

**Review of progress made in the definition of the right to
adequate food in international law:**

**States' obligations, international organizations' obligations
and the role of the private sector.**

by Asbjørn Eide

*Special Rapporteur of the United Nations Sub-Commission on Prevention
of Discrimination and Protection of Minorities*

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Summary and points for discussion

The paper places the effort to define and clarify the rights to food and nutrition within the wider framework of international law and relations based on the United Nations Charter. It examines the request made by the World Food Summit for such clarification, against the background of the gradual process over the last fifteen years to develop a framework of analysis of the rights to food and nutrition and the corresponding obligations.

A working definition, based on the draft Code of Conduct on the Right to Adequate Food, is set out next, followed by a discussion of the state obligations.

Rights, however, have little meaning unless there are remedies in case of violations or neglect, or at least a system by which monitoring of the implementation of the rights can take place. It is essential, therefore, that national legislation matches the international obligations contained in the human rights instruments. The paper examines some types of legislation required.

There is unfortunately too little monitoring at the national level. When national legislation is in place, appropriate remedies and national monitoring must also be established.

An increasingly active monitoring is taking place at the international level, with full transparency. In order for it to be more effective, however, the paper calls for more precise guidelines. This will also have an increasingly significant impact on national processes.

The paper ends by examining the impact of contemporary processes of globalization. A distinction is made between globalization of economic power and of market access on the one

hand, and the universalisation of the enjoyment of human rights on the other. It is submitted that these two trends or concerns can sometimes be in contradiction to each other but in other they may possibly converge. The question of some form of 'global governance' relating to food security, and within it the right to food, forms the final part of the paper.

Introduction

1. The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (often referred to as the Sub-Commission on Human Rights) expressed in resolution 1996/25 of 29 August 1996 deep concern that more than eight hundred million people throughout the world, particularly in developing countries, did not have enough food to meet their basic nutritional needs and therefore appealed to the upcoming World Food Summit later that year to propose, i.a., *ways in which the right to food could be further clarified and implemented.*

2. The appeal was taken into account by the Heads of State and Government which gathered at the World Food Summit in Rome in November 1996. They reaffirmed *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* and invited the United Nations High Commissioner for Human Rights, in consultation with relevant United Nations and intergovernmental mechanisms,

...to clarify the content of the right to food and the fundamental right of everyone to be free from hunger, as stated in the International Covenant on Economic, Social and Cultural Rights and other relevant international and regional instruments, and to give particular attention to implementation and full and progressive realization of this right as a means of achieving food security for all.

This recommendation was endorsed by the Commission on Human Rights in its resolution 1997/8 of 3 April 1997. As its contribution to this task, the Sub-Commission decided in 1997 to request me to review and update my study on the right to food submitted in 1987¹.

3. The World Food Summit reflected a commitment by the international community through its highest representatives to take effective action in applying a right-to-food based approach to the immense food and nutrition problems of our time, and envisaged a close co-operation between the High Commissioner and the United Nations human rights machinery with the food agencies and other relevant parts of the UN system. Moreover, the renewed emphasis on human rights reflected in the U.N. Secretary General's 1997 reform package for the United Nations system not only allows, but requests all parts of the UN system to take human rights into account in their work. As a consequence, the climate for discussing the right to food is very different from when I prepared my first report at a time when Cold War antagonisms had caused a deep division between the promotion of economic and social rights on one hand and civil and political on the other.

Part I The necessity of a human rights approach to social development

4. The right to food has deep roots in the history of the United Nations. One of the main sources of inspiration for the creation of the organization was the famous 'Four freedoms' speech in January 1941 by the then President of the United States, Franklin D. Roosevelt, who included freedom from want among the four freedoms outlined. Only a few weeks ago, on the World Food Day on October 16, 1998, did President Bill Clinton state that the right to food is the most basic of all human rights.

5. The normative guidance to international relations and global policies must be sought in the United Nations Charter, which is legally binding on all its member states. The purposes set out for the organized international community are found in article 1 of the Charter, where subparagraph 3 is of particular relevance here: "*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 fundamental freedoms for all without distinction as to race, sex, language, or religion.*"

6. The implementation of the United Nations purposes and principles is regulated in other parts of the Charter. Under article 56, member states pledge to take joint and separate action in cooperation with the United Nations for the achievement of the more detailed purposes set forth in Article 55, intended to "*create conditions of stability and well-being necessary for peaceful and friendly relations among nations based on the respect for the principle of equal rights and self-determination of peoples.*" For these purposes the United Nations and its member states individually and collectively, shall promote:

- *higher standards of living, full employment, and conditions of economic and social progress and development;*
- *solution of international economic, social, health, and related problems, and international cultural and educational cooperation;*
- *universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.*

7. These commitments, then, constitute the foundation on which human rights and development activities should both be pursued, whether collectively through the United Nations and other organizations, or separately by states. However, while human rights have given rise to relatively precise standard-setting and the evolution of implementation, this has not been so in the field of development. The time has come for the establishment and operationalization of closer linkages

between international human rights standards and procedures on one hand and national and international development policies and activities on the other. This issue will here be examined in light of the rights to food and nutrition.

8. As a result of fifty years of standard-setting by the United Nations in the field of human rights, it is possible with relative precision to explain not only the concept of human rights, but also which human rights exist, in the sense of being universally recognized. In contrast, there has until recently been little or no consensus on what constitutes 'development'. It is a value-loaded concept, referring to something which is 'better' than that which preceded it. 'Development' qualifies primarily processes of social or economic change: if the change is considered positive it can be described as development, otherwise not. Whether it is positive, or better than what preceded on it, requires a value judgment. Better in what respect, and better for whom?

9. 'Growth', understood as an increase in GNP, has been discarded since it could in itself give no clue as to whether it was better or worse for different sections in society or even for the average standard of living measured by indicators of quality of life. It has long since been recognized that, as indicator of development, the measurement of 'growth' would have to be combined with measurement of distribution of the benefits of growth: Equitable income distribution was defined as positive and gross inequalities were seen as negative. The next step was to see poverty eradication as a primary goal of development, and to ensure that women benefited equally with men from the economic changes taking place. When concerns with the environmental impacts of economic activities reached maturity in the late 1980s, the composite notion of *sustainable development* was introduced, giving space also for the concern with inter-generational justice.

10. The international community has only very recently started to link operationally the promotion of human rights and the advancement of development. The concept of development itself has come to be reinterpreted in light of the human rights system. A major event in this process was the adoption, by the United Nations General Assembly in December 1986, of the Declaration on the Right to Development as a Human Right, the embryo of which is found in the Universal Declaration of Human Rights Article 28 which proclaims that "*everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.*"

11. The right to development is, according to article 1 of the Declaration "*an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.*"

12. The Declaration on the Right to Development provides, in Article 8(1), that "*states shall undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.*"

13. As to the requirement for an *international* order in which human rights for all can be realized, the Declaration on the Right to Development provides, in Article 3(3), that "*states have the duty to co-operate with each other in ensuring development and eliminating obstacles to development*", while under Article 4 "*states have a duty to take steps, individually and collectively, to formulate international development policies with a view to the full realization of the right to development.*"

14. The Children's Summit, convened in 1990 by the UN at the initiative of UNICEF in collaboration with WHO, contributed significantly towards a paradigmatic shift in the thinking about developmentⁱⁱ. It introduced the '20/20' initiative, a funding strategy which aims to provide resources to ensure access for all to basic social services by proposing that developing countries direct at least 20 per cent of their domestic budgets to basic social services while donor countries earmark 20 per cent of their development assistance for the same purpose. The initiative has gathered international support, and was further pursued at the 1995 World Summit for Social Development.

15. The understanding that the human being had to be treated as the subject, rather than the mere object of development led, in the early 1990s, to the introduction by UNDP of the notion of *human development*. By 1994 the different concerns were merged, again by UNDP, through the concept of *sustainable human development*. The next step was to integrate these concepts of development with good governance (1995-1997) and finally to integrate it fully with human rights (1998)ⁱⁱⁱ.

What difference does a human rights approach make?

16. The first consultation on the right to food organized by the High Commissioner for Human Rights and held in Geneva on December 1 and 2, 1997 discussed at some length the consequences of a human rights approach compared to other ways to deal with development issues^{iv}. By addressing political, social or economic issues from a human rights perspective, it has at least the following implications:

- (a) It builds on a normative, legal basis, even if that is not ideally drafted or spelled out with the desirable detail. It is for this reason that further work is required.**
- (b) Human rights are obligatory for States, not optional, in contrast to recommendations such as those of the World Summit on Social Development or the World Food Summit. Since they are obligatory, it is necessary to analyze the nature of the obligations of states.**
- (c) It should be kept in mind that when using a human rights entry point, the entire human rights framework is brought into play, civil and political as well as economic, social and cultural rights. One cannot select a single set of rights. They are interdependent and indivisible, as stated on numerous occasions by world consensus, including the World Conference on Human rights.**
- (d) International human rights should be matched with a corresponding legal basis within States; consequently, appropriate legislative and other measures should be adopted.**
- (e) Human rights require active and effective remedies, not necessarily by the use of courts.**
- (f) Human rights imply accountability, both domestic and international.**
- (g) At the international level, human rights are subjected to monitoring through a reporting process and a dialogue.**

Part II Rights and corresponding obligations

Earlier steps

17. Efforts intended to clarify the right to food and nutrition and the corresponding state obligations has formed part of the overall work intended to elaborate the content of economic and social rights in general. Several studies on this subject appeared in the 1980s. I myself proposed a framework for the analysis in my contribution to one of the first publications on the right to food, published by the United Nations University in 1984^v. I had later the opportunity to conduct a more comprehensive analysis when, as a member of the Sub-Commission, was appointed special rapporteur on the right to adequate food as a human right^{vi}. In that study, I was able to expand my earlier framework in co-operation with nutritionists working in the field, leading to a matrix intended as a tool for the identification of state obligations relative to the realisation of the different elements of the right to food and nutrition^{vii}. I could further draw on efforts by a group of leading scholars to clarify the nature of state obligations under economic, social and cultural rights, an effort which led to the adoption of the so-called 'Limburg principles'^{viii}. Of great help at that time was also Katarina Tomasevski's '*The Right to Food: Guide through Applicable International Law*' published in 1987^{ix}.

18. In 1990, the United Nations Committee on Economic, Social and Cultural Rights adopted its General Comment No.3 '*On the nature of States Parties obligations (art.2 para. 1 of the Covenant)*', which was a major step forward in clarifying the obligations of states in regard to economic and social rights in general^x.

19. At the International Conference on Nutrition (ICN) held in Rome in 1992, attempts were made by several delegations to get a strong reference to adequate food and nutrition being a human right in the final documents. Obviously, the time was not yet ripe for such a move within the more technically oriented development circles. The reactions from a number of delegations and from several UN-agencies were in part outrightly negative and strong enough to block the effort to focus attention on the human right to food.^{xi}

20. The special issue of the periodical 'Food Policy' (1996) was devoted in its entirety to a human rights perspective on nutrition and brought the debate forward in several respects^{xii}.

21. A major impetus for further work was the call by the World Food Summit in 1996 for a legal clarification of the right to food, new or better instruments for the

implementation of the right to food, and the formulation of additional guidelines to promote that implementation.

21. The next important step was the conference of international experts in Maastricht (the Netherlands) from 22-26 January 1997 at the invitation of the International Commission of Jurists (Geneva, Switzerland), the Urban Morgan Institute on Human Rights (Cincinnati, Ohio, USA) and the Center for Human Rights of the Faculty of Law of Maastricht University (the Netherlands) to elaborate on the Limburg Principles mentioned above, in order to clarify the nature and scope of violations of economic, social and cultural rights and appropriate responses and remedies. The participants agreed on a set of guidelines which they believe reflect the evolution of international law, taking into account significant legal developments such as the emerging jurisprudence of the Committee on Economic, Social and Cultural Rights and the adoption of the revised European Social Charter of 1996 and the San Salvador Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988. They noted that it is now undisputed that all human rights are indivisible, interdependent, interrelated and of equal importance for human dignity. Therefore, states are as responsible for violations of economic, social and cultural rights as they are for violations of civil and political rights^{xiii}.

22. The recommendations by the World Food Summit to consider the preparation of voluntary guidelines was carried forward in 1997 by three non-governmental organizations or institutions - FIAN International, the World Alliance on Nutrition and Human Rights and the Jacques Maritain Institute: They drafted a code of conduct, finalized in September last year following a meeting in Geneva in May 1997. The code contains the most updated proposals for a definition of the right to food and nutrition presently available. The Code has been endorsed by more than 800 NGOs and a campaign for further endorsements is being planned by FIAN International. It will eventually be brought before the relevant international bodies for their consideration,

23. Some months later, the High Commissioner for Human Rights organized a consultation in Geneva in December 1997, in which several agencies including FAO actively participated together with concerned NGOs and individual experts. One of its main achievements was a clarification of the significance of using human rights in addressing social goals such as food and nutrition^{xiv}.

The basis: the right to an adequate standard of living

24. The right to food and nutrition forms part of a more general right. According to Article 25(1) of the Universal Declaration of Human Rights (UDHR), 'everyone has the right to a standard of living adequate for the health and well-being of himself and of his family'. With the wording slightly changed, the term the 'right to an adequate standard of living' appears in Article 11 of the International Covenant on Economic, Social and Cultural Rights (CESCR): 'The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family . . . '. Under Article 27 of the Convention on the Rights of the Child (CRC), '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'.

25. The right to an adequate standard of living sums up a large part of the concerns underlying all economic and social rights, which is to integrate everyone into a humane society. It is intimately linked to the foundation of the whole human rights system, that everyone is born free and equal in dignity and rights and should act towards each other in a spirit of fraternity (UDHR art.1).

26. The rights to property, to work, and to social security are all sources of subsistence or income which ideally should make it possible for everyone to enjoy an adequate standard of living. When nevertheless a specific right to an adequate standard of living has been included in the international system of human rights, it is to cover the loopholes and to address the most basic needs to which every human being is entitled.

27. In Article 25 of the UDHR the term 'adequate standard of living' means '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 in Article 11 of the CESCR it includes 'adequate food, clothing and housing;' whereas the right of the child under CRC article 27 is to 'a standard of living adequate for the child's physical, mental, spiritual, moral and social development'.

28. Everyone shall be able, without shame and without unreasonable obstacles, to be a full participant in ordinary, everyday interaction with other people. This means, inter alia, that they shall be able to enjoy their basic needs under conditions of dignity. No one shall have to live under conditions whereby the only way to satisfy their needs is by degrading or depriving themselves of their basic freedoms, such as through begging, prostitution or bonded labour, nor depend on the grace of others.

Adequate Food and Freedom from Hunger

29. The right to adequate food is included in article 11 para. 1 of the International Covenant on Economic, Social and Cultural Rights (CESCR) which states that ‘The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family..’ In paragraph 2 of the same article, we find the following stipulations:

“The State 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 ... which are needed

(a) To improve methods of production, conservation and distribution of food by making full use of technological 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”.

30. The Convention on the Rights of the Child (CRC), ratified by 191 States, recognizes food- and nutrition-related rights in the context of the “right of the child to the enjoyment of the highest attainable standard of health” (Article 24.1).

In pursuing the full implementation of this right, Article 24 provides that

“State Parties shall take appropriate measures:...

(c) To combat disease and malnutrition ... through inter alia the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water ...;

.....

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation”.

Towards a working definition of the right to food

31. Adequate food can be broken down into several elements: Adequacy of the food supply means that the overall supply should cover overall nutritional needs in terms of quantity (energy) and quality (provide all essential nutrients, including micronutrients such as vitamins and iodine), be safe (free of toxic factors and contaminants) and of good food quality (for example, taste and texture), and the types of foodstuffs commonly available (nationally, in local markets, and eventually at the household level) should be culturally acceptable (fit the prevailing food or dietary culture).

It implies a right for every person, alone or in community with others, have physical and economic access to adequate food by using a resource base or an entitlement appropriate for the procurement of food in ways which is consistent with human dignity.

32. Stability of the supply and access to food presupposes environmental sustainability, implying that there is a judicious public and community management of natural resources which have a bearing on the food supply, as well as economic and social sustainability in terms of conditions and mechanisms securing food access. Economic and social sustainability concern a just income distribution and effective markets, together with various public and informal support and safety nets. These supports could be public social security schemes, as well as numerous forms of community transactions, self-help and solidarity networks, the latter becoming particularly important when people need to cope with various crisis situations.

33. In the draft Code of Conduct, built on the relevant provisions (UDHR art. 25, CESCR art. 11, CRC art ,) the right to adequate food is defined in the following way (Article 4):

The right to adequate food means that every man, woman and child, alone or in community with others, must have physical and economic access at all times to adequate food or by using a resource base appropriate for its procurement in ways consistent with human dignity. The right to adequate food is a distinct part of the right to an adequate standard of living.

The realization of the right to adequate food requires

1. (a) the availability of food, free from adverse substances and culturally acceptable, in a quantity and quality which will satisfy the nutritional and dietary need of individuals;

(b) the accessibility of such food in ways that do not interfere with the enjoyment of other human rights and that is sustainable.

2. The ultimate objective of the right to food is to achieve nutritional well-being. Nutritional well-being is dependent on parallel measures in the field of education, health and care. In this broader sense, the right to adequate food is to be understood as the right to adequate food and nutrition.

3. The realization of the right to adequate food is inseparable from social justice, required the adoption of appropriate economic, environmental and social policies, both at the national and international level, oriented to the eradication of poverty and the satisfaction of basic needs.

The state as the primary duty-holder

34. To ensure the enjoyment of human rights is an obligation which has to be met by all states. The nature of their obligations, however, needs analysis in order to complete the definition of the right to food. Since many misunderstandings have arisen in this respect, some initial principles should be pointed out.

35. The individual is normally the active subject of the right to an adequate standard of living, in the sense that economic activities to ensure a livelihood starts with the efforts made by the individual her or himself. In elaborating the framework regarding the right to food and nutrition, the fundamental principle should be observed that primary responsibility rests with the individual her/ himself, if adult and able and provided opportunities do exist. Every adult and able person is responsible for her or himself and for those dependent on that person.

36. The obligation has the obligation to respect and when necessary to create the space necessary for the individual to fulfill this responsibility; to protect that space when it exists or has been created, to facilitate the use of that space and when required also to be the provider when other reasonable opportunities do not exist.

37. The international community also has a responsibility, on subsidiary basis, to encourage and assist states in implementing their obligations and in criticizing them when they do not take the necessary measures within the resources available to them.

38. Thus, the individual is expected, whenever possible through his or her own efforts and by the use of his or her own resources, to find ways to ensure the satisfaction of his or her own needs, individually or in association with others. Use of the own resources, however, requires that the person has resources that can be used — typically land or other capital, or labor. It could include the shared right to use communal land, and the land rights held by indigenous peoples. Furthermore, the realization of economic, social and cultural rights of an individual will usually take place within the context of a household as the smallest economic unit, although aspects of female and male division of labor and control over the produce, as well as various forms of wider kinship arrangements may present alternative alliances.

39. State obligations must be seen in the light of the above. The fundamental point of departure is that the question of economic and social rights is not a question of welfare from above, but rights from below - rights by everyone, but above all a right to *have the space to solve one's own problems* to the extent possible.

40. Since state obligations must be seen in the light of the assumption that human beings, families, or wider groups seek to find their own solutions to their needs, states should at the *primary* level, *respect* the resources owned by the individual, her or his freedom to find a job of preference, to make the optimal use of own knowledge and the freedom to take the necessary actions and use the necessary resources—alone or in association with others—to satisfy his or her own needs. Individual as well as *collective* or group rights are relevant here: resources belonging to a collective of persons, such as indigenous populations, must be respected in order for them to be able to satisfy their needs. Consequently, as part of the obligation to respect these resources the State should take steps to recognize and register the land rights of indigenous peoples and land tenure of smallholders whose title is uncertain. By doing so, the State will have assisted them in making use of their resources in greater safety in their pursuit to maintain an adequate standard of living.

41. The state cannot, however, passively leave it at that. Third parties are likely to interfere negatively with the possibilities that individuals or groups otherwise might have had to solve their own needs. At a *secondary* level, therefore, State obligations requires active *protection* against other, more assertive or aggressive subjects—more powerful economic interests, such

as protection against fraud, against unethical behaviour in trade and contractual relations, against the marketing and dumping of hazardous or dangerous products. This protective function of the State is widely used and is the most important aspect of state obligations with regard to economic, social and cultural rights, similar to the role of the State as protector of civil and political rights.

42. Significant components of the obligation to protect are spelled out in existing law inside most states. Legislation of this kind must be based on the specific requirements in the country concerned. This is one reason why the formulations of economic and social rights in international instruments are relatively vague – they should be given content by specific legislation within each country, taking into account the situation prevailing there. To take one example: legislation requiring that land can be owned only by the tiller of the land is essential where agriculture is the major basis of income for the majority of the population, but may be much less relevant in highly industrialized technological societies where only a small percentage of the population lives off the land. Protection against hazardous or undesirable elements in foodstuffs is an important obligation in ensuring a safe food supply as part of realizing the right to adequate food, and countries have established more or less effective surveillance and control mechanisms to ensure this.

43. At the *tertiary* level, the State has the obligations to *facilitate* opportunities by which the rights listed can be enjoyed. It takes many forms, some of which are spelled out in the relevant instruments. For example, with regard to the right to food, the State shall, under the CESCR (Article 11(2)), take steps to "*improve measures of production, conservation and distribution of food by making full use of technical and scientific knowledge and by developing or reforming agrarian systems.*"

44. At the fourth and final level, the state has the obligation to *fulfil* the rights of everyone under economic, social and cultural rights. This fourth level of obligation is important as an emergency when conditions for survival are temporarily disrupted (severe draught or flood, armed conflict, or the collapse of economic activities within particular regions of the country.) As a more permanent feature, fourth level obligations increases in importance with increasing rates of urbanization and the decline of group or family responsibilities. Obligations towards elderly and disabled, which in traditional agricultural society was taken care of by the family, must increasingly be borne by the state and thus by the national society as a whole.

45. The obligation to fulfil could thus consist of the direct *provisions* of basic needs, such as

food or resources which can be used for food (direct food aid, or social security) when no other possibility exists, such as, for example: (1) when unemployment sets in (such as under recession); (2) for the disadvantaged and the elderly; (3) during sudden situations of crisis or disaster; and (4) for those who are marginalized (for example, due to structural transformations in the economy and production).

The relationship between the right to food and nutrition, and the concept of food security

46. The debate around the right to food and nutrition as human rights has revealed an apparent dilemma between a human right *as such* of the individual, and the *conditions* through which the right can be realized. Food security (or the wider nutrition security which subsumes the former) is not itself *the right to food*, but a *state* in which, if attained, the individual may enjoy that right. The distinction is important since it will bring out the nature of the various development goals and objectives that must be implemented *in order for* the individual to be in a position where he/she enjoys the right to food. That enjoyment can be fulfilled in various ways and by varying degrees of implementation of conditions towards full food security as a normative aspiration. It is here that the levels of state obligations come to help in ensuring *the individual's right to food* also where food security - in the sense of a sustained state of affairs - have not been reached. Thus while governments and civil society constantly must strive to facilitate matters for their population, so as to have as a long term goal "at all times, access to sufficient food.....", each individual must be ensured that their immediate right to access to food be *fulfilled* through government or other interventions also when this cannot happen through their own efforts.

47. Supplementary feeding programs for children or external food aid in short term emergencies, fall in the category of obligations to *fulfil* the human right to food. Such interventions must however always be seen as temporary and basically unsatisfactory measures for the right to food to be realized, which should happen through situations of full food security. At the very least they should be timed and integrated with other measures towards food security, so as to gradually become superfluous as true food security conditions come into place.

48. This debate is often blurred by perceptions of "food security" as being *the* very human right^{xv}. To distinguish between *food security* and *the right to food*, requires that food security be given a definition that is meaningful beyond the direct access to food by the individual. Throughout the years of theoretical development debate, *food security* has been associated with - in chronological order - *world* food security, *national* food security and *household* food

security. It is at the latter level that the term gives meaning to the individual, while the other levels may or may not be decisive for what happens at the household level. The ultimate goal of “food development” must be to ensure household food security. When or as long as this fails, the individual still has a human right to obtain food and the state must fulfill its obligation to ensure it somehow. Thus the distinction is much more than a semantic one and can help indicate the needed division of labor between those actors that promote development efforts, and those that are or should be established to monitor and supervise that the right of the individual to access to food is being protected.

On the importance of national legislation

49. International human rights should be matched with a corresponding legal basis within States. Appropriate legislative and other measures are required in order to clarify the rights under the conditions prevailing in the particular country, ensuring by appropriate regulation the protection of access to and safety of food, and addressing issues related to the production, processing, distribution and consumption of food. It should include laws ensuring the establishment and maintenance of land registries, taking into account the ancestral land holdings of indigenous peoples, and where required, legislation for land reform should be adopted and effectively enforced.

50. In more general terms, legislative measures should set out the scope and limits of commitments by the state to provide access to food or nutrition or to resources which can be used to ensure such access.

51. A fundamental weakness in the present status of implementation of the right to food is the lack of effective remedies when violations or neglect occur. Appropriate institutions are often not in place or have not seen it as their duty to monitor the realization of ESCR. The future agenda requires determined efforts to remedy this gap. Regular courts are often too cumbersome, but mechanisms such as ombudspersons or national commissions might effectively monitor the fulfillment of these rights at the national level. An extraordinary example is presently being set by South Africa, where the South African Human Rights Commission is about to launch its report on the implementation of economic and social rights in that country. The report is based on a thorough examination of attitudes, practices and the understanding of economic and social rights at all relevant levels and sectors of government.

On resources and the need for transparency and openness

52. All States parties to the Covenant on Economic, Social and Cultural Rights are under the obligation to take immediate steps to fulfill their obligations under the Covenant. The obligation to achieve progressively the full realization of the right to food requires the state to move as quickly as possible towards their full realization.

53. While it must be recognized that there are vast differences among states in the availability of resources required to meet these obligations, certain steps can and must be undertaken irrespective of the level of development of the country concerned. All states have a duty to ensure that everyone is free from hunger. Actions which destroy existing access of people to adequate food or which discriminate against certain groups of society constitute violations of the right to food and must be ended wherever they occur. States should give priority to social groups which are particularly vulnerable in their access to food.

54. Under Article 2 of the Covenant on Economic, Social and Cultural Rights, states are required to devote the 'maximum available resources' to realize the rights contained in the Covenant. These 'resources' are not necessarily only material resources, and they are certainly not only the resources which form part of the state budget. It has been suggested that there are five types of resources to take into account: Financial, human, natural, technological and informational, and from private as well as from public sources. Measurement of state compliance with their obligations to meet the rights to food and nutrition can be done by exploring the total combined use of these resources^{xvi}. The measures taken by states to ensure the enjoyment of these rights may therefore reflect a mix of public and private resources depending on the conditions prevailing in the country concerned. What is important is that the total effect is to ensure the rights for all, and at all times.

Part III International monitoring and the need for guidelines

55. An essential component of contemporary international law of human rights is the practice of international monitoring and review of state compliance with universal norms of human rights^{xvii}. This also provide opportunities to build better bridges between human rights and economic and social development.

56. The international monitoring of the Convention on Economic, Social and Cultural Rights rests on a reporting procedure, established by Article 16 of that Covenant. The consideration of the reports has been entrusted to the Committee on Economic, Social and Cultural Rights, a committee of independent experts established by the United Nations Economic and Social Council. State parties are required to present comprehensive periodic reports every five years. The reporting procedure is based on a dialogue between the State party and the Committee on Economic, Social and Cultural Rights, achieved through a list of questions prepared by Committee members, on the basis of the written report and public hearings, for discussion between the Committee and a Government delegation. Following an oral hearing, the Committee on Economic, Social and Cultural Rights adopts its concluding observations in relation to a specific state report, expressing its positive appreciation where improvements have been made, and its issues of concern where implementation is proceeding too slowly or where there have been regressive lapses. In addition to the country-specific observations, the Committee also uses the means of 'general comments' and 'general discussions' for reaching a better understanding of the contents of the treaty obligations.

57. The primary aim of the monitoring based on states' reports is to assist governments in improving their performance, even though this is coupled with a critical assessment of the efforts made. In preparing the reports, government agencies can take stock of their achievement to date, and initiate measures to remedy any shortcomings which have been identified. When a State becomes a party to an international treaty, it is expected to review its domestic law and practice to ensure that it is in compliance with the obligations contained in the treaty. Before submitting its initial report to the relevant treaty body, the State party is expected to undertake a comprehensive review of national legislation, administrative rules and procedures and practices in order to ensure the fullest possible conformity with the provisions of the treaty.

58. Reports shall provide not only the *legislative* and *administrative* measures adopted and the situation as it exists in practice. A precondition for effective reporting is the existence of an adequate system for *monitoring* the situation with respect to each of the rights, on a regular basis. Statistical information is expected to accompany the narrative description, serving to

disaggregate the available information in order to investigate not only the situation in the country as a whole but also of the different regions and groups within the country. The Committee on Economic, Social and Cultural Rights has requested that “specific attention be given to any worse-off regions or areas and to any specific groups or subgroups which appear to be particularly vulnerable or disadvantaged”.

59. Human rights treaties seek to promote and enhance not only a government's international accountability, but also its accountability to its own citizens. The preparation of the report provides an important occasion for consultation of the appropriate social, economic, cultural and other sectors of society.

60. In this regard a variety of States from different regions of the world have begun to experiment with different forms of consultation. Some have sought inputs from non-governmental groups on particular issues, others have requested such groups to submit comments on the draft reports, and still others have entrusted the preparation of the reports to a group which includes representatives of the non-governmental sector.

61. The obligation to prepare successive periodic reports at specified intervals provides an ideal opportunity for evaluating progress achieved over time. The supervisory committees themselves tend to stress this element by making comparisons between the problems identified at the time of the examination of an earlier report, and those observed when considering a subsequent report. Similarly, States which have set themselves targets or benchmarks against which to assess their own progress, can use the periodic reporting process as an occasion for measuring progress (or a lack thereof) and re-evaluating the suitability of the relevant benchmarks.

62. The principal human rights treaties generally request States parties to report not only on the progress that they have made, but also on any “factors and difficulties” that have affected the realization of the rights in question. It is sometimes suggested that States cannot realistically be expected to acknowledge that they are having problems in any areas and that reports will therefore inevitably only deal with the “good news”. But this approach is clearly misplaced and the supervisory committees tend to remain unconvinced by reports suggesting that all is well in the world. It must be accepted that no State can expect to have a perfect record in achieving respect for human rights. Even where the situation is generally very positive there is always room for improvement. The frank acknowledgement of problems, even if they are reckoned to be almost intractable (or at least not readily capable of resolution), helps to establish the good faith of the government in the eyes both of the supervisory committee and of its own citizens. The reality is that a problem must first be diagnosed before a remedy can be found. In that respect

human rights problems can be compared to drug addiction: unless the existence of a problem is acknowledged, it will almost certainly not be solved.

63. The information on common experiences (both good and bad) makes it possible for States to learn from one another, and has made it possible for the supervisory committees to formulate 'general comments' based on their awareness of the types of issues governments typically encounter when translating their abstractly formulated obligations contained in the treaties, into practical reality. Alston observes that the committees can then distil the wisdom of that collective experience into advice which is made available to all interested parties.

64. Some States have ensured the widespread dissemination of their reports so that the public at large might comment, and thus contribute to an on-going national policy debate. This public scrutiny function can be further enhanced by ensuring easy access for the public at large to the United Nations *summary records* which document the examination of the State's report by the appropriate treaty body. There is reason to believe that there would be much to learn from this inbuilt transparency of the international human rights machinery, for the corresponding development circles, where the principle of *confidentiality* often seems to reign beyond any logical reason.

65. Guidelines have been provided for states to assist them in reporting under the various human rights conventions. They need constant improvements. The Secretary-General, in a note accompanying the Guidelines for reporting to the Committee on Economic, Social and Cultural Rights, observed that

The guidelines are intended to facilitate the preparation of reports by States parties. By following them as closely as possible, reporting officers will minimize the risk that their reports are deemed to be inadequate in scope and insufficient in detail. The guidelines also provide a uniformly applicable framework within which the Committee can work and enable it to demonstrate a consistency of approach from one report to another. They are also designed to reduce the amount of duplication of information requested by the various treaty bodies”

66. The Committee has underlined the importance of ensuring that the issues of principle concerns be dealt with in a methodical and informative manner. This is indeed no small ambition to reach. It makes it all the more necessary that guidelines for reporting capture the real critical topics and reflect the contemporary understanding of issues and parameters that should form the basis of contemporary reporting.

As for reporting on the right to adequate food, the present guidelines may need an updating to better capture certain important dimensions of the evolving debate and understanding of food as a developmental issue. It is also a question whether the existing benchmarks, of which there are very few, are the most relevant and helpful to those who will be charged to draft the reports on behalf of their governments. The Draft Code of Conduct may be of some help here. It is imperative, however, that technical experts can co-operate with legal experts in updating such guidelines. In the case of food and nutrition, the appropriate context for technical contributions must be the interagency coordinating subsidiary of the ACC, the Subcommittee on Nutrition which counts as members up to 16 UN organizations involved in some way with food and nutrition, together with a range of bilateral and NGO observers. I hope that its next session in 1999, which will be hosted by the High Commissioner for Human Rights, will duly consider the establishment of an effective working alliance between the Office of the HCHR and the Subcommittee for Nutrition for mutual learning and performance in consultation with member states.

67. Also within the countries, the process of identification and compilation of data by and for the drafters of the state reports should be considered. Who are the providers of the information listed in this report? Are the providers of information to the report informed on the utilization of the data, and are they invited to come up with inputs and ideas on how to report and how to improve the reporting process? Does the country involve in discussions with vulnerable groups and civil society on how to improve the food and nutrition situation of these groups? Is the civil society invited to feed into the reporting process? Such questions arise from studying the guidelines prepared by the Committee on the Rights of the Child for the reporting on the realization of the Child Convention, which goes much further than the parallel ones for economic, social and cultural rights and thereby encourage a more thorough consultation at the national level.

Part IV International obligations. The consequences of globalization

68. The United Nations and its member states have under the Charter Article 1(3), 55 and 56 committed themselves to promote higher standards of living, full employment, and conditions of economic and social progress and development; solution of international economic, social, health, and related problems, and international cultural and educational cooperation, and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

The degree to which states have obligations towards persons and peoples living in other states than their own is a matter of some controversy.

Universalization of standards

69. International human rights law has firmly established that everyone has a right to adequate food and a fundamental right to be free from hunger. These rights are asserted to be universal, though clearly they are not yet globally enjoyed. While there has since 1948 been a long process to make these rights universal, much remains to be done. When 800 million human beings around the world suffer from severe malnutrition, food security is for them non-existent. This represents a severe weakness in existing human rights policy.

Globalization and the state

70. The content of globalization is affected by developments in science and technology, communication and in particular the information processing which has substantially changed the structure of the global system.

The phenomena most strongly associated with globalization are: Increasing reliance on free market, free trade, free and unencumbered flow of investment, and the paramount role of the international financial market, with the IMF and the World Bank moving to the center stage of world power.

71. There are important positive aspects of globalization, but for nearly two decades now, we have seen too much of its downside. Achievements in the social fields, such as the right to just and favorable conditions of work, have been threatened by an over-emphasis on competitiveness. Similarly, the hard-won rights of trade unions have been threatened by the undermining of the right to association. When these concerns are brought up in the context of

regulations of trade and investment, they are sometimes met with the argument that social clause provisions constitute hidden or open measures of protection by the developed countries. While it should not be excluded that this in some cases can be true, the opponents of a social clause or of economic and social rights in general may well be protecting something else, which is their desire to maximize profits by enduring low labor and social costs. This can well be harmonized with the interests of kleptocratic governments in some developing countries, who may share the windfall profits with the investors while saving on wages for the workers and on the costs of social security, health and education.

72. The World Bank has gradually become more concerned with good governance not only in terms of the requirements of external investors but slowly also in terms of governance which encourages stability and integration. IMF is lagging far behind.

73. The UN Committee on Economic, Social and Cultural Rights has in its most recent General Comment^{xviii} observed that the negative risks of globalization can be guarded against, or compensated for, if appropriate policies are put in place. The Committee is concerned, however, that while much energy and many resources have been expended by governments on promoting the trends and policies that are associated with globalization, insufficient efforts are being made to devise new or complementary approaches which could enhance the compatibility of those trends and policies with full respect for economic, social and cultural rights. Competitiveness, efficiency and economic rationalism must not be permitted to become the primary or exclusive criteria against which governmental and inter-governmental policies are evaluated.

74. As noted by the Committee, Governments and intergovernmental international organizations have a strong and continuous responsibility to take whatever measures they can to assist governments to act in ways which are compatible with their human rights obligations. The realms of trade, finance and investment are in no way exempt from these general principles and that the international organizations with specific responsibilities in those areas should play a positive and constructive role in relation to human rights.

75. Universalization of rights seeks to ensure that everyone is free and equal in dignity and rights (Universal Declaration of Human Rights Article 1). The process of globalization has no such intention or aim; its sole purpose is to eliminate barriers to world-wide access of investments and products. It is not inherently good or bad; it has to be judged by its consequences.

76. It is submitted that the two main features distinguishing globalization from universalization is the approach to governance and to the dignity of the individual. Globalization discourages governance except at a very low level. Structural adjustment has consisted in requirements to downsize government and has encouraged privatization. Globalization discourages taxation of corporations and of capital transactions and thereby reduces the resource base of governance. Globalization sees the individual mainly as a consumer and a producer, a purely market conception of human existence.

77. Universalization, on the other hand, puts considerable emphasis on good governance. *'The challenge for all societies is to create a system of governance that promotes, supports and sustains human development - especially for the poorest and most marginal. But the search for a clearly articulated concept of governance has just begun'*.(UNDP: Governance for sustainable human development, a policy paper, January 1997, p. 2).

78. The policy paper prepared by UNDP adds that 'good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources'. In its policy paper of January 1998, UNDP adds that governance institutions are responsible for respecting, protecting and promoting human rights.

79. Effective governance requires a considerable degree of decentralization, based on the subsidiarity principle. Effective decisionmaking should start on the level of the individual human being, move up through families and household, to local governments, then to state governments, and finally to international collaborative institutions. Decisionmaking at the higher level is required only in regard to matters which cannot better be decided at the lower level.

80. This applies also to food security. What matters is the food security of the individual. It is normally best organized through co-operation in the household. The local authorities should take measures which improve the conditions of everyone to improve their food security. At the national level, the first task is to respect the choices made at the lower level, but also to protect against unfair practices leading to severe distortions in access to food, and beyond that to facilitate and to provide when required as described above. A similar, but subsidiary function should be performed by the international community.

81. The UNDP notes that governments, be it at the national or local level, are not the only ones involved in human rights and sustainable human development: Of equal importance are the civil society organizations - human rights and other law-related NGOs, socio-economic NGOs, community organizations and various other groups and the media who play, or could play, an important role in monitoring, protecting and promoting human rights^{xix}.

82. These are ideal requirements. They correspond well to the quest for universalization of human rights. Indeed, the very purpose of that process is to promote the emergence of good governments, which respect, protect, facilitate and fulfill the whole range of human rights, and which give the same attention to economic and social rights as to the civil and political. Food security for everyone, in particular for the most vulnerable, would thereby become a core consideration in good governance.

83. How does this relate to the notion of *global* governance? This is a concept with even less clarity of meaning. Global governance is sometimes loosely defined as the process by which the world community collectively manage and govern resources, issues, conflicts and values. There is every reason to doubt, however, that the world community *collectively* manage resources and conflicts, though some efforts in this direction can be observed.

84. It is my proposition that two different trends, sometimes overlapping but often in conflict with each other, are mixed together under the loose term 'global governance'. One is the effort of 'governance' which stem from the processes of globalization driven by the powerful transnational corporations and the media and communication conglomerates, to some extent supported by the states in which most of them have their headquarters. Their major international institutions are the IMF and, to a lesser extent, the World Bank. The coalition of the richest states, the G7, play a major role in influencing the decisions of those bodies. They determine the content and conditions of structural adjustment, because they decide the conditions for credit and investments. They also hold the greatest influence in the World Trade Organization. In brief, these are the structures of governance for the global market.

85. There is an entirely different trend, consisting of the intergovernmental organizations operating within the framework of the United Nations Charter and increasingly in co-operation with the international civil society as represented by the NGOs. To simplify matters, I shall here assume that these are the agents of the processes of universalization, in distinction to globalization. Ideally, they seek to develop and to implement common standards based on the notion of 'sovereign equality'.

86. Equality refers to the equal rights of each member of the international system of states to have a say in the formulation and the implementation of the standards. Sovereignty, in its modern sense, has two meanings, the internal and the external. The internal aspect of sovereignty means the sovereignty of the people - the whole people, exercised on the basis of participation by all members of society, in ways which ensure a broad consensus in society as a whole. The external sovereignty means that the people through its representative government controls its own resources and has the freedom to regulate their use, within the limits set by international applicable to all states on a basis of equality.

87. Ideally, global governance would consist of the collaborative institutions set up by responsible and representative governments, in collaboration with the emerging international civil society consisting of NGOs. The purposes of such collaborative institutions would be, in the words of the Charter of the United Nations, to 'solve 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'.

88. Among the agents of global governance in this sense are the international human rights bodies which seek to ensure the implementation of all human rights - civil, political, economic, social and cultural. They do so on the basis that the direct responsibility for the implementation of human rights rests with the state. This, however, requires that the state is able to fulfill this function. It requires that the state is able to manage and to control enough resources to ensure the enjoyment of all human rights, including the right to food, inside its territory. It therefore also requires that the state is able to protect universal labour standards against the demands for 'flexibility' demanded by the transnational corporations.

89. Most other UN agencies and bodies, such as UNICEF, WHO, UNESCO and some others, are also promoting universalization rather than globalization. Their purpose is not to promote the unregulated and open global market, but to promote the enjoyment of human rights and basic needs of everyone and to help and assist responsible governments in achieving such aims.

90. More precisely, it is my proposition that the approach chosen by the United Nations Development Programme in recent years points in the direction of global governance based on universalization of standards rather than on market-driven globalization of profit. The concern of the UNDP with sustainable human development, the way it approaches the question of good governance, and the inclusion of human rights in its conceptualization of

development, all point in that direction.

91. Of course, no neat distinction can be made. Directly or indirectly the interests of the transnational corporations influence the decisionmaking of many UN bodies. Nevertheless, the structure and composition of UN agencies make them more representative of the world community as a whole. They can therefore be a counterweight to the purely market-driven processes of globalization.

92. Global governance in this ideal sense requires positive interaction between states and those intergovernmental bodies which promote universal standards. As examples of efforts towards the implementation of universal standards should be mentioned the world conferences of the last decade. Many of them deal, directly or indirectly, with issues which have a bearing on food security. States should incorporate into national policies all the relevant elements of the commitments made at the World Food Summit in 1996 as well as the '20-20 compact' agreed at the Social Summit in Copenhagen in 1995, those adopted at the Alma Ata ('Health for All by 2000') held in 1978, the Jomtien Conference ('Education for All') in 1990, the UN Environment Conference in Rio in 1992, and the UN Women's Conference in Beijing in 1995.

93. It is important that states maintain or recapture their ability for regulation. The globalization of the market, spearheaded by the enforced structural adjustments and privatization, has undermined the possibility of the state to be a provider. This has its good as well as its bad aspects. It eliminates clientelism and paternalism, and it opens up for rights-based empowerment by the individuals, though it also has its negative sides. Since its role as provider is in decline, the role of the state as protector becomes even more important and necessary.

94. The idea of a state based on the rule of law is one of the great achievements of the modern age, and in particular of the Western democracies. The solidity of the architecture of global governance can only be assured by strengthening the rule of law world-wide. Efforts to make the rule of law more effective within the international framework as well, to contain the pretensions of the powerful corporations or states, and to bolster the rights of the weaker actors. This is in essence the purpose of universalization, as distinct from market-driven globalization.

95. In future, an increasing number of problems will have to be solved by co-ordinated activities from the local to the global level. This requires a solid basis of shared values and

principles of action. Common efforts to solve global problems can only be done on the basis of universally recognized values and principles, which are now codified in human-rights agreements. Human rights therefore fulfill an important integrating function within the normative system of world society.

Concluding remarks.

96. The freedom from want, and the right to adequate food, has been a major concern in the evolution of world civilization, with increasing attention over the last decades. The commitment expressed by the Heads of State and Government in 1996 should now be implemented with full determination. A major instrument for this purpose is found in the human rights mechanisms: The rights, their national implementation, international co-operation for their realization, and the monitoring of performance.

97. The conditions under which these rights can be ensured are affected by global as well as domestic processes. The individual carries the first level of responsibility, but the state must ensure the conditions required for everyone to be able to enjoy their right, and the international community must ensure that states can manage that task.

98. In the spirit of the United Nations Charter Article 1(3) and articles 55 and 56, as well as on the basis of the specific requirements of co-operation found in the Covenant on Economic, Social and Cultural Rights Articles 2 and 11, states should address the issues arising from globalization by emphasizing the universal respect and application for the standards contained in human rights instrumentss.

99. To meet cases of emergency, states should collaborate in the provision of relief and assistance related to natural or man-made disasters and in relation to conflicts, and ensure its appropriate distribution to those most in need, including the growing number of refugees and displaced persons. States should also develop international legislation which ensures the enjoyment for all of the rights to food and nutrition. These concerns should permit any relevant international agreements, including trade, technology transfer and investment. States should refrain from assisting or tolerating action by individuals, corporations or other non-state actors which deprive vulnerable persons of their access to adequate food. International regulation will be required to ensure that corporations respect the rights for all to adequate food and nutrition.

100. In the further pursuit of these aims, we should expect and promote intensive

collaboration between states, intergovernmental organizations and the emerging international civil society as constituted by non-governmental organizations and networks. The discourse on the definition of the rights and the corresponding obligations are essential for that purpose.

Notes

- ⁱ Human Rights Study Series No. 1, United Nations publication, Sales No. E.89.XIV.2
- ⁱⁱ World Declaration on the Survival, Protection and Development of Children," and "Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children," both adopted at the World Summit for Children, September 30, 1990, reprinted in United Nations Children's Fund, *The State of the World's Children 1991* (Oxford University Press, New York, 1991), pp. 51-74.
- ⁱⁱⁱ Integrating Human Rights With Sustainable Human Development. A United Nations Development Program Policy Document, New York January 1998
- ^{iv} See the summary made at the consultation by the Chairman of the Committee on Economic, Social and Cultural Rights, UN doc. E/CN.4/1998/E/CN.4/1998/21, para. 11 and 12
- ^v Eide, Asbjørn et al: *Food as a Human Right*. The United Nations University, 1984.
- ^{vi} The study was completed in 1987, and subsequently published as Studies Series no.1 of the United Nations Centre for Human Rights.
- ^{vii} Oshaug, A., Eide, A. and W.B.Eide *Human rights: a normative basis for food and nutrition policies*. *J. Food Policy*, 19(6):491-516, 1996
- ^{viii} The Limburg principles are found in UN doc. E/CN.4/1987/17, annex. They were drawn up by a meeting of scholars and practitioners, convened by the International Commission of Jurists, at a meeting in Limburg (the Netherlands) in June 1986. They are also reproduced in *Human Rights Quarterly*, The Johns Hopkins University Press, vol. 9 No.2, 1987.
- ^{ix} Published by Martinus Nijhoff, Dordrecht 1987.
- ^x General Comment NO. 3 was adopted at the fifth session of the Committee, in 1990. UN doc. E/1991/23
- ^{xi} Oshaug, A. and W.B.Eide: *The World Food Summit: A milestone in the development of a human rights approach to food and nutrition*. *Hunger Notes*, 1998.
- ^{xii} 'Food policy' vol. 21 No.1: Special issue on nutrition and human rights. Guest editors: Wenche Barth Eide, Uwe Kracht and Robert E. Robertson. Pergamon Press, Oxford 1996
- ^{xiii} The Maastricht guidelines on Violations of Economic, Social and Cultural Rights can be found in *Netherlands Quarterly of Human Rights* vol. 15 No.2, June 1997, p.244-252
- ^{xiv} The report is found in UN doc. E/CN.4/1998/21
- ^{xv} From this debate, which has been quite intensive beginning with the tensions evolving within NGO circles prior to and at the Global Forum held in conjunction with the World Food Summit in November 1996, there seems in 1998 to be a move towards a consensus that food security does not need to compete with the right to food but that the two are complementary. This has some significance for the continuing efforts in several NGO circles towards the promotion of an international binding instrument on food security (references.), apparently in contrast to a possible instrument of the right to food (convention or additional protocol to the ICESCR) that has been raised as a possibility by some human rights advocates. For the time being, the Draft International Code of Conduct on the Human Right to Adequate Food (ref.) that became available in September 1997 can prepare the general climate of understanding of this complementarity and eventually give rise to more binding instruments, possibly one consolidated one that reflects the implications of this complementarity for rights holders and state obligations. *See: (Global Forum Statement, Rome 1998)*
- ^{xvi} On the question of resources, see Robert E. Robertson: *Nutrition, human rights and Resources*, in *'Food Policy'* vol.21 no. 1 p.57.

^{xvii} Detailed information about the monitoring functions of the various human rights bodies is found in 'Manual on Human Rights Reporting', published by the United Nations Office of the High Commissioner for Human Rights in co-operation with the United Nations Institute for Training and Research, United Nations, Geneva 1997. The description of the functions of monitoring given in the text below draws extensively on the contribution by Philip Alston to that publication.

^{xviii} UN Committee on Economic, Social and Cultural Rights: General Comment 11/05/98. UN doc. E/C.12/1998

^{xix} UNDP: Integrating Human Rights with Sustainable Human Development, a policy paper. UNDP; New York January 1998.