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Selected Legal Issues in the World Population/Food Equation

Keywords

Economic Development, United Nations, Health, Human Rights Law, Pollution

Selected Legal Issues in the World Population/Food Equation*

VED P. NANDA**

In an incisive commentary¹ on the World Population Plan of Action (WPPA) adopted at the U.N. World Population Conference in August 1974,² an official in the U.N. Population Division³ remarked: "A breakthrough has indeed taken place and a momentum has been created and it is hoped that the response of the international community, which the Plan of Action requests, will be commensurate with the task."⁴

Although some observers have criticized the WPPA as ineffective,⁵ it was nonetheless the first international attempt to articulate a comprehensive global population policy.⁶ As such, the opening section of this paper will briefly note the highlights of the WPPA and will be followed by an equally brief look at the subsequent developments on the national, regional, and international population scene, especially the efforts made during the last three years towards the implementation of WPPA. That discussion will set the stage for the inquiry into the role of international law and institutions to cope with the problems created by a global scenario of a growing disequilibrium in the population and food equation. The concluding section of the

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1. Tabbarah, *Population Policy Issues in International Instruments: With Special Reference to the World Population Plan of Action*, 9 J. INT'L L. & ECON. 419 (1974).

2. Report of the United Nations World Population Conference, 1974 (Bucharest, 19-30 Aug. 1974) 3-26, U.N. Doc. E/CONF.60/19 (1975) [hereinafter cited as *The Plan*].

3. Chief, Population Policy Section of the Population Division at the United Nations Headquarters in New York.

4. Tabbarah, *supra* note 1, at 452.

5. See, e.g., remarks cited in 69 PROC. AM. SOC'Y INT'L L. 59 (1975).

6. For a discussion of the prior U.N. work in the field see Nanda, *The Role of International Law and Institutions Toward Developing a Global Plan of Action on Population*, 3 DEN. J. INT'L L. & POL'Y 1 (1973).

paper will offer a set of recommendations to national and international decisionmakers.

I. THE WORLD POPULATION PLAN OF ACTION: SOME HIGHLIGHTS

A. *Population Policies and Socio-Economic Development*

The single most noteworthy feature of the WPPA is its interweaving of the demographic trends, policies, and goals with political and socio-economic development; population goals are recognized as "integral parts" of social, economic, and cultural development.⁷ The Plan of Action, which "must be considered . . . as an instrument of the international community for the promotion of economic development, quality of life, human rights and fundamental freedoms,"⁸ states as one of its principles:

Population and development are interrelated: population variables influence development variables and are also influenced by them; thus the formulation of a World Population Plan of Action reflects the international community's awareness of the importance of population trends for socio-economic development, and the socio-economic nature of the recommendations contained in this Plan of Action reflects its awareness of the crucial role that development plays in affecting population trends.⁹

In one of the recommendations for action, the WPPA further recognizes the central place of economic and social development in the solution of population problems, and states that the

implementation of the International Development Strategy for the Second United Nations Development Decade, and the Declaration and the Programme of Action of the New International Economic Order as adopted at the sixth special session of the General Assembly should lead to a reduction in the widening gap in levels of living between developed and developing countries and would be conducive to a reduction in population growth rates particularly in countries where such rates are high.¹⁰

It is within this broader context of social and economic development that six major population variables are identified in the Plan of Action as constituting the Plan's population

7. The Plan, *supra* note 2, para. 14(a), at 7.

8. *Id.* para. 1, at 3.

9. *Id.* para. 14(c), at 7.

10. *Id.* para. 68, at 18.

goals and policies—population growth;¹¹ morbidity and mortality;¹² reproduction, family formation, and the status of women;¹³ population distribution and internal migration;¹⁴ international migration;¹⁵ and population structure.¹⁶

The Plan of Action envisages influencing and affecting these population variables indirectly by promoting socio-economic measures and programs¹⁷ and directly by family planning.¹⁸ Thus, countries wishing to affect fertility levels are recommended to “give priority to implementing development programmes and educational and health strategies which, while contributing to economic growth and higher standards of living, have a decisive impact upon demographic trends, including fertility.”¹⁹ Development goals which “generally have an effect on the socio-economic context of reproductive decisions that tends to moderate fertility levels” are enumerated: the reduction of infant and child mortality; the full integration of women into the development process especially by means of their greater participation in educational, social, economic, and political opportunities; the promotion of social justice, social mobility and social development; the promotion of wide educational opportunities for the young; the elimination of child labor and child abuse, and the establishment of social security and old-age benefits; and the establishment of an appropriate lower limit for age at marriage.²⁰

The Plan of Action’s emphasis on dealing with population problems within the overall framework of political, social, and economic development,²¹ thereby underscoring the close rela-

11. *Id.* at 9.

12. *Id.* at 10-11.

13. *Id.* at 11-14.

14. *Id.* at 14-16.

15. *Id.* at 16-17.

16. *Id.* at 17-18.

17. *Id.* para. 15(c), at 8.

18. *Id.* at 11-14.

19. *Id.* para. 31, at 12. *See also* Res. XVI, entitled “Population policies,” *id.* at 43-44, which recommends that “population development should be influenced through educational systems, public health, vocational and technical training and child welfare and that efforts should be made to obtain the participation of the community in the solution of the problems that affect it” *Id.* at 44.

20. *Id.* para. 32, at 12.

21. *See, e.g.*, “Policies whose aim is to affect population trends must not be considered substitutes for socio-economic development policies but as being integrated

tionship between the size and structure of the population and the population trends and economic and social development,²² calls for the integration of population measures and programs "into comprehensive social and economic plans and programmes and this integration should be reflected" in the development planning process within the countries.²³

Among other important features of the Plan of Action, four will be briefly mentioned here: (1) family planning and the status of women; (2) internal and international migration; (3) promotion of knowledge and policies; and (4) recommendations for implementation. Finally, the prominent place of the principle of national sovereignty in WPPA will be noted.

B. *Family Planning and the Status of Women*

Three principles articulate the approach adopted in the Plan of Action: (1) the family as the basic unit of society should be protected by appropriate legislation and policy;²⁴ (2) women have the right to complete integration in the development process; thus, they should have an equal access to education and equal participation in social, economic, cultural, and political life;²⁵ and (3) all

couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children, and their responsibilities towards the community.²⁶

Thus, the promotion of the status of women and the expansion of their roles in society is a major objective of the Plan of Action.²⁷

Recommendations for action include a periodic review of national legislation "having direct bearing on the welfare of the family and its members, including laws concerning age at marriage, inheritance, property rights, divorce, education, employ-

with those policies in order to facilitate the solution of certain problems facing both developing and developed countries and to promote a more balanced and rational development." *Id.* para 2, at 4.

22. *See, e.g., id.* para. 15(b), at 8.

23. *Id.* para. 95, at 23.

24. *Id.* para. 14(g), at 7.

25. *Id.* para. 14(h), at 7.

26. *Id.* para. 14(f), at 7.

27. *Id.* para. 15(e), at 9.

ment and the rights of the child"; the adaptation of national legislation "to the changing social and economic conditions and with regard to the cultural setting";²⁸ and measures to protect the social and legal rights and status of spouses and children in the case of dissolution or termination of marriage,²⁹ and in other settings.³⁰

The WPPA recommends that all countries:

(a) Respect and ensure, regardless of their over-all demographic goals, the right of persons to determine, in a free, informed and responsible manner, the number and spacing of their children.

(b) Encourage appropriate education concerning responsible parenthood and make available to persons who so desire advice and the means of achieving it.

(c) Ensure that family planning, medical and related social services aim not only at the prevention of unwanted pregnancies but also at the elimination of involuntary sterility and subfertility in order that all couples may be permitted to achieve their desired number of children, and that child adoption may be facilitated.³¹

The emphasis in the Plan of Action upon the human rights approach is evidenced by its invocation of the Proclamation of the International Conference on Human Rights in Teheran in 1968³² and the Universal Declaration of Human Rights³³ and by its first recommendation on the subject under which all countries, "regardless of their over-all demographic goals," are to respect and ensure the right of persons to determine the number and spacing of their children.³⁴

C. *Internal and International Migration*

The WPPA places the problems of internal and interna-

28. *Id.* para. 39(c), at 13.

29. *Id.* para. 39(e), at 13.

30. *Id.* paras. 40-43, at 14.

31. *Id.* para. 29(a)-(c), at 11.

32. *Cited in id.* para. 29, at 11. For the text of the Final Act of the Teheran Conference see Final Act of the International Conference on Human Rights, Teheran (22 April to 13 May 1968), U.N. Doc. A/CONF.32/41 (1968). The Teheran Conference urged the United Nations to "give close attention to the implications for the exercise of human rights of the present rapid increase in world population." *Id.* at 14-15 (resolution adopted 12 May 1968).

33. *Cited in The Plan, supra* note 2, para. 14(m), at 8.

34. *Id.* para. 29(a), at 11. *See also id.* para. 78(g), at 21. For a discussion on human rights aspects of family planning, see Tabbarah, *supra* note 1, at 435-39; Nanda, *supra* note 6, at 15-17.

tional migration in the human rights context:³⁵ governments are urged not to infringe on the rights of freedom of movement and residence within state borders.³⁶ Bilateral and multilateral consultations are urged to harmonize state policies on international migration.³⁷ Recommendations are made to protect the basic rights of migrant workers.³⁸ Special provisions are made to protect the cultural heritage of permanent immigrants³⁹ and to explore the possibilities of granting them national civil rights.⁴⁰ National and international policies are urged to avoid the "brain drain" of skilled persons from developing to developed countries.⁴¹

D. *Promotion of Knowledge and Policies*

Detailed measures are outlined "to promote knowledge of the relationships and problems involved, to assist in the development of population policies,"⁴² and to elicit popular support to accomplish the objectives of the WPPA. These measures include: demographic data collection and analysis; extensive research on demographic and population-related socio-economic and legal variables; training and education in fields related to population and dissemination of population information; and development and evaluation of population policies.⁴³

E. *Recommendations for Implementation*⁴⁴

National governments and regional and international intergovernmental and nongovernmental organizations are given guidelines for their actions to implement the WPPA. The United Nations is to monitor population trends and policies and periodically to review and appraise progress made towards achieving the goals and recommendations of the WPPA.

F. *The Prominence of the Principle of National Sovereignty*

While the principle of national sovereignty is recognized as

35. The Plan, *supra* note 2, paras. 46(a), 52-53, 56, 62 (on internal), 50-52 (on international), at 15-17.

36. *Id.* para. 46(a), at 15.

37. *Id.* para. 52, at 16.

38. *Id.* paras. 55-56, 62, at 16-17.

39. *Id.* para. 56, at 16.

40. *Id.* para. 60, at 17.

41. *Id.* para. 57, at 17.

42. *Id.* para. 71, at 19.

43. *Id.* at 19-23.

44. *Id.* at 24-26.

the governing norm in the formulation of a nation's population and population-related policies and programs of action, it is nonetheless acknowledged that the

effect of national action or inaction in the fields of population may, in certain circumstances, extend beyond national boundaries; such international implications are particularly evident with regard to aspects of morbidity, population concentration and international migration, but may also apply to other aspects of population concern.⁴⁵

However, the Plan of Action goes no further in reminding national governments of their international responsibility. For while the WPPA specifically states that countries "which consider their birth-rates detrimental to their national purposes are invited to consider setting quantitative goals and implementing policies that may lead to the attainment of such goals by 1985,"⁴⁶ this recommendation is not meant to "interfere with the sovereignty of any Government to adopt or not to adopt such quantitative goals."⁴⁷ That the formulation and implementation of population policies is the sovereign right of each nation is the very first principle enunciated in the WPPA⁴⁸ and is in line with the prior pronouncements of the various United Nations bodies on the subject.⁴⁹ A dual principle recognizes the "diversity of conditions within and among different countries"⁵⁰ and, therefore, the variety of national goals with regard to fertility.⁵¹ These two principles—national sovereignty and the recognition of diversity among nations—are instrumental in the WPPA's decision to consider unacceptable any single global approach or set of norms to population, hence the decision to set neither global population growth targets nor any world family-size norm.

II. DEVELOPMENTS TOWARDS THE IMPLEMENTATION OF WPPA

The various United Nations bodies working in the field of population responded to the Plan of Action by a "considerable expansion of interest and work."⁵² Since the WPPA placed pop-

45. *Id.* para. 99, at 24.

46. *Id.* para. 37, at 13.

47. *Id.*

48. *Id.* para. 14, at 6.

49. See Nanda, *supra* note 6, at 33-34.

50. The Plan, *supra* note 2, para. 14(i), at 7.

51. *Id.* para. 27, at 11.

52. U.N. Doc. E/CN.9/328, at 5 (1976).

ulation problems in a political and socio-economic developmental context, the U.N. Secretary-General reported in November 1976 that the U.N. work, "in such fields as human resources, food and natural resources, environment, health, education, employment, welfare, housing, human rights, political stability and the status of women, is becoming more explicitly relevant to the work in population. Conversely, the work in population is becoming increasingly oriented towards these related fields."⁵³ The nature of these activities has led the United Nations to recognize the need for concerted United Nations action to promote closer co-ordination. Specifically, the Secretary-General reported on (1) the population program development, especially the work of the United Nations Secretariat and the United Nations Fund for Population Activities (UNFPA);⁵⁴ (2) population dynamics, especially the work of the U.N. regional commissions in relating population and development and that of the U.N. Population Division in conducting demographic estimates and projections;⁵⁵ (3) work in fertility and family planning,⁵⁶ especially the Population Division's activities in planning and conducting research on the conditions and trends of global fertility and on ways to increase the effectiveness of family planning programs and the activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Children's Fund (UNICEF), the Food and Agricultural Organization (FAO), the World Health Organization (WHO), and the United Nations International Development Organization (UNIDO); and (4) work in collection and appraisal of population statistics,⁵⁷ population policy,⁵⁸ and communication, education, and information,⁵⁹ and training programs.⁶⁰

At the January 1977 meeting of the U.N. Population Commission, a subsidiary body of the Economic and Social Council (ECOSOC), reports were presented on the measures under-

53. *Id.* at 6.

54. *Id.* at 7.

55. *Id.* at 8-12.

56. *Id.* at 13-17.

57. *Id.* at 18-19.

58. *Id.* at 19-20.

59. *Id.* at 20.

60. *Id.* at 20-21.

taken at the national, regional, and international levels to implement the WPPA.⁶¹ In January 1976 the U.N. Secretariat sent a questionnaire to member states on population policies in the context of development and by November 1976, 107 answers had been received.⁶² Similarly, the Secretariat also sought information from the 104 nongovernmental organizations in consultative status with ECOSOC and from 23 intergovernmental organizations on actions taken by them.⁶³ Many organizations and states reported on positive action taken in support of the Plan's implementation.⁶⁴

In its draft resolutions, the Population Commission called for preparation of a manual for national planners⁶⁵ and for continued studies towards possible establishment of a worldwide computerized population information service (POPINS).⁶⁶ The Commission considered it desirable to appoint a small ad hoc group of experts to assist the Secretary-General in the review and appraisal of the WPPA.⁶⁷ The Commission's medium-term plan for the years 1978-81⁶⁸ envisages the continuation and expansion of the Commission's activities in light of the WPPA.

Among nongovernmental organizations, many educational, scientific, and religious organizations have focused their activities on nondemographic objectives of WPPA,⁶⁹ while others are concerned primarily with demographic objectives.⁷⁰ The activities of the latter cover a wide spectrum—international scientific research in demography and coordination of national research in demography, population and law, fertility research, research in population geography, world fertility survey, statistical development, and the establishment of a coordinated communications network to build up support for the implementation of WPPA.

61. U.N. Doc. E/CN.9/325 (1976).

62. Population Commission, Report on the 19th Session, 62 U.N. ECOSOC (Supp. 4) 28, U.N. Doc. E/5913 (1977).

63. *Id.* at 12.

64. *Id.* at 9, 12-13.

65. Draft resolution III, *id.* at 3-4.

66. Draft resolution II, *id.* at 2-3.

67. *Id.* at 20-22.

68. *Id.* at 39-59.

69. U.N. Doc. E/CN.9/325, at 19-26 (1976).

70. *Id.* at 27-38.

Actions by intergovernmental organizations⁷¹ include those by the Council of Europe, the Council for Mutual Economic Assistance (CMEA), Organization of American States (OAS), Organization for Economic Cooperation and Development (OECD), and Intergovernmental Committee for European Migration (ICEM).

The role of both customary and judge-made law as well as national legislation in influencing population dynamics is being increasingly appreciated by states and international governmental and nongovernmental groups interested in the formulation and implementation of population policies.⁷² However, a survey of recent development in laws affecting fertility and population growth demonstrates that such laws, especially in developing countries, are pronatalist and are often "inconsistent not only with the human rights recognized by the United Nations, but with the governments' own population policies."⁷³ The author of the survey concludes that a worldwide increasing awareness of these inconsistencies is taking place, that frequently inconsistent laws are modified when the states become aware of the inconsistencies, and that from all available evidence "domestic law changes will continue to increase at an ever more rapid rate until the human right of family planning becomes a reality throughout the world."⁷⁴ This indeed is an encouraging development which should be welcomed even by those who oppose the use of family planning as a direct means of controlling population growth rates. For the human right of family planning is not inconsistent with the statement that family planning alone is "not a solution to the problems of development and of raising standards of living."⁷⁵

III. THE POSSIBILITY OF A GROWING IMBALANCE BETWEEN POPULATION AND FOOD—A SCENARIO

The preceding discussion highlights the Bucharest consensus. It also shows impressive developments since Bucharest to implement the World Population Plan of Action. However, all

71. *Id.* at 39-47.

72. See Kellogg, *Reform of Laws Affecting Population Growth: Recent Developments*, 10 J. INT'L L. & ECON. 1, 34-36 (1975).

73. *Id.* at 36.

74. *Id.*

75. Population Commission, Report, *supra* note 62, at 10.

indications are that, notwithstanding the Bucharest consensus, population growth rates will not appreciably decline in a large number of countries, most of which happen to be developing and many of which are already food deficient.⁷⁶

The world population was estimated approximately at 2 billion in 1930, at 2.5 billion in 1950, at 3 billion in 1960, and at 4 billion in 1975. According to the current U.N. projections, using the medium variant, it would rise to 6.25 billion by the end of the century. If the constant variant (keeping constant 1970 fertility levels for all countries during 1970-2000) were used, the projected figure in the year 2000 would be 7.15 billion, while the low variant and high variant figures would be 5.84 billion and 6.64 billion respectively.⁷⁷ Although there are some recent indications that the fertility rate has begun to decline in many third world countries⁷⁸ and the improvement in mortality rates is being maintained at a much slower rate than had been expected,⁷⁹ these trends are so recent that no definitive conclusions can be drawn. Also, reportedly there has been a slight rise in the overall fertility level in Africa.⁸⁰

During the past decade the rate of population growth in developing countries was 2.4 percent annually, compared with 1.0 percent for developed countries.⁸¹ Unless the developing countries slow their population growth rates, there is likely to remain a precarious food/population balance, for otherwise a significant portion of the annual growth in their food production will be offset by the growth in population. Also, there is no guarantee that food production will increase from 3% to 4% per year over the next twenty-five years, a prerequisite to combat hunger.⁸² Recently the Declaration of Principles adopted at the United Nations Conference on Human Settlements (Habitat) noted that the human problems would be further aggravated as a result of the "[w]orld population growth

76. See Tables I & II *infra*. The statistics in this section are based on reports in *WORLD POPULATION PROSPECTS AS ASSESSED IN 1973*, U.N. Doc. ST/ESA/SER.A/60 (1977) [hereinafter cited as *WORLD POPULATION PROSPECTS*].

77. *WORLD POPULATION PROSPECTS*, *supra* note 76, at 14-15.

78. Population Commission, Report, *supra* note 62, at 7.

79. *Id.*

80. *Id.* at 8.

81. See U.N. Doc. E/CONF.65/3, at 30 (1974).

82. Newsreport, National Academy of Sciences, National Academy of Engineering, Institute of Medicine, and National Research Council, Aug. 1977, at 4.

trends which indicate that numbers of mankind in the next twenty-five years would double, thereby more than doubling the need for food, shelter and all other requirements for life and human dignity which are at the present inadequately met⁸³ Thus, if food and population are not brought into balance, the spectre of hunger and malnutrition will haunt mankind, and WPPA's objective of making mankind's future bright will be illusory.⁸⁴ International law and institutions do offer the necessary framework to meet this challenge.

IV. THE ROLE OF INTERNATIONAL LAW AND INSTITUTIONS IN BALANCING THE POPULATION/FOOD EQUATION

A. *Short Term Solution—the Food Component*⁸⁵

Although the problems of population growth present challenges which can only be met in a long term setting, the more urgent and immediate problem of hunger can and must be attacked on a short term basis. The main aspects of the hunger problem are that (1) a significant percentage of the world's population currently lives on a precarious balance between subsistence and starvation;⁸⁶ and (2) the potential for disaster

83. U.N. Doc. A/CONF.70/15, at 3 (1976) (emphasis deleted).

84. See *The Plan*, *supra* note 2, para. 14(a), at 7.

85. See generally Nanda, *The World Food Crisis and the Role of Law in Combating Hunger and Malnutrition*, 10 J. INT'L L. & ECON. 725 (1975).

86. Admittedly, the current grain outlook, at least on a short term basis, is quite favorable when viewed in terms of total world production. U.S. Department of Agriculture, *World Grain Stocks Forecast at Record in 1978*, FOREIGN AGRICULTURE 12 (May 23, 1977). However, production increases have yet to occur in those nations that most require them. As a result, if current projections prove true, developing nations will become increasingly dependent on food imports from developed nations (see note 88 *infra*).

Cereal deficits in developing market economies 1969-1971
and 1985, as assessed at the World Food Conference

	Major cereals (millions of tons)							
	Wheat		Rice		Coarse grains		Total	
	1969-1971	1985	1969-1971	1985	1969-1971	1985	1969-1971	1985
Developing market economy regions								
Africa	- 2	- 3	- 1	- 1	- 1	-17	- 4	-21
Latin America	- 4	-13	-	+ 1	+ 8	+17	+ 4	+ 5
Near East	- 6	- 6	-	-	-	-14	- 6	-20
Asia and Far East	- 8	+ 3	- 2	-39	-	-13	-10	-49
Total	-20	-19	- 3	-39	+ 7	-27	-16	-85

Joint Report of the Secretariats of the United Nations, the International Labour Organization, the Food and Agriculture Organization of the United Nations and the World Bank, *Social and Institutional Reform as a Means of Increasing Domestic Food*

inherent in this balance is magnified by two related economic problems:

- (a) the inability of the less developed countries (LDCs) to advance economic growth in general,⁸⁷ and food production in particular,⁸⁸ and

Production and Distributing It Equitably among the Population, ECOSOC 6, U.N. Doc. E/CN.5/537 (1976).

Given such dependence on developed nation breadbaskets, a shortfall in production in a major producing area such as North America, when combined with the limited purchasing power of the LDCs (*see* notes 89-91 *infra*) exposes these economically poorer nations to a potential food disaster far greater than the famines of the 1972-1973. *See id.* at 4-7.

87. With the exception of the OPEC nations, economic growth varies inversely with the severity of a nation's poverty.

Percent Growth Per Capita GNP

	1950- 1960	1960- 1970	1970- 1974
Petroleum Exporters	3.1	3.2	8.3
Fast Growing Exporters of Manufacturers	3.3	5.0	4.6
1974 per capita GNP greater than \$400	2.0	2.3	4.2
GNP between \$400 and \$200	2.0	2.3	2.5
Per capita GNP less than \$200	1.3	1.4	-0.4

UNCTAD, HANDBOOK OF INTERNATIONAL TRADE AND DEVELOPMENT STATISTICS 1976, at 339, U.N. Doc. TD/Stat. 6 [hereinafter cited as UNCTAD, HANDBOOK OF STATISTICS].

88. At the gross level, food production in LDCs has grown at a rate approximately equal to that of the developed nations.

Growth Rate of Total Food Production

	1961- 1970	1970- 1975*
Developed market economics	2.6	2.2
Developing economics (total)	2.8	2.0
Latin America	3.1	2.3
West Asia	3.3	3.3
South & Southeast Asia	2.6	2.2
Africa	2.9	0.7

* 1975 data preliminary

UNCTAD, HANDBOOK OF STATISTICS, *supra* note 87, at 376.

However, when food production is computed on a per capita basis, it becomes evident that population growth has more than eliminated any growth in food production.

Growth Rate of Per Capita Food Production

	1961- 1970	1970- 1975*
Developed Market Economies	1.5	1.3
Developing Economies (total)	0.2	-0.4
Latin America	0.2	-0.3
West Asia	0.5	0.7
South & Southeast Asia	0.1	-0.3
Africa	0.4	-1.9

* 1975 data preliminary

Id. at 377. See Burki & Goering, *Food Problems of the Low-Income Countries*, FINANCE & DEV. 15 (June 1977).

As a result LDCs now export less food and must import more from the developed nations.

Percentage of World Food Imports coming from:

	Developed Market	Developing
1955	48.7	42.6
1965	56.7	34.0
1973	65.1	27.0

Percentage of World Food Exports going to:

	Developed Market	Developing
1955	72.6	18.9
1965	69.6	18.8
1973	71.6	17.8

Percentage of Developing Country food imports coming from:

	Developed Market	Developing
1955	54.1	41.4
1965	58.7	32.4
1973	64.2	26.3

Percentage of Developing Country food exports going to:

	Developed Market	Developing
1955	79.0	18.4
1965	71.7	17.9
1973	73.5	17.4

UNCTAD, HANDBOOK OF STATISTICS, *supra* note 87, at 80, 82, 88, 90.

(b) the continued growth in the disparity of income between rich and poor nations⁸⁹ which would, and has, limited the ability of poor nations to purchase needed food supplies in time of food shortage.⁹⁰

89. Besides the Table at note 87 *supra*, note also the declining share of LDC participation in the world export market in general.

Percentage Share of World Exports

	LDC Non-OPEC	Major Petroleum Exporters
1950	24.3	6.2
1955	18.1	7.0
1960	14.7	6.6
1965	13.0	6.3
1968	11.8	6.2
1969	11.7	5.9
1970	11.4	5.5
1971	10.4	6.3
1972	10.3	6.0
1973	10.7	6.7
1974	10.3	14.9
1975	9.7	13.0

Id. at 37.

90. The income disparity between rich and poor, combined with the failure of LDCs to maintain their share of the world export market has not only increased LDCs' trade deficits in gross terms, but the percent of imports uncompensated by exports has also risen.

Trade Balance (Exports minus Imports)

Non-OPEC, developing countries

	(billions \$) Total	Percent of imports
1950-1952	— 1.72	— 9.5
1954-1956	— 2.40	—12.4
1959-1961	— 4.55	—19.7
1964-1966	— 6.24	—20.3
1969	— 7.51	—19.0
1970	— 8.64	—19.5

To forestall the inevitable disaster which will result from the continued deterioration of the food/population equation, certain emergency measures are required. These measures must go beyond mere loans—many countries already face severe debt management problems.⁹¹ Direct infusions of real resources are required in order to bolster LDCs' economies generally, and food production in particular.

Several strategies are available which will be conveniently categorized as intergovernmental, national, and nongovernmental.

(1) International intergovernmental strategies: On the international level the efforts of such U.N. organizations as the Food and Agriculture Organization (FAO), the Consultative

1971	—12.99	—26.4
1972	—11.24	—21.0
1973	—12.06	—16.5
1974	—30.24	—26.1
1975	—39.03	—31.7

Id. at 30. See IMF SURVEY, Sept. 20, 1976, at 273-76.

91. The trade deficits cited in note 90 *supra* have yielded corresponding debt burdens which in some instances threaten the very solvency of the nation.

Service Payments on Public and Publicly Guaranteed Debt
Billions of dollars

	1970	1971	1972	1973	1974
All Non-OPEC LDCs	4.7	5.0	5.9	8.0	10.6
Fast Growing Exporters	1.0	1.3	1.6	2.1	2.3
All Remaining LDCs	3.7	3.7	4.3	5.9	8.3
LDCs with less than \$200 per capita GNP	1.0	1.0	1.2	1.3	1.6

UNCTAD, HANDBOOK OF STATISTICS, *supra* note 87, at 272. See Third World Debt (editorial), Wall St. J., June 7, 1977, at 20; Beim, *Rescuing the LDCs*, 55 FOREIGN AFFAIRS 717 (1977); Payer, *Third World Loans Might Make Our Banks Beggars*, 20 BUS. & Soc. R. 56 (1976).

Some recent commentaries have noted a temporary easing of the debt problem among some countries. ECONOMIST, April 16, 1977, at 91. Cleveland & Brittain, *Are the LDCs in Over Their Heads?*, 55 FOREIGN AFFAIRS 732 (1977). However, this trend offers no assurance that at the time of the next shortfall in food production those LDCs experiencing debt difficulties will have recovered to the extent that they will be able to approach private lending sources for the additional funds required for major emergency food purchases.

Group on Food Production and Investment, the World Food Council, the International Fund for Agricultural Development, and the Consultative Group for International Agricultural Research all exhibit international concern for the food problem. Some of these organizations have already generated significant results.⁹² However, broader economic organizations such as the International Monetary Fund (IMF) and the World Bank can also focus their concerns more, if not predominantly, on the need for food production. For example, IMF which is generally more concerned with balance of payments problems than with economic development can nonetheless help to forestall a food emergency by establishing special credit which can be used by LDCs who, for whatever reason, are forced to import substantial quantities of food. This "food facility" would arise from the same policy objective, the desire to protect exporters of primary products, which spawned the Compensatory Financing Facility.⁹³ Possibly funds for the food facility can be supplied out of the new emergency-oriented "Witteveen Fund."⁹⁴ However, the strict IMF economic supervision which results from using such extraordinary financing facilities⁹⁵ should not be imposed on food facility uses. Often IMF economic policies are contrary to those of recipient nations and can impose a deterrent to IMF borrowing.⁹⁶ Whereas in the normal case, such restrictions may well be justified so that IMF can ensure that efforts are taken to redress economic imbalances, the same rationales do not apply in the case of a food emergency. A food

92. U.S. Department of Agriculture, Kriesberg, *World Food Conference: Two Years Later*, FOREIGN AGRICULTURE 12 (Mar. 7, 1977); *U.N. Monthly Chronicle* 37 (July 1977); International Co-operation and Co-ordination within the United Nations System: Annual Report of the Administrative Committee on Co-ordination for 1975-1976, Part 2, ECOSOC, 29-34, U.N. Doc. E/5803/Add. 1 (May 12, 1976).

93. The Compensatory Financing Facility is designed to compensate exporters of primary products who experience shortfalls in exports. In the case of disasters or major emergencies financing under this facility can be increased. IMF SURVEY, SUPPLEMENT ON THE FUND 3 (Fall 1976).

94. In the case of the Compensatory Financing Facility credits are granted only if the IMF is satisfied that "the member will cooperate with the Fund in an effort to find appropriate solutions for the balance of payments difficulties." *Id.*

95. See C. PAYER, *THE DEBT TRAP: THE IMF AND THE THIRD WORLD* (1974).

96. The "Witteveen" Supplementary Financing Facility was created through contributions of richer nations, including OPEC nations. The facility is designed to meet severe balance of payments problems. Credits are received only with accompanying severe IMF supervision. IMF SURVEY, August 15, 1977, at 257; ECONOMIST, August 13, 1977, at 67.

shortage, unlike a general export shortfall, does not derive so much from improper local monetary policies as it does from a broad imbalance of food production resources and reserves. The proper response to nations who must use the food facility is, rather, intensified food development in these shortfall countries by international and national development agencies.

Efforts at developing local food production offer the best prevention against food emergencies. Fortunately IMF's sister organization, the World Bank, has expressly adopted a purposeful policy of increasing such local production of food.⁹⁷ The percentage of World Bank funds spent on agriculture is expected to rise from 11% in the mid-sixties to 34.5% by the late seventies.⁹⁸

(2) National strategies: On the national level, individual developed nations can offer direct aid, either money or technical expertise, to LDCs to help their food efforts.⁹⁹ Specifically, the Arab countries which have recently formed their own Mini-IMF¹⁰⁰ may wish to concentrate on more agricultural projects, such as the \$550 million project to develop agriculture in the Sudan.¹⁰¹

(3) Nongovernmental strategies: Finally, and perhaps most importantly, individual businesses can play a predominant role in stimulating food production. With agriculture in LDCs often plagued by underinvestment, the potential for money profit as well as social profit is great.¹⁰² Business leaders

97. Burki & Goering, *supra* note 91.

98. *Id.* at 44.

99. As an example of an initial step in this direction see, e.g., Foreign Assistance Act of 1974, Pub. L. No. 93-559, § 8(a), 88 Stat. 1796 (codified at 22 U.S.C. §2182a (Supp. IV 1974)).

100. See *ECONOMIST*, April 23, 1977, at 92.

101. *Wall St. J.*, May 17, 1977, at 10.

102. For example, consider the marginal productivity of fertilizer in less developed nations as compared with their more industrialized partners.

Comparison for the period 1953 to 1973

	Developed	Developing
Increase in grain production (millions of tons)	344.0	252.0
Increase in fertilizer consumption (millions of tons)	44.1	15.96
Apparent response ratio (tons of grain produced per ton of fertilizer applied)	7.8	15.8

must strive to develop food technologies that are suited for the target region. Too often the North American style of mass food production is inappropriate for undercapitalized and underdeveloped nations.¹⁰³ Individual nations can aid this process by creating incentives for business to develop technologies suited for these less developed regions.¹⁰⁴ Expanded cooperative ventures between international intergovernmental organizations and the private sector offer great promise.¹⁰⁵

In conclusion, the first step which must be taken is a recognition by everyone—international organizations, nation states, and private businesses—that the food problem is everyone's responsibility. Considerations of national interest which often dictate restricted and protectionist national policies must be abandoned in a comprehensive effort to direct agricultural capital to those nations with the greatest need.¹⁰⁶

U.S. Policy and World Food Needs: Hearings Before the Subcomms. on International Organizations and Movements and on Foreign Economic Policy of the Comm. on Foreign Affairs, 93d Cong., 2d Sess. 76 (1974). Fortunately fertilizer capacity in LDCs has increased markedly in recent years. U.S. Department of Agriculture, Kayser, *Some Fertilizer Importers May Be Future Exporters*, FOREIGN AGRICULTURE 15 (April 25, 1977).

103. The Impact of Multinational Corporations on Development and on International Relations, ECOSOC, U.N. Doc. E/5000/Rev.1, ST/ESA/6 (1974); Massignon, *Rural Development in the Third World: A vital need and challenge to Aid Programmes*, 67 OECD OBSERVER 35, 37 (Dec. 1973); I. Palmer, SCIENCE AND AGRICULTURAL PRODUCTION (UNRISD Report No. 72-8, 1972).

104. Unfortunately to date many changes in the U.S. tax laws, for example, have discouraged participation in overseas ventures. New measures increasing the taxes on U.S. employees working abroad are particularly onerous. Tax Reform Act of 1976, § 1011, amending I.R.C. §§ 36, 911. See Wall St. J., July 27, 1977, at 1. Least understandable, however, is the repeal of special tax advantages for investments in less developed nations. Tax Reform Act of 1976 § 1022, amending I.R.C. § 1248(d)(3). The rationale for repealing the provision was that the Congress doubted that the provision provided any real incentives to invest in LDCs. Committee on Taxation, General Explanation of the Tax Reform Act of 1976, 94th Cong. 2d Sess. 230 (1976). However, rather than draft a new more effective provision, Congress eliminated the tax incentive entirely.

105. Private co-financing of development projects with the World Bank has provided a means to prompt private lending where absent the public participation, the risk would be too great for the private lender alone. Hornstein, *Cofinancing of Bank and IDA Projects*, FINANCE & DEV. 40 (June 1977).

106. For example, back during the food crises of the early 70's the United States restricted fertilizer exports so that domestic farmers would have first crack at this scarce input. Grant, *Food, Fertilizer and the Global Politics of Resource Scarcity*, 420 ANNALS AM. ACAD. POLITICAL & SOC. SCI. 11, 20 (1975). U.S. trade and aid policies exhibit a lack of visionary focus which would ensure an equitable worldwide distribution of food. Restrictive export policies can keep valuable grains at home when they

B. *Long Term Solution—the Population Component*

As noted earlier, the World Population Plan of Action (WPPA) did acknowledge that national action or inaction in the fields of population had international implications,¹⁰⁷ but offered no guidelines to balance national sovereignty and international responsibility. It also failed to explore the nature of any action the international community would be authorized to take to prevent and deter the adverse effects of national action or inaction transcending national boundaries.

It is submitted that, notwithstanding the acceptance of national sovereignty as the basic tenet of the contemporary international system, there are substantial reasons why national population problems must not be considered to fall within the reserved domain of a state under Article 2(7) of the United Nations Charter which enshrines this concept.¹⁰⁸ The subject of population has now become a matter of international concern, because of the expectations created by the flow of events within the United Nations over the past decade. A few examples follow.

The U.N. record demonstrates that a substantial segment of the U.N. membership has either gone on record at the deliberations of the various U.N. bodies and regional commissions in favor of concerted international regional and national action to lower fertility rates or has undertaken unilateral or bilateral measures to do so.

U.N. Secretary-General, Kurt Waldheim, and his predecessor, U Thant, repeatedly expressed concern over the international nature of the problems arising out of rapid population growth. To illustrate, seven years ago, U Thant said: "World attention has now been focused on the realities of the demographic situation and it remains for the United Nations, the specialized agencies and other international bodies to exert the

are most needed abroad. U.S. Department of Agriculture, Hathway, *The Relationship Between Trade and Food Security*, FOREIGN AGRICULTURE 10 (June 6, 1977). Similarly the Public Law 480 food aid programs operate only after domestic requirements have been satisfied. GAO Report to Congress, Comptroller General of the United States, *The Overseas Food Donation Program—Its Constraints and Problems* 244, 264 (Apr. 21, 1975).

107. The Plan, *supra* note 2, para. 99, at 7.

108. The author has drawn upon his earlier work, note 6 *supra*.

leadership required."¹⁰⁹ Similarly Kurt Waldheim said on September 20, 1972:

Population, development and environment make up an important element in the construction of a new economic and social order which, along with the maintenance of peace, constitutes the principal challenge of our generation. The United Nations is again taking the leadership"¹¹⁰

Appeals for slowing population growth have been made by various U.N. organs and bodies, including the World Bank¹¹¹ and WHO,¹¹² and a number of U.N. organizations have undertaken programs to assist national family planning efforts.¹¹³

Additionally, since pressures of population in a state or region may not only lead to discontent, aggressive behavior, and alienation,¹¹⁴ but are also likely to cause political instability, social unrest, and internal disorders,¹¹⁵ they might endanger international peace and security either by involving or affecting neighboring states or by involving outside powers, especially major powers, in internal conflict. Pressures of population are likely to encroach upon the right of the individual by restricting his or her freedom by the likely imposition of stricter regulations, and by impeding the attainment of the quality of life as enunciated in the U.N. Human Rights Program, especially in the International Covenant on Economic, Social and Cultural Rights.¹¹⁶

It is evident from the past experience that Article 2(7) is to be interpreted in a contextual setting. For example, its interpretation at the United Nations has varied over time on the

109. 25 U.N. GAOR, Supp. (No. 1) 124, U.N. Doc. A/8001 (1970).

110. 16/17 POPULATION NEWSLETTER 41 (Summer 1972).

111. U.N. Doc. E/CN.9/328, at 13, 15 (1976).

112. *Id.* at 14, 15.

113. *Id.* at 13-17; Population Division of the Department of Economic and Social Affairs, U.N. Secretariat, Population Policies and Programmes, 2 The Population Debate: Dimensions and Perspectives, Papers at the World Population Conference, Bucharest, 1974, at 583, U.N. Doc. ST/ESA/SER.A/57/Add.1 (1975).

114. L. LEVI & L. ANDERSSON, PSYCHOSOCIAL STRESS: POPULATION, ENVIRONMENT AND QUALITY OF LIFE xii (1975).

115. *See, e.g.*, S. HARTLEY, POPULATION: QUANTITY VS. QUALITY 275-87 (1972); Choucri, Political Implications of Population Dynamics: A Critical Assessment, 2 The Population Debate: Dimensions and Perspectives, Papers at the World Population Conference, Bucharest, 1974, at 606, U.N. Doc. ST/ESA/SER.A/57/Add. 1 (1975).

116. For the text of the covenant *see* 21 U.N. GAOR, Supp. (No. 16) 49, U.N. Doc. A/6316 (1966).

issues of human rights, especially apartheid and colonialism. While in the early discussions at the United Nations on these questions there was strong support among the membership to deny the organization a right to intervene, thus treating the matter as one of domestic jurisdiction, a marked shift seems to have occurred, especially during the 1970s. Hence, these human rights issues are no longer considered to fall under the umbrella of Article 2(7) and have been transformed into matters of international concern. A similar situation seems to be emerging regarding the subject of population.

It is realized that the relabeling of population issues as essentially a matter of "international concern" instead of "national concern" offers no guarantee that national and international responses will be accordingly affected. Prior U.N. experience provides ample teaching that the collective sanctioning process is likely to be inadequate and ineffective. For example, South Africa has flouted all U.N. resolutions and declarations on apartheid, and sanctions against South Africa and Rhodesia have had little, if any, impact on those countries. The focus here, however, is not on compelling compliance through sanctions but on reaching certain goals through the treatment of population as a problem of international concern. These goals include the enhancement of a worldwide awareness of the gravity of the problem; further refinement of the WPPA and further improvement and strengthening of means of implementation; and the development of national population policies and programs.

The U.N. system seems to offer the best prospect for dealing with the global issues of population. However, in order to be effective, the U.N. machinery responsible for handling these issues will have to be strengthened, and the United Nations and its specialized agencies will have to expand their capability and activities in their respective fields so as to relate them to population and family planning. The need is obvious for adequate funding and the pooling of all available international resources in the population field. Extensive technical and financial assistance to the needy states will be required. The following proposed institutional changes are illustrative of the changes needed to effectuate further improvement and strengthening of the existing machinery:

1. The establishment of a global population agency, headed by a U.N. High Commissioner on Population.

2. The proposed population agency should be closely related to the U.N. environmental program.

3. The proposed agency should coordinate all current U.N. efforts of demographic and family planning research and assistance, with primary emphasis on:

a. initiating and promoting practical research on population, especially focusing on the needs of the developing countries and coordinating its activities with the U.N. development efforts and other efforts in dealing with resources, especially food, and environmental problems;

b. providing training to personnel with the U.N. system and personnel selected from those engaged in national population programs on various aspects related to the population field, such as health, development of human resources, and urban and rural development planning;

c. acting as an advisor to the various U.N. regional and national agencies in formulating population policies, programs, projects and strategies; and

d. acting as a clearing house for all U.N. related population activities.

4. The proposed agency should establish a set of priorities in research and action programs and should benefit from the prior work of the Population Commission in this regard.

5. The population agency should organize periodic world population conferences on the pattern of the earlier world conferences and should encourage the holding of regional conferences.

6. Regional and national population agencies should be established to effectuate the global population strategy.

7. A U.N. World Population Institute should be established.

This proposal opts for incentives instead of coercion and enforcement machinery. In problem situations, such as the refusal of a state or a number of states to become a part of this global venture, or the continued upward spiral of population growth in a state or a number of states in one or more regions despite the encouragement and active assistance of global and

regional institutions, the High Commissioner on Population could be required to bring the matter to the attention of the U.N. General Assembly, the specialized agencies, and the regional and national entities established to deal with the problem.

Among other measures which could be taken to effectuate the compliance of a recalcitrant state, the World Bank, WHO, and donor countries could use their aid programs as leverage to bring about changes in recipients' population policies. An initial step would be to direct the recipients' attention to the need for identifying national population growth and national population goals in the context of national economic and social development goals, followed by the offer of appropriate technical and financial assistance to the existing national programs to slow down the rate of population growth and for the development of new such programs. Admittedly, it is not too farfetched to argue that if persuasion and encouragement, accompanied by widespread dissemination of information and active assistance were to prove futile, it might become necessary to consider the use of enforcement and coercive measures. After all, some states have already experimented with curbing by involuntary methods the traditional unrestricted freedom to procreate on the premise that parenthood is no longer a right but a privilege and that if voluntary means do not succeed, there is no alternative but to resort to coercive measures. At this stage, however, any discussion of the nature of such measures in the international arena is at best highly speculative.

V. CONCLUSION

It seems imperative that global food and population policies be implemented by concerted national, regional, and international action. To effectuate implementation, the existing institutions need to be further strengthened and improved. Additionally, the existing institutions and mechanisms need to be supplemented by the creation of new ones to deal with specific situations.

Ideally, the entire global ecosystem should be managed as a unit. The implementation of global food and population policies and plans of action are necessary first steps to reach that ideal and indeed appear essential to our quest for survival.

TABLE 1 WORLD POPULATION GROWTH ACCORDING TO FOUR VARIANTS OF PROJECTIONS, 1950-2000

<i>Year or period</i>	<i>Medium variant</i>	<i>High variant</i>	<i>Low variant</i>	<i>Constant variant</i>
	<i>Population (millions)</i>			
1950	2 501			
1955	2 722			
1960	2 986			
1965	3 288			
1970	3 610	3 610	3 610	3 610
1975	3 968	3 981	3 949	3 980
1980	4 374	4 414	4 316	4 428
1985	4 817	4 907	4 697	4 959
1990	5 280	5 445	5 089	5 579
1995	5 763	6 024	5 473	6 302
2000	6 254	6 638	5 840	7 153
<i>Average annual rate of growth (percentage)</i>				
1950-1955	1.69			
1955-1960	1.85			
1960-1965	1.93			
1965-1970	1.87			
1970-1975	1.89	1.95	1.79	1.95
1975-1980	1.95	2.06	1.78	2.13
1980-1985	1.93	2.12	1.69	2.27
1985-1990	1.84	2.08	1.60	2.36
1990-1995	1.75	2.02	1.45	2.44
1995-2000	1.64	1.94	1.30	2.54

Note: Population figures for 1950, 1955, 1960 and 1965 were estimated retrospectively.

Source: *World Population Prospects as assessed in 1973*, U.N. Doc. ST/ESA/SER.A/60, at 14 (1977).

TABLE 2 TOTAL ESTIMATED POPULATION BY MAJOR AREA AND REGION, 1950-2000, MEDIUM VARIANT
(Millions)

Major area and region	1950	1960	1970	1975	1980	1985	1990	1995	2000
World total	2 331	2 986	3 610	3 968	4 374	4 817	5 280	5 763	6 254
More developed regions	857	976	1 064	1 132	1 181	1 231	1 277	1 320	1 360
Less developed regions	1 644	2 010	2 526	2 836	3 193	3 586	4 003	4 443	4 894
Africa	219	273	352	401	461	532	614	708	814
Eastern Africa	62	77	100	114	132	153	178	207	240
Middle Africa	25	32	40	45	51	58	67	76	88
Northern Africa	52	66	86	98	113	130	150	171	192
Southern Africa	14	18	24	28	32	37	43	49	56
Western Africa	65	80	102	116	132	153	177	206	238
Latin America	164	216	283	324	372	426	486	551	620
Caribbean	17	20	25	27	30	33	37	41	45
Middle America	36	49	67	79	93	109	128	149	173
Temperate South America	25	31	36	39	42	44	47	50	52
Tropical South America	86	116	155	180	207	239	273	311	351
Northern America	166	199	228	237	249	262	275	286	296
East Asia	675	788	927	1 006	1 088	1 165	1 233	1 302	1 370
China	558	654	772	839	908	973	1 031	1 090	1 148
Japan	84	94	104	111	118	122	126	130	133
Other East Asia	33	39	51	56	63	69	76	83	89
South Asia	693	856	1 101	1 250	1 427	1 625	1 836	2 054	2 287
Eastern South Asia	173	217	283	324	371	423	479	536	592
Middle South Asia	475	581	742	888	954	1 083	1 222	1 363	1 501
Western South Asia	44	58	77	88	102	118	136	155	174
Europe	392	425	459	473	487	500	514	527	540
Eastern Europe	89	97	103	106	110	113	116	118	121
Northern Europe	72	76	80	82	84	86	87	89	91
Southern Europe	109	118	128	132	137	142	147	151	156
Western Europe	122	135	148	153	156	160	164	168	171
Oceania	13	16	19	21	23	26	28	30	33
Australia and New Zealand	10	13	15	17	18	20	22	23	25
Melanesia	2	2	3	3	4	4	5	5	6
Micronesia and Polynesia	1	1	1	1	2	2	2	2	2
USSR	180	214	243	255	268	282	294	305	315

Source: *World Population Prospects as assessed in 1973*, U.N. Doc. ST/ESA/SER. A/60, at 15 (1977).