The Right to Food in Ecuador: An Evaluation of the Ecuadorian People’s Nutritional State from a Human Rights Perspective
Report 2010

1. The present Report from Ecuador is based on Art. 11 of the International Covenant on Economic, Social and Cultural Rights, General Comment no. 12, defined by the Committee on Economic, Social, and Cultural Rights (CESCR), and by Voluntary Guidelines for the Right to Food included in the FAO’s framework for Food and Nutritional Security, no. 1, 5, 6, 7, 8, 10, 11 and 18.

2. The civil society organizations that have signed this Report believe that the Ecuadorian Government is in breach of its obligations to respect, protect, and fulfill the Human Right to Adequate Food, as enshrined in the ICESCR and the Ecuadorian Constitution, the constitutional principles related to Food Sovereignty.

3. Ecuador approved a new Constitution in September 2008 that guaranteed the ESCR, including the rights deemed the “well living rights” (derechos del buen vivir) or Sumak Kawsay, including, for example, the human right to water (Art. 12), to food (Art. 13), to a healthy environment (Art. 14), to communication and information (Art. 16), to culture and science (Art. 21), to education (Art. 26); to habitat and housing (Art. 30); to health (Art. 32); to work and social security (Art. 33). The Constitution also establishes the right to food sovereignty (Art. 281 and 282) and the right to water, containing provisions against its privatization (Art. 318).

4. The Human Right to Food (Art. 13) establishes "The right of peoples and communities to safe and permanent access to healthy, sufficient, nutritious, and culturally appropriate food, preferably produced locally and in accordance with people’s diverse identities and cultural traditions; for these reasons food sovereignty is promoted" (Translation by the author). This constitutional definition concurs with General Comment No. 12, and is noteworthy because it highlights the cultural dimension of said right and the importance of consuming local food, in line with the concept of food sovereignty.

5. This conception of the right to food, which underscores producers’ and consumers’ self-determination not only theoretically, but also as a result of a democratic construction based on: the past experience of the Ecuadorian people in terms of food consumption, production and commercialization. The loss of such self-determination would inhibit the realization of Ecuadorians’ right to adequate food, as enshrined in the international human rights standards.

6. In order to implement said constitutional dispositions, the Organic Law for the Food Sovereignty Regime (LORSA, Spanish original name) was approved in February 2009. Other important laws must be derived from the LORSA, regarding: the use of and access to land, territory and commons; agro-biodiversity and seeds; rural development, agribusiness and rural employment; peasants’ and indigenous peoples’ access to public credit; and the regulation of insurance and food subsidies,
etc. The Ecuadorian Constitution, along with LORSA, constitutes the most important legal instrument related to RtF.

7. Nevertheless, the Rural Development Act in force contradicts the RtF and Food Sovereignty, as it does not foster communal ownership of land. Instead, it facilitates the acquisition of land by large industries, and focuses capacity-building on business management, agribusiness and agro-exporting. All these conditions put peasants at a disadvantage when managing resources, and concurring with large-scale agricultural producers. Peasants end up in a vulnerable position in terms of access to food and the resources to produce food. Furthermore, the above conditions also affect medium and long-term food sustainability.

8. The aforementioned Act also repealed the Rural Reform Act, eliminating any encumbrance to the concentration of property, all forms of regulations and limitation on rural properties, and therefore, promotes a land market that includes communal lands. Submitting land to market logic, in which peasants are on unequal footing with the agribusiness protagonists, prevents peasants from having equitable access to the means necessary to feed themselves and their families. This type of policy normally eliminates the self-determination that the peasants had regarding the use of their resources, and makes them dependent on third parties, who can then easily block the peasants’ access to food in the interests of economic growth. The aforementioned Rural Development Act has also been the basis for institutional changes tackling corruption and ineffectiveness in State institutions responsible for land issues. Nevertheless, there has yet to be an effective response to the land conflicts.

9. In Ecuador, historically there has been a tendency to concentrate land and water in the hands of the few; and this custom has intensified over the last two decades. According to studies conducted by the Investigation System of the Agrarian Problems of Ecuador (SIPAE), the largest concentration of land is located on the Ecuadorian Coast and is closely tied to the growth in agribusiness. The 2000 Agricultural and Livestock Census documented that "properties of less than one hectare constitute a quarter of the all productive units, and they own barely 1% of the all agricultural lands; meanwhile, properties of over 100 hectares represent barely 2% of the total while owning 43% of all agricultural lands. The Gini coefficient of 0.80 has remained practically constant for the past fifty years"¹.

10. The concentration of water is even more extreme, despite Ecuador’s abundant water supply. The SIPAE notes that irrigation water is highly concentrated in the hands of a few. The State has turned over 2,240 m³/s of water through 64,300 concessions; these figures, however, underestimate the volume of water appropriated illegally by large plantations on the coast.²

² Ibid, pg. 21.
11. In November 2009, the National Assembly debated the project of the Organic Law on Water Resources: their Use and Exploitation. Nevertheless, the debate over water resources in 2010 provoked a large-scale indigenous mobilization that claimed that the aforementioned Law had critical problems related to environmental services, the ownership of water, the Water Fund, landgrabbing, institutionalism, fees, and essentially called for the fulfillment of Art. 57 of the Ecuadorian Constitution that declares "1. The consultation on the municipalities, communities, villages or nations prior to the adoption of any legislative measure that could affect their collective rights is a fundamental right that must be fulfilled." (translation by the author). The movement also demanded the fulfillment of Art. 6 of the ILO Covenant 169. Consequently, if a Law’s project affects collective indigenous rights, such as the Water Law does, it must undergo a consultation process before its adoption. The Government ended the debate arbitrarily, declaring the law "not being a priority”, and postponing indefinitely its debate and approval.

12. In 2009, the Mining Law was approved. This law contradicts the principles approved in the Constitution and by international instruments (ILO Covenant 169, UN Declaration of Indigenous Rights) by failing to respect: the process of consultation and of free, prior, and informed consent; the imprescriptible ownership of communal lands; the right to not be displaced; and the right to food, because the people cannot grow their food with contaminated water in agricultural and pastoral areas.³

13. The Mining and Water Laws provoked a strong reaction illustrated in the social organizations’ mobilization especially that of the indigenous movement, which was repressed with tear gas and bullets, leaving dozens wounded. The Government criminalized the social protests, accusing human rights and environmental defenders of terrorism, sedition and sabotage. Reports compiled by human rights organizations reflect the criminalization of the water and food human rights defenders.⁴

14. Regarding food importing, a study conducted by the Institute for Ecuadorian Studies (IEE) demonstrates that while the commercial assessment of food (the relationship between food products imported and exported) over the last five years has been positive, this is largely due to the exportation of large volumes of bananas, melons or flowers, etc. On the other hand, Ecuador shows a significant deficit in basic food products, including grain products, and others, that constitute a significant part of the Ecuadorian diet. Furthermore, the food distribution chain’s final link, commercialization, is concentrated in four supermarket chains that accounted for 88.87% of sales in 2007, according to the SIPAE.⁵


15. Peasant Family Agriculture plays an important role in food production. Although peasants do possess a small amount of land, they suffer from inequitable access to productive resources and the market, in comparison to the exporting agribusinesses (bananas, flowers) that have concentrated the ownership of land, and water, and utilize large quantities of agricultural toxins and chemicals, leading to desertification. Moreover, these companies focus on producing for the market, rather than for the reproduction of life.

16. The National Plan for the “Well Living” (*Plan Nacional del Buen Vivir*) 2007-2009 consists of twelve strategies and twelve objectives to obtain “Well Living”; 01, 02, and 03 strategy are related to the RtF. In order to verify a State’s efforts to realize the Right to Food, its agricultural investment, as well as the investment’s final destination, must be investigated. An IEE study (2010) explains that while there has been an increase in public investment in agriculture, this sector continues to support products associated with agribusiness production chains, while disregarding the quality and needs of small and medium-scale producers. Currently, the country is still plagued by monoculture farming. Regarding women’s role, they are treated as assistants or helpers of the main producers (males), rather than as productive actors themselves. The study also points out that small-scale agricultural producers continue to be perceived as mere beneficiaries of governmental policies and are not considered to be right holders that deserve guaranteed participation in the design, adoption and monitoring of public policies on agriculture and livestock.

17. In October 2009 the “Action Plan for Family Producers' Access to Land in Ecuador”, commonly known as the Lands Plan (*Plan de Tierras*) promised to redistribute 2.5 million hectares over 4 years benefitting young families, single mothers, landless families or those with little land, starting with the State lands. However, a study conducted by FIAN Ecuador (2011) revealed that the Lands Plan was demagogic, "since it failed to provide any serious data regarding the quantity of land available for distribution or the number of beneficiary families. All this within the context of a country where land ownership is highly concentrated and the rural population is in great need, especially small-scale producers that have been expelled from their lands as a result of the aggressive implementation of neoliberal policies that promote agribusiness exporting in the country’s coastal region". Therefore, the Lands Plan has proven not to be an instrument capable of guaranteeing minimal security for land tenure and furthermore, has generated false expectations in persons associated with land speculation “…that have invested in land that is already owned and provoked serious conflicts on the estates belonging to holding associations, to whom the State provides little or no protection. These associations have suffered threats, psychological and physical attacks, and even murders.

6 *Ibid*, pg. 31 and 32.


8 *Ibid*, pg. 60.
18. In terms of food and nutrition, assistance programs include: a) Ecuador Get Fed Plan (*El Plan Aliméntate Ecuador*) to provide food rations to children ages 3 to 5, older adults, and to persons with disabilities; b) School Food Program (PAE) to provide additional food, mainly for the most socially vulnerable populations; c) “Member” programs such as Forest Member, Seed Member, Water Member; and d) Human Development Bond (BDH) that provides 30 dollars to 1,300,000 people. Grassroots organizations criticize these programs, claiming that PAE: fails to reach enough provinces, or those children most in need; does not respect cultural standards; the food products are often expired; the food is not sufficiently nutritious, the storage warehouses are inadequate; the food rations do not meet the needs of a family; and the distribution is discriminatory, etc. Regarding PAE: children are consistently tired of excessively consuming oat drinks (*colada*), the PAE has become uniform, and in some areas, lunch has been eliminated, and sometimes even school breakfast. There are also reports of corruption in the purchasing of food products.

**Conclusions**

19. The current government has maintained the economic model that favors those agricultural and livestock policies that benefit: dominant groups, the concentration of income and natural goods such as land and water, while violating the ESCR and the constitutional rights of Well Living.

20. Civil society organizations, including social movements, do not enjoy any form of real participation in the design, approval, or implementation of the laws related to the Human Right to Food.

21. The State has made progress with regard to the legalization of the lands that previously belonged to those Ecuadorian banks that failed at the end of the nineties, and are now under the State’s authority. Therefore, the peasants that have been residing on this land for years are now at great risk, and are systematically threatened by land traffickers and invaders paid by the failed banks’ former stockholders. The State is also in breach of its obligation to protect the right to food against the activities of third parties.

22. The Government continues to favor agribusiness, while doing a disservice to the communal peasant economy. The only governmental benefits peasants receive are derived from weak and constricted policies, such as poverty vouchers, which do not treat the peasants as productive actors, but rather as recipients of State benefits. Women - peasants, indigenous, Afro-Ecuadorians and those that utilize the mangrove swamp – are especially prone to falling into this passive category, while they actually play a fundamental role in the production and reproduction of family agriculture. Therefore, the State is in complete breach of its obligation to guarantee (facilitate) access to and use of resources and means to life, including food security, and the right to food.

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9 *Context Analysis “Women, land, water and mangrove swamps”, Ecuador Diverse and Traditional Women’s Assembly (Asamblea de Mujeres Populares y Diversas del Ecuador), 2011.*
23. Agrarian policies are also inconsistent with the State’s international obligations in terms of gender and the protection of women against discrimination. Specifically, it has not taken the necessary measures to adapt and feminize agricultural and livestock labor so as to guarantee access to land, adequate income and social security for all women. Instead, agricultural and livestock policies benefit medium and large-scale producers and agribusinesses.

24. The implementation of food programs has proven to suffer from discriminatory practices even under a client-based policy. The very nature of these programs, similar to welfare, endangers the sustainability of the beneficiaries’ access to food, while also failing to adequately guarantee the RtF and disrespecting the constitutional princip of Food Sovereignty. Furthermore, these programs do not meet standards regarding the cultural adequateness and acceptability of food assistance. Analyzing the results of these programs, it is clear that they have failed to overcome the existing level of malnutrition in the country, "while chronic malnutrition has gone down over the past five year, close the a fifth (19.7%) of children between ages 0 and 5 still suffer from this serious problem, and therefore, do not grow up healthy”10.

25. The Ecuadorian Government maintains its discourse of the “Well Living” and the Rights of Nature, enshrined in the Constitution, and perfectly in tune with the ESCR. Nevertheless, this same administration demonizes the protests of social movements that defend said human rights, weakening and dividing the historic social organizations under the pretense of defending the common good.

Recommendations

**FIAN Ecuador recommends that the State of Ecuador:**

26. Guarantee that the Ecuadorian people can effectively participate in the design, implementation and monitoring of laws related to the RtAF. The Ecuadorian State should guarantee a revision of the laws and public policies related to food and access to natural resources that contradict the Rights to Adequate Food and Water, in line with the constitutional princip of food sovereignty.

27. Adopt the necessary measures in order to guarantee that the criminalization and prosecution of social protest and its actors who defend human rights, the RtF, Food Sovereignty, and the Rights of Nature.

28. Implement the Well Living proposals according to Ecuadorian State’s international obligations as a State party to the ICESCR. Henceforth, strategies for rural development should be adopted to favor the production and consumption of healthy food in the country and the city through programs transitioning into organic

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agriculture. Said programs should prioritize groups of agricultural producers that have suffered from food insecurity due to the current economic models.

29. Fulfill its obligation to protect and move forward as quickly as possible, according to its available resources, with the legalization of the land, formerly subject to bank speculation, for the landholders’ associations that are demanding their right to land. This action would effectively guarantee the landholders’ safe access to the resources they need to feed themselves.

30. Fulfill the obligation to fulfill (facilitate), the Ecuadorian State should implement an Agrarian Reform policy of comprehensive scope, including the participation of social organizations, and following the principle of transparency. Said agrarian reform should foster family peasant agriculture, diversification and sustainability, which are the most adequate and reasonable means to guarantee the right to adequate food for all Ecuadorians.

31. According to its obligation to guarantee, the Ecuadorian Government should implement the Lands and Water Laws that respect constitutional principles and guarantee Food Sovereignty and the RtAF. This would reverse the concentration of land and the concessions privatizing water resources, and establish a limit on land tenure in order to avoid landgrabbing. These measures are essential to guaranteeing the Ecuadorian people’s equitable access to water and food, and to eliminating the discriminatory practices that prevail today.

32. Considering the vulnerable food situation incurred by the current economic system, and in order to eliminate de facto inequalities, the Ecuadorian government should adopt all the measures necessary to prioritize small and medium-scale agricultural producers over large food distributors. In order to ensure that small producers have access to agricultural markets, food programs must be coordinated in conjunction with the policies of the Ministry of Agriculture and Livestock (MAGAP). This collaboration would improve the production-consumption cycle between local peasant economies and the beneficiaries of food programs. To apply the principle of transparency, public and truthful information on the public purchasing process must exist and be available. Furthermore, in accordance with its obligations to respect and protect, the competent authorities must investigate the formal complaints of corruption.

33. Taking into consideration the recommendation of the Independent Expert (jet Special Rapporteur) for human rights and extreme poverty, while the Human Development Bond (BDH) has had an enormous impact given its monthly transfer of 30 dollars, the Ecuadorian State must support the development of universal social security, as established in the Ecuadorian Constitution.

34. In accordance with its obligation to fulfill (promote) the Right to Adequate Food, State authorities should strengthen the educational and awareness-raising components related to the RtF within food assistance programs. An effective tool in this sense would be media diffusion strategies that educate people about nutrition, especially for children.