESR) defines the right to food as a right that “guarantees all people the ability to feed themselves”.³⁹ People have the basic right to “the amount of food necessary for survival”,⁴⁰ they also have the right to “food of high enough quality and quantity to live in adequate dignity”.⁴¹ CESR also imposes obligations on States to “cooperate in the equitable distribution of world food supplies”.⁴²

In addition to these international treaty definitions, some countries have their own interpretations on the right to food, for example South Africa. The right to food is a right explicitly proclaimed under the South African Constitution;⁴³ therefore, in order to “meet the dietary and food preferences for an active and healthy life”,⁴⁴ South Africans define food security as “physical, social and economic access to sufficient, safe, and nutritious food”.⁴⁵ This obligates the South African government to provide sufficient, nutritious, and safe food to all its citizens at both the national and the household level, while also guaranteeing the purchasing power of its citizens to ensure that they have the economic ability to buy this food.⁴⁶ Most importantly, the South African definition addresses the issue of food distribution, which is ignored in most others.⁴⁷ South Africans realize that food insecurity could be a national or a regional problem and therefore, that effective food distribution is of great importance to reducing hunger and malnutrition. Food must be able to be distributed to the poor people in need “at the right time and place”.⁴⁸

In summary, the right to food is well defined at both the international and national levels. These definitions are aimed at ensuring that every individual on this planet is free from hunger and progressively has access to nutritionally ade-

38 *Id.*

39 Center for Economic and Social Rights, The Right to Food, available at <www.cesr.org/food> (last visited: 3 December 2008).

40 *Id.*

41 *Id.*

42 *Id.*

43 Article 27 of the Constitution of South Africa ensures “everyone has the right to have access to a. health care services, including reproductive health care; b. sufficient food and water; and c. social security, including, if they are unable to support themselves and their dependants, appropriate social assistance”. See Constitution of the Republic of South Africa, 1996. This Constitution was first adopted by the Constitutional Assembly on 8 May 1996. In terms of a judgment of the Constitutional Court, delivered on 6 September 1996, the text was referred back to the Constitutional Assembly for reconsideration. The text was accordingly amended to comply with the Constitutional Principles contained in Schedule 4 of the interim Constitution. It was signed into law on 10 December 1996. available at <www.info.gov.za/documents/constitution/1996/96cons2.htm> (last visited: 3 March 2009).

44 D. Moyo, “The Future of Food: Element of Integrated Food Security Strategy for South Africa and Food Security Status in Africa”, 101 *Am. Soc’y Int’l L. Proc.* 103, at 103, (2007).

45 *Id.*

46 *Id.*

47 *Id.* at 104.

48 *Id.*

quate food. Moreover, the national governments play a significant role in reducing hunger and malnutrition, and they should bear more burdens in the fight against food insecurity.

II. *International Treaty Instruments*

Many international treaty instruments expressly recognize the human right to food.⁴⁹ Most notably, the Universal Declaration of Human Rights (UDHR) pronounces everyone's human right to a standard of living, which includes food, clothing, and housing.⁵⁰ As an elaboration of the UDHR, the International Covenant on Economic, Social and Cultural Rights (ICESCR) not only recognizes the right to food but also imposes legal obligations on its Member States to progressively achieve the right to be free from hunger and the right to have continuous access to adequate food.⁵¹ Similar proclamations are found in the Convention on the Rights of the Child (1989),⁵² the Universal Declaration on the Eradication of Food, Hunger and Malnutrition,⁵³ the Rome Declaration on World Food Security,⁵⁴ the General Comment No. 12,⁵⁵ the Millennium Development Goals,⁵⁶ and the Voluntary Guidelines.⁵⁷

1. *The Universal Declaration of Human Rights*

The UDHR is the direct expansion of the United Nations Charter.⁵⁸ It defines individuals' fundamental rights, and it "exhorts all governments to protect these

49 D. Shelton, *supra* note 2, at 1312. The right to food is expressly proclaimed in positive international law and several instruments at both the global and regional level recognize this right.

50 A.H. Robertson & J.G. Merrills, *Human Rights in the World: An Introduction to the Study of the International Protection of Human Rights*, at 29, (1998).

51 Article 11, International Covenant on Economic, Social and Cultural Rights, *supra* note 25.

52 Article 6 of the Convention on the Rights of the Child promulgates the right to life as follows "States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child". G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989).

53 The Universal Declaration on the Eradication of Food, Hunger and Malnutrition was adopted by the World Food Conference in 1974.

54 See FAO, *World Food Summit*, (1996), available at: <www.fao.org/WFS/index_en.htm> (last visited: 3 March 2009). The Rome Declaration on World Food Security was adopted in 1996. It reaffirms "the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger".

55 General Comment 12 reaffirms the right to food as a fundamental human right that is "invisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined in the International Bill of Human Rights". See *supra* note 5.

56 They were declared by the United Nations in 2000. The first goal is to "Eradicate extreme poverty and hunger". See Millennium Development Goals, available at <www.undp.org/mdg/goal1.shtml> (last visited: 2 March 2009).

57 The Voluntary Guidelines provide guidance to States on how to progressively achieve the right to adequate food. See U.N. Food and Agriculture Organization, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, Annex 1, 16, FAO Doc. No. CL 127/10-Sup.1 (23 September 2004).

58 L.B. Sohn, 'The New International Law: Protection of the Rights of Individuals Rather than States', 32 *Am. U. L. Rev.* 1, at 17,18, (1982).

rights.”⁵⁹ The human rights pronounced in the UDHR are considered the legal basis for all other international human rights instruments.⁶⁰

The expression of the right to food is first found in the UDHR.⁶¹ Under Article 25(1), it promulgates

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.⁶²

Article 25 of the UDHR declares a standard of living for every individual and as one of the most important components of human rights, has generated no significant controversy.⁶³ Section I lists the first needs for human beings as “food, clothing, housing, medical care and necessary social services”⁶⁴ and second the needs as “the right to security in the event of unemployment, sickness, disability, widowhood, old age and other lacks of livelihood”.⁶⁵ Because ratification of the UDHR was not a compulsory requirement when it was proclaimed,⁶⁶ it was accepted with no binding effect.⁶⁷ However, some rights pronounced under the UDHR create legal obligations because they are considered as a rules of customary international law.⁶⁸ The question here is whether the right to food is widely accepted as a rule of customary international law. If the answer is yes, Member States are bound by it; otherwise, the right to food has no binding nature. This question will be discussed as a separate sub-issue in subsequent chapter.⁶⁹

2. *The International Covenant on Economic, Social and Cultural Rights (ICESCR)*

As an elaboration of the UDHR,⁷⁰ the ICESCR ensures and protects rights that are “derived from the inherent dignity of the human person”.⁷¹ The ICESCR generally restates the relevant economic, social, and cultural rights enumerated in the UDHR, but it is relatively more specific and stronger than the UDHR “in its man-

59 A.H. Robertson & J. G. Merrills, *supra* note 50.

60 W.A. Schabas, ‘Canada and the Adoption of the Universal Declaration of Human Rights’, 43 *McGill L.J.* 403, at 403 and 405 (1998).

61 S. Narula, *supra* note 32, at 705.

62 Universal Declaration of Human Rights, G.A. res. 217 A(III), U.N. Doc. A/810 at 71 (1948).

63 Rehof, et al., *The Universal Declaration of Human Rights: A Commentary*, at 385 (1993)

64 *Id.* at 389.

65 *Id.*

66 H.A. Saona, ‘The Protection of Reproductive Rights Under International Law: The Bush Administration’s Policy Shift and China’s Family Planning Practices’, 13 *Pac. Rim L. & Pol’y J.* 229, at 229, (2004).

67 *Id.*

68 *Id.*

69 Further discussions are in Part B. III. 1., A General and Consistent Practice of States: A Historical Review.

70 D.E. Buckingham, *supra* note 16, at 291.

71 See Preamble of the ICESCR, *supra* note 25.

date to its signatories".⁷² In accordance with the ICESCR, the right to adequate food derives from the right to an adequate standard of living and is one of the key components for all economic, social, and cultural rights.

Article 11 of the ICESCR not only recognizes the right to adequate food, but establishes its State parties' enforcement obligations as follows:

Firstly, 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. Secondly, 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 programs, 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.⁷³

Some scholars interpret Article 11 as providing two separate rights: (1) the right to adequate food and (2) the right to be free from hunger, and they argue about the priority of each.⁷⁴ However, this separation makes no sense. Under Article 11, the core obligation imposed on the State parties is to mitigate hunger and further ensure each individual's right to have sustainable access to nutritiously adequate food.⁷⁵ The term, "the right to food", is a multi-leveled concept and it covers both "the right to be free from hunger" and "the right to adequate food".⁷⁶ In other words, Article 11 only proclaims one right – the right to food. Ensuring that people are free from hunger is the minimum obligation of the right to food.⁷⁷ The ICESCR further requires that State parties take effective measures to progressively ensure the availability of nutritiously adequate food to satisfy everyone's dietary and cultural needs⁷⁸ "as expeditiously as possible".⁷⁹ The right to be free

72 J.A. Weber, 'Famine Aid to Africa: An International Legal Obligation', 15 *Brook. J. Int'l L.* 369, at 380 (1989).

73 International Covenant on Economic, Social and Cultural Rights, *supra* note 25.

74 L. Niada, 'Hunger and International Law: The Far-reaching Scope of the Human Right to Food', 22 *Conn. J. Int'l L.* 131, at 151 (2006).

75 S. Narula, *supra* note 32, at 694.

76 D.E. Buckingham, *supra* note 16, at 293. The right to food contains two separate standards. The right to be free from hunger is the minimum standard and the right to adequate food is a relative standard that is more difficult to spell out as an international minimum standard.

77 L. Niada, *supra* note 74, at 152.

78 S. Narula, *supra* note 32, at 694.

79 See *supra* note 5.

from hunger is the initial step on the way towards the full realization of the right to adequate food. Together they constitute the right to food and share the common goal of reducing food insecurity.

Moreover, Article 11 of the ICESCR dedicates particular attention to the enforcement of the right to food. The State parties are required to recognize the right of everyone to be free from hunger and to have sustainable access to food in a quantity and quality sufficient to satisfy their dietary and cultural needs.⁸⁰ They are obligated to take workable measures, for instance, promoting the methods of food production, conservation, and distributions, to implement the ICESCR and to ensure every individual's full enjoyment of the right to food.⁸¹ Moreover, Article 11 advocates that both State and non-State actors contribute to the fight against food crisis.⁸² In accordance with the ICESCR, the State parties are obligated to submit reports to the Committee on Economic Social and Cultural Rights, which oversees the implementation of the Member States' obligations regarding the right to food.⁸³

Unlike the UDHR, the ICESCR was created with explicit binding effect. All 160 Member States that have ratified this Covenant are bound by it.⁸⁴ As a result, the right to food must be recognized, respected, and fulfilled by all its State parties.⁸⁵ Undoubtedly, the ICESCR is "an essential step" towards granting the right to food to every individual on the planet.⁸⁶

3. *Other International Treaty Instruments Proclaiming the Rights to Food*

The right of a child to access adequate food is encompassed in Article 27 of the Convention on the Rights of the Child (1989).⁸⁷ 194 States parties to this convention are required to recognize "the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development".⁸⁸ Similar to the ICESCR, Article 27 of the Convention on the Right of the Child proclaims that parents and other responsible guardians of a child are obligated to "secure the conditions of living necessary for the child's development".⁸⁹ It also

80 S. Narula, *supra* note 32, at 691.

81 *Id.*

82 *Id.*

83 FAO, The Right to Adequate Food, available at: <www.fao.org/righttofood/kc/faq_en.htm> (last visited: 3 March 2009).

84 H.A. Saona, *supra* note 66, at 229.

85 Universal Declaration on the Eradication of Hunger and Malnutrition, Adopted on 16 November 1974 by the World Food Conference convened under General Assembly Resolution 3180 (XXVIII) of 17 December 1973; and endorsed by General Assembly Resolution 3348 (XXIX) of 17 December 1974. See <www.unhcr.ch/html/menu3/b/69.htm> (last visited: 2 March 2009).

86 FAO, *What is the Right to Food*, (2007). See <www.fao.org/righttofood/wfd/pdf2007/what_is_rtf_en.pdf> (last visited: 2 March 2009).

87 Article 6 of the Convention on the Rights of the Child promulgates the right to life as follows: "States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child". See *supra* note 52.

88 *Id.*

89 *Id.*

specifies States parties' obligations to take all appropriate and workable measures to guarantee children's basic needs.⁹⁰

Additionally, the Universal Declaration on the Eradication of Food, Hunger and Malnutrition⁹¹ assures that every individual has "the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties".⁹² It emphasizes the importance of tackling the grave food crisis and advocates the participating States of the World Food Conference to make full use of the United Nations system to eliminate hunger and malnutrition, internationally, nationally, and regionally.⁹³ The Universal Declaration on the Eradication of Food, Hunger and Malnutrition is convened by the General Assembly of the United Nations;⁹⁴ however, since the General Assembly Resolutions are not binding in nature, this Declaration's right to food in and of itself has no binding effect.⁹⁵

After the Universal Declaration on the Eradication of Food, Hunger and Malnutrition was adopted in 1974, little progress toward the legal protection of the right to food was made until 1996, when the World Food Summit was held with the aim of reviewing world leaders' commitments to "the eradication of hunger and malnutrition and the achievement of food security for all".⁹⁶ In accordance with the purpose of the World Food Summit, the Rome Declaration on World Food Security and the World Food Summit Plan of Action were adopted by the

90 Article 27 states: "1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. 2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development. 3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programs, particularly with regard to nutrition, clothing and housing. 4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements." See *supra* note 52.

91 The Universal Declaration on the Eradication of Food, Hunger and Malnutrition was adopted by the World Food Conference in 1974.

92 Adopted on 16 November 1974 by the World Food Conference convened under General Assembly Resolution 3180 (XXVIII) of 17 December 1973; and endorsed by General Assembly Resolution 3348 (XXIX) of 17 December 1974, available at <www.unhcr.ch/html/menu3/b/69.htm> (last visited: 2 March 2009).

93 *Id.*

94 *Id.*

95 The United Nations General Assembly, Background Information, Functions and Powers of the General Assembly, <www.un.org/ga/61/background/background.shtml> (last visited: 3 December 2008)

96 *Supra* note 54.

Heads, Deputy Heads, and high-level representatives of the States.⁹⁷ The Rome Declaration reaffirms “the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger”,⁹⁸ while the Plan of Action provides practical guidelines for the States to implement the commitments set forth in the Declaration.⁹⁹ The Rome Declaration and the Plan of Action share the common objective food security¹⁰⁰ which exists only when all people on this planet have sustainable access at all time to nutritiously adequate food to satisfy their dietary and cultural needs.¹⁰¹

The General Comment No. 12, which was adopted in May 1999 by the Committee on Economic, Social and Cultural Rights, reaffirms the right to food as a fundamental human right that is “indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined in the International Bill of Human Rights”.¹⁰² It elaborates the right to food as “the right of every man, woman and child alone and in community with others to have physical and economic access at all times to adequate food or means for its procurement in ways consistent with human dignity”.¹⁰³ The General Comment No. 12 requires the States parties firstly to ensure “the availability of food in a quantity and quality sufficient”¹⁰⁴ to meet the dietary and cultural needs of all the individuals in order to live a healthy life and secondly to guarantee the accessibility of such food in sustainable way that “do not interfere with the enjoyment of other human rights”.¹⁰⁵ Moreover, the General Comment No. 12 explicitly imposes legal obligations on States parties to “respect, to protect and to fulfill the right to food”.¹⁰⁶ They should refrain from any actions that

97 *See id.* It describes that the Rome Declaration on World Food Security and the World Food Summit Plan of Action were adopted by 112 Heads or Deputy Heads of State and Government, and by over 70 high-level representatives from other countries at a meeting which saw the active involvement of representatives of inter-governmental and non-governmental organizations. The adoption of the Rome Declaration and the Plan of Action significantly influenced public opinion and provided a framework for bringing about significant changes in policies and actions needed to achieve food security for all the people. *See also* L. Niada, *supra* note 74, at 172.

98 FAO, The Rome Declaration on World Food Security, (1996). <www.fao.org/docrep/003/w3613e/w3613e00.HTM> (last visited: 2 March 2009).

99 *See supra* note 54.

100 *Id.*

101 *Id.*

102 *See supra* note 5.

103 United Nations Economic and Social Council, The right to adequate food (Art.11). 12/05/99. E/C. 12/1999/5. (General Comments) (1999). Also available at www.unhchr.ch/tbs/doc.nsf/385c2add1632f4a8c12565a9004dc311/3d02758c707031d58025677f003b73b9?OpenDocument (last visited: 2 February 2009).

104 *Id.*

105 *Id.*

106 *Id.* *See also* E. Messer & M. J. Cohen, *supra* note 31, at 20-21, (2007). It interprets “respect,” “protect”, and “fulfill”, respectively. The obligation to respect requires the states to “refrain from actions that undermine the right to food”; the obligation to protect refers to “the protection of household and individual food security from the actions of other individuals and collectivities”; the obligation to fulfill requires the states cooperate to ensure that everyone is eligible to receive food assistance “in a way that preserves their human dignity”.

might impair individuals' access to food,¹⁰⁷ take effective measures to ensure that nobody suffers from hunger, proactively participate in relevant activities, and working closely with other States, to reduce food insecurity globally.¹⁰⁸ The Committee also stresses the significance of a monitoring system, and it advises States to develop and maintain effective mechanisms to "monitor progress toward the realization of the right to adequate food for all".¹⁰⁹ With respect to violations of the right to food, victims should be entitled the right to have access to appropriate monetary and legal remedies at both the international and national level.¹¹⁰ Furthermore, the General Comment No. 12 addresses the issue of international cooperation. Governments, international organizations, and financial institutions are advocated to work together more closely and to make efforts to ensure preservation of everyone's human dignity.¹¹¹ It encourages the international community to provide timely and sufficient assistance to the States for the realization of the right to food, and it tries to attract more attention from the international financial institutions and have them adjust their lending policies and credit agreements in order to mitigate hunger and malnutrition.¹¹²

In addition, the Millennium Development Goals (MDGs) declared by the UN in 2000 identify "eradicating extreme poverty and hunger"¹¹³ as the first overarching goal for development policy, to be achieved by 2015.¹¹⁴ It also presents the right to be free from hunger as a universally accepted human right.¹¹⁵ Moreover, the three main targets set forth in the first goal of the MDGs are (1) reducing by half the proportion of people living on less than one dollar a day, (2) achieving full and productive employment for all, and (3) reducing by half the proportion of people who suffer from hunger.¹¹⁶

In 2004, based on the goals of the World Food Summit Plan of Action, the FAO proclaimed the Voluntary Guidelines, which provide guidance to the States regarding how to progressively realize the right to adequate food.¹¹⁷ These Guidelines establish the four pillars of food security as "availability, stability of supply, access and utilization".¹¹⁸ Food security is believed to exist when all people have sustainable, physical and economic access to nutritiously sufficient food to meet

107 E. Messer & M.J. Cohen, *supra* note 31.

108 See S.K. Huffman & H.H. Jensen, *supra* note 29.

109 See *supra* note 5.

110 *Id.*

111 E. Messer & M.J. Cohen, *supra* note 31.

112 See *supra* note 5.

113 See *supra* note 56.

114 See *id.*, at <www.undp.org/mdg/basics.shtml> (last visited: 2 February 2009). In response to the world's major development challenges, the Millennium Development Goals (MDGs) are proposed with eight goals to be achieved by 2015. See also S.K. Huffman & H.H. Jensen, *supra* note 29, at 2.

115 S. Narula, *supra* note 32, at 789.

116 See *supra* note 56.

117 U.N. Food and Agriculture Organization, Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, *supra* note 57.

118 *Id.*, at Guideline 15.

their dietary and cultural needs.¹¹⁹ Moreover, the Guidelines impose obligations on the States to “provide food assistance to those in need,”¹²⁰ and they enable the States to “request international assistance if their own resources do not suffice”.¹²¹ The adoption of the Voluntary Guidelines offers many detailed and workable solutions to the international community and the States in order to “realize food security policies within a human rights framework”.¹²²

Even though increasing numbers of treaties and instruments are signed and ratified by the States, the right to food is still not widely recognized in written form. Under this circumstance, some scholars may say, the right to food has not yet been absolutely affirmed as treaty law. However, the treaty instruments signed by the States and the actions taken by them illustrate the States’ consistent efforts to address the food issue and to find solutions to reduce hunger globally. The achievements made and being made to fight hunger and malnutrition are the best evidence of *opinio juris*¹²³ for applying the rule of customary international law.

III. Customary International Law

Customary international law is considered one of the principal sources of international law, and it is formally accepted by both the international legal community and national courts.¹²⁴ If the right to food is proved to be a rule of customary international law, there would be a much wider and stronger legal basis for the right’s global protection and promotion. However, the acknowledgement of the right to food as a rule of customary international law remains debatable¹²⁵ and has not been adequately analyzed.¹²⁶ Some scholars state that providing humanitarian assistance in the form of food aid to prisoners of war is protected under

119 *Id.*

120 See D. Fisher, ‘From Hand to Mouth, via the Lab and the Legislature: International and Domestic Regulations to Secure the Food Supply’, 40 *Vand. J. Transnat’l L.* 1099, at 1146, (2007).

121 *Id.*

122 FAO, *The Right to Food Guidelines: Information Papers and Case Studies*, (2006), available at <[ftp://ftp.fao.org/docrep/fao/010/a0511e/a0511e01.pdf](http://ftp.fao.org/docrep/fao/010/a0511e/a0511e01.pdf)> (last visited: 2 March 2009).

123 *Opinio juris* is also termed as *opinion juris sive necessitatis* [Latin “opinion that an act is necessary by rule of law”]. Black Law Dictionary interprets it as “The principle that for conduct or a practice to become a rule of customary international law, it must be shown that nations believe that international law (rather than moral obligation) mandates the conduct or practice”. See Black’s Law Dictionary (8th ed. 2004), *opinion juris sive necessitates*.

124 The International Court of Justice and the United Nations accept customary international law as one of the major sources of international law. Article 38 (1) (b) of the Statute of the International Court of Justice affirms the existence of customary international law by pronouncing “The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply...international custom, as evidence of a general practice accepted as law”. See Statute of the International Court of Justice, <www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0#CHAPTER_II> (last visited: 1 March 2009).

125 Tunkin, ‘Remarks on the Juridical Nature of Customary Norms of International Law’, 49 *Calif. L. Rev.* 419, at 420 & 421, (1961).

126 S. Narula, *supra* note 32, at 780.

international law¹²⁷ however, in peacetime, there is no customary international legal obligation imposed on States to provide assistance to people that are in need of food.¹²⁸ To the contrary, other scholars believe that the right to food does exist as the rule of customary international law and that it should enjoy the status of international law.¹²⁹ This article agrees with the latter approach; it upholds the existence of the right to food as part of customary international law and, thereby, argues that the right should formally be recognized, respected and fulfilled by all the States.

A large number of international legal rules and principles are “generated by means other than the explicit consent of the States expressed in treaties”.¹³⁰ Customary international law refers to rules and principles derived from “a generally and consistence practice of States”¹³¹ and accepted by them as legally binding.¹³² Customary international law, however, is not widely promulgated by statutory law or treaty instruments.¹³³ To evaluate whether a rule or a principle is part of customary international law, two elements should be analyzed.¹³⁴ The International Court of Justice has made the following judgment regarding customary international law: “The party [that] relies on a custom [...] must prove that this custom is established in such a manner that it has become binding on the other party [...] that the rule invoked [...] is in accordance with a constant and uniform usage practiced by the [s]tates in question[...]”.¹³⁵ Therefore, the practice must first be a general, constant, and uniform usage of States;¹³⁶ then, it must be proved that it is established with binding effect in practice (*i.e.* accepted as law – *opinio juris*).¹³⁷

127 Geneva Convention Relative to the Treatment of Prisoners of War, 12 August, 1949, Article 20 & 26, J. DePreux, Commentary: Geneva Convention III, at 173, (1960). Article 20 states that “the Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water...”. Art. 26 states that “the basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies...collective disciplinary measures affecting food are prohibited”.

128 See D.E. Buckingham, *supra* note 16, at 301. Buckingham believes that there is no customary international legal obligation to provide food assistance in peacetime, and many states only provide food aid during peacetime based on bilateral or multilateral agreements.

129 See S. Narula, *supra* note 32, at 777-778. See also A.P. Kearns, III, *supra* note 18, at 223. It analyzes the existence of the right to food as the norm of customary international law by exploring various treaties, agreements and UN documents.

130 M.W. Janis, *International Law*, at 43, (2008).

131 K. McKeever, *Researching Public International Law*, (January 2006), available at: <www.law.columbia.edu/library/Research_Guides/internat_law/pubint> (last visited: 11 January 2009)

132 M.M. Kundmueller, “The Application of Customary International Law in US Courts: Custom, Convention, or Pseudo-Legislation?”, 28 *J. Legis.* 361(2002).

133 Statute of the International Court of Justice, Ch. II, Art. 38 (1)(b), *supra* note 124.

134 See S. Narula, *supra* note 32 at 777. It requires two elements to make up the rule of customary international law: general state practice and *opinio juris*.

135 A.P. Kearns, III, *supra* note 18, at 248.

136 V. Lowe, *International Law*, at 37, (2007)

137 *Id.*

1. *A General and Consistent Practice of States: A Historical Review*

Although there is no solid requirement that the States ensure their people's sustainable and adequate access to food, the States have made it their general practice, naturally, because this particular pattern of behavior can affect their economic, social, and political interest.¹³⁸ Historically, functional governments have always prioritized food issues in their public policies.¹³⁹ In times of famine or food shortage, the ancient Egyptian government lowered its national taxes on food; local officials also delivered "food from areas of plenty to nearby areas where people were starving".¹⁴⁰ Ensuring adequate food supply was similarly important to many European governments.¹⁴¹ In pre-industrial times, they employed food price controls, timely food distribution, and other measures to ensure food security and to prevent or alleviate famine.¹⁴² Moreover, to some extent, the people's access to sufficient food was regarded as a significant indicator of which dynasty or government was more functional.¹⁴³ In ancient China, more than 2000 years ago, the Qin Dynasty¹⁴⁴ established a performance evaluation system, in which food supply was one of the most significant indicators.¹⁴⁵ This tradition was adopted by subsequent Chinese governments and lasted for more than 2000 years.¹⁴⁶ In addition to this performance evaluation system, public grain policies have been enforced in China for about 4000 years as a response to natural and man-made disasters.¹⁴⁷ Undoubtedly, food security is not an issue limited to the contemporary world but one with long historical recognition. Even though access to sufficient food was not labeled the "right to food" at that time, it continued to be the most fundamental need for all Chinese people and became a general and consistent practice of other States as well. That this practice is still accepted in contemporary society is reflected by the States adoption of many international treaty instruments that repeatedly emphasize the importance of implementing the right to food.

2. *Acceptance of a General Practice as Law: Opinio Juris*

There are varieties of general practices in international relations; however, not all of them are considered rules of customary international law.¹⁴⁸ To be a rule of customary international law, the general practice must be accepted as law by the States. The acceptance of a general practice as law is known as '*opinio juris*'.¹⁴⁹

138 *Id.*

139 R. Robertson, *Human Rights in the Twenty-First Century a Global Challenge*, at 451, (1993).

140 B.G. Trigger, *Understanding Early Civilizations: A Comparative Study*, at 387, (2003)

141 Wikipedia, Famine, <<http://en.wikipedia.org/wiki/Famine>> (5 December 2008).

142 *Id.*

143 H. Bo, 'History of Kang Yong Qiang Dynasty', *GuangMing News*, 14 September 2004, available at <<http://news.blu.edu.cn/detail.asp?id=6466>> (last visited: 12 January 2009).

144 221 B.C. to 206 B.C.

145 Performance Evaluation System in Ancient China, 12 December 2005 available at: <www.cnicw.gov.cn/info_disp.php?id=5948> (last visited: 12 December 2008).

146 *See Id.*

147 D. Shelton, *supra* note 2, at 1309.

148 *Supra* note 136, at 38.

149 *Id.*

Determining whether *opinio juris* exists, from Vaughan Lowe's view,¹⁵⁰ is a process of "characterizing the practice of the State".¹⁵¹ State action is presumed to have intent; if that action is in compliance with international law, *opinio juris* exists.¹⁵² In recent history, the protection of the right to food can be traced back to the establishment of the UN.

Beginning in 1945, when the UN was established, the international community realized the necessity to codify international human rights.¹⁵³ The codification process started with the promulgation of the UN Charter,¹⁵⁴ which is the constitutional treaty for the UN¹⁵⁵ and prevails over all other treaties and laws throughout the world.¹⁵⁶ All Member States of the UN are bound by this Charter.¹⁵⁷ Even though the Charter does not explicitly specify what kind of rights should be entitled to each individual, in accordance with its purpose of "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion",¹⁵⁸ the Charter expressly emphasizes the significance of the protection and promotion of international human rights.¹⁵⁹ In observance of this purpose, a series of codifications were made subsequently to the Charter's promulgation, including the UDHR, which encompasses the most fundamental human rights; and the ICCPR and ICESCR, which elaborate the fundamental human rights listed in the UDHR.¹⁶⁰ Therefore, the UDHR can be seen as a direct expansion of the UN Charter.¹⁶¹

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151 *See id.* at. 51

152 *See id.*

153 A.P. Kearns, III, *supra* note 18, at 229.

154 *See id.*

155 B. Fassbender, *UN Security Council Reform and the Right of Veto: A Constitutional Perspective*, at 90, (1998).

156 The UN Charter hierarchically prevails over all other treaties and laws throughout the World. *See* J. Schatan & J. Gussow, *supra* note 17, at 13&14.

157 *See supra* note 155.

158 UN Charter Art. 1, Para. 3. Article 1.3 specifies that "the purposes of the United Nations are [...] 3. to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". <www.un.org/aboutun/charter/chapter1.shtml> (last visited: 11 November 2009).

159 Article 1, Para. 3 emphasizes the importance of human rights issues. Also in its Preamble, the UN Charter stresses the significance of the protection and promotion of human rights. "We the people of the United Nations determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small [...]" *See* Charter of the United Nations, <www.un.org/aboutun/charter/>.

160 L.B. Shon, *supra* note 58, at 11-12.

161 For instance, European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221, Europ. T.s. No. 5 (entered into force on 3 September 1953); Charter of the Organization of American States, 2 UST. 2394, T.I.A.S. No. 2361, 119 U.N.T.S.3 (entered into force on 13 December, 1951).

Whether the UDHR has binding effect is arguable. Some scholars see it as a non-binding treaty because it was accepted with no binding nature;¹⁶² however, other scholars see it as a part of customary international law because it presents an authoritative expansion and interpretation of the UN Charter provisions.¹⁶³ Regardless of the discussion and ambiguities of the UDHR's binding effect, it is undisputed that the declaration has been affirmed and cited by both the international community and the States.¹⁶⁴ State governments constantly invoke the UDHR in support of their arguments before the General Assembly of the UN.¹⁶⁵ Therefore, the UDHR must be considered binding. Since the UN Charter is legally binding on all the States, the UDHR, as its direct expansion and authoritative interpretation, would enjoy a primary status in international law¹⁶⁶ and should bind all the Member States as well.¹⁶⁷

Taking into account that the UDHR explicitly proclaims the legal right to food and calls on the international community and all the States to implement it, it follows the legal right to food should have binding effects on the Member States, which include nearly all the recognized independent States in the world.¹⁶⁸ Therefore, *opinio juris* for the right to food exists and is attributed to the general acceptance of the UDHR and the State's intent to act in conformity with it.¹⁶⁹

In addition to Vaughan's Lowe's interpretation regarding *opinio juris*, the International Law Commission presents a clear guideline on "ways and means for making the evidence of Customary International Law more readily available".¹⁷⁰ A variety of available means are listed by the International Law Commission: 1) mandate;¹⁷¹ 2) studies undertaken by the Secretariat and reports of the Secretary-General;¹⁷² 3) reports of the working group or sub-committee; 4) reports of

162 *Id.*

163 See L.B. Sohn, *supra* note 58. See also P. Alston, *International Law and the Human Right to Food*, in P. Alston and K. Tomašević (eds.), *The Right to Food*, at 9 and 22, (1984).

164 J.P. Humphrey, *The Universal Declaration of Human Rights: Its History, Impact and Juridical Character*, in *Human Rights: Thirty Years after the Universal Declaration*, at 21, (1979).

165 See L.B. Shon, *supra* note 58, at 16 and 17.

166 See L. Niada, *supra* note 74, at 171.

167 *Id.*

168 As of 28 June 2006, the United Nations has 192 Member States, which includes all fully recognized independent states. See United Nations Member States, <www.un.org/members/> (last visited: 18 February 2009).

169 Article 25.1 of the UDHR, *supra* note 62.

170 See Ways and Means for Making the Evidence of Customary International Law More Readily available, U.N. Doc. A/CN.4/6 and Corr.1 (1949). See also <http://untreaty.un.org/ilc/documentation/english/a_cn4_6.pdf> (last visited: 12 December 2008).

171 Article 24 of the Statute of the International Law Commission, available at <http://untreaty.un.org/ilc/texts/instruments/english/statute/statute_e.pdf>.

172 First session of the International Law Commission (1949), Ways and Means for Making the Evidence of Customary International Law More Readily Available, *supra* note 170; Second session of the International Law Commission (1950): Comments on Judge Hudson's Working Paper, presented by the Secretariat, Comments on Judge Hudson's Working Paper on Article 24 of the Statute of the International Law Commission, U.N. Doc. A/CN.4/27 (1950), available at: <http://untreaty.un.org/ilc/documentation/english/a_cn4_27.pdf>.

the special rapporteur;¹⁷³ 5) reports of the drafting Committee; 6) comments by governments; 7) reports of the International Law Commission;¹⁷⁴ and 8) General Assembly actions.¹⁷⁵ Based on this guideline, the General Comment No. 12,¹⁷⁶ the MDG¹⁷⁷ and the World Food Summit Plan of Action¹⁷⁸ can be cited as best evidence for *opinio juris*.¹⁷⁹ Moreover, the Commission on Human Rights established a Special Rapporteur on the right to food in April 2000.^{180,181}

The UN General Assembly resolutions reaffirm the right to food and impose obligations upon States to reduce worldwide food insecurity; this reflects a general agreement among the States.¹⁸² The Right to Food Resolution 57/226 recognizes “the problems of hunger and food insecurity”,¹⁸³ and encourages all the States to “take steps with a view to achieving progressively the full realization of the right to food”.¹⁸⁴ Similar statements are found in the Right to Food Resolution 58/186,¹⁸⁵ adopted by the General Assembly, and in Resolution 2003/25, adopted by the United Nations Commission on Human Rights.¹⁸⁶ Consequently, the right to food easily satisfies all the requirements set by the guideline on “ways and means for making the evidence of Customary International Law more readily available”¹⁸⁷ and, therefore, is proved to be a rule of customary international law.

173 Article 24 of the Statute of the International Law Commission – Working Paper by M.O. Hudson, U.N. Doc. A/CN.4/16 and Add.1 (1950): <http://untreaty.un.org/ilc/documentation/english/a_cn4_16.pdf>; Report of the International Law Commission on its Second Session, 5 June to 29 July 1950, Official Records of the General Assembly, Fifth session, Supplement No.12 (A/1316), U.N. Doc. A/CN.4/34 (1950), available at: <http://untreaty.un.org/ilc/documentation/english/a_cn4_34.pdf>.

174 Report of the International Law Commission on the work of its first Session, 12 April 1949, Official Records of the General Assembly, Fourth Session, Supplement No. 10, U.N. Doc. A/CN.4/13 and Corr. 1-3, 1949: <http://untreaty.un.org/ilc/documentation/english/a_cn4_13_corr1-3.pdf>; Report of the International Law Commission on its Second Session, *supra* note 173.

175 *Supra* note 170.

176 United Nations Economic and Social Council, The right to adequate food (Art. 11), *supra* note 103.

177 S. Narula, *supra* note 32, at 691.

178 *See supra* note 122.

179 *See Id.*

180 Office of the United Nations High Commissioner for Human Rights, Special Rapporteur on the Right to Food, available at: <www2.ohchr.org/english/issues/food/index.htm>.

181 This Special Raporteur was extended subsequently by the Human Rights Council through its resolution 6/2 of 27 September 2007.

182 S. Narula, *supra* note 32, at 780-781.

183 *See* the United Nations General Assembly, The right to Food Resolution A/RES/57/226 (2003).

184 *See id.*

185 *See* the United Nations General Assembly, The Right to Food Resolution A/RES/58/186 (2004).

186 *See* The United Nations Commission on Human Rights Resolution 2003/25, available at <[www.unhcr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.Res.2003.25.En?Opendocument](http://www.unhcr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.Res.2003.25.En?Opendocument)> (last visited: 2 February 2009).

187 The International Law Commission provides us a guide to make the evidence of customary international law. This website is a UN documents collection that is relevant to this issue. *See* Ways and Means for Making the Evidence of Customary International Law More Readily Available, *supra* note 170.

To summarize, because the right to food is “a generally and consistently practiced of States”¹⁸⁸ and is accepted as legally binding (*opinio juris*),¹⁸⁹ the right is manifested as the norm of customary international law.¹⁹⁰ As such, all the States must respect, protect, and fulfill the right to food; and national governments must make efforts to ensure sufficient food is supplied to all their citizens, and to enforce their legal obligations to protect and promote the right to food.

IV. *Constitutions of Different Countries in the World and the Establishment of the National Legal Basis for Ensuring the Right to Food*

1. *Constitutions of Different Countries in the World*

Having proven the right to food to be a rule of customary international law, the right’s protection at the national level must be examined. A constitution is the supreme law for a sovereign State; it establishes the framework and principles of the State as a political entity. Moreover, most States reserve their citizen’s most fundamental rights under their constitutions. Whether a nation has a legal basis for the right to food and the level of commitment it devotes to assuring food access can be directly determined by examining the provisions of that nation’s constitution. Based on my research, however, only 25 of the 198 countries in the world explicitly incorporate the right to food in their constitutions.¹⁹¹ Other countries affirm the right to food in connection with the right to life,¹⁹² which implicitly includes the right to food, or some other provision of their constitutions.¹⁹³ In contrast, some countries only make practical efforts to ensure peoples’ right to food; they do not have a relevant constitutional provision.¹⁹⁴

The right to food is explicitly proclaimed under the Constitution of the Republic of South Africa (1996) and is clearly justified;¹⁹⁵ it was formulated consistently with Article 11 of the ICESCR.¹⁹⁶ The South African Constitution entitles

188 K. McKeever, *supra* note 131.

189 M.M. Kundmueller, *supra* note 132, at 361.

190 P. Alston, *supra* note 163, at 32.

191 The Constitutions of countries that explicitly recognize their people’s right to food are Belarus, Colombia, Congo, Cuba, Czech Republic, Ecuador, Guatemala, Guyana, Haiti, Honduras, Iran, Italy, The Democratic People’s Republic of Korea (North Korea), Moldova, Nepal, Nigeria, Panama, Paraguay, Seychelles, Sierra Leone, South Africa, Suriname, Switzerland, Uganda, Ukraine. See Appendix.

192 For example, Japan and Canada.

193 For example, China and Italy.

194 For example, the United States.

195 D. Moyo, *supra* note 44 at 103.

196 FAO, Recognition of the Right to Food at the National Level, doc. IGWG/2/INF/1.

all citizens the right to have access to sufficient food and water¹⁹⁷ and it provides a framework to practically enforce this human right.¹⁹⁸ Within its available resources, the South African government is obligated to take effective legislative, administrative, and other supporting measures to progressively reduce hunger and achieve national food security.¹⁹⁹ Moreover, the South African government promises to provide appropriate social security and sufficient assistance to people who are financially unable to provide themselves and their dependants with enough food.²⁰⁰ Similarly, the right to food is enshrined in the Constitution of Brazil.²⁰¹ In the Chapter of Individual and Collective Rights and Duties, the Brazilian Constitution establishes a nationally unified minimum wage to satisfy its people's basic living demands, such as "housing, food, education, health, leisure, clothing, hygiene, transportation and social security".²⁰²

Unlike South Africa and Brazil, some countries only recognize the right to life in their constitutions. The right to life, in a biological sense, includes the right to food, water, clothing, housing, medical care, and anything else that are essential for people to live.²⁰³ In this regard, these constitutions provide the right to food, just not explicitly. Article 13 of the Constitution of Japan affirms every individual's right to life, liberty, and the pursuit of happiness, provided that the enjoyment of these rights does not interfere with the public welfare.²⁰⁴ The Japanese Constitution also promulgates other provisions that are connected with the right to food; Article 25 requires the State to "use its endeavors for the promotion and

197 Article 27 of the South African Constitution ensures its citizens rights to Health care, food, water and social security and it promulgates that "1. Everyone has the right to have access to a. health care services, including reproductive health care; b. sufficient food and water; and c. social security, including, if they are unable to support themselves and their dependants, appropriate social assistance. 2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights. 3. No one may be refused emergency medical treatment". Constitution of the Republic of South Africa, 1996. *See also supra* note 43.

198 *Id.*

199 D. Moyo, *supra* note 44, at 103.

200 *See* Article 27 of the South African Constitution. *Supra* note 195.

201 Article 5: "All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property." *See* Brazil Constitution, available at <www.v-brazil.com/government/laws/titleII.html> (last visited: 1 March 2009).

202 Article 7 IV of the Brazil Constitution, "nationally unified minimum wage, established by law, capable of satisfying their basic living needs and those of their families with housing, food, education, health, leisure, clothing, hygiene, transportation and social security, with periodical adjustments to maintain its purchasing power, it being forbidden to use it as an index for any purpose", *see id.*

203 B.G. Ramcharan, *Human Rights and Human Security*, at 9, (2002). *See also* D. Fisher, 'Fast Food: Regulating Emergency Food Aid in Sudden-Impact Disasters', 40 *Vand. J. Transnat'l L.* 1127, at 1145, (2007). It describes that a human right to food is an essential element of the right to an adequate standard of living.

204 The Constitution of Japan was ratified on 3 November 1946, available at <www.solon.org/Constitutions/Japan/English/english-Constitution.html#CHAPTER_III> (last visited: 1 March 2009).

extension of social welfare and security, and of public health”.²⁰⁵ Similarly, the Canada Act of 1982 proclaims that “everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice”.²⁰⁶ The Constitution of the Russian Federation,²⁰⁷ Spain,²⁰⁸ Finland,²⁰⁹ and South Korea²¹⁰ also assure people’s right to food in this indirect manner.

In countries that do not mention the right to food or the right to life in their constitutions, these inalienable human rights can be affirmed in connection with other constitutional provisions. The Constitution of the People’s Republic of China does not have the explicit provision regarding the right to food; however, Article 45 proclaims people’s right to “material assistance from the State and the society when they are old, ill or disabled”.²¹¹ The Chinese Constitution focuses more on social welfare to ensure adequate food, water, housing, health care, and other social services.²¹² Similarly, the Italian Constitution ensures every individual access to adequate food by entitling the people the right to social welfare.²¹³

Unlike the countries described above, the United States ensures its people’s right to continuous access of nutritiously adequate food without a relevant constitutional provision. Even though the US government has consistently carried

205 *Id.*

206 Article 7 of the Canada Act. The Canada Act was enacted as Schedule B to the Canada Act, 1982, (U.K.) 1982 c. 11, which came into force on 17 April 1982. available at <www.solon.org/Constitutions/Canada/English/ca_1982.html> (last visited: 1 March 2009).

207 Article 20.1, the Constitution of Russian Federation was ratified on 12 December 1993, available at <www.departments.bucknell.edu/russian/const/constit.html> (last visited: 25 February 2009).

208 Constitution of Spain, Article 15 pronounces the right to life by stating: “Everyone has the right to life and physical and moral integrity and in no case may be subjected to torture or inhuman or degrading punishment or treatment. The death penalty is abolished except in those cases which may be established by military penal law in times of war.” The Constitution was adopted on 29 December 1978, available at: http://www.servat.unibe.ch/icl/sp00000_.html#T001_ (last visited: 23 February 2009).

209 Section 7.1 of the Constitution of Finland entitles its people the right to life, personal liberty and integrity. “Everyone has the right to life, personal liberty, integrity and security.” The Constitution of Finland was adopted on 11 June 1999, entered into force on 1 March 2000. Available at http://www.servat.unibe.ch/law/icl/fi00000_.html.

210 Article 34.1 of the Constitution of South Korea entitles all citizens a life worthy of human beings. Available at <www.servat.unibe.ch/law/icl/ks00000_.html> (last visited: 19 February 2009).

211 Constitution of the People’s Republic of China, Constitution of the People’s Republic of China (2004). Adopted at the Fifth Session of the Fifth National People’s Congress on 4 December 1982 and adopted at the First Session of the Eighth National People’s Congress on 29 March 1993), available at <www.LawInfoChina.com/law/display.asp?db=1&id=3437&keyword=>>.

212 *Id.*

213 See the Italy Constitution; Article 38 states: “All citizens unable to work and lacking the resources necessary for their existence are entitled to private and social assistance.” Available at <www.servat.unibe.ch/icl/it00000_.html> (last visited: 2 February 2009).

out a food assistance policy at home²¹⁴ and abroad,²¹⁵ it opposes a legal right to food as inconsistent with the US Constitution.²¹⁶ This, despite assertions by many food and nutrition scientists, legal scholars, and policymakers that the recognition of a right to food would help reduce hunger and malnutrition.²¹⁷

Admittedly, we should not evaluate a country's commitment to the right to food based solely on its constitution. But the fact that only 25 countries have constitutional provisions regarding food security should attract more international and national attention. It is imperative that governments take steps to promote the recognition and implementation of the human right to adequate food.

2. *Establishing a National Legal Basis for Ensuring the Right to Food*

Although the right to food is manifested as a rule of customary international law,²¹⁸ not too many States in the world expressly proclaim the right to food in their constitutions. Incorporating this rule of customary international law into national legal systems is necessary to provide a legal basis for its domestic implementation.

Different countries have different legal systems for incorporating international law into their national laws. Some States assume that the international and national legal systems are unified; the international agreements are immediately incorporated by and binding on the State through the act of ratification.²¹⁹ These States are called "monist"²²⁰ States and include the United States. By contrast, other countries distinguish international law from national law. They require transformation before international agreements can be implemented as enforceable law by domestic courts.²²¹ Put simply, no binding effects are imposed on the

214 In order to reduce hunger and malnutrition, the United States Congress initiated the Food Stamp Program in 1964. This program was created to increase the food-buying power of the low-income households in the US. The federal government of the United States pays 100 percent of the cost of food stamps and it also covers half of the administrative costs. See Harris, et al., *Food Stamp Advocacy Guide*, FSAG MA-CLE 1, (2007). See also K. Terhune, 'Reformation of the Food Stamp ACT: Abating Domestic Hunger Means Resisting "Legislative Junk Food"', 41 *Cath. U. L. Rev.* 421, at 421, (1992). It describes the purpose of the Food Stamp Program as "increase the food purchasing power of low-income households that are financially unable to provide their members with a nutritionally adequate diet".

215 The US food aid program was created in the early 1950s. Its objectives include international humanitarian assistance and economic development support in recipient countries. In the late 1980s, the US provided about 60 percent of global food aid donations but the US donations fell considerably after the 1980s. However, the US remains a major food aid donor. See USDA, *Fifty Years of US Food Aid and Its Role in Reducing World Hunger*, <www.ers.usda.gov/AmberWaves/September04/Features/usfoodaid.htm> (last visited: 13 February 2009.)

216 US General Accounting Office, *supra* note 30.

217 E. Messer & M.J. Cohen, *supra* note 31.

218 D. Shelton, *supra* note 2, at 1309.

219 This kind of incorporation of international treaties into national law is called "monism". See J.H. Jackson, *Status of Treaties in Domestic Legal Systems: A Policy Analysis*, 86 *Am. J. Int'l L.* 310, at 314, (1992).

220 See *id.*

221 This form of translating international law into national law refers to "dualism". Atkin, et al., *Modern Introduction to International Law*, at 45, (1970).

national courts of a dualist State until that State's legislative body makes additional acts of transformation. The national courts of a monist State, however, immediately cite the relevant international rules and principles upon ratification of an international treaty.²²² The majority of countries in the world, including all Member States of the European Union, follow the "dualist" mode.

As a rule of customary international law, the right to food is a general practice accepted by all the States. Those that incorporate the right into their constitutions give their national courts "a standard with which to measure government action".²²³ Domestic implementation of the right to food, however, remains a problem because the monist States are not making sufficient efforts to tackle the current food crisis and not many dualist States transform the right to food into enforceable national law. As stated previously, a nation's constitution is the supreme law of that State and the means through which its citizens' basic rights are reserved. But only a few countries' constitutions explicitly grant the right to food, and only a few more guarantee people's right to life.²²⁴ Therefore in order to tackle the global food crisis and assure every individual's right to access adequate food, all the States must take steps to incorporate the right to food into their national legal system, whether by direct application or by transformation. States must do everything possible to rescue more people from hunger.

For the dualist States, in order to transform the right to food into enforceable national laws, the legislative body has to first review whether existing national legislation adequately covers the content of the right to food and accompanied implementation procedures;²²⁵ second, it needs to check whether effective remedies are available for every individual whose right is deprived, abused or neglected.²²⁶

C. Conclusion

The right to food is a universal right, the right of everyone on this planet to be a human being. The right to food is also a legal obligation; all the States must fully implement it at the international, national, regional, and house-hold levels.²²⁷ Moreover, the right to food is a moral responsibility, imploring society as a whole to work closely together in order to reduce food insecurity and progressively achieve the full enjoyment of the right of everyone to have continuous access to nutritionally adequate food.

Even though the current food crisis captures more worldwide attention than ever before the right to food has not been given the sufficient attention it

222 *Id.*

223 FAO, *Legislate for the Right to Food*, (2007), <www.fao.org/righttofood/wfd/pdf2007/how_legislate_eng.pdf> (last visited: 1 March 2009).

224 *See* Appendix.

225 International Food Policy Research Institute, *Food as a Human Right* (2001), available at <www.ifpri.org/2020/NEWSLET/nv_0401/nv_0401_Interview.htm> (last visited: 1 March 2009).

226 *Id.*

227 A.P. Kearns, III, *supra* note 18, at 223.

deserves. This, despite the fact that the right to food supersedes all economic, social and political rights. Given the essential nature of food to the survival of every individual, the right to food is “a generally and consistently practiced of States”²²⁸ accepted with legally binding effect²²⁹ and is part of customary international law. The right to food grants people the legal right to demand adequate, safe, and nutritious food. The international community must take steps to set up a framework for implementing the right to food so that the States will better understand their obligations under the international law to recognize, respect, and fulfill this inalienable right. At the same time, the international community must also call on all States and relevant institutions to adopt workable approaches to ensure everyone is free from hunger and has adequate, safe and nutritious food and can live healthy and active lives.

The incorporation of the right to food into national constitutions has a special effect on the reduction of food insecurity. Even though only 25 countries explicitly recognize the right to food in this manner, such action should not be required of State governments. Rather, all the States should formally incorporate the right to food into their national laws in written form. They should also be obligated to identify and adopt a series of effective measures aimed at reducing food insecurity and fully implementing the right to food.²³⁰

In conclusion, rather than “ask individuals to bear the risk of starvation”,²³¹ both the international community and national governments should try their best to mitigate and alleviate hunger and malnutrition and progressively achieve the full implementation of the right to food at the international, national, regional, and house-hold levels.²³²

Appendix¹

| Country | Date of Adoption | Provision(s) |
|-------------|--------------------------------|--|
| Afghanistan | 2004 | “Life is a gift of God and a natural right of human beings. No one shall be deprived of this right except by the provision of law.” ² “The state adopts necessary measures to ensure physical and psychological well being of family, especially of child and mother, upbringing of children and the elimination of traditions contrary to the principles of sacred religion of Islam.” ³ |
| Albania | 1998 | “The life of a person is protected by law” ⁴ |
| Algeria | 1996 (as last amended in 2002) | N/A ⁵ |

228 K. McKeever, *supra* note 131.

229 M.M. Kundmueller, *supra* note 132, at 361.

230 S. Vivek, Notes from the Right to Food, Campaign, 27 May 2003, <www.wfp.org.in/website/events/countdown_2007/s_vivek.pdf> (last visited: 2 March 2009).

231 D. Shelton, *supra* note 2, at 1319.

232 *Id.*

| Country | Date of Adoption | Provision(s) |
|---------------------|--|---|
| Andorra | 1993 | "The Constitution recognizes the right to life and fully protects it in its different phases." ⁶ |
| Angola | 1992 | "The State shall respect and protect the life of the human person." ⁷ "On no account shall the declaration of a state of siege or state of emergency affect the right to life, personal integrity, personal identity, civil capacity, citizenship, the non-retroactive nature of penal law, the right of the accused to defense or freedom of conscience and religion." ⁸ |
| Antigua and Barbuda | 1981 | "Protection of right to life." ⁹ |
| Argentina | 1853 (as last amended in 1994) | N/A ¹⁰ |
| Armenia | 1995 (as last amended in 2005) | "Everyone has a right to life. No one shall be sentenced or subjected to the death penalty." ¹¹ "Everyone shall have the right to a standard of living adequate for himself/herself and for his/her family, including housing as well as improvement of living conditions. The state shall take the necessary measures for the exercise of this right by the citizens." ¹² |
| Australia | 1900 effective 1901 | N/A ¹³ |
| Austria | 1920 (as last amended in 1929 as to Law No. 153/2004, December 30, 2004) | N/A ¹⁴ |
| Azerbaijan | 1995 (as last amended in 2000) | "Everyone has the right to life." ¹⁵ |
| Bahamas | 1973 | "No person shall be deprived intentionally of his life save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted." ¹⁶ |
| Bahrain | 2002 | "The law regulates exemption of low incomes from taxes in order to ensure that a minimum standard of living is safeguarded." ¹⁷ |
| Bangladesh | 1972 (as last amended in 2004) | "No one shall be deprived of life or personal liberty save in accordance with law." ¹⁸ |
| Barbados | 1966 | "No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under the law of Barbados of which he has been convicted." ¹⁹ |
| ★Belarus | 1996 | "Everyone has the right to dignified standard of living, including appropriate food, clothing, housing and likewise a continuous improvement of necessary living conditions." ²⁰ |

| Country | Date of Adoption | Provision(s) |
|------------------------|--------------------------------|--|
| Belgium | 1994 (as last amended in 2005) | "Everyone has the right to lead a life worthy of a human being." ²¹ |
| Belize | 1981 (as last amended in 1988) | "A person shall not be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under any law of which he has been convicted." ²² |
| Benin | 1990 | "Each individual has the right to life, liberty, security and the integrity of his person." ²³ |
| Bhutan | 1907 (as last amended in 1981) | N/A ²⁴ |
| Bolivia | 1967 (as last amended in 2002) | "Every person possesses the following fundamental rights: a) To life, health, safety, physical and moral integrity, and the unconstrained development of one's personality..." ²⁵ |
| Bosnia and Herzegovina | 1995 | All persons within the territory of Bosnia and Herzegovina shall enjoy the human rights and fundamental freedoms referred to in paragraph 2 above; these include: a. the right to life..." ²⁶ |
| Botswana | 1966 (as last amended in 2002) | "Whereas every person in Botswana is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest to each and all of the following namely-(a) life, liberty, security of the person and the protection of the law..." ²⁷ "No one shall be deprived of his life intentionally save in execution of the sentence of a court in respect of an offence under the law in force in Botswana of which he has been convicted." ²⁸ |
| Brazil | 1992 (as last amended in 2008) | "Everyone is equal before the law, with no distinction whatsoever, guaranteeing to Brazilians and foreigners residing in the Country the inviolability of the rights to life, liberty, equality, security and property..." ²⁹ "The Following are rights of urban and rural workers, in addition to any others designed to improve their social condition:... IV.- a national uniform minimum wage, fixed by law, capable of meeting a worker's basic living needs and those of his family, for housing, nourishment, education, health, leisure, clothing, hygiene, transportation and social security, with periodic adjustments to maintain its purchasing power, prohibiting linkage to it as index for any purpose." ³⁰ |
| Brunei | 1959 (as revised in 1984) | N/A ³¹ |

| Country | Date of Adoption | Provision(s) |
|-------------------------|--------------------------------|---|
| Bulgaria | 1991 (as last amended in 2003) | <p>"Everyone has the right to life. Violation of a human right is punished as a most severe crime."³²</p> <p>"(1) Citizens have the right to social security and social assistance. (2) Temporarily unemployed persons receive social security under conditions and according to a procedure determined by law. (3) The elderly who do not have relatives and who are unable to support themselves with their possessions as well as persons with physical and mental handicap are under special protection of the state and society."³³</p> |
| Burkina Faso | 1991 (as last amended in 1997) | "The protection of life, safety, and physical integrity are guaranteed. Slavery, slave practices, inhuman and cruel, degrading and humiliating treatment, physical and moral torture, mistreatment inflicted upon children and all forms of deprecation of man are forbidden and punished by law." ³⁴ |
| Burundi | 2004 | <p>"Every woman, every man has the right to life."³⁵</p> <p>"Every child is entitled to special measures which ensure or improve the care necessary for his well-being, health, physical integrity, and the protection against maltreatment, unreasonable demands or exploitation."³⁶</p> |
| Cambodia | 1993 (as last amended in 1999) | "Every Khmer citizen shall have the right to life, personal freedom, and security." ³⁷ |
| Cameroon | 1996 | N/A ³⁸ |
| Canada | 1867 (consolidated as of 1999) | "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice." ³⁹ |
| Cape Verde | 1992 | "The Right to life and to physical and mental integrity." ⁴⁰ |
| Central Africa Republic | 2004 | "Everyone has the right to life and to corporal integrity. These rights may only be affected by application of a law." ⁴¹ |
| Chad | 1996 | "The human person is sacred and inviolable. Every individual has the right to life, his personal integrity, to security, to freedom, to the protection of his private life and his possessions." ⁴² |
| Chile | 1980 (as last amended in 2005) | "The Constitution guarantees to all persons: 1. The right to life and to the physical and psychological integrity of the person." ⁴³ |
| China | 1982 (as last amended in 2004) | "Citizens of the People's Republic of China have the right to material assistance from the state and society when they are old, ill or disabled. The state develops the social insurance, social relief and medical and health services that are required to enable citizens to enjoy this right. The state and society ensure the livelihood of disabled members of the armed forces, provide pensions to the families of martyrs and give preferential treatment to the families of military personnel. The state and society help make arrangements of the work, livelihood and education of the blind, deaf-mute and other handicapped citizens." ⁴⁴ |

| Country | Date of Adoption | Provision(s) |
|---------------|--------------------------------|--|
| ★Colombia | 1991 (as last amended in 2005) | <p>"The right to life is inviolate. There will be no death penalty."⁴⁵</p> <p>"Women and men have equal rights and opportunities. Women cannot be subjected to any type of discrimination. During their periods of pregnancy and following delivery, women will benefit from the special assistance and protection of the State and will receive from the latter food subsidies if they should thereafter find themselves unemployed or abandoned. The State will support the female head of household in a special way."⁴⁶</p> <p>"It is the duty of the State to promote the gradual access of agricultural workers to landed property in individual or associational form and to services involving education, health, housing, social security, recreation, credit, communications, the marketing of products, technical and management assistance with the purpose of improving the incomes and quality of life of the peasants."⁴⁷</p> <p>"The production of food crops will benefit from the special protection of the state. For that purpose, priority will be given to the integral development of agricultural, animal husbandry, fishing, forestry, and agroindustrial activities as well as to the building of physical infrastructural projects and to land improvement. Similarly, the State will promote research and the transfer of technology for the production of food crops and primary resources of agricultural origin with the purpose of increasing productivity."⁴⁸</p> |
| Comoros | 2001 | N/A ⁴⁹ |
| ★Congo | 2005 | <p>"...All persons have the right to life, physical integrity and to the free development of their personality, while respecting the law, public order, the rights of others and public morality."⁵⁰</p> <p>"The right to health and to food security is guaranteed."⁵¹</p> |
| Cook Islands | 1965 | <p>"It is hereby recognized and declared that in the Cook Islands there exist, and shall continue to exist, without discrimination by reason of race, national origin, color, religion, opinion, belief, or sex, the following fundamental human rights and freedoms-(a) The right of the individual to life, liberty, and security of the person, and the right not to be deprived thereof except in accordance with law..."⁵²</p> |
| Costa Rica | 1949 (as last amended in 2003) | "Human life is inviolable." ⁵³ |
| Côte D'Ivoire | 2000 | <p>"The human person is sacred. All human beings are born free and equal before the law. They enjoy the inalienable rights which are the right to life, to liberty, to the full realization of their personality and to the respect of their dignity. The rights of the human person are inviolable. The public authorities have the obligation to assure the respect, the protection and the promotion of them. Any punishment leading to the deprivation of human life is forbidden."⁵⁴</p> |

| Country | Date of Adoption | Provision(s) |
|--------------------|--------------------------------|--|
| Croatia | 1990 (as last amended in 2001) | <p>"Every human being has the right to life."⁵⁵</p> <p>"Every employee has the right to a fair remuneration, such as will give him and his family a free and decent standard of living."⁵⁶</p> <p>"To the weak, to the helpless and other persons, the State ensures the right to assistance to who are unable to meet their basic needs due to unemployment or incapacity to work."⁵⁷</p> |
| ★Cuba | 1976 (as last amended in 2002) | "The State, as the power of the people, in the service of the people themselves, guarantees that there will be no person incapacitated for work who lacks decent means of subsistence...that there will be no child lacking a school, food , and clothing..." ⁵⁸ |
| Cyprus | 1960 (as last amended in 2004) | "Everyone's right to life shall be protected by law. No one shall be deprived of his/her life intentionally." ⁵⁹ |
| ★Czech Republic | 1993 (as last amended in 1999) | <p>"Everyone has the right to life. Human life is worthy of protection even before birth."⁶⁰</p> <p>"Citizens have the right to adequate material security in old age and during periods of work incapacity, as well as in the case of the loss of their provider. Everyone who suffers from material need has the right to such assistance as is necessary to ensure her a basic living standard. Detailed provisions shall be set by law."⁶¹</p> |
| Denmark | 1953 | N/A ⁶² |
| Djibouti | 1992 | "Every individual shall have the right to life, liberty, security and the integrity of his person." ⁶³ |
| Dominica | 1978 | "Protection of the right to life." ⁶⁴ |
| Dominican Republic | 1966 (as last amended in 2002) | "..In order to guarantee the realization of these aims the following norms are set: a. The inviolability of life..." ⁶⁵ |
| East Timor | 2002 | "1. Human life is inviolable. 2. The state recognizes and guarantees the right to life." ⁶⁶ |
| ★Ecuador | 1998 | "Without prejudice to other rights established in this Constitution and in international instruments in force, the State recognizes and guarantees the following to persons: 1. Inviolability of life...20. The right to a quality of life that assures health, food and nutrition, potable water, environmental conditions, education, work, employment, recreation, housing clothing and other necessary social services." ⁶⁷ |
| Egypt | 1971 (as last amended in 2007) | N/A ⁶⁸ |
| El Salvador | 1983 (as last amended in 2003) | "Every person has the right to life, physical and moral integrity, liberty, security, work, property and possession, and to be protected in the conservation and defense of the same." ⁶⁹ |
| Equatorial Guinea | 1991 | "All citizens shall enjoy the following rights and liberties: (a) Respect for the person, life, integrity, dignity, and full national and moral development..." ⁷⁰ |
| Eritrea | 1997 | "No one shall be deprived of life without due process of law." ⁷¹ |

| Country | Date of Adoption | Provision(s) |
|---------------|--------------------------------|--|
| Estonia | 1992 (as last amended in 2005) | "Everyone has the right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his or her life." ⁷² |
| Ethiopia | 1995 | "Every person has the inviolable and inalienable right to life, the security of person and liberty." ⁷³ |
| Fiji Islands | 1998 | "Every person has the right to life. A person must not be arbitrarily deprived of life." ⁷⁴ |
| Finland | 2000 | "Everyone has the right to life, personal liberty, integrity and security." ⁷⁵ "Those who cannot obtain necessary for a life of dignity have the right to receive indispensable subsistence and care. Everyone shall be guaranteed by an Act the right to basic subsistence in the event of unemployment, illness, and disability and during old age as well as at the birth of a child or the loss of a provider." ⁷⁶ |
| France | 1958 (as last amended in 2005) | N/A ⁷⁷ |
| Gabon | 1991 (as last amended in 1997) | N/A ⁷⁸ |
| The Gambia | 1996 | "No one shall be deprived of his or her life the intentionally except..." ⁷⁹ |
| Georgia | 1995 (as last amended in 2004) | "Everyone has the inviolable right to life and this right shall be protected by law." ⁸⁰ |
| Germany | 1949 (as last amended in 2006) | "Every person shall have the right to life and physical integrity. The freedom of the person shall be inviolable. These rights may be interfered with only on the basis of a law." ⁸¹ |
| Ghana | 1992 (as last amended in 1996) | "No one shall be deprived of his life intentionally..." ⁸² |
| Greece | 1975(as last amended in 2002) | "All persons living within the Greek territory shall enjoy full protection of their life, honor and liberty irrespective of nationality, race or language and of religious or political beliefs..." ⁸³ |
| Grenada | 1983 (as last amended in 1992) | "No one shall be deprived of his life intentionally..." ⁸⁴ |
| ★Guatemala | 1985 (as last amended in 1993) | "It is the duty of the State to guarantee to the inhabitants of the republic life, liberty, justice, security, peace, and the integral development of the person." ⁸⁵ "Refusal to supply food in the form prescribed by law is punishable." ⁸⁶ |
| Guinea | 1990 | "Man has the right to the free development of his personality. He has the right to life and physical integrity. No one shall be subjected to torture or cruel, inhumane or degrading treatments or punishments." ⁸⁷ |
| Guinea-Bissau | 1991 | "Every person shall have the right to life and to physical and mental wellbeing." ⁸⁸ |

| Country | Date of Adoption | Provision(s) |
|-----------|--------------------------------|---|
| ★Guyana | 1980 | "Every person in Guyana is entitled to the basic right to a happy, creative and productive life, free from hunger, disease, ignorance and want. That right includes the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-(a) life, liberty, security of the person and the protection of the law..." ⁸⁹ |
| ★Haiti | 1987 | "The State has the absolute obligation to guarantee the right to life, health, and respect of the human person for all citizens without distinction, in conformity with the Universal Declaration of the Rights of Man." ⁹⁰ "The State recognizes the right of every citizen to decent housing, education, food and social security." ⁹¹ |
| ★Honduras | 1982 (as last amended in 1991) | "The Constitution guarantees to all Hondurans and to foreigners residing in the country the right to the inviolability of life, and to individual safety, freedom, equality before the law, and property." ⁹² "The right to life is inviolable." ⁹³ "It is the duty of the state to regulate, supervise and control all food, chemical, pharmaceutical and biological products through its duly constituted agencies and institutions." ⁹⁴ |
| Hungary | 1949 (as last amended in 2007) | "In the Republic of Hungary everyone has the inherent right to life and to human dignity. No one shall be arbitrarily denied of these rights." ⁹⁵ "Citizens of the Republic of Hungary have the right to social security; they are entitled to the support required to live in old age, and in the case of sickness, disability, being widowed or orphaned and in the case of unemployment through no fault of their own." ⁹⁶ |
| Iceland | 1944 (as last amended in 1995) | "The right to support in the case of sickness, disability, old age, unemployment, extreme poverty and other comparable situations shall be guaranteed by law to all those in need." ⁹⁷ |
| India | 1950 (as last amended in 2005) | "No one shall be deprived of his life or personal liberty except according to procedure established by law." ⁹⁸ "The State shall Endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavor to promote cottage industries on an individual or co-operative basis in rural areas." ⁹⁹ |
| Indonesia | 1945 (as last amended in 2002) | "Every person shall have the right to live and to defend his/her life and existence." ¹⁰⁰ |

| Country | Date of Adoption | Provision(s) |
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| ★Iran | 1979 (as last amended in 1989) | "In order to attain the objectives specified in Article 2, the government of the Islamic Republic of Iran has the duty of directing all its resources to the following goals:...the planning of a correct and just economic system, in accordance with Islamic criteria, in order to create welfare, eliminate poverty, and abolish all forms of deprivation with respect to food, housing, work, health care, and the provision of social insurance for all..." ¹⁰¹ |
| Iraq | 2004 (interim constitution) | "Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited, except in accordance with the law and based on a decision issued by a competent judicial authority." ¹⁰² |
| Ireland | 1937 (amended in 2002) | "The state shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen." ¹⁰³ "...The State shall, in particular, direct its policy towards securing: i. that the citizens (all of whom, man and women equally, have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic needs..." ¹⁰⁴ |
| Israel | N/A ¹⁰⁵ | "There shall be no violation of the life, body or dignity of any person as such." ¹⁰⁶ |
| ★Italy | 1948 (as last amended in 2003) | "The following matters are subject to concurrent legislation of both the state and regions: international and European Union relations of the regions; foreign trade; protection and safety of labor; education, without infringement of the autonomy of schools and other institutions, and with the exception of vocational training; professions; scientific and technological research and support for innovation in the productive sectors; health protection; food; sports regulations; disaster relief service; land-use regulation and planning; harbors and civil airports; major transportation and navigation networks; regulation of media and communication; production, transportation and national distribution of energy; complementary and integrative pensions systems; harmonization of the budgetary rules of the public sector and coordination of the public finance and the taxation system; promotion of the environmental and cultural heritage, and promotion and organization of cultural activities; savings banks, rural co-operative banks, regional banks; regional institutions for credit to agriculture and land development. In matters of concurrent legislation, the regions have legislative power except for fundamental principles which are reserved to state law." ¹⁰⁷ |
| Jamaica | 1962 (as last amended in 1999) | "Whereas every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely - (a) life, liberty, security of the person, the enjoyment of property and the protection of the law..." ¹⁰⁸ |

| Country | Date of Adoption | Provision(s) |
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| Japan | 1947 | <p>"All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs."¹⁰⁹</p> <p>"All people shall have the right to maintain the minimum standards of wholesome and cultured living. 2) In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health."¹¹⁰</p> |
| Jordan | 1952 (as last amended in 1984) | N/A ¹¹¹ |
| Kazakhstan | 1995 (as last amended in 1998) | "Everyone has the right to life." ¹¹² |
| Kenya | 1969 (as last amended in 2008) | "Whereas every person in Kenya is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, tribe, place of origin or residence or other local connection, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely – (a) life, liberty, security of the person and the protection of the law..." ¹¹³ |
| Kiribati | 1979 (as last amended in 1995) | <p>"Whereas every person in Kiribati is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest,</p> <p>to each and all of the following, namely- life, liberty, security of the person and the protection of the law..."¹¹⁴</p> |
| ★The Democratic People's Republic of Korea (North Korea) | 1972 (as last amended in 1998) | "The Democratic People's Republic of Korea regards the steady improvement of the material and cultural standards of the people as the supreme principle of its activities. The increasing material wealth of society in our country, where taxes have been abolished, is used entirely to promote the well-being of the working people. The State shall provide all working people with every condition for obtaining food, clothing and housing." ¹¹⁵ |
| The Republic of Korea (South Korea) | 1948 (as last amended in 1987) | "(1) All citizens are entitled to a life worthy of human beings. (2) The State has the duty to endeavor to promote social security and welfare. (3) The State endeavors to promote the welfare and rights of women. (4) The State has the duty to implement policies for enhancing the welfare of senior citizen and the young. (5) Citizens who are incapable of earning a livelihood due to a physical disability, disease, old age, or other reasons are protected by the State under the conditions as prescribed by law. (6) The State endeavors to prevent disasters and to protect citizens from harm therefrom." ¹¹⁶ |
| Kosovo | 2008 | "Every individual enjoys the right to life." ¹¹⁷ |
| Kuwait | 1962 | N/A ¹¹⁸ |

| Country | Date of Adoption | Provision(s) |
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| Kyrgyzstan | 1993 (as last amended in 1998) | <p>“Every person in the Kyrgyz Republic has an inalienable right to life. No one may be deliberately deprived of life. Everyone has the right to protect his life and health, and the life and health of other persons from unlawful infringement.”¹¹⁹</p> <p>“Pensions and social maintenance in accordance with economic resource of the society shall provide a standard of living not below the minimum wage established by law.”¹²⁰</p> |
| Laos | 1991 | <p>“The state protects the freedom and democratic rights of the people which cannot be violated by anyone. All state organizations and functionaries must popularize and propagate all policies, regulations and laws among the people and, together with the people, organize their implementations in order to guarantee the legitimate rights and interests of the people. All acts of bureaucratism and harassment that can be physically harmful to the people and detrimental to their honor, lives, consciences and property are prohibited.”¹²¹</p> |
| Latvia | 1922 (as last amended in 1998) | <p>“The right to life of everyone shall be protected by law .”¹²²</p> |
| Lebanon | 1926 (as last amended in 2004) | N/A ¹²³ |
| Lesotho | 1993 | <p>“Every human being has an inherent right to life. No one shall be arbitrarily deprived of his life.”¹²⁴</p> <p>“Lesotho shall endeavor to ensure that every person has the opportunity to gain his living by work which he freely chooses or accepts.”¹²⁵</p> |
| Liberia | 1984 | <p>“All persons are born equally free and independent and have certain natural, inherent and inalienable rights, among which are the right of enjoying and defending life and liberty, of pursuing and maintaining the security of the person and of acquiring, possessing and protecting property, subject to such qualifications as provided for in this Constitution.”¹²⁶</p> |
| Libya | 1969 (amended 1977) | N/A ¹²⁷ |
| Liechtenstein | 1921 (as last amended in 2003) | <p>“Emergency decrees can neither limit every person’s right to life, the prohibition of torture an inhuman treatment or the prohibition of slavery and forced labor nor place any restriction on the “no punishment without Law” rule...”¹²⁸</p> |
| Lithuania | 1992 (as last amended in 2006) | <p>“The right to life of a human being shall be protected by law.”¹²⁹</p> |
| Luxembourg | 1868 (as last amended in 1998) | N/A ¹³⁰ |
| Macedonia | 1991 (as last amended in 2005) | <p>“The human right to life is irrevocable.”¹³¹</p> |

| Country | Date of Adoption | Provision(s) |
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| Madagascar | 1998 | N/A ¹³² |
| Malawi | 1994 (as last amended in 1998) | "Every person has the right to life and no person shall be arbitrarily deprived of his or her life." ¹³³ |
| Malaysia | 1957 (as last amended in 1994) | "No person shall be deprived of his life or personal liberty save in accordance with law." ¹³⁴ |
| Maldives | 1998 | "No act detrimental to the life, liberty, body, name, reputation or property of a person shall be committed except as provided by law." ¹³⁵ |
| Mali | 1992 | "The human person is sacred and inviolable. Every individual has the right to the life, to the liberty, to the security and to the integrity of his person." ¹³⁶ |
| Malta | 1964 (as last amended in 2001) | "Whereas every person in Malta is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely -(a) life, liberty, security of the person, the enjoyment of property and the protection of the law..." ¹³⁷ |
| Marshall Islands | 1979 (as last amended in 1995) | N/A ¹³⁸ |
| Mauritania | 1991 (as last amended in 2006) | N/A ¹³⁹ |
| Mauritius | 1968 (as last amended in 2000) | "No one shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted." ¹⁴⁰ |
| Mexico | 1917 (as last amended in 2007) | N/A ¹⁴¹ |
| Micronesia | 1981 (as last amended in 1990) | "A person may not be deprived of life, liberty, or property without due process of law, or be denied the equal protection of the laws." ¹⁴² |
| ★Moldova | 1994 (as last amended in 2003) | "Every person has the right to an environment that is ecologically safe for life and health as well as to safe food products and household goods. The State guarantees every person the right of free access to truthful information regarding the state of the natural environment, the living and working conditions and the quality of food products and household goods." ¹⁴³ "The State guarantees every person the right to life, and to physical and mental integrity." ¹⁴⁴ |
| Monaco | 1962 (as last amended in 2002) | N/A ¹⁴⁵ |

| Country | Date of Adoption | Provision(s) |
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| Mongolia | 1992 (as last amended in 2000) | "The citizens of Mongolia are enjoying the following rights and freedoms: 1) The right to life. Deprivation of human life is strictly prohibited unless capital punishment as constituted by Mongolian penal law for the most serious crimes is by a competent court as its final decision." ¹⁴⁶ |
| Monte-negro | 1992 | "Human life is inviolable." ¹⁴⁷ "Under a mandatory insurance scheme all persons employed shall provide for themselves and members of their families all forms of social security. The state shall provide social welfare for citizens unable to work and without livelihood, as well as for citizens without the means of subsistence." ¹⁴⁸ |
| Morocco | 1996 | N/A ¹⁴⁹ |
| Mozambique | 1990 | "All citizens shall have the right to life. All shall have the right to physical integrity and may not be subjected to torture or to cruel or inhuman treatment." ¹⁵⁰ |
| Myanmar | 1974 | N/A ¹⁵¹ |
| Namibia | 1990 (as last amended in 1998) | "The right to life shall be respected and protected. No law may prescribe death as a competent sentence. No court or Tribunal shall have the power to impose a sentence of death upon any person. No executions shall take place in Namibia." ¹⁵² |
| Nauru | 1968 | "Whereas every person in Nauru is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following freedoms, namely - (a) life, liberty, security of the law..." ¹⁵³ |
| ★Nepal | 2007 (Interim) | "Every citizen shall have the right to food sovereignty as provided for in the law." ¹⁵⁴ "The State shall have the follows responsibilities...(h) To pursue a policy of establishing the rights of all citizens to education, health, housing, employment and food sovereignty..." ¹⁵⁵ The State shall pursue a policy which will help to promote the interest of the marginalized communities and the peasants and laborers living below poverty line, including economically and socially backward indigenous tribes, Madhesis, Dalits, by making reservation for a certain period of time with regard to education, health, housing, food sovereignty and employment." ¹⁵⁶ |
| Netherlands | 1814 (as last amended in 2002) | N/A ¹⁵⁷ |
| New Zealand | 1987 (as last amended in 2005) | N/A ¹⁵⁸ |
| Nicaragua | 1987 (as last amended in 2005) | "The right to life is inviolable and inherent in the human person. In Nicaragua there is no death penalty." ¹⁵⁹ "It is the right of Nicaraguans to be protected against hunger. The State shall promote programs, which ensure adequate availability of food and its equitable distribution." ¹⁶⁰ |

| Country | Date of Adoption | Provision(s) |
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| Niger | 1999 | "Each person shall have the right to life, health, security, physical well-being, education, and instruction according to conditions established by law." ¹⁶¹ |
| ★Nigeria | 1999 | "The State shall direct its policy towards ensuring: ... (d) that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens." ¹⁶² "The main functions of a local government council are as follows: (k)(iv) restaurants, bakeries and other places for sale of food to the public." ¹⁶³ |
| Niue | 1974 | N/A ¹⁶⁴ |
| Norway | 1814 (as last amended in 2004) | N/A ¹⁶⁵ |
| Oman | 1996 | N/A ¹⁶⁶ |
| Pakistan | 1973 (as last amended in 2004) | "No person shall be deprived of life or liberty save in accordance with law." ¹⁶⁷ |
| Palau | 1981 (as last amended in 1992) | "The government shall take no action to deprive any person of life, liberty, or property without due process of law nor shall private property be taken except for a recognized public use and for just compensation in money or in kind." ¹⁶⁸ |
| ★Panama | 1972 (as last amended in 2004) | "In matters of health, the State is primarily obliged to develop the following activities, integrating the functions of prevention, cure and rehabilitation in the: I Establishment of a national policy of food and nutrition, ensuring optimum nutritional conditions for the entire population, by promoting the availability, consumption, and biological benefit of suitable food..." ¹⁶⁹ |
| Papua New Guinea | 1975 (as last amended in 1995) | "No person shall be deprived of his life intentionally." ¹⁷⁰ |
| ★Paraguay | 1992 | "The right to live is inherent to the human being. Its protection is guaranteed, in general, after the time of conception." ¹⁷¹ "Every parent has the right and obligation to care for, to feed, to educate, and to support his children while they are minors. The laws will punish those parents who fail to comply with their duty to provide their children with food." ¹⁷² |
| Peru | 1993 (as last amended in 2005) | "Every individual has the right to life, his identity, his physical, psychological, and moral integrity, and his free fulfillment and well-being. Such rights exist from the time of conception in all ways that are beneficial." ¹⁷³ |
| Philippines | 1987 | "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." ¹⁷⁴ |
| Poland | 1997 | "The Republic of Poland shall ensure the legal protection of the life of every human being." ¹⁷⁵ |

| Country | Date of Adoption | Provision(s) |
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| Portugal | 1976 (as last amended in 2004) | "Human life is inviolable." ¹⁷⁶ |
| Qatar | 2003 | N/A ¹⁷⁷ |
| Romania | 1991 | "A person's right to life and to physical and mental well-being are guaranteed." ¹⁷⁸ |
| Russia | 1993 | "Everyone shall have the right to life." ¹⁷⁹ |
| Rwanda | 2003 | "Every person has the right to life. No person shall be arbitrarily deprived of life." ¹⁸⁰ |
| Samoa | 1962 (as last amended in 2001) | "No person shall be deprived of his life intentionally, except in the execution of a sentence of a court following his conviction of an offence for which this penalty is provided by Act." ¹⁸¹ |
| San Marino | 1600 ¹⁸² | N/A |
| São Tomé & Príncipe | 1990 | "Human life is inviolable." ¹⁸³ |
| Saudi Arabia | 1992 | "The state guarantees the rights of the citizen and his family in cases of emergency, illness and disability, and in old age; it supports the system of social security and encourages institutions and individuals to contribute in acts of charity." ¹⁸⁴ |
| Senegal | 2001 | "The human person is sacred. The human person is inviolable. The state shall have the obligation to respect it and to protect it. Every individual has the right to life, to freedom, to security, the free development of his or her personality, to corporal integrity, and especially to protection against physical mutilation." ¹⁸⁵ |
| Serbia & Montenegro | 2006 | "Human life is inviolable." ¹⁸⁶ |
| ★Seychelles | 1996 | "Solemnly declaring our unswaying commitment, during this our Third Republic, to develop a democratic system which will ensure the creation of an adequate and progressive social order guaranteeing food, clothing, shelter, education, health and a steadily rising standard of living for all Seychellois." ¹⁸⁷ "Everyone has a right to life and no one shall be deprived of life intentionally." ¹⁸⁸ |
| ★Sierra Leone | 1991 | "The state shall within the context of the ideals and objectives for which provisions are made in this Constitution – place proper and adequate emphasis on agriculture in all its aspects so as to ensure self-sufficiency in food production..." ¹⁸⁹ |
| Singapore | 1963 (amended in 2001) | "No person shall be deprived of his life or personal liberty save in accordance with law." ¹⁹⁰ |
| Slovakia | 1992 (as last amended in 2006) | "Everyone has the right to life. Human life is worthy of protection already before birth." ¹⁹¹ |
| Slovenia | 1991 (as last amended in 2003) | "Human life is inviolable. There is no capital punishment in Slovenia." ¹⁹² |

| Country | Date of Adoption | Provision(s) |
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| Solomon Islands | 1978 (as last amended in 2001) | "No person shall be deprived of his life intentionally in execution of the sentence of a court in respect of criminal offence under the law in force in Solomon Islands of which he has been convicted." ¹⁹³ |
| Somalia | 1979 | "Every individual shall have the right to life and personal security." ¹⁹⁴ |
| Somaliland | 2001 | "Human life is the gift of Allah and is beyond price. Every person has the right to life, and shall only be deprived of life if convicted in a court of an offence in which the sentence laid down by law is death." ¹⁹⁵ |
| ★South Africa | 1997 (as last amended in 2003) | "(1) Everyone has the right to have access to— (a) health care services, including reproductive health care; (b) sufficient food and water; and (c) social security, including, if they are unable to support themselves and their dependants, appropriate social assistance. (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights. (3) No one may be refused emergency medical treatment." ¹⁹⁶ "(1) Every child has the right— . . . (c) to basic nutrition, shelter, basic health care services and social services." ¹⁹⁷ |
| Spain | 1978 (as last amended in 1992) | "Everyone has the right to life and physical and moral integrity and in no case may be subjected to torture or inhuman or degrading punishment or treatment. The death penalty is abolished except in those cases which may be established by military penal law in times of war." ¹⁹⁸ |
| Sri Lanka | 1978 (as last amended in 2001) | N/A ¹⁹⁹ |
| St. Kitts and Nevis | 1983 | "A person shall not be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of treason or murder under any law of which he has been convicted." ²⁰⁰ |
| St. Lucia | 1978 | "Whereas every person in Saint Lucia is entitled to the fundamental rights and freedoms, that is to say, the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-a) life, liberty, security of the person, equality before the law and the protection of the law..." ²⁰¹ |
| St. Vincent & the Grenadines | 1979 | "Where every person in Saint Vincent is entitled to the fundamental rights and freedoms, that is to say, the right, whatever his race, place of origin, political opinions, color, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely- a. life, liberty, security of the person and the protection of the law..." ²⁰² |

| Country | Date of Adoption | Provision(s) |
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| Sudan | 2005 | <p>"The overarching aims of economic development shall be eradication of poverty, attainment of the Millennium Development Goals, guaranteeing the equitable distribution of wealth, redressing imbalances of income and achieving a decent standard of life for all citizens."²⁰³</p> <p>"Every human being has the inherent right to life, dignity and the integrity of his/her person, which shall be protected by law; no one shall arbitrarily be deprived of his/her life."²⁰⁴</p> |
| Southern Sudan | 2005 (Interim) | "Every person has the inherent right to life, dignity and the integrity of his or her person which shall be protected by law; no one shall be arbitrarily deprived of his or her life." ²⁰⁵ |
| ★Suriname | 1987 | "The state shall take care of the creation of conditions in which an optimal satisfaction of the basic needs for work, food, health care, education, energy, clothing and communication is obtained." ²⁰⁶ |
| Swaziland | 2005 | "A person shall not be deprived of life intentionally save in the execution of the sentence of a court in respect of a criminal offence under the law of Swaziland of which that person has been convicted." ²⁰⁷ |
| Sweden | 1975 | N/A ²⁰⁸ |
| ★Switzerland | 1998 | "The Federation aligns the measures in such a way that agriculture fulfills its multi-functional tasks. It has particularly following powers and tasks. ... (c) It adopts rules on the declaration of origin, quality, production method and processing method for food." ²⁰⁹ |
| Syria | 1973 (as last amended in 2000) | N/A ²¹⁰ |
| Taiwan | 1947 (as last amended in 2005) | N/A ²¹¹ |
| Tajikistan | 1994 (as last amended in 2003) | "The life, honor, dignity, and other natural human rights are inviolable." ²¹² |
| Tanzania | 1977 (as last amended in 1995) | "Everyone person has the right to live and to the protection of his life by the society in accordance with law." ²¹³ |
| Thailand | 2007 | "A person shall enjoy the right and liberty in his life and person." ²¹⁴ |
| Togo | 1992 (as last amended in 2002) | "The state has the obligation to guarantee physical and moral integrity, life and the security to anyone living in the national territory." ²¹⁵ |
| Tonga | 1875 (as last amended in 1988) | "All the people have the right to expect that the Government will protect their life liberty and property and therefore it is right for all the people to support and contribute to the Government according to law." ²¹⁶ |

| Country | Date of Adoption | Provision(s) |
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| Trinidad & Tobago | 1976 | "It is hereby recognized and declared that in Trinidad and Tobago there have existed and shall continue to exist without discrimination by reason of race, origin, color, religion or sex, the following fundamental human rights and freedoms, namely: - a. the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law." ²¹⁷ |
| Tunisia | 1959 (as last amended in 1988) | N/A ²¹⁸ |
| Turkey | 1982 | "The individual's right to life, and the integrity of his or her material and spiritual entity shall be inviolable except where death occurs through lawful act of warfare; no one may be compelled to reveal his or her religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties may not be made retroactive, nor may anyone be held guilty until so proven by a court judgment." ²¹⁹ |
| Turkmenistan | 1992 (as last amended in 2003) | "A person in Turkmenistan has the right to life and the freedom of its realization. No one may be deprived of the right to life. The right of every person to liberty is protected by the State on the basis of law." ²²⁰ |
| Tuvalu | 1986 | "Every person in Tuvalu is entitled, whatever his race, place of origin, political opinions, color, religious beliefs or lack of religious beliefs, or sex, to the following fundamental rights and freedoms: (a) the right not to be deprived of life." ²²¹ |
| ★Uganda | 1995 (as last amended in 2005) | "All Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits." ²²² |
| ★Ukraine | 1996 (as last amended in 2004) | "Everyone is guaranteed the right of free access to information about the environmental situation, the quality of food and consumer goods, and also the right to disseminate such information. No one shall make such information secret." ²²³ "The human being, his or her life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value." ²²⁴ |
| United Arab Emirates | 1971 | N/A ²²⁵ |
| United Kingdom | 1689 | "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control." ²²⁶ |
| United States of America | 1787 | N/A ²²⁷ |

| Country | Date of Adoption | Provision(s) |
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| Uruguay | 1966 (as last amended in 1996) | "The inhabitants of the Republic have the right of protection in the enjoyment of life, honor, liberty, security, labor and property. No one may be deprived of these rights except in conformity with laws which may be enacted for reasons of general interest." ²²⁸ |
| Uzbekistan | 1992 | "Democracy in the Republic of Uzbekistan shall rest on the principles common to all mankind, according to which the ultimate value is the human being, his life, freedom, honor, dignity and other inalienable rights. Democratic rights and freedoms shall be protected by the Constitution and the laws." ²²⁹ |
| Vanuatu | 1980 | "The Republic of Vanuatu recognizes, that, subject to any restrictions imposed by law on non-citizens, all persons are entitled to the following fundamental rights and freedoms of the individual without discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language or sex but subject to respect for the rights and freedoms of others and to the legitimate public interest in defense, safety, public order, welfare and health-(a) life..." ²³⁰ |
| Venezuela | 1999 | "Every worker has a right to a sufficient salary which permits him to live with dignity and to provide for himself and his family the basic material, social and intellectual necessities." ²³¹ |
| Vietnam | 1992 (as last amended in 2001) | N/A ²³² |
| Yemen | 1991 (as last amended in 1994) | N/A ²³³ |
| Zaire | 1990 | "Everyone has the right to life and to physical integrity." ²³⁴ |
| Zambia | 1991 | "It is recognized and declared that every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, color, creed, sex or marital status, but subject to the limitations contained in this Part, to each and all of the following, namely (a) life, liberty, security of the person and the protection of the law..." ²³⁵ |
| Zimbabwe | 1979 (as last amended in 2005) | "No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence of which he has been convicted." ²³⁶ |

1 Provisions about the right to life are included in this appendix. The names of countries with star symbols are those constitutions which explicitly recognize the right to food. Based on my research, only 25 out of 198 countries affirm their people's right to have access to adequate food.

2 Article 23 of the Afghanistan Constitution, See <www.servat.uniwbe.ch/icl/af00000_.html> (last visited October 10, 2008).

3 Article 54 (2) of Afghanistan Constitution, See *Id.*

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5 ALG. CONST. G. H. Flanz, K. Imholz trans., *translated & reprinted in I Constitutions of the Countries of the World: Algeria* (2003).

6 ANDORRA CONST. Tit. II, Ch. III, Art. 8.1, See <www.andorramania.com/constit_gb.htm>, (last visited October 10, 2008).

- 7 ANGL. CONST. Art.22, translated at <www.servat.unibe.ch/icl/ao00000_.html> (last visited October 10, 2008).
- 8 ANGL. CONST. Art. 52 (2), See *Id.*
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- 31 See BRUNEI CONST., A. P. Blaustein & G. H. Flanz., translated & reprinted in 3 *Constitutions of the Countries of the World: Brunei Darussalam*, (1987).
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