

# THE ARMLESS HAND: THE CALL FOR ANTI-HUNGER LAW AND THE INTERNATIONAL FOOD SECURITY TREATY

by John Teton

**Abstract**—The long-recognized human right of freedom from hunger remains unrealized because traditional remedies for addressing it continue to prove inadequate. Nonetheless, the goals of ending starvation and malnutrition worldwide can be achieved through a global commitment to the International Food Security Treaty, which will place that right under the protection of enforceable national and international laws, and catalyze the development of systems necessary to effect those goals.

EVEN THOUGH STORIES OF HUNGER in countries as far apart as North Korea and Somalia continue to appear in the press, many people don't realize that, worldwide, malnutrition runs up a Third Reich-scale death toll every couple of years and stunts the bodies, lives, and spirits of about nine hundred million others.<sup>1</sup> Foreign aid and sustainable trade and agriculture programs are vital to ending hunger, but they cannot accomplish the task on their own. Such remedies lack the strength to overcome either the lassitude of those who see hunger as inevitable or the aggression of those who employ it as a weapon. To reach the needy, the helping hand requires the long arm of the law.

While malnutrition arises from poverty, floods, and various other causes, people don't actually starve now unless someone wants them to starve. Yet famines — attributed by Nobel Laureate economist Amartya Sen to socio-political factors<sup>2</sup> — prove resistant to even the best trade, aid, and agricultural development programs, with criminals employing hunger as a weapon and their victims suffering in a void of lawlessness.

Yet in the more than sixty years since freedom from hunger became part of the UN's 1948 Universal Declaration of Human Rights (UDHR) and was confirmed as the only "fundamental" human right in the 1966 International Covenant on Economic, Social

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and Cultural Rights (ICESCR), the world has failed to employ enforceable law in service of that goal. Instead, strategies for beating back hunger remain mired in an endless shuffling of trade, agriculture, and aid paradigms, while human rights law is neglected by some of the most established figures and agencies seeking a reduction in world hunger.

This pattern is exemplified by a 2009 article in *Foreign Affairs*<sup>3</sup> in which former World Food Programme Executive Director Catherine Bertini and former US Agriculture Secretary Dan Glickman focused entirely on modifications of trade and agriculture policies to alleviate hunger with not one reference to human rights in an article of nearly five thousand words. Readers were left to their own devices to learn of the UN's record of grappling with the right to food (sometimes referred to as the right of freedom from hunger), including the 1996 World Food Summit and its Food and Agriculture Organization's (FAO) more recent experiment with a Right To Food office, which has attempted to promote a wide array of hunger alleviation policies.

### Social Change and Hard Law

Evils like enslavement and hunger tend to prevail as long as legal protection for the human rights to be free of those evils are ignored. History has shown that virtually every major social change from slavery abolition to the enfranchisement of women to halting child labor in heavy industry has required hard law for its realization.

Nonetheless, the approach taken by the FAO's Right to Food office was just as bereft of hard law as the Bertini-Glickman prescriptions. Its mission has been the promotion of hundreds of food security policies as far-ranging as nutrition education in schools, agricultural market improvements, elimination of export subsidies, debt relief, various green and pro-democracy practices, support for the World Trade Organization market-oriented trading system, and "protection of all human rights," — all corralled into nineteen classifications in a lengthy document referred to as "Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security."<sup>4</sup> Abjuring any call for formal national obligations, the Guidelines couch suggestions in such language as "States are invited to consider . . ." juxtaposing hunger alleviation with scores of issues that have nothing to do with recognized human rights, even in the spectacularly broad Universal Declaration. The Guidelines' implicit rejection of binding agreements prolongs hunger eradication by dragging it through such contentious issues as genetically modified foods, lifting tariffs, and freedom of assembly, to name just three of scores of Guidelines suggestions bitterly opposed by various constituencies.

Enforced law is society's signal that it takes the objectives of the law seriously and understands that criminals, such as those who would use starvation as a weapon, are unlikely to be impressed by invitations to consider changing their ways. The weakness of timid

politesse as a protector of a human rights is well in evidence in the UN's Economic, Social and Cultural Rights Committee's report expressing "concern about . . . a man-made famine as a weapon of war," urging "the state party to address the root causes of the problem of internally displaced persons."<sup>5</sup> That was the human rights salvo the UN aimed in response to the atrocities in Darfur – more than eleven years ago.

The vicious worsening of the situation in Darfur in the years following that murmured call teaches a lesson that should have been learned long ago. No doubt some slave marketers in the mid-19th century United States were "invited to consider" abandoning their livelihood, but they and their fellow Southerners chose to fight a war that devastated its population instead. More recently, Sudanese President Omar al-Bashir might have been invited to consider facing justice at the International Criminal Court, however, he chose instead to cut the few NGO lifelines that were keeping thousands of his malnourished victims alive. Criminals either know when the international community means business, or, as Saddam Hussein discovered when he tried to annex Kuwait, they find out soon enough.

Thus proponents of human rights voluntarism and agriculture experts like Bertini and Glickman who ignore the right to food pass each other like ships in the night, with neither headed in a direction likely to end hunger. One overburdens hunger eradication with a heavy cargo of controversial issues, inadvertently consigning the right of freedom from hunger to a largely scholastic exercise with little on-the-ground influence; the other dismisses it altogether while pressing for a modest upgrade of the existing toolkit that has proven so unequal to the task of ending hunger thus far.

### **The Rise of Strong Anti-Hunger Law**

A growing recognition of the inadequacies of those two approaches – and the continuing toll of at least 22,000 deaths from malnutrition each day – has led many leading figures in hunger eradication, economics, international law, politics, and religion (including Amartya Sen, UN Global Ambassador on Hunger George McGovern, and UN Undersecretary-General Maurice Strong) to conclude that the world cannot muster a serious attack on hunger until it enacts serious international human rights law targeted for that purpose. Such law must achieve crucially broad consensus by focusing on the few core principles of hunger eradication that are at once most essential and most likely to win acceptance.

The legal instrument they support to achieve that goal is the International Food Security Treaty (IFST), which aims to place the human right of freedom from hunger under the protection of enforceable international law.<sup>6</sup> The draft treaty and statements of many of its expert supporters can be readily found at [www.treaty.org](http://www.treaty.org), but its principles are few and clear enough to bear stating here. It requires signatory nations to:

- 1) *Guarantee at least minimal nutrition* for people within its borders who can't get access to it on their own;
- 2) *Contribute to a world food reserve and resource center* for any nation needing emergency help to meet that guarantee;

- 3) *Establish and enforce law* against the use of hunger as a weapon;
- 4) *Support UN food security enforcement actions* if it's proven that any nation is unable or unwilling to enforce that law on its own.

The IFST would prohibit the use of starvation as a weapon and deadly variations on the theme, such as refusals to accept humanitarian aid from countries deemed to be ideological foes and deflections of food supplies to military forces away from the populations for which they were intended. Maneuvers like these contributed to the severe famine in North Korea that began in the mid-1990s and the more recent blocking of NGO food aid from those in need in Somalia, Libya, and Syria. The Treaty would also provide additional moral leverage for nations to pressure treaty-violating states by withholding trade preferences, consular protocols, visas, and foreign aid. Military intervention would be a last resort, as determined and supported by broad international cooperation of the kind that arose in response to the warlord-driven Somalia famine of 1992–93 and to Muammar Qaddafi's blocking of food and water supplies to the city of Zawiya during the 2011 Libyan uprising.

Finally, through establishment of the World Food Reserve and Resource Center (WFRRRC), the IFST would establish a mechanism to head off hunger crises as soon as they erupt or even threaten to erupt. No country facing such a desperate emergency should need to issue scattershot appeals through the media and the internet, pleading for help which comes too late for many, if it comes at all. The World Food Programme could function as the nucleus of the Center and, operating in concert with other related NGOs and UN agencies, create a comprehensive hunger prevention and response system mandated for all Treaty signatories.

Civilization evolves. Just as ancient Rome's innovation of a trained, well-equipped fire department became critical to the lives of cities, so too the IFST's World Food Reserve and Resource Center is essential to the well-being of the world.

### **Evolution of the IFST: Problems and Promise**

Since the origin of the Treaty Principles in California in 1993, the IFST Campaign has come to be seen by many as comparable to that of the movements for slavery abolition or for universal enfranchisement of women. It has now reached the point where the Treaty must be brought to the UN by member states, a process which will require grassroots pressure upon political leaders around the world. Once presented for consideration, subsequent work will focus on gathering ratifications, establishing the IFST infrastructure, and pushing for universal adoption and compliance.

Along the way, Treaty advocates can expect to encounter the kinds of obstacles that accompany every major shift in social justice structures. The arguments against it can be expected to include:

#### ***1. It's untried and unrealistic and will never happen.***

Such nihilistic claims, leveled reflexively by shortsighted observers at many ultimately successful social justice movements, often prove poor predictors of events. To the extent

they retard progress, that negativity can prove self-fulfilling and should be rejected in the battle against hunger, now that the means to end it are at hand.

Precursors for every part of the IFST already exist. The UN's Maurice Strong, a senior adviser to the World Bank and leader of the international response to the Sudan famine in the 1980s, has described the Treaty as potentially "the centerpiece of a whole system by which the capacity of the Earth to feed its people is translated into a real commitment to do something, because there's no fundamental need for hunger now, and certainly none for starvation."<sup>7</sup> Some members of the US Congress have already judged the IFST "doable," partly because of its stovepipe-narrow focus on ending malnutrition and starvation (a vision rooted in virtually all the world's religions).

### ***2. States will be resistant to making strong international commitments.***

Like businesses, governments recognize that formal commitments are sometimes essential to achieving mutually desired goals that would otherwise remain beyond reach. On their own or in response to public pressure, national governments have made innumerable mutual commitments, whether for economic reasons, as cobbled together at Bretton Woods, for environmental protection, like the Montreal treaty on ozone, or for humanitarian and public health reasons, like the World Health Assembly assault on polio.

### ***3. The IFST's enforcement provisions could trigger military conflicts.***

Law enforcement decreases the likelihood of crimes ranging from double-parking and reckless driving to bank robbery, rape, and murder. The very existence of the IFST would exert inhibitory pressure on those who would wield the vicious weapon of starvation. As UN Secretary-General Kofi Annan told the General Assembly at the opening of its 1999 session, the moral and logistical readiness to launch international interventions should cause would-be criminal governments to recognize that they cannot embark on crimes against humanity "in expectation of sovereign impunity."

### ***4. The foreign aid component of the IFST invites corruption.***

Some volunteer firefighters have committed arson and some non-profits have had funds embezzled from within, but society is not about to disband fire departments and private charities on their account. Similarly, the United States and other nations for which aid has become an important component of foreign policy do not abandon it because some corruption occurs. Given the potential IFST dividends for global public health and international stability, better to bring oversight – and law enforcement – to bear upon WFRRC operations than to permit fear to kill the program before it's born.

### ***5. It will cost too much.***

No one can judge the cost of the IFST prior to an analysis based on the terms being negotiated by the states parties as the final draft nears completion. Ideally, such a judgment should consider a number of factors less simple to measure than the cost of a bushel of grain, including:

- *The costs of not utilizing the IFST to end malnutrition.* Malnutrition experts point to the toll malnutrition exacts upon the loss of intelligence and productivity in hundreds of millions of children. One Food and Agriculture Organization study estimates this one factor alone at close to a trillion dollars.<sup>8</sup>
- *A possible decrease in US foreign aid due to broad international commitments.* Due to obligations other nations would accept under the IFST, Americans might find that the Treaty actually reduces US expenditures for similar foreign aid purposes.
- *The costs of military interventions that IFST enforcement systems might prevent.* By causing those who would seek to use starvation as a weapon to abandon their plans, the IFST could save more money—and lives—in the long run than all the aid programs in the world, and cost a great deal less to boot.
- *For the United States, greater national security resulting from an enhanced global image.* The United States can only benefit from the lowering of tensions, as forced famines and refugee crises diminish, and from a reputation earned by championing the IFST, rather than lagging or, worse, obstructing it while other countries pulled ahead.

**6. *The United States would reject any agreement under which it might be held culpable of an international crime.***

US support for international humanitarian agreements dates back to the first Geneva Convention in the 19th century. While the United States' failure to abide by the Convention on Torture during the Bush-Cheney administration demonstrates the difference between ratification and compliance, the IFST presents far less of a problem because of the Treaty's narrow focus on the elimination of starvation—unknown in the United States for decades—and severe malnutrition, which is guarded against by federal subsidies in the United States for food purchases by those in poverty.

**7. *Food security enforcement action could lead to American military casualties.***

Some Americans may resist the Treaty on account of the still-reverberating televised atrocity perpetrated upon two US troops in the streets of Mogadishu during the 1993 multinational humanitarian intervention in Somalia. Yet when another enemy unleashed still worse horrors upon thousands of US troops in the Bataan Death March in 1942, Americans didn't throw up their hands and declare that they were done fighting tyranny. Further, under the IFST, commitments of forces would be multilateral to prevent burdens from falling unfairly upon the United States or any other single country. Additionally, as noted by US House of Representatives Hunger Caucus Co-Chair Jim McGovern, US championship of hunger eradication will lend new, positive heft to the country's global image to reduce the deadly virus of anti-Americanism,<sup>9</sup> which in turn should decrease the likelihood of attacks upon US forces and interests.

**Casualties of Delay and Rewards of Dispatch**

Hunger has hobbled or extinguished far more than a billion human lives since the 1996 World Food Summit. According to the UN, the number of hungry as of September

2010 increased by nearly one hundred million since the Summit fourteen years earlier.<sup>10</sup> Those officials and academics who have called for a “progressive realization of the right to food” ever since the Summit must recognize that there’s nothing progressive about things getting worse. In deadly crises like house fires and world hunger, indifference to haste makes fatal waste.

That’s why elimination of starvation and malnutrition must take precedence over all of the myriad issues various parties have crammed into the right-to-food portfolio. Issues extraneous to direct hunger eradication simply do not possess the appeal of halting the unnecessary hunger-related deaths of more than eight children each minute.

Furthermore, the IFST’s hunger eradication success could generate a much more propitious environment for a general embrace of the Guidelines. In 1998, Dr. Michael Windfuhr, a principal author of the document that later became the Voluntary Guidelines, observed the necessity for both approaches in a comprehensive attack on hunger.<sup>11</sup> The IFST does not address many admirable ideas listed in the Guidelines, but with all due respect to Voltaire, it’s not enough to observe that the perfect is the enemy of the good, for in spurning the opportunity to join forces with the good, a grand program like the Voluntary Guidelines, viewed by its proponents as perfect, can become the enemy of itself.

US Senator and Intelligence Committee Chair Dianne Feinstein has written that the IFST “could become a major element in stimulating global action to eradicate starvation and in strengthening the international justice system.”<sup>12</sup> Those who hope for a brighter future for the UN may be hard pressed to find any more effective means to enliven the organization than by deploying it to obliterate malnutrition via the IFST.

The IFST is rescuing the vision of ending hunger from the recesses of Biblical dreams and bringing it to the threshold of fulfillment. Now it is necessary for nations—both political leaders and the citizens who often need to illuminate the way forward—to take command of this worst of all public health crises. The international community has united before to conquer public health crises, as it did when launching the battle against polio in 1988. At that time, a third of a century after the Salk and Sabin vaccines had become available, polio was still paralyzing a thousand children every day. Advocates of the Global Polio Eradication Initiative then persuaded the World Health Assembly to put in motion the means to effectively end polio. Once the political will to execute an action plan to combat a great public health crisis was summoned, the polio epidemic was doomed, and the number of new cases declined 99.8 percent within fifteen years.<sup>13</sup> IFST advocates believe that, in time, the Treaty can essentially end world hunger, but accept that a decline of 99.8 percent by 2027 would be an excellent start. Whether that happens depends entirely on whether the international community can get beyond the fatalistic fallacy of mass hunger’s inevitability and pro-actively work to create

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hard law to end it once and for all. History can judge whether eliminating starvation and malnutrition from the planet constitutes a good beginning for the progressive realization of the right to adequate food, once society is roused to move the arm of the law lying listlessly at its side. ▣

– *Judith Heistein Sabba served as Lead Editor for this article.*

## NOTES

- <sup>1</sup> “925 million in chronic hunger worldwide,” *Food and Agriculture Organization of the United Nations Media Center*, 14 Sept., 2010 <http://www.fao.org/news/story/en/item/45210/icode/>.
- <sup>2</sup> Amartya Sen, “Democracy as a Universal Value,” *Journal of Democracy*, July, 1999, pp. 7–8.
- <sup>3</sup> Catherine Bertini and Dan Glickman, “Farm Futures,” *Foreign Affairs*, May–June 2009, <http://www.foreignaffairs.com/articles/64968/catherine-bertini-and-dan-glickman/farm-futures>.
- <sup>4</sup> Economic & Social Development Dept., FAO, “Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security,” Sept., 2005, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.48.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.48.En?Opendocument).
- <sup>5</sup> UN Committee On Economic, Social And Cultural Rights, “Concluding Observations of the Committee on Economic, Social and Cultural Rights : Sudan,” (2000) [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.48.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.48.En?Opendocument).
- <sup>6</sup> The draft treaty and statements of many of its expert supporters are available at [www.treaty.org](http://www.treaty.org).
- <sup>7</sup> Conversation with the author, March 5, 1999.
- <sup>8</sup> Economic & Social Development Dept., FAO, “Undernourishment Around the World,” *The State of Food Insecurity in the World, 2004*, <ftp://ftp.fao.org/docrep/fao/007/y5650e/y5650e00.pdf>, p.14.
- <sup>9</sup> Congressional Human Rights Caucus Briefing on Hunger, May 21, 2003.
- <sup>10</sup> “925 million in chronic hunger worldwide,” *Food and Agriculture Organization of the United Nations Media Center*, September 14, 2010 <http://www.fao.org/news/story/en/item/45210/icode/>.
- <sup>11</sup> Michael Windfuhr, conversation with the author, March 1, 1998.
- <sup>12</sup> Sen. Dianne Feinstein, letter to author, December 2, 1994.
- <sup>13</sup> World Health Organization, Global Polio Eradication Initiative : strategic plan 2004–2008, <http://www.polioeradication.org/content/publications/2004stratplan.pdf>, p.8.