



Countries tackling hunger with a right to food approach

Significant progress in implementing the right to food at national scale in Africa, Latin America and South Asia

“We must collectively accelerate steps ... to set the world on a path to achieving the progressive realization of the right to adequate food in the context of national food security”.

Declaration of the World Summit on Food Security, Rome, 16-18 November 2009

SUMMARY

The right to food is not primarily the right to be fed after an emergency. It is the right, for all, to have legal frameworks and strategies in place that further the realization of the right to adequate food, as a human right recognized under international law. By directing the adoption of these policies, the right to food is a compass to ensure that policies are geared towards alleviating hunger and malnutrition. This briefing note highlights the implementation of the right to food at national scale in Africa, Latin America and South Asia. Various countries gave concrete meaning to the right to food principles in their constitutions, laws, courts, institutions, policies and programmes, and for various food security topics, such as fishing, land, focus on vulnerable groups, and access to resources. These progresses, while much less visible than plain increase in food production, are key steps for lasting progress.

2010: Time to take stock of progress

In his path-breaking book published in 1981, *Poverty and Famines*, Amartya K. Sen noted that hunger and malnutrition are not necessarily attributable to a lack of available food¹. Indeed, on the basis of his study of certain of the most important famines of this century, Sen drew our attention to the fact that people may grow hungry in times of boosting yields, as a result of the incomes of certain groups remaining too low while the incomes of others rise. The originality of Sen's approach was that it moved away from considerations related to aggregate values and that it focused, instead, on the situation of the most vulnerable groups of society: if their situation does not improve as a result of increased levels of production, then whatever gains we make in improving yields are simply unable, by themselves, to alleviate hunger. The right to food can help in directing our attention to the poorest. It can help, because it holds governments accountable, prohibiting them from remaining passive in the light of this situation.

The implication of Sen's approach is that hunger stems from disempowerment, marginalization and poverty. People are not hungry because we produce too little: they are hungry because they can't afford the food that is available on the markets or because they lack the necessary resources to produce food themselves; they are thus hungry because they lack economic access to

adequate food. It is for this reason that the recognition of food as a human right can be vital to achieving sustainable, long-term food security. The Declaration of the World Summit on Food Security convened in Rome in November 2009 restates this clearly, consistent with the 1996 World Food Summit, which first requested that the right to food be given a more concrete and operational content.

States' Representatives gathered in Rome in November 2009 not only confirmed the political will to improve global food security governance, with the reform of the Committee on World Food Security possibly bringing greater policy coherence; they also strongly recalled the need for a swift progress on the right to food at country-level. In their own words, "We will strive for a world free from hunger where countries implement the "Voluntary guidelines for the progressive realization of the right to adequate food in the context of national food security" and we will support the practical application of the guidelines based on the principles of participation, transparency and accountability" (par 16).

The 2008 food crisis has firmly placed the question of hunger back on the national agendas, with a commitment to reinvest in agriculture as the major new policy choice, complemented by increased coordination of efforts as an international commitment. However, the most pressing issue today regarding reinvestment in agriculture is not how much, but how. The direction of efforts at national level will be vital for lasting success in the progressive realization of the right to food, as underlined by the Declaration of the World Summit on Food Security.

Reviewing progress

This briefing note illustrates why, in the fight against hunger, legal frameworks and national strategies are as vital as technical tools, and participatory institutions or processes as important as investments, if we assess success in the long term. Grounding national efforts in the right to food brings a very different meaning to food security policies and efforts.

Taking stock of the efforts at country-level five years after the adoption, in 2004, of the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (hereinafter the Right to Food Guidelines), is particularly relevant in order to draw lessons from what has been achieved. This note is a contribution to the review of these progresses. It is not meant as a comprehensive review, yet it aims at a better understanding of the national implementation of right to food, and to accelerate collective learning in this regard.

The note is divided in five sections:

- the integration of the right to food in constitutions (Section 1);
- legal and constitutional frameworks (Section 2);
- the development of national strategies based upon the right to food (Section 3);
- the use of the right to food in courts (Section 4);
- and the design of institutions that secure process towards progressively realizing the right to food (Section 5).

This note explains the contribution of the right to food to improved accountability and to ensuring that the policies adopted by governments move in the right direction. The significance of the right to food is not limited to the dimensions explored here. For instance, the impacts of trade liberalization or investment agreements could be assessed using the normative content of the right to food, and the way food aid is delivered could be improved by taking into account the requirement that it complies with the requirements of the right to food. In all these areas, the principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment, and the rule of law (PANTHER), as well as paying attention to the most vulnerable, should be taken into account in order to ensure that policies that are designed for the poor are not designed without them, and that the situation of the most vulnerable will effectively be improved; and we should thus be able to ensure that the realization of the right to food is not confused with increasing aggregate production of agricultural products, or with improved macro-economic indicators.

This note focuses exclusively on the institutional dimensions of the right to food, without examining its consequences in specific sectors that related to food security. The examples below show that progress has happened sometimes very quickly after newly elected governments decided to establish progressive national strategies, such as in Brazil and Ecuador, and that in other cases progress is ongoing and unfinished. In all cases, significant shifts were only made possible thanks to long-lasting efforts and commitment from an active civil society. Social struggles are also part of the story in a few examples, confirming the saying that 'rights are rarely given, they are taken'. This should come as no surprise: food security is a matter of political economy and social inclusion. Empowerment and participation are therefore key to the long-term success of strategies based on the right to food. A few countries, such as

Mozambique, are showing that collaborative and participatory processes will ensure the stability of the resulting national policies, which is critical to improving food security.

There are several other States that are on their way to implementing the right to food and which are adopting a rights-based approach towards food insecurity. The examples highlighted in this note show a diverse

landscape of implementations, while not pretending to be a systematic analysis of the implementation of the right to food at the national level. The Right to Food Unit has recently developed two new comprehensive databases providing an extensive overview of the existing national right to food legislation and the regional and national strategies aimed at the implementation of the right to food across the globe.

Countries examined in this report



1996-2004: Progress at international level

In 1996, the World Food Summit convened in Rome, requesting that the right to food be given a more concrete and operational content. In 2004, the 187 Member States of the General Council of the United Nations Organization for Food and Agriculture (FAO) adopted the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. The Guidelines build on international law and contain recommendations to countries on how to implement their obligations under Article 11 of the International Covenant on Economic, Social and Cultural Rights (hereinafter the ICESCR). Between those two dates, the Committee on Economic, Social and Cultural Rights adopted its General Comment No.12 on the right to food; and the Commission on Human Rights established the mandate of the Special Rapporteur on the Right to Food. Subsequently, the normative content of the right to food was further clarified which in turn facilitated the acceptance and inclusion of the right to food into the national context, illustrated in this paper.

1948-2010: Progress at national and international level

| International | National (selected countries) |
|--|---|
| 1948 – Universal Declaration on Human Rights Art.25 | 1996 - South Africa includes the right to food in its Constitution |
| 1974 – UN World Food Conference – Universal Declaration on the Eradication of Hunger and Malnutrition | 2001 – India's Constitutional Court recognizes the right to food in the People's Union for Civil Liberties (PUCL) case, transforming policy choices into enforceable rights |
| 1976 – Entry into force of the International Covenant on Economic, Social, Cultural Rights , including Art.11 on the right to adequate food | 2005 – India adopts its National Rural Employment Guarantee Act and the Right to Information Act |
| 1987 – Establishment of the Committee on Economic, Social, and Cultural Rights – beginning of a more precise legal interpretation of ESC rights | 2005 – Guatemala adopts a framework law on the right to food |
| 1988 – Adoption of the Right to Food (Art.12) in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the “Protocol of San Salvador”) | 2005 – South Africa : A case gets brought before the South African Equality Court demanding the protection of the livelihoods of traditional fishers |
| 1996 – FAO Food World Summit – Rome Declaration on World Food Security - first coherent plan to make the right to food a reality | 2006 – Brazil adopts a framework law on the right to food |
| 1999 - Adoption of General Comment N.12 ‘The Right to Adequate Food’ by the Committee on Economic, Social and Cultural describing the various State obligations derived from the ICESCR regarding the right to food | 2006 – Mali adopts its Agricultural Policy Act |
| 2000 – Establishment of a Special Rapporteur on the Right to Food by the former Commission on Human Rights | 2007 – Brazil's National Rapporteur on the Right to Food, Water, and Rural Land files a successful class action on behalf of favela residents |
| 2000 – Adoption of the Millenium Development Goals, including Goal 1 to eradicate extreme poverty and hunger by 2015 | 2007 – South Africa : the Equality Court demands an alteration of the fishery policy to comply with the right to food |
| 2002 – Rome Declaration at the World Food Summit calling for the establishment of a intergovernmental working group to develop voluntary guidelines to achieve the progressive realization of the right to food | 2008 – Ecuador includes the Right to Food in its Constitution |
| 2004 – Adoption of the FAO Voluntary Guidelines on the Right to Food which offer guidance to States on how to implement their obligations on the right to food | 2008 – Nepal : A case on the right to food is filed in the Nepalese Constitutional Court, which issues an interim order for the immediate provision of food to hungry communities |
| 2009 – Adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights , making the right to food justiciable at the international level | 2009 – Nicaragua adopts a framework law on the right to food |
| | 2009 – Malawi finalises its draft Right to Food Bill (adoption is scheduled for 2010) |
| | 2009 – Mozambique sets up a drafting Committee to elaborate a Right to Food Framework Law, which will submit a draft bill on the Right to Adequate Food to the government before the end of 2010 |
| | 2009 – Ecuador develops a Food Sovereignty Framework Law |
| | 2009 - Nepal includes the right to food sovereignty in its interim constitution |
| | 2009 – India is developing a National Food Security Act |
| | 2010 – Brazil : the House of Representatives votes a Constitutional amendment on the right to food |

1. THE RIGHT TO FOOD AS A CONSTITUTIONAL RIGHT

The recognition of the right to food as a justiciable right at the national and the international level is gaining ground year after year². Many countries are including or already have included the right to food in their constitutions as recommended by the Right to Food Guideline 7.2. The last country that has integrated the right to food in its constitution is Brazil, with the vote of a constitutional amendment by the House of Representatives on 4 February 2010, which is a major step towards ensuring greater accountability for the right to food. Bolivia inserted the right to food in Art. 16 of its Constitution in 2009, and the year before, Ecuador inserted the right to food in its constitution stating that the right to food is 'the right to have unrestricted and permanent access to sufficient and nutritious food corresponding to the cultural traditions of the people to which the consumer belongs, for a healthy and dignified life'³. Earlier, in 1996, South Africa included directly the right to food in its constitution in its Article 27.1. Today, Nepal is in the progress of adopting a new constitution and has recognized the right to food directly in its 2009 interim constitution.

A constitutional right to food is the strongest possible basis the right to food can have, since all laws must conform to the constitutional provisions. Including the right to food in the constitution implies that this right cannot be easily withdrawn ensuring greater permanency than ordinary laws.

Explicit recognition of the right to food in constitutions is seldom noticed. Today 24 countries have included the right to food in their constitution⁴. Direct recognition has the advantage of avoiding the uncertainty of judicial interpretation since the right is clearly spelled out. The insertion of the right to food in the constitution of countries improves accountability since the constitutional provisions limit the actions and policies of all branches of the government. Each policy or act by the government needs to be in line with the constitution, and acts deemed unconstitutional will need to be annulled, disappplied or adapted immediately (e.g. Section 4 on court cases). Furthermore, constitutional recognition allows for a trickle down or cascading effect to take place from the constitutional right to the national laws, to the policies and strategies, and to the program level. This continuum will need to be constructed in order to give effect to the constitutional provision. In practice, this is not followed necessarily in this order, as programmes sometimes get developed before laws (e.g. India), or laws get developed before actual constitutional recognition

(e.g. Brazil). The important element however is that these different elements along this continuum are in place in order to realize progressively the right to food. The insertion of the right to food into the constitution is thus not of mere symbolic significance. It imposes on all branches of the State to take measures to respect, protect and fulfil the right to food by adopting adequate laws, and by implementing policies and programmes aimed at the progressive realization of the right to food. At the same time, constitutional recognition is an important step in empowering people to realize their right to food as they can use the right to food recognized in the constitution to demand those adequate policies and laws which establish an enabling environment for them to realize their right to food.

2. THE CONTRIBUTION OF A LEGAL FRAMEWORK

General Comment 12 of the Committee on Economic, Social and Cultural Rights as well as the Right to Food Guidelines urge States to develop a legal framework as a cornerstone in their path towards a rights-based approach to their food security. This section highlights some of the features of the right to food framework laws which have recently been implemented by various countries on all continents.

Framework laws gain ground

Several countries have adopted framework laws: they include Nicaragua in 2009, Brazil in 2006, and Guatemala in 2005. Many others are currently in the process of drafting framework laws in their efforts towards adopting a right to food strategy as a contribution to improved food security: efforts are underway in Bolivia, India, Mozambique, Malawi, and South Africa. This consolidation of the right to food in national law can differ since countries can opt to include the right to food in an overarching right to food framework law first, or include it in sectoral legislation (such as fishers' rights or environmental rights). Some legislations are a compromise between these various possible : Mali for example, adopted in 2006 its Agriculture Policy Act (*Loi d'orientation agricole*), which aims at facilitating the physical and economical access to natural resources for rural producers, including vulnerable groups such as women, but also has a broader aim⁵.

There is a general recognition that establishing a framework law may significantly contribute to the realization of the right to food, in a number of ways: (a) by ensuring that governmental bodies will be held

accountable if they do not comply with the obligations the said framework imposes on them; (b) by ensuring that the right to food will be at the centre of national development strategies, which developing countries may then refer to in their dialogue with donor countries seeking to provide international aid; (c) by strengthening the position of countries in negotiations related to trade or investment, by referring their partners to the obligations they are imposed vis-à-vis their constituencies at domestic level.

Ideally, a national framework law on the right to food is a translation of the provisions included in the ICESCR into the national sphere, as it *'can give a precise definition of the scope and content of this human right, set out obligations for state authorities and private actors, establish necessary institutional mechanisms*

*and give the legal basis for subsidiary legislation and other necessary measures to be taken by the competent state authorities'*⁶. A framework law thus facilitates - and is imperative - in the implementation of the right to food at the national level. These laws might a) include specific monitoring institutions who constantly assess the progress made as regards the realization of the right to food in a country, and b) recognize the justiciability of the right to food or provide other recourse mechanisms before independent bodies. The entrenchment of the right to food in domestic law makes the right to food operational at the national level as victims of right to food violations can obtain ownership, and utilize the law to seek remedy and accountability. Not only will it facilitate ownership by victims of violations but also by the relevant institutional stakeholders.

Examples in Ecuador, Malawi, Nicaragua and India

■ **Ecuador** passed a framework law in 2009, firmly rooted in the right to food principles. It was the new 2008 Constitution containing right to food provisions that sparked the development of a national food sovereignty law. Ecuador's framework law includes several remarkable provisions. One of the strengths of the Ecuadorian framework law is the emphasis placed in several provisions on small-scale farmers, who in many underdeveloped countries constitute the majority of people affected by hunger and food insecurity. For example, the law promotes access to capital and investment for agricultural production for small-scale and medium enterprises and thus promotes people's access to adequate food by improving their ability to produce.

Other exemplary elements of the framework law are its attention to the fundamental human rights principle of participation: the law calls for the largest possible participation in the development of food sovereignty laws (Chapter V). People can only realize their right to food when they are allowed to participate meaningfully in the decisions relevant to them. Participation underlines again the people's ability to seek a way out of their own problems and acknowledges the power and knowledge they potentially have to cope with various problems. People should be involved in decision-making processes and should have a voice in the decisions about their own future. The framework law further is a pioneer in its provisions on education which compel the State to include in its elementary education, courses about adequate nutrition for the promotion of the balanced consumption of food and nutrients. Other important elements are its protection of indigenous people and the setting of timeframes and concurrent obligations for the government to realize the right to food.

■ **Malawi** is in the process of adopting a right to food framework law through the close cooperation of the government, civil society and international organisations. This wide engagement with all stakeholders is crucial as it promotes ownership of the Bill at each level of society, takes into account all interests, and therefore facilitates its ownership and implementation.

■ Similarly, **Nicaragua** which has a framework law in place since 19 June 2009, has adopted a multistakeholder approach in order to develop the law, which is why the law now receives broad support from all relevant actors.

■ In **India**, at the time of writing, the Government is still debating the proposed draft of the National Food Security Bill, although there is currently no consensus within civil society that this will represent a step forward towards the implementation of India's obligations towards the right to food.

Framework laws, despite being mostly focused on the national level, should ideally have a strong international component and facilitate international cooperation in order to realize the right to adequate food. International cooperation is indeed a fundamental element of the right to adequate food included in Art. 2.1 and 11 of the ICESCR. The need to cooperate internationally towards the realization of the right to food can also be found in the Right to Food Guidelines⁷. Brazil has included in its National Food and Nutrition Security Framework Law the obligation to promote technical cooperation between countries in order to realize the right to food at the international level. This led the country to offer guidance and support on right to food, for instance, to Mozambique. Likewise, support from international organisations and intergovernmental organizations in terms of advocacy and funding is an important element in the drafting of a framework law and proved to be crucial in advancing the right to food in a range of countries. Mozambique, Bolivia, Nepal and Ecuador are, among others, receiving technical and financial support from the FAO to conduct consultations with civil society and develop the framework law.

In Malawi, a prior comprehensive right to food assessment done by an international NGO, tracked down the needs of the people, the different stakeholders involved and the presence of a legal framework. The NGO conducted a fact-finding mission, and sparked the development of a right to food network which later became the backbone of the campaign for the right to food Bill⁸. The Malawi draft right to food Bill, which is still pending at the time of writing, would articulate the obligation of the government to respect, protect and fulfil the right to food. It further requires the government to tailor interventions to the most vulnerable and food insecure groups, through targeted programmes and affirmative action that enhance those groups' access to productive resources. The draft Bill also ensures participation of all relevant stakeholders by establishing a National Food Security Council, comprised of members of civil society, farmers' associations, academia and the private sector as well as six ministries⁹, and the Malawi Human Rights Commission. The Council is an advisory body on food security matters, reporting to the President and Parliament. It has the task of carrying out right to food impact assessments and recommending the harmonization of government policies that bear on the right to food.

In every country, a proposed comprehensive framework on the right to food implicates serious changes in the institutional framework for a State. Mozambique has included in its draft National Food and Nutritional

Strategy a vital yet often overlooked component: the need to conduct right to food policy impact assessments, and the estimates for the necessary budget allocations. In its General Comment No. 12, the Committee on Economic, Social and Cultural Rights already emphasized the need to address the question of resources mobilization¹⁰. The execution of a prior impact analysis in order to predict the economic, budgetary, and administrative impacts of the new framework law is vital for an adequate implementation of the framework law.

Countries are obliged to use the maximum of its available resources according to Art. 2.1 of the ICESCR in order to progressively realize the right to food. This implies that resources should be allocated so that the various institutions developed or reinforced by the framework law can fulfil their obligations. The Malawian new right to food Bill would recognize this obligation, and has stressed in this regard the obligation to search for international support in realizing the right to food. Even the most progressive right to food frameworks and programmes may have problems in implementing these due to budgetary and resource constraints. Where this is caused by the regressive structure of the taxation system, that structure may have to be revised¹¹.

3. NATIONAL STRATEGIES: TOOLS TO REALIZE THE RIGHT TO FOOD

Laws alone are not sufficient to realize the right to food in a country. Through the adoption of a national strategy for the realization of the right to food and the implementation of the programmes placed under such a national strategy, the right to food is operationalised and put into action at the local level.

Participation of the affected people is key to the success of such a strategy. This implies that people need to be included in the decision-making processes surrounding the right to food as this ensures that real needs are identified and effectively responded to. Participation further increases the awareness around the right to food and thus empowers people to realize and claim their right to food, as they are aware of their rights and what this implies. The participation of all layers of society, including women, indigenous groups and other vulnerable groups ensures greater attention for gender and non-discrimination of the government in their food policies and acts. Non-discrimination, participation, accountability are all fundamental human rights principles as the attention paid to them fosters the creation of an enabling environment for people to realize their right to food.

The Committee on Economic, Social and Cultural Rights, has insisted on the need for States to work towards 'the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks'¹².

Guideline 3 of the Right to Food Guidelines provides useful indications about how States could adopt a national human rights-based strategy for the realization of the right to adequate food. Such a national strategy should comprise the establishment of appropriate institutional mechanisms, particularly in order to: (i) identify, at the earliest stage possible, emerging threats to the right to adequate food, by adequate monitoring systems; (ii) improve coordination between the different relevant ministries and between the national and sub-national levels of government; (iii) improve accountability, with a clear allocation of responsibilities, and the setting of precise timeframes for the realization of the dimensions of the right to food which require progressive implementation; (iv) ensure the adequate participation, particularly, of the most food-insecure segments of the population; finally, (v) ensure that specific attention is given to the need to improve the situation of the most vulnerable segments of society, including girls and women whose specific situation must be taken into account (Guideline 3.9.), to the principle of non-discrimination, as well as to the explicit inclusion of access to adequate food as part of larger poverty reduction strategies (Guidelines 3.4. and 3.5.).

Brazil's Zero Hunger Strategy

Brazil has under its Fome Zero (Zero hunger) strategy set up a series of social policies that aim to address Brazil's food insecurity. The Zero Hunger strategy in place since 2003 accounts for 1% of the national budget, and is undergoing constant improvement. Although much work still needs to be done, the Fome Zero strategy has helped to achieve significant reductions in child mortality (dropped 73% since 2002), levels of malnutrition, and poverty since its inception.

The strategy, built on the right to food for all, includes 53 initiatives which are implemented by a variety of State Ministries. These initiatives fall under the four basic tenets of Brazil's zero hunger strategy: emergency actions, increase of basic food supply, improvement of incomes, and the provision of cheap food. The initiatives take place on a structural (State) level as well as the regional, and local levels such as the popular restaurants or the food banks. Some of the most highlighted programmes are the Bolsa Familia program that transfers cash to poor families and the national school-feeding programme

(PNAE) that offers free meals to schoolchildren. Since July 2009, 30% of the food purchased under the school-feeding programme should come from small family farms, presenting a powerful encouragement for numerous family farmers: for the fiscal year 2009, more than 313 million euros (over 418 million USD) was purchased from family-farming establishments¹³.

Governments should be encouraged to make these programs legal entitlements and not just policy options. In Brazil for instance, while the school-feeding programme (PNAE) is placed under a legislative framework, the Bolsa Familia program is not a legal entitlement and could thus be abolished in 2011 by the next government. By making these programs legal entitlements, permanency is ensured. In India for example the National Employment Guarantee Scheme is framed through a National Rural Employment Guarantee Act (NREGA, see hereunder) which stipulates the legal obligations the governments and States have in implementing the program, thus facilitating independent monitoring of the implementation of the programme and providing remedies to victims of inadequate or discriminatory implementation.

More generally, the institutionalisation of programmes that contribute to the implementation of the right to food (i.e., the transposition of such programmes into legislative acts) presents a number of advantages and can significantly contribute to their effectiveness and sustainability. The clear definition of beneficiaries in legislation - making access to social assistance or support schemes a right for the beneficiaries - may limit the risk of resources being diverted as a result of corruption or clientelism. It can also improve accountability of the administration responsible for implementation, particularly if courts or other independent institutions are empowered to monitor implementation. Defining the benefits allocated through the programme as a right held by all (or by all those who qualify, where the programme is targeted) can reduce the element of stigma attached to participating in the programme, which could otherwise reduce significantly the participation of eligible persons.

India's National Rural Employment Guarantee Act

India has taken important steps towards addressing the needs of people by recognizing them as rights-holders. The social programmes and policies that have been established in India are based upon the understanding of the right to food as the right to access the means to produce food or the means to an income that enables the purchase of adequate food.

In line with its obligation to fulfil the right to food and the Right to Food Guidelines, India has set up several safety nets for poor and food insecure people. For instance, the 2005 National Rural Employment Guarantee Act (NREGA) guarantees 100 days of unskilled work for people who live in rural areas. Local governments are obliged to implement this law by setting up a Rural Employment Guarantee Scheme. Under the Scheme, work should be provided to applicants within 15 days, and if work is not found, an unemployment allowance should be paid. Other provisions of the Act state that workers should receive the minimum wage and that these wages need to be paid in a timely fashion.

NREGA gives people the means to realize their right to food by providing them economic access (financially) to adequate food when facing economic insecurity. We can genuinely speak of a breakthrough in India's social security system. Despite the fact that the law is not without its deficiencies - such as the 100-day limit or the fact that the elderly are left out - it can make an enormous difference for the many unemployed rural workers if implemented.

Certain implementation problems are alleged to persist, however. First, there are instances of corruption, exclusion, and discrimination in the implementation of the program. In certain cases, workers are not given work, their wages are not paid, or only months after work, workers face difficulties in registering to NREGA, and unemployment allowances are not paid. A second obstacle to the full implementation of the NREGA is the lack of knowledge about its provisions; many people who live in rural areas are illiterate and have no access to information about NREGA. Consequently, they have no knowledge of what their rights are and how they can demand them. The lack of transparency is also manifest in the implementation of the program and lack of reliable official data. This is important since people have already successfully demanded their right to food before the Supreme Court (see section 4), and as India has enacted acts to fight corruption such as the Right to Information Act (RTI), which all can be used by victims of right to food violations to demand their rights. Obligations and responsibilities are clearly spelled out, thus facilitating accountability and the possibility for workers to demand their rights. The Right to Food Campaign, a network of organisations committed to the realisation of the right to food, has since 2005 been campaigning all over India for the sound implementation of NREGA. Progress is feasible such as in Rajasthan where an average of 77 days of work is being offered. However, Rajasthan is still a singular example, and most States have not achieved similar results¹⁴.

Strategies in Africa, Asia and Latin America

The Indian NREGA is not unique in its category. Other, similar public works programmes have been developed elsewhere: examples include the South Africa Working for Water programme since 2004, or the Argentinian *Jefes de Hogar* programme, which since 2002 offers households with children 20 hours of work per week.

■ **Bangladesh** also moved in this direction. In September 2008, in addition to the scaling-up of existing food-based safety net programs such as the National Food Policy (2006) and the National Strategy for Accelerated Poverty Reduction (2008) both in terms of coverage and benefits, Bangladesh embarked on the first phase of a 100-day Employment Generation Programme (EGP) aimed at the poorest and jobless poor, particularly those affected by seasonal unemployment, in response to the soaring food prices. With an estimated outreach to two million households (about 10 million beneficiaries) and with the objective of generating 200 million person days of employment per year, the EGP is the largest Government safety net programme focused on employment generation. Yet, according to certain reports commissioned by the government, its efficiency has been severely hampered by targeting problems, and by the absence of adequate accountability mechanisms¹⁵.

■ **Mozambique** has placed the right to food at the center of its National Food and Nutrition Security Strategy 2008-2015 (ESAN II - Estrategia de Segurança Alimentar e Nutricional), which aims at advancing the food security objectives included in the country poverty reduction strategy paper (PARPA II - Plano de Acção para a Redução da Pobreza Absoluta). PARPA II includes essential right to food features such as the importance placed on providing access to adequate food and the importance of food and nutritional security as a cross-cutting issue to be applied in all spheres of Mozambique's development. Both PARPA II and ESAN II were devised through broad, participatory consultations, involving government officials, civil society, the private sector, and international partners. Key right to food based provisions found in ESAN II are:

- The mapping of policy priorities related to the right to food and the setting out of time-frames for their fulfilment (in accordance with Guideline 3.3). The policy areas are organized under five thematic pillars: Production and Availability, Access, Use and Utilization (i.e. food and nutrition practices and health), Adjustment (i.e. food safety), and Stability (i.e. sustainable incomes and safety nets).

- ESAN II broadens the role played by Mozambique's Technical Secretariat for Nutritional and Food Security (Secretariado Técnico de Segurança Alimentar e Nutrição - SETSAN) to encompass food insecurity and vulnerability mapping, right to food policy impact assessment, and right to food capacity building – which were not included under the predecessor strategy ESAN I - in addition to SETSAN's inter-departmental coordination function. The strategy includes also estimates for necessary budget-allocations.
- ESAN II includes an “Action Plan” outlining the sectoral and intersectoral policies and programmes that need to be pursued to realise the right to food, and the government bodies responsible for doing so. Though many of the items are rather broad, such as “[i]ncrease and improve the infrastructure and services related to the food chain”, others are very specific such as the passing of a right to food law.

Mozambique has thus succeeded in developing a strategy which includes clear benchmarks and responsibilities, and which highlights the need for a legal framework supporting this strategy.

- **Nicaragua** recently has elaborated a comprehensive strategy to combat hunger and malnutrition. This Policy for food and nutritional security and sovereignty (Política Sectorial de Seguridad y Soberanía Alimentaria y Nutricional, 2009) is being operationalised through different social programmes.

Nicaragua's latest effort in reducing in hunger and malnutrition is its Hambre Cero program. The Hambre Cero program seeks to empower rural women heading households by providing them with a productive voucher (Bono Productivo), which provides them with farm animals, plants, seeds and other inputs so that they improve their ability to produce food, and in time, set up cooperatives with other producers.

The programme, it has been noted elsewhere, could be further strengthened by being institutionalized and by improving the quality of the information and the transparency of operation of the programme¹⁶. It has also been noted in this context that an increase in the resources allocated to the Office of the Ombudsman in order to effectively monitor the functioning of the national system for food and nutritional sovereignty and the progressive realization of the right to food, as provided in its food sovereignty law of 2009, could benefit the implementation of the Hambre Cero program.

4. THE ROLE OF COURTS

It has been remarked that a right is only fully justiciable ‘if it is not only recognized as such but if there are procedural mechanisms which allow victims of violations access to judicial review’¹⁷. As more and more countries adopt laws on the right to food or include it in their constitutions, courts will play an increasingly important role. We have witnessed already right to food violations lodged before the courts in countries such as Argentina, Colombia, Switzerland, and Paraguay¹⁸. In what follows we will discuss some of the most recent cases related to the right to food.

Successful court cases

- One of the most powerful examples of a successful court case is the People's Union for Civil Liberties (hereinafter PUCL) case filed in 2001 before the Supreme Court of **India**¹⁹. The case was filed out of the indignation of the occurrence of starvation deaths in the State of Rajasthan while at the same time there was a national surplus of food grains, which was left to unused instead of being distributed to the people. The case was brought before the Supreme Court using India's public litigation system, which allows one to go to court in the interest of the public, without having to name aggrieved victims.

Subsequently, the case ignited a series of – ongoing – interim judicial orders imposing the implementation of several food schemes set up previously by the government and providing clear and concrete benchmarks for the government to follow. The case led to the development of a strong civil society group campaigning for the right to food throughout the country. In India the awareness-rising function of such campaigns is very important as (caste-based) discrimination is still widespread, and the poorest among the poor such as the Dalits or indigenous tribes have little notion of what their rights are since they are not accustomed to have any.

The case functions thus also as an advocacy tool. Not only has it produced ownership amongst the poorest but it has also facilitated the acceptance of lawyers and judges of the justiciability of the right to food. NGO's such as Human Rights Law Network are providing legal education to the judiciary in India on the right to food using the case as an example. Several cases have been successfully filed since in the lower and high courts all over India demanding the implementation of the right to food. The case also fuelled the demands and concern for the current debate about the National Food Security Act (also

referred to as the Right to Food Bill) in Indian society. Indeed, India now needs to transform the orders of the Supreme Court in permanent legal entitlements. The case demonstrated the potential of bringing about change through legal action and the value of having a legal framework in order to enforce the right to food. For example, today the implementation of the mid-day meal scheme ordered by the Supreme Court is nearing universal coverage, as today more than 118 million Indian children who attend primary school are given a daily meal. A major achievement knowing the scheme was not being implemented before the 2001 Court orders²⁰.

■ In 2008, a right to food case was also brought before the Supreme Court in **Nepal**²¹. The right to food case in Nepal – just as in India – was a reaction to the growing food insecurity in the country. In Nepal, the problem is not the availability of food but rather the poor distribution of food, notably the lack of physical access to adequate food. The case filed on 15 September 2008 seeks to oblige the government to facilitate access to adequate food for the Nepalese people. The case is ongoing at the time of writing but an interim order was already issued 10 days after its filing. The Supreme Court ordered the immediate provision of food to the food insecure districts in order to prevent people from starving to death. The claims made in the case go beyond the mere provision of food but also insist on the erection of an adequate legal framework, the set up of essential infrastructures, storing facilities, and a food distribution system. Accountability, the rule of law, and the establishment of judicial mechanisms for people to claim their rights are fundamental in a rights-based approach towards food insecurity. The case is a positive development for Nepal and provides a starting point for the implementation of a sound legal framework and ditto food policies.

■ In 2002, the National Rapporteur on the Right to Food, Water and Rural Land, appointed by the **Brazilian** civil society, and acting here with the support of the NGO ABRANDH²², undertook an investigation of the lake-side favela of Sururu de Capote, located in the centre of Maceió, the capital city of Alagoas state. The community of about 1,500 families lived in mud and plastic-sheet dwellings, lacking even basic infrastructure and with extremely poor health and hygiene conditions. A medical examination of under-five-year-olds revealed a shocking state of chronic malnutrition²³. Lacking formal addresses, the residents were excluded from the family cash-transfers of the Bolsa Familia programme, and were cut off from the city's health services. Moreover, the area lacked an adequate number of school classrooms. The residents'

main source of sustenance was a nearby garbage dump as well as small-scale fishing activities. Finally, the community had suffered several violent evictions, but had been forced to return to the lakeside for lack of livelihood opportunities elsewhere. The residents of the other three lake-side favelas, Mundaú, Torre, and Muvuca, faced similar conditions.

The National Rapporteur was joined in his investigation by Public Prosecutors from the state-level Public Ministry. The evidence they gathered led first to five public hearings and efforts to negotiate Terms of Conduct Adjustments for the municipal authorities of Maceió and the state government of Alagoas. However, when these measures failed to bring about significant change, the investigators filed a class action in the district court for children and adolescents' rights, holding that the municipality of Maceió had violated the social, economic and cultural rights, notably the right to food, of families living in the four Orla Lagunar communities²⁴. On 10 September 2007, drawing on both national and international law, Judge Bittencourt Araújo issued a judgment that is one of the sharpest defences of Economic, Social and Cultural Rights in Brazilian jurisprudence to date²⁵. The judgment was upheld on 14 November 2007 by the State Justice Tribunal (Tribunal de Justiça).

Regardless of the fact that the municipality has embarked on a series of appeals, it is obliged to implement the terms of the judgment by way of an immediate interim relief. That is, the city has to make sure that the children and adolescents of the affected communities could attend school, if necessary by building schools in the area. This should ensure that the children and adolescents concerned will benefit from school meals. Extending formal identification to the lake-side families has enabled them to receive the income-transfers of the federal Bolsa Familia programme. Finally, the city is currently working on extending health services to the four favela communities. Thus, implementation of the order, though staggering, has brought vital relief to the lake-side people and has lifted many out of absolute destitution²⁶.

■ Another example of the growing jurisprudence on the right to food around the world is the ongoing right to food case of the South African traditional fishers' communities²⁷. In **South Africa**, traditional fishermen grouped together and went to court as they lost their fishing rights, and thus their livelihood, due to the governmental fishery policy and legislation. The traditional fishers decided to take action and bring their case before the South African Equality Court in 2005. A court order issued in 2007 agreed to by the fishers led the government to elaborate a new law

and policy which protects the the socio-economic rights of those fishers. The Court thus ensured that the fishers would have an equitable access to marine resources and provided for interim relief with a 'species package', which allows fishers to fish certain marine species until a new law and policy are put in place. The Court condemned the discrimination the claimants were facing in their access to adequate food and provided for interim relief with a 'species package', which allows fishers to fish certain marine species until a new law and policy are put in place. However, the claimants are still struggling, and state that the species package is insufficient to support their livelihood. Notwithstanding the court order and the promises of the government, a new law and policy that takes into account the right to food of traditional fishermen needs yet to be elaborated. The fishers are threatening to take the matter to court again if no progress is made soon.

Very important here is that access to justice for these artisanal fishers is greatly facilitated by the existence of the South African Equality Court. The Equality Court is a special function of every High Court in South Africa, and aims to uphold the equality clause of the Constitution²⁸. To carry out its mandate, the Equality Court can resort to a range of forms of redress, unavailable to other South African courts. In particular, it can resort to a range of orders including the order to implement special measures to address unfair discrimination or prescribe steps to be taken to stop such discrimination. This is why the fishers sought the jurisdiction of the Equality Court.

Although progress is yet insufficient, the case illustrates not only how victims of right to food violations can be empowered through judiciary action and how government policies and laws can be corrected; but also the importance of having undemanding access to complaint mechanisms. The next section focuses on the institutions which can help protect and fulfil people's right to food.

5. SECURING PROCESS BY THE DESIGN OF AN INSTITUTIONAL FRAMEWORK

It is imperative that national institutions are created to monitor and assess the right to food situation in a country. Right to Food Guideline 5 declares that States '*should assess, where appropriate, the mandate and performance of relevant public institutions, and where necessary establish, improve, or reform their organization and structure to contribute to the realization of the right to food*'²⁹. Several countries have followed this Guideline, setting up novel structures on their way to realize the right to food in their country.

Brazil's institutional innovations

Brazil and the civil society working on the right to food have been innovative in creating institutions which aim at advancing the realization of the right to food. Brazil has an independent Special Secretariat for Human Rights tasked with the design of policies which promote human rights. The Secretariat contains a small department, the Council for Defence of the Rights of the Human Person, which deals with the monitoring of human rights violations. In 2005, this department created the Special Commission for Monitoring Violations of the Human Right to Adequate Food (Comissão Especial de Monitoramento das Violações do Direito Humano à Alimentação Adequada), to improve its monitoring work on the right to food. In 2000, through the initiative of Brazilian civil society the National Rapporteurship – modelled on the United Nations Human Rights Council system of special procedures – was established in order to enhance the protection of economic, social, and cultural rights. Six national rapporteurs were established with the following respective competencies: Food, Water and Land; Housing; Education; Work; Health; and Environment.

The National Rapporteur on the Right to Food, Water and Land has been active in mainstreaming the right to food in the work of not only policy and lawmakers, but also public prosecutors. This was illustrated by the Rapporteur's important role in the insertion of the right to food in Brazil Food Security Framework Law³⁰. The Rapporteur has been most active though acting as an investigator of right to food violations at the local level. To date, the work of the Rapporteur has led to reports, public hearings, and court cases such as the successful Maceio favelas class action. The Rapporteur thus functions as a motor for the advancement of a rights-based approach towards food insecurity; ensuring and strengthening access to complaint mechanism for the poorest, and generating awareness throughout Brazilian society and government about the right to food³¹.

Apart from the development of these institutions, Brazil continues to demonstrate its political dedication on the right to food, and continues to enhance its institutional framework on the right to food. The 2006 Food Security Law, developed with support of the National Rapporteur, installed the National Food and Nutritional Security Council (CONSEA, established in 2003), as a permanent government structure. CONSEA ensures the proper implementation of the various food programmes under the Fome Zero strategy and guarantees the participation of the people in the formulation of recommendations to the government on food security issues as it ensures

equal representation for civil society and federal representatives. For example, CONSEA carried out a vigorous public campaign for the recent inclusion of the right to food in the Brazilian constitution.

However, there are concerns about the capacity of these institutions to fulfil their missions in progressively realizing the right to food. The functioning of these institutions should be further enhanced through the provision of adequate funds and resources since these institutions are underfunded and are unable to adequately work towards their objectives. This does not only imply financial support but also by ensuring that the local-level authorities have the required capacity to work towards the realization of the right to food, which requires adequate training and monitoring³².

India and Nepal's initiatives

Through the PUCL case, earlier described, India has established Commissioners on the right to food. These Commissioners fulfil a vital role in the monitoring of the implementation of the court orders, providing information to the Supreme Court, and by forwarding recommendations on legal and policy action. The Commissioners have proven to be extremely helpful but its powers are restricted due to their attachment to the PUCL case. The mandate of the Commissioners could in the future be institutionalized and broadened. It should be noted that Right to Food Guideline 18.1 encourages States to establish human rights institutions or ombudsmen. These need to be autonomous and independent from the government, in accordance with the Paris Principles.

As described earlier, Nepal is on the verge of adopting a new constitution. The constitution which contains several provisions pertinent to the right to food reinforces the mandate of the Nepali Human Rights Commission (hereinafter the Commission). The National Human Rights Commission (NHRC) formerly a statutory body becomes now an independent constitutional body with a broad mandate to *'ensure the respect, protection and promotion of the human rights and its effective implementation'*³³. The Commission can lodge complaints before the Court upon investigation or upon information received from individuals or organisations³⁴. Furthermore, the Commission can make recommendations on policy action and review existing law on its compatibility with human rights. The Commission has thus the potential to be a powerful tool for ensuring the accountability and enforcement of the right to food. Given its broad and powerful mandate the Commission will need considerable financial and human resources to fulfil its mandate.

CONCLUSIONS

If hunger and malnutrition are indeed, as illustrated by Sen, the result of a lack of accountability and of social inequalities that go unnoticed or unremedied, protecting the entitlements of the poor as legal entitlements can significantly contribute to sustainable food security. The examples discussed illustrate the speed at which developments took place over the past decade, at both the international and the national levels, particularly since the adoption of the Voluntary Guidelines on the right to food by the Member States of the FAO Council in November 2004. Much progress still needs to be made, however. Specifically, the following actions could help further the implementation these guidelines and improve the protection of the right to adequate food through domestic institutional mechanisms:

- 1. Governments should strive to adopt the right to adequate food in their constitutions, recognizing hereby the right to adequate food as a right of their citizens that all organs of the State, including the legislator, must comply with.** Making the right to food a constitutional right ensures its permanency in a country's legal framework and detracts its from the political realm and possible changing political environments. The adoption into the Constitution also demands the development of adequate laws and policies to give effect to the constitutional provision.
- 2. National parliaments should be encouraged to work towards the adoption of framework laws that establish a participatory mechanism aimed at the adoption of a national strategy for the realization of the right to food.** Both the existence of such a participatory mechanism and the definition, in a national strategy, of precise timeframes for the removal of obstacles to the full realization of the right to food, with a clear allocation of responsibilities across different branches of government, should improve accountability. Regional organisations can support such a process, as illustrated for instance by the role played in the Latin American region by the Parliamentary Forum against hunger, as part of the Initiative America Latina y Caribe sin Hambre. Technical assistance in adopting such legislation is being provided to a number of countries by the Right to Food Unit of the United Nations Food and Agriculture Organisation (FAO), and the tools developed by the Unit, including the Guide on Legislating on the right to food, are extremely valuable in giving guidance in this area³⁵.
- 3. Such framework laws and national strategies can only be successful if there are a well-organized civil society, and political parties, that can rely on these**

instruments to hold all actors, both governmental and non-governmental, accountable. But it is equally important to recognize that the establishment of participatory mechanisms and the adoption of framework laws and national strategies, in turn, can be a powerful incentive for non-governmental organisations to mobilize their efforts, and for opposition political parties to play their role in obliging governments to better justify their actions.

4. **The institutions that are set up as part of a national strategy for the realization of the right to food should be sufficiently well resourced.** This is true both for participatory bodies in which civil society is involved, for independent monitoring bodies, including national human rights institutions and courts, as a condition of their independence.
5. **The right to food will only be truly realized where victims have access to an independent judiciary or other complaints mechanisms to complain about violations of the right to food.** Rights are entitlements that should be legally protected. This requires not only that courts be empowered to adjudicate claims based on the right to food, but also that the potential victims are adequately informed about their rights. Institutions that facilitate access to courts, as we have seen in South Africa with the Equality Court, can be a useful and sometimes indispensable complement as legal procedures are often complex and expensive.
6. **The contribution of appropriate institutional and legal frameworks, based on the right to food, to food**

security is still difficult to assess, partly because of the complexity of causal analysis in such areas, and partly because of the recent character of the innovative schemes described above. Further research should gradually fill in this gap. Research institutions and organisations, including FAO and IFPRI as well as academic institutions with an expertise in food policy and food security, should launch research programmes which aim to assess the changes and impacts of the national implementation of the right to food, especially in countries which have integrated these principles in their constitutions, laws, courts, institutions, policies and programmes.

7. **The Committee on World Food Security may also have an important role to play in assessing the impact of the recognition of the right to food and in accelerating collective learning based on the exchange of best practices.** Five years after the adoption of the Voluntary Guidelines, it would be particularly appropriate to take stock of the efforts to implement these guidelines and to draw the lessons from what has been achieved. An initiative of the CFS collecting information from all governments about the implementation of the Guidelines, particularly as regards the adoption of national strategies, would be welcome in order to accelerate collective learning in this regard. The High-Level Panel of Experts assisting the CFS in its work could also be asked to prepare a review of some of these national strategies aimed at realizing the right to food, examining the reasons why certain efforts have failed, where other countries have achieved successes.

Notes

1. A.K. Sen, *Poverty and Famines. An Essay on Entitlement and Deprivation*, Oxford Univ. Press, 1981.
2. For some reports on the justiciability on the right to food, see: Report on the Justiciability of the Right to Food by the Special Rapporteur on the right to food, Mr. Jean Ziegler, UN Doc. E/CN.4/2002/58 (10 January 2002); Christophe Golay 'The Right to Food and Access to Justice: Examples at the National, Regional, and International Levels' (FAO, Rome, 2009); FIAN 'How to Promote the Justiciability of the Right to Food – A Multidimensional Strategic Proposal' (FIAN, Heidelberg, 2008)
3. Article 13 of the Constitution of Ecuador
4. Often the right to food is recognized as a Directive Principle for the State (e.g. India) or is assured through other rights such as the right to life. In other cases it has been incorporated in the constitution through the recognition of the ICESCR as part of the constitutional block "bloque de constitucionalidad" (For example in Colombia, Art. 93).
5. FAO- IIED, *The Right to Food and Access to Natural Resources - Using Human Rights Arguments and Mechanisms to Improve Resource Access for the Rural Poor* Right to Food Study (FAO, Rome. 2008),
6. FAO Methodological Toolbox on the Right to Food – Guide on Legislating for the Right to Food, pag.4
7. See chapter III of the Guidelines, grouping the recommendations related to International Measures, Actions, and Commitments.
8. Similarly Mozambique has received technical and financial support from the FAO to conduct consultations with civil society and develop its framework law. The development of this law is included in the country's 2006 -2009 Poverty Reduction Strategy Paper (PRSP) (Plano de Acção para a Redução da Pobreza Absoluta - PARPA II). Mozambique's Food and Nutritional Security Technical Secretariat (SETSAN) plans to submit a draft bill on the Right to Adequate Food to the government before the end of 2010.
9. The Secretaries for Agriculture, HIV/AIDS, Land, Health, Natural Resources and Environmental Affairs, Justice.
10. See Committee on Economic, Social and Cultural Rights, General Comment No. 12 (1999): the right to adequate food (accordant to

- which the State should 'identify the resources available to meet the objectives [of the national food strategy] and the most cost-effective way of using them').
11. While Brazil has done remarkable progress in realizing the right to food through the range of programmes placed under the Fome Zero strategy, it still faces certain challenges in this regard. See the report of the Special Rapporteur on the right to food following his October 2009 mission to Brazil (UN doc. A/HRC/13/33/Add.6) (March 2010).
 12. General Comment No. 12, para. 21 (UN Doc. E/C.12/1999/5) 12 May 1999
 13. See also: Report of the Special Rapporteur on the right to food 'Mission to Brazil' presented to the Human Rights Council [A/HRC/13/33/Add.6] (March 2010), para.38
 14. Jean Drèze and Christian Oldiges 'Employment Guarantee – The Official Picture' Frontline 2009
 15. See: Background document to the second report on the global food crisis Mr. Olivier De Schutter, Special Rapporteur on the right to food, (UN Doc. A/HRC/12/31), June 2009 and, for more details, Study of the first phase of the 100-day employment generation programme, commissioned by the Ministry of Food and Disaster Management of the Government of Bangladesh and conducted by the National Food Policy Capacity Strengthening Programme (NFPCSP), BRAC Research and Evaluation Division (RED) and BRAC Development Institute (BDI) of BRAC University, 10 February 2009.
 16. Report of the Special Rapporteur on the right to food, Mission to Nicaragua, presented to the Human Rights Council [A/HRC/13/33/Add.5] (March 2010).
 17. FIAN 'How to Promote the Justiciability of the Right to Food – A Multidimensional Strategic Proposal' (FIAN, Heidelberg, 2008) p. 7.
 18. Colombia, Corte Constitucional, Defensor del Pueblo, doctor Jaime Córdoba Triviño (en representación de varias personas integrantes del Grupo Etnico Indígena U'WA) c/ Ministerio del Medio Ambiente y Occidental de Colombia, Inc. s. Acción de tutela, Sentencia SU-039/1997; Federal Supreme Court, V. gegen Einwohnergemeinde X. und Regierungsrat des Kantons Bern, 1995; Argentina, Corte Suprema de Justicia de la Nación, Defensor del Pueblo de la Nación c. Estado Nacional y otra, 2007; Case of the Indigenous Community Yakye Axa v. Paraguay, Inter-American Court of Human Rights, June 17, 2005:
 19. Writ Petition (Civil) No. 196/2001 People's Union for Civil Liberties v. Union of India & Others
 20. Reetika Khera ' Mid-Day Meals in Primary Schools – Achievements and Challenges' Economic and Political Weekly, November 2006; for the exact numbers see the website of the Ministry of Human Resource Development: <http://education.nic.in/Sche.asp>
 21. Prakash Mani Sharma and others on behalf of Forum for Protection of Public Interest (Pro Public) v. Prime Minister and Office of Council of Minister and Others, Writ Petition No. 0065-w0-149 of 2065 BS (2008)
 22. Ação Brasileira pela Nutrição e Direitos Humanos
 23. Of the under-five-year-olds, 80 per cent was anaemic, 87 per cent tested positive for intestinal parasites, while nearly half the children measured were below the average height for their age (i.e. stunted) and most were underweight (i.e. wasted). FAO, 2007, Lessons Learnt in Brazil, p. 4.
 24. In particular, the Federal Public Ministry, the Federal Public Prosecutor for Work and Labour Rights, and the state-level Public Prosecutors for the Protection of Children and Adolescents, and for the Protection of the Right to Health signed the court petition against the municipality. The class action was filed on 12 March 2007; Action No. 4.830/07, 2ª Vara da Infância e Juventude de Maceió.
 25. The judgment states that the municipality of Maceió is responsible for violating the rights to food, health, and education of the children and adolescents of the Orla Lagunar communities. The judgment further orders several steps to be taken to correct those violations and sets a deadline of 60 days for the municipality to elaborate an implementation plan, and six months for it to carry out that plan. Finally, the judgment also obliges the municipality to extend social services to the residents of the affected communities
 26. A Beurlen, interview.
 27. Kenneth George and others v Minister of Environmental Affairs and Tourism; Equality Court held at the High Court of South Africa (Cape of Good Hope Provincial Division), File No. EC 1/2005.
 28. "Everyone is equal before the law and has the right to equal protection and benefit of the law" (Section 1)
 29. See also General Comment 10 on 'The Role of National Human Rights Institutions in the Protection of Economic, Social, and Cultural Rights' by the Committee on Economic, Social, and Cultural Rights
 30. The National Rapporteur also helped the Federal Attorney General's office for Citizens' Rights, within the Federal Public Ministry, set up a Working Group on the Human Right to Adequate Food. The Working Group consequently issued a handbook on prosecuting right to food violations that was distributed to Public Prosecutors throughout Brazil.
 31. Now in Colombia the Colombian Platform on Human Rights, with the support of FIAN is promoting the creation of a national rapporteurship on the Right to Food and another on the Right to work.
 32. See the latest report of the Special Rapporteur on the right to food on his mission to Brazil (UN Doc. A/HRC/13/33/Add.6) (March 2010).
 33. Section 132 of the Constitution.
 34. The Commission exercises the same powers as the court has in requiring any person to appear before the Commission for recording his/her statement and information or examining them, receiving and examining evidence, ordering for the production of any physical proof
 35. The Guide is available on; www.fao.org/righttofood/publi09/guide_on_legislating.pdf

Additional reading:

- **Country missions of Olivier De Schutter, Special Rapporteur on the right to food** in Benin, Brazil, Guatemala and Nicaragua, and all country missions done within the mandate of the Special Rapporteur (2001-2010) <http://www2.ohchr.org/english/issues/food/visits.htm>.
- **FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security**, Adopted by the 127th Session of the FAO Council November 2004, (FAO, Rome, 2005), http://www.fao.org/righttofood/publi_01_en.htm
- **Committee on Economic, Social, and Cultural Rights, General Comment 12 - The Right to Adequate Food (Art.11), UN Doc. E/C.12/1999/5**, (12 May 1999) <http://daccess-ods.un.org/TMP/3233273.html>
- **FAO, Legislative Database**, http://www.fao.org/righttofood/kc/legal_db_en.asp?lang=EN
- **FAO, Database on national strategies for the right to food**, http://www.fao.org/righttofood/inaction/ajustice_strategylist_en.htm
- **FAO, Methodological Toolbox on the Right to Food – Guide on Legislating for the Right to Food**, http://www.fao.org/righttofood/publi_02_en.htm
- **FAO, The Right to food Guidelines, Information Papers and Case Studies**, (FAO, Rome, 2006) http://www.fao.org/docs/eims/upload/214344/RtFG_Eng_draft_03.pdf
- **FAO, The Right to Food in Practice – Implementation at the National Level**, (FAO, Rome, 2006) http://www.fao.org/docs/eims/upload/214719/AH189_en.pdf
- **FAO, The Right to Food and Access to Justice**, Right to Food study, (FAO, Rome, 2009) http://www.fao.org/righttofood/publi09/justiciability_en.pdf
- **FAO- IIED, The Right to Food and Access to Natural Resources - Using Human Rights Arguments and Mechanisms to Improve Resource Access for the Rural Poor” Right to Food Study** (FAO, Rome. 2008), http://www.fao.org/righttofood/publi09/natural_resources_en.pdf
- **FIAN, Access to Land and Productive Resources - Towards a human rights Approach Using the FAO Voluntary Guidelines on the Right to Food** (November 2008) <http://www.fian.org/resources/documents/others/access-to-land-and-productive-resources-2>
- **FIAN, Screen state action against hunger! How to use the Voluntary Guidelines on the Right to Food to monitor public policies?** (November 2007) <http://www.fian.org/resources/documents/others/screen-state-action-against-hunger>
- **FIAN, Advancing the Right to Adequate Food at the National Level - Some Lessons Learned**, (March 2010) <http://www.fian.org/resources/documents/others/advancing-the-right-to-adequate-food-at-the-national-level>

Relevant Websites:

- **Reports of the Special Rapporteur:** <http://www.srfood.org/> or <http://www2.ohchr.org/english/issues/food/annual.htm>
- **FAO Right to food Unit:** http://www.fao.org/righttofood/index_en.htm
- **Office of the High Commissioner for Human Rights, Committee on Economic, - Social, and Cultural Rights,** <http://www2.ohchr.org/english/bodies/cescr/index.htm>

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Olivier De Schutter was appointed the UN Special Rapporteur on the right to food in March 2008 by the United Nations Human Rights Council. He is independent from any government or organization, and he reports to the Human Rights Council and to the UN General Assembly. All reports are available on <http://www2.ohchr.org/english/issues/food/annual.htm>. See <http://www.srfood.org> for a thematic classification of all reports and statements of the Special Rapporteur. The Special Rapporteur can be contacted on srfood@ohchr.org