

# ADVANCING THE RIGHT TO ADEQUATE FOOD AT THE NATIONAL LEVEL

Some Lessons Learned



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# 1 Introduction

*The right to adequate food is like music or soccer: an issue that moves society and joins together all its spheres, an issue that, at the same time, requires its most professional players to be engaged in the social cause of their countries.*

This publication attempts to summarize some experiences of FIAN, which, as an international organization for human rights, has been advancing and defending the right to adequate food for the past 22 years. Though written from a non-governmental perspective, the present document is directed not only to activists and organizations within civil society, but also explicitly to those public functionaries who seek to advance the right to food from their own field of expertise.

*The hypothetical reader of this text is a person involved in the fight against hunger and poverty, who, in seeking out new arguments, tools and approaches, has taken an interest in the right to adequate food and the best way to design and advance respective processes at the national level.*

The focus of this publication is, in the first place, the national application of the human right to adequate food in countries where the majority of people live in a state of hunger and malnutrition. Nevertheless, the methodology used here also applies to countries where the proportion of malnutrition is less. The first chapter deals with the relation between hunger/malnutrition and the associated human rights-based actions. The second chapter joins together conceptual and practical aspects of strategies and alliances. The third chapter analyzes the interaction between the national and international dimensions toward the application of the right to food at the national level, in light of the growing importance the process of globalization has had.

Each one of the aspects dealt with is analyzed from three angles: experiences, risks, and challenges. The publication concludes with a list of questions to analyze the actual situation in the respective countries and the panorama of perspectives in the advance and defense of the right to adequate food.

It is fitting to clarify that this publication does not attempt to introduce conceptual and methodological aspects of the application of the right to adequate food, for example, how to document violations of the right to food, how to monitor the right to food, or how to implement the capacity of this right. A variety of such publications are referenced in the text. These are also mentioned in the attached bibliography.

What we *do* seek to do in this text is to present a synthesis of lessons learned in order to strengthen the design and implementation of strategies and processes for the advancement and defense of the right to adequate food at the national level.

**Martin Wolpold-Bosien**  
FIAN International



## 2 Hunger as a Matter of Human Rights

### 2.1 THE RIGHT TO ADEQUATE FOOD - ALL VERY WELL, BUT YOU CAN'T EAT THE RIGHT

#### EXPERIENCES:

The fight for the right to adequate food occurs daily in hundreds of thousands of places; however, the victims of this fight are not concerned with what their struggle has to do with human rights. They have little interest in the idea of human rights because the idea itself does not put food on the table. You cannot eat the right to adequate food; the right is abstract while food is concrete.

The point of departure for the advancement of the right to adequate food is that the defense of it has to be concrete. Successful defence of or significant achievements in the advancement of the right to adequate food provide the most compelling evidence for convincing communities, organizations and institutions that combat hunger of the importance of the right to food. If a right to food based action has managed to stop a premeditated forced eviction of a farming community or an impoverished neighborhood, and the argument for the right to adequate food and other human rights has played an important part in the stoppage, the right is converted into something concrete. It is converted into tangible protection of the people involved, and of their access to adequate food, which is an integral part of human dignity.

*If the right to adequate food does not transform the reality of hunger, it is useless. The effective defense of the human right to food is evident in concrete cases where the struggle against hunger is presented as a human rights issue.*

#### RISKS:

Discussions on the right to adequate food are disconnected from the reality of hunger in which people live. Traditionally, public events on the theme of malnutrition have been held in hotels and buildings far away from the reality of the people. It is fitting to clarify that by holding events under these circumstances, always with the voice of the people affected by hunger left out of the discussion, we consider that the risk exists of negatively affecting the advancement of the right to adequate food at the theoretical and abstract level.

#### CHALLENGES:

The potential of the right to adequate food lies in its capacity to transform the persistent reality of hunger and malnutrition in the community, the country, and the planet. The principal challenge is to get the agents affected by hunger and malnutrition and the organizations that support them to view the right to food as an effective tool in their fight; as a real instrument to promote that which they aspire to: a life with adequate food, and a home in which hunger disappears.

## 2.2 THE FIGHT FOR THE RIGHT TO ADEQUATE FOOD HAS MANY PSEUDONYMS

### EXPERIENCES:

In the struggle for survival, the poor are often faced with daunting and immediate questions concerning their livelihood: Where to get clean water? How to pay for bread, for breakfast, for food? How to get firewood? How to pay for medicine? How to keep the kids in school? How to get a job with a salary sufficient to support the family? How to keep land to live on and to grow enough for the family's sustenance? Is it better to stay in a place that lacks everything or to seek better conditions in another place or country?

In reality, the majority of these concerns can be interpreted simultaneously in the language of human rights. What the people seek is the fulfillment of their rights to food, water, housing, work, and health, all of which constitute internationally established Economic, Social, and Cultural Rights (ESCR). The right to adequate food is perfectly clear to farming families without land. When one poses the question to farming families: "Why are you fighting for land?", they will likely answer first and foremost to raise crops and to have food. They know that access to land just for the sake of having land, is not enough. Rather, they know that without arable land, it would be impossible for them to guarantee their own food.

*The fight for land is not identical to the advancement of the right to adequate food and housing for farming families without land. Nevertheless there are many strong connections, and undoubtedly the principal motivation the struggle for land is to assure food and housing.*

### RISKS:

Various risks arise from the misunderstanding of the relationship between the struggle for survival and for ESCR. The first is the potential to separate these two struggles- the struggle for social demands on the one hand and the protection of human rights on the other hand. This occurs frequently when the concept of human rights is reduced to civil and political rights- when the indivisibility of all human rights is not specifically made clear. At the other extreme, a second risk is the potential for perceiving the two struggles as identical, which would shift the perspective of human rights into a tautology of social causes without any added value. The third risk has to do with the lack of understanding and mutual respect between the two perspectives: when one of the two approaches engenders protagonism and subordinates the other perspective.

### CHALLENGES:

It is necessary to understand the interrelation between the struggle for social demands and the defense of ESCR- to distinguish and respect the roles of the different actors. Not all social demands can be based on the argument of human rights. Nevertheless, when a social demand is based precisely on an obligation of the State to a human right, the lack of attention to such a demand is turned into a violation of human rights. The ESCR are not the secret recipe for social justice, but they constitute minimum, compulsory social indicators for the State in keeping with the International Covenant on Economic, Social and Cultural Rights. The potential of the human rights argument as a transformative and pragmatic approach is enormous. It offers the government as well as civil society a precise framework to put an end to the causes and political reasons for hunger and poverty in their country, as long as it can be proven that these are in contradiction with the assumed obligations of the State on issues related to human rights.

### 2.3 YOU CAN ONLY DEMAND A RIGHT YOU KNOW ABOUT

#### EXPERIENCES:

There exist three minimal conditions under which people threatened by hunger are able to demand their right to adequate food. First, they need to know their rights and what, precisely, is implied by the obligations of the State; second, they need a legal advisor and an human rights advisor who, in addition to knowing the standard contents of the right to food and the obligations of the State, also knows the paths of demandability and justiciability of the right to food which the administrative, legal, and national judicial systems allow him/her. The third condition, which is the most difficult variable to change, is that the people believe in their rights and are in the position to exercise pressure on the respective entity of the State. The skeptical attitude of the people toward the State concerning their rights, for example of indigenous or farming communities, and persons impoverished by the urban and rural boundary, comes from a long history of exclusion and discrimination to which they have been subjected. Conscientization and social mobility are key factors for strengthening the right and transforming the policies and structures, which have impeded its realization.

*The first step is to ensure that people truly believe that they have rights that will be respected, protected, and guaranteed by the State, and that they know which of their demands concerning the right to food have to do with the obligations of the State. The change required, which has been described as civic conscientization, is the transition of the role of the people: from feeling that they are the victims of history to the self-perception that they are rights holders.*

It is a difficult mental process for a laborer or a domestic worker to know and appreciate that they not only have obligations to their employer and orders to fulfill, but that they also have rights to demand. The conscientization of human rights has been a key to organizing people who live in similar situations. The advance of the effective defense of their rights depends highly on the quality of support and the technical, methodological, and legal assistance which local institutions (municipal institutions, churches, NGOs) can offer them.

#### RISKS:

The principal risk is that training workshops promise rights to the people, which, when later demanded, are denied to them. The lack of access to justice is one of the main threats to all human rights, including the ESCR. The lack of knowledge in government circles regarding these rights keeps those who demand recognition of their rights from being heard. A change of attitude from viewing a person as a subject of the right and not as an object of welfarism of the State, is also necessary in many governmental offices.

#### CHALLENGES:

The first challenge is to amply instill knowledge about the Right to Food and the other ESCR in the rights holder, in particular those in the most impoverished sectors, and the organizations that support them. With this knowledge, they can best defend and demand the rights within the framework of their strategy of demandability (see chapter 3.4). The necessity is noted to train public servants who, within the executive, legislative, and judicial spheres, bear particular responsibilities in areas very relevant to the realization of the Right to Food. For the most part, it is necessary to revise the curriculum of all levels of formal education, to integrate the ESCR into high schools and university majors, and into the processes of professional training.

## 2.4 FACTORS OF SUCCESS FOR CASEWORK

### EXPERIENCES:

Casework specific to violations of the right to adequate food has been fundamental in reinforcing the credibility of the work related to the right to food at the local, national, and international level. The sustained impact in many of the cases has been one of the principal reasons for the growing acceptance of the concept among social and non-governmental organizations and public institutions dedicated to the advance and defense of human rights. Likewise, emblematic casework has contributed to a better understanding and to the precise definition of State obligations to the Right to Adequate Food. It has also contributed to the diverse processes of conscientization and capacity building, monitoring and demandability. Even though the cases, which have involved FIAN during the majority of the past two decades, have been very diverse, they all share a few key factors that have determined the possibilities of success regarding the resolution of the cases.

If one successfully resolves a case, that success can first and foremost be attributed to the people in the struggle, since they are the protagonists and “owners” of the defense of their rights. The role of those who support the people is modest, though important for the reason that it influences various determining factors for the resolution of the case:

- a. The capacity of the people to fight and resist and their ability to develop an appropriate strategy;
- b. Organizational and legal assistance on the part of local supporting organizations;
- c. The attitude of the responsible institutions of the State;
- d. The attitude of the mass media;
- e. The degree of international resonance about the case that is perceived by the responsible institutions of the State.

The successful resolution of a case has a direct beneficial effect on the group involved. It also acts as an indirect educator and transcendental motivator because it makes evident the structures of exclusion and discrimination while demonstrating that one can overcome impunity.

### RISKS:

From the viewpoint of the right to adequate food, the cases which are selected to be investigated, documented, and supported establish precedents. As such, there is always the risk of the case going to court and not holding up in court, thus establishing a negative precedent. It has been observed that the key determinant of the success of the affected group suffering from threats and violations of their right to food is that they are united and well organized. When the group is divided – a completely understandable phenomenon in situations of great tension – it is very difficult to win the case.

### CHALLENGES:

The concept of analyzing the performance of the state in conflicts of land, territory, work, and water from the viewpoint of the obligations to the right to adequate food, has been as convincing for the civil society organizations as it has been for responsible public institutions. Even when opinions were disputed about the case, it is seldom that anyone places doubt on the right to food as a criterion for the action or duty of the state. Casework reveals the large gaps and structural contradictions of the State concerning the right to adequate food. The cases have been like “neuralgic points”: they make visible the violations and persistent impunity, and demonstrate that it is possible to overcome the obstacles.

## 2.5 WHO PUBLICLY OPPOSES THAT A HUMAN RIGHT TO FOOD EXISTS?

### EXPERIENCES:

First, the Human Right to Food seems to be a tautology, since there is no one who would deny that human beings need to feed themselves in order to be able to live. Then why call it a "human right" when it is self-evident that adequate food is a *conditio sine qua non* of a decent life. The necessity of the human right to food makes itself evident in the face of the cruel reality, which denies access to adequate food to millions of people every day. Thus, paradoxically, the right makes itself visible when it is denied. The right ought to be recognized as such since a special protection is required to defend an essential and inherent part of human dignity, in this case, food for everyone. The same process has been fundamental in bringing to light and recognizing other human rights: the right to physical integrity was recognized in the face of the practices of violence and torture; the right to free expression is made visible and demanded in the face of repression and censure. All human rights serve in the first place to protect human dignity, and have been fundamental instruments in defending it.

Nevertheless, it is true that a few governments maintain that the right to food is not a real and demandable right, but an abstract political goal which ought to be realized without the State being obligated to carry it out. The United States Government has repeatedly expressed this position, which manages to remove the essential character of the right to food. It is encouraging that by expressing this position, the United States Government has been increasingly isolated in the international community. It is obvious for all 159 State Parties to the International Covenant on Economic, Social and Cultural Rights, that the Right to Food is a binding right that involves obligations of the State.

### RISKS:

The most immediate risk is the explicit opposition of influential political actors at the national and international level. Even though there are few who dare to question the validity of the right to food, it is very probable that they express something that others only think. In this sense, they endanger the consensus that has been achieved in establishing a definition of the right to food.

*Those voices present a very subtle, yet no less dangerous risk. They use the terms of the right frequently in their discussions, but manage to avoid any relationship of obligation to the same right. These voices do not openly question the right, but indeed they question its demandability, in order to be able to maintain policies and state programs by withholding the stories and accounts of human rights violations.*

### CHALLENGES:

It is necessary to defend and consolidate the concept of the right to food, which involves, in the first place, conscientization within the society itself- raising awareness that the right to food involves precise obligations of the State that ought to be carried out. With this focus we must, for example, attack the traditional positions of welfarism and clientelism in the state programs of food and nutritional security, which have been developed as exercises in charity, not on the basis of a right. The principal challenge is to make it understood that people who live with hunger must not be considered beneficiaries of an aid program, but as people with rights to demand.

## 2.6 THE INDIVISIBILITY OF HUMAN RIGHTS – THE PROTECTION OF THE DEFENDERS

### EXPERIENCES:

Many people and organizations working on economic, social and cultural rights (ESCR) are intensely reminded of the indivisibility of human rights when they become the victims of discrimination, criminalization, harassment or even persecution. Civil and political rights (CPR) are crucial for all human rights defenders, particularly those in the field of economic, social and cultural rights. Many victims of economic and social rights violations, and the groups that support them, receive death threats or are killed because they insist on the human right to adequate food and related human rights in situations where this insistence interferes with vested interests. Instead of complying with the States' obligation to protect the rights, States' authorities sometimes make themselves the henchmen of these interests. In order to permit, or at least strengthen, the work of right to food defenders, civil and political rights such as freedom of assembly, freedom from torture, and the liberty and security of a person, are essential. Therefore, civil and political rights are a prerequisite for defending one's economic, social and cultural rights.

The converse is also true; defenders of the human right to adequate food have experienced great difficulties in assisting the undernourished in taking the political steps and using the legal mechanisms or political State's policies to make States meet their fulfill-bound obligations. Regarding this matter, most of the work done in the field of the human right to food is defending access to food and resources of people who still have such access, but whose access is threatened. The reason for the aforementioned difficulties in working with those whose access to food and resources does not exist lies in the non-fulfillment of their right to adequate food itself, which deprives them of the physical and mental strength to make use of their civil and political rights and freedoms- even where they exist on paper. These persons, therefore, tend to be unorganized and have enormous difficulties making their voices heard. Any meaningful expression of their right to political participation (other than perhaps casting a ballot in the ballot box) is out of the question unless their fundamental right to freedom from hunger is met. This human right to food is therefore a prerequisite for the enjoyment of some important civil and political rights.

### RISKS:

The UN doctrine of indivisibility implies (at least since 1993) that all human rights are interrelated and of equal importance. Nevertheless, the discrimination of economic, social and cultural rights continues. Hierarchies of human rights have survived, an example being the discussion on "generations of human rights" which seems to only accord "historic priority" to civil and political rights. This reinforces the superiority of civil and political rights that has been at the root of the (western) discrimination against economic, social and cultural rights. CPRs are to be prioritized, because the ensuing democracy will (automatically) lead to the implementation of ESCR. Experience with human rights work to date shows, therefore, that any attempt to establish priorities weakens human rights – even if this attempt comes in a "historic" disguise or as a false friend to ESCR.

### CHALLENGES:

What came first? The chicken or the egg? CPR or ESCR? Indivisibility cuts through this counterproductive "chicken or egg" problem. It strengthens all human rights by refusing to enter into futile discussions on ranking. Political experience has shown that debates on ranking have almost always been used to weaken or even deny human rights – across the board. Indivisibility, therefore, offers a great potential to strengthen human rights.

*Experience from working for the right to adequate food shows that the different sets of rights mutually depend on each for their implementation; their indivisibility is a fact of life. It is also part of the UN doctrine on human rights – at least in theory.*



## 3 Strategies and Alliances for the Right to Adequate Food

### 3.1 TRUST IN THE ALLIANCE: BEGINNING WITH CASES AND CONCRETE INITIATIVES AT THE LOCAL, NATIONAL, AND INTERNATIONAL LEVEL

#### EXPERIENCES:

The violations of the right to adequate food are always very human and real events. They happen to human beings who have faces, names and a life history. Their struggle against injustice and for reparations is also very real, even when they are not totally aware of their rights and the obligations of the State. Amidst the struggle, the partnerships built with social movements and human rights organizations can refine strategies that may lead to successfully filing a complaint before local, regional or national authorities. A forceful eviction may be stopped and the sustainable access to land and productive resources guaranteed. The school feeding program may be established for indigenous children who were previously excluded from it. New cases of infant malnutrition are prevented due to the adequate treatment of drinking water.

However, local partnerships are sometimes not enough. Powerful interests may be involved which block solutions at the local level, such as a lack of independence of the local judiciary, and a lack of commitment of local governments to the public good, among others. Some of these situations may require the intervention of ombuds instruments, or even of national and international solidarity campaigns that might give visibility to the case at hand and place pressure on the public authorities in an effort to overcome the violations. In extreme cases, a visit by a UN Special Rapporteur may be necessary to provide the needed push.

In many cases, a conscious public officer, in the exercise of his/her duties, may push the complaint through the bureaucratic maze, building an adequate justification for reparations, and opening a door to the solution.

*The protection and promotion of the Right to Adequate Food, requires the minds and hands of many social actors, and the diversity of their roles must be recognized and respected. However, the main protagonists of the struggle for the Right to Adequate Food are the victims of the violations themselves, i.e., the right holders*

#### RISKS:

Building a society based on the promotion and protection of human rights requires the strengthening of civic consciousness among the people, as well as the consolidation of the institutional mechanisms through which the State implements sound rights-based policies and programs and provides effective and responsive complaint mechanisms that are accessible to all. One of the risks is when public authorities and even civil society organizations try to give themselves credit for advances in human rights, and do not recognize the role of people in guaranteeing their rights. This practice only tends to reinforce paternalism and domination.

#### CHALLENGES:

One of the most important tasks ahead is to develop mechanisms that allow us to use the information obtained from the existing patterns of Right to Food violations in a country to revise public policies and programs and avoid new violations. When necessary, new legislation and new policies should also be established. One clear limitation observed in many countries analyzed is the total absence of adequate recourse mechanisms to which social groups most affected by hunger and undernutrition can present their complaints and have them investigated and responded to in a timely way.

### 3.2 THE RIGHT TO FOOD AS A MEETING POINT

#### EXPERIENCES:

The right to food can serve as a meeting point for diverse actors who have a common concern: combating hunger and its causes. The right to food unites, because its fulfillment both constitutes an obligation of the State and motivates the interests of society. The right to food serves as a starting point of dialogue between representatives of the State and civil society at the local and national level, and serves to call international governmental and nongovernmental actors to the table who, by way of their actions, have an influence on how specific policies are handled at the national level.

Moreover, the right to adequate food offers a new perspective on the challenges and complex themes that have given cause to internal conflicts in many countries. It can be difficult to analyze the cause of hunger and find legitimate solutions when the reasons for hunger and poverty are interwoven in a history of exclusion, discrimination, racism and repression; especially if this search for solutions touches on “taboo” themes being hidden by a government in fear of losing its grip on power. In such situations, the right to food has served as a meeting point and as a fresh perspective, which allows common backgrounds to articulate cooperation among a variety of state and nongovernmental actors. In more methodological terms, the right to food serves as a common platform for advocacy.

*The right to food has the capacity to build a full convocation; it succeeds in bringing together judges and farmers, delegates and indigenous people, administrators and defenders of human rights, representatives of international governmental and non-governmental cooperation. The common motive that brings them all to the same table: to combat hunger through a human rights approach.*

#### RISKS:

It is not worth the effort to promote intervals of dialogue as an end unto themselves. Roundtables have not been successful when, in the end, they have not achieved something concrete. In the worst cases, meetings may offer an empty dialogue on the part of the government, which can be a mechanism to impede the necessary transformations, to detain social movements and their impulses, and to impede the demanding of rights and the questioning of the acts or omissions of the State.

#### CHALLENGES:

One must not underestimate the generative potential of solutions that come from a true process of dialogue and cooperation on a common cause. At the municipal level, when sectors most affected by hunger and poverty succeed in sitting down with the authorities and with other outward expressions of civil society, they can arrive at agreements that prevent a publicized violation of the right to food. When one wants to reach out in the fight against hunger in a country, the joint effort of a large number of actors is always required. The attractiveness of the right to food in that context is due to the genuine relationship between obligations and the responsibility one carries inherently. The dialogue departs from the obligations of the State to implement the right to food. Civil society makes itself responsible for the support of the conscientization, capacitating, vigilance, and defense of the right, including the promotion of the cooperation of the State as long as the State's representatives are truly inclined to advance the implementation of the right to food.

### 3.3 DEFENSE OF THE INTEGRAL CONCEPT: THE RIGHT TO ADEQUATE FOOD SHOULD NOT COME DOWN TO APPEARANCES

#### EXPERIENCES:

Often times, people reduce the right to adequate food to the right of people to receive food donations in emergency situations such as conflicts, floods or other natural disasters. While the right to adequate food includes the right for people to be provided food, with dignity, when the hungry or undernourishment stems from circumstances beyond their control, it is imperative that the right also be provided as a legal entitlement. Furthermore, the food must be adequate in nutritional, physiological and cultural terms. This obligation is not limited only to emergency situations; children in orphanages, the elderly, the sick, severely handicapped people, and socially discriminated groups, among others, should also have their right to adequate food realized, with societal support from the State.

However, the right to adequate food goes far beyond this dimension. All human beings have the right to provide themselves and their families with adequate food through their own efforts, either by producing it themselves or by having the sufficient income to purchase, adequately prepare and consume food. It is the obligation of the governments to respect this right, by refraining from implementing policies that reduce a person's access to land or jobs. It is also the obligation of governments to protect the access to adequate food against the interests and actions of third parties, such as land grabbing by large landowners or food contamination by agroindustries that place profit above the common good. Along the same lines, it is the obligation of the State to promote this capacity through public policies and actions, especially for the benefit of those social groups most affected by hunger and undernutrition.

And finally, the right to adequate food also requires that all rights holders be informed of their rights by the State, and that recourse instruments are available to rights holders to claim their rights in case the realization of these rights is being hindered for some reason.

*The full realization of the right to adequate food is only achieved when all human beings, especially those most at risk of hunger and undernutrition, have access to adequate food, in all dimensions, and are able to consume the food, achieve adequate nutrition and experience an active and dignified life.*

#### RISKS:

One of the risks is that the concept of the right to adequate food can be used only in a rhetorical way to try to sell an old policy under a different guise. Many policies implemented in this way fail to inform people about their right to adequate food, and continue to exclude groups extremely affected by hunger. This exclusion follows because the people are not visible enough, or they are chronically discriminated against. People are continuously treated as "beneficiaries" and not as right holders, who have the legitimate right to claim their entitlements when they are not adequately realized. Instead of promoting rights, dignity and citizenship, these programs tend to generate even further political domination and dependence.

#### CHALLENGES:

It is very important to avoid the piecemeal use of the rights-based approach. The strength of human rights lies in the indivisibility of rights and human rights principles, in the fact that rights can be demanded by the people from the governments/States, due to international legal obligations under treaties, and in the fact that governments can be held accountable to these commitments. No program, or policy, in itself, is rights-based, even if it mentions the right to adequate food several times. It must incorporate these basic components of information, participation, non-discrimination, the possibility to freely claim rights, adequate access to recourse instruments and justice for all, enforceability and justiciability of State obligations and national and international accountability.

### 3.4 DEMANDABILITY – THE RAISON D'ETRE OF THE RIGHT

#### EXPERIENCES:

The right to adequate food will only be effective for the people, when those affected or threatened by hunger and malnutrition can claim their right directly from the governmental institution closest to them which is responsible for protecting and promoting that right, and receive an adequate response to that claim.

For example:

1. Peasants or indigenous communities, who are being threatened with eviction from the land which they have been traditionally using to feed themselves and their families, should be able to get adequate protection from the governmental department in charge of land tenure regulation, until the issues has been sorted out.
2. Children facing undernutrition, due to the contamination of water and food with fecal matter, should receive protection from joint actions of the health and sanitation department.
3. Children not receiving adequate meals at school, or from their parents, should be able to call the education department or the authority responsible for the program.

Holding governments accountable to their obligations on a day-to-day basis regarding concrete issues and situations, is the first step towards the realization of human rights. Once people know they have the right to adequate food, and that this right is not being realized, they must identify which State authority has the obligation to follow-up on this right. Only then can the people demand action from the adequate authority, through direct administrative request, through social and political pressure, and eventually through judicial recourse. Developing an adequate strategy, which combines the use of local mobilization with the creation of national and international visibility of the situation has proved very powerful in inducing governments to act.

A succession of small victories can be extremely important towards building the trust of people in the usefulness of human right instruments.

#### RISKS:

Most governments have refused to seriously implement the institution of effective recourse mechanisms, even when they are supposedly in favor of implementing a rights-based approach to hunger and undernutrition. Governments are very resistant to being held accountable by the people. They want to have the freedom to implement policies according to their own political interests and not in a human rights-based manner.

#### CHALLENGES:

We must guarantee that as many exemplary food and nutrition security related policies and programs as possible are human rights-based; that they clearly identify the specific right holders and entitlements, the appropriate and effective recourse mechanisms and correlated penalties for non-implementation of the program on the part of State authorities. These steps are fundamental to guarantee the enforceability of human rights provisions.

We will only be able to do this through the strengthening of the capacity of social movements and human rights organizations to develop effective strategies that lead to holding governments accountable to the implementation of all policies from a rights-based perspective.

*Actively holding governments accountable to their human right to adequate food obligations at the administrative, political, quasi-judicial and judicial level, through rights claiming strategies, leading to national and international visibility of mistakes committed, is important in inducing governments to increase compliance with their human rights commitments.*

### 3.5 JUSTICIABILITY – PROMOTING JUSTICE AGAINST HUNGER

#### EXPERIENCES:

The right, which cannot be demanded, loses its reason to exist. Justiciability, understood as the possibility to claim a right in court, is an elementary aspect of the right to adequate food. Even though the defense of the right to food comprises many more levels than just the legal level, justiciability plays an important role in overcoming legislative and administrative practices that violate this right.

The experience of the last ten years is that preexisting prejudices, which led to doubts in the justiciability of Economic, Social, and Cultural Rights, have been impressive, not just with arguments, but also with precedent-setting cases. Now, discussions are centered on questions like: “Can the exercise of justiciability be strengthened at various levels?”. More specifically: “Which aspects of the right are immediately justiciable?”. Another question is how to revise and reform the national legislation to improve the conditions of justiciability and to establish the corresponding judicial recourses. In this sense, significant progress has been seen in the integration of the right to food in legislation and national constitutions.

*In the face of the reality that the large majority of violations of the right to food (continue in violation) it is essential to bring precedent-setting cases to national and international levels in order to create jurisprudence in this field and to promote justice for people who are threatened by hunger.*

#### RISKS:

Some lawyers, judges, and fiscal or public officials have a limited vision of the right to food which prevents the evolution of their viewpoint on a case. This impedes the use of international instruments, which could lay the foundations for favorable decisions which support the right to food. In such a way, there have been great differences between judicial systems of countries regarding their capacity to create jurisprudence on this matter.

#### CHALLENGES:

The absence of the right to food in the formative processes of a judicial career has hindered major advances in justiciability. Therefore, one of the principal challenges is to empower social justice workers, in cooperation with the judicial powers, in order to assure the coherence between judicial rulings and the right to food. The second challenge is to establish precedents and jurisprudence of human rights at both the regional and national system levels. Finally, it is fitting to mention that initiatives for integrating and strengthening the right to food must be reinforced within the framework of national legislation.

### 3.6 INSTITUTIONS NEEDED: STRENGTHENING THE STATE TO CARRY OUT ITS OBLIGATIONS

#### EXPERIENCES:

The right to adequate food constitutes a cross-axis for the State and its dependents. The obligations of the State to respect, protect, and guarantee the right, encompass institutional actions at the community, municipal, departmental, national, and international level. Moreover, they refer to the three powers: executive, legislative, and judicial. The full framework of related policies specifies the Voluntary Guidelines of the Right to Food, and places special attention on the principles of greater transparency and participation; this accompanies the necessity of permanent monitoring and greater interaction with civil society.

In practice, the tasks of State authorities must be clearly defined in relation to situations of malnutrition. These tasks encompass the responsibilities of the many administrators and programs of the government in the face of an imminent threat of the violation of the right to adequate food. In this sense, mechanisms of prevention must be established between the three powers of the State to avoid any forced displacement which would, for example, have a negative impact on the right to food. Any institution building that helps coordinate and monitor the efforts being advanced among the ministries of health, agriculture, economy, education, etc. is necessary. Part of this necessary institution building is the establishment of judicial and administrative resources to guarantee the compensation, reparation and prevention of repetition in the case of a violation of the right to food.

*All the institution building of the State related to the right to food must be integrated and eventually revised to ensure that it fulfills its assumed obligations and presents a complete surrender of accounts of its work in the presence of the citizenry.*

#### RISKS:

The institutions created up to this date in a growing number of countries, for example, via the National Councils of Food and Nutritional Security, constitute a significant advancement in strengthening institutions in the necessary manner. Nevertheless, these mechanisms sometimes restrict the coordination of established food assistance programs of seeking coherence of all State policies regarding the right to food. The majority of these programs do not even consider effective mechanisms of prevention or reparation, and some have not integrated the appropriate participation of civil society.

#### CHALLENGES:

The necessary adjustments in the creation of institutions of the State require the willingness of the State to recognize and validate the right to food as a priority of the State. To achieve that, the process of conscientization and mobilization in ample sectors of the population is fundamental. There is no lack of examples of institutional successes, but in reviewing them, it is evident that the most difficult task is to integrate a strong system of vigilance, the surrendering of accounts, and the effective participation of the civil society organizations.

### 3.7 MONITORING – TASKS OF A CIVIL SOCIETY, OBLIGATIONS OF THE STATE

#### EXPERIENCES:

Vigilance over the fulfillment of human rights has been a principal task of the State and non-governmental human rights agencies. In relation to the right to food, a traditional field of work is to monitor the actions and omissions of the State regarding their assumed obligations in the matter.

During the last few years, various processes have been developed to define indicators and instruments for the monitoring of Economic, Social, and Cultural Rights, in particular the right to adequate food. An important reference for such monitoring is the Guidelines on the Right to Food that the 187 States taking part in the FAO approved in 2004. In methodological terms, a common parameter among the diverse instruments developed is that the defined indicators are established according to structural indicators (which refers to the question of how the right to food has been incorporated into legislation and institutions at the national level), indicators of the process (which concerns the question of how the right to food is actually being applied in the work of the State), and indicators of result (those which can be deduced based on progress or regress in the enjoyment of the right).

*Monitoring based on human rights stimulates a precise methodology, concrete results, a surrender of accounts, and corrective measures, so that the whole of the State is congruent regarding the requirements of the right to food.*

#### RISKS:

The only risk that can be noted is that monitoring is kept an abstract and academic exercise when it does not systematically integrate the situation of the sectors most affected and threatened by hunger. This makes the outcome of the monitoring process merely a set of numbers and statistics that ignore concrete and emblematic cases of violations of the right to food.

#### CHALLENGES:

The potential of monitoring is enormous, since at all levels-local, national, and international- there exists an enormous interest of civil society organizations to promote processes of vigilance for the right to food; making evident the omissions of the state, and generating public debate are aimed at creating a political desire for the changes required within the State. The principal challenge in this field is to tie together the efforts and processes at all levels, as well as involving in this process the national human rights institutions and other State entities responsible for the coherence of State actions regarding international human rights.

### 3.8 CREATE MOMENTUM – ACT IN TIME

#### EXPERIENCES:

The promotion of the right to food requires a strategic vision, which includes both rapid perceptions of current circumstances and a profound understanding of neuralgic points that symbolize structural obstacles to the realization of the right to food. When a violation of the right to food has been denounced, one needs to have the capacity to verify the information about the case, to contact and advise the victims, and to facilitate the process of following up on the denouncement.

Nevertheless, immediate action in relation to a new situation must be balanced with a long-term vision. To decide which cases to focus on at a specific time, one of the criteria to consider is if these cases are emblematic in the sense that they make visible a more widespread problem (for example, if the case of a group of female farm workers really reflects the broader problem of discrimination against women in their line of work).

*The principal experience is that whatever action is taken in an emblematic case has to have a transcendental effect, since it is recommended to focus the scant resources available to grant continuation in these cases to the framework of a concerted strategy with the affected community.*

#### RISKS:

If one is not aware of the amount of time it can take to see through a case, one can easily fall into the state of being a steady, but disoriented, activist. At the other extreme, one can engage in the work of structural investigation that doesn't have any relevance in the political sphere. The real risk resides in the experience of many human rights organizations, which daily receive a countless number of denouncements and do not have the capacity to follow up on all of them. It is easy to fall into such visionless sphere of activism

#### CHALLENGES:

The challenge is definitely finding a balance between immediate actions and the pursuit of cases and processes that entail the potential of eradicating the structures that allowed for the impunity in the first place, and in instances where the case is winnable in court, the potential for causing these structures to implode, entirely. It is good to affirm that any organization or alliance that is dedicated to the advance and defense of the right to food is involved in the permanent exercise of defining the most appropriate balance between their capacities and their mission.

## 4 Interaction at the international level

### 4.1 PARTICIPATE IN INTERNATIONAL EXCHANGES, CONTRIBUTE NATIONAL EXPERIENCES

#### EXPERIENCES:

After some decades of mixed messages on whether ESC-Rights should or should not be recognized as human rights in equal standing with civil and political rights, we have, over the last 15 years, witnessed a clear move towards growing enforceability and justiciability of these rights, both at the national and international level.

In the case of the right to adequate food, the process has been even more intense. The World Food Summit (Rome, 1996) highlighted the relevance of the right to adequate food as a guiding principle in the struggle against hunger and undernutrition. Since then, the UN Committee on Economic, Social and Cultural rights issued the General Comment 12, on the right to adequate food, which clarifies the content of this right and the obligations of States towards its realization (1999). In 2004, the 191 FAO State members approved, in the FAO Council, the Guidelines on the Right to Adequate Food, which clearly spell out how States could promote the realization of the right to adequate food in different policy and program areas.

Within the same time period, the UN Human Rights Commission (Council since 2006) nominated a Special Rapporteur on the Right to Food, who further clarified the content of the right to adequate food through different reports and missions to several countries. At the national level, several interesting initiatives were put into place. In 2000, the Supreme Court of India issued, with the intent of establishing right to food entitlements to specific population groups facing hunger and undernourishment, several judicial orders demanding the effective allocation of public funds to a set of programs such as providing a hot midday meal for school children, guaranteeing jobs for the rural unemployed, and providing maternal and child care, among others. In 2003, the Federal Government of Brazil has initiated the participatory elaboration and implementation of a National Food and Nutrition Security policy; the policy utilizes an emergency strategy called the Zero Hunger Program to battle hunger and undernutrition.

The exchange of experiences among governments and the civil society at the international level has increased over the last few years through the support of the Right to Food Unit, at the FAO, as well as through regional and international civil society initiatives, networks and organizations.

#### RISKS:

The mainstreaming and consolidation of the human rights-based process demands long-term processes, which require institutional commitment both at the national and international level. These processes must be seen and incorporated as State policies and not only as transitory governmental programs that will be discontinued in a new administration. The risk that issues, which might seem more urgent, can replace the priority focus on the implementation of the right to adequate food may have serious consequences in terms of negating all the advances achieved in the last few years.

#### CHALLENGES:

To guarantee the consolidation of such a process at the national level, it is fundamental that intergovernmental organizations involved with the issue, such as the FAO, IFAD, WFP, and the OHCHR, among others, provide continued support towards this end. Civil society, both at the national and international level, can also play a relevant role in guaranteeing administrative continuity in right to food-based policies to avoid any type of retrogression in the protection and promotion of this right, especially for the most affected social groups in all countries.

*Facilitating governments and civil society from different countries to learn about the successes and failures of promoting the realization of the right to adequate food is essential.*

*This task should be on the radar of all intergovernmental organizations and civil society networks working with the right to food.*

## 4.2 TRANSFERRING MONITORING RESULTS TO THE INTERNATIONAL LEVEL

### EXPERIENCES:

The presentation of parallel reports on the status of Economic, Social and Cultural Rights in a certain country before the appropriate UN committee in Geneva, has created a series of very interesting experiences both nationally and internationally. In relation to promoting the right to food at the country level, the process of elaboration, presentation and follow-up of the parallel reports has served as a key tool for making the message visible that hunger is related to a violation of human rights. In this regard, society is becoming aware; multiple factions of civil society are becoming educated about the documentation of violations and the mobilization for the right to food. In several countries, anywhere from 10 to 150 organizations have united to develop and submit parallel reports both in Geneva and their own country. They continue to utilize the reports as a tool for discussion at the national level.

The parallel report is an alternative report to the official report of the State party to the International Covenant on ESCR, which should be submitted every 5 years to the ESCR Committee, to evaluate the status of the fulfillment of ESC-human rights in the country. During the session of the Committee on ESCR that analyzes the situation of a defined country, the parallel report(s) is/are presented on the first day of the session in Geneva and serve as input for the interview of the Members of the Committee with the government delegation of the respective country. At the end of their meeting, the ESCR Committee issues its Concluding Observations on the respective State party, which, on many occasions, have included demands of civil society which subsequently led to the civil society organizations providing follow-up and requiring the fulfillment of the recommendations of this UN body.

*The reports have served two levels of functions: 1) as input for analysis to the ESCR Committee and as concrete examples to better define and understand violations and the fulfillment of ESCR 2) for civil society they have served as a tool for the visibility and awareness of, and the training and mobilization for the Right to Food at the national level.*

### RISKS:

It is necessary to emphasize that it is important to avoid two undesirable scenarios: one being that only one organization will take control and become the protagonist in this monitoring, because they are aware of the certain degree of glamour that can accompany appearing before the UN in Geneva. Although it is always important for someone to lead and coordinate the work process, this effort should always try incorporating, not excluding others. The other undesirable scenario would be when the report becomes an academic exercise of experts that only monitors public policies. Rather, it should be highlighted that the participation of social organizations (peasants, indigenous people, etc.) is essential for the report being substantial and rooted in the reality of the nation, and helps in the report becoming a useful tool in the daily struggles of the social groups most affected by poverty and hunger.

### CHALLENGES:

It is not easy to understand and take advantage of the opportunity provided by the parallel reports as an invitation to create platforms between different actors of civil society (from human rights, social movements and development NGOs, among others) to jointly promote the processes of visibility, awareness, documentation, training and mobilization of the ESCR; the right to food in particular. The challenge is clearly to convert the parallel report into a key element of the national strategy for ESCR.

### 4.3 THE HUMAN RIGHTS APPROACH IN DEVELOPMENT COOPERATION POLICIES

#### EXPERIENCES:

Many governments and non-state actors in the development field have, during the past two decades, introduced a rights-based or human rights-based approach in their policies and programs of cooperation. It should be noted that the degree of actual implementation varies significantly: it ranges from a simply rhetorical notion of the human rights approach in the political discourse to the full mainstreaming of the human rights approach that would come to challenge the traditional focus on basic needs, and systematically introduce into this field the recognition and support of the principles, and the promotion and protection of human rights by means of the instruments of development cooperation. In a preliminary assessment, major achievements can be seen; many national processes of the promotion and defense of the right to food have occurred with the integral support and cooperation of the non-governmental sector. Also, the official bilateral and multilateral cooperation, through the FAO or the UNDP, increased the focus on national institutions of human rights, in particular on those that strictly relate to ESCR and the Right to Food. However, there has been no further progress in revising the terms of cooperation of the international financial institutions. Generally, they have been unwilling to accept that all mega projects funded by the World Bank, or one of the regional banks, need to comply with the human rights standards. Additionally, it has been increasingly evident that the policies of other OECD countries in the fields of trade, agriculture, investment or agroenergy have been inconsistent with the principles of human rights that these same countries have accepted as guiding their development policies.

#### RISKS:

The following have been established as two major risks: the human rights approach serves only in political discourse, without consequent implementation in the programs and measures of development cooperation, and the incoherence between the main international economic policies on trade, investments, finance, agriculture, and agroenergy that do not consider the same criteria of the human rights approach that was accepted in the formation of development policy.

#### CHALLENGE:

Key challenges in this field are: a) ensuring a real implementation of the human rights approach to policies of development cooperation in all countries that have accepted this perspective to guide their respective programs, b) ensuring that the right to food and ESCR are identified as priorities for UN agencies such as the FAO, c) encouraging other players in the international realm that have not included this approach to date, particularly the multilateral banks, to recognize responsibility (accountability) to human rights as a condition *sine qua non* of the programs on which they cooperate, d) promoting a coherent agenda of all international policies relevant to the enjoyment of the right to food, with the obligations that States have assumed in fulfilling this right.

#### 4.4 THE CHALLENGE OF EXTRATERRITORIAL OBLIGATIONS OF THE STATE

##### EXPERIENCES:

Human rights have, theoretically, been universal from the beginning of their conception. In colonial times, persons outside the territory of the respective colonizing States accorded inferior legal status to persons in the colony. Human rights protection was reserved for persons within the State's own territories. This almost exclusive emphasis on territorial human rights obligations is still quite prominent. Under the universality principle, however, States' obligations under human rights do not stop at borders. Such "extraterritorial obligations" are immediately clear for respect-bound obligations: States must not destroy the enjoyment of human rights abroad. The exact implications for protect- and fulfill-bound obligations outside a States' territory are complex, but increasingly important. FIAN International and others are working on these obligations, because their experience has shown, that international actors positively and negatively affect the implementation of the right to adequate food and other human rights.

Even though the issue of extraterritorial obligations seems to have come up only in recent years, it has actually been present in right to food work over the past 20 years—under different names and with less conceptual clarity. Right to food defenders in OECD countries have addressed issues of development policies, trade and investment policies, and the role of TNCs increasingly in terms of human rights, and in the context of the coherence debate. For example, the EU Development Policies in Africa attempt to promote development of smallholder agriculture and its markets while the EU Commission uses aggressive export initiatives which, in turn, marginalize smallholder agriculture; these initiatives contradict each other and hamper true development.

##### RISKS:

The incoherence of policies is a general problem of governments and not necessarily related to human rights. The problem that concerns us here, however, is the inconsistency of certain policy measures with human rights. In some policy fields, measures are undertaken to meet extraterritorial fulfill-bound obligations towards specific victim groups (for example in the field of development policy). Simultaneously, the same States breach their respect-or protect-bound obligations towards these very victim groups (for example through agricultural trade policies as food dumping). This, however, is not, first and foremost, a problem of inconsistency between the policy measures, but of measures that breach obligations. This shows that the mainstreaming of the human right to food must extend beyond the field of development cooperation.

##### CHALLENGES:

Domestic human rights obligations have helped to establish some level of human rights implementation. Considering the enormous real and potential impacts (both positive and negative) of today's international economic relations, the implementation of the human right to adequate food requires much more than domestic obligations. Extraterritorial obligations have emerged in recent years as a key instrument with a potential to regulate TNCs, control intergovernmental organizations, and establish an international economic order in which everybody can enjoy his or her human right to adequate food.



## 5 A list of questions

1. Has your country signed and ratified the International Covenant on Economic, Social and Cultural Rights? When?
2. Are there provisions in your country's national legislation that guarantee the promotion and protection of the right to adequate food for all, especially for those social and biological groups more at risk of hunger and undernutrition? Provide an example.
3. Are these provisions translated into the effective implementation of right to food-based policies and programs? Provide an example.
4. Are there provisions in place to assess the possible impact on the right to adequate food, and other ESCR, of specific national policies and programs, such as development projects, trade policies, financial policies, etc. prior to their implementation?
5. Is there a clear diagnosis of the status of the realization of the right to adequate food in your country, with disaggregated data for the social and biological groups more at risk of hunger and undernutrition?
6. Is there a national strategy to overcome possible inequities in the realization of the right to adequate food? Does it include clear goals, benchmarks, and a timeline and budget allocation for each of the action lines?
7. Are these policies and programs elaborated, implemented and monitored in a participatory, transparent and accountable way? Are the population groups most at risk of hunger and undernutrition involved in the process? Provide an example.
8. Are the right holders fully informed about these provisions, policies and programs and to whom they should present a complaint in case they do not have adequate access to these and the right is not being realized (respected, protected, promoted or provided)?
9. Are there specific public institutions in charge of receiving, processing and responding to complaints? Give an example.
10. Do these institutions provide an adequate and timely response to the complaints? Provide an example.
11. Are there independent national human rights organizations in your country? What is their role in monitoring the realization of the right to adequate food?
12. When did your country submit its last report to the UN Committee on ESCR?
13. Is there a national program to protect human rights defenders?
14. Is there a civil society network or platform that coordinates/facilitates civil society initiatives related to the promotion and protection of the right to adequate food?

## 6 Bibliography

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UN Special Rapporteur on the Human Right to Food  
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FIAN International:  
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