

**ASSURING FOOD AND NUTRITION SECURITY IN AFRICA BY 2020:  
Prioritizing Action, Strengthening Actors, and Facilitating Partnerships**  
April 1–3, 2004, Kampala, Uganda

**SUMMARY NOTE**

**Parallel Session:**     **Implementing Action in Key Areas: Strengthening Governance**

**Panelist:**            *Meaza Ashenafi*, Executive Director, Ethiopian Women Lawyers Association,  
Ethiopia

**Title:**                 Strengthening Judicial and Legal Mechanisms to Fight Food Insecurity

**Date:**                 April 2, 2004

**Food security and the right to food**

Several international Conventions and political platforms have recognized the right to adequate food. The UN Convention on Economic Social and Cultural Rights (CESCR) adopted in 1966 is the leading international instrument in affirming the right to food. Article 11 of the covenant provides for:

*“The right of every one to an adequate standard of living for himself and his family including adequate food, clothing and housing to the continuous improvement of living conditions”*

The committee established to monitor compliance by state parties to the provisions of the CESCR has formulated General Comment No. 12 for an authoritative interpretation of Article 11 of the Convention on the right to food. According to the General Comment, the core meaning of the right to adequate food encompasses; availability and accessibility (both physical and economical) of food that fulfills the daily needs of individuals in sufficient quantity that is also nutritionally adequate and safe.

To fulfill these obligations states are required to:

- **Respect** — for example, by refraining from taking actions that arbitrarily deprive individuals their means of production.
- **Protect** — by ensuring that individuals or business companies do not interfere with the right of access to adequate and sufficient food.
- **Fulfill (Facilitate/Provide)** — by taking all necessary legislative and policy measures to enhance the utilization of resources to ensure sustainable access to livelihood (facilitate). Government may even be required to make food available under humanitarian conditions (provide).

Food insecurity is not only about hunger caused from famine, in fact the much larger issue is chronic, persistence hunger that is caused by poverty. Hence, the full realization of economic, social and culture rights, including the right to food needs comprehensive economic, social, environmental strategies that approaches poverty reduction from a human rights perspective.

The Convention on Economic Social and Cultural Rights have affirmed the progressive realization of these rights, including the right to food. “Progressive’ realization of obligation implies that the resource base and the socioeconomic condition of states parties will be taken into account in appraising state performance towards the goal of realizing the right to food. However, states should make deliberate speed and conscious effort to ensure the right to food as a condition to all other rights within acceptable timeframe. In this regard, the ESCR Committee requires a distinction to be made between unwillingness and inability of states parties to take action and demands demonstration of efforts made to ensure access to food from states that claim inability.

A number of forums on sustainable food access whether chronic or emergency have also called for multi-faceted international cooperation for states parties to discharge their obligation to ensure freedom from hunger.

### ***Justiciability, judicial, and legal institutions***

Justiciability is the concept of seeking remedy and accountability when a particular right is violated. Such remedy is normally sought from a court of law. Historically there has been recurring debate around the issue of justiciability of economic and social rights and if that is a feasible idea. However, since the 1993 human rights conference in Vienna, there has been an emerging consensus on the indivisibility of all rights namely, civil, political, economic, social and cultural rights. Although enforcement mechanisms are generally weak, there have been some encouraging test cases in national Jurisdictions such as India and South Africa. In April 2001, petition was filed by the People's Union for Civil Liberties (a national NGO) to the Supreme Court of India. The petition demands that the federal institutions and local governments should be responsible for the mass malnutrition among the people living in the state concerned. In one of its interim orders relating to the case, in July 2003, the Supreme Court of India affirmed that where people are unable to feed themselves adequately governments have an obligation to provide for them.\*

Even when countries have endorsed, like most African countries did, the right to food under international laws and even domesticate these obligations, the issue of enforcement of such rights does not come easily. There are several facts to this. In developing countries such as Africa, many people do not use formal courts, they may even consider courts are foreign to their way of life or they are not accessible physically and economically. New developments such as claiming the justiciability of the right to food need effective institutions.

The issue of strengthening judicial institutions has a double benefit when it comes to food security. Firstly, evidences show that making available better courts: more accessible, faster, fairer and predictable can support the development of economic activity. This has motivated several development cooperation programs around legal and judicial reform and legal training. The result of such programs have largely fallen short of expectations since the success of some initiatives depend among others on income level, available skills and technology.

Secondly having strong and independent judicial and legal system will make it possible to invoke legal guarantees and justicable claim on the right to food. The kind of progressive step taken by the Supreme Court of India needs strong and vibrant civil society particularly lawyers associations, free press and also an independent, confident and accountable judiciary.

### ***Women as food producers***

African women contribute 60–80% of the labor in food production for household consumption and for sale. Yet women do not benefit from this labor. They can neither own nor inherit the very land they cultivate. They eat last and least. Their nutritional needs are often ignored despite the fact that their health and their nutrition is the most important factor in the health of their children as well.

Women are the center of development process. Their comprehensive needs have to be addressed to ensure the full and equal participation of women. Successful implementation of development programs and strategies could not be achieved without the participation of half of Africa's population. This, I believe, is the reason why the latest global commitment, the Millennium Development Declaration has focused many of its goals around women's empowerment directly or indirectly.

*Note: This note has not been edited. The views expressed in this summary note are those of the author and are not necessarily endorsed by or representative of IFPRI or of the cosponsoring or supporting organizations.*

---

\* World food summit –five years later, Rome, Italy 8–10 June 2002 — Report by Mary Robinson, UN High Commissioner for Human Rights.