

The Finnish NGO Foundation for Human Rights KIOS
in cooperation with
KEPA and
Finn Church Aid

International Seminar:
**IMPLEMENTING HUMAN RIGHTS BASED APPROACH:
THE CASE OF RIGHT TO FOOD**

Seminar Publication 2012

Summary

The new Finnish Development Policy Programme of 2012 sets a human rights based approach as the framework for Finland's development policy and development cooperation. Now the Programme is to be implemented. It is necessary to think about what the human rights based approach actually requires from different actions including the planning of the development policy in general, the planning of separate projects and programmes as well as the evaluation of the outcome of the policies and projects. In the seminar, the human rights based approach was examined in the framework of the right to food. The seminar intended to find answers to the following questions:

- Can the human rights based approach make a difference in relation to development policy?
- Why is it important to talk about the right to food and not only about the need to reduce poverty, hunger or malnutrition rates?
- Does using legal means provide new potential tools for advocacy work by improving the situation of vulnerable groups whose rights are violated?

The seminar provided information about different relevant issues in relation to the right to food. Both legal means and concepts related to them as well as practical work on food security was handled at local, national and international levels.

It is a challenge to concretise and operationalise the principles of the right to food. The seminar provided information about the normative content of the right to food. Some human rights instruments were introduced, like instruments to raise concerns about trade and investment policies, UN human rights mechanisms, and the Food and Agriculture Organization of the United Nations' Right to Food Guidelines that translate human rights principles into concrete recommendations for action and provide the basis for advocating for more equitable policies and programmes. At the national level, the public interest litigation in India and work in the civil society of Uganda were examples of the issues handled. Also the right to food from women's perspectives and potential aspects of discrimination in relation to the theme were talked over.

The working groups of the seminar were successful in promoting discussion on several themes that are relevant either in relation to the right to food or to the human rights based approach to development. One of the focuses of this seminar was also the mobilisation of civil society organisations in the promotion and development of human rights based policies and practices in development issues.

Working group 1. focused on the role of different methods in the promotion of the right to food (economic, social, political, and legal prerequisites). It is important to make a distinction between different levels of advocacy work. At the local level, quite concrete measures can be taken. Awareness about different mechanisms and methods is an

essential part of policies strengthening food security. CSOs need to collaborate at different levels and make deliberate efforts in the advocacy of the right to food.

Working group 2. assessed rights based programming, tools and indicators. The CSOs that are working with development issues may have very different agendas. It is necessary to emphasise the role of setting goals that are based on human rights. Only after acknowledging the objectives, it is the time to focus on the indicators. The tools depend on the strategy that is chosen for reaching the goals. In Finland, the needs of CSOs in regard to the promotion of the rights based approach vary a lot.

Working group 3. focused on discrimination which is a huge obstacle for the promotion of human rights in different parts of the world. Awareness raising is one tool to tackle the phenomenon. Besides examining discrimination it is important that CSOs continue their advocacy activities that lead to changes in legislation, which enables the eradication of different forms of discrimination.

Working group 4. analysed the role of civil society in the promotion of the human rights based approach to development. This working group emphasised the role of civil society although it did not give exact guidelines how to facilitate this kind of cooperation. Strengthening the cooperation of the CSOs in the South and the North can significantly support the implementation of the human rights based approach.

Although the eradication of hunger and under-nutrition until year 2015 may be seen as an unrealistic objective, it is worth analysing. A multilevel approach is needed to reach this goal even in a longer run. Clearly, the rights based approach can make a difference when modifying the continuation of the target-setting of the Millennium Development Goals. From the perspectives of human rights and the right to food, the eradication of hunger and under-nutrition should be seen as primary global goals instead of only reducing the number of people suffering from under-nutrition and hunger.

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1. Introduction by Ulla Anttila, Executive Director of KIOS

In KIOS, the idea to arrange the seminar on the right to food arose at the time when “Finland’s development policy programme” was approved by the Finnish government last February. KIOS, KEPA, and Finn Church Aid also considered that this theme would be important for the implementation of the new programme.

The new development policy programme is based on human rights. This is a newly defined framework for Finnish development policy although human rights have been emphasised in many official documents in Finnish foreign policy even before. Gender equality, reduction of inequality, and climate sustainability are the cross-cutting objectives of Finland’s development policy and cooperation. But the new emphasis in Finland’s development policy may have even more profound consequences on the work of the Finnish actors than was originally predicted at the time of the approval of the document.

Now we are in the phase of the implementation of the new development policy programme. We need to think about what does the human rights based approach actually require from different actions including the planning of the development policy in general, the planning of separate projects and programmes as well as the evaluation of the outcome of the policies and projects. The human rights based approach should affect human rights projects as well as other projects and policies in development co-operation. In order to be effective and coherent, the human rights based approach should have an impact on other dimensions of Finnish foreign policy, including trade and security policy.

Poverty reduction and the right to food

Questions related to reduction of poverty and arranging the world economy to function in a way that would respect every individual’s basic needs are core issues in the development policy. A lot of concern has been focused on them for decades. The follow-up of the Millennium Development Goals has a strong focus on the statistics related to the changes in the absolute poverty. Although the proportional poverty rates have been declining worldwide, lots of people still suffer from poverty, hunger and malnutrition. Approximately one billion people suffer from malnutrition that is strongly connected to poverty. Malnutrition is an especially serious problem among children due to its long-term impacts.

Climate change and environmental issues

The ongoing century will show how climate change affects food production. Water scarcity is already a problem that may be widening in the future. Climate change will probably make it more difficult to the states to provide food for their citizens. If such deterioration takes place, it will be even more important that the rights based approach to alimentation would strengthen and have an impact on the ways how questions related to hunger and malnutrition are resolved. Therefore, the development of different means to guarantee food security is especially important, if there are reasons to believe that providing food to everyone will be a larger challenge in the future due to environmental reasons.

Promotion of the HRBA

The human rights based approach to development requires understanding of human rights in all of their aspects including political and civic rights as well as economic, social, and cultural rights. The implementation of the HRBA should not be seen as a simple issue. It requires profound understanding of globalisation, developing countries and different policies that can be used in the promotion of human rights. Therefore, I think that we are only at the beginning of the implementation of the HRBA. The theme of this seminar was chosen because “the right to food” is a core issue in the development policy in general. We hope that we can learn from new perspectives on the implementation of the HRBA, when analysing the right to food.

Although the need to eliminate hunger and malnutrition is obvious and acknowledged by the international community, it is essential to elaborate different means and adequate policies. The right-based approach provides an alternative for civil society actors to work for “hunger-free” societies. In India, for example, legal means have been used to promote the right to food. The results from these processes may be applied to some other cases focusing on economic and social rights.

Applying legal means in ensuring the right to food may be a reasonable method in several countries but it may have limitations in relation to the justice system of a country. However, poverty reduction is often seen as an outcome of economic growth. It is clear that despite economic growth, poverty, hunger, and malnutrition may remain to exist. It is interesting to see how legal means can function to promote the right to food. This would require that the basic question of providing sufficient nutrition to everyone is seen as a guide-line for state policies leading to the actual reduction of hunger and malnutrition. The seminar is meant to provide information about different relevant issues in relation to the right to food. Both legal means and concepts related to them as well as practical work on food security will be handled.

2. Keynote Speech by Ms. Heidi Hautala, Minister for International Development

Ms. Heidi Hautala, Minister for International Development

Ms. Hautala is the Minister for International Development in the Finnish government. She is in charge of development policy and cooperation and the government's ownership steering issues. Prior to her minister post, Ms. Hautala was a member of the European Parliament and the chair of the Parliament's Subcommittee on Human Rights and thus in charge of the European Parliament's human rights policy in EU's external relations. Throughout the years, she has promoted human rights, transparency, environmental responsibility, gender equality and global justice. issue

Ms. Hautala has an extensive experience in working in and with the civil society. She has chaired various CSOs, for example the Finnish Service Centre for Development Cooperation (Kepa), an umbrella organisation of Finnish CSOs active in development cooperation. Previously, Ms. Hautala has also been a member of the Finnish Parliament.

Dear friends,

Finland's new development policy highlights the human rights based approach to development. I firmly believe that all governments, including Finland and its partners must respect, protect and fulfill human rights, like right to food in their territory. The objective is to ensure that also the most vulnerable people are aware of their rights and are able to claim these rights.

UN Committee on Economic, social and cultural rights has stated that right to adequate food is realised "when every man, woman, and child, alone or in community with others, [has] physical and economic access at all times to adequate food or means for its procurement." It protects the right of all human beings to live in dignity, free from hunger, food insecurity and malnutrition.

Thus, Right to Food – the Human rights based approach complements and reinforces food security. It adds to the food security equation the notion of rights of every person, the obligation of states, and the responsibilities of all stakeholders. In addition to adequate production it looks at human rights principles and the governance of food systems.

This is particularly relevant at this stage when the number of chronically malnourished persons is globally increasing and soaring food prices threaten the food security of millions of persons, particularly those who are already poor and vulnerable.

Food security is a part of the human right obligations by the states. From this angle, it means for instance the adoption of a national strategy to ensure food and nutrition security for all, without any discrimination, and the formulation of policies and corresponding

benchmarks. It should also identify the resources available to meet the objectives and the most cost-effective way of using them.

The right to food offers a coherent framework with which to address critical dimensions in the fight against hunger. It emphasises human rights principles such as participation, non-discrimination, transparency and empowerment, and provides mechanisms for increased accountability and the rule of law.

It is States' primary obligation, individually and through international co-operation, to take necessary measures to meet the vital food needs of their people, especially of vulnerable groups and households. In this respect, a peaceful, stable and enabling political, social and economic environment at national and international levels is fundamental for states to ensure adequate priority for food security and poverty eradication.

Food is globally mostly produced by private producers and delivered in market economy. States don't have any obligation to deliver food free of charge, but it must create a judicial and policy environment that enables right to adequate food without any discrimination and using all available resources. The land rights itself are a civil law issue, but equal access to land of men and women and all minorities is a human rights affair.

Food security is a complex issue and cannot be tackled without a holistic approach. Several policies such as trade, agriculture, environment and energy have an influence on food security, and this underlines the importance of policy coherence: These policies should be in compliance and support the objectives of development policy or at least not work against it.

The need for policy coherence was recognised while drafting Finland's development policy last spring. As a result of this process, food security and Right to Food were chose to be the pilot case for concrete actions towards policy coherence. In this work, we will be testing OECD's tool for policy coherence on food security. An intergovernmental working group - including representatives from university, research institutes and civil society - will start working on the issue in October.

The challenge is how to concretise and implement the principles of Right to Food. Fortunately there is good guidance and practical tools especially from FAO. FAO's Right to Food Guidelines – i.e. The Voluntary Guidelines to Support the Progressive Realisation to the Right to Food in the Context of National Food Security - translate human rights principles into concrete recommendations for action and provide the basis for advocating for more equitable policies and programmes. FAO's Voluntary Guidelines with several guiding documents as well as the reports of Olivier De Schutter, United Nations Special Rapporteur on the right to food, provide practical guidance how to implement the different aspects of the approach in the practice.

One dimension of Right to Food is "Access to resources and assets". Here the importance FAO's recently adopted Voluntary Guidelines on the Responsible Governance of Tenure

of Land, Fisheries and Forests as well as the Principles for Responsible Agricultural Investments must be emphasised. Respecting land and resource rights and consulting all those materially affected should be at the heart of any land deal negotiations.

The questions of land – and thus food security – are all the time more burning because of the increasing pressure for land and the race for resources in developing countries. At the same time it is evident that many governments are totally unprepared to guarantee their citizens' rights in cases of conflicting interests. In this situation, it is our duty to highlight the importance of good governance and transparency of decision making – they are the key to socially equitable land use.

Human rights based approach is essential part of our development cooperation. In our partner countries we emphasise these principles in the dialogue with the governments and other donors. Also at the programme level it is important to enhance the capacity of the public authorities: both the awareness of their human rights obligations and the capability to enforce them. At the grass root level, in our bilateral projects, the targeted beneficiaries include the most vulnerable groups. In practice, the implementation means inter alia capacity building and empowerment of women's groups, encouraging everybody's meaningful and effective participation to work as a group, and to be accountable and transparent when using common resources.

In particular, the most vulnerable groups' right to food is more often likely to be put at risk in society. These groups may include female or child headed households, people living on humanitarian assistance, those affected by HIV and AIDS, refugees and poor urban families, who are forced to make trade-offs between nutrition, health, education and production. Increased attention needs to be addressed to these vulnerable groups – and in particular to children. Furthermore, we need to fully address the gender aspects of the issue and observe the principle of equal opportunities for, and participation of all. The adequate, nutritious food is especially important for pregnant mothers and children as the malnutrition during the foetal period and early childhood causes lifelong damages.

The Committee of World Food Security, the most comprehensive platform for dialogue and coordination of global food security issues, will in its October meeting focus on the relationships between social protection and food security as well as climate change and food security. These two issues can play a crucial role in Right to Food. Different social protection methods are one way to ensure people's access to safe and nutritious food. The link between increased prices of agricultural products, climate change and food insecurity is alarming - extreme weather conditions associated with climate change are likely to further threaten agricultural production and push more people to poverty. It is necessary to develop sustainable agricultural production which is adaptable to changing environment.

Right to Food has fight against food insecurity and brought a new dimension to the traditional approach to hunger reduction. The human right based approach's targeted actions will benefit the most vulnerable without discrimination. The efficiency of public

action is promoted by accountability, transparency and rule of law. While promoting participation and empowering the poor it really should ensure that nobody is left behind.

3. Alessandra Sarelin: The Right to Food as a human right: legal frameworks and strategies

Ms. Alessandra Sarelin, Researcher, Institute for Human Rights, Åbo Academy University

Ms. Sarelin is a post-doctoral researcher in the Åbo Academy University where she defended her PhD thesis "Exploring the Role and Transformative Potential of Human Rights in Development Practise and Food Security: A Case Study from Malawi" in the autumn of 2012. She has been working with research and teaching at the Institute for Human Rights since 2004, specializing in human rights based approach to development, economic, social and cultural rights and an actor-oriented perspective on human rights.

In her presentation, Alessandra Sarelin examined the relationship between the right to food and food security, normative content of the right to food, and its implementation, and obligations related to it. She also presented the FAO Voluntary Guidelines as well as case studies from India and Malawi.

There are charity based, rights based and legal approaches to food security. The relationship between right to food and food security can be described as following: Food availability, accessibility, safety, and cultural acceptability are all related to right to food and food security. The difference between these two is that food security is a policy concept while the right to food is an element of international law and includes a legal obligation. The right to food can therefore also be violated and such violations can be subject of judicial or quasi-judicial remedies.

Sarelin said that she partly disagrees that the right to food as part of international human rights law would have a more stable meaning than food security as a policy concept. Human rights are always discursively constructed and their meaning change over time. Regarding the right to food, the focus is on obligations: duty holders can claim their right and duty bearers need to fulfil them.

What comes to the normative content of the right to food, Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises "the fundamental right of everyone to be free from hunger". The core content of this right implies "the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture" (ESCR Committee). For realising the right to adequate food, everybody should also constantly have physical and economic access to adequate food or means for its procurement.

For the implementation of the right to food on national level, the Committee on Economic, Social and Cultural Rights imposes obligations that are of immediate effect. This means that states must take steps “within a reasonably short time after the Covenant’s entry into force for the states concerned” and also that the measures aimed at achieving full realisation should be “deliberate, concrete and targeted”. Sarelín told that states should first identify those who are food insecure and then formulate a national strategy for recreating access to food for these groups and the population as a whole. National strategies that address the essential issues causing hunger and malnutrition are important tools when implementing the right to food.

In order to support implementation and national strategies the FAO has created the Voluntary Guidelines. The Voluntary Guidelines are to support the progressive realisation of the right to adequate food in the context of national food security (the ‘Right to Food Guidelines’). Those are considered to be a human rights based practical tool to support the implementation of the right to food. States are encouraged to apply the Guidelines, when developing their strategies, policies, programmes, and activities. The Guidelines link the assessment of food insecurity with the principle of non-discrimination as disaggregated data plays key role in an analysis of which groups in society suffer from possible discrimination in the area of the right to food.

The Guidelines do not establish legally binding obligations to states or international organisations, and the provisions in the Guidelines do not modify rights and obligations under international law. However, because the claimed added value of a human rights based approach to food security lies in the emphasis of addressing food insecurity as a matter of obligation, not on benevolence, it is important to clarify what exactly is expected from states in the context of the right to food as formulated in the ICESCR.

Following concepts are needed in the implementation of the right to food:

1. Obligation to respect: existing access to adequate food requires state parties not to take any measures that result in preventing such access.
2. Obligation to protect: requires measures by the state to ensure that enterprises or individuals do not deprive individuals of their access to adequate food.
3. Obligation to fulfil (facilitate): means the state must proactively engage in activities intended to strengthen people’s access to and utilisation of resources and means to ensure livelihood, including food security.
4. Obligation to fulfil (provide): whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, states have the obligation to fulfil (provide) that right directly. This obligation also applies for persons who are victims of natural or other disasters.

This language of respect, protection, and fulfilment is not fully integrated into the Right to Food Guidelines due to political disagreements. The Guidelines are not sufficiently clear in

defining and giving a concrete meaning to the human rights based approach to food security. The Guidelines seldom link the right to food to an obligation, and does not use concepts of 'rights-holders' and 'duty-bearers'.

At the national level, different institutions play various roles in defining food and livelihood related rights and their contents usually reflect the specific historic, social, economic and political context of the country concerned. Although historically courts have played a marginal role in the context of socioeconomic rights in most jurisdictions, their role has been strengthening over the space of the two past decades.

At the level of national strategies, in which institutions have taken a role to fulfil the right to food, Malawi and India can be chosen as two examples. In India, food litigation has led to the right to food being defined in a particular way but it has been quite difficult to achieve structural changes through rights based arguments. The campaigners called for the protection of existing legal entitlements but also intended to go beyond, called for new entitlements and also fundamental changes in the economic policies of India.

In Malawi, the human rights rhetoric and discourse have focused on freedoms rather than on entitlements. Malawi has drafted a Food and Nutrition Security Bill in 2006, but it has not yet been adopted. Instead of creating a strong social role for the government in the area of food security, along the lines of strengthening poor people's entitlements, the draft bill promotes "the broadly based economic development that is conducive to the promotion and sustainability of food and nutrition security". The intention has been to criminalise politicisation of food aid or inputs. The draft bill would establish personal criminal responsibility for offences under the act, rather than ordering the government to remedy the situation through taking positive measures as has been the case when finding a violation of the right to food in India and South Africa. It can be questioned whether the draft challenged the status quo in a way that would potentially strengthen the position of the rights-holders.

In a similar manner as in the Right to Food Project in Malawi, actors in India have drafted a Food Entitlements Act but with a rather different content and meaning given to the right to food. The main difference is that while the Malawian draft focuses mainly on the negative state obligations, the Indian draft includes far-reaching, specific positive obligations in the area of social security. Both projects apply a legal approach, aiming at further legislation and legal recognition of food rights. Human rights involve a discourse and rhetoric that are constantly changing – and it is rearticulated. It is important to strengthen the position of right-holders so they can demand the right to food from accountable duty-bearers. Duty-bearers need to be reminded that addressing food insecurity is a matter of fulfilling human rights obligations, and food aid (or social protection schemes) include rights-based services. Legislation is, however, not an end in itself but instead it is merely a stepping stone in a social and political struggle for increased equality. Legislation on the right to food is valuable as long as it serves the end goal that the right to adequate food is realised for all.

4. Colin Gonsalves: Addressing violations of the right to food through judicial means: public interest litigation in India (video)

Mr. Colin Gonsalves, Founder, Human Rights Law Network (HRLN), India

Mr. Gonsalves is a Senior Advocate of the Supreme Court of India and a pioneer of public interest litigation in India. He is also the Founder Director of Human Rights Law Network (HRLN). Upon attaining his law degree in 1983, Mr. Gonsalves co-founded the HRLN and developed it into a national organization that brought together over 200 lawyers and paralegals operating out of 28 offices spread throughout India. He transitioned his practice from the Labour Courts to the Bombay High Court in 1984 and was designated as Senior Advocate, before moving onto the Supreme Court of India in 2001. Mr. Gonsalves has written, edited and co-edited copious number of articles and books on a range of human rights law issues. HRLN is a national collective of lawyers and social activists dedicated to using the legal system to advance human rights and access to justice for the poor and marginalized individuals and communities in the country.

Colin Gonsalves was unfortunately forced to cancel his participation in the seminar but he sent a short video message to the audience. In the video, he assessed that globalisation has led to the result that while India's economy is booming at an 8% growth rate per year 70% of the country's population lives under the poverty line of half a euro per day. India has become the hunger capital of the world as hunger and malnutrition concern almost 60% of the population. 17% of Indian children are starving, which has long-term consequences. Many children become disabled due to malnutrition.

The paradox of India is that there is an over-production of food but still a huge amount of the population suffers from malnutrition. India has the largest storage of grain of any country in the world (80 million tons). Subsidies have increased the prices which has lead to the fact that people with low incomes are not able to buy food at market rates. The reality is "either you buy or you die".

In the Indian law, public interest litigation is litigation for the protection of the collective rights. The Indian system has a broad notion of filing a case. The courts permit any benevolent person to file a case on behalf of the poor people. This allows people who cannot enter courts themselves to be part of the judicial system.

Public interest litigation leads to taking care of human rights first. It prevents the state from using financial inability as an excuse to disregard the enforcement of fundamental rights. Another guarantee of a just trial is the fact that courts do not have to make their decisions based only on the information submitted to them by the advocates. Instead the courts also obtain information through experts who collect it. Courts have also appointed commissioners and activists for the collection of information.

The courts will also monitor the implementation of their decisions and Indian government has been held responsible for its promises by a court's order like in the case of the government schemes to feed the poor. This has resulted for example as mid-day meals for students in government-funded schools. Also due to the results of the litigation, pregnant women and lactating mothers get supplement food at feeding centres, and 300 million people have got access to subsidised grain due to the grain distribution to people. These activities already existed in government programmes but they were cancelled. However, the court orders obliged the state to revitalise them.

The Indian initiative of public interest litigation to promote human rights including the right to food could be introduced in other countries but it requires well functioning legal systems.

Discussion

In the discussion session, the following points of view were expressed. It is important to take action with whatever material you have, although contradictions cannot be easily resolved. The conditionality of development aid is a complicated issue: on the other hand, it is good but a reduction of development aid may have a negative impact on human rights.

The differences between the right to food and food security should be acknowledged: we should never forget that the right to food refers to human dignity, and therefore it is not only a question of food security. On the other hand, the right to food is a holistic concept. It relates to how people react in the community, violations of right to food are disrupting the social cohesion and affecting the cultural sphere.

One may raise the question whether there are different human rights based approaches (see e.g. differences of Oxfam definition and UN agencies' definition, Oxfam uses human rights rhetoric in a political, not legal, way). The context always matters because sometimes legal approaches lead to upholding the status quo, and therefore one cannot assume that a legal approach always has a beneficial outcome to rights-holders.

The government of India has not yet passed the bill of right to food, and the conflict of the bill is in the issue of entitlement. It is "easy" to feed the people but still the right to food is not recognised. In India, the government does not recognise all the people living in poverty (they have just lowered the poverty limit). The right to food campaign in India linked right to food with right to work.

It is not only the accessibility but availability of food that is important, the need to increase production. In rural areas, the households suffering from food shortage may include agricultural producers. In some cases, subsidies are created in a participatory manner which can enhance food production.

Many participants thought that food sovereignty should be included in the human rights framework. This framework should be strengthened. In terms of food sovereignty, people want to have the possibility to decide upon what they produce as well as to decide how and what are they eating so food security and sovereignty should be seen under a common umbrella. When the right to food is being monitored, it is important to strategize

how the right to food could be implemented, it is important to look at all components (social, legal etc.). What kinds of processes are needed to provide better policies? Legislation and legal means by themselves are not sufficient but they can push forward the implementation process, and new policies should be applied to implement the right to food on a global level.

5. Elvira Domínguez Redondo: An overview of human rights instruments to raise concerns about trade and investment policies

Ms. Elvira Domínguez Redondo, Senior Lecturer in Law, Middlesex University, London

Dr. Domínguez Redondo is a Senior Lecturer in Law at Middlesex University, London (UK) and an Adjunct Lecturer of the Irish Centre for Human Rights (NUI Galway, Ireland). She was awarded a PhD for her study of Special Procedures at the United Nations, at Universidad Carlos III de Madrid in 2004. She has worked in the past at the Transitional Justice Institute (University of Ulster, Northern Ireland), the Irish Centre for Human Rights (NUI University, Republic of Ireland), and University Carlos III de Madrid (Spain). She specializes in public international law and human rights legal theory and has worked as a consultant with the Special Rapporteur on torture at the Office of the High Commissioner for Human Rights, Geneva.

In her presentation, Elvira Domínguez Redondo handled the complicated relationship between trade, investment, and human rights. Her main questions were how human rights mechanisms can be used to address trade issues that affect human rights, and how trade practices impact the enjoyment of human rights. She emphasised that the impact of trade on human rights cannot be disconnected from the human rights debate.

When we cannot find solutions to injustices we try to use human rights to resolve them. Human rights are the only available internationally binding framework to the situations of injustice and suffering. The legal approach is not always sufficient but often victims do not have anything else but the human rights approach to protect them. As Kofi Annan has said: “You cannot have peace without development, and neither of them without human rights.”

The adaptation of legal conceptual framework and methodology to the evolution of economy is a very complex phenomenon. There is no conceptual way to link human rights with trade and investments, neither does there exist a universal truth when it comes to this relationship. Sometimes trade can affect human rights positively, sometimes negatively.

The human rights framework can help to make states responsible but this does not apply to transnational corporations as their responsibility is indirect. The human rights based approach involves at least accountability, participation, and non-discrimination with the litmus test of persons in vulnerable positions. The compatibility of human rights with

development is often a difficult issue (e.g. MDGs) but its compatibility with trade is even more complicated. Human rights are not always compatible with development: for example eradication of poverty leads to first taking care of those better off.

Corporations are escaping all systems of adjudication. Any system to make states accountable is not adequate to bring corporations to courts of justice. Principles governing trade do not recognise accountability: they prefer liberalisation regarding dispute mechanisms. Neither do they recognise participation: democracy does not apply to trade prima facie. Non-discrimination may also be problematic due to the competitive advantages (winners and losers). Public goods do not bring benefits on the market, for example money should not be made on food prices. Finally, the lack of coherence in policy and structures makes the compatibility with principles governing trade difficult. It is important to create a coherent policy of human rights implementation but the coherence does not work if the relation between trade and human rights is not understood.

What comes to standard setting level, the United Nations has tried to mainstream human rights at the institutional level. Some studies have also been made on the impact of trade, transnational corporations and markets on human rights. For example High Level Task Force (HLTF) is trying to achieve a dialogue between human rights experts and development practitioners on bridging the gap between those who design policy and allocate resources for development and those who formulate and monitor human rights standards at the global level.

The main legislative framework at the UN structures consists of the UN Guiding Principles on Business and Human Rights approved by UN Human Rights Council in 2011 (A/HRC/17/31) with three main principles:

1. A state duty to protect against human rights abuses by corporations
2. A corporate responsibility to respect human rights
3. A need for more effective remedies for corporate human rights abuses.

UN mechanisms to raise trade concerns are:

1. Treaty-bodies which are particularly active in the area of indigenous peoples include the Committee of Elimination of Racial Discrimination (CERD) that has been very proactive e.g. in questions related to indigenous peoples.
2. The Human Rights Council has had a special session on the right to food. The Human Rights Council is a political body which has its positive and negative impacts. It is positive that states have human rights in their political agenda and they cannot only rely on outside experts. It is negative that the decision-making is political.
3. Special procedures, especially Right to Food WTO report in 2009, as well as the UPR, Advisory Committee, and Indigenous People's Forum.

Discussion

Discussion after this presentation concentrated on the links between the liberalisation of markets and development. According to some participants these do not exist, so the human rights impact assessment should be done on every trade deal. There is a democracy deficit in many countries, and states are becoming weaker. Investment should be financing real economy, not speculating on it. For this reason, it would be important to avoid getting more and more guidelines without binding regulation. Especially positive examples of small victories are needed: some of the regional human rights bodies have been successful.

The responsibility of corporations should also be realised. The extraterritorial obligations of states should be enhanced. For this purpose, new mechanisms are needed. The best practice of regional instruments was said to come from the fact that they have to deal with weak countries. In general, regional instruments have managed to work on the problems in a more holistic way.

Regional mechanisms have also provided good platforms for civil society and translated them to rights on the ground. According to one participant regional mechanisms are not working, because the states are weak, but because a strong commitment to regional solidarity is missing. There is a need to create environments of human rights in the specific contexts, which are not dependent on UN systems. On the other hand, there was support to the view, according to which regional systems work well, they are progressive, and people have to learn from them.

6. Obed Kabanda: Promoting the Right to Food in Uganda: ACODEV's work in the civil society

Mr. Obed Kabanda, Executive Director, Action for Community Development (ACODEV), Uganda

Mr. Kabanda is a professional social scientist, policy analyst and advocate with over 13 years of experience in organizational management and leadership as well as public health expertise. He currently serves as the Executive Director of Action for Community Development (ACODEV) and has served on national and regional boards of different civil society networks promoting advocacy efforts in Uganda and East and Southern Africa. Mr. Kabanda has had a remarkable contribution to the research and development in the East African Region. He has delivered presentations nationally and internationally on human rights, violence against women, health, HRBA, and civic engagement and participation. Since formation in 2003, ACODEV has been working to empower communities to challenge social problems, access development services as well as take responsibility for their development.

The right to adequate food and to be free from hunger is firmly established in the international law (e.g. Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child). Also in the last 40 years, humanity has advanced in technology and the global economy has tripled. From the perspectives of all tremendous global achievements, one can ask why the fulfilment of the right to food and freedom from hunger from the agenda of 1974 by 135 states remains a dream.

In Uganda, the economy is largely agrarian with over 70 % of population involved in agriculture. By ratifying international legal instruments, Uganda has recognised obligation to progressively realise the right to food. Uganda has already some national legislation (Constitution 1995, Food and Nutrition Policy 2003) but the litigation mechanism is inadequate in the case of the right to food abuses. In Uganda, human rights approach to MDGs shows that the number of poor people has decreased, but the remaining poor should not be forgotten either.

ACODEV has been promoting a rights based approach to the realisation of the right to food in Uganda. It has had strategic dialogues with the district and central governments on the right to food in national planning and budget processes. It has also advocated for increased budgetary allocation for the agricultural sector. ACODEV has arranged capacity building for the HRBA and strategic civic engagements for people to learn about their rights and about the resources they have to make the government accountable. The issue of food and agriculture is not about meeting people's needs but realising their rights, which leads to the question of accountability.

Some key bottlenecks to realise the right to food in Uganda include planning and budget architecture (less allocations for the agricultural sector in the national budget), climate change, low levels of adoption of technology, weak and unimplemented policies and laws,

lack of access to, and control over land and other natural resources, bias against women farmers, and unfulfilled promises.

However, there is high potential and opportunities which can help to implement the right to food in Uganda. The existing legal framework – both in the national and the international level – is a good starting point. Investments in agriculture have increased internationally and locally. The small-holders' movement has emerged in the whole country – Uganda now has a National Farmer Federation. The East African Community (Uganda, Tanzania, Rwanda, Kenya, Burundi, and South Sudan with likelihood of joining) has improved the situation at the regional level. The women's empowerment agendas could promote women's land ownership and demand for resources.

Recommendations for improving the right to food include: the turning of global, regional and national promises into tangible actions; increased investment for food security programme / agricultural sector; increased local, national and international strategic engagements by civil society; and promotion of existing improved technologies.

In the future ACODEV will continue to increase advocacy engagements on the right to food with key duty bearers at the local and national level, do policy analysis and dissemination on the right to food, empower claim holders to demand accountability on the right to food and strengthen duty bearer capacity to fulfil their obligations. It is also important to implement and support innovative small scale interventions on the right to food, and possibly build a coalition on the right to food in the East African region to tap into the EAC's potential. The coalition would act as a body to engage with national governments in the EAC as well as to ensure continued demand for accountability from duty bearers on the right to food on behalf of the East African governments.

Discussion

Kabanda's presentation raised many questions. For example, what kind of pressure is presented towards the Ugandan agricultural policy from the outside? What is the pressure coming from the World Bank, African Development Bank, IFAD? How do these influence the discussion on human rights? What about global land-grabbing – how does this affect the Ugandan agriculture? How do companies like Monsanto affect Uganda? Is this a threat in Uganda? And finally, what are the reasons for the Ugandan government not to invest in agriculture?

Kabanda answered that respecting, protecting and fulfilling the right to food function at different levels. The low level of government investments in agriculture in Uganda result from the belief that when other sectors are supported people will be able to buy food. In Uganda, there is a growing movement of local people who start to question things, like the seeds they are provided with. Seed security has really become an issue, as well as land-grabbing: civic engagement and awareness-raising is needed to stop this from happening. It was also commented that farming habits have changed because people are now mostly dependent on new crops. For example, rice has been provided in the name of right to food but traditional crops are no longer cultivated.

The question of the right to food in WTO was also raised: are there any openings in trade institutions on the right to food? It was also asked how corporate responsibility and the bilateral trade agreements (e.g. EU-Colombia free trade agreement) work with right to food?

Elvira Domínguez Redondo told that the right to food is discussed in the WTO. She also assessed that bilateral agreements are a better idea temporarily than trying to make universal ones, because the human rights impact assessment is easier on a bilateral level. The problems come from the fact that we do not know enough, and we have to test things before implementing them. This means precautionary principles: one understands that the policy might have a bad impact on human rights. Anyway, there are many contradictions and we depend on expert bodies as issues are so complicated. This leads to a deficit in democracy. Domínguez Redondo commented on the UPR that it is too early to estimate its future impact.

The reasons for a deficit in democracy were assessed to include insufficient information. What comes to corporate responsibility, the world is hierarchical, and the UN has lost some of its power to financial institutions. This means a hierarchy of values (e.g. WTO does not offer guidelines but binding regulations that one cannot break and if one does it costs).

Non-binding instruments were criticised due to their inefficiency. It was also commented that trade institutions lack mechanisms in terms of human rights. The existing human rights instruments only make states accountable.

One question concerned the land ownership: what does land ownership mean in Uganda (if you own land can you sell it)? Why do only 5% of women own land? Women's insufficient landownership results from tradition and culture as women do not inherit land. If one owns land in Uganda, it can be sold and used as one pleases. According to Kabanda, cultural beliefs have influence on land ownership, although the constitution and inheritance law recognise women as land owners.

The concept of ownership is often not individual but communal within indigenous peoples. It is necessary to analyse the social practises of human rights, and lessons can be learned from different countries. Also strong civil society partnerships are needed.

7. Priti Darooka: Promoting women's right to food: PWESCR experiences in using the UN human rights mechanisms

Ms. Priti Darooka is the Founder and Executive Director of Programme on Women's Economic, Social and Cultural Rights (PWESCR). Prior to establishing PWESCR, Ms. Darooka promoted women's empowerment at the Ford Foundation in New York. Previously she worked at UNIFEM on violence against women indicators and assessed and coordinated UNIFEM's work in Afghanistan. PWESCR (founded in 2005) is an international advocacy and educational initiative in the area of women and their economic, social and cultural rights. From its base in India, PWESCR works to promote the human rights of women, addressing women's poverty, health standards, and right to food, education, water and work. PWESCR works for bringing a gender perspective on policy, law and practice at the local, national, regional and international levels.

In her presentation, Priti Darooka spoke about women's productive resources and how to realise the right to food for all. She presented the links between the right to livelihoods/productive resources and right to food from women's perspectives. She also considered the concept of livelihood and its contribution to the right to food and the question why do we need to incorporate right to food in the definition of right to livelihoods.

Women contribute significantly to livelihoods efforts but their contributions are undervalued or unrecognised. Women's education, skills, access to markets, and credit are essential for their own livelihoods and their families' well being. Women are often seen as a vulnerable group that needs to be protected and taken care of. The concept of livelihood recognises women as active economic agents and not just as passive welfare recipients. The right to livelihood ensures women to be more visible in decision making and policy planning, implementation and evaluation. The right to food can also address negative impacts of discrimination. The right to livelihood is important for women for implementing all their other rights. The right to livelihood includes resources, capabilities, choices, security and power necessary for the enjoyment of all human rights.

Livelihood is a vibrant concept on the ground but it is not codified as a human right in any human rights document. There is a right to work and a right to adequate standard of living. So, the concept needs to be elaborated as an entitlement in human rights.

Concept of livelihoods includes:

1. Right to food: food security, food sovereignty, food production including agriculture, seeds etc.
2. Natural resources: access, control, management and ownership of land, water and forests. Indigenous people, their knowledge. Environment and climate change.
3. Markets: to trade goods and services. Skills, education, credit.

The different aspects of right to food can be defined in following way: To respect the right to food, governments are obligated to refrain from impeding existing access to food and resources. To protect the right to food, governments must ensure that third parties do not deprive individuals of their existing access to food and resources. To fulfil the right to food, governments must proactively engage in activities intended to strengthen people's access to and utilisation of resources and means to ensure their livelihood, including food security. In certain cases, when individuals or groups remain unable to enjoy the right to adequate food, governments have to fulfil the obligation by providing food directly.

Although states sometimes have an obligation to provide food, the United Nations Special Rapporteur on the Right to Food Olivier De Schutter has said: "The right to food is not primarily about being fed. It is about being guaranteed the right to feed oneself, which requires not only that food is available (that the ratio of production to the population is sufficient), but also that it is accessible – i.e., that each household either has the means to produce its own food, or has sufficient purchasing power to buy the food it needs."

Key components of right to food are then:

- Adequacy: quantitative and qualitative
- Sustainability: food security (to be free from want), available now and for the future
- Availability: through food production (natural resources) and food distribution (markets, processing)
- Accessibility: economic and physical accessibility

Discourses focusing on the right to food are often framed with the perspective of women as a vulnerable group that needs protection. Women have unequal access to food and access to resources for providing food. The right to food is an issue for women especially because women are the key to the implementation of the right to food as they hold central roles in food production. Women are also predominantly responsible for seed saving, and their valuable knowledge in this area is crucial to many farming systems. Women are also responsible for the preparation of food and hence, have influence over individuals' nutrition. Globally, women are involved in sustainable production of food. They are involved in efforts to protect seeds and biodiversity, advocate for the rights to land and resources, promote collective and biodynamic farming, and encourage local production and consumption of food.

Linking the right to food with the right to livelihood means, first of all, recognising common issues. Food security, food sovereignty, and food production issues are linked to the right to food, including food production, agriculture, access to seeds, food security, and food sovereignty, which are all important to the right to livelihood. The components of the right to food, such as adequacy, availability, and accessibility, are integral to the right to livelihood. The right to livelihood covers the questions related to the struggles to use local, organic products and regain control of seeds, loss of work, massive displacement of indigenous communities, agrarian reform, state withdrawal from agriculture, destruction

caused by agro-business of rural economy and environment, and invisible role of women as workers in agriculture.

Food production is the main livelihood for most of the rural communities, especially women. Food security is also related to the livelihood security of the food producing communities. The right to livelihood presumes that all human beings have the right to produce for themselves or earn sufficiently in a way that retains their dignity and sustainability. By linking these two rights, women are empowered to take care of themselves and their families. It empowers women and creates an enabling environment that recognises the significant roles of women. The right to livelihood expands the right to food beyond the right to be fed. In that way, the right to livelihood helps to remove one of the most common incorrect, limited interpretations of governments about the right to food.

For realising the right to food, it is essential to move beyond the stereotyping of women as 'poor victims' or a vulnerable group that needs to be protected and taken care of. It is essential to acknowledge women as economic agents – producers and workers – playing a crucial role in averting starvation and also contributing to the wellbeing of their families and communities. The right to livelihood should be recognised as a human right and should be recognised women as workers and producers. It should be ensured as well that women have access, management and control over productive resources.

8. Ana María Suarez Franco: How to use the FAO Voluntary Guidelines on Right to Food

Ms. Ana María Suarez Franco studied Law at the Universidad Javeriana in Bogotá, Colombia. In 1999 Suarez Franco moved to Germany where she finished her Master in law (LL.M) at the University of Heidelberg and a PH.D in Law at the University of Mannheim. She currently works as Permanent Representative of FIAN in Geneva.

FIAN (Food First Information and Action Network, www.fian.org) is an international human rights organisation that has advocated for the realisation of the right to food for more than 20 years. FIAN consists of national sections and individual members in over 50 countries. FIAN's mission is to expose violations of people's right to food wherever they may occur. FIAN analyses and documents concrete cases of violations of the right to food, raises awareness on the right to food, responds to requests from victim groups, exerts public pressure in order to hold governments accountable and follows up on cases until the victims get appropriate redress.

Ana María Suarez Franco talked about the implementation of the FAO's (Food and Agriculture Organizations of the United Nations) Voluntary Guidelines on the Right to Food (Voluntary Guidelines to support the progressive realisation of the right to adequate

food in the context of food security, adopted by the 127th session of the FAO Council in 2004), the new Guidelines on Land tenure (Voluntary Guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security, adopted by the Committee on World Food Security in 2012) as well as FIAN's initiatives in strengthening and facilitating their implementation. From civil society actors point of view she stressed the importance of monitoring structural situations and strategising for advocacy. She reminded that rights based mainstreaming approaches are needed at all levels.

Ms. Suarez Franco made reference to the core international human rights standards on the right to food, namely article 25 of the Universal Declaration on Human Rights (UDHR) and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the contents of which are interpreted and clarified by the Committee on Economic, Social and Cultural Rights in General Comment No. 12 (1999). The FAO Voluntary Guidelines on the Right to Food reaffirm these standards and provide practical guidance to States in the implementation of the human right to adequate food. The Voluntary Guidelines were developed in an inclusive process with participation of international organisations, INGOs (such as FIAN), NGOs and representatives of the civil society. Ms. Suarez Franco pointed out that the main challenge in the use of the Guidelines lies in operationalising them.

The Voluntary Guidelines detail 19 guidelines which cover a full range of actions which governments can consider in their daily work at the national level to comply with their obligations to respect, protect and fulfil the right to food. They can be used along diverse governmental sectors, such as public administration, economic development policies and strategies, market systems, official institutions, international food aid, national human rights institutions etc., as well as through diverse phases of a food chain. Ms. Suarez Franco emphasised that besides governments, the guidelines are useful for different stakeholders, and offer a tool to monitor public policies and to identify incorrect policies and practices.

Guideline 17 suggests that States should establish mechanisms to monitor the implementation of the Voluntary Guidelines. Human rights based monitoring of the realisation of the right to food can be done for example through checklists and questions, quantitative indicators, mapping food insecurity, and budget analysis, or by means of case illustration and analysis, and analysis of the law. It includes analysis of structures, processes and outcomes. It is important to evaluate whether states meet the legal attributes (adequacy, availability, access, sustainability), fulfil the obligations (adoption of measures, non-regression, non-discrimination, respect, protection, fulfilment) and observe the principles (participation, accountability, non-discrimination, transparency, human dignity, empowerment, rule of law) of the right to food. Cross-cutting issues, such as gender, vulnerable groups and institutional coordination need to be observed as well. It is also essential to link the analysis to concrete cases of violations. Ms. Suarez Franco noted that too often only the outcomes are evaluated, while structures and processes are being overlooked.

She then continued her presentation by introducing some rights based tools which FIAN has developed, namely the Voluntary Guidelines based monitoring tool *Screening policies against hunger* and the right to food IBSA (Indicators, Benchmarking, Scoping, and Assessment, which can be used for measuring state performance e.g. for IESCR reporting). These tools are adapted to be utilized by e.g. NGO's and other civil society actors, NHRI's, and also the UN Committee on Economic, Social and Cultural Rights. In addition to policy monitoring, the tools also serve the purposes of standard setting for national reports as well as visibility and awareness, and making the Guidelines known.

The monitoring tool is helpful for the determination of what states need to achieve, what has been done and what not, what went wrong, and what corrective measures should be taken, especially for vulnerable and marginalised groups. It covers the concept, sources, normative elements, obligations, principles and national implementation of the right to food, linking public policies to violations, and guiding questions for monitoring and the use of the gathered information. It is designed to give practical explanations and guidance concerning the analysis of structures, processes and outcomes.

Ms. Suarez Franco also shared the development process of the tool, which was led by a multidisciplinary group, then commented by experts and validated in 5 countries, after which it was improved according to the validations. The first outcomes of the use of the tool have been national reports using the methodology in their national context (with FIAN facilitation). Reports on the right to food situation in India, Bolivia, Colombia, Ecuador, and Cameroon have already been finalised and reports from Austria, Togo and Nepal are currently being prepared. Further outputs have been popular versions of national reports for grassroots communities, national lobby work based on the reports, parallel reports to UN CESCR influencing Concluding Observations, and UPR follow-up at national level.

According to Ms. Suarez Franco the advantage of the FIAN Right to food monitoring tool is that it gives visibility to the right to adequate food and offers structured criticism based on human rights analysis along a holistic concept of the right. Further, argumentation is based on official information, and validated with NGOs, CSOs, NHRI's, and e.g. UN agencies at the national level. In addition better structured parallel reports and synergies and strengthening of networks can also be seen as advantages. The tool also gives basis for adequate strategic planning for follow-up and lobbying work. The use of the tools does include challenges as well such as the risk of exclusion from communities, lack of capacities to cover the entire guidelines, lack of cases, and lack of capacities to follow-up.

9. Working groups

9.1 Working group 1: Economic, social, political, and legal prerequisites for the realisation of the right to food

Chair : Ulla Anttila (KIOS)
Expert commentators: Obed Kabanda (ACODEV)
Mila Sell (MTT)
Secretary: Ylva Sjöblom (KIOS)

Still approximately one billion people suffer from malnutrition that is strongly connected to poverty. Malnutrition is an especially serious problem among children due to the long-term impact of the condition. Although the need to eliminate hunger and malnutrition is obvious and acknowledged by the international community, it is essential to elaborate different means and adequate policies. The right-based approach provides an alternative for civil society actors to work for “hunger-free” societies.

The working group tried to answer to the following questions:

- Do legal means improve the prospects to implement the right to food?
- How do legal, economic, social and political conditions affect the realisation of the right to food?
- How to combine different means in order to provide the right to food?
- How can legal means provide tools to implement the right to food?
- Are there obstacles preventing the use of legal means or some conditions under which legal means do not work?
- What is the role of the civil society actors in the promotion of the right to food?

Mila Sell made a short presentation on agricultural points related to the theme of the working group. Work on agricultural reforms is needed in order to provide food security. 70% of the poor live in the rural areas and 80% of the food consumed in Africa is produced there by small-scale farmers. Farmers should participate in the research so that they could influence the development of agriculture and therefore it is important to bring local people together to participate in problem solving.

According to Obed Kabanda, the legal framework for the right to food is important but it is necessary to use different means in order to improve food security. Using only legal means is not sufficient. International and national levels that affect food security are interconnected.

Recommendations from Working Group 1:

In general:

- the contextualisation of the right to food is necessary: it facilitates more strategic work that is needed to reach goals in the context of food security
- pressure from civil society can make a change, and therefore the meaning of the civil society should not be underestimated
- in order to create pressure it is important to build stronger collaboration between civil society actors in the South and in the North

At the international level:

- making a hierarchy of the agreements in order to promote human rights is important because otherwise other goals may be prioritised
- creation of pressure for the implementation of “food-based” agreements in the promotion of human rights, for example the implementation of Maputo declaration (AU) would mean that budget investments in agriculture would increase
- sustainability and impact assessment of different trade and investment policies are essential in relation to the right to food because the long term effects of single acts may have strong impact on food security
- the Universal Periodic Review (UPR) processes at the United Nations should be analysed from the perspective of the right to food: have any policies within the UPR had implications on the right to food ?

At the national level:

- improvement of legislation that increases food security and enables the right to food and pressure for the promotion of this legislation from the civil society
- vulnerable groups should be included in the promotion of food security and the right to food
- accountability of the actions of the government in terms of the right to food should be required

At the local level

- capacity-building in agriculture in terms of local participation and ownership
- improving seeds and farming methods in a participatory way
- better tools for small-scale production

9.2 Working group 2: Rights Based Programming, Tools and Indicators

Chair : Sylvia Raulo (FCA)
Expert commentators: Rauno Merisaari (MFA)
Ana María Suarez Franco (FIAN)
Secretary: Minna Havunen (FCA)

The purpose of the workshop was to share practical experiences of rights based work and methods. The following topics were raised during the workshop discussion after the expert presentations:

Flexibility within contexts

It is important to recognise what is negotiable and what is non-negotiable within the RBA approach. Bringing up human rights and RBA work can be difficult in the countries which do not recognize the universality of human rights and which even deny speaking of them (e.g. China). Flexibility in approaches is essential in these cases. It is not necessary to speak about human rights in the work as long as the principles of human rights guide the work. You can also be creative and find other words to describe human rights or anchor them e.g. in accepted local religious or other principles. It is sometimes necessary to compromise, but it is important that NGOs have a clear vision on which things are negotiable and which not.

One aspect of the flexibility is context-sensitivity. The indicators and tools introduced by Mr. Merisaari and Ms. Suarez Franco are probably better received by trained NGO staff. It is important to recognise the different levels of programming (from policy to practice) and the fact that for all programming levels tools and indicators should be specific. The language and methodology in introducing them should be different when working at the grassroots level, with people who may be less educated or even illiterate. However, participation is important in all levels and in the best case the work of the local communities in articulating and choosing the tools and indicators becomes an empowering process itself from planning to monitoring and reporting/evaluation.

The work towards both duty-bearers and right-holders

Working both towards duty-bearers and rights-holders is maybe the biggest alteration in the methods of a NGO when moving from the needs based approach to the RBA. Working in both directions is extremely important in order to achieve sustainable change.

E.g. when it comes to right to food, there are countries where duty-bearers have resources but at the same time rights-holders' right to food is violated. Focusing on just giving food to rights holders is not sustainable, but advocacy and capacity building towards duty-bearers is needed in order to have them bear their responsibilities in the realisation of human rights. Of course, claiming their rights will have to be done by the rights-holders themselves with the eventual support of development NGOs. Thus, it is important to raise

rights-holders' awareness of their rights and empower them to claim their rights and advocate.

Accountability between duty-bearers and rights-holders is also the best way to hinder corruption, one of the major obstacles to the right to food. The capacity building of both rights-holders and duty-bearers is a means to promote accountability. Advocacy always challenges the status quo and current power structures. Therefore, it is a potential source for conflict, and NGOs should be prepared for that (e.g. conflict-sensitivity, negotiation skills etc.).

In fragile states like Somalia and South Sudan, it is challenging to find duty-bearers to work with. In these cases, the international community can also be acknowledged as a "moral" duty-bearer although with clear limitations. It is important to understand the fundamental role of the state. In a fragile context, capacity building towards duty-bearers is crucial and e.g. NGOs should not take the place of duty-bearers.

The transition from needs-based programming to rights-based programming may not be an easy process to justify for the general public or donors as the results in capacity building and advocacy are not as immediate as they would be with concrete actions such as when digging wells.

RBA and complementarity

The RBA by nature calls for building coalitions and seeking dialogue with and complementarity of different actors in society and in the development actor community. Complementary activities that rely on the RBA and traditional needs-based work are necessary. A person suffering from hunger is not interested in his/her theoretical right to food but instead needs food immediately. The right to food also includes a commitment to feed others in the situation of extreme need.

Networking and cooperation between service delivery NGOs and capacity building and advocacy NGOs can lead to complementary activities. Single projects can also include both elements: e.g. giving agricultural support to rights-holders and educating them in human rights and advocacy.

9.3 Working group 3: Discrimination as an obstacle for the realisation of the right to food

Chair : Kim Remitz (Finnish Refugee Council)
Expert commentators: Bijay Raj Gautam (INSEC)
Priti Darooka (PWESCR)
Kristiina Vainio (KIOS)
Secretary: Kaarina Nieminen (FCA)

Working group 3 had the focus on discrimination. Discrimination of different groups is a huge obstacle for the promotion of human rights in different parts of the world. The working group searched answers for the following questions:

- How do discriminative structures and practices affect the realisation of the right to food in Nepal?
- How to do rights based work to prevent and remove discrimination?
- What are the responsibilities of the donors?
- What should the civil society do?

Concepts

In the beginning of working group 3, Priti Darooka collected a list of factors to which discrimination can stem from. These include gender, indigenous people, disabilities, caste, race, age, sexuality, religion, nationality, people without identity documents, language, ethnicity, political opinion, occupation, etc. The root causes for discrimination are power, lack of knowledge, tradition, fear and prejudice, stigmas, and lack of interaction. Equality is based on universal human rights. Reasons for discrimination are socially constructed, which means they can and need to be removed.

Formal equality means the right to education for example. It can be a starting point but it does not necessarily help to remove the discrimination and its root causes and reasons. In protective equality, the bigger picture is included, for example, taking the point of view of the community instead of only the individual. Substantive equality works to tackle to the root causes of discrimination in the whole society.

An example of indirect form of discrimination is a building with lots of staircases, which discriminates disabled people, even if all are welcomed in general. Multiple forms of discrimination can be based on different kinds of categorization.

Nepal case

Bijay Raj Gautam introduced the case of Nepal. Nepal has signed and ratified all universal conventions but their implementation is lacking. 75 districts, especially the upper hill

districts that are very remote, face severe food shortages. 80% of the population lives from agriculture. In Terai, the maize production has suffered from unfit seeds which have ruined maize fields in the area.

Discussion

The example of a forest project, in which Finland has been involved in Laos, was introduced. The project caused discrimination because the community and its habits of using the forest had not been taken in to notice properly. The case of Sierra Leone and literacy training programs was also introduced. When implementing the programmes it was noticed that some important facts from the community had not been taken into account or even known earlier. If the history of the community is not well known, it can cause a lot of harm. In many countries, there are layers of different legal systems that can contradict with each other.

How can then the most vulnerable be identified? This is very challenging because NGOs have often a pressure to show quick results in development cooperation. In this case, NGOs will not attempt to choose the weakest and the most vulnerable, because this would prevent them from showing good results quickly. This is also relevant in the case of context analysis which cannot be done properly in a short project with a limited amount of time. The specific action to be taken to tackle this problem includes ensuring the access to education, especially for girls, and a context analysis.

When facing calamity, the urban, educated professional will not face poverty for a long time: she/he can e.g. go to the bank and get a loan. Instead the poor rural woman will probably be stuck at the same situation for the rest of her life living in poverty. The lack of long-term indicators is common regarding the reduction of discrimination, probably mainly because the outcome is difficult to measure. An impact analysis in awareness raising is also a big challenge.

Recommendations

Recommendations from the working group to civil society actors are: First of all, a good baseline study needs to be made. Capacity building and awareness raising are important at all levels, by empowering the civil society, raising awareness of both right-holders and duty-bearers. Integrating advocacy into the planning and implementation of the programmes was the third recommendation. Education is one of the most important long-term solutions for the reduction of discrimination, and it is crucial for empowerment. Finally, networking is important since one organisation cannot do everything.

Recommendations to governments are the following: To remove the discriminatory policies and to pass the information to all levels of the government. The level of awareness needs to be raised by organizing mass awareness raising campaigns to tackle the major discriminatory issues, for example. Finally, the criminalisation of the violations of the

human rights should be implemented by the government. One recommendation for donors is to give flexibility in terms of the project cycle and the context.

9.4 Working group 4: Civil society organisations' cooperation, tactics and strategies in advancing the human rights based agenda in Finland and internationally

Chair : Timo Lappalainen (Kepa)

Secretary: Laura Lager (Kepa)

Civil society organisations are good at policies but bad at politics. We are familiar with and accustomed to giving our input in the content side of the political decision-making, but we are not at our best when it comes to the understanding of political processes and their dynamics. How can we become actors in politics? Working group 4 had following questions to find solutions for:

- How could CSOs in Finland and internationally promote HRBA most effectively?
- Is mainstreaming enough?
- Which tactics should be chosen concerning e.g. Vietnam and Ethiopia?
- Do we need a CSO network in Finland for the promotion of human rights based development?

How could CSOs in Finland and internationally promote HRBA most effectively?

The first question of the working group 4 was how CSOs should influence international and national political processes that are relevant to the issues such as human rights, sustainable development, and shortcomings in equality and democracy.

In Busan High Level Forum on Aid Effectiveness, CSOs internationally managed to get their own representative into the negotiations for the first time, which meant that they had a position inside the process. It was commented in the working group that “when we have taken the inside position and signed the document, we have agreed to it and we should in principle stand behind it. For this reason, being inside does not allow us to criticise – at least so vocally – and challenge the outcomes of the negotiations. There is a sort of confusion: are CSOs in or out? It is not clear.” In any case civil society gained something in Busan: enabling the environment and HRBA to be mentioned in the protocol, but only to be applied by CSOs. This was seen as a building block for human rights based approach: the idea to develop the HRBA promotion further.

In the negotiations, the toughest issue for donor countries and CSOs was the question of getting China more involved at the expense of human rights being pushed to the margins.

This question reminded us of the limits of CSO's power. Should CSOs draw a line that must not be crossed at any circumstances?

HRBA is said to start with a philosophy. It is a long-term process to make it reality because changes have to be taken into the structures. Issues are very political, so the challenge is not only how to change the views of the government, but also the views inside families and communities etc. This requires also a fundamental transformation in attitudes and general discussion.

It is not just the Northern countries that are pushing the HRBA forward; there are also very strong actors in the global South. How could the HRBA be promoted in various international agendas? Can we have same norms and indicators in different processes? The HRBA gives a more comprehensive toolkit and approach for this.

In Uganda, the HRBA is still very new for many CBOs in grassroots level. It would be important to empower civil society at different levels, so that they are able to empower people also at the community level. Holding local level government institutions or those in power accountable does not function, if there is no knowledge and capacity also at the grassroots level (both people and government officials). The promotion of human rights can be dangerous, and therefore it is important to have connections and collaboration at different levels to make the HRBA work.

In Finland, NGOs appear to be quite close to the government, compared to some other countries. It was questioned whether NGOs miss their chances to take more critical standing points if they get too close to the government. When there are possibilities to achieve some major outcomes, it is more valuable to go in. Different voices, debate and dialogue strengthen the civil society. Regarding the role of the civil society in empowering the general public, and not just developing elitist large NGOs, there seems to be more and more distance to the citizens. It should be recognised that the civil society is present at different levels, much like government institutions that are functioning at different levels.

Mainstreaming or maindraming? (Is mainstreaming enough?)

The second question of the working group was the dilemma of mainstreaming human rights or choosing and promoting/advocating single issues in the political and media arenas. If some issues are chosen, is something critical lost in the principle of a holistic approach? In Busan, CSOs picked up human rights as one theme amongst others. Mainstreaming may also include a potential danger that the issue promoted starts fading away. And if just some rights are chosen, the whole idea of rights is lost. A dignified life sums up the full realisation of human rights. It is radically different from the charity-based approach: equality being the starting point, not mercy or pity.

High or low profile promotion of human rights? (Which tactics to choose concerning e.g. Vietnam and Ethiopia?)

The third question concerned the dilemma of whether to make human rights visible by name or to promote and advance them through concrete actions without a clear reference

to human rights in written or spoken language. The chosen cases were Vietnam (environment) and Ethiopia (work with marginalised groups). At a practical level, it is possible to do a lot when the government is challenged. Should it be done or is it necessary to challenge the government politically. The ultimate goal is anyway dignity and decent life.

If the details of human rights are understood and analysed, then it is possible to go to communities without having to use big and over-ambitious human rights terms. One practical way to proceed is to ask the local people practical questions that are relevant to their lives. One has to make a clear connection between human rights and real-life issues of the people addressed: what are the things we are talking about and how do we define human rights? The profile of promoting human rights depends on the context of the country. First of all, the risks for any organisation need to be assessed. It is also a matter of security at different levels, e.g. in China one can talk about the environment but not about human rights.

Do we need a CSO network in Finland for the promotion of human rights based development?

The fourth question concerned the CSO-cooperation in Finland. Does the promotion and coordination of human rights require physical structures for cooperation such as a human rights network, working group etc.? What should be the main objectives of human rights cooperation and/or of a network promoting them: awareness-raising on human rights, advocacy work in Finland and possibly in regional and global arenas, capacity building of CSOs, public authorities, or private sector and others?

In the case of Uganda, numbers matter in lobbying and advocacy: coming together, joining forces, and learning together. Networks give information, as actors work at different levels. The benefits from this are information sharing, capacity building, collective advocacy, and ability to bring a variety of issues and expertise at the same table. There are challenges as networks grow, and the administrative structure becomes heavy. Hence the correspondence with different members might be lost, as well as their constituency.

What kind of cooperation is needed then, what are the key tasks? If this is not clear, cooperation easily fails. Can human rights be advocated more effectively with a special organisational structure? In Finland, there are already different kinds of human rights organisations.

Information sharing and capacity building can be done more effectively if the needs for networking are assessed. Human rights are promoted in and for development policy but the Ministry for Foreign Affairs also lacks expertise whereas CSOs' expertise and knowledge could be used. For this reason, the exchange of ideas how to promote human rights in different and challenging contexts would be valuable.

In the Nordic countries where even the governments have adopted the HRBA, there is still a lot of need for civil society advocacy. One has to react and lobby very quickly; perhaps

some working groups with specific policy targets could ease the situation. How could the potential strength to support the human rights promotion in regional and international advocacy work be used?

Conclusions of the working group 4:

Monitoring human rights is a good practical way to promote the HRBA. The independence and integrity of monitoring actors should be secured. Compared to some other countries, in Finland NGOs seem to be quite close to the government. In such circumstances the NGOs miss their chances to take more critical standing points. When there are possibilities to achieve some major outcomes, is it more valuable to go in? CSOs should apply a multilevel approach: local, national, regional, and global levels should be taken into account when promoting the HRBA. Government actors can also be willing and interested in accepting advice from civil society actors. This would also build the capacity of government officials.

Different tactics could and should be applied. For example, a holistic and mainstreaming approach is sometimes useful. But in certain processes, the tactic to choose certain themes can work more effectively.

The situation must be assessed and then the best suitable tactics should be chosen. The human rights principles should be transferred into practical examples that have relevance to people's life. It is needed to be specific when talking about human rights.

It is important for the civil society actors to come together for the promotion of human rights based development. The objectives for cooperation should be clearly defined. Cooperation would naturally be a good way to share information, build the capacity of civil society actors, as well as public servants and private sector, and raise the awareness.

What comes to any CSO network on human rights, an important question is, whether we need to have a network or a structure for advocacy. Most of the advocacy work is already carried out by and with some large and well-resourced CSOs. In the Nordic countries, there is still a lot of need for civil society advocacy. The Nordic countries are often seen as an example in the HRBA work. More dynamic structures for advocacy are necessary for CSOs. Also a survey should be conducted in order to collect and map out the needs of the CSOs regarding human rights work.

10. Conclusions

Can the human rights based approach make a difference in relation to development policy? Why is it important to talk about the right to food and not only about the need to reduce poverty, hunger or malnutrition rates? As the litigation case in India indicates, using legal means may give more potential tools for advocacy work by improving the situation of vulnerable groups whose rights are violated.

As Jean Ziegler stated as the Special Rapporteur on the Right to Food, the objective of the Millennium Development Goals to halve the number of hunger victims is unacceptable. At least from the perspective of human rights, all states ought to take action to realise the right to food for all people. This means that the eradication of hunger and under-nutrition should be set as a goal at the global level as well as by every single state.

Although the eradication of hunger and under-nutrition until year 2015 may be an unrealistic objective, it is worth analysing. A multilevel approach is needed to reach this goal even in a longer run. For reaching this goal, it is necessary to seek structural changes in societies as well as to change attitudes at the level of individuals. Using legal means may provide better opportunities for structural changes.

The seminar mostly dealt with the means to be used at the national level. However, the international protocols should not be forgotten either. The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights was adopted in 2008. It enables complaints to be investigated by the UN Committee on Economic, Social and Cultural Rights. The Optional Protocol facilitates the implementation of the International Covenant on Economic, Social and Cultural Rights that was adopted in 1966. The Optional Protocol gives an opportunity for petition at the international level regarding economic, social and cultural rights including the right to food. This tool may be used after attempts to improve the situation at the national level have taken place.

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights can be a powerful tool for promoting the right to food. It is a challenge, whether international legal standards are interpreted in such ways that they imply obligations to the states. Regarding developing countries this means, that ensuring the right to food is seen as a priority, an obligation to the states. Regarding wealthier countries this also signifies willingness to take action by other means: an obligation to cooperate deliberately with those countries that need assistance for implementing the right to food. In the long run, this obligation also requires structural changes enabling sustainable farming and food production that may be endangered due to environmental deterioration including climate change. Therefore, long and short term food security should be one of the priorities on the global development agenda.

The relations between different international agreements should be assessed from the perspective of the right to food. As Ziegler, Golay, Mahon and Way (2011) have emphasised, the priority of the right to food should be acknowledged in the interpretation

and evaluation of the international treaties. They criticise the way how the right to food is considered to be inferior than political rights when giving protection to asylum seekers. According to them, starvation and hunger should be equal reasons for getting protection although nowadays, a refugee status cannot be given to anyone only due to hunger or malnutrition. The relation between trade agreements and international conventions on human rights should also be reassessed: human rights including the right to food should be seen as a priority in relation to trade agreements.

Finland has acknowledged the central role of human rights in its development policy. Due to the human rights based approach to development, Finland should work on the transformation of the global development agenda as well. This requires changes in its own development policy extending to the analysis of the global institutions (including the UN institutions and the Bretton Woods Institutions).

The implementation of the human rights based development policy requires broader changes in Finland's policies. Different actors like the Ministry for Foreign Affairs and CSOs need education for this process. New strategic planning is also required to make policies and activities more coherent. Development policy does not evolve in isolation. The human rights based approach to development challenges other dimensions of foreign policy that ought to be consistent with this approach. Its implementation is also dependent on other aspects of foreign policy.

The promotion of the rights based approach is also a challenge for CSOs. Of course, the priority should be that the states take the responsibility of the ratification and implementation of the human rights agreements. CSOs have a crucial role in following the accountability and the actions of the states. CSOs make serious efforts in the awareness-raising in regard to different aspects of human rights as well.

This seminar provided opportunities to understand and further elaborate the human rights based approach. Similar occasions are needed for further developing this approach. The feedback from the participants of the seminar was predominantly positive. The idea of a follow-up seminar regarding the right to food as well as the human rights based approach was proposed to the representatives of KIOS during the seminar.

The working groups of the seminar were successful in promoting discussion on several themes that are relevant either in relation to the right to food or to the human rights based approach to development. One of the focuses of this seminar was also on the mobilisation of civil society organisations in the promotion and development of human rights based policies and practices in development issues.

Working group 1. focused on the role of different methods in the promotion of the right to food. It is important to make a distinction between different levels of advocacy work. At the local level, quite concrete measures can be taken. It is important to be aware of different mechanisms and methods. CSOs need to collaborate at different levels and make deliberate efforts in the advocacy of the right to food.

Working group 2. assessed rights based programming, tools, and indicators. In CSOs working in development issues, the agenda may vary a lot. It is necessary to emphasise the role of setting goals based on human rights, and only after having defined the objectives, to focus on indicators. Tools depend on the strategy preferred for reaching the goals. In Finland, the needs of CSOs in regard to develop and implement a rights based approach vary a lot. Further joint education, training and opportunities for setting goals and assessing indicators together will be needed.

Working group 3. had the focus on discrimination. Discrimination of different groups is a huge obstacle for the promotion of human rights in different parts of the world and awareness raising is one tool to tackle this phenomenon. Besides studying it, it is important that CSOs continue their advocacy activities that lead to changes in legislation, which enables the eradication of different forms of discrimination.

Working group 4. elaborated the role of civil society in the promotion of human rights based approach to development. This working group pointed out the role of civil society in the promotion of the human rights based approach to development, although it did not give exact guidelines how to facilitate this kind of cooperation. Cooperation of CSOs from the South and the North would be necessary for the promotion of the human rights based approach. New forms of networking may also be needed.

Further discussion on the right to food as well as on human rights based approach to development is needed in Finland and other parts of the world. Clearly, the rights based approach can make a difference when modifying the continuation of the target-setting of the Millennium Development Goals. The right to food implies that the eradication of hunger and under-nutrition should be seen as primary global goals instead of only reducing the number of people suffering from under-nutrition and hunger.

The process of setting new global development agenda replacing the Millennium Development Goals after 2015 is starting. According to report "Realizing the future we want for all. Report to the Secretary-General", the new development agenda should be based on human rights, equality, and environmental sustainability. The framework of the report knits human rights, equality, and sustainability together with inclusive economic development, environmental sustainability, peace and security and inclusive social development. The report examines the results and challenges of the Millennium Development Goals. Hopefully, the right to food and human rights based approach to development will be discussed in detail, when the post-2015 agenda is to be made.

References

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List of Abbreviations

ACODEV	Action for Community Development, Ugandan Human rights organization
AU	African Union
CSO	Civil society organisation
EAC	East African Community
FAO	Food and Agriculture Organisation
FCA	Finn Church Aid
FIAN	Food First Information and Action Network
HRBA	Human rights based approach
ICESCR	International Convention on Economic, Social and Cultural Rights
IFAD	International Fund for Agricultural Development
INGO	International non-governmental organisation
INSEC	Informal Sector Service Center, Human rights news portal in Nepal
KEPA	Finnish civil society's leading expert organisation on development policy issues
MDG	Millennium Development Goal
MFA	Ministry for Foreign Affairs of Finland
NGO	Non-governmental organisation
NHRI	National Human Rights Institution
OECD	Organisation for Economic Cooperation and Development
PWESCR	Programme on Women's Economic, Social and Cultural Rights; Indian Human Rights Programme
RBA	Rights based approach
WTO	World Trade Organization
UN	United Nations