



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the UN Commission on Human Rights  
62nd Session and Human Rights Council 2<sup>nd</sup> Session

### The Special Rapporteur on the right to food<sup>1</sup>

Mandate Holder

Jean Ziegler

Mandate

The mandate was established in 2000<sup>2</sup> to seek and respond information relating to the right to food; cooperate with Governments, international organisations and non-governmental organisations on the promotion and effective implementation of the right to food; make recommendations in this regard; and identify emerging issues related to the right to food. Adequate food is recognised as forming part of the right to an adequate standard of living included in Article 11 of the *International Covenant on Economic, Social and Cultural Rights*. The Special Rapporteur defines the right to food as the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of people, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear. The Special Rapporteur also pays special attention to the issue of drinking water, taking into account its interdependence with the right to food.

Activities

- Annual Report;
- Mission to Guatemala;
- Mission to India.

Mission to Guatemala<sup>3</sup>

### Scope

Mission to Guatemala was undertaken from 26 January to 4 February 2005. The Special Rapporteur met with members of the Government including the Vice-President and the Secretary for Food and Nutrition; a wide range of civil society representatives through participation in the "National Forum on Right to Food as a Challenge to National Policy" and a number of local forums with different communities; and the Nobel prize winner Rigoberta Menchu. The Special Rapporteur visited urban and rural areas.

### Summary and key conclusions

- While the human rights situation has improved, violations of the right to food persist, manifested in very high levels of **acute malnutrition**, especially **chronic child malnutrition**, and **extreme poverty** particularly among indigenous people;
- The Special Rapporteur found **violations of the right to food**, including forced evictions, expropriations of land from indigenous peoples, violations of labour rights, exclusionary development, criminalisation of peaceful protest, and a climate of impunity;

<sup>1</sup> Summaries prepared by Cléa Thouin, Intern, ISHR, supervised and edited by Meghna Abraham, Information Program, ISHR.

<sup>2</sup> Commission on Human Rights *Resolution 2000/10*.

<sup>3</sup> E/CN.4/2006/44/Add.1, 18 January 2006.

- Widespread hunger and malnutrition are also related to **extreme inequities in the distribution of Guatemala's productive resources**, and a history of **exclusionary development** that has left indigenous people without land or labour rights and subject to pervasive racial discrimination;
- Land concentration, landlessness and general extreme inequality and social exclusion contributed to the civil war, which was ended in 1996 by the Agreement on a Firm and Lasting Peace (the Peace Accords);
- The election of the current Government in 2004 marked a new beginning with **very important progress** being made and initiatives to make the fight against hunger and malnutrition a priority, such as the creation of a national "Front against Hunger", the Law on the National System for Food and Nutritional Security, which recognises the right to food and views access to food as the key problem, and efforts at the international level such as the Latin American conference on hunger eradication in September 2005;
- The implementation of Peace Accord's framework for political, economic, social and cultural change has been slow and difficult, given the resistance against it from powerful groups. The National System for Food and Nutritional Security has failed to fully recognise the different obligations of the Government to respect, protect and fulfil the right to food and to address the structural causes of hunger and inequality or the complex issues of land, labour and fiscal reform;
- There are also a number of **challenges** to the right to food related to access to **land, land tenure, water and mining**, including the continued absence of an effective land registry system; agrarian code; legal recognition of indigenous forms of land ownership; agrarian jurisdiction to resolve land disputes; and of any water law; as well as the prevalence of discrimination against indigenous people and women;
- More general obstacles to the realisation of the right to food include the persistent **impunity** for violations of human rights, a lack of **equality before the law** for Guatemala's people, and the **export-oriented agriculture model** which has created greater hunger and poverty;
- Guatemala's civil society's expressed concern at the intensification of the rise of forced evictions; the criminalisation of peasant protests; and exclusionary development processes in which local populations do not benefit from the exploitation of natural resources;

### Key recommendations

- The realisation of the right of food must become an urgent priority and any violations of this right should be fully **justiciable**;
- The National Policy on Food and Nutrition Security should be revised to ensure that it reflects the obligations of the State to respect, protect and fulfil the right to food; includes statistics on malnutrition, under-nourishment, poverty and inequality; is linked to the Millennium Development Goals; ensure participation of indigenous people; and addresses the structural causes of hunger and poverty. It should also be fully implemented and monitored;
- The law on land registry should be implemented; with the establishment of an Agrarian Code to regulate access and tenure of land, an agrarian jurisdiction for the resolution of land conflicts; and comprehensive water legislation. The right to land of indigenous people must also be recognised;
- All Guatemalans should be treated equally before the law; legitimate peaceful protest should be permitted; and social and land conflicts should be de-criminalised;
- Training should be given to security forces, the Ombudsman and the judiciary;
- **Discrimination** against indigenous people and women must be addressed;
- Workers' rights should be respected and the national minimum wage should be raised to cover the costs of the basic food basket;
- A comprehensive **rural development strategy** should be undertaken to overcome hunger and malnutrition; the model of exclusionary development and export-orientated agriculture should be reversed; and there should be an agrarian reform in favour of small-scale peasant agriculture;
- The implementation of the Central American Free Trade Agreement should be done in a manner that is consistent with Guatemala's human rights obligations; its potential impact should be studied and safety nets established prior to its implementation;

Mission to India<sup>4</sup>

### Scope

The report outlines a mission to India from 20 August to 2 September 2005, during which the Special Rapporteur met with Federal Government officials, including the Minister for Agriculture, state and district level officials, a number of leading Indian academics, and a wide range of representatives from civil society organisations.

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<sup>4</sup> E/CN.4/2006/44/Add.2, 20 March 2006.

## Summary and key activities

- Although famine has been overcome, India still has the largest number of **undernourished people** in the world and severe levels of **malnutrition** affecting women, children and people of 'lower-caste scheduled castes and tribes' with particularly disastrous effect on physical and mental development. There are also recent signs that **hunger** and **food insecurity** are increasing.
- Discrimination against women and people belonging to lower castes, corruption in food programs such as the Public Food Distribution System (PDS) and a wide range of violations including forced labour, debt bondage, forced displacement, low agricultural wages, and concentration in land ownership remain serious **obstacles to the realisation of the right to food**.
- India's policies and programs have focused on increasing both the **national availability** of food, with a focus of self-sufficiency in rice and wheat production, and **physical and economic access** to food, although the **adequacy** of food has been less of a central focus. These aims have been addressed in the past through public investment in agriculture and rural infrastructure combined with programs such as the PDS and the Integrated Child Development Services Programme.
- The transition to a more **market-oriented economy**, with the liberalisation of and cuts in public investment in the agricultural sector and the shift from subsistence to cash crops, impacted negatively on the poorest.
- Furthermore a shift in the PDS led to huge excess stocks of food grains, while problems of hunger and malnutrition among the poor became worse. This led to groundbreaking **public-interest litigation** launched against the Government, with the Supreme Court recognising the Government's direct responsibility to prevent starvation, thereby transforming the policy choices of the Government into enforceable and justiciable rights of the people.
- The Supreme Court has also made judgements relating to the obligations to respect and protect the right to food, including the right to water of Dalits, the right to livelihood of traditional fisher people and of scheduled tribes.
- The use of public-interest litigation to protect the basic human rights of the most vulnerable and the Supreme Court's recognition of the right to food and water as being implied in the right to life make India one of the best examples of the **justiciability of economic, social and cultural rights**. Difficulties remain however in enforcing and implementing existing legislation and court decisions and in ensuring access to justice for the poor.

## Key recommendations

- The Government should ensure systems of monitoring of the severity of chronic undernourishment and malnutrition and accountability for starvation or malnutrition deaths must be instituted.
- All public administration officers should be **trained** with respect to human rights and the right to food.
- A framework of law with a **national strategy for the implementation of the right to food** should be instituted.
- The Federal and state governments must **follow and implement all orders and judgements of the Supreme Court**, especially concerning food-based schemes.
- **Land and agrarian reform** should be implemented to strengthen smallholder agricultural livelihoods.
- **Minimum wage legislation** should be fully enforced and the minimum wage should be indexed to the cost of a basic food basket.
- **Dams, mining and infrastructure projects** must not be implemented if this entails displacement and irreversible destruction of people's livelihoods.
- A **national early-warning system** should be established to record starvation deaths in order to generate emergency response and improve accountability.
- **PDS** must be strengthened to ensure that it reaches all those in need and that the prices do not make it impossible for the poor to buy subsidised rations.
- **Implementation of all food-based schemes** must be improved by incorporating the human rights principles of non-discrimination, participation, transparency and accountability.
- **Food security programs** should include elements that will ensure nutritional security, address micronutrient deficiencies and place more emphasis on protecting and promoting sustainable livelihoods.
- Greater **liberalisation of trade** in basic staple foods should not be pursued as long as subsidies in the developed countries keep international prices at artificially low levels.