



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

**International Consultative Conference on
Food Security & Nutrition as Human Rights**

**Randburg Towers Hotel
Randburg, Gauteng**

25 - 27 March 1999

REPORT OF CONFERENCE PROCEEDINGS

TABLE OF CONTENTS

	Page
List of abbreviations.....	iv
Acknowledgements.....	v

1ST Session, 25 March 1999.

1.1 Dr Barney Pitjana, Chairperson of the South African Human Rights Commission – welcome and introduction.....	1-6
1.2. Dr Asbjorn Eide – overview.....	7-16
1.3. Discussion session following overview.....	17-20
1.4. International Perspectives.....	21-30
1.4.1. Dr Urban Jonsson – UNICEF.....	21-23
1.4.2. Mr Patrick van Weerelt – UNDP.....	24-26
1.4.3. Ms Margret Vidar – FAO.....	27-28
1.4.4. Ms Zanele Mhlanga-Karl – WHO.....	29-30
1.5. Discussion session following international perspectives.....	31-39

2ND Session, 25 March 1999.

2.1. Ms Lindiwe Mokate, CEO of the South African Human Rights Commission, Welcome and Introduction.....	40
2.2. Country case studies.....	41-52
2.2.1. Brazil – Mr Flavio Valente.....	41-47
2.2.2. India – Mr Nelson Gopaldaswami.....	48-52
2.3. Discussion session following country case studies.....	53-59

3RD Session, 26 March 1999.

3.1. South African Situation Analysis.....	60-81
3.1.1. South African Government: Department of Health Ms Cynthia Mgijima.....	60-64
3.1.2. South African Government: Department of Agriculture Ms Mongi Ramabenyane.....	65-68
3.1.3. South African Government: Department of Welfare Prof. Edith Vries.....	69-75
3.1.4. South African Human Rights Commission Mr Tseliso Thipanyane.....	76-81
3.2. Discussion session following South African situation analysis.....	82-86

4TH Session, 27 March 1999.

4.	Working group report backs.....	87-115
4.1.	Group one: concepts – food security and nutrition as human rights	
4.1.1.	Group one presentation.....	87-90
4.1.2.	Discussion session following group one presentation.....	91-92
4.2.	Group two: policy development and implementation	
4.2.1.	Group two-presentation.....	93-96
4.2.2.	Discussion session following group two presentation.....	97-99
4.3.	Group three: the impact of macro-economic policies	
4.3.1.	Group three-presentation.....	100-104
4.3.2.	Discussion session following group three presentation.....	105-108
4.4.	Group four: monitoring and assessment – the role of the government, The judiciary, the South African Human Rights Commission and organs of civil society	
4.4.1.	Group four presentation.....	109-112
4.4.2.	Discussion session following group four presentation.....	113-115
4.5.	Summary and closing comments on the working group reports.....	115
5.	Conference Statement.....	116-118
6.	Discussion session and comments on Conference Statement.....	119-120
7.	Vote of thanks and closure.....	121
8.	Conference Recommendation.....	122-125

List of Abbreviations

ACC/SCN	Administrative Council of Co-ordination, Sub-Committee on Nutrition
FAO	Food and Agriculture Organisation
FIVIMS	Food Insecurity and Vulnerability Information Mapping System
IFAD	International Fund for Agricultural Development
ILO	International Labour Organisation
NGO	Non Governmental Organisations
RDP	Reconstruction and Development Programme
SADC	South African Development Community
SALGA	South African Local Government Association
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
WANAHR	World Alliance for Nutrition and Human Rights
WFP	World Food Programme
WFS	World Food Security
WHO	World Health Organisation

Acknowledgements

The International Consultative Conference on Food Security and Nutrition as Human Rights was organised by the South African Human Rights Commission with the financial and technical assistance of the United Nations Children's Fund (UNICEF). Further technical assistance was also provided by the World Alliance for Nutrition and Human Rights (WANAHR). The Commission thus extends its gratitude to these two international organisations.

The Commission also thanks the international participants such as Dr Asbjørn Eide, Dr Wenche Eide (from WANAHR), Dr Urban Johnson (UNICEF Regional Representative for Central and Southern Africa), Dr Flavio Valente (from Brazil) and Mr N Gopalaswami (the Secretary-General of the National Human Rights Commission of India), who made useful and insightful presentations to the conference. The Commission also thanks representatives from various government, non-governmental organisations, and various United Nations agencies, such as FAO, UNDP and WHO for their participation and their presentation.

Last but not least, the Commission thanks Dr. NB Pityana and Ms Shirley Mabusela for their guidance in preparations for the conference, and the following members of the Commission's staff and other independent researchers, who worked very hard and diligently in assisting in the preparation of the conference and in the preparation of the conference proceedings report. These are: Tseliso Thipanyane (Head of the Research and Documentation Department); Siphon Molepo (former Deputy Director Research and Documentation); Bernadette Kotelo, Lesedi Sojane, Marinda Weideman, Marjolein Harvey, Busi Sithole, Zandile Nkonyane, Rachel Odoi, Musa Zuma, Busisiwe Mkhwebane (former senior researcher) and Ntombifuthi Shabane (Research and Documentation Department); Donna Ryan, Bessie Tselapeli, Jeannette Campbell, Thandeka Mpisi, Penelope Dlamini and Nomusa Twala (Advocacy Unit); Bongi Shabane (Legal Department); Mmaphuti Dikgomo, Mbuso Nxumalo and Binu Idiculla (former IT administrator) (Administration and Finance Department); and Idah Motsoeneng (the Commissioners' office).

1ST SESSION, 25 MARCH 1999

1.1. DR BARNEY PITYANA, CHAIRPERSON OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION: WELCOME AND INTRODUCTION

My task this morning is to welcome you all to what is a historic and vital Consultative Conference on food security and nutrition as human rights. It is historic, certainly for our country, in that it is one of the very early attempts at making sense of what is in our Constitution and giving content to the rights that are in the Bill of Rights, particularly the economic and social rights. It is historic also in that, in order to give effect to such conceptualisation, we have brought together a conference we call "consultative". This was done because we also wish to learn from different experiences of efforts that are being made in other countries.

In fact, it is historic, in the sense that it draws together experiences and lessons from India, Brazil, the United Nations family, and from some other agencies. All are seeking to enforce the right to food, to seek a better understanding of it and to give effect to some of the international initiatives; for example, the World Food Summit.

In a very small way, in this Southern tip of Africa, we are really seeking to deliberate. My sense is that we do not have a much greater ambition than that: to deliberate on these issues. Moreover, to allow our common mind to dwell on how in fact these can be more meaningful than they are inclined to be in many political and other discussions in our world today.

This Conference has had a very long journey, for which I wish to acknowledge some of the people who assisted us in bringing it into being. Certainly, it has multifaceted genes, because it comes from a variety of sources, which have come together to produce something that we have here today. The process is of no significance. What I hope will matter though, is the product. However, we are here together to give effect to that product.

First, let me acknowledge the pride, interest, and commitment that we owe to the World Association on Nutrition and Human Rights, and Prof. Wenche Eide and Dr Asbjørn Eide, in particular. In essence, the concept emerged out of their early discussions with several of us here in South Africa and I wish to acknowledge them and their early assistance in this regard.

The second one was the UNICEF office in South Africa. Dr. Urban Jonsson is not here anymore but other colleagues in the UNICEF office in Johannesburg took up the matter and we worked very closely with them right up till the end. We wish to acknowledge the assistance of UNICEF in the work that has been done and indeed the partnership built with UNICEF. Jesper Mørch is now the representative of UNICEF in South Africa.

I am aware that there were other forms of discussions that were taking place in South Africa. Initial discussions between Philip Austen who, at the time, was Chair of the United Nations Committee of Economic, Social and Cultural Rights, and the legal office of the Food and Agricultural

Organisation in Rome (FAO). Apparently, the discussions revolved around some initiatives that were being conducted with the South African Government in the light of provisions in the Bill of Rights. In the discussions, an interest was shown to see how South Africa could in fact be a case study in developing human rights in a developmental light, considering the potential of a human rights approach to development. I do not know how far those discussions went but I am sure they created an environment, an atmosphere for us to be able to raise these issues in the particular ways in which we are seeking to raise them. For that reason, it is a matter of great regret to us that we have not had a stronger presence of the South African government in this consultative context.

We had invited the Minister of Agriculture and the Director General of Agriculture, both of whom for various reasons are not available, and we consider that a bit of a problem. In the course of our monitoring of economic and social rights as required by the Constitution, one of the gaps we have discovered is that there is no Ministry that considers itself to be responsible for the whole issue of food in a holistic manner. In fact, we found that there are different Ministries that tell us that they only take responsibility for bits of it. One participant says we must go to Trade and Industry in terms of marketing and production. Others say they deal with farmers and land whereas some say they deal with something else.

Certainly, there exists no holistic system of ensuring that there is totality of the production and availability of and access to food in the South African context. There seems to be nobody in the South African government who feels that this is his or her responsibility and we consider that to be a major problem. We therefore felt that it was important for this Conference to consider this issue specifically.

Moreover, the Director General of the Department of Agriculture raised some questions that the Department and the Minister have not yet resolved as far as the Government of South Africa is concerned. The issue of what exactly is the content and nature of the right to food. We felt that this Conference was precisely the place to explore those questions because we do not believe that those questions can only be resolved through discussions with government and government alone. An interactive strategy between both organs of the state and civil society is necessary to begin to discover what the content and nature of the right to food is, that is already in the Constitution, in the Bill of Rights. For those reasons, I indicated my strong belief to them that this conference was as important for the thinking that is already taking place in government and the questions that the government is raising, as it is for the rest of us to seek to enforce some of those rights. Therefore, the role of the government has to be important.

I talked about the absence of the Minister and the Director General, but we do understand that there are other representatives of government here. I hasten to say to them, that we do not minimise their importance and their contribution to this conference. Save to say that we sincerely believe that they will feel an additional obligation, to make sure that when they get to the Ministry, there will be a greater commitment over and above where they are today. In a sense, they take on an additional responsibility to make sure that, at the level of the Ministry and at the level of the Department, these discussions and this debate acquire an added significance.

We want also to acknowledge and thank Urban Jonsson, the Regional Director of UNICEF for Eastern and Central Southern Africa, based in Nairobi. Urban, who is here together with someone from his office, has been part of the initial discussions leading to this conference.

My colleagues and I have been interacting with some of the initiatives within the United Nations system and I know there is an interest from UNDP here as well. Greg Moran, Shirley Mabusela and now Tseliso Thipanyane, have all, in their different ways, been participating in some of the

discussions, conferences and meetings around this issue that has been taking place in Geneva in the last two years or so.

I am telling you all of this in order to indicate to you that we are here as part of a big and growing movement. A movement that is seeking to understand precisely how best we can give effect to this very important right which for us in South Africa is enshrined in our Bill of Rights. I recall, it seems not very long ago, perhaps a few years, the amazing response that was received when large numbers and hordes of people, emaciated and suffering from famine, were witnessed around the whole of Africa. Somebody can tell when that was but I think it was a decisive moment for the world in really giving effect and drive to the value and importance of the issue of food for humanity. It also points to the inter-relatedness of human rights and development issues that arise as a result and effect of the politics of the countries and the management of the economy. An additional factor within that interrelated system is the responsibility of the management of the economies of the world in a way that ensures the availability and access to basic foods and nutrition for people.

For me, certainly, it was a decisive moment because it had never really occurred to one how devastating the issue of the lack of or the absence of food could be, to the extent that it was to so many people. I remember how much Bob Geldof's drive and commitment to the issue really seemed to make people recognise this as their problem, not just of distant governments. Many people, from movie stars and actors to the person in the street, committed themselves to various acts of charity as a result of the concert organised by Bob G. People all over the world at least started to interrogate the way in which the politics and the economics of the world could be reorganised in order to ensure that kind of thing never repeated itself in the modern world.

Other people can tell different stories. I never really experienced being around people who were without food to that extent, not even in the apartheid days. It was a personal experience, I think, not because people always had everything that they needed, which is something that is no longer the case in our country. I seem to recall that it was almost always the case that people used to share what they had with others. It was much more obvious that if somebody next door did not have, it was natural for someone to be able to come to his or her assistance. I think that is not always the case in South Africa at present.

We grew up in an environment where it was not too much to provide coffee or sugar to someone who was in need. Societies and the communities, even in urban areas, were supportive of one another in that way. But today even here, in our country this is no longer the case. In fact, we live in a much more individualised, nuclearised society and we have to be reminded of our sense of responsibility. The way, in which those responsibilities work, it seems to me, is by a heightened sensitivity to others and to their needs. A heightened sensitivity and understanding of human nature and also an understanding that it is not always the case, when people are without food and are in want or in need, or are poor, that it is their fault, that they are lazy. The Calvinist doctrine used to teach that if you have nothing, it is because you are too lazy to provide for yourself or to work. You have no work ethic. Clearly to most people, that is not the case. As we drive around in our country today, the situation is such that there are more and more people in our streets who are begging for the basic necessities of life.

This Conference is part of an increasing consciousness of the need that is there in our society today. It seems to us that a large and growing number of people are living in poverty, living without the basic necessities of life, and that the traditional means of enabling us to understand the nature of poverty in our society are no longer meaningful and no longer assist us to understand the nature of want, need and poverty in our society. That is a critical issue for a society that seeks to be founded on human rights. It is a major challenge for us in the new South Africa when we have rights that are

rendered meaningless for many people because the basic things that help them to understand the nature of their humanity are no longer available to them.

When we talk about economic and social rights, I think, we are in the heart of the issue that is confronting us in the young democracy of South Africa. We believe that it is critical for ordinary South Africans to be able to enjoy basic nutrition and access to food and to do whatever is necessary for them to have access to those rights. When we say that, we are saying something that goes to the very heart of our constitutional democracy. It is for us not just simply a matter of concern about civil or political rights, whether the police are torturing people, important as that might be, or just a matter of freedom of expression, vital as that is in a democracy. It is about how we can own, together, in a holistic manner, all the rights that are in our Constitution. We cannot and we do not, as a Human Rights Commission, work on the basis of hierarchies of rights but we emphasise all rights equally.

Actually, I think in the South African sense, we are doing a major job to educate people who are still engrossed and living with the ghost of apartheid. There is a whole range of rights that tended to not really be the concern of those who were concerned about whether the apartheid system was fair and just or not. We cannot live forever with that ghost of apartheid. It is about time that we begin to move the people of South Africa to the very essence of what living in a rights-based society is about.

It is therefore argued that this conference is actually a major historical event. It is historical and major, because it not only seeks to give content to the rights but I think it also seeks to move us, in South Africa, to a decisive break with the past. A break with the mind set of many influential people today, in industry, politics and media, which tries to move people away from the ways in which they see how the resources of this country can be developed, assessed, and how we, as a community, country, can move together towards a different dispensation. We need to help the people of South Africa, all the people of South Africa, to make sense of the rights that are enshrined in our Constitution and in my view; this is an initial and a very small effort.

What then is our vision, what then do we see as the product of these deliberations? Clearly, the product is to heighten and/or cultivate sensitivity about how for us, in South Africa, the Bill of Rights can be meaningful and have real content. That will not just be a series of words and pious platitudes. The Bill of Rights can have real meaning and real content for those who need it most. Therefore, because of that we must enable people to come to an understanding of what it actually means. What does it mean in section 27, when they talk about the right of access? What are the imperatives of that right in a modern democracy?

Secondly, having arrived at that understanding, I think it is equally important that we also seek to help people overlap avenues for access to that right. How do I, having come to understand that I have this right, access those rights? What avenues are open to me? Indeed, additional to that, how do we empower those who have a responsibility to make the availability of those rights possible? How do we enable them to structure their strategies and policies in such a way that indeed those rights are available to those who need them most?

Thirdly, in order to achieve those objectives, we need to look around and see where are the resources that we need most, as South Africans. Where do we learn most and how do we generate public consciousness about the value and the meaning of access to those rights for the good of everybody in South Africa. Whether I use the basic norm concept or a developmental concept or a human rights concept, whatever you use, at the end of the day it is about where do we learn how best to structure and focus the availability of that right.

The international link comes into place here, and it is because of that, that we are here today to share, learn, network, from different sectors, from India, from Brazil, from the international community. Moreover, how do we then use this opportunity and its outcomes to be the model or case study from which others can draw as well? We having learnt from this, how can it become a model for others to learn from it as well? Finally, and linked to that, how do we then become ourselves the advocates to enable the better promotion and advocacy for this right that we have so clearly, hopefully, by the end of this conference, identified. Actually, that is how we see the way in which the conference is bound to focus as well. This is how I have set out, in my own way, the objectives and the foci for the conference.

Attending this Conference are people from government, NGOs concerned about the issue of poverty and food, human rights NGOs, concerned for us in South Africa about this issue of human rights and community development issues in our communities, and advocates of human rights promotion.

To all of us, whatever angle, whatever our entry point might be, at the end of the day, this Conference is a revelation that we need one another if we are going to move South Africa to a higher plane on this issue. Make no mistake about it; there is a lot of disengagement about these issues that takes place around us in the economic climate in which we live.

The format of the conference is designed to enable those different entry points to come into play. Uniquely for us in South Africa, when those various entry points come into play, they enable us to be in conversation, in dialogue, with one another. When we are initially interacting, dialoguing with one another, something that I confess we have not really done before, and then we can really and truly begin to see how related we are.

With us are people from the United Nations, with expertise and knowledge, from the international community, from India and Brazil. All these people are concerned with making a success of this conference. We hope that by the end of this conference there may be some benchmarks, some guidelines, some way of understanding and maybe some aspects of seeing how this right can in fact be realised for the people of our country and elsewhere.

In order to achieve that, we are operating with a format of case studies from various countries. We will also be drawing from the experiences of the United Nations family, case studies in terms of countries and in terms of what are the perspectives of the South African Government. Then there will be working groups, which we believe should be as representative as possible, and, out of the working groups, breakaway sessions. We hope there will be some sense of a common mind emerging about an issue that we believe has to be topical for our world today if human rights are going to have any meaning for those who need that right most.

That is the nature of the event that we have put together and it will work, to the extent that we are free and open to express our views and ourselves. We take advantage of the opportunities that are here, formally and informally. We can get to know one another and the experiences that we have to confront in our own settings, in our own countries, in our own environment. We can draw from the experiences of others, for our own benefit, for the benefit of our own settings and our own economies. We can do that freely and openly in a conference that has been designed to be as interlinked as possible. This is not a major conference of three hundred, five hundred people. It is designed deliberately to be an intimate conference to heighten and make possible spaces for conversation and for dialogue. It is in that way better to allow the consultative process to take place at all levels of our being together during this week. Finally, allow me to just thank you all and wish you everything of the best during the course of our two days or so together. Thank you very much.

It is my pleasure to introduce Dr Asbjørn Eide. Asbjørn has become very well known in many aspects of human rights work over a very long time. I am pleased to say that Asbjørn and I have been working together on various aspects of human rights for some time now. He has been the Chair, and I think a rapporteur, of the sub-committee on the Prevention of Discrimination and Protection of Minorities for a long time. He and I were on the Board of International Alert in its various manifestations and we have been in contact in Geneva for a while. Asbjørn has been Director of the Oslo Human Rights Institute for many years. Therefore, he brings to this Conference a very creative and integrative understanding of human rights because of the history of his involvement in the European system and his great commitment to human rights. I think he has provided some valuable insights into the major test of the human rights concept, economic and social rights, as an editor and attempts, I think, to take this issue of economic and social rights to a different dimension. I do believe that we are very privileged indeed to have Asbjørn Eide with us today.

1.2. DR ASBJØRN EIDE: OVERVIEW

Thank you very much, Barney. There is in your folder an outline of what I am going to say. This will make it easier for you to listen to what I am saying now and then you can see the paper later.

Barney, and all of you, it is really a special pleasure to speak on this issue in South Africa, for historical reasons as well as for the significance. Let me explain why I feel this great pleasure. A few months ago, we celebrated the 50th anniversary of the Universal Declaration of Human Rights and you know that the right to adequate food is part of the economic and social rights contained in the Declaration, which was adopted in December 1948 by an overwhelming majority of the world communities. There were only eight states, which did not support the adoption of the Universal Declaration in 1948, for various different reasons. However, there was only one government whose abstention on that vote was due to its objection to the inclusion of economic and social rights in the Declaration and that government was South Africa.

Apartheid with all its consequences for marginalisation and impoverisation of the majority of the South African population had been made the official policy in this country a few months before the adoption of the Declaration. For several decades after 1948, the South African Government consistently violated the whole range of economic, social and cultural rights as well as many of the civil and political rights. Deliberate deprivation of housing, destruction of family life, destruction of people's possibility of producing their own food by denying them access of land. All this and much more were systemic parts of the apartheid policy.

Since the outset of the age of international human rights, South Africa had the most negative government with the most retrogressive legal order. It gives me particular pleasure to note that, in legal terms, the situation has been completely reversed during the 1990s. South Africa today has the most advanced constitutional commitment to human rights anywhere in the world, by including the whole range of rights contained in the Declaration into its Bill of Rights and making it clear that the states respect, protect, promote and fulfil the rights contained therein.

Although constitutions are not enough, I hope that the Constitution of South Africa will become a model when other states change their constitutions. What is required is that the promises contained in them are implemented. The South African Human Rights Commission has been established as a watchdog to make sure that the Bill of Rights is implemented.

In this context, I will take note that no one takes overall responsibility for implementation of the rights to food, water and electricity and I hope that this conference can generate the necessary institutional establishment of responsibility. The lessons you learn in this country will have great significance for other states to move beyond rhetoric, and take economic and social rights seriously. Hence, the meeting is so important, not only for South Africa, but also for the international community at large and I consider it to be a pioneering conference and congratulate South Africa for taking this initiative.

Now let me come to the outline that you have in front of you. I am here reporting on the international process in order to advance the interest and understanding of food and nutrition from a global human rights perspective. I have been centrally involved in this debate myself in the context of my membership in the UN Sub-Commission on Human Rights (full name: Sub-Commission on Prevention of Discrimination and Protection of Minorities) where, in 1983 I was nominated as Special Rapporteur on the Right to Food as a human right. I presented my report in 1987 and I am presently updating it for presentation in 1999.

The overview that I want to give may help to place your discussions and practical efforts nationally within the wider context of the common global concerns, to be inspired and supported by the international efforts. This of course is not a one-way traffic. The national learning from the international has to be complemented by international learning from the national. It is equally important for the international community to learn from the national experiences of South Africa, as well as Brazilian and Indian case studies, which we will also be listening to in the course of our deliberations.

World leaders met in Rome for the first World Food Summit in 1996. You will see the text in your files; that is the Rome Declaration on World Food Security. They pledged the commitment “to eradicate poverty and inequality and to improve the physical and economic access by all, at all times, to sufficient, nutritionally adequate and safe food and its effective utilisation” and strongly underlined the implementation of the right to food.

The notion of *food security* has been used in many different meanings. For the purpose of my presentation here, food security at the household level will be conceived of as being access for all, at all times, to adequate food which is nutritionally adequate, safe, and in the best interest of the consumer, and where the food supply and access is sustainable. This can be done in different ways, either by own production or by purchase or in other ways in the market. The main thing is that every household has access at all times to adequate food. If not, they are food insecure. Equally important is that the food is shared within the household in such a way that every member of the household gets adequate food intake. In some places that can be a serious problem, not only to households generally but the internal distribution in some cultures is unfortunately not equal.

Nevertheless, the focus here is *the right to food and nutrition as human rights and the fundamental right to be free from hunger*. When we refer to these issues as rights, it implies that somebody else has a duty to ensure that the right can be effectively enjoyed; otherwise, it will be empty rhetoric. The right to food therefore has to be seen in the wider context of international human rights law.

Contemporary human rights form *part of international law* since the adoption of the United Nations Charter in 1945 and the Universal Declaration of Human Rights (UDHR) in 1948. It was a revolutionary step when human rights were made part of global international law. It imposed its obligations on states and on the international community to ensure that the rights can be enjoyed. The full implications of this have not yet been drawn and hence meetings like the present one are so important.

As to *the content of the contemporary human rights system*, you find it in the Universal Declaration and in the instruments, which have subsequently been adopted. It consists of civil, political, and economic, social and cultural rights and these rights, as Barney said, are all interdependent. The rights to life and the freedom from hunger are closely linked and so are the right to education and the right to food, since malnutrition seriously undermines learning abilities. Hence, human rights are indivisible. There are some who have sought to deny the relevance of economic and social rights but those who do so, challenge the very foundation of human rights as they have been set out in the Universal Declaration.

At the core of economic and social rights, is the right to *an adequate standard of living*. We have a matrix here, which can show you the standard of living elements. It includes the right to food, to housing, to clothing, to adequate health care, and to education. The right to an adequate standard of living can also be termed 'livelihood security' and that includes food security and care security. This is of course particularly important for children and for the elderly, health security, education

security, housing security and also leisure security that you have the possibility of engaging in leisurely activities. I will come back to the other dimensions of it slightly later.

It started, as I said, with the Universal Declaration of Human Rights article 25, which says:

Everyone has the right to a standard of living, adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

The UDHR was the embryo of international human rights law. On the basis of its rather summary provisions, a comprehensive normative system has subsequently been adopted by global and regional instruments, covering manifold issues, which are found in the brief terms of the Declaration, also with article 25. It contains a number of elements, which have since found expression in great detail in numerous binding international instruments.

Efforts to ensure guarantees for a freedom from want and the preservation of a satisfactory standard of living even under adverse circumstances, have resulted in the adoption of the provision subsection, Article 11 of the Covenant of Economic, Social and Cultural Rights and the Convention on the Rights of the Child, article 27. I will not spend time here talking about corresponding regional instruments but you will find corresponding provisions in the written paper, which you will obtain later.

Human beings require more than the basic necessities of food, clothing and housing. You know that we participate in everyday life in society. How much more is required cannot be stated in general terms but it will depend on cultural conditions in the society concerned. The essential point is that everyone shall be able, without shame and unreasonable obstacles, to be a full participant in ordinary everyday interaction with other people. This means among other things that they shall be able to enjoy the basic needs under conditions of dignity. No one should live under conditions whereby the only way to satisfy their needs is by degrading or depriving themselves of the basic freedoms such as through begging, prostitution or bonded labour.

The child, in particular, has a *human right to adequate nutrition*. These are things that are in the Convention on the Rights of the Child, article 24 and is also reflected in the South African Constitution, article 28, which states that every child has the right to basic nutrition, shelter, basic health care services and social services. These provisions are of particular importance in the work performed by UNICEF, which has taken a tremendous interest and involvement in the preparation of conferences such as the present one.

Concerning the responsibility of the state, the Universal Declaration envisaged that everyone throughout the world should enjoy the rights contained in it. Therefore, the rights would have to be absorbed into the legal, administrative and political culture of nations. Firstly, by their recognition and then by implementation in national law and administration and through necessary political and social reforms. Global institutions were set up to monitor the implementation of human rights and to bring about the necessary co-operation in the fields of economic, social and cultural matters required to establish conditions for their full enjoyment world wide. Since this effort has been going on for half a century, considerable progress has been achieved but not enough, particularly with the economic, social and cultural rights.

Under international law, obligations to ensure the enjoyment of human rights are held primarily by the State and it has a dual task when it seeks to implement these obligations in national law. Firstly, to respect the freedoms of their subjects, that is the inhabitants, and to further impose certain duties on every person subject to its jurisdiction. Duties to respect the rights of other persons and duties to contribute to the common welfare which make it possible for the state to assist and to fulfil in ways which enable everyone to enjoy economic, social and cultural rights.

Under article 2 of the Covenant of Economic, Social and Cultural Rights, States have undertaken legally binding obligations, to take steps to the maximum of their available resources to “achieve progressively” the full realisation of the economic and social rights contained in the Covenant. The Committee on Economic, Social and Cultural Rights has pointed out that while the concept of progressive realisation constitutes a recognition of the fact that the state will generally not be able to achieve a *full* realisation of all economic, social and cultural rights within a short span of time. The phrase nevertheless must be seen in light of the overall objective, which is to establish clear obligations for states to move as quickly as possible towards the realisation of these rights. The more recent Convention on the Rights of the Child (CRC), which includes many economic and social rights, including the right to nutrition, and corresponding state obligations, does not contain the qualifying clause 'progressive realisation'. Therefore, under the CRC the obligations arise immediately within the means available to a state.

One important point is to understand that state obligations operate on different levels. The four levels that can be identified are *to respect, to protect, to facilitate and to fulfil*. Now we can come back to the matrix. This is also very closely linked to the South African Constitution which in its Bill of Rights in article 7, sub-section 2, states: "The state must respect, protect, promote and fulfil the rights in the Bill of Rights."

Now let me say a few words about these different levels. Firstly, a realistic understanding of state obligations must take into account that, and this is stated also in the Declaration on the Right to Development, the Declaration (article 2), the individual is the active *subject*, not the object, of economic and social development. However most human beings strive to take care of their own livelihood by the use of their own efforts and resources, individually or in association with others. The use of his or her own resources, however, requires that the person has resources that can be used - typically land, or capital or labour, in both cases combined with the application of the knowledge available to that person for optimal utilisation of the resources that she or he controls. The realisation of many economic, social and cultural rights of an individual will in most cases take place within the context of a household, which is the smallest economic unit. This is also reflected in the language of many of the human rights instruments. It also requires attention to the female-male division of labour and control over production and consumption, which in many places is a problem. In addition, it has to take into account wider kinship arrangements, which influence the concept and practical operation of the concept of “family”.

State obligations must be seen in the light of the assumption that human beings, families or wider groups, seek to find their own solutions to their needs. At the primary level, states should *respect* the resources owned by the individual, or of his/her freedom to find a job of preference. This is done to make optimal use of knowledge and the freedom to take the necessary actions and use the necessary resources, on their own or in association with others, to satisfy his/her own needs. Allow me to dwell on the degree to which the system of apartheid in South Africa for so many decades consisted of blatant denials of this respect. There was no possibility of large majorities solving their own problems by being free of discrimination, by having equal access to land and other things that would have been required but which could not operate in this country under the previous system. I

think South Africa can give many examples of the importance of this first and *primary* level of obligation.

The next level of obligation lies with the state to protect the access to food and nutrition against more aggressive individuals, fraud, impure food, etc. The State cannot however passively leave it like that. Third parties are likely to interfere negatively with the possibilities that individuals or groups otherwise might have had of meeting their own needs. At the *secondary* level, state obligations require active *protection* against more assertive and aggressive subjects, more powerful economic interests, such as protection against fraud, unethical behaviour in trade and contractual relations, and against the marketing and dumping of hazardous products. Indeed, legal systems throughout the world recognise the socio-economic rights aspects. There are extensive laws on the question of preventing impure food, and on a number of issues related to these matters such as the marketing and dumping of dangerous products. However, the details of this have to be worked out within each state, depending on the circumstances, and the conditions and will thus vary greatly from place to place. Consequently, the international instruments are quite general and vague. They cannot be too specific in the sense that they would not match the specifics of a particular country. It is obvious that the case of South Africa is particular due to the historical background, which is a very thorough reform, quite different from what most other societies would have required.

At the third level, is the obligation to facilitate and to promote a self-ensured livelihood, and to facilitate opportunities by which the rights listed can be enjoyed. This also takes many forms, some of which are spelt out in their relevant instruments. For example, with regard to the right of food, the state shall, under the Covenant of Economic, Social and Cultural Rights, article 11(2), take steps to "*improve measures of production, conservation and distribution of food by making full use of technical and scientific knowledge and by developing or reforming agrarian systems.*"

At the fourth and final level, the state has the obligation to *fulfil* the rights of everyone in respect of economic, social and cultural rights. This obligation is important as an emergency when conditions for survival are temporarily disrupted. It can be severe drought, flood, or armed conflict, not the least of the problems plaguing this continent. It can be the collapse of economic activities within particular regions of the country. As a more permanent feature, the fourth level of obligations increases in importance with increasing rates of urbanisation and the decline of group or family responsibilities, to which Barney Pityana was referring in his introduction. Obligations towards the elderly and the disabled which, in a traditional agricultural society were taken care of by the family, must increasingly be borne by the society at large and also by the state.

The obligation to fulfil could thus consist of the direct *provisions* of basic needs, such as food or resources that can be used for food (direct food aid, or social security) when no other possibility exists, such as, for example: (1) when unemployment sets in (such as under economic recession); (2) for the disadvantaged and the elderly; (3) during sudden situations of crisis or disaster; and (4) for those who are marginalised (for instance, due to structural transformations in the economy and production).

When we combine the rights and obligations, we have different dimensions. You have food security, care security and health security and practically you have the obligation to respect, to protect, to facilitate and fulfil. If you do it specifically with regard to food security, it would look like this. You will deal with the question of adequate food supply and of a stable food supply and access. Adequate food supply requires that the food is nutritionally adequate, that it is safe and it is in the best interest of the consumer. In essence, that is any food which is comfortably acceptable to you, and that the supply is ecologically, economically and socially sustainable.

By drawing up this matrix, we have the possibility, and it could be useful for the working groups, of reflecting on what kind of steps would have to be taken in the different levels. That is the reason why we have prepared the matrix. I do not want to go further into the details now, but, let me remind you that in order to ensure that these obligations are met, it is necessary not only to have constitutional provisions. It is also important, in addition to the Constitution, to have enforceable legislation and states therefore ought to adopt a legal framework as part of a national strategy on food security. The legal framework should include provisions on its purpose, the targets and goals to be achieved, and a time frame to be set for the achievement of such targets. It should also include indication of the means by which the purpose could be achieved and particularly the intended collaboration with civil society, the private sector and international organisations. These are also recommendations, which were made at the most recent consultation on The Right to Food at FAO Headquarters, which you may hear more of later.

I now turn to point 14 in my outline, to the need for remedies and for monitoring. There is a need to have remedies at the national level for everyone whose human rights are violated (UDHR, article 8, SA Constitution, Article 38). There is also a need at the national level to monitor the implementation of human rights and of particular importance; here is the role set out for the South African Human Rights Commission under the South African Constitution, section 184. In particular, section 184 (3), under which the Commission shall require information from relevant organs of state, to inform the Commission on the measures taken by those agencies to realise the provision in the Bill of Rights, concerning housing, health care, food, water, social security, education and the environment. I understand that later today we will be informed more precisely about the outcome of this reporting and that will be extremely interesting also for the foreign guests here present.

Finally, under the question of responsibility at the national level and under point 15 in the outline, let me underline the need for social mobilisation. While so far the reference has been on the obligations of the state, it is obvious that the state cannot perform miracles. There is a need for social mobilisation and recognition of responsibility also by non-state actors. Again, in the case of South Africa, a massive social mobilisation took place to bring apartheid to an end. Therefore, there is a need for a corresponding social mobilisation to contribute to the realisation of the Bill of Rights. Non-governmental organisations and civil society will have to be greatly involved. Not only should grassroots knowledge of human rights be ensured but there should also be a campaign to ensure that everyone contributes to the realisation of common goals and possibly restore the commitment to sharing, of which Barney Pityana spoke in his introduction. Thus, the state/civil society partnership is essential and this I understand has also been addressed at some length in the Brazilian case of which we will hear later.

Now I shall turn to the commitments and responsibilities at the international level. At the World Food Summit, which was held in Rome at FAO headquarters in 1996, Heads of States, Leaders of State met to address the issues of food. A number of commitments were made and they are contained in the Rome Declaration, which you have in your folder. The World Food Summit called for a clarification of the content of the right to food and the fundamental right for everyone to be free from hunger and demanded that particular attention should be given to the implementation and full and progressive realisation of these rights. This of course is exactly the concern underlying this conference as well as the concern of the case study from Brazil, of which we will also be informed.

The World Food Summit also called on states that are not yet parties to the International Covenant on Economic, Social and Cultural Rights to adhere to the Covenant at the earliest possible time. By December 15 last year, which is the most recent information I have, 137 member states had ratified that covenant. Thus, there are still more than 50 states, which have not ratified and I regret to say

that while South Africa has signed the Covenant, it has, as far as I understand, at least by the 15th of December 1998, not ratified the Covenant. If not yet, I hope it will soon happen.

Indeed South Africa and practically every country in the world, has ratified the Convention on the Rights of the Child (CRC), which caters, insofar as the child is concerned, with many of the same issues. There are only two governments in the world, which have not recognised the Covenant on the Rights of the Child. On one hand, is Somalia, which we can probably excuse because there is hardly a government in that country? On the other hand, is the United States, which also has problems with its government, but I do not know if this is an explanation. Another 191 states have ratified the Convention on the Rights of the Child, which means that it is practically universally binding.

That brings me to the other world conference, apart from the World Food Summit. Absolutely what triggered many of them was the Child Summit held at the invitation of UNICEF in New York in 1990. It placed the rights of the child close to the top of the human rights agenda and contributed to the unprecedented speed with which states have recognised the Convention. Also of great significance was the decision made by UNICEF when it renewed its institutional mission in 1996 to have the CRC guide all activities of UNICEF. The implementation of nutrition field programmes in all countries where UNICEF is active is presently based on a human rights approach and the experience of UNICEF, about which we will hear more later from Dr Jonsson, may be of interest to other agencies that are now making human rights the main guide to their work.

The UN Conference on Environment and Development and the Rio Conference in 1992 also adopted a series of documents of great significance on the Right to Food, including its Agenda 21 which contains a comprehensive programme for global action in all areas of sustainable development.

The Declaration adopted by consensus at the World Conference of Human Rights, which was held in Vienna in 1993, stated (Par. 5) that *all human rights are universal, indivisible, inter-dependent and inter-related. The international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis.* Thus, we can see from that statement that the right to food and nutrition and other economic and social rights must be given the same attention as civil and political rights.

Another major step was taken with the International Conference on Population and Development in Cairo in 1994, since demographic trends have great significance for the realisation of the right to food and nutrition. The programme adopted at the end of that conference builds on the agreements in the 1990 Child Summit, the Rio Conference on the Environment in 1992 and the World Conference on Human Rights in 1993.

Of more relevance that is direct was the 1995 World Summit for Social Development in Copenhagen. It focused on the eradication of poverty, the expansion of productive employment and particularly the promotion of social integration. It emphasised the need to eradicate poverty throughout the world through decisive national action and international co-operation and considered this to be an ethical, social and economic imperative of human kind. It called for the focusing of policies to address the root causes of poverty and gives special priority to the rights and needs of women, children and of vulnerable and disadvantaged groups.

The Fourth World Conference on Women which was held in Beijing in 1995, in its Declaration and Platform for Action, further advanced concerns that had been initiated with the Nairobi Forward-Looking Strategies for the Advancement of Women by the Year 2000, focusing on the empowerment of women which has become a major concern of the international community during

the last decades, and empirical material can show that it will have a substantial impact on the elimination of hunger and malnutrition.

Now let me now turn briefly to the role of the Committee on Economic, Social and Cultural Rights. The World Food Summit has called on the Committee to give particular attention to this Plan of Action in the framework of its activities and to continue to monitor the implementation of the specific measures provided for in Article 11 of the Covenant, and that of course will also become relevant to South Africa as soon as South Africa ratifies that body.

The Committee on Economic, Social and Cultural Rights monitors the compliance with that Covenant. The Committee has taken the invitation from the World Food Summit seriously. Firstly, by devoting a so-called "Day of general discussion" to the right to food during its December 1997 session where a number of invited experts, some of whom are also present here today, took part. Secondly, the Committee has decided to prepare a so-called 'General Comment on the Human Right to Adequate Food'. This is a tool within its working procedures, which can help to draw attention to specific core aspects of these rights. The work is now in progress and we hope that it will soon be completed.

Let us also turn to the specialised agencies that can give assistance within their respective fields of competence. The World Food Summit invited not only the treaty bodies but also the specialised agencies of the UN. They were invited to consider how they might contribute, within the framework of the co-ordinated follow-up by the UN system, to the major international conferences and summits, within the scope of their mandates, to the further implementation of the right to food and this included the World Conference on Human Rights (Vienna, 1993).

I have already talked about UNICEF and we will hear more about it later. UNICEF has for many years been at the forefront in promoting a human rights perspective to nutrition assessment, analysis and action. UNICEF is explicitly identified as a responsible partner in the implementation and monitoring of the Convention on the Rights of the Child.

Turning to the role of FAO, IFAD, WFP and the establishment of FIVIMS, they have recently taken these issues up with even greater attention. FAO's growing engagement is closely tied to the organisation's role in organising the World Food Summit and a follow up of Objective 7.4. We will hear later from Margret Vidar of FAO about the steps that have been taken, including the publication of an extremely useful booklet on the Right to Food which I understand has been distributed to all participants and which contains very detailed information that can be of great help for your other work.

Let me mention only one thing here, which is the need to develop better indicators and benchmarks concerning the achievement and shortcomings in the realisation of the rights to food and nutrition. Steps are now being taken by FAO in collaboration with other agencies to elaborate what is called the Food Insecurity and Vulnerability Information and Mapping Systems, abbreviated, FIVIMS, and this is likely to be of great use. Details are contained in this booklet so you can read up on that yourself and I think it will be very helpful in further work.

We will hear more about how FAO will also offer its assistance, upon request, in drafting national legislation and reviewing sectoral legislation on matters related to food security. FAO has considerable expertise in this field and an accumulated knowledge concerning legislation in the fields of food and agriculture, which can be very useful, I am sure also in the case of South Africa and the other countries represented here.

It is desirable, and this came out of the recommendations made at its most recent consultation, that FAO, WFP and IFAD should, together with human rights experts, explore ways to co-operate more effectively on the implementation of the right to food. This can be done within their operations at the national level, giving due respect to their individual mandates and building on their respective expertise. FAO could provide legal, nutrition, monitoring and technical expertise; WFP, its experience in targeted feeding programmes; and IFAD, its experience in dealing with poverty issues and investment programmes or lending operations.

Let me also turn towards not a specialised agency, but nevertheless an extremely important body of the United Nations, which by the way is also, represented here, that is UNDP. You will hear more about it later. However, UNDP launched at the beginning of 1998, a particularly significant policy document that is called "Integrating Human Rights with Sustainable Development."

UNDP is prepared to support several types of human rights programmes. Three focus areas for human rights have been identified to best achieve the agency's goals:

- Provide support for institutions of governance, with an emphasis on building the human rights capacity of these institutions and providing direct support to human rights institutions.
- Develop a human rights approach to sustainable human development.
- Contribute to human rights policy dialogues and conference follow up.

The High Commissioner for Human Rights, (this is part 23 in my outline), took several initiatives in 1997 and 1998, following the request made by the World Food Summit. The High Commissioner's office organised expert seminars on the right to adequate food in December 1997 and November 1998, with the purpose of better defining the rights relating to food in article 11 of the ICESCR, and to propose ways to implement and realise those rights as a means of achieving the commitments and objectives of the World Food Summit.

The consultations have brought together independent experts, non-governmental organisations and the relevant agencies of the United Nations. It has emphasised that *country case studies* be prepared on how the right to food is to be implemented. South Africa is moving towards that now and the Brazilian case can also be seen as a contribution to this task.

Recognising the importance of training for organisations adopting a rights based approach, the consultation recommended that efforts to develop training materials on human rights, particularly related to food and nutrition, should be supported. It was emphasised that training materials might need to be tailored to incorporate issues of particular concern to the individual food agencies.

Now a few words about the role of Non-Governmental Organisations. Generally speaking, we have to recognise that whilst there has been a tremendous growth in the number of international Non Governmental Organisations devoted to human rights, most of them deal with civil rights; in some cases political, but mainly civil rights; very few with economic, social and cultural rights. There are some, including the organisation which is co-operating with the South African Commission in this conference, that is the World Alliance on Nutrition and Human Rights (WANAHR). Another very important organisation is Food First Information and Action Network (FIAN, an international human rights organisation for the right to feed oneself). WANAHR and FIAN have worked together with a third institution called the Institute Jacques Maritain International and have, in that context, prepared a draft International Code of Conduct on the Human Right to Adequate Food, which I think is a very interesting document - copies of it will be made available to the participants during this conference. That can also be of great help in thinking through ways in which one can implement the right to food.

Then there is the question of the impact of globalisation and the role of financial institutions. The term 'globalisation' is now cropping up more and more often and it essentially implies a global "free" trade, as it is called. The global growth of investment and capital, together of course with other global features like Internet and other things, are in one way shrinking the world together. As we all know, this shrinking does not give the same benefits to everyone. In fact, some gain much, some become very rich in this process, and others can become much poorer. It is vital to try to avoid the negative effects of globalisation.

Globalisation cannot be halted but it can be humanised and, in the process of humanising it, it is very important for the human rights bodies to get in touch with what I consider to be the driving forces of the economic globalisation. These are the Bretton Woods Institutions and the World Bank, the International Monetary Fund and the other financial institutions. Thus, it has been recommended in the current work around the right to food that the relevant food agencies and human rights agencies should get together with these financial institutions.

Finally, the role of the UN Administrative Council of Co-ordination, Sub-Committee on Nutrition (ACC/SCN). This is the focal point for the harmonising of policies and activities in nutrition of the United Nations system. The role of the ACC/SCN is to serve as a co-ordinating mechanism for the exchange of information and technical guidance. It has a Working Group on Nutrition, Ethics and Human Rights, which is chaired by Urban Jonsson, who is present with us here, and its working group has gradually opened up for considering the human rights dimension.

Let me only say that, on April 23, there will be a session in Geneva on the Right to Food within the context of the Sub-Committee on Nutrition, where also the case studies of South Africa and of Brazil and others will be presented. The outcome of this conference will have a direct impact on that particular event.

Let me conclude by making only two very brief points. On the one hand, emphasising the need for an integrated national plan in each country. There is a need for human rights governance that ensures ethics in politics and social integration. I think that is going to be the focus of attention of this conference, how to develop the integrated national plan in the case of South Africa, and similarly the experiences of Brazil and India.

On the other hand, there is also the need for co-ordinated global action. This is still an unmet need, even though it is required in order to implement the World Food Summit commitments. Human rights treaty bodies must explore ways and means to establish co-operative links among themselves and with specialised agencies and other bodies. In this perspective, working relationships should be institutionalised between the Committee and the Sub-committee on Nutrition of the Administrative Committee on Co-ordination with a view to ensuring the flow of information between the two bodies. The High Commissioner for Human Rights should place the issue of a co-ordinated approach to the right to adequate food throughout the United Nations system high on their agenda and I can see that he is deeply committed to it.

Well, ladies and gentlemen, thank you very much. I hope this can be of some help in the coming deliberations.

1.3. DISCUSSION SESSION FOLLOWING OVERVIEW

Questions and comments from delegates:

- 1) Is there a model for national legislation that may be available? Has any country adopted the national legislation that deals with the goals and objectives Dr Eide has spoken about? If, in the provisions of the Constitution, there is the condition of available resources, how do we develop national legislation that gives us a way to implement the rights to food?
- 2) This question relates to the steps that the State can take to maximise available resources to ensure the enjoyment of all the economic and social rights, particularly the obligation of the State to provide or fulfil the means of livelihood. How far can one take that responsibility of the State?
- 3) This comment has to do with the very last point that was made by Asbjørn in relation to developing integrated national plans around these rights. I would like to say to all of us here at the conference that we need to take cognisance of the already existing plans. For example, there is a National Plan of Action for Children in this country. We need to look at that and see whether we cannot integrate what we are talking about, with that. Also, look at the NAP for Human Rights, which has been developed by South Africa, to see how we can ensure that the inclusion of these rights is effected.
- 4) This question proceeds from question number 3 on the obligations of government to operationalise the realisation of human rights through improving livelihoods. In relation to Dr Eide's last comment about globalisation, given that global policies, particularly in respect of trade and economic development, may have a significant impact on the right to food. There are some specific examples of the impacts of structural adjustment and there is some indication that South Africa's macro-economic policy of GEAR may be construed as a self-imposed structural adjustment policy. How does the very advanced legislation in respect of government's responsibilities square with economic and fiscal policies, which seem to undermine the very rights that are enshrined in legislation?
- 5) A comment was made about social mobilisation, that it is necessary to contribute to the realisation of the Bill of Rights. That seems to me to be a very vague statement and no doubt, Dr Eide was limited by time constraints. What is meant by social mobilisation, what responsibilities and rights do communities have to ensure the realisation of the Bill of Rights?
- 6) A comment was made on the context around the drafting of South Africa's Constitution, which will be quoted here directly: "...what the drafters of the Constitution had in mind when they carved out sections on socio-economic rights. We actually looked at how the Committee on Social, Economic and Cultural Rights functioned. We looked at the different levels of state obligations, as Asbjørn had highlighted in his transparency. By 'state', what was meant was beyond government. It meant all national resources being cohesed and used for the progressive realisation of these rights which meant what is available to government, what is available in the private sector, both in terms of facilitating at some levels, fulfilling at others, protecting and promoting at the different levels as the case may be. If that is the way, we view it then that is the way even the committees will function in terms of assisting the different nations. There is also the added responsibility of trade to harness those resources that are available at international level. That is exactly how we saw it. Therefore, at that level it means the resources are very ample.

We then went to the concept of “maximum of its available resources”. It was felt that if we put proviso before 'available', then we were beginning to dictate too much to government. That was the feeling of the parties and they felt that they did not want to prescribe to the national, because then it would be justifiable if people were to go to the constitutional court to demand these rights. Then we would say, in terms of the budget of Health, if the Minister of Health decided to place any percent of their resources to primary health care, would you say that is maximum resources? Or if they decide to put 50% on training of doctors and nurses, would you say that is national resources for purposes of provision of health care?

It was felt that if you put in that concept, it is too loaded because some of these things have not been properly negotiated internally. It would create too many problems and there would be too much litigation. It would actually, at the end of the day, undermine the whole process of actually beginning to engender a culture of understanding of rights as being indivisible, inter-dependent and to creating a jurisprudence that will be cohesive in the South African case.” How can we close the gap between the practice, between reality and the very significant norms, institutions, procedures, which have been developed within the international community? How do we, for example, enshrine a duty of states to co-operate, amongst those with abundant food supplies to assist the needy? The use of food as a weapon as in the case of the United States vis-à-vis North Korea?

Replies to comments and questions by Dr Eide

Thank you very much for these questions which embrace many interesting issues, some of which will have to be set out in greater detail during the three days' symposium and cannot be answered in detail by myself just now.

The question on the model legislation is being discussed but it is not yet down to one model law - it is not very easy, as constitutions are very different in different countries. What was recommended at the most recent consultation, which was held at FAO headquarters, was that states should adopt a framework convention, which contains some of the legislative measures that are required, including the identification of targets and the means by which to achieve it. FAO is greatly concerned about this question and I think that Margret Vidar may be able to say a little bit more during her presentation.

On this question of resources because that is the key. A very, very important question has to be asked, what do we mean by resources? Whose resources in the first place? Are we talking only about the resources, which happen to be in the hands of the government, or are we talking about the national resources as a whole? That makes a great difference, if you are talking about the first or the second. If you are talking about only those, which are in the hands of the government, it would depend on taxation policy and taxation possibilities and so on. If we look at the national resources as a whole, you have a much wider set of things that you can discuss but then you also have to look at ways in which it can be turned into the realisation of economic and social rights. I do not think it can be answered very simply and quickly. However, it opens up a much broader set of issues - it is not only a question of material resources but also human resources. The building of human resources or human commitment to these kinds of issues would all become a part of the resources. I am sorry, this may be relevant to the general but the topic needs in-depth analysis and discussion.

The question is related to the very important issue of available resources. The Committee on Economic, Social and Cultural Rights made it clear that any government should ensure that there is a safety net below which nobody should go, and that the minimum requirements should be made available to everyone, so that they can live at least above the level of non-satisfaction of basic

needs. How far one should go, that of course will depend on the available resources and that raises, as it was said, the question of what are the available resources. Are we talking about resources available to the public spending or are we talking about the whole set of resources of the state as a whole? I think we have to have a broader vision but some of them have to be dealt with specifically by the state. Therefore, I think there is a need for legislation, which identifies step by step, the different areas that can be covered by the state, leaving open space for those areas that are yet not possible.

Now this raises the question of the relationship between the present process of globalisation and legislation relating to food and other kinds of social security. In my understanding of what is happening now, the tremendous push for the free market and free trade and unlimited, unconstrained movement of capital, and structural adjustment, which was specific to the 1980s, is in reverse. There is a process, which is now referred to as “the third way”. The third way is completely between the unregulated market, which of course on one hand is to the benefit of the most profitable and the richest in the private sphere and, on the other hand, the command economy of the Eastern Europe system. Both of these are on the way to obsolescence. The third way recognises the benefit of entrepreneurship of markets of creativity and the need for regulation in order to obviate the negative consequences and to ensure the possibility of equal opportunities.

This is still in the beginning, but I think there are so many signs showing us that unrestricted globalisation is starting to be questioned and is in the process of being modified. It also penetrates gradually the thinking of the World Bank. It certainly has for a long time penetrated the thinking of the UNDP and the governments, and the recent elections of many European countries have shown that they are searching for what is called a third way.

Much depends also on political and social mobilisation and now let me return to the question, which was raised about social mobilisation. Social mobilisation should not be simply in order to push the government but it should also be for the purpose of developing a concept of self-responsibility and responsibility for others, for sharing and for contributing together. I think we will hear more about this in the Brazilian case study. I know that there will be more talking about this question of social mobilisation and the responsibility of a civil society. Thus, in order not to be too lengthy now, I think we should listen to, among other things, what the Brazilian experience is.

Another question is on this very important issue of what can be dealt with by courts, legal proceedings and the complaints of overloading the courts with cases. It is usually referred to as the question of justiciability of rights. There is a long debate about this issue of justiciability of economic, social and cultural rights. If we inspect closely the components of economic, social and cultural rights, we will find that some of them are easily amenable to justiciability and are in fact justiciable in many, many countries, including my own. For instance, many countries have justiciability on the right to education. There is no doubt that you can go to court if that is not taken care of, in many societies.

There is justiciability with regard to trade union freedom and the right to organise, etc. This is justiciable and there is nothing mysterious about it. There are others of a more general nature where you cannot have immediate justiciability but where you have to have legislation that is more specific. For instance, sectoral legislation which can make it manageable and so it is a complex and comprehensive question. However, you cannot throw out a whole set of economic and social rights and say that they are not justiciable. That would be a misunderstanding of the issues although there are also problems in some of the other stable economies around the problem of justiciability.

Finally, the question of food as a weapon. Of course, this is a very important issue that has to be addressed. The Committee on Economic, Social and Cultural Rights adopted a very important general comment on that question in December 1998, which even addressed the particular situation of the sanctions against Iraq. You know, the problem of the children in Iraq was one of the sanctions which have been adopted by the United Nations Security Council which indicates that even the Security Council may sometimes do things that can lead to a violation of economic and social rights. The Committee made it very clear that, even in cases of sanctions, it did not take the position of sanctions as such. However even under conditions of sanctions, steps must be taken to make sure that the economic, social and cultural rights are still respected, which was a clear message to the Security Council. Now of course, there have been some modifications made in the sanctions in terms of introducing and improving this 'oil for food' arrangement and part of the problem, as we all know, is with the Iraqi Government which does not want to co-operate, to find a solution to that particular problem. I leave aside all the other questions, but even when it comes to the distribution of food that comes into the country, there are serious problems in Iraq. Nevertheless, it is clear that food should not, and cannot, be used as a weapon in a way, which deprives people of the basic necessities. That is a violation of human rights.

1.4. INTERNATIONAL PERSPECTIVES

1.4.1. UNICEF - Dr Urban Jonsson

Mr Chairman, UN colleagues, ladies and gentlemen, I am very happy to be here today after so many years of discussion and planning of this Conference and I think that it has started very well.

In July last year, the Secretary General, Kofi Annan, surprised many UN colleagues by saying that the United Nations has a charter that we should read. He read it very loudly and stated that in the future, United Nations, in all its major activities, should think of the human rights basis for these activities and plan it in a human rights perspective. The debate that has gone on in agencies including UNICEF for years, whether human rights was an acceptable form of activity or not, was also just about over. There was no more need to discuss whether it should be human rights oriented or not, now it was how we should see it, what it meant. This should be seen in the perspective of the strange division between human rights activism and promotion on one side, and those who like to call themselves development oriented.

In the development school of thought, things had also happened. It had become, already in the 80's, increasingly acceptable to use normative arguments in the development debate. The World Summit on Children especially, started a process that offered, when the Convention on the Rights of the Child was ratified, the possibility of merging development thinking with human rights thinking. The Summit for Children represents the social context and it at best means promises for those who ratify or sign their various plans of action, while there seems to be no obligation really associated with that type of commitment.

Unlike most other conferences during the 90s, UNICEF spent a lot of money and time in monitoring the achievement of the goals agreed upon in New York in September 1990. Then the Convention on the Rights of the Child came in 1990, ratified, as Asbjørn said, very quickly, and it rapidly became the cornerstone of UNICEF's work. A couple of years ago we saw how, with the new mission statement, as a matter of fact the only mission statement UNICEF had, we accepted the human rights approach in our work and how the Convention on the Rights of the Child really is the basis for everything we do. So, the debate was over and we now had to move into a mode for finding out what does it means for our work.

Now, over many, years of philosophical debate, many people and philosophers of stature have questioned whether children would have rights at all. Hobbs stated that children do not have the power to enter into any social contract because they lack reason. Therefore, they have an obligation to obey their parents. Somehow, I feel at home with that statement from my own culture. Hobbs said: "It is perhaps hardly necessary to say that this doctrine is meant to apply to human beings in the maturity of their faculties. We are not speaking of children."

What is really surprising is that, still today, international journalists gladly accept publications where the rights of children are questioned and it is still very much argued. On the other hand, within UNICEF, a very confusing debate went on when many people said that children's rights meant something different from human rights. I was very suspicious because I noticed how many of my colleagues, all of a sudden, overnight, became human rights oriented. When I am in a group and all people start to agree with me, I start to question my way of saying what I want. I was very, very suspicious until we brought this up and said no, no, no, human rights, that's something else, that's politics. Others argue that children's rights are something for the CRC, and yet others conclude that children's rights are first and foremost human rights.

We know that all agencies and most governments over the decades, have adopted and applied a basic needs approach. What does it mean now when we try to move towards a human rights approach to development? Human rights expresses or affects the relations between a subject of the right, a claim holder, or the way they talk about, for example, the child and a number of duty bearers, objects of the right, who have duties and obligations to realise the right, whether it is to protect, respect, facilitate or fulfil. A human rights statute to development should aim at empowering the subject to demand the right and empowering the duty bearer to respect, protect, facilitate and fulfil the right. It is important to recognise that the UN Convention on Rights really only identifies clearly state parties as that unit of obligation. It is very important to draw the political conclusions from that because, if you work in a human rights perspective, then we have to recognise the role of the state and the government. It is not about masses of strange NGO organisations that draw civil society's lessons for a democracy as much as it is about a democratic state. It is very important to recognise that the state has obligations.

Today what I see in sub-Saharan Africa is shocking. I see the privatisation of basic education, of health services. The privatisation of basic education in African countries is now the single most important cause of class differentiation in these countries. Countries that ten years ago desired equality and they are really trying to do that in education, we see now how the rich get good education and the poor get poor education at best, but most of the time, no education.

If you look at the needs approach and rights approach, the basic difference is that a needs approach is not obligatory. A rights approach has duties and obligations. It is also many other things. I want to bring up one thing that very often irritates people that is why I bring it up. Charity in the world is an acceptable form. Charity in projects and programs are acceptable in a basic needs approach, but charity is obscene in a human rights approach. With charity, I mean a type of behaviour where people give more to feed a relief within themselves, than really to be partnered with that person whom he is seen to help.

Let me summarise a method that we are now developing in UNICEF. I will have to do it fast because I only have a few minutes left. Consider four steps. First, we make a causality analysis. Most of those dealing with nutrition are familiar with this framework. Let me just emphasise that good childhood nutrition requires three things: Food, health and care. Caring practice is most of the time forgotten about. That includes breastfeeding practices, young child feeding practices, hygiene practices, and home health care. All are necessary, none is sufficient alone. So, when we talk about nutrition, we shall never allow ourselves to equate that with food only. And that is why children in this part of the world are malnourished, quite independent of their parents. That is a fact. It varies a little bit but there are other factors, primarily caring practices, which are inadequate.

That causality analysis in a special community or country leads us to a number of rights that are violated. I am going to focus on the right to breast-feed. The next step is to identify who has the duties, which are the duty bearers. Parents, relatives, community, district officials, church leaders, government, the President, international organisations. All are candidates with duties and obligations. That is the claim to the analysis. When we have identified who has duties at different levels, we can look into their accountability.

A duty is very similar to accountability and it requires three things: It requires a certain responsibility that I should do something. It requires authority that I may "do", that it is legitimate for me to "do". It requires resources that I can do it. We shall not blame parents for their children starving, if parents do not have resources, if parents do not have the authority. I will come back to that. This accountability analysis will take a duty bearer, a district official and ask what should this

person do, and then, does this person have responsibility, does he have authority and resources. Then we can develop a programme to empower that person to have the responsibility through advocacy, to get the authority and the resources. If all these three things are there, we can start to blame people. Not before that.

The next step shows a matrix that, just take breastfeeding as an example, the duty bearers are household, community, government, and what we would expect them to do regarding respect, protect, facilitate and fulfil. We do not have time to go through the details but let us just take one line. "Protect" may involve avoiding buying breastfeeding substitutes. The family should avoid that. It is to protect the mother from getting the wrong feeding practices. The community needs to inform people about the importance of breastfeeding. The government, to prevent people against misinformation, maybe through legislation.

Then you take the last step, which is action analysis, keep this in mind and think now of the government level. At government level, we can look into what can be done. Advocacy, information, education, training, and service delivery: these are the generic strategies that we have. The "adequate information, education and training"; one can call that "capacity building". This next slide will show how advocacy, capacity building and service delivery can be used at government level, at national level to respond to the respect, protect, facilitate and fulfil. This is in a way a comprehensive programme in a country regarding the promotion and support of breastfeeding. But it is based on an analysis, which are the duty bearers, an analysis of their accountabilities, whether they have the authority, resources, and that is why it is a rights oriented programme approach.

Mr Chairman, let me end by mentioning just a few more things. Let me conclude by saying that good nutrition should be recognised as a human right and with nutrition we talk about food, health and care all the time. Children's rights cannot be addressed in a vacuum, they must be addressed together with addressing mother's rights, and women's rights, men's rights, and human rights in general. The entirety of children's, women's and all human rights - they all have the same basic structure for civil society. That is why a human rights approach becomes a political approach and it really means a political struggle. Many people are scared and they think that when we talk about human rights, we are really trying to make political arguments, which is true, but then it will scare particularly the conservatives.

It is no longer a question of charity and benevolence – it is an issue of obligation and solidarity. It is about the necessary respect for people as subjects, recognising that people are poor, as key actors in their own development. It is no longer a question of them participating with our projects. It is about us outside, that we behave in such a way that we are invited by them to participate in what they are doing. It is no longer about political will. It is about current political choices. The debate in UN is over. It is not about whether it should be human rights oriented, it is how to do it. At UNICEF, we are convinced that this is the most important development within the United Nations. It gives us a chance to develop an organisation that was actually in the mind of those who created it after the Second World War. Thank you.

1.4.2. UNDP - Mr Patrick Van Weerelt

Thank you, Mr Chairman, for what was a very impressive presentation, I think, what we have just heard from Dr Jonsson from UNICEF is interesting to listen to, especially to people from other organisations within the UN family. To find out that your own organisation, in this case the UNDP, has a long way to go. I would therefore already from the outset want to apologise. There are a number of things that I will be talking about, it might sound repetitive and it might also sound logical and clear, but we are still in a phase where we are formulating our own framework of how to adopt our systems around rights provisions. So, bear with me.

On 17 November 1996, the World Food Summit adopted, by consensus, the Rome Declaration on World Food Security and the World Food Summit Plan of Action. It outlined ways to achieve universal food security, with renewed commitment to ensure that all people at all times have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. The World Food Summit Plan of Action contains seven commitments, which are expected to lead to significant reductions in world hunger.

In Commitment 7 of the World Food Summit Plan of Action, governments committed themselves to implement, monitor and follow up the Plan at all levels, in co-operation with the international community. Governments invited the United Nations High Commissioner for Human Rights, in consultation with relevant treaty bodies and, in collaboration with relevant specialised agencies and programmes of the United Nations system and appropriate inter-governmental mechanisms "to better define the right to food in Article 11 of the CESC. It proposed ways to implement and realise these rights as a means of achieving the commitments and objectives of the World Food Summit, taking into account the possibility of formulating voluntary guidelines for food security for all." In the aftermath of the World Food Summit, several initiatives have been undertaken by the Office of High Commission for Human Rights, the FAO, the ACC/SCN, and a number of NGOs.

The process as just described does not stand on its own. It reflects, as we just heard, the changing attitude of the international community regarding human rights, in particular economic, social and cultural rights. The acknowledgement of the inherent role of the indivisible set of human rights within the development process as a whole is nowadays, at least in academic circles, well established. This acknowledgement is slowly followed by development agencies in and outside the United Nations system. With the exception of the ILO, which has consistently used labour standards as a basis of its work and UNICEF, which we just heard has now fully internalised the rights approach, there is still lots of ground to be gained. My organisation for example; the UNDP, has only just begun operationalising human rights within its developmental policies and programmes.

In January 1998, the Administrator of UNDP, Mr. Speth, issued a Direct Line (Direct Line 17) to all Resident Representatives (i.e. the Heads the UNDP Field Offices) on Human Rights and Sustainable Human Development. In this instruction, Mr Speth makes two fundamental points: "In the context of the overarching goal of our work, poverty eradication, we are now moving towards a rights-based approach. In this framework, poverty can be seen as a violation of many human rights, including the right to development." The other quote reads: "In designing new programmes, efforts should be made systematically to take international human rights standards and the recommendation of international conferences as the starting point for policies and programmes to be elaborated."

Following the directive of the Administrator, a UNDP Policy Document entitled "*Integrating Human Rights with Sustainable Human Development*" was published. The main thrust of the policy document is that looking at poverty, in particular, the multi-dimensional concept of poverty (meaning both income and human poverty), one cannot but conclude that this concept basically

mirrors an integrated understanding of human rights in which all rights are indivisible and interdependent and interrelated. Because UNDP is a development agency, its main contributions to human rights will be through development activities. UNDP's approach will be universal and holistic. However, given the nature of UNDP, special attention will be paid to the economic, social and cultural rights and the rights to development.

As was mentioned before, UNDP will try to assist in providing direct support to government structures or try to integrate the rights in all its work, and will participate in policy development. As far as I understand the concept of a "rights-based approach", which is mentioned so often nowadays, it should mean that developmental policies should not only be rights-related, but should be rights-driven. It requires a changed pattern of decision-making by all stakeholders in development (governments, non-governmental organisations, external donors and international organisations). Policies and strategies have to be adjusted from a basic needs strategy to a human rights-based approach. As was stated before, the concept of claimholders and duty-bearers introduces an important element of accountability. Increased accountability also holds the key to improved effectiveness and as such offers the potential for "added value" flowing from the application of a rights based approach. A human rights based approach would furthermore ensure that targets and quantitative indicators will be interpreted with a view to assessing the quality of programmes. In other words, a rights based approach in itself constitutes qualitative human rights indicators. Now what does this mean in operational terms?

The World Conference on Human Rights (1993) reaffirmed that all human rights are universal, indivisible, inter-dependent and inter-related. Therefore, the international community must treat human rights in a fair and equal manner, on the same footing, with the same emphasis. To date there is no question in the difference in treatment of both sets of rights. Often this has been attributed to the fact that economic, social and cultural rights are vague and not justiciable. Should this, however, stop the operationalisation opportunities?

Academic and UN commissioned research has shown that there are a number of ways in which more clarity can be found concerning the so called core content of economic, social and cultural rights. A main contribution in this area has to be found in Dr Eide's study on the right to adequate food as human rights for the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities. Although I realise that one is usually walking on thin ice once dealing with policy setting wholly based on academic and new information research, this would not be the case for our deliberations here in South Africa. I think it is therefore very important that we have this meeting in South Africa. In fact, the South African Constitution of 1996 has fully integrated the approach advocated in the above-mentioned literature. The provision I am referring to here is of course article 7(2), Chapter 2 of the Constitution which we have been talking about a lot already, that the State must respect, protect, promote and fulfil all rights in the Bill of rights.

This provision, although groundbreaking, is in my view still under-utilised except for a number of welcome initiatives such as this one by the South African Human Rights Commission. It could hold the key in my view for a thorough system for monitoring, implementing and formulating specific rights and rights based policies that could subsequently lead to the formulation of rights-specific indicators. It can be seen as an instrument to analyse States' accountability and as an important tool to look at social progress.

I am not an expert in the area of the right to food; I will avoid getting into the specific meaning in core content of the right to adequate food. What I would like to emphasise, however, is the importance of the process that has been identified to tackle the difficulties, relating to the rights to adequate food. Because the legal and practical mapping that is envisaged in Dr Eide's food security

matrix could become a very important rights-based planning tool for poverty alleviation. A planning tool that UNDP, among others, is currently looking for. It is therefore why I was very pleasantly surprised to see the emergence of a matrix for a right to an adequate standard of living. I think that could be yet another clear contribution to the new approach.

A legal mapping based on constitutional and international human rights provisions; that is the obligations to respect, protect, promote and fulfil, should be attached to specifics of a right such as nutritional adequacy and cultural acceptability, which in addition could target (outside the general overview) specific vulnerable groups such as women, children, the disabled and the elderly. This would provide a fairly comprehensive overview of government's policy to realise the right to adequate food and achieve food security.

It would also give a better picture of the specific “national” strengths and weaknesses with regard to the “free interpretation” of “progressive realisation”. Naturally, such a legal mapping has to undergo a reality check by the target groups themselves. In South Africa, I would say, such a reality check can be done by those involved in the poverty hearings, in order to improve their outcome.

The matrix will have an opportunity to analyse that in one country assistance needs to be geared towards a substantive increase in food production, whilst in other countries problems are more found in legal discrepancies and/or obstacles to enjoy the right to adequate food. Hence, a mapping based on the Eide matrix, possibly enhanced and strengthened, will urge all stakeholders to take a broad, open and holistic approach to food security, incorporating the whole indivisible set of human rights. Accountability and transparency in decision-making can be easily deducted, whilst remedies can also be drawn up, even outside the traditional framework of court cases, etc. In fact, I believe that the matrix would be used as a generally accepted operational tool in decision making at all levels of government. Systems for monitoring, evaluation, accountability and transparency would be rapidly developed by civil society itself. This could therefore become a useful tool for the consolidation and strengthening of a ‘participatory’ democracy.

If this is the case, it leaves no doubt that the present conference is both timely and highly relevant and I would therefore already want to congratulate the organisers, the South African Human Rights Commission. If our deliberations here in Randburg prove to be beneficial, I think a giant step could be taken in the development of a rights based approach in its true sense. In the case of South Africa, it would mean that new operational tools become available to realise the challenges as formulated in government’s comprehensive National Action Plan for the Promotion and Protection of Human Rights.

Ladies and gentlemen, let us put the case to the test, because it will be such a practical exercise that will teach us about benefits, constraints and limitations. As a self-proclaimed learning organisation, UNDP is very much looking forward to the conference deliberations. UNDP will be available to assist and support ways to implement and achieve the rights related to food as a means to achieving the commitments and objectives of the World Food Summit. Thank you.

1.4.3. FAO – Ms Margret Vidar

Thank you. I would like to start by commending the South African Human Rights Commission for having organised this Conference. I think it is very important and I can assure you that FAO's own ideas, which the Chairman has mentioned already this morning, would have had much benefit from such a conference.

The right to food is of course at the heart of FAO's mandate. It has been created in the preamble of our Constitution. The whole reason for FAO's existence is to ensure humanity's freedom from hunger. Asbjørn has already covered or mentioned many of the things that I will be mentioning. Thus, I will start by stating some of the obvious things.

The World Food Summit Plan of Action provides the blueprint for creating conditions in which everyone can enjoy the right to food. The right to food implies that optimally people should be able to provide for their own needs in full dignity and in a sustainable manner. However, in the short term, many of the over 800 million malnourished people will only enjoy the right to food through direct food assistance, local, national and international. Work must be done at all levels if the goals of the WFS are to be achieved.

FAO is very pleased to have established working relations with the Office of the High Commissioner for Human Rights. We were pleased to have the opportunity to co-host the Second Expert Consultations on the Right to Adequate Food as a Human Right, the report of which was recently submitted to the Commission on Human Rights. The consultation was a welcome opportunity to focus on the specific role of international organisations and the Rome-based food organisations in particular, regarding the right to food.

The co-hosting of the Consultations was also part of FAO's commemoration activities for the 50th Anniversary of the Universal Declaration of Human Rights. In addition, FAO published a book entitled "The Right to Food in Theory and Practice", which contains contributions from human rights experts, NGOs, WFP, IFAD and FAO itself and has been distributed here today.

FAO also produced a leaflet called "What is the right to food". This leaflet was distributed to all FAO staff on the day of the Anniversary, 10th December last year, and is still being distributed in various forms. On the same day, new WebPages were launched on the right to food. The site provides links to relevant documentation that is available electronically, as well as on-line access to FAO's publications.

Finally, a legal study has been prepared containing extracts from international and regional instruments and declarations as well as some other authoritative texts relevant to the right to food. The English version is already available on the Right to Food WebPages, and we expect very soon to have the printed copies in English, French and Spanish.

FAO, as a technical agency with the right to food at the heart of its mandate, stresses its role in assisting states in reaching their objectives in a practical way. There are several specific activities of the Organisation, which aim to do this and are of special relevance to the right to food.

The Food Insecurity and Vulnerability Information Mapping System (FIVIMS) is of great relevance to the right to food.

The indicators will be of direct use for those monitoring the right to food at both the national and international levels. FIVIMS will serve as a bridge between different bodies, such as FAO's Committee on World Food Security and the Committee on Economic, Social and Cultural Rights.

Information at the national and global levels, about who is food insecure and why, should be seen as a tool for action, rather than an end in itself. This action needs to be taken primarily at the national and local levels, but international organisations should be ready to lend their assistance in a co-ordinated way. There have already been discussions held at the working levels between WFP, IFAD and FAO on how they might collaborate better on issues related to the right to food, both for long term goals and for more short term interventions, especially for the establishment of food safety nets to help states ensure, as a minimum, freedom from hunger.

FAO has the opportunity of integrating the right to food in its policy advice to states, advocate for the right to food, and provide information thereon, in accordance with its Constitution and the Charter of the United Nations. In "The Right to Food in Theory and Practice", the so-called Blue Book, a map shows which countries have incorporated the right to food in their constitutions. However, none of these over 20 countries have enacted specific legislation to give effect to the constitutional provisions. It is recalled that Section 27 of the South African Constitution and Article 2 of the Covenant both stress legislative measures to be taken to implement the relevant rights.

As the main responsibility for implementing the right to food lies with states, FAO believes that a practical measure for so doing could include the adoption of framework legislation. This would contain certain principles regarding the respect for the right to food, and set the framework for a review of the relevant sectoral legislation for the protection, facilitation and gradual fulfilment of the right to food. This process should be guided by the express principles of accountability, predictability, transparency, non-discrimination, participation and empowerment, and set up the institutional framework of action in the context of each country.

Such national legislation should also contain the specific monitorable targets and timeframes that the state sets for itself, in line with global targets set by not only the World Food Summit Plan of Action, but by other international conferences of this decade, including the International Conference on Nutrition, the World Summit for Children, the Rio Conference on Environment and Development, the Vienna Conference on Human Rights, the Cairo Conference on Population and Development, the Copenhagen Conference on Social Development, the Beijing Conference on Women and the Istanbul Conference on Human Settlements. It should also provide for the monitoring of progress in achieving those targets, by appropriate Government and independent bodies, as well as for remedies.

It is worth noting that the Second Expert Consultations of the High Commissioner for Human Rights recommended, in paragraphs 45 and 46 of the report, that states should consider the adoption of framework law as part of their national strategy, and that FAO should offer its assistance upon request. Formulation of framework law must take place in the context of each country, to suit the particular needs and constraints of that country. FAO does not pretend to have ready-made solutions to offer, these must be found within each country, by its people. FAO could offer general advice and assistance, but ultimately each country must find its own way. Allow me to express the hope that the discussions here in the next couple of days will enrich the national debate, as well as our conceptions and methodology at the global level.

Thank you Mr Chairperson.

1.4.4. WHO - Ms Zanele Mhlanga-Karl

This is precisely what concerns us at the World Health Organisation. Food security as a human right is an issue that has been tackled by the World Health Organisation for a very long time. In December 1998, at the Round Table to mark the 50th year of the Declaration of Human Rights and in her first speech since her election in July 1998, the Director General called on the international community to entrench health as a basic human right. She stated how girls and women are particularly vulnerable and how their right to equal health care has to be especially protected.

WHO's principle of health for all, and equal access to health services for all, is essential to human development and the securing of basic human rights. It draws on the values enshrined in the Universal Declaration of Human Rights.

Health security is a challenge that encompasses many of the rights in this Declaration. It means universal access to health care, access to education and information, the right to food in sufficient quantity and also quality; the right to decent housing and to live and work in an environment where known health risks are controlled.

You will recall this diagram from Dr Jonsson's presentation yesterday. That diagram that he showed from the International Decade of Nutrition. WHO is, as are all signatories of the World '92 Declaration on Nutrition, especially distressed by the high prevalence and increasing degree of malnutrition amongst children less than five years of age in many parts of the world. We were very distressed about the 54% of the children who die of malnutrition and I have an overhead that illustrates this.

This slide shows just how many children die from malnutrition compared to other diseases such as measles, respiratory infections, diarrhoeal disease. So, we see how significant malnutrition is. This is of great concern. There is also the fact that more than 780 million people in the developing world, and this is 20% of the population in the developing world, mostly women and children, are deficient in one or more vital nutrients. We are also very distressed that babies continue to be born mentally retarded as a result of iodine deficiency that children are still going blind and are dying of vitamin A deficiency. That there are still enormous numbers of women and children who are adversely affected by iron deficiency. I should state here that we have seen that changes are being made and that governments are struggling with those issues, as illustrated by the speakers in this workshop.

Millions of people also suffer from chronically communicable diseases related to excessive or deficient food intakes, which often lead to premature deaths in both the developed and the developing countries. WHO is also cognisant of the fact that poverty and the lack of education, often the result of under development, are the primary causes of hunger and under-nutrition? We saw on the video the unhealthy life styles that a lot of people in the developing world are experiencing.

The structures that can be put in place to guarantee food security are:

1. Sensitisation of planners and policy makers at all levels on the importance and need of adding nutritional objectives in development plans - and I think the speaker from the Human Rights Commission alluded to that - and for using food and nutrition indicators to monitor and evaluate the overall development roles.
2. Active participation of nutrition and other agricultural professionals in the above process.
3. Aggressive support of the population and implementation of national food and nutrition policies, strategies and plans.

4. Human resource development and training of staff from relevant institutions that will be well placed to develop and ensure implementation of food security policies.
5. Inter-sectoral co-operation and co-ordination.
6. Developing needs oriented operational approaches which are directly geared at problem solving and which encompass an assessment of the problem, followed by an analysis of the causes leading to the problems and a selection of the most appropriate actions based on the analysis. We shouldn't react to situations before really assessing what the needs are.
7. Empowering the communities we work in to carry out their own assessment and analyses, and action plans, thus ensuring sustainability, which is really crucial because we don't like to have programmes, which aren't sustainable.
8. Self-reliance and mobilisation for self-help.
9. Empowering women to ensure they get adequate control and access to resources they need to attain food security; that is, improving their status by giving them more universal access to education.
10. Lastly, intense advocacy on the issue of gender disparities, which is a central issue to the empowerment of women.

Last but not least, this year is the year of the aged, because it is not just women and children WHO is concerned about now. This is the year of the older person and South Africa though, is not experiencing this in as great a proportion as the developing world, but we are facing in the future more and more older people that really need to have food security.

Just a point in the video to illustrate this point. Food security is going to be a real issue for the elderly in the future, even for South Africa and I'm sure the Department of Welfare is cognisant of this as of now, but since in the developing world, we are concentrating more on young people, it's not such a big challenge yet, but will be a future challenge. And that's the end of my presentation.

1.5. DISCUSSION SESSION FOLLOWING INTERNATIONAL PERSPECTIVES

Questions and comments from delegates

1) This question is directed to Dr Jonsson. You touched on a subject, which is very dear to some of our hearts, which is breastfeeding and programming. We all recognise the benefits of breastfeeding but with the advent of mother to child transmission of HIV and AIDS. I have a few questions that I would like to pose to you. What I would like to find out is that, whilst we are sensitised to the rights of the mother to alternative feeding, what then are the rights of the child? Doesn't the provision of alternative foods violate the rights of the child? How do we address adequately the issue of breastfeeding and the reality of mother to child transmission? How do we then deal with the fact that there are few and inadequate resources within the framework of the rights to breastfeeding and infant feeding? This question is important because it is a question that we are really grappling with here in South Africa and we would like to have some direction in this regard because it is very important for us to deal with this question of rights within the framework of the rights of the child and in other areas. In South Africa, within the Constitution we have, the Department of Health is aware of the fact that infants and children under five years and lactating women have the right to free and accessible health care.

2) I think what is clear from the presentations is that you need an integrated approach to all social and economic rights. Central to that approach, is the Department of Finance who are the people responsible for the allocation of budgets. Most of the time I wonder if in their allocations they are informed at all about some of the departments that have a constitutional obligation to develop social and economic rights.

3) The comment that I want to make is about strategy. I think litigation is one strategy that we have not mentioned and I know that the Indian delegation is going to talk about litigation. I think that for a new democracy like ours, it is important to unpack these rights. We should be vigilant as a commission and as an activist in this area and look out for cases that we would bring to the constitutional court. So that once and for all we can clarify the content and the obligations of the state particularly when it comes to the rights of children because those rights are not as conditional as the others.

4) I actually find this Conference an interesting historical convergence of processes, both at an international level and I think the new South Africa as a national focus point. At an international level, it is historical in the sense that the agencies of the UN are beginning to find themselves doing their work on the basis of human rights norms. In so doing, they themselves are not functioning as an integrated, cohesive organisation at that level, as the presenters have been saying. Whilst in South Africa we have a constitution, which has mandated government, among others besides the state, as the bigger picture, to also deliver on socio-economic rights. At the moment, government has this challenge, both at an international level and at a local level. But we still do not have a strategy of how to act in an integrated way.

The South African situation is that the social sector has not been seen to really act over and above the need for them, for instance, to look at food security as a basic issue to which all of them need to make a contribution. They are all trying to deliver on the basis of the RDP and the Constitution as individual sectors. So what I see happening is that, because we do not have the model legislation which can begin to address this, no one department says it is fully responsible. The challenge would be in drafting such legislation because it will have to be implemented by more than five

departments. For instance in our case it would have to be Water Affairs, Trade and Industry and as has been mentioned, Finance to a certain extent. It would have to be Education, Health and the Welfare Population Department and that is actually more than a handful of departments.

How do you begin to bring those departments together, first to draft the legislation, second to promote it in parliament, and thirdly, to implement it with so many different strategies and different constituencies which each, on most occasions, are looking at what is individually related to them. How do we then make it participatory as a democratic norm so that civil society begins to understand that this is one other aspect where there would have to be co-operation at a different level? At an international level, how does South Africa's local aspect fit in, when you yourselves at that level have not reached that cohesive nature of integration? Do you get the dilemma that I am trying to pose? I am trying to say we are all at a sort of preliminary stage of moving towards the most idealistic, we do not have maps and we each have to try and draw our own map. Then if you can assist with tools, I think it would be very helpful.

5) I think it is fair to say that there is a start that is already being made in the South African sector along the lines that you are suggesting. The National Action Plan has made provision, which has now been adopted by cabinet, for the establishment of a National Consultative Forum on Human Rights, the intention being that the forum will be precisely the co-ordinating body. You talk about a variety of departments, that all government actions, programmes and legislation on human rights will in fact have a reference point through a structure like yours. Personally, I envisage within that structure, certain sub-committees and inter-departmental sub-committees to look after the various aspects of human rights that you are suggesting. So it seems to me that there is beginning to be a mechanism that is new, it has just started now in January. It is new but has the potential to go some way towards meeting the concerns that you are expressing.

Replies to comments and questions by presenters

Dr Urban Jonsson

The most direct question was regarding breastfeeding in the perspective of the biggest catastrophe in modern history, that of HIV/AIDS. I am deeply involved in the whole HIV/AIDS, the war against HIV/AIDS, and I will not use time in this conference to express my surprise at why people continue with the conspiracy of silence about this tragedy.

One part of that is the mother to child transmission. First of all, there are quite a number of good examples of conflicting human rights. So, we should not be surprised when we find situations that very often this conflict stems from different perception, whether the right is so, in a civil rights tradition or if it is in a more social economic condition.

To give you an example, in breastfeeding we have always had the American feminist view that women had a civil right to choose whether to breastfeed or not. Some of us have thought that it is more important to think of children's right to be breastfed because it is scientifically proven that children who are breastfed are healthier for the rest of their life. So here, we have regarded this as a social right for the child or even cultural. We have a very clear contradiction. Now with the HIV/AIDS, we have a new, even more terrible contradiction. The mother's right to anonymity about her HIV status, which is a very strong civil right. Whilst on the other hand the young child who one could say has the right to know whether he or she is at risk of infection, which means that the mother would have to give up her anonymity about her HIV status.

We need to handle this carefully because I am sure that this will fuel the divide again between whether civil, political rights are more important than social, economic, cultural rights or vice versa. It is clear that we do not solve the problem; like in a conference, I was in a couple of days ago. You do not solve the problems if you say it does not exist.

On this particular problem, I think we also have to remember the difference between public health advice and individual health advice. If you are in a situation where currently we do not know the HIV status, we do not have any way of informing that in almost all situations and all communities. The risk of mother to child transmission is less if there is continued breastfeeding than with an infected child who is not breastfed.

At an individual level, I think it is common sense if I counsel a woman who says, "I am HIV positive", then of course I will try all ways and means to find alternative feeding for her because part of that mother to child transmission takes place through breastfeeding. So on one side, I do not understand why this created such a big, big problem because public health advice is always different from individual health advice.

So, what are we going to do? Well, I am absolutely convinced that we all have to break the conspiracy of silence about HIV/AIDS. We must also provoke first voluntary anonymous testing so that communities know whether they are becoming worse or better, and as much as possible, encourage individual testing, especially during pregnancy. Many of the medical doctors have said that mothers do not want to be tested. We now have a study in Tanzania and in Kenya where 98% of the mothers said that they wanted to be tested. Again, meetings in Geneva and Washington decide what Africa thinks and wants, instead of going to the people and asking what they think.

Just a few words on two other matters. It is true; United Nations is working better together now. I myself propose very strongly the feeling that all my colleagues in UNICEF should first of all think of themselves as UN international civil servants and secondly see themselves as working for UNICEF. I think what is happening now is extremely important and it is very much a result of the disappearance of the cold war, the appointment of Kofi Annan and a few other things such as the UN reforms. It is actually more interesting and more fun to work in UN now than just five, ten years ago and I am sure that this will benefit other countries.

I must say that I disagree a little bit with the notion that we in the United Nations should see that we could not inform nor have an opinion about government legislation. I would think we actually have an obligation to do that. You see a country, apart from the American government, really normally feels diplomatically to be in a position to criticise other countries' human rights violations. I mean, that is normal diplomatic behaviour. The UN can and shall, that is why they exist and we are not a donor agency. We are the world's organisation or government and there are certain rules and regulations, expectations, and I think, for example, that when UNICEF moves very hard, not so diplomatically, that heads of states object. But when people like me moved around and said: why have you chosen to continue the line with children being mentally retarded? What is the political base for your choice for not legislating on this convention on the Rights of the Child? I think I did the right thing as an international civil servant.

Finally, on this whole issue of human rights society, someone said that there could not be a democracy without democracy. I like that very much. Democracy is not something that you create by putting just institutions and aid there. It must come from within, from the person himself or herself. The same thing applies with human rights. You do not create the human rights society by having different institutions talk about human rights. Human rights must come from the individual. A deep solidarity that you are not happy, if other people around you, those you know and those you

do not know, are not equally happy. It is fundamentally, for me, a question of genuine solidarity and you do not get that through training. You get it through conviction; you get it from your own learning experience. So there will never be a human rights society unless they have human rights affecting human beings.

Mr Patrick Van Weerelt

On the implementation in particular and also on the fact that yes, the UN is working more and more together, but it seems that there are differences in the interpretation. I do not think it is so much in differences in interpretation as it is in the basis on which different organisations are working. For example, UNICEF is building lots of its work and programmes on the Convention of the Rights of Child. My organisation started looking at the fact that we have to take a rights based approach. We really have to integrate at least the six main conventions. I am not saying that UNICEF should not do it but we have a much broader background to work on. Children are, not to be negative, just one group of our work. Besides that, we are not so much looking at the actual implementation of rights as to the specifics of rights. We are looking towards processes. We are not looking, as the Human Rights Commissioners do, at the actual core content. Essentially, I think we are all in the same boat now. I think everyone more or less underwrites the relevance of the Limburg principles and Maastricht guidelines to look at integration of social and cultural rights and implementation. It is just how to do it.

On the participation part, it might be interesting for you to see how far South Africa has in fact advanced in doing things. We at UNDP have already said that we are going to take the rights approach seriously now and we are going to do it. Of course, it is not enough to say that and we have been thinking how could we do it as UNDP globally, and at a national level. Obviously, it will be difficult globally because we do not really have a clear picture as to how we should develop, with a basis in, for example, the Constitution. South Africa has a basis in their Constitution. It has some excellent features in which we have participation by civil society.

The South African civil society is also involved in all these developments, which are directly having an imprint on society. I am only looking at the fact that we have a White Paper on local government and all the events taking place now assist government in making local government and its local councillors transparent and accountable. UNDP as such is also involved in a local government capacity building effort. Both a specific effort and a component in that project deal with integrating the rights approach to development. We have had a meeting with the representatives of the Northern and North West Province where we are going to implement these things and of course they came up with questions like, what does it mean, what are we going to do with it? In fact what we are trying to do is to link constitutional and international human rights obligations with budget allocation and prioritising needs in a particular area where local councillors and civil society organisations in a particular global environment identify themselves.

We are not going to speak about the right to food but about the right to housing. We are going to look at issues such as HIV/AIDS, waste management, and what does it mean to have a rights approach to that. In fact, I have already argued this before. We are going to try to apply the Eide matrix at the local government level. We have not had a very clear example of whether it is beneficial or not but there is so much talk going on now and we have to test it. However, provincial government and local governments have been very supportive.

What we are trying to do, if you look at for example local government capacity building efforts, as government structures, is the integration of integrated development. If you look at the manuals of

integrated development, they are great but they are not rights based. They might be rights related but they are not rights based.

If you look at the assistance in this kind of research and the amount of money that is put into these kinds of efforts, it is useful to try and see whether you can integrate the rights based approach in already existing programmes. Thus far, everyone we have been involved with and we have been talking to, has shown keen interest in changing to the new approach. If we were to do it that would be beneficial because you have local, councillors and civil society trained in a rights based approach. I think from there, the basis of service delivery and what we have been talking about, that is the basic needs strategy, would disappear.

What I am trying to say is that at UNDP we are attempting to change processes. We are not looking at actual conceptualisation. We hope that others will come up with that so that we can apply it. It seems that different agencies might interpret human rights in a different way but in fact, we are not. It is just that it is the specificity of a number of agencies that encourage them and demand that we go in certain directions..

I think that the basis is in fact the same and rounding off on that point is when we first drafted legislation. I think drawing up legislation is one thing, but if we take the honesty approach, draft legislation itself is not enough. Hence, we must try to initiate the bottom up procedures and meaningful participation.

Ms Margret Vidar

Yes, integrated approaches, it was mentioned from the floor that the Department of Finance tended not to be included in discussions about human rights. Maybe at the same level, more at the UN level, we need to have a common goal. We have moved quite a lot towards co-operation, towards working together rather than stamping on each other's toes, which is a long sad story.

I think we need to do a bit more at the UN level, especially to bring the specialist agencies under the UN banner. Perhaps we need to reform the whole system in the end before anything can be done. The fact is that the general secretary of the United Nations does not govern the specialist agencies. They are not under the authority of the Secretary General, Kofi Annan. The UN Charter governs them and they have a special relationship with United Nations but they have their own band of nations. United Nations can ask for different things in different fora. They can give different mandates and tell the FAO that this is the way to go. Then the same country that went to another forum and another agency would say it is like this. Of course, that complicates the realities of us all. Ideally, I think there should be no governing bodies of the specialist agencies. They should all be under the general UN. Of course, it is high treason to say that.

More questions and comments from delegates

1) Margret Vidar told us that we must help people so that they can be able to empower themselves. Maybe this is important. It means that we have to focus on the land so that we can develop small and medium scale farming sectors to have better household food security. Therefore land reform and land redistribution are seen as redressing past inequalities that exist in South Africa or in Zimbabwe. I think this is important and has to be taken into account. Experience has taught us that nowhere in the world have land distribution and land reforms been implemented without invoking

high resistance and high emotions particularly from those who own property or those who benefited from property, irrespective of the social injustices and the manner in which the land was appointed.

2) I just want to underline something that Margret Vidar has said and we should give some further thought to. Firstly, is that the various UN agencies and different constitutional bodies are members of the general UN system. Secondly, the same state may take different positions in the different bodies and the consequences of course are that there are a lot of contradictions and difficulties of integrating. That emphasises the importance of national integration, the national common approach because that would make it less possible for the human agencies to be manipulated as they sometimes are. Well, in the case for instance of food, I think there is at least one big power that is creating problems with regard to the implementation of the right to food. This causes some slowness in the convergence process that they are going through. It would be more likely that one could advance further if other states have integrated their positions so that they can be more persistent in those kinds of manipulations. Just to emphasise this, I think, as was said a moment ago, that there is a need for convergence on both national and international levels. Without this, it would be very difficult to achieve at international level if there is nothing we know or are conversant about at national level and vice versa.

3) This is just a comment or remark made about the difficulties around land reforms worldwide. I have one honourable exception to the board, which I would like to share, and this was the state from which I come. It is also the state of Mahatma Gandhi, the father of the nation, where the land reform legislation was implemented in under ten years but it was a matter of give and take. It was not taking away everything from the property owner and therefore it succeeded in a matter of three years.

4) It seems to me that, unless I am not aware of it, there are no good research endeavours at the moment, indicating the respective risks and costs of breastfeeding or not breastfeeding in areas where HIV is prevalent and increasing, in both urban and rural settings. Presently, in South Africa there is a strong campaign for a full course treatment of AZT and formula provision. The campaign is largely based in urban areas in South Africa. It seems that UNICEF and other agencies particularly WHO and technical agencies who are not represented here today, need to give some guidance as to what research evidence exists of the relative risks and costs, because the cost calculations that I have seen do not look at the costs of not breastfeeding in areas where there is poor sanitation, nutrition and so forth. In South Africa, at the moment the Minister of Health is being attacked from a number of quarters about her stance. I am not suggesting that her stance is either right or wrong but that we do not have the research evidence yet to say whether it is more or less risky to breastfeed or not breastfeed in different ecological circumstances. Therefore, I think it is quite complex in a country like South Africa.

5) The question I have for the UNDP representative is when one talks about implementation of integrated approaches to assist security and nutrition, which is what you were touching upon. We face a problem in South Africa, which relates to some of the questions in the previous session and that is the current fiscal policies in our provinces or the budgets, which arrive in our provinces, allow only for the payment of salaries. Training budgets have been reduced to almost nothing and in some provinces have been slashed completely. It seems to me that the implementation of any kind of integrated approach requires substantial training and capacity development, not just amongst local government officials but also amongst public sector workers and many other people. This is an expensive, time consuming process. Where does UNDP suggest that the money should come from? Is UNDP going to make money available? There is a good example at the moment of UNICEF making some funds available to the Department of Health, which is attempting to improve capacity to implement and integrate a nutrition programme. I think everyone concurs that this is a great

project but it is just a drop in the bucket at the moment. Where are those sorts of funds going to come from if the fiscus is unable or unwilling at present to provide them?

6) I would just like to pose a challenge that we are feeling here and I think it might be interesting to debate today and tomorrow. In an age of fiscal policies of reduction of costs like reducing the size of the state, there is enormous criticism of the paternalism of the programmes, the civil social programmes. Certainly there are violations of rights in many ways, in the sense that they are provided because they are seen as charity. Now it is becoming very interesting for some sectors of state to propose decreasing sizes of the social and civil services as a matter of fact, because they are paternalistic, promoting integrated and participative development as an alternative for providing services. I therefore see a risk in postponing the need to respect and protect the rights of those people whilst reducing something else. I think that the need is to find ways to do both at the same time although it is not really clear at the moment how to do that. It is very easy to say 'let us stop these programmes because they are all paternalistic and let the people develop themselves'. I know how long it is going to take to develop and produce immediate results for them. This is a real challenge for me to find the way between them and to discuss the responsibility and obligations of the state and civil society.

7) Just to finalise, in Brazil we have been really fighting not only for the responsibility of the state to respect, protect and fulfil human rights but also for the responsibility of the civil society and society as a whole. Now I feel that the government is going to use it the other way around. "We do not have too many obligations, we do not have too many responsibilities, you have to take on, and the violations are not ours". This is a society decision and I think we need to find a place in between to really address this further.

More replies to comments and questions from presenters

Ms Margret Vidar

I want to say something about land reform. I think land reform in certain instances may be very important and very necessary but it is certainly not the solution on its own, in a modern world. You simply cannot just give everybody a patch of land. That is not how the modern economy works. The right to food is very clear that people have the right to produce or to have access to resources to procure food. I do not think self-sufficiency means that everybody should have their own vegetable garden, their own potatoes, and their own goats. I do not think that is economically viable or sensible at all. I think we need to look at other questions in conjunction. Land reform may be part of the solution but it is never going to be the only solution in a modern day world.

Mr Patrick Van Weerelt

Fiscal policy and how it influences implementation is a crucial issue. If you only have enough money for salaries to be paid, yes, if you want to do an integrated approach, a human rights based approach to development, it is very important to have a strong training and capacity development component in order to achieve sustainability. Again, where should the money come from? I think we have a very important issue here, which in fact brings us to the point, which the human rights approach adds to the basic needs strategy.

If one looks at the covenants and conventions, there is always a provision, which says that if a country or a government cannot fulfil basic needs obligation, then there is a duty on the international community to step in. Clearly, I am not aware that any government has ever placed a request based on such a provision. Rather I would say the remark was made, that UNDP should pay the money or should perhaps come up with the money. I am not sure whether UNDP would be able to do that. In fact, I am sure that we are not able to do it. But what we could do, if we are taking the rights based approach ourselves and the government as well; based on that, we can use the instrument, the legal instrument, for ourselves for resource mobilisation. In the end we could in fact, request money for exactly those programmes where there is no provision made.

The rights based approach basically requires clean, transparent and accountable government structures. Once they are there, then it is easy to prove that everything is done to the extent possible. I believe that there are ways to mobilise resources, and the donors in particular would be very interested in putting money in such programmes, especially since they have now taken aboard the rights based approach as well.

Integrated development planning should not be an alternative. It is not an alternative. What we are trying to do with the rights based approach is not to have an alternative. I think it is just a slight differentiation in the approach and we should not just do away with programmes because they are paternalistic. We should try and see where exactly the difficulty lies in trying to gear it towards a more human rights directive. Thank you.

Dr Urban Jonsson

In Sweden, we also had land reform long ago and it took 173 years to complete. Just to give some background on how difficult it is, I think it is very important that we do not romanticise about communities. We think of them as homogenous entities, progressive people roaming around. Most communities I have seen are full of conflicts, exploitation, have strategic enemies and strategic friends and allies. We have to realise that it is neither bottom up nor top down, but it is both. It is a synergism between top down leadership in a democratic sense, how to mobilise the allies in communities, to get them out of their own exploitation. That is what politics are about and what human rights are about. I have never understood this argument that it should be bottom up only and all these things. It is very unrealistic and a little bit dramatic.

The second or third UN structures like UNDP and their funds and programmes, UNICEF, UNFPA, are different from the specialised agencies but we have the same job. I think Kofi Annan is in an unenviable position. For example, now we have the conference on nutrition, food and nutrition, human rights and I understand that some of our sister agencies are not happy at all about this conference. Instead of congratulating ourselves, being happy that for once now we have human rights on the agenda of UN structures. There is a lot of manipulation going on, sending junior people, not taking it seriously, etc. It is very sad.

Two major points I would like to reply to. We know Europe plays an important role and they have convinced us all that sustainable development requires human development and economic growth. It is not either or, but it is both. From there on, we at UNICEF say all human beings have been children. We are talking here in the long term about child survival and development. New science shows that the first two or three years are instrumental for the trajectory of development for human beings. That is why dealing with children is not first of all a humanitarian issue, it is at the core of long-term development. Economists have not discovered that. It took economists a hundred years to discover that women are productive. Now it is time economists understand a simple thing that

adults were children. Next time you hear one of the leaders talking, “children are our future”, and remember, it is not our future but their future.

Secondly, on HIV/AIDS, there is a controversy in South Africa. I am not going to dwell much on that in this meeting. I can only say that your point is correct. If we were born in a dream world or a scientist's dream world, we could calculate costs and risks, and then we would minimise the gap between public health advice and individual health advice. It is true that we should do that. Let me respond to that question in another way. I know that the Minister of Health has argued that the country cannot afford these treatments and I am not going to judge the South African Government. However, one thing I want to say and end with it concerns HIV/AIDS, which is now primarily forgotten because of the conspiracy of silence. South Africa is an example of good change in the last few months where the conspiracy of silence was broken.

It is also a conspiracy of ignorance about the scale of the problem. In a recent worldwide meeting, it was said that HIV/AIDS is the monster of greatest catastrophe in modern history. We should now increase the support from \$150 million a year to \$300 million a year. I said this is absolutely incredible. We are talking about the wrong scale. We made a calculation in that office and found out that if we are going to train our teachers, afford all these medicines, and communicate with people, then we will make people aware. They will have views to take the right decision.

It is about two to four billion dollars a year for the region of East and Southern Africa. I discovered that is exactly what it would be to write off the foreign debt, ten per cent per annum, during ten years. That will give these countries two to three billion dollars a year. I hope you agree with me that we go ahead with that.

2ND SESSION, 25 MARCH 1999

2.1. WELCOME AND INTRODUCTION BY MS LINDIWE MOKATE, CEO OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Good afternoon and welcome to this session. May I just take this opportunity to remind all the delegates of the purpose of this conference, which is to promote dialogue around issues of food security and nutrition from the Human Rights perspective. Unfortunately, I was not around but I know that this morning you dealt with challenges that plague us in this area, which includes the need for an integrated approach.

You also will have heard that we had started in this country along the following lines. We had a National Plan of Action for Children, which brought together several government departments, and the NGO's. We have recently completed a process, the National Action Plan that also brought in government departments. These processes had to look at what measures will be taken or have already been taken in the realisation of human rights and promotion of human rights.

We are still faced with the challenge, which I understand our chairperson of the Human Rights Commission brought to your attention, that is the lack of specific legislation pertaining to this area of food security and nutrition.

We are very privileged this afternoon to have Mr Flavio Valente from Brazil. He is going to share with us how they have gone about mobilising for the promotion of rights in food security and nutrition. What problems have they encountered and how they have been able to deal with those, and maybe he will share with us what still remains to be done. Admittedly, I do not think that they have been able to solve all the problems but I think that many of us will relate to what he is going to say in his presentation.

Again, let me just say what an honour it is for me to present to you Mr Valente, who works in the civil society and has for the past 30 years. Mr Valente works with an NGO called AGORA, and he is also the representative of the Secretariat of the Brazilian Forum on Food Security. It is my pleasure to present Mr Valente. Thank you.

2.2. COUNTRY CASE STUDIES

2.2.1. *Brazil: mobilisation around food security and nutrition as human rights - Mr Flavio Valente*

I thank very much the organisers of this meeting and all the work we have been doing, over the Net and the e-mails, over the last six to eight months. Finally, we meet face to face here and it is really a deep honour, as a representative of civil society in Brazil, to be able to present to you, South African people, who are an example to us in Brazil of the struggle for freedom. I think it is an extreme honour for me to be here presenting to you our experience.

I would like to say that I am not only representing myself here but I am also representing work that has been developed together with government officials and international agencies. In our group, we have people from UNICEF. Martin is here, Louise, who represents the Minister of Health, who is also here, and we have Katia who is here working with civil society and we have some people who were not able to come. I am representing their work.

This is a presentation of what certain members of our country recorded and what is also produced as a partnership between government and civil society. It was the first report to the Food Summit in 1996 and it represents what really has become common sense, not necessarily implemented but it had become common sense on the part of the Brazilian Government and the civil society of Brazil. It says that: *"Access to food is a human right in itself, in so far that food consists of the right to life itself. To deny this right is before all else, to deny the first conditions for citizenship; life itself."*

That has become really something important for us in the last ten years or so in Brazil. This concept was built through an enormous process of struggle. I am going to talk briefly about that. We certainly have challenges ahead of us. I am not here to present a success story, I am only presenting a process. It was a very difficult process, on how people inside the government and people outside the government, have to be aware of the difficulties of building human rights into policies. It is so important to have patience sometimes. Sometimes government is very impatient with criticisms but criticism is fundamental for any process, especially in the human rights sector, so that things can move. If we accept that things are done, then everything melts down and stops.

I think the process has been a very rich and a continuous one in Brazil and is still ongoing. Conflict is present at all moments; therefore I think we are going to present the process as part of the conflicts, victories and challenges that lie ahead of us.

The Brazilian social process in terms of fight and struggle, struggle for hunger, is something that started a long time ago. At the beginning of the century, Brazil was permeated by the denial of hunger, as everybody was silent about it. We had the name of one person that I think I would like to cite here, a very important person in trying to bring hunger out of the hiding space where the elite tried to keep it.

That is an example to all people committed to the cause of hunger and in effect, human rights. He was part of the creation of FAO. He was the president of the council of FAO, and he died in exile in 1973. He defended the people against hunger. Basically, the dictatorship kicked him out of the country when he was the Brazilian representative in the UN in 1964 and he was not allowed to return to the country before he died.

I would like to go to the next one. In our paper we worked a little bit with a framework, you know, the extended concept and then the main components of the framework with which we worked in our country. The extended concept of food security is a result of the long process I talked about, and I am going to give you a few examples, but it was originally in every country in the world. I guess food security was basically a concept that talked about production of food. Later, as things moved on, it became clearer and clearer to us that the problem in Brazil was not a problem of lack of food. We had enough food in the country to feed everybody according to official data since 1950, but then we still have significant hunger in the country.

It became clear to the Brazilian society that the problem of hunger was basically a problem of access to food. Then, as we went on in our struggle and discussions it became clear too, that the problem of hunger and the problem of food insecurity was not only a matter of having access to food but also quality of food. The fact was that food needed to be provided according to the habits of people. It does not really mean anything to us, for instance to have soybeans because it is not part of our food habits.

We have an enormous production of soybeans but people do not eat soybeans. It does not really, help to have enormous production and give people can have access to it. The problem is that they do not eat it. At the same time, another problem is that people have the right to have information. Information about what is in that food. Information about what are healthy habits. Information about diets, suggested diets, so that they can choose, on their own, what they would like to eat.

Then it became very clear to us that all was clearly linked to one thing and that was basically human rights. It was impossible to separate the right to be fed, from the right to feed oneself. Also from the dignity of having the possibility of feeding oneself, feeding one's family with one's own resources and not being dependent on charity nor on public programmes, but really feeling like an active and productive member of society.

It does not mean that some people will not need assistance to feed them but it should be the utmost objective of the society to guarantee that every single one should have the right to feed themselves with their own efforts and their own capacities. That means extensive work in terms of linking to the other efforts and aspects of society.

The main component of food and nutrition security that was used in Brazil, I am not going into because it has already been explored today by Urban and by Asbjørn. We have been working with the concepts of livelihood security too. We have some basic challenges that we feel in our work at that time and this time, is how can governance, especially in relation to human rights and practices, contribute to fostering food nutrition security, particularly of the most vulnerable population groups. We are discussing that very strongly in our country right now.

The other one is how to ensure that food nutrition security fully respects and protects the human rights of all our population groups and contributes directly to the human rights empowerment of those groups. Here we are directly talking about food distribution. It is very hard to respect the rights of the people because in the eyes of the person who is distributing the food it seems strange. If that person needs food, why are they claiming another source because they should be happy to be receiving food? That is something that happens very often in distribution programmes. Independently, if they go out in emergency situations or in structural continuous situations, that also happens with the services provided in populations. I am not talking only about food services but nutrition services, health services, and educational services. If people have access to education, why are they complaining about the quality of education? We are discussing very much now how to introduce that into discussion with the public service, society and everybody else. To understand

that, this is a violation of the rights of the people who are not being assisted on those types of services and we should try to overcome that situation.

From there, we had more or less the same things that were spoken about today and I think you can read the papers later on. We expect to have a reduction, an offsetting, an indication of the impacts of activities and the transitory food nutrition security risks. We want to improve access to your cultural, political, social and economic means of withstanding both chronic and transitory risks that result in food and nutrition security. Those are the goals of this work that we have been doing all along.

Now I am going to give you a brief review of our process. I think maybe the thing that is stronger in our experience is that this has to be seen as a social process and not as a law or a legal process. The history in Brazil shows us that it does not matter how many laws you have written. We have the best constitution, we have the best labour laws, we have the best environmental law, we have all the best laws of the world but they are not implemented equally to everybody.

The struggle of the Brazilian people was, over the last twenty years, first to regain some rights and to implement them and transform the law into action. Thus, historically, we could go back to the beginning of the decade of the 70's. We will see that there was an enormous upsurge of social movement, against the dictatorship we had in Brazil, the military dictatorship that was installed in 1964. It was those movements, the social movements, and the unions that let to the rights that were written in the International Declaration of Human Rights being implemented.

Not because they were written there but because there were riots and strikes and people fought and some died, and then the laws started to be implemented in terms of the right to work, the right to equal pay, the right to basic rights in terms of work.

The same thing can be said about the freedom to organise and the freedom to speak. Those were reconquered in practice by the social movements, despite the police and military repression. The numbers of people conquered it. This is not a different history from the one you have in the fight against apartheid. There were different struggles with different backgrounds, yet the struggle is very similar. The same thing happened when we had to get back our amnesty from political exiles. From 1964 to 1979, for 15 years, some of the best intellectual properties we had, the best minds and the best militants, were kicked out of the country. Some of the best people who fought against hunger, the best leaders, a whole generation of political leaders and intellectuals was basically killed and silenced because of 15 to 20 years of dictatorship. The amnesty was a movement that brought back those people but did not fill the gap. We had a gap that was there and we are still filling that gap today in terms of political leaderships.

This movement was more of a labour movement in 1970. In the eighties, it became more political and we had an enormous movement for democratic elections for the president in the early 1980s. We had marches and demonstrations all over the country, some done with two million people, a million and a half people, but we did not get the democratic elections. The Congress and not people elected the first non-military president directly.

In 1988, we rewrote our constitution. We were trying to express the new times we were living in and this constitution could be counted, I guess, amongst the best, as one of the more detailed constitutions in the world. It has the right to food but it has not been transformed into laws, till now, after ten years of the implementation of the constitution.

In 1989, we had the first election of the president and we elected a president who dwelt in corruption for the first two years of his mandate. He threw a party in the first year, making a commemoration of the first billion dollars that they were able to blow. The Brazilian people went to the streets once more. We had manifestations and demonstrations throughout the country. Millions of people again in the streets, and all that ended with the impeachment of the first democratically elected president, after twenty years of dictatorship.

That was probably the turning point for us in terms of rights and privileges of Brazilians. At that moment, during the impeachment process, a very strong political and social movement was created in 1992. It was called Movement for Ethics in Politics. The impeachment movement was so strong that, when the president was impeached, the new president called this movement afterwards to discuss how to govern the country.

That was exactly the moment when this movement decided to combat or fight the worst kind of corruption that was there in the country. There was social exclusion very similar to that in South Africa, against which you, in your struggle, fought. From that moment on, we started to call it social apartheid. We did not have a ritual apartheid as such in Brazil but we had a social apartheid that kept at least 50% of our population out of the economic and political process.

It was exactly against that social apartheid that action, citizenship action against hunger and poverty, was created. That was certainly the strongest social movement Brazil ever had. At one point, we had 30 million people involved in this movement throughout the country and this movement made a change in terms of consciousness. That is exactly what Urban was talking about. We have learned that in school, we have learnt to be citizens in school. We can be taught to become citizens. We learn in practice, practising a lot and fighting, struggling for our rights and that is where human rights are learned.

It is in this broader education process that we learn in college, in school, in life, and in struggle. Most people will know, we learned those human rights, and the right not to be hungry. We started to discuss what is the right to food through this process. The first government in Brazil to publicly state that there was hunger in this country, was this government in 1993. For the first time it was officially recognised that we had hungry people in the country and we had numbers. We had 32 million people hungry in the country at that time. That represented 20% of the population and we had close to 60 million people who were food insecure, not in such a severe state but who had difficulties accessing food. It was exactly against that hunger for a lot of people, that Citizenship Action was launched in partnership with government. It involved the creation of more than 7000 committees, citizens' committees throughout the country, with the support of public institutions, in partnership with banks, private institutions, state and companies; a lot of different mechanisms but they were basically aiming at three things. The first is solidarity; that was really the soul of the movement. The second thing is that government alone cannot solve the problems of the country but it has to be an active part and have the political will to do it. The third was decentralisation, administrative, and financial and political decentralisation with global control over budget, agenda, and over collaboration of policies and political development. The actions involved job remuneration, land reform, micro credit, and food distribution programmes with the participation of the people who were receiving food, not just receiving with no return but also receiving as part of the development process, in partnership projects.

As a result of that, we created a governance mechanism in the country that involved ten ministers and twenty-one representatives of civil society, chosen by civil society. It was called the National Food Security Council where all the policies in the government were discussed through the eyes of the struggle and the fight against hunger and for food security. This process has been somewhat

watered down over the last eight, nine years in terms of partnerships concentrating on food security. Nonetheless, we still have a very strong space within the federal government where we can discuss the issues of food security and the right to food.

I am going to cite some other things that have happened. I did not mention part of the paper that talks about the international agreements that Brazil signed, because it is a party to every single one of the international conferences or covenants, or all of them. Brazil has ratified the Economic, Social and Cultural Rights Covenant in 1992 and it has done the same for the others. However, that does not mean that all of the issues are implemented yet. We are still fighting for that.

We have had a very interesting merging of the two movements in Brazil. It is very interesting for you to know that we had two movements in Brazil at one point. On one hand is the Human Rights Movement. That was basically a civil and political rights movement whereby political people, involved in a political struggle, were fighting for civil rights, against torture, for the right not to be arrested, for political freedoms and all that.

On the other hand, there was this enormous movement, called the Action for Citizenship. This was the right to food movement. It was not really that, but it was a movement against hunger but within a strong human rights framework. We finally met in 1996 during the preparations. They were preparing the human rights plan, a programme that does not even slightly hint at social, economic and cultural rights. The Brazilian National Programme of Human Rights is basically a civil and political rights document. At the same time, civil society was discussing the preparation for the summit and the right to food, land, economic, cultural and social rights.

After the summit, things started merging, the movements started talking to each other. Over the last three years we have seen an enormous exchange of experiences between the Human Rights Movement as such and The Right to Food Movement or Food Nutrition Security Movement in Brazil. This has led to several things happening over the last two years and the most significant ones were that we managed to have a seminar on The Right to Food last year (1998). Parallel to that was the Department of Health in collaboration with the National Food and Nutrition Policy. We merged the two events in a certain way and now it is in the final stages of approval in the Ministry of Health. The new National Food and Nutrition Policy is the first piece of policy in Brazil written within the framework of human rights.

Recently, about two weeks ago, we finalised the document on the combat of the struggle against iron deficiency anaemia in Brazil with the participation of civil society, the Consumers Union, the industry and government. That is called a Covenant on the Struggle against Iron Deficiency Anaemia, where each one of the partners commits themselves to fight against iron deficiency anaemia in Brazil. It is the worst food and nutritional related problem in Brazil right now. It affects close to 50% of children and women who are infected with AIDS. This is also written within the framework of human rights.

We are also discussing obesity and a proper programme to combat obesity. There is a discussion that it should be within the human rights framework because at the same time that people are hungry, in the same families we have people are obese. Thus, it is a very difficult problem that has to be dealt with in health.

To finalise, in lessons learned, we have listed seven lessons that were learnt in this process:

Lesson 1: The need to have a broad food and nutritional security concept. That helps in understanding how to act. If you have a very narrow definition, it is very difficult to see where the interactions happen. It is very important to have the broad concept, understanding that not everything has to be dealt with as a nutritional problem. We should have that concept to understand how IMF for instance intervenes and interferes with food and nutrition security. If you do not have this broad concept, it is difficult to understand.

Lesson 2: Social mobilisation is fundamental throughout the process. Whenever we slow down in civil society, the government immediately slows down implementation and, we have to understand that the dynamics have to be that way.

Lesson 3: A strong government – civil society partnership is essential for a human rights approach to food and nutritional security. It is also important to define what the civil society organisation is, when you are changing the concept in order to facilitate the partnerships between government and the society. More freedom in the utilisation of money is defined but civil society organisations should be treated exactly the same as public enterprises are. Thus, we have to present accountability to the people and not only to the financiers. It is known now that there are many criteria that you have to fulfil to become a civil society organisation.

Lesson 4: Specific moments must be established to forge and strengthen government-civil society partnerships, such as technical conferences that focus on specific problems such as hunger and malnutrition. On the other hand, civil society is demanding autonomy from the government, and to be treated with the diversity that is necessary and not as an employee of the government because some of the partnerships became that. You know, you are working for the citizens, for the others. So, the differences must be preserved because if you do not have differences, you become the same thing and then there would be no point in making partnerships.

Lesson 5: It may be that immediate integration of human rights principles and social concerns for food and nutritional security cannot take place, before each movement separately has matured and has established a certain level of credibility. One other thing is the question of the future of the two movements. Take one of the examples that are here, the movements are being merged and in May, in about two months, we will have a National Human Rights Conference. The national human rights conference is going to be in partnership with the national movement on the economic, cultural and social rights, for the first time. There is also an enormous partnership between the Agrarian Movement and the Food Movement. The international NGO's focus on the human, economic, cultural and social rights, within the social movements that normally dealt with economic issues but without the framework of human rights.

Lesson 6: Other sectors, such as the market sector, are likely to be slow to be incorporated in the Human Rights, Food, and Nutrition Security Movements. But, there is the need to involve other sectors like market sectors in the experience. The small businessmen or business people have been involved from the beginning of Action for Citizenship but now we are beginning to deal with the large enterprises and the large market sector to see if they commit themselves, especially in relation to food issues.

Lesson 7: In Brazil, as in other countries, the existence of a law guaranteeing a specific human right does not assure that this right is realised, or that it is culturally accepted as a right, or that specific recourse mechanisms are in place. There is no point in having laws if you do not have the mechanisms to implement them, no monitoring and no social mobilisation, and no social

conscience. There is a false understanding that human rights are not an ethic code. Yet, human rights are both. If you are not embedded in the civil society, or in society as a whole then human rights are a right. It is moral and ethical too before becoming a law. It is very difficult to implement a law if you do not have that understanding on the part of everybody, especially on the part of the police.

Lesson 8: Neither Food and Nutrition Security nor human rights are yet fully considered priority concerns in the Brazilian development agenda. We managed to include that in the national agenda but it is very important to understand that to keep it in the national agenda is a continuous fight. If you do not, it gets out of the agenda pretty fast; it is very easily written in the agenda and easily forgotten from the agenda, too.

Finally, the next step is that we are developing together with the other governmental partners. We had some problems with other national human rights commissions. They get in and out and I will suggest to them that they hire more people because I have seen here that the national commission is big. They have only four people in Brazil. They cannot deal with 150 million in Brazil. This is one of the examples of the need for political will on the part of the government to really implement. Then we are going to propose that Secretariat increase its staff. We tried to bring them here but they did not have enough time or money to come.

We need to make a map of all legislation and items of the constitution and administrative laws that we have a right to but that we do not even know about. We are in the course of identifying some gaps and formulating new pieces of legislation to compose what we would call 'international law' on the right to food.

The third step would be to review all plans of action, programmes and projects from the perspective of human rights. We are talking not only in the health sector but also in the agricultural sector and all the other ones that are linked to all the programmes in fighting against hunger. We want to create mechanisms for recourse throughout. We are planning to start with a school-feeding programme. Our school feeding programme in Brazil is a constitutional right and reaches 30 million children every day and we need to go beyond a substantial kind of view and make it the right of every child in the country.

We are launching a consultative process to include economic, cultural and social rights into the National Programme of Human Rights. We are also launching an education, or information, communication campaign. We really want to expand our partnership with government in the monitoring aspects of the implementation of the rights. We also want to combine all that legislation to constitute a national ethics code based on the human right to food and nutritional security, together with effective monitoring mechanisms.

We can understand that capacity building is fundamental at all levels. The other day I was participating in a meeting with the government on capacity, building and they said we will start with the state level officials. We said no, we should start with the ministers. If the ministers do not understand what we are talking about, nothing will happen.

Let us include the market sectors especially; that has been a little bit away from our struggle and make them a connected part of the process because they have a lot to contribute, especially if you have not paid taxes. Thank you very much.

2.2.2. India: judicial enforcement of food security and nutrition – Mr Nelson Gopalaswami

Thank you very much. I am deeply honoured for the opportunity given to me and to the National Human Rights Commission of India. It is especially an honour for me, having started my career in the state from which Mahatma Gandhi hailed. Another reason is that I come to the country for the first time and I am participating in this conference. This is the country where Mahatma Gandhi started his law career. This is the country whose freedom struggle amplified memories of the struggle against the colonial regime ending in 1947 in freedom being handed to India. I feel doubly blessed and I once again thank the South African Human Rights Commission and the Minister for the opportunity given to me.

At the outset, I must mention that the topic, which I shall present before you, is of the judicial enforcement of food security and nutrition as human rights. Before that, I would like your indulgence to present to you very briefly the activities of the Human Rights Commission in India. The Commission was born in 1993, October 12, after the parliament passed legislation, the Human Rights Act 1993. The Commission is about five years old. It has a staff of 280 people with five members, three of whom are from the judiciary. The chairperson, according to law, ought to be the Chief Justice of India and two other members who are human rights activists. There are three broad divisions - one, the Chief Executive - that is actually under me. Then we have an administrative division, which contains the research and development division too. The third one is the investigation and legal division.

Our experience is that as soon as the Commission was formed and announced its mandate through the medium of television, we really started receiving applications from all over the country. It is a country of almost a billion people. We receive, as of now, 250 applications a day, 40 000 applications in a year of course without the non-maintainable ones. The unmaintainable ones are those in which there is already a court case pending or those, which purely are of a service problem nature that is anybody having a problem with the service of the government.

Since there is a separate mechanism for those grievances, we do not take them up. Minus these non-maintainable ones, we get on average 150 applications a day and a further complication added to this is that it comes in all the Indian languages, all the 18 authorised Indian languages. Thus we have a battery of people who do the translation work for us, almost 60% of applications are in English, about 25% - 30% are in Hindi and around 10% - 12% are in all the other Indian languages, 15 of them.

The majority of these applications are in the spectrum of civil rights and political rights mostly against the state authorities, the police and other authorities, the prison and police authorities, etc. We have an investigation division with about 75 people which does the investigations, but because the number of applications which we have to deal with is substantial, we do take the first step of having the matter investigated by the police authorities of the provincial government and cross-check them with our investigation division.

In important cases, we take up investigation through our own investigation agency and wherever the report has gone forth from state authorities and they are not satisfactory, they are either cross-checked or re-investigated by our own investigation agency. We also have the authority to hand over the investigation to the highest investigating agency of the country.

I must draw your attention to the facts. Interestingly the decisions of the Human Rights Commission in India are not mandatory. That means that it is recommendatory. Therefore, the question is what

happens with it? Does it reach the waste paper basket by the various authorities? The answer is an emphatic no. The reason is twofold. (1) The Chief Justice of India heads the Commission and (2) the Commission has always believed that there is no lack of commitment from a particular party in the country that a recommendation from the Human Rights Commission will be honoured. I am glad to say, excepting one instance in all these five years; no recommendation of our Commission has ever been challenged. Even in that one instance, the lesson was learnt very well. Indeed, the provincial government challenged the recommendation awarded in one matter and when it went to the high court of the state, the high court of the state slapped an 18% interest on the late payment and five times the amount as compensation, as costs to the National Rights Commission. I think that lesson has been learnt very well.

Now coming to the issue of the judicial enforcement of the food security and nutrition right, I will immediately talk about the Indian Constitution and Human Rights. The Constitution in India came into effect on 26 January 1950, and was framed after extensive debate in the Constituent Assembly during the period of 1945 to 1950, during the time when the text of the Universal Declaration of Human Rights (UDHR) was shaped and finalised. It was natural therefore for the Indian Constitution to draw inspiration from the principles enunciated in the UDHR. The various articles of the UDHR are reflected in the Indian Constitution in the Chapter on Fundamental Rights (Part-III) and the Chapter on Directive Principles of State Policy (Part-IV).

Article 21 and article 47 are the important articles as far as the right to food and the right to nutrition are concerned. It is on protection of life and personal liberty and article 47 is the duty of the state to raise the level of nutrition and the standard of living and improve public health.

It is interesting to note however, not so very surprising, that the right to food is not directly mentioned in our Constitution, while the article on nutrition does find mention in Article 47. There is a fundamental dichotomy in that the fundamental rights have been considered as justiciable while the Directive Principles of State Policy, where the raising of the level of nutrition and the standard of living and improvement to public health occur, are not considered to be justiciable. Nonetheless, over the last 50 years the High Court, the highest judiciary in India, has in fact expanded the horizon for citizens' rights in various announcements and my Chairperson keeps on repeating very often and with a lot of justification that a judge only tries to expand the horizon for the law.

There have been a large number of instances in which the courts have held that although the particular right may be found under the direct provisions of the Constitution, and it is not held justiciable, they have interpreted it in innovative ways to bring it within the ambit of the fundamental rights and made it justiciable for the citizen to approach the courts and get relief. The courts upheld that the expression "life", assured in Article 21 of the Constitution, does not connote a mere existence of continued burgeoning through life. It has a much wider meaning, which includes the right to livelihood, a better standard of living, and hygienic conditions in the workplace and leisure.

I quoted you pieces from the constitutional cases to address this particular observation and one of the cases the court observed is that the right to livelihood is treated as part of the constitutional right to life. The easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude life of its effective content of meaningfulness, it would also make life impossible to live, leaving aside what makes life liveable.

On the right to food products. The right to food is not assured as a fundamental right in the Constitution. However, it finds a place in the Directive Principles of State Policy and is mentioned in Article 41 and 47 of the Constitution. The significant decision of the Supreme Court of India, relating to the issue of the right to life and touching on the right to food, can be found in the 1989 decision of the Supreme Court in the *Civil Writ Petition No 1284 of 1985 Kishan Pattnayak and Others Vs. State of Orissa* combined with *Civil Writ Petition No 1081 of 1987 Indian Peoples Front through its chairman Nagbhusan Patnaik Vs State of Orissa and Others*.

I will give a brief on this public investigation. The state of Orissa in India has certain conflicts. It is in Eastern India. The tribal population in that area have very little access. They have community access to land, which has been all the time reserved by others coming to this area. This is a constantly contentious area and there have been allegations, in the year 1985, of starvation and deaths in the area, out of which this particular similar petition arose.

Now the Supreme Court of India directed the Government of Orissa to take various actions, to review the actions taken by the minor state for the purpose of alleviating the miseries and sorrows of the poor inhabitants of these districts. The Court directed the Government of Orissa to include eminent persons belonging to voluntary organisations as members of the Natural Calamities Committee of the District, which was constituted for overseeing the relief work, and to prevent starvation deaths. It enlarged the scope of functioning of the Committee: “the functioning of this Committee will not be confined only to the cases of starvation deaths, but it shall be responsible for looking after the welfare of the people of the Districts.” The case is significant for the reason that the Court urged the State to go beyond mere short-term alleviation of drought relief and to work conscious of “the continuing process of impoverishment that can occur as a consequence of low wages and low purchase prices of grain”.

In this situation, the National Human Rights Commission came on the scene in 1993. The National Human Rights Commission, constituted under the Protection of Human Rights Act, 1993, has contributed significantly to the enforcement of the right to food and food security as a human right.

In November 1996, a matter was raised before the commission by the then Minister of Agriculture of the Union Government, who referred to complaints or alleged complaints of starvation deaths and deaths due to diarrhoea in the districts of Kalahandi and Bolangir in the very same State of Orissa. The Commission directed its Secretary-General and the Director-General (Investigation) to visit the two districts and furnish a report of its findings to the Commission. The commission’s team covered in its report in January 1997 details of such issues as extent of crop damage, the availability of foodgrains and utilisation of grain from the Public Distribution System. Also the level of wage employment in the different affected families, the impact of relief measures such as emergency feeding and pensions to the elderly. The team in its report highlighted human suffering and destitution of alarming magnitude and recommended the immediate initiation of large scale relief measures in order to relieve the acute distress and suffering of the people.

After considering the report, the Commission decided there was a “need to lift the consideration of this matter out of the adversarial cul-de-sac in which it might otherwise be trapped and to transform it into a participative and constructive endeavour designed to develop the package of measures that, within a specified time-frame, would bring perceptible improvement to the lives of the afflicted population in the KBK districts.” The commission went beyond merely looking at it as a short-term barrier to a drought relief operation. In pursuit of this objective, the Commission held 11 hearings between September 1997 and January 1998. They examined all aspects of the matter, including, inter alia, economic theories relating to starvation and famine, the economic and social and environmental history of Orissa – and of the KBK districts in particular, over the past decades, the

codes and criteria governing the conduct and reaction of the State Governments and the Centre to the situations such as those obtaining in these districts and above all, practical measures that could be taken in the interim, and dovetailed into long-term plans to end the scourge of deprivation, malnutrition, and cyclical starvation in these districts.

The Commission in its order in this case further observed – “the Commission would like to record, even in its present Order, its indebtedness to the pathbreaking and authoritative work of Prof. Amartya Sen on the question of “Poverty and Famines” which has transformed our understanding of all those who must come to grips, whether on a theoretical or practical plane, with these grave problems. In particular, while considering the allegations of starvation in the KBK districts, the Commission had reason to recall Prof. Sen's rigorous thesis, now known as the “entitlement approach”, to better appreciate the situation under review. In that approach, Prof. Sen had focused on:

“... the ability of people to command food through the legal means available in society including the use of productive possibilities, trade opportunities, entitlements vis-à-vis the state and other methods of acquiring food” , and he had observed:

“Ownership of food is one of the most primitive property rights and in each society there are rules governing this right. The entitlement approach concentrates on each person's entitlements to commodity bundles including food, and views starvation as resulting from a failure to be entitled to a bundle with enough food.”

To finalise the story, the Commission then examined all the programmes, which the state and the central government were implementing in this area. That, at the delivery level, there should be a convergence of services, something that was understood and talked about, never came true and the commission realised this at a particular point and decided that it will tackle that particular issue. The commission came to the conclusion that there was “a clear need to set down in a non-contentious and constructive manner, a practical programme of interim measures, that would be clearly defined and agreed upon by all of the principal players – a programme that would be readily understood and transparent, and for the implementation of which accountability and regular monitoring would be the sine qua non.” The Commission further observed, “despite all of the existing efforts and plans, it remained uncertain as to whether the “bundle of commodities” including food, which Prof. Sen considered essential to ensuring that deaths did not occur as a result of starvation, was indeed available to all of the people of the ‘KBK districts’ especially the most vulnerable.”

As a result of these deliberations before the Commission, a Long-Term Action Plan (LTAP) was drawn up in a co-operative effort involving the State Government and the Central Government working together under the guidance and auspices of the Commission. The Commission also laid down a set of guidelines for the monitoring arrangements of the programme and appointed a Special Rapporteur to keep the Commission fully informed from time to time of developments in respect of these districts and to interact on its behalf, with all concerned authorities. Since making the order on 17 February 1998, the Commission has held regular sittings, almost one every month, to periodically oversee the progress of work, and has been reviewing and guiding the implementation of the LTAP.

Now one more action the commission has taken in regard to nutrition and with that I conclude this presentation. As I mentioned earlier, the Constitution of India in Article 47 lays down raising the level of nutrition and the standard of living and the improvement of public health as the primary duties of the state. The Commission was quite aware of the problems of iron-related deficiency, what we call in India the micro nutrient malnutrition, one vitamin and two minerals: vitamin A, iodine and iron. The problem of iodine was at least somewhat addressed by an investigation.

On the issue of iodine, the Commission had constituted a Core Group in October 1997 to chalk out a plan of action. The Department of Women and Child Development, the Department of Family Welfare of the Government of India, the Special Representative of UNICEF and a host of eminent academics and NGOs took part in the Core Group meeting. The Core Group recognised that the National Nutrition Policy Document listed iron deficiency anaemia as one of the three major nutritional disorders widely prevalent in the country, with roughly half of the pregnant mothers in the country having moderate or severe anaemia, resulting in low birth weight with almost 50% of babies born to these mothers suffering in the process. The overall instance of low birth weight in India is about 40%. More than half of it is due to severe maternal anaemia and 50% of the infant mortality and maternal mortality was also known to be directly or indirectly attributable to maternal anaemia. The Core Group decided to set up a working group which would develop a cost effective prototype model project and which will be based on effective co-ordination among various agencies concerned with the different components of the project working in the identified areas. The Group was also to identify areas where a pilot project would be taken up and also the machinery, which would be put in position for implementation and monitoring.

The Working Group's efforts resulted in the preparation of a pilot project (September 1998) for the development of a comprehensive model for controlling nutritional anaemia, which proposed the following broad components:

- Baseline survey;
- Dietary diversification;
- Horticultural interventions;
- Food supplements;
- Universal access to safe water supply and sanitation;
- Food fortification; and
- Nutritional Monitoring and surveillance.

With the efforts of the Chairperson of the National Human Rights Commission, two States, Andhra Pradesh and Mahya Pradesh, have agreed to initiate pilot projects in their respective states having the following components:

- Operational research on prevention and control of iron deficiency;
- Prevention of severe anaemia and its consequences in pregnant women; and
- Prevention of anaemia in pre-school children.

I would like to conclude that these "Fundamental Rights" and "Directive Principles" enunciated in the Constitution of India are equally important from the citizen's point of view. In fact, the common person would be looking to "Directive Principles" for the amelioration of his lot. Though "Directive Principles" are not enforceable in a court of law, they have been held to be "fundamental in the governance of the country." Over the years, the higher Courts have amplified and in many cases raised the "Directive Principles" to the status of "Fundamental Rights" and thus have paved the way for citizens to demand and realise their right to socio-economic justice.

Having come to the end, I have one small comment to make. There have been discussions this morning on the creation of legislation. Legislation is important and as my friend mentioned, it is great to have the plans but if you do not have an implementation mechanism, it is no good.

2.3. DISCUSSION SESSION FOLLOWING COUNTRY CASE STUDIES

Questions and comments from delegates

1) I wanted to particularly direct this question to our colleague from Brazil. In terms of social and economic rights, one of the priorities for social work is that we need budgets in the social statement in order to make them work. That is my experience from South Africa. We have been in a situation over the last two or three years where there have been very strong constraints on government spending and a lot of attention paid to the deficit and reducing the deficit rather than expanding social spending.

That has had an effect in that we are not able to see the social spending that we at the Black Sash would like. We have done so in the context informal structural adjustment programmes. We do not have a structural adjustment programme. We have, however, have had a very good relationship with the IMF and the World Bank, for many years. They do not see a need for us to do any kind of structural adjustment because we are doing it all by ourselves.

With the economic experience in Brazil, is there any other way of accessing money? Is there any other way these developing countries can think about how to expand social spending in the current monetary framework that we have instilled internationally?

2) I understand the issue of importance of mobilising society but what I want to know, who actually started this in Brazil. The way that I am looking at the moment, I am from the Eastern Cape Province in South Africa. I am coming from a rural area and what I noticed is that people do not demand anything because they do not know their rights. I would like to know who started this because I want to understand whose responsibility is it to make people aware of their own rights, what they need to demand from their own government?

3) You talk about the school-feeding programme that you have. I would like to know if you are feeding all the children in Brazil. If not, how are you targeting those that you are feeding? is the programme that is sustainable, can the government be able to sustain it for a long period? If not, what are you doing in changing this programme?

4) Listening to people this morning and this afternoon, I was very interested when Dr Jonsson made the comment that while we have a human rights perspective, people are generally afraid to come through and get involved in political issues.. Somehow, the comment made in the presentation from Brazil is that we really need to raise the profile of poor nutritional status and the lack of food security in this country. This has become a national issue that is regarded with as much importance as crime is at the moment. Somehow, this has to be something that is not a party political issue. It should be something that can mobilise people from all sectors of society and all political parties to see it as a very important issue that we need to mobilise around and I think that is what we can learn from what we heard about from Brazil.

5) I just want to give some information. One very important thing about the cuts in our budget, the point that was raised, is that because we have the food and nutrition policy formulated last year, it was a very participatory process. It is not a technical document but a political document. It was viewed with the whole society together, so a lot of things came out of it.

One of the things about the budget, because of the partnership that we have now with the civil society and the movements in Brazil, we have managed to get together a budget for nutrition. Thus,

we have lots of programmes but they are nutrition education programmes especially, which have a huge budget. We are now in a much stronger position to do advocacy because our policy is set within the framework of food as a human right.

6) You talked about, amongst the problems, not only access to nutrition but nutrition according to the habits of the people and if I understand, my interpretation would be that, when you talk about habits, you are referring to what you might call the issue of local taste. Finally, when you come to the whole issue of food and nutrition, which assumes a national character, the question would be how did you succeed in blending what you might call local or regional taste into one national food and nutrition issue? Therefore, in short, I do not know if I make any sense with those two questions. How did you come about with national nutrition, food nutrition, which would be tasty to all the people of Brazil?

7) There is point that you referred to, of Brazil having had units that were struggling for political power - I would not say units but groupings that were fighting for political rights and those that were fighting for civil rights and those that were fighting for food and nutrition. Amongst them, perhaps, fighting against iron deficiency. My question would be, how distinctly classified were these groups and how did they eventually come to form one social group that campaigned for nutrition? I would understand that the civil group is fighting for citizenship, and citizenship can at best be demonstrated by political power, that is the right to vote. How did these component that seem to be distinct from one another, eventually come together? You have proposed the kind of the force that fought for food nutrition for the entire Brazil.

8) I would like to address one question to the Indian representative and it concerns justiciability. In a very broad sense, you have justiciability in the sense that people can bring their complaints to your commission. If you are in India in your Human Rights Commission, you get hundreds of complaints by the day. The decisions of the Commission are recommendations, as you said, even though they are rarely contended. Is there a second avenue and you may have talked about it but I just missed it, of justiciability in a narrower sense, that you can go to court and say "my right to food or my friend's right to food was violated"? I am asking this question because in the discussions at the World Food Summit, the preparations leading up to the final Declaration, where they negotiated the right to food, there was great anxiety among many government delegations, especially in the developed countries. That is the right to food and making a commitment at the summit to it, could lead to justiciability, this was the last thing we wanted to see. So how is that in India?

9) I would like to pose a question to the delegate from India, please. I understand from what you said that many of the socio-economic rights are protected in the Indian Constitution by means of the Directive Principle but the courts have been fairly progressive in the way these rights have been interpreted and in giving further substance to them. Now one of the problems or one of the issues often raised against socio-economic rights is that we effectively have the courts pronouncing on issues that have huge budgetary implications, etc. In terms of these progressive judgements that have been handed down, they have obviously had certain huge budgetary implications and I would just like to know from you whether this has been an issue in the Indian context and if so, how has it been dealt with? Thanks.

Replies by presenters

Mr Flavio Valente:

These are very good questions, questions that we are trying to answer too. We have learnt one thing and very strongly, that resources are not the only thing. I really believe that resources have to be better utilised and they have been poorly utilised in our countries. I do not know how it is in South Africa but in our country for instance, there is one word of action. There is duplication of efforts, a lack of co-ordination at the local level, a lack of convergence of actions, a lack of identification of priorities by the community.

It is clear that these are some of the factors that lead to an enormous loss without talking about corruption. I am not even getting into that aspect. We can talk about the other things that have been extremely negative in terms of loss of resources. We have learnt, for instance, over the last four or five years, because of this movement, that Brazil has developed a very strong effort of focusing the actions on one-third of the poorest municipalities. There are 1300 municipalities. In those municipalities the role of the government was to inform the local politicians, the local public officers of the existence of programmes, federal programmes that they were eligible for, that they did not even know about. In light of the lack of information, lack of capacity in the public offices, local public offices, there was a lot of decentralisation but the decentralisation was basically on responsibilities. They were not informed that they had rights. It is not only the people who would not know of the rights but many of the local politicians do not even know what the rights of their municipalities are in terms of the federal government structure. Thus, some of the discussions that were made in the movement over the last five to ten years were around these issues.

What are the programmes that we can do and how to integrate them at the local level in such a way as not to waste money, not to waste resources, and to strengthen each other's actions? Like the infant mortality programme, the programme against malnutrition is different. The other one deals with sewerage for instance, treatments and so forth. There are at least 12 or 16 programmes, 17 programmes like agricultural development, integrated agricultural development, generation of income programmes, all of those have money from the municipalities, from the central budget but the people did not know about it.

Once those programmes were combined at the local level and focussed, there was a significant improvement in social indicators, sometimes, without any extra expenditure. At the same time, there was an increased capacity of the people at the local level to understand what was going on and they were more able to take on the tasks themselves.

However, what we are talking about here is not the general thing. I would not generalise that, because governments usually like to have results in four years and that is something, which is impossible to have when you talk about socio-economic rights. If you start a programme, a development programme, integrated development, what does it mean, if you do not have, in the short-term period, a lot of money, a lot of results in terms of improvement of poverty or something like that. We in the civil society may be able to eradicate hunger or malnutrition in a short period of time immediately, in ten years, but for poverty, it is almost impossible to do that in a short period. You have a generation to overcome with education and facilities and everything and that does not mean we do not have to act today.

Thus, I would say that, certainly we have been able to get extra funding from partnerships, concrete partnerships with local market industries. There is a social agenda, and people are getting scared too. It is not only goodwill they are scared of, nor solidarity. They are afraid. The situation is getting

worse and worse. The crime rate is going up. They want to help too, but they also want to help in part because of solidarity, in part, because they are afraid. This is happening in many places, and a lot of money is coming into very good social programmes sometimes from the private sector. Then they take the partnership between government and society. At the local level, there is an increase in the quality of the intervention. I do not say that there is a model here but I think it is improving.

In relation to the cuts, certainly we have an enormous problem. We are also facing the same problem that you are facing here. We have been having since 1992, all kinds of structural adjustment programmes without name. We do not necessarily have that name but we have had all of it. The latest one was the devaluation of the Brazilian monetary currency. That is certainly causing enormous problems. We were discussing with the government what is the impact of those actions in terms of income. How much do you spend in the social sector? How much do you have to spend because you did all those policies at the same time and what is the main cost benefit of those measures?

I really do not have the answers. I think the problem is that we need to include that as a main policy framework in the discussions of congress. If you do not have social organisation for that, it is impossible.

To finalise, in terms of the school-feeding programme, school feeding is a constitutional right of every child that is in the public system in the country. It is a constitutional right. It is not understood that government has to give food assistance because this is a right to the child that is in school. They have the right to be fed at school and it is a public commitment of the society as a whole. However, in some places it is not understood as such. This is becoming more and more and it is a programme that is not to be stopped. It is not intended to be stopped in the future. About 30% of children who go to school in Brazil only eat the meal they have at schools. Therefore, that becomes an enormous problem for the families who want a school-feeding programme and then it is not there. It is not a solution. It is not what we are saying. But it certainly is one of the reasons why they go to schools and they do not stay in the streets because they have food there and the family sends them because they have a school-feeding programme.

In terms of who mobilises, I think it is the civil society, the unions, and civil society organisations and all who have mobilised. There are some people within the government that helped, like the Human Rights Commission in Brazil. It has a very strong link with civil society. Other sectors had a link with society. They helped with the mobilisation and in the dissemination of information. Although we are aware of the reality, it is civil society in partnership with some governments that provides information on the rights of people. I would say that right now.

The question of plurality of food habits is very clear to the movement in Brazil. We had very bad experiences with food coming from outside especially during the centralised experiences with school feeding programmes when children would throw away food because they would be eating soybeans transformed into all kind of different things. You know they hated it, they just did not eat it. Basically, we were feeding the pockets of the people who sold the food and not really feeding the people.

It was very clear to us too that when we talk about food, we are not talking about a ration, or a combination of nutrients, but we are talking about a social habit. Nutrition is a social action. People eat together as friends, and so, there is a psychological and cultural background behind the food. People should have the right to decide what they want to eat. They need information so that they can have the right to decide. Even if they are poor or rich, they have the right to eat according to their habits.

In choosing if they want to eat this way or that way, that is defined as the freedom of choice part of the indivisibility of rights. So I think this is very important for us. For instance, in Brazil we did the decentralisation of the school-feeding programme. Every single school now has the right to choose their own menus. The schools buy the food at the local markets or at the municipal level in the way they choose. Sometimes, the parents contribute to the food that is distributed in school, bringing in other different elements of the diet. Hence, that brought a really high quality food to the kids in school. We now have 5 200 municipalities and they all buy the food at the local level.

Concerning the different social groups, I tried to show you that there were two different political movements. One was a political movement leading to political amnesty, civil participation, the right to vote, and the right to elect. That was a very strong movement in Brazil. It was linked to the political parties, the unions and to the movements. The part of the social struggle, for example for wages, for land, was not seen as human rights. The struggle was there, but people did not fight for their rights because they did not know that they had them.

In 1993, we started systems of action when we fought for citizenship. We began to understand citizenship not only as the right to vote but also as the right to live, the right to eat, and the right to everything. We simply brought human rights in the movement and it became clear that the two things are inseparable. It also became clear as a human right only when things started to be discussed in 1996. Our national programme by then had excluded almost entirely the economic, cultural and social rights because people who were fighting for civil and political rights were ignorant of the indivisibility of these rights. Nevertheless, now we are mixing the two together. I think we have a possibility of bringing the two movements and they are incorporating the economic rights from their part as much as we are incorporating the human rights concept into our movement. Therefore, the two things are a blend although they continue to have a dynamic of their own.

I would also like to give a brief answer to the question on justiciability. For example, in Brazil, last year we had a very severe drought that affected close to ten million Brazilians and after almost 15-30 days the food stock had ended and the people had eaten their seeds and everything. Looting started in the region, especially of the official programme food stocks. There is a food programme, which distributes food baskets to the poor. The problem is with the drought, the poor doubled in the region.

Then there was a big discussion by the lawyers and the judges of the country, about the legality of looting because the right to be free from hunger is one of the human rights but was it illegal for them to rob or to loot food stocks? That thing went on and on and on and finally, they came to the decision that it was not illegal. It was not illegal; it was justifiable and so the government distributed 1 300 000 food baskets from thereon. In reality, they never said that they did it because of that but the government accused people, the church, and the social movements in the region of stimulating looting. When they heard that it was legal within the judicial system, they stopped and started distributing food. Therefore, I think this is an example that it can be done.

Mr Nelson Gopaldaswami:

I want to comment on my experience on the issue of tasty foods. The school-feeding programme in India is not a constitutional right but many states have this particular programme. Three years ago, the central government agreed that it would fund to a particular extent the feeding programmes, which the states might start. However, the states did not have such programmes. Of course, I am talking about the state from which I come. We started the school-feeding programme in the year 1980.

As you know, civil service always looks for very easy solutions. Thus, the civil service proposed food should be manufactured from a couple of centres. It took the conviction of a political leader with his ears to the ground to say none of it will do. He ordered that rice and wheat be supplied to 18000 villages and 20 000 schools locally. The vegetables, and all other things will be procured, used and bought locally. A part-time cook would be appointed. That was a political party decision; so one person from each village could be employed. He had the right approach and as part of his locality, he will know what kind of food is liked. You may talk about the need to eat manufactured food in the state, but what the children in the village want is something which they are normally accustomed to.

As far as the right to food is concerned today, it is not part of the fundamental rights as laid down in the Indian Constitution. Therefore, from that narrow perspective it is not justiciable. There has been recent activism in India since 1980s and many of the "Directive Principles" of state policy now held justiciable, have been by innovative judgements. By expanding the scope of judicial activism, the judiciary has at many points in time decided in favour of the citizen to make socio-economic rights justifiable. I will give one example.

The Indian Constitution talks about the right to education, as part of the Directive Principles of state policy, that the state shall provide education to its children. This, however, is not part of the fundamental rights. The Constitution had laid down a certain period of twenty years in which primary education should be obtained. In 1990, when some interested people went to the court and said that more than 40 years has passed, and primary education has not been achieved, the court interpreted that in such a way that 20 years was the mandate. It has been 20 years, and now it is part of the fundamental rights of the citizen. One aspect of my answer is that the reason activism is bound to be in India is to provide the citizen the opportunity to expand the horizon of citizens rights. That is one part.

As far as the Human Rights Commission is concerned, the part, which I did not say and must now say, is that all the decisions made by the Humans Rights Commission are recommendations, but as I said, they tend to be taken into account. There is also a provision in the Human Rights Act, which provides us with the facility to take this right or to take any particular law not implemented to the High Court or the Supreme Court and to seek intervention. This helped in making those recommendations implemented in a particular way and within a specific period. In fact, in this particular case I said in one exception that the matter was not implemented. The complainant went to the local High Court and said they will not have anything to do with this particular policy and the court said you will implement it. You will pay 18% per annum as the interest and five times that, as costs to the national function.

I wanted to supplement one of the answers about how the Courts actually made judgement in socio-economic rights related cases. Having served for two and a half years in the Indian Land Commission, I can tell you that it is very difficult. It is misused, misapplied, on the radio and on television. There is a lack of convergence. Every department is becoming a compartment like

system which acts directly right down to the village level, but I have seen some changes in the education sector. I have had many cases in which the money could be utilised by a few innovative people from one programme to the other programmes, which should not be much. Every time the elections approach, then the politicians are politicians. We need to get programmes started, which may not be much, but if the citizens are a little more innovative, then the annual allowance for next year will come through and has to be provided. There is a lot of public demand for that, and the demand has to come from the civil society. I am very happy to tell you that in the last two to three years, this has been a co-operative effort on the part of India's political parties. Trying to provide more and more into the social sectors caused a competitive fight in that every party blamed other parties for not providing enough and vice versa.

Now about the issue of making pronouncements that have political implications. I can recall two instances in which it had very "severe" implications. One was the decision on treating education, access to family education as a fundamental right. Various bodies said that this would cost many thousands of million Rupees. The solutions found are that the projects not really worth taking up are being cut. For instance the education sector in India. Today, people are provided with higher levels of education that is college, engineering and medical education. Now the state has realised that it is necessary to step back from such provisions. Then the state diverted money more towards the primary and secondary education.

The second case deals with the environmental concerns, which were taken before the Supreme Court. Concerning the Taj Mahal, some interested persons went to the court and said that there are industries in and around the residential areas, and therefore it was a health risk and it is likely to cost forever to clean up. Therefore, the court handed down a verdict, which was 6000 rupees. But the money has been found. The court said that there was no lack of money, but lack of capability, lack of proper accounting, accountability and the mechanism to oversee the implementation.

3rd SESSION, 26 MARCH 1999

3.1. SOUTH AFRICAN SITUATION ANALYSIS

3.1.1. *South African Government: Department of Health – Ms Cynthia Mjijima*

Ladies and Gentlemen, good morning. I am charged with giving an overview on the nutritional situation in South Africa, particularly what the Department of Health does in this regard.

I would just like to define what food security is so that we all have the same understanding. Food security is defined as “access by all people at all times to adequate safe and nutritious food for a healthy and productive life.”

I would then just map out the nutritional situation as far as South Africa is concerned. The South African reality is that approximately 14 million South Africans are vulnerable to food insecurity. Among these, women, children and the elderly are particularly vulnerable. Among the ultra poor (the poorest 20% of households) the rate is 38%, whereas it is only 6% among the rich.

One in four children under the age of six years (some 1.5 million) are stunted due to chronic malnutrition. This means they have a low weight for their age, and deficiencies in micronutrients such as vitamin A, iron and iodine are also widespread and have negative consequences for children's growth and development. Anaemia and marginal vitamin A status affects between 20% and 30% of young children. Children in rural areas and those of mothers with limited education are worst off.

Food insecurity and malnutrition are highest in provinces with large rural populations. The highest stunting rates occur in the Northern Province (34.2%), Eastern Cape (28.8%) and the Free State (28.7%). In contrast, Western Cape (11.7%) and Gauteng (11.5%) exhibit low stunting rates by international standards. While the provinces of the Eastern Cape, KwaZulu Natal and Northern Province house 52% of the country's children, an estimated 60% of all stunted children and two-thirds of poor people live in these provinces.

Food insecurity is highest among the African population but also affects many coloured households. Urban and rural households adopt diverse livelihood strategies to maintain food security, including food production, local employment, migrant labour and reliance on social security benefits and local support systems.

Many deficit producers in the former homelands are net consumers of food and are particularly vulnerable to food insecurity. Urban households exposed to low and unsustainable incomes are equally vulnerable.

Rapid changes and macro-economic, trade and agricultural production policies to promote growth with equity may have a negative impact over the short to medium-term on availability and access to food, in particular regions and for particular groups.

Inappropriate management of droughts and other disasters has exacerbated food insecurity. The South African food security situation is closely correlated with and linked to the Southern African

region. In this regard, this is where South Africa has pledged to try, alleviate, and address the question of malnutrition in South Africa.

South Africa is a signatory of the Convention on the Rights of the Child. Of particular concern to the Ministry of Health and the Department of Health is article 24, which states that:

"States parties recognise the right of the child to the enjoyment of the highest attainable standard of health ... shall take appropriate measures to combat disease and malnutrition..."

What it further states, are the things you could please kindly find by referring to the documents that were distributed to you yesterday.

The South African Constitution also states that:

"Everyone has the right to have access to ... sufficient food and water. Every child has the right to basic nutrition, shelter, basic health care services and social services."

This is in line with the Convention on the Rights of the Child. In turn, the Department of Health's White Paper states that:

"Nutrition is a basic human right and a prerequisite for the attainment of a person's physical and intellectual potential. Nutrition is an outcome of developmental processes in society and not simply a service to be delivered. Improving nutrition is thus an ethical imperative and a sound economic investment which is politically rewarding."

The Department of Health further goes on to commit itself to:

"Taking the lead in advocating optimal nutrition. It is also committed to developing and implementing an integrated nutrition strategy based on human rights which is developmental in orientation, monitored for impact, sustainable, environmentally sound, people and community driven effect, and which targets most vulnerable groups, especially women and children."

Having said that, what then does the Department of Health do in this regard? It has been pointed out that the nutrition situation in South Africa affects a wide spectrum of the population but the Department of Health's thrust is to address malnutrition, particularly in women and children. I am going to particularly highlight the work that is done by the nutrition directorate.

We have what is called the Integrated Nutrition Programme (INP). I have distributed a small newsletter to that effect. The Integrated Nutrition Programme is based on the recommendation of the Nutritional Committee appointed in August 1994 by the Minister of Health to develop a nutrition strategy for South Africa. In considering the multi-sectoral and complex causes of malnutrition, the Committee recommended an integrated strategy to replace the fragmented and mostly food-based approaches of the past.

The INP targets nutritionally vulnerable groups and communities. It promotes and provides appropriate nutrition education to all South Africans. The INP is an integrated programme, which embraces the participation of all levels of society from community level through to the national level and the decentralised system of governance. It is a service delivery organised around target groups and different forms of delivery which include health facilities, community structures, nutrition rehabilitation centres, care institutions, places of safety and schools. It also utilises the AAA cycle, in particularly implementing the community based programmes which pertains to

assessing the situation first and then analysing the contents of malnutrition, and acting on the bases of this information. The integrated nutrition programme is executed at these different levels of government within the South African structure.

To continue, the INP uses crosscutting strategies, which include nutrition promotion, policy development, advocacy and education. In addition, monitoring, evaluation research, information and reporting, form the basis of expansion of the community-based programmes. These are the key activities of the INP.

The primary school nutrition programme is an intervention which was first implemented on 1 September 1994, following the President's announcement in the State of the Nation's address on 24 May 1994, which stated that: "A nutritional feeding programme will be implemented in every primary school where a need has been identified." The programme entails the provision of a mid morning snack which ideally is supposed to provide a third of the energy requirement of the dietary allowance. In December 1998 this intervention had reached 15 207 schools, and 4 538 495 primary school children.

At its inception, the programme was predominantly a vertical feeding intervention. It has been transformed in some areas:

- To become a component of the INP;
- To be used as a springboard for the development of community based programmes, by using school committees as entry points;
- To introduce nutrition education in schools; and
- To also alleviate parasites in areas where this manifestation is most prevalent.

Here are some of the milestones to date that the INP has been able to achieve:

1. Broad guidelines for the implementation of the INP including financial arrangements have been implemented. I might say that one of the problematic areas within the INP is ensuring that financial management is adhered to and therefore it is a big problem as far as the feeding programmes are concerned.
2. Since 1994, a concept of business planning was introduced and provincial personnel trained in its use and it has become a requirement at all levels of the INP. This is yet another way of measuring and of making sure that people applying for the INP funds adhere to the specifications and criteria as a way of also managing the financial part of that programme.
3. A nutrition education package for the primary school programme has been developed and piloted in 40 primary schools in the Eastern Cape and the Free State. The project was evaluated and was found to have increased knowledge levels, attitudes and perceptions with regard to nutrition.
4. A parasite control pilot project is being undertaken in KwaZulu Natal and Mpumalanga, which are the two provinces that have parasitic infestations, which are mostly prevalent in certain pockets of these provinces. In this regard, baseline data have been collected and findings have been finalised. Promotional awareness materials have been produced and widely distributed. Other media such as the radio have been utilised for promotional purposes as well.

One other prevalent problem as far as malnutrition is concerned, which is often termed 'the hidden hunger', is malnutrition which is due to micro nutrient deficiency. In this regard, South Africa has targeted three nutrients in particular and these are vitamin A, iodine and iron. With regard to iodine, during 1995 salt iodation was legislated. In 1998, a survey was conducted to assess the magnitude and extent of salt iodation in the country because what actually happened was that salt iodation legislation was promulgated without knowing the extent of the problem in the country. So, in 1998,

a study was conducted and finalised in order to try and address this shortcoming, and also to determine the extent of the use of iodated salt. There are collaborations within the region, the SADC countries. In fact, a workshop was conducted for the region because our salt is exported to a wide range of the region of SADC. Therefore, there are collaborations in this regard as far as salt iodation is concerned.

To address vitamin A deficiency, we have used multi pronged strategies for this regard. Food fortification, supplementation and the promotion of food diversification are some of the strategies that are being used. We have produced a brochure on Vitamin A, which has been widely distributed to health workers. The production and consumption of Vitamin A rich foods is being promoted. A food consumption survey is currently ongoing. This food consumption survey is supposed to facilitate and accelerate fortification with vitamin A and probably with iron. (The survey is designed to provide the following valuable information the survey is firstly conducted between children aged one to nine years)

- Usual food consumption patterns amongst this age group;
- The usual nutrient intake of these children;
- The main factors that impact on food consumption;
- Anthropometric status of these children;
- An appropriate food vehicle for fortification; and
- Development of appropriate messages for nutrition education.

It is important for us to actually go through this. There has been a lot of criticism as to why we have to go through this long route in order to identify a suitable food vehicle to be fortified in South Africa, as it is widely known that maize is eaten by most of the population. However, we felt it was quite pertinent that we do that because our main thrust is also to find out what the young children are eating because this is where the highest malnutrition occurs.

The other criticism that South Africa has also had to live with is the fact that it has been very slow in supplementing vitamin A. In this regard I am not going to dwell on this but it is under consideration for the near future, that supplementation of vitamin A will become part of the overall programme.

In the area of infant and young child feeding, the promotion of infant and young child feeding is also of high priority, with a view to establish Baby-Friendly Hospital Initiatives. In the years 1996 and 1997, 206 health workers were trained in lactation management in order to facilitate and accelerate the implementation of the Baby Friendly Hospital initiative. The Road to Health card is used for monitoring the physical growth and development of children under five. Nutrition rehabilitation is provided through the protein and energy malnutrition scheme for those children who have been assessed as growing inadequately.

Added to this, we also have community-based programmes which are initiated by communities. In the last two years, the Department of Health was allocated R15 million to this regard and we were only able to have 72 community-based programmes. In 1998/99, we were allocated R28 million and thus far, 24 projects have been approved for implementation.

In view of the fact that the causes of malnutrition are multifaceted and therefore cannot be solved by an individual department or strategy, the directorate participates in several inter-departmental working groups to address nutrition relevant issues. We have close collaboration with the following departments: Education, Agriculture and Welfare, and we made an input to the National Plan of Action for Children. We also collaborate with NGOs and CBOs. We have a lot of support

particularly technical support from international agencies such as UNICEF. We also get support from USAID, WHO, FAO and the Macronutrient Initiative most recently.

To conclude: What are some of the challenges? Our biggest challenges are as follows. As I already mentioned yesterday to Dr Jonsson, our biggest challenge in South Africa is also the emergence of breastfeeding and the HIV element, particularly concerning mother-to-child transmission. The Department of Health's stand thus far is that once a woman's HIV status has been declared, that woman should be given all the information pertaining to infant and young child feeding, in particular the breastfeeding issues. Then the woman would make the final decision whether to breastfeed or not and if the woman decides not to breastfeed, she is the one who will provide alternative feeds herself.

At this point in time, the Department of Health is not taking the responsibility to provide alternative feeds. This is partly driven by the fact that mother to child transmission has to be looked at and treated in a package. That is, if you provide AZT then you also have to address the question of alternative feeds but you cannot address one without the other. Of course, our thrust in this regard on HIV and AIDS is on the preventative aspect. The Maternal, Child and the HIV/AIDS Directorates have drawn up very comprehensive strategies, which are supposed to address the preventative aspect of HIV and AIDS.

The other challenge we are faced with within the Directorate on Nutrition is the effective financial management of the school nutrition and the Protein and Energy Malnutrition Scheme intervention as well as community-based projects.

The other challenge is the facilitation and speedy implementation of the poverty alleviation projects because these also have to be scrutinised so that we reduce the probability of the finances going missing in time to come. We also, within the community based programmes, need to ensure and explore innovative ways of making sure that the projects that have been implemented and started up are sustainable. Lastly, as far as the budgetary cuts in the provinces are concerned we are faced with the challenge whereby we need to obtain funds for training health workers within the provinces for an effective implementation of the INP.

3.1.2. South African Government: Department of Agriculture – Ms Mongi Ramabenyane

Thank you, Mr Chairman, ladies and gentlemen. I am standing in for the person who was supposed to deliver the speech on behalf of the Minister. I will be doing that, and at the end add some flavour to it by giving you some of the food security programmes that we are working on.

The quest for food security, avoidance of hunger and famine is as old as civil society itself. Adequate nutrition and food security are important outcomes of development. Conversely, they are vital contributors to the development process.

In 1996, our government signed and committed itself to the World Food Summit Declaration. In particular, we welcomed the commitment to regard access to adequate food as a right, as we have already enshrined it in our new Constitution. We fully endorse the obligation put upon national governments to implement a plan of action to give effect to the Declaration of Intent to eradicate world hunger.

Furthermore, we strongly support the consensus on food security reached by governments and NGOs in Rome that very year. It was stated that food insecurity is primarily a consequence of prevailing poverty and distributional inequalities and that the root cause of such insecurity and vulnerability must be addressed, alongside the technical challenges of producing more food.

Our plans to achieve food security are encapsulated in our broad economic policy growth strategies. My ministry, as the ministry which is responsible for agriculture and land affairs, has specific responsibility for national food security and is in the process of finalising an agricultural policy, which provides a framework within which food insecurity is to be tackled.

Our first step in defining policy was to understand the concept of food security. We defined this as “access to adequate, safe and nutritious food at all times, not just for survival but for active participation in society.” South Africa has emerged from past patterns of injustice, which created conditions that robbed us of the ability to attain food security as we defined it. The majority of our population is food insecure and these are often the poor in rural and urban areas who cannot grow or buy enough to meet food security requirements as defined.

We have begun our task by identifying much more precisely where poverty and food insecurity exists within South Africa, and which groups of the population are most vulnerable. Current figures suggest that South Africa, as a country, is self-sufficient in food. However, national food security, which resulted in relative wealth, still leaves most South African households food insecure. Continued poverty manifested in food insecurity, ill health and arduous work for low returns affects a large percentage of our population. I'm not going to get into the statistics because the previous speaker has actually explained the extent of malnutrition and some of the statistics on food insecurity.

Though necessary, national food security is not a sufficient condition if you are seeking to fulfil individual rights to food security. However, I will add to a description of food insecurity as alluded to by the previous speaker, by adding that the critical dimension of poverty makes agricultural policy central to strategies for food security. In line with food and poverty distribution by provinces, 72% of people in the poorest of poor provinces live in rural areas and about 70% of rural people are poor. This is despite the fact that national urban/rural population distribution is almost equal at 51% urban to 49% rural. Rural poverty is exacerbated by the disproportionate lack of access to services.

The rural concentration of poverty should however not detract attention from urban poverty. According to the preliminary results of the 1996 census, more than half, that is 55,4%, of the estimated population now live in urban areas. Therefore urban poverty and food insecurity require serious consideration.

Clearly, South Africa, like many countries, demonstrates an inability to satisfy essential needs for a large segment of its population. This inability stems from many sources but mostly from poverty and hunger shaped by the impact of apartheid. One aspect of this system was a process of active disposition of assets, such as land and livestock for the black majority, while opportunities to develop, such as access to markets, infrastructure and new development, were denied them. Until recently, agricultural policies pursued self-sufficiency goals and thus protected domestic commercial farm production, often at the cost of consumers and resulting in a total welfare loss to the country as a whole.

Self-sufficiency policies achieved national food security. This ensured domestic food availability based on the assessed food requirements for the population. However, self-sufficiency is not the only way of ensuring food availability and therefore achieving national food security. Food availability depends on the performance of the agricultural sector, which affects domestic food production and the ability to import. As evidenced in South Africa, a policy of self-sufficiency can be detrimental to individual access to food security. It is achieved through high price incentives and input subsidies to agricultural producers, shielding behind protective import barriers. It also results in the creation of fewer than potential employment opportunities on farms.

Though necessary, national food security is not a sufficient condition if we are seeking to fulfil individual rights to food security. The fact that in South Africa we have hunger and vulnerability to food insecurity, existing in close proximity to well stocked granaries, demonstrates that our problem is not that of food supply (national food security) but of access and entitlement.

We are therefore paying much attention to policy measures, which influence the level and reliability of income among poorer households. South Africa is unusual in that, among rural households, income for agricultural production and labour is often lower than income from remittances and social welfare payments and pensions. Raising income from agriculture is therefore a high priority for the Ministry of Agriculture so that we can fully support other ministries in working towards adequate, safe and nutritious food, accessible and affordable to all.

We are therefore pursuing our food security objective in an environment of major policy reforms in the agricultural sector. Our policy objective has shifted away from self-sufficiency. We have reduced the focus on national food security and our main objective now is household food security.

We are convinced that by having a policy and a government that improves household food security, we will contribute substantially to individual food security although we do understand the intra-household power and resource allocation issues that may affect individual access to food. As I mentioned, food insecurity at household level is largely a result of a lack of food entitlement. Individual access to food centres on 3 entitlement domains, which are production, exchange and transfer. By focusing on these three domains, policy can impact on household food security.

For many poor households, the problem of access to food can be tackled through production, as this is a route to entitlement either directly as food producers or indirectly as increased production drives down market prices for food. Our agricultural policy thus has, as one of its main objectives, the improvement of household security through expanded production and a more equitable distribution of productive resources. Our agricultural policy reform intended to *inter alia* support

the emergence of a diversified production structure with a large increase in the numbers of successful smallholder farming enterprises.

We believe that the acceleration of official smallholder growth will not only address the problem of hunger but will also be part of the engine that will generate rural growth linkages for overall economic growth. The challenge for us is to provide appropriate services and support to an emerging sector which until now produced an average of only 7% of the marketed agricultural output. To this end, we have deregulated domestic agriculture to remove deliberate policies that engendered distortions and interfered with people's right to provide food for them.

Our land reform policy is also playing a major role, as it is the primary vehicle for reallocating productive resources. This will be supported by improved access to water, markets, credit extension and research.

Of course, production is not always a route to access to food. During apartheid, farm workers and their families were among the most food insecure households with high levels of child malnutrition. They were, and still are, the producers of the foods that make us self-sufficient, yet they do not have command over that food. In addition, because of the skewed distribution of resources in our country, the majority of the food insecure in both rural and urban areas do not have productive resources from which they can produce their own food. They can only have command over food through exchange. Our official policy reform intends to improve household access to food through exchange in a number of ways.

It recognises the importance of incomes to food security. One of our goals, therefore, is to create a policy environment that maximises job creation in the sector. The deregulation of domestic markets has as its main goal, the improvement of efficiency in the agricultural systems, from production, to storage, to processing and distribution. This will not only make food affordable but it will also maximise agriculture's direct contribution to employment and through linkages in the value-adding manufacturing sector. Access to income through jobs is fundamental to command over food for most vulnerable households. From the growth point of view, we are already seeing evidence in the agricultural sector of the success of our policies of removing market distortions and stimulating competitiveness.

Congruent to domestic deregulation, our agricultural trade policy has gone through a fundamental change. This change has enabled us not only to meet our obligations under the WTO but also allowing us to use trade policy as a tool for attaining food security for all South Africans. By exposing our producers to international competition, we are encouraging them to use our resources efficiently and produce those commodities for which we have comparative advantage. For those commodities for which we do not have comparative advantage (i.e. domestic prices may be above world market prices) we are able to import. Thus, the efficiency of our production systems and ability to import where we are not competitive will reduce the upward pressure on the general level of food prices in our society.

Our agricultural trade policy will take a strong stance against export subsidies, particularly by the EU and other majors. For this reason we have joined the Cairns group to add our voice to the campaign against such subsidies. We believe these subsidies are not only a threat to household food security in South Africa but also for food security internationally, including the food importing countries.

We believe that while low food prices through subsidies offer short-term relief for food deficit countries, they will also represent potentially serious disincentive to the development of their

agricultural sectors. For example, artificially depressed prices in the world market leads to low domestic prices for food crops. The long-term effect is a perpetuation of the food deficit and increased reliance on imported food and food aid. Such a situation will lead to increased poverty, unemployment and food insecurity.

Where both production and exchange fail to offer an access route to food, transfers have to play a role. Although this takes place within the context of Welfare and Public Works policies, we in Agriculture are playing our role through a Land Care Programme which provide grants to identified vulnerable groups as an incentive for sustainable self reliance and increased production and incomes for better management of local natural resources. The Land Care Programme ensures that government fulfils its obligation to protect the environment.

In conclusion, in our endeavours to reconstruct and develop our nation, we see food security for all South Africans as our primary objective and will work towards ensuring that it is a fulfilled right. We see it as a basis for human development aimed at eradicating malnutrition and its effect on our people's physical and mental development as well as creating conditions for increased productivity, active participation in government and economic growth. Thank you.

3.1.3. South African Government: Department of Welfare – Prof. Edith Vries

Thank you for the opportunity to address this Conference and add the voice of the Department of Welfare to this debate on "*Food Security and Nutrition as Human Rights*" The Department participated in the first conference of the South African Human Rights Commission in 1997. We believe that it is appropriate for Welfare, at this occasion, to account for its progress and the challenges ahead in "respecting, protecting, facilitating and fulfilling human rights relevant to food security and nutrition."

Chairperson, I would like to add to your reflections on yesterday's programme by linking my presentation to some of the proceedings of the day before. We were reminded yesterday that the right to freedom from hunger is a fundamental human right, and someone has the duty to ensure the attainment of this right. If my assumptions are correct, following the round of introductions yesterday, then the Conference participants represent organisations that are duty bearers to ensuring that the right to food security is indeed enjoyed by all. We were reminded of the interdependence of civil, political, economic, social and cultural rights and of the indivisibility of human rights.

The colleagues from Brazil shared with us their complex and difficult journey towards incorporating human rights into the conceptualisation of food and nutritional security. I am sure that in South Africa we will be able to echo that sentiment. For example, a colleague from the South African Human Rights Commission mentioned that they still encounter government departments who have difficulty in integrating Constitutional obligations with regard to human rights into their policies and programmes. Even more alarming is the incidence of officials, in senior and key posts, which remain blissfully unaware of these obligations and moral imperatives. We were also reminded of the need for integration of services and for overcoming the pervasive fragmentation.

Our colleagues from Brazil and India told us that it might not be necessary to find new money to provide food and nutritional security. Their experiences suggests that the leakages, wastage, duplication, and ineffective targeting in existing programmes are a major problem and the reversal of such practices could release the resources necessary for the realisation of food security for all, at all times.

Chairperson, yesterday we were also provided with a framework for conceptualising food security. Although it was stated that food security had many different meanings, there appeared to be consensus around the definition articulated by Dr. Eide. Judging from the subsequent inputs and the debate, it was accepted by this conference and I have also embraced the framework provided for addressing "*Food and Nutritional Security as Human Rights*", in my input.

In my address, I will tackle the following:

- Traditional welfare delivery;
- Current welfare policies;
- Legislative reforms;
- Welfare strategies and programmes; and
- Challenges

- ***Traditional welfare delivery***

Chairperson, this was struck by the remarks made by the colleague from UNICEF. He contrasted the needs-based approach with the rights-based approach. He added that charity and benevolence characterised the needs-based approach to human rights, whereas it was regarded as totally obscene in a rights approach.

Welfare has its roots in such a charitable approach to perceived needs. As a result, welfare evolved largely as an contextual and patronising service. In South Africa, a residual model of welfare was institutionalised. This model assumed that the individual and the family were responsible for its own welfare. If, however, the family and the economy failed the individual, the state would compensate and care for the individual temporarily, until the status quo could be restored. Although this was the model, apartheid policies determined how that state assistance was rendered and to whom. For example, we all know that in Apartheid South Africa, a minority was regarded as citizens and the majority was not. Hence, welfare assistance was selectively provided.

No wonder, as Dr Aide reminded us yesterday, South Africa was one of the eight countries, which did not support the adoption of the Universal Declaration of Human Rights in 1948. It was also the only government whose abstention was due, in part, to its objection to the inclusion of economic and social rights in the Declaration. The decades of consistent violation of socio-economic and other human rights which followed, had a profoundly unjust and inequitable welfare service provision as a consequence and welfare was firmly entrenched in the needs approach with very little regard for issues of social justice.

- ***Current welfare policies***

The obligations and responsibilities of the Department of Welfare are contained in the Bill of Rights, Chapter 2 of the Constitution and in the White Paper for Social Welfare.

27. (1) *Everyone has the right to have access to -*
- (a) *health care services, including reproductive health care;*
 - (b) *sufficient food and water;*
 - (c) *social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.*
- (2) *The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.*
28. (1) *every child has the right -*
- (b) *to family care or parental care, or to appropriate alternative care when removed from the family environment;*
 - (c) *to basic nutrition, shelter, basic health care services and social services,*
 - (d) *to be protected from maltreatment, neglect, abuse or degradation;*

Section 7 further provides that "*the state must respect, protect, promote and fulfil the rights in the Bill of Rights.* "

The White Paper for Social Welfare proposes a dramatic paradigm shift from the entrenched model of residual welfare to developmental social welfare. I understand developmental social welfare to be a shift from a needs approach, to one which is located in social justice, equity and empowerment.

Vision

A welfare system, which facilitates the development of human capacity and self-reliance, within a caring and enabling socio-economic environment.

Mission

To serve and build a self-reliant nation in partnership with all stakeholders through an integrated social welfare system which maximises its existing potential, and which is equitable, sustainable, accessible, people-centred and developmental.

Social welfare and social development

Social welfare refers to an integrated and comprehensive system of social services, facilities, programmes and social security to promote social development, social justice and the social functioning of people.

The White Paper then undertakes to remove all forms of discrimination in the social welfare system, declares "War on Poverty" and binds the Department to developing 11 "*appropriate nutritional objectives and activities*" and ensure that "*these programmes are effectively targeted at those who are vulnerable to malnutrition and the socio-economically deprived.* "

Our obligations are further shaped by, amongst other, the Convention on the Rights of the Child and the Convention on the Elimination of All forms of Discrimination Against Women. The Department co-edited the first country reports to the United Nations on both of these Conventions.

- ***Legislative Reform***

Welfare thus recognised the need for establishing a legislative framework to provide for the respect, protection, facilitation and fulfilment of these socio-economic rights. Two pieces of legislation have relevance to the debate.

Firstly, the Social Assistance Act (1996). This Act was aimed at integrating and rationalising the multiplicity of laws and regulations, which institutionalised racist social service provision. By eliminating these racist provisions, it created the environment and obligations for social services to be accessible to all on an equitable basis.

The Welfare Laws Amendment Act (1997) provided for the introduction of the new form of social assistance, the Child Support Grant, the phasing out of an existing grant, the State Maintenance Grant, and it redefined the concept of caregiver. The latter was particularly meaningful, because it took account of indigenous forms of care in our communities. For the first time, it was possible for the primary caregivers of children, irrespective of the kinship and relationship to the child, to access social assistance without having to be subjected to the processes of the Children's Court.

- ***Welfare strategies and programmes***

During the last financial year, R16bn was allocated to social security and 1.6bn to other welfare services. This R16bn was spent on social assistance in the form of pensions and grants to older persons, people living with disabilities, caregivers and children living in poverty. This meant that almost 90% of the Welfare budget was spent on social assistance to about 3 million beneficiaries. It should be noted that our research suggests that, in the case of rural older women beneficiaries, their pensions sustain households and provide food security to between seven and nine adults per household. Thus that means the numbers of indirect beneficiaries are greater than the number of grant recipients.

The Child Support Grant targets children living in poverty and by the time the programme reaches maturity, it aims to reach three million children. It was introduced in April 1998, and initially the uptake was alarmingly slow. The reasons for this are multiple:

- The communication strategy of the Department was ineffective.
- The transaction costs for primary caregivers in rural areas, were prohibitive. For example, persons having to travel long distances at their own expense, on multiple trips in order to lodge an application and to collect the R100 per month felt discouraged.
- The uncreative manner in which many social security staff managed the programme. For example, an unwillingness to assume appropriate marketing roles.
- Qualifying for the means test was, in some cases, a disincentive. Many caregivers did not have the bar-coded identity document or Road-to-Health card. The latter was a particularly contentious issue. Some advocacy groups felt that the means test had to be less stringent. While the Department was willing to review this, it also had a responsibility to ensure that there were no leakages to children who were not poor. However, we are happy to report that from a national uptake rate of below 10 000 towards the end of 1998, the uptake has dramatically increased to over 25 000 in February this year, and to 31 000 by the beginning of March.

The Grant of R100 per month might be insignificant for those of us in this room that are more comfortable. However, for persons living in abject poverty with no resources, it does mean the difference between malnutrition and starvation on the one hand, and having the means to provide a child with food on the other. We have undertaken some qualitative investigations into the circumstances of a random sample of grant recipients, and have been persuaded that the Child Support Grant indeed provides a necessary and welcome source of a food security.

This spending pattern in the Welfare budget could also support the view that mainstream welfare is still firmly entrenched in the residual model of care. It could suggest that the bulk of Welfare resources are directed at short-term relief for people in need and at programmes, which do not fundamentally change quality of life or poverty levels in our country. However, on one hand we are committed to our responsibility to extend social assistance to the poor older persons and the disabled who cannot partake in productive employment, and to children living in poverty. It is a tangible expression of Section 27 in our Constitution.

On the other hand, we are committed to the attainment of social development and hence the transformation of social welfare services. Therefore, we intend to shift the current ratio of welfare spending on social security and social services from 90: 10 to a ratio of 80:20. We aim to redirect the same budget to different outcomes, but cannot and will not make this shift at the expense of the vulnerable, poor grant recipients. Welfare will invest in developing and releasing the human potential in our poor communities, to enhance their food and nutritional security.

One of the critical shifts in welfare policy is the reduction of dependence on state assistance. Firstly, maintaining and expanding the current levels of state assistance, paid in pensions and grants, is not sustainable. Secondly, while it provides recipients with regular cash payments, it does not address the circumstances that render recipients vulnerable and poor. Developmental social welfare therefore required that the Department of Welfare design special packages and opportunities for those who are currently and those potentially reliant on state assistance.

Hence, the Department has been piloting some of these new approaches. One of these is the Flagship Programme for Women with Children under Five. Since launching the first of these programmes in 1997, 15 others are now in place offering employment to 1 400 women. Over two

years, it has provided 133 484-person working days to poor women, who before this were living in poverty with no form of training or income. Almost all of these programmes are located in deep rural areas and they provided skills, training and the resources to establish alternative livelihoods over a period of three years. As opposed to the needs-based approach that provides handouts without equal attention to changing the conditions, which give rise to destitution and poverty, these programmes are developmental and can fundamentally alter the lives of beneficiaries.

Another innovative programme is Welfare's Poverty Eradication Programme. While the full impact of the R300m, which the Minister of Finance made available for poverty relief in March 1997, and the R500m in 1998, still has to be measured, we can say that it enabled the Department of Welfare to create a model of empowerment and service delivery unparalleled in Welfare in our country.

The R50m received in 1998 was shared among 1 133 potential development projects throughout the country. An astounding number of 93 090 poor people benefited from this targeting. The major funding criteria was obviously poverty. However, as poverty manifests itself differently, additional criteria were agreed to. Projects which targeted poor women, poor communities and those in rural areas were given a higher rating, as did those which had sustainable income-generation as an outcome preceded by skills development and training. The Department of Welfare also targeted projects in communities that had not historically benefited from public funds.

In reviewing the impact of the Programme, we were reminded of how poor people experience their poverty. Consensus among the female beneficiaries was expressed in the words of a woman, in our Northern Cape Province, who said: "*Poverty means that I cannot keep up with providing my children with food, clothes, school fees and pay for services like water. It is very frustrating because it means that I cannot give my children what they need and what is necessary.*" For these women freedom from poverty means the ability to provide for the basic needs of their children and families. Unless they feel the difference, our policies are meaningless. The fact that women like them have been equipped with skills for the first time in their lives, and are earning a regular weekly wage is empowering. For many it was the first time that were able to see a qualitative difference in their lives. The words of Mrs. Kwesa, in De Aar, are encouraging.

"This project has helped me a lot. I can now work with my hands. I can now do sewing and make garments with my hands. The money, the wages, has helped my children and me. The training was very good. We now have food in the house every week. . . "

Food gardening and small-scale farming was in popular demand in the Programme. While some professionals, in studying the proposals from communities said: ". . . another food garden!", the poor were clear that greater food security was their priority need. We respected that, because we believe that the poor are the experts in the eradication of their poverty. These projects have created new possibilities and realities for the beneficiaries.

Narrative reports from projects and our observations suggest that this R50m Poverty Eradication Programme was a huge success. Chairperson, allow me to share a few observations.

The Phutuma Project is located in Islington, Bushbuckridge region in the Northern Province. Phutuma started as a burial society in 1982, and assumed a developmental focus in 1992. Members increased their savings contributions to start an education fund to send their children to school and a feeding scheme. They were in need of boosting the disposable income in the community. With their own resources, they bought one fencemaking machine and one of the community members received training in fence- and brick-making. Welfare gave them R 200 000 from the Poverty Relief Fund from which they purchased an additional two fence-making machines, materials, three sewing machines and a brick-making machine and a structure in which to work. The 20 000 people in their

village provide a market for their clothing, fence and brick products. What matters most is that the 95 women like Daisy Zaane, Lydia Monane, Nancy Ngobeni, who were all unemployed, are now able to feed their 200 children and send them to school on their earnings of between R210 and R300 per month.

Similarly, the Botshabelo Vegetable Project in the Maraba Village in the Northern Province is thriving. It started with five members. With the money it has received from the Programme, they are now able to work 5 hectares of land and the group has increased to 28 members, all unemployed women with children. Although they have not established a market beyond the village for their produce, it has induced a sense of ownership and self-reliance among all people in this village.

The Barrydale Brickmaking Project in the Western Cape has been transformed from two people operating a small, manual machine producing only two hundred bricks per day to a major local development project. From the funds, they were able to buy two modern brickmaking machines and they are now linked to the local Community Development Organisation, which is responsible for building 140 low cost houses, 30 houses for farm workers and 95 water-borne toilets. The project has effectively led to increased housing delivery in the area, lower levels of unemployment and improved quality of life. Twenty-five of the 37 people employed in this project are women like Sophie De Wet and Minnie Adams who receive State Maintenance Grants and now have a regular income of R210 per week.

A unique project established in the Northern Cape, is the Cleaning Service Project. It is an example of affirmative procurement operating throughout the province. Groups of unemployed women were trained and the collective now does the cleaning of all welfare regional and district offices. In De Aar, alone 6 women are employed at the regional office and one each at the ten district offices. This is an example that can be followed by other government departments. All the women are CSG beneficiaries, who find the R75 they earn per week a welcome and necessary supplement to their income. In the words of the development worker: "*They can now buy food weekly, provide their children with basic necessities, purchase electricity and use the service which has been installed in their homes. They no longer have to beg and borrow and wait on the R 100 which they receive from the grant at the end of the month.*"

These accounts are very powerful and encouraging. It is possible to provide such narrative reports and evidence of the impact of the R50m Poverty Alleviation Programme on all of the 1133 projects. A full impact analysis will only be possible after the formal evaluation.

We are mindful of the fact that research in targeting suggests that there is greater success in targeting those who are less poor. Those who are in urban areas, closer to urban infrastructure are functionally literate and have the capacity to write proposals. They have benefited from prior support, rather than the micro-poor who find them trapped in a cycle of poverty at the bottom of the safety net or those who are outside of any safety net. It is estimated that 40% of the Department of Welfare funding reached the poor while only 60% reached the micro-poor.

This Poverty Programme has demonstrated new possibilities in developmental social welfare. The welfare sector has to assume new roles and not only direct their services to those in need but to create services in response to social justice and social equity. We created alternative models of care, each of which can ultimately become a best practice model in the eradication of poverty.

We believe that within a number of years, we will be able to demonstrate that as a result of the investment of funds by the Department of Welfare in 1998 -1999, there are thousands of projects

which have had a dramatic impact on the quality of life, choices and opportunities for people who were trapped in a hopeless cycle of poverty.

The Department will, in preparation for the new millennium, refine and present its AntiPoverty Strategy and Policy. This strategy will be enriched by the experience in poverty eradication as reported above.

- **Challenges**

Chairperson, to endorse some of the challenges raised by other speakers yesterday,

We will only make advances in the eradication of poverty and the right to food and nutritional security if we arrive at a strategy of comprehensive and integrated delivery.

We agree that rationalisation of existing budgets will unleash resources to address food security. However, we have to find ways of managing intersectoral funding. There are a few examples that can be used as case studies to arrive at a policy. In the Free State, the Welfare Flagship Programme tendered for the contract to provide bread to local primary schools' nutrition programme, and was awarded the contract. This project now has a secure market, beneficiaries have regular income, and their families enjoy greater food security. We have to find a formula for institutionalising social partnerships for social development.

- **Conclusion**

Chairperson, these reflections will advance the Conference objectives:

- Developing a comprehensive and integrated programme to effectively combat the problems of malnutrition, under-nutrition and hunger;
- Formulating strategies and benchmarks to realise the objectives of the World Food Summit Plan of Action, within the SA context; and
- Concretising state/civil society relations in the realisation of economic, social and cultural rights, the mobilisation around and the implementation of these rights.

I thank you.

3.1.4. South African Human Rights Commission – Mr Tseliso Thipanyane

Introduction

Access to food, hunger, starvation, famine and nutrition related diseases remain the pressing problems on our planet, especially in developing countries and South Africa is not an exception.

As a result of the discriminatory policies of the past, South Africa's social indicator (health, education, safe water and fertility), according to a survey conducted by the World Bank in 1995, is one of the worst in the world. According to the survey 40% of households (equivalent to 53% of the population) account for less than 10% of the total consumption. In contrast, 10% of the households (representing only 5.8% of the population) accounted for over 40% of the country's total consumption. The survey also indicated that poverty in South Africa has a strong race dimension. Nearly 95% of South Africa's poor are Africans.

According to the Income and Expenditure Survey Report of 1995, the Eastern Cape was the worst poverty stricken province. The poverty rate in the Eastern Cape was 70.7% followed by the Free State at 63.4%. The poverty rates for other provinces were; North West (62.1%), Northern Province (59.1%), Mpumalanga (57.3%), Northern Cape (54.9%), KwaZulu-Natal (51.9%), Western Cape (28%) and Gauteng (17.3%).

The high unemployment rate in South Africa, which is racially skewed, is another example of the effects of past discriminatory policies. The unemployment rates in South Africa along racial lines are as follows: 38% for black South Africans, 21% for coloureds, 11% for Indians and 4% for whites. Women have also been negatively affected. Approximately 47% of African females are unemployed as opposed to 29% of African males. Of the employed African women, 50% are employed in elementary occupations such as cleaning and agricultural labour. The corresponding figure for African males is 34%.

Food Security and Nutrition Situation

As far as food security and nutrition are concerned, the situation in South African is summarised as follows:

- In 1996, 2.5 million South Africans were reported to be malnourished and 87% of these were Africans.
- An estimated 25% of South African children was reported to be malnourished. Approximately 16% of babies born in South Africa are underweight, tending to result in poor growth and development.
- In 1994 the infant mortality rate in South Africa was estimated at 41 per 1 000 live born children. The estimated figures for black and coloured South Africans were the highest (49 and 23 per 1000 respectively).
- According to a national survey conducted by the Department of Health in 1994 among children aged 6 to 71 months, the prevalence of stunting was found in 23% - 30% of the children; in addition, 33% had a marginal vitamin A deficiency.
- According to the South African Health Review Report in 1996, one in ten African children were underweight and one in three African children were stunted by malnutrition. This should also take into account that there are currently over 10 000 street/homeless children in South Africa.

- Many young children (an estimated 50%) as well as pregnant and lactating women suffer from micronutrient deficiencies. For example, an estimated 25% of South African women suffer from iron deficiencies.
- Approximately 26% of the population living in metropolitan areas and 20% of the population living in small urban areas were reported to have experienced hunger a few times a month. In informal settlements, the figure was 40%. In addition, 6% of people living in urban and semi-urban areas suffered from hunger on a daily basis.
- In the rural areas, 45% of the population went hungry at least once a month and 17% at least once a week. The problem was particularly serious in the Eastern Cape (45% and 15% respectively) and Kwa-Zulu Natal (40% and 14% respectively) the respective figures for black South Africans were 38% and 15%, and for “coloureds” 13% and 6%. The percentage of whites and Indians who were hungry were negligible.
- An estimated 53% of households earning less than R600 went hungry at least once a month, 21% went hungry at least once a week. A shocking 5% of metropolitan respondents mostly in Gauteng report hunger on a daily basis.¹ The continuing influx of people into these areas is likely to compound the problem, and this situation should be closely monitored.
- Approximately 57% of ordinary South Africans suffering from instances of hunger had no access to institutionalised assistance. This situation was more prevalent more in small urban (65%), metropolitan (59%), and informal (58%) areas than in the rural areas (53%) and it highlights the failure of urbanised communities to establish their own social and family safety nets.
- The Department of Health in its 1997/1998 Annual Report estimated that between 12 and 14 million South Africans are without access to safe water. The Annual Report of the Department of Health also indicated that over 20 million South Africans were without access to adequate sanitation
- According to the United Nations Economic and Social Council’s Report, the greatest disparities between black and white populations have been in housing and access to water supply. Over 30% of African households live in shacks.
- With the inception of the South African Land Reform Programme, 13% (whites) of the population owned an estimated 80% of the land. The Agricultural sector was (and still is) dominated by large farms owned and operated by a small number of individuals and companies. As a result of a history of dispossession, this minority owned a startling 86% of South Africa's agricultural land.²
- In 1996, 55 000 white farmers owned 102 million hectares of land, while 1,2 million micro farmers shared just over 17 million hectares in the former homelands³ Furthermore, not all agricultural land is suitable for intensive production due to soil and climate conditions. It was estimated that of the available (1994) 83.1 million hectares of agricultural land under white occupation, only 10.3 million hectares (12.4%) is suitable for intensive production. Only 2 million hectares of the 16.4 million hectares of agricultural land within the former homelands fall within this category.
- Life is extremely harsh for farmworkers. According to the 1992 Agricultural Survey there were 1 068 831 farmworkers in South Africa, 77.2% of whom are black. Average wages for all farm workers were R222.25 per month.

¹ CASE, *Monitoring Socio-Economic Rights In South Africa: public perceptions*, June 1998

² Van Zyl J, Kirsten J & Bisnwanger H (eds.), *Agricultural Land Reform In South Africa*, 1996

³ Marcus T, Eales K & Wildschut A, *Down to Earth: Land Demand in the New South Africa*, 1996

It was against this background as well as the state of poverty and inequality in our country that led the President of the Constitutional Court, Arthur Chaskalson, to make the following observation:

“We live in a society in which there are great disparities in wealth. Millions of people are living in deplorable conditions and in great poverty. There is a high level of unemployment, inadequate social security, and many do not have access to clean water or adequate health services. These conditions already existed when the Constitution was adopted and a commitment to address them, and to transform our society into one in which there will be human dignity, freedom and equality, lies at the heart of our new constitutional order. For as long as these conditions continue to exist that aspiration will have a hollow ring.” [in *Soooramoney v Minister of Health, KwaZulu-Natal* 1997(4) BCLR 1697(CC) at par. 8.]

It was also against this background that the people of South Africa adopted a constitution (the Constitution of the Republic of South Africa Act 108 of 1996) that provided for judicially enforceable socio-economic rights and a mechanism through the South African Human Rights Commission to address poverty and inequality.

This case study highlights the role played by the South African Human Rights Commission in the monitoring and assessment of the realisation of socio-economic rights and in this regard, rights, pertaining to food security and nutrition.

Constitutional Provisions

- *Rights pertaining to Food Security and Nutrition*

Section 27(1)(b) of the Bill of Rights in the Constitution of the Republic of South Africa (1996) guarantees all South Africans *“the right to have access to sufficient food and water”*. Furthermore, section 27(1)(c) guarantees all South Africans the right to social assistance. In terms of section 27(2) the state *“must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation”* of this right. In addition, sections 28(1)(c) and 35(2)(e) place a direct obligation on the state to ensure that children and detained persons enjoy basic and adequate nutrition respectively.

Several other provisions in the Bill of Rights are indirectly relevant to the right to food. Section 25, for example, regulates ownership, tenure and access to land, which is the basic means of production of food. Section 24 (b) requires the creation and maintenance of an environment that is, amongst other things, conducive to the production of food. Sections 10 and 11 (right to human dignity and life) are indirectly relevant, because a substantive interpretation of these rights would extend to protect the same interests as rights to food.⁴ In the last instance, section 9 enshrines the right to equality and the prohibition of unfair discrimination is particularly relevant to rights concerning food. It protects the right of equal access to food, particularly for disadvantaged and vulnerable groups.

The state is required by section 7(2) of the Constitution to respect, promote, protect, and fulfil the realisation of all the rights in the Bill of Rights including socio-economic rights, such as those pertaining to food security and nutrition.

⁴ Brandt D, “The Right to Food”, *ESR Review*, Vol.1, No.3, October 1998

- *The South African Human Rights Commission*

The South African Constitution (1993) called for the establishment of the South African Human Rights Commission as a national institution for the promotion and protection of human rights and the establishment of a culture of human rights in South Africa. While the 1993, Constitution set out the powers and functions of the Human Rights Commission, 1996 Constitution provided for more specific powers and functions for the Commission concerning the promotion and protection of socio-economic rights. In this regard, Section 184(1) of the 1996 Constitution requires the Commission to promote respect for human rights and a culture of human rights, promote the protection, development and attainment of human rights, and monitor and assess the observance of human rights in South Africa

- *Socio-Economic Rights Monitoring Mandate*

“Each year, the Human Rights Commission must require relevant organs of state to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.

Section 184 (3) of the Constitution thus places an obligation on the Commission to request information, each year, from the relevant organs of state regarding the steps they have taken towards the realisation of rights in the Bill of Rights.

The South African Human Rights Commission also has additional powers to investigate and report on the observance of socio-economic rights, to carry out research in the realisation of socio-economic rights, and to educate the organs of state and members of the public on the need for the promotion and protection of socio-economic rights. Furthermore, the Commission has the power to take steps to secure appropriate redress where socio-economic rights have been violated, either by the state, or any other natural or juristic person. Below is an account of the Commission’s activities pertaining to the realisation of economic and social rights:

The Commission is thus equipped with a powerful tool to gather information on the steps taken by relevant organs of state to respect, promote and fulfil the socio-economic rights recognised in the Bill of Rights. The provisions of section 184(3) provide the capacity, if used creatively, to ensure not only monitoring and assessment of implementation of these rights, but also accountability. In addition, the South African Human Rights Commission Act (Act 54 of 1994) gives the Commission powers to enforce this accountability through judicial means.

Activities of the Commission

- *Socio-Economic Rights Report*

The Annual Socio-Economic Rights Report based on the information obtained from institutions of state is the Commission’s first initiative in meeting its constitutional obligation to monitor and assess the realisation of economic and social rights in South Africa.

The report itself was preceded by two other initiatives. Firstly, since most organs of state had little experience in reporting on the realisation of human rights, the Human Rights Commission together with relevant stakeholders, decided that simple, precise and effective guidelines or

protocols would facilitate the reporting process. The protocols were designed to provide a set of questions to assist relevant organs of state in reporting to the Commission. The Commission sent the protocols to government departments and requested that they complete and return them for evaluation. The protocols were based on the seven socio-economic rights detailed in section 184(3) of the Constitution. In view of their relevance in the realisation of economic and social rights, additional protocols were developed for the Department of Finance and the Department of Land Affairs.

Secondly, consultative workshops were conducted with government departments on monitoring tools for the realisation of economic and social rights. The workshops addressed the following themes:

- The role of the Commission in monitoring economic and social rights;
- The process of implementing the provisions of section 184(3) of the Constitution;
- What constituted relevant organs of state in terms of section 184(3) of the Constitution;
- International experiences in the monitoring of socio-economic rights; and
- Information gathering and evaluation methods for the monitoring of socio-economic rights.

In addition, the development of economic and social rights protocols, a survey on public perceptions of the realisation of economic and social rights was conducted. This study was intended to enrich the Commission's understanding on the realisation of economic and social rights by providing a sample of the views and perceptions of the public and some non-governmental organisations. The questionnaire for the survey was developed through extensive discussion and consultations between the Commission, the Community Agency for Social Enquiry (CASE) and other Commission's partners. CASE conducted the survey on behalf of the Commission during February and March 1998. The Report of the study was finalised on June 8 1998. The survey covered respondents in all nine provinces from all types of residential areas and representing all racial groups.

- *National Speak out on Poverty Hearings*

The Commission jointly convened the National "Speak out on Poverty" Hearings with the Commission for Gender Equity and the South African NGO Coalition (SANGOCO) from March to June 1998. The oral testimonies made by ordinary people on their experiences of poverty and written submissions by several NGOs on the plight of the poor people in South Africa also informed the Commission's process of monitoring the realisation of economic and social rights.

- *National Action Plan*

The Commission was involved in the conceptualisation and drafting of the first South African National Action Plan for the promotion and protection of human rights which also has provisions on socio-economic rights.

- *Future Activities*

- Involvement in a national conference on the effects of macro-economic policies on the rights of children;
- Second stage of the monitoring and assessment of the realisation of economic and social rights;
- Education campaigns on economic and social rights;

- Participation in the newly created National Consultative Forum on Human Rights - a body established by the government to co-ordinate human rights activities;
- Monitoring of the implementation of the National Action Plan; and
- Litigation on economic and social rights matters.

Conclusion

Through its functions and powers, the Commission will play an important role in promoting and protecting the rights pertaining to food security and nutrition. The Commission, as it has already done through this conference, will continue to promote dialogue around the realisation of economic and social rights, to influence policy development around these rights and continue to monitor and assess their realisation.

While there is a fair number of policies and programmes, there is a need for greater co-ordination of the activities of relevant organs of state and more effective and efficient implementation. An inter-departmental mechanism to promote the rights to food security and nutrition, as recommended by the Commission in its first Economic and Social Rights Report, is crucial.

However, having said all these, many of our people in South Africa continue to suffer and die from the effects of lack of adequate food. Many people, especially children, continue to feed from our dustbins and dumps.

Food security is essentially about people and not measures. Thought should thus be given to the development of people-derived, people-driven and people-managed systems for food production, food security and access to adequate nutrition. In order for all households (rural and urban) to have access to their minimum food requirements, attention should be paid to the equitable distribution of productive assets, income-generating opportunities and household incomes. Attention should be paid to the issue of small farmer development. The empowerment of women through greater control over productive resources and incomes, as well as their participation in decision-making is indispensable to the provision of food security and nutrition in South Africa. Consideration should be given to alternative and sustainable methods of agricultural production as opposed to an unbalanced emphasis on large-scale agriculture.

In conclusion, reactive programmes and policies are not likely to address the lack of access to adequate food and nutrition. Malnutrition, for example, cannot be addressed on the basis of food alone, but rather through a broader range of inter-related issues including health, sanitation, access to water, good housing, general infrastructure as well as economic and agricultural options for improving access to food. The development of sustainable policies and programmes to enhance nutritional rights in South Africa requires an integrated approach (involving all sectors of South African society) and proactive policy formulation (which encourages beneficiary participation) by the state.

There is a need therefore, to review our existing policies, programmes, legislation and even our current macro-economic policy in order to determine whether all these effectively advance the rights pertaining to food security and how they could be improved and consolidated.

3.2. DISCUSSION SESSION FOLLOWING SOUTH AFRICAN SITUATION ANALYSIS

Questions and comments from delegates

1) Thank you for the presentations. I found them very informative, but one thing I found lacking is that most of the presentations were a bit gender silent. I personally would have wanted to see or hear something about the gender dynamics in the different departments, that is, where are the positions of men and women, what are the differences, what are the inequalities, what are the inequities, what are the disparities, etc. Perhaps, I would follow that up with the strategies and projects that have been implemented or are in the planning stages, to address those issues and therefore have projects and strategies that are gender sensitive. Thank you.

2) We are very glad to hear that there has been a marked increase in people's access to child support grants because this is really becoming a major problem, especially in the rural areas and with regard to transport and people trying to get to the offices day after day and applications not going through. What I actually want to ask is, to what do you ascribe these positive changes? Is the Department more flexible with regard to the criteria and are offices and payout points more accessible and how can we ensure that this positive trend continues? It would reassure all of us in the Welfare field. Thanks.

3) When we talk about adequate food security we seem to somehow escape the problem by saying 'adequate access to', but 'access to' is a relative concept. So number one, if this is health and food security and we say this is good security, and this is bad, the very same, and these are the resources, for example, time of the mother to cultivate the income of the family and we say this is good, or high and low. Here we see there are four groups and we can see that these are food secure, these use little of their income, but these might use up to 95% of the income. So the food secure household is an important and quite a complex concept, it makes a difference if you use 30% of your income or 85% of your income. We see that this is the worst group, where we have bad food security, in spite of using a lot of the income. We cannot stop just at access. We have to specify it. I think the World Bank specifies the income-earning households, if 68% of the income is used for food, it is insecure. So there is a very important relativity here that must be introduced.

4) When the various papers were presented yesterday, I was very happy to see that they talked about nutrition requiring food, health and care. I think today inputs were it was rather focused on food and I just want to emphasise that all these are necessary. It is like an engine of a car. An engine of a car cannot work if it does not at the same time get fuel and oxygen. To ask, what is more important for an engine - fuel or oxygen, is an irrelevant question. It is the same thing when we ask, of food, health and care, which is more important. It is an irrelevant question because all are necessary for good, nutrition. I used to show that because I have seen the South African data many times on children when they are at a certain age, here, like most other countries in Africa, this is malnutrition. You have a peak at about two and a half, three years. The question then is, why is it that a child that eats much more than this child or needs much more than this child, not as malnourished as a two-year-old? Of course, this is because this child is eating. Now this is a fact. There are two people involved here that feed a child, the mother or the child caretaker. Thus the care aspect, including feeding frequency, is extremely important. That is why I am surprised to hear that we have a food consumption survey. I think what these countries in Africa need is to study how care takes place at home. We could solve one third to half of the young child nutrition problem by doing that. Thank you.

5) I was pleased to see that in the speech of the Minister read by his representative here, there is a commitment to focusing more on smallholder agriculture. It has always perplexed me in South Africa that this seems to be a complete black hole. There just does not seem to be any information, or very little, and certainly very little activity on the part of government departments in supporting small-scale agriculture. Now I know that this is a legacy of the past. My question is, to what extent does the Department know how much potential food security comes from small-scale agriculture in South Africa. It is something I keep asking, when we work in the Eastern Cape and no one can give me the answer. Is it the case that small-scale agriculture has no potential at all? Hence, there is very little food grown there. Is it that technical and support services and resources, including the training done in the Departments of Agriculture and tertiary institutions, has always been focused on the large scale white agricultural sector? Would a change in that focus make smallholder production a significant contributor to food security in the more rural provinces? I would really be interested in knowing the answer to that because at the moment, as Prof. Vries said, it is clear that most food security in rural areas comes often from social welfare - various forms of social welfare grants that are often not nearly big enough to render household food secure.

6) The observation I have and I would like to ask the South African Human Rights Commission representative to expand on this. I think that the recommendations in the documents that are in our packs and also the document that was distributed last night, that food and nutrition security becomes an inter-departmental responsibility, is a very, very good one. But at the moment, notwithstanding the speeches made here today, it seems to be that most of the activity around nutrition and food security emanates from the Department of Health. Yet, the problem of under-nutrition is a problem of multi-sectoral failure. It is a problem of failure of agriculture, a failure of the creation of jobs, a failure of welfare support, etc. There is a pressing need to have some kind of inter-departmental co-ordinating body. What steps does the South African Human Rights Commission intend to take and what are its partners or potential partners in influencing such a decision to be taken on the part of government? It will not solve all our problems but I think it will make it easier to advocate for nutrition and food security to be given greater priority in this country than it is at present. Thank you.

Responses by presenters

Prof Vries – Dept of Welfare

I will respond to the two questions raised. As for the absence of reference to gender issues, I think that I referred to it in my address, talking about the flagship programme for women with children under five. That programme is particularly valid because of our awareness of the feminisation of poverty and the fact that women are more vulnerable to poverty and therefore if one provides economic alternatives for women it could go a long way towards changing what we have. I also spoke about the 93 000 beneficiaries to our Poverty Eradication Programme last year, that 93% of those are women. I whisked over the criteria for targeting but poor women were very definitely targeted.

I think that what one is aware of, is working for the attainment of gender equality, but because of the high level of poverty in our work we are advancing to a “Woman in Development” approach. Ultimately one hopes that our programmes will get to the “Gender and Development” approach but there is much work that needs to be done.

I also need to add that with the Job Summit last year in October, it was preceded by about two years of negotiations. By March last year, one was struck by the fact that how infrequently poverty and woman appeared in the documentation however, we were able to insert that in the debate. One of the consequences of that was, one of the agreements of the Job Summit was that special employment programmes would be created, that there would be three groups that would be targeted; that is people living with disabilities, youth and women. One of the things that Welfare is responsible for is the issue I referred to. If we want to facilitate economic empowerment of women, we must address the obstacles that prevent women from taking up productive employment such as the family responsibilities with regard to childcare and the care for aged and other dependants. I think it might not have come through but women and gender issues are very high on our programme, probably more so, because our Minister is the political head for gender issues and therefore it is very critical to our work.

To the question on the child support grant, about the positive changes, it largely has to do with maybe looking at the issue of co-operative governance. Initially, I said that our communication strategy was ineffective. Having one poster translated in many languages all over the show, that did not work. Giving provincial heads the responsibility of saying 'You know where the poverty pockets are, you know what needs to be done, you go out and get there, and making the resources available for that'. I think that you are asking about the pay points and application points being more accessible. I do not believe that they are accessible yet. It is something that we hope to do but as regards the problems encountered for example in the Eastern Cape such as the lack of infrastructure, we are doing various things like getting containers from Transnet, etc, but I do not believe that we have fundamentally trained service providers.

It is basically giving the provinces responsibility and instituting the help line. Initially, there was an 0800 number, which operated for one month so that people could call and have a functional help line to make enquires and be directed but then we discovered that it was not working.

As I said in my closing remarks, I believe that if we want to succeed, all the governments and Welfare in particular, have to learn how to establish partnerships with organisations out there and we could possibly advance the uptake rate if we are able to do that.

Ms – Dept of Health

On the question of gender sensitivity, I think the Department of Health is quite selective when it comes to women. Time and time again, they have been shown to be the most vulnerable because they are the key stakeholders in making sure that nutrition is upheld within the household. In that aspect, it did not come out quite clearly in my presentation. Women have been selected over the other gender, that is men, for their nutritional status to be addressed. Of course, our other main target group is children and with children, we do not select only on the terms of gender. We address all of the problems of malnutrition as far as children are concerned.

The other problem that we have address, which is inherent with women also, is that, the Department of Health gives free health care to pregnant women and also children under six years of age. That is one way of trying to address the whole issue on women and children.

When it comes to strategy, the people mostly involved in the community-based programmes, which are supposed to enrich food security or rather to ensure food security at the household level, are women. Our major role players are women. Most of the proposals that we receive from the

provinces come from women. They are applying for those programmes and I think we are in a way very sensitive to that.

Also, with the poverty alleviation grants that are being distributed through the Department of Health, most of the people that are taking part are women. Of course, one can begin to say the disparity is too much pro women and not as sensitive to men, because they are also equally unemployed when it comes to the issue of unemployment and poverty and this tends to affect the whole community. However, I think our basis for being very sensitive to women is that they are the caregivers and people that actually promote nutrition.

Dr Jonsson here pointed out the fact that the element of care in the promotion of nutrition did not quite come out, and of course, we should not leave it. It is one of the elements that make health a possibility that we have not addressed to the full. We are addressing the other issues but it is a very difficult aspect to actually address. It is not at all forgotten but it is not being well taken care of. Thank you.

Ms Ramabenyane – Dept of Agriculture

First, let me apologise for not having presented all I wanted to present. I managed to go as far as the Minister's speech only. Most of the concerns would have been addressed if I had been given a chance to go into the programmes.

Responding to the gender question, maybe the speech was just a matter of omission, it was not deliberate, I suppose. In terms of some efforts that the Department, as far as addressing gender disparities, has a transformation unit which looks into gender equity within the Department as well as throughout the agricultural industry. This has led to some of the programmes such as the Economic Empowerment for Women in Agriculture developed by the Department.

The other thing is that agriculture has also noted the role played by women in production. Due to migration programme, women were left to look after the families. They had to get into production and various agricultural activities and the support system will also target these kind of women, not to promote the small scale farming system without a gender lens. There is a competition running this year to encourage women to get involved in agriculture, agribusiness and production, and that is the “Woman of the Year in Agri Business”.

Having said that, I will move to the second question, as to the extent of data that we have, especially in terms of smallholder contribution to national food security. I would have also addressed this if I had been given a chance to get into the programmes that we are dealing with. We have been reporting to the SADC region, regional early warning systems, on the food security status for the country and this has been done through the Directorate of Statistics Information in the Department. However, we have noticed the lack of that kind of information. Most of the information that has been provided is actually based on the information from the small and the large-scale commercial farming. There is a very, very large gap as to the extent of production and the contribution of small-scale production into national food security.

Efforts are being made to ensure that this is taken on board in order to give a true picture of the contribution made by these small-scale producers and their potential to contribute towards national and household food security as well. It is clear that currently, what has been observed is just 7% contribution towards national food security. Now given the history that we come from, if these farmers were given the support systems that the commercial farmers enjoyed, it stands to reason

that they would have contributed more as well. There is a need for them to be supported and to be given the infrastructure necessary to ensure that their potential is enhanced and their contribution is observed.

In that regard, we have, as a result of the restructuring process, a whole range of projects devoted to agriculture development. This has a number of programmes in it that will actually ensure support to the development of smallholder farming in agriculture. Looking at business development, provision of subsidies is being debated at the present moment; as to how do we give subsidies to small-scale farmers without actually reverting back to the problem that was created by the subsidy scheme. We are going to do this within a certain specific time frame so that as soon as the farmers start operating efficiently, those subsidies can be withdrawn.

Mr Tseliso Thipanyane – South African Human Rights Commission

I hope we pointed out that as far as we are concerned, the involvement of the Commission in addressing this problem is actually indispensable. In any case, when we prepare our monitoring instruments, we always have specific categories for women and children, as well as other vulnerable groups in society. We ask government, what are you doing about this particular group in view of their greater suffering in our communities.

As far as question two is concerned, I would agree with Dr Urban Jonsson, and go to the extent of saying our Constitution provides for the right of access to food and provides for the right to basic nutrition and basic social services. Again, when we monitor socio-economic rights, we use these rights as the basis for our protocols. I must point out that we are also in the process of further refining our protocols and would like to seek the assistance of everybody to make sure that all these issues are adequately addressed by government and assessed by us.

As far as the issue of the smallholding, even though one is not an agricultural expert, there is a growing need to opt for some focus on small-scale farming.

As far as the recommendation about an inter-departmental approach, it is actually our recommendation. We even went to the extent, although we did not put it in our report, that maybe there should be a ministry of food security and nutrition. This is due to the responses we are getting from government, which demonstrated an uncoordinated approach as far as resolving these issues goes. This is one issue we are really going to take over because if it is not attended to, it means our human rights, as far as food security and nutrition are concerned, are not protected due to lack of communication and many other things. We will pursue this matter.

4TH SESSION, 27 MARCH 1999

4. WORKING GROUP REPORT-BACKS

4.1.1. *Group One: Concepts - Food Security and Nutrition as Human Rights*

There are two of us who are reporting back from Group 1. First of all our group looked at the concepts of food security and nutrition as human rights and we started off by having the first objective of consensus on the working definition of food security and nutrition. One of the discussions we had was around nutrition and food security and whether the way the title of this Conference is phrased actually leads to some misconceptions. After some discussion we agreed that really our overriding concept would be of nutrition security and we agreed that when talking about nutrition security, we are talking about nutrition for optimum health and therefore that deals with both under-nutrition, unbalanced diet and/or over diet. In order for that to be nutrition security, you actually need, as you are aware, three components: one of which is food security, and that food security is not a sufficient condition for nutrition security. There is also a need for care security, for health services and a healthy environment, and health security.

The point that was made in the group, which was agreed upon is that, when we use the term 'security', the term should encompass sustainability. We are not talking about, say for example, a child having food or care or health services for one day, but on an on-going basis, and that there are human rights in all these areas.

We moved on from that definition and we agreed that in our further discussions, we would look at nutrition security but in order to tone down we would focus on food security. We had an interesting discussion and a difficult time initially because our group was made richer by having participants from different sectors who do not often communicate with each other. It also meant that we are using language and terminology differently and we had to try and arrive at a common understanding.

Our first objective then was that we agreed on a framework to develop a common understanding of nutrition security with a particular focus on food security as a human right. What we kept in mind was that when we did that, we needed to define who were we talking about, who are the key actors in this process and that we wanted to keep at the forefront of our discussion the human rights perspective. Otherwise, it is very easy to slip back into our normal discussions of looking at strategies to improve nutrition status and food security.

We started off with the matrix as a possible way of looking at the right to food security. This matrix defines food security into different components and gives us the opportunity to look at what should be done in each of these areas. For example, having adequate food supply that is nutritionally adequate. This matrix can be used for different bodies, for example, national and provincial departments, and different levels of state involvement. We spent some time trying to define actions that would fulfil state obligations in terms of respecting, protecting, facilitating and fulfilling the human right. However, we actually found this to be very difficult in the time that we had available because of the language problems and so what we did then was actually to try and look at some definitions that had been given in these different areas of obligations or duties.

For example, one definition of 'respect' is that the state refrains from interfering in the enjoyment of social and economic rights. Definition of 'protect' means that the state prevents violations by third parties and that the state also has to ensure recourse by people to prevent violations by the state. To 'facilitate' means to create an enabling environment, which is a long-term process. Lastly, 'fulfil' refers to a definition that was given to take appropriate legislation, budgetary and other measures and that includes direct interventions in acute or emergency situations.

However, as I said, although we had discussions around the terminology, we felt we understood that these terminologies indicated different levels of state involvement and greater state involvement. Actually, it was difficult for us to say okay, if we look at a particular department in the government that takes a particular action, under which category does this action fall. Our conclusion in the time that we had available was that this terminology was useful as a check to ensure actions are taken. If the Department of Health, for example, is looking at fulfilling food security obligations, it could use these different categories to check and ensure that actually it has been undertaking all the obligations it has to fulfil and it could also be used to check the violations.

For the purposes of our discussion, because of the time constraints, we went on to a modified matrix and we decided just to take one single area of concern, not to break it down. We took something from the South African Constitution on health care, food, water, and social security and we also took the article that said "everyone has the right of access to sufficient food". The article also touches on the water right but we only concentrated on food. In order to try and make this a meaningful discussion, we actually used the people in the room that came from diverse backgrounds and used that as examples of role players obligated to fulfil this human right. We asked people to tell us which sector and which department they came from and specifically the position they held within that department. We then omitted some categories of the duties and just looked at duties as a whole. My colleague will take over now.

Good morning, everyone. You will recall from the presentation my colleague has made that the group experienced some difficulty in terms of agreeing on which type of model had to be used in terms of understanding the whole issue of food and security. Then there was consensus at the end of the day where the model actually demanded that we need to indicate, in terms of the duty bearers and thereafter, the functions that they are actually embarking on to ensure that the rights they have identified are actually the appropriate rights.

That actually led us to this objective to say, when we look at the framework that we agreed upon, this is the type of objective that we intend to achieve. To use the experience of the members of the group to actually come up with those functions that will actually ensure that their rights, as identified, are achieved.

I will try to be very brief. What actually happened is that, we used only the expertise of the people who were actually in the group; we did not necessarily indicate all the duty bearers. What I shall present here is just the example of a few departments with some responsible persons and their functions. Just to take the first one, the South African Human Rights Commission, at a provincial level, to say what they are doing to ensure that the right to access to sufficient food is realised. There are any number of activities that we are actually embarking on to ensure that that right is realised; one of them being awareness campaigns to make sure that people understand what their rights are. I do not think it is necessary for me to go through each and everyone.

There are also quite a number of other departments. The Departments of Health and Welfare, for example, at the provincial level have embarked on some activities, for instance nutrition education. If you link nutrition education to the awareness in the Human Rights Commission, the section at the

provincial office, there is an indication that there are some similarities in terms of making the communities aware of their rights. On the other hand, the Departments of Health and Welfare are trying to address that particular right.

When talking to the other departments it became clear that the Department of Agriculture, the communications section of the Department, when people are aware of this right to access to sufficient food, they do not know where to get information to ensure that the very same right is realised. Now it becomes the responsibility of the Department of Agriculture in this particular instance to communicate relevant information to the stakeholders. The purpose remains the same in terms of addressing the very same issues. We can go on and on and indicate other role players, the civil societies and so forth, all of them trying to ensure that that right is achieved.

At the end of the day, we came to a conclusion that, it appears that quite a number of stakeholders, both at the government and non-governmental levels, are doing something towards the very same right to sufficient food.

Having analysed the framework, we asked ourselves what is it that we can gain from the use of this framework in terms of contributing to co-ordination and effectiveness in promoting the very same right to food security. We actually learnt a lot from this model because we then realised that not a single department or an organisation, as it was presented earlier during the course of this Conference, is responsible for ensuring that the very same right is achieved. But then, those departments and non-governmental organisations are doing something through, maybe in different ways, towards working to the achievement of the very same right.

We again realised these overlaps, which at times are not well communicated. We realised that there is a very serious problem of communication that was identified. We would like to give one simple example of the poverty alleviation programme in the county where several departments are involved. For the purpose of this Conference, these are the Department of Agriculture, the Department of Health and the Department of Welfare. If where the Ministry of Finance has put money aside for the poverty alleviation programme and that money is being distributed to several departments, for the same purpose: to establish or to promote the establishment of poverty alleviation programmes. Then, the question will be who at the end of the day is going to be responsible to ensure that the ultimate aim from the very same Ministry of Finance is realised? Is it the Department of Finance or is it the individual's responsibility? At the end of the day, the question remains unanswered.

We are making a recommendation that will help to avoid conflict in addressing these issues. We therefore need to have a responsible office that will address these issues. It is because we realise that when the right is infringed, there may be no responsible department that is taking the blame. If the problem of food security is located in the Office of the Premiers at provincial level or in the Office of the President nationally, then at least there will be direction in terms of the responsible department.

Then there was the request that was made to the group in terms of posing a few questions that will need to be clarified in the Conference. The group asked what practical steps are being taken by the Departments of Health and Agriculture to ensure that food is safe at all stages in the food chain. An example was given in a situation where some labelled food items are being distributed. The issue is whether at the end of the day, the consumer would be sure whether what is written on the food label is exactly what is contained in the product.

The other question that was raised to the Department of Welfare was, what is the Department doing to ensure that disabled children in the most disadvantaged areas, especially rural areas, receive benefits that are due to them, in order to ensure that they have access to sufficient food?

The other question was to the State President, but are not sure to how much capacity we have in terms of asking the State President this question, but being a democratic society we feel we also have the right to ultimately ask the President. We realise that there are three provisions in the Constitution in terms of food or nutrition security, the one being to sufficient food and the other, pertaining children having the right to nutrition and one for prisoners. But it is quite unclear to say which department is supposed to ensure that those rights are realised. We all want to find out from the President: which right do you attach to which department?

To the relevant departments, there are some questions that need to be asked in order to determine the effectiveness of the programmes that are currently going on, because as it is now, there are several attempts in quite a number of departments to address the question of nutrition or food security. But then it is often not indicated as to how effective are those programmes. These are some of the questions that we are posing to all relevant departments: to say what are the measures that are in place to ensure that there is compliance with the provisions of the Constitution in terms of food security. I think I should end there. Thank you very much.

I just wanted to make one additional point. One interesting thing that came up in our discussions was that we looked at the private sector and we asked the question, do they have a duty to provide food at reasonable prices to people? That then raised the issue really that we discussed the other day, that sometimes you have conflicting rights because the food industry may feel they have the right in a free market system to make a profit and then that would conflict with our looking at the rights of people to have food at prices that they can afford.

4.1.2. Discussion Session Following Group One Presentation

1) Just one comment. I am afraid that we must not get too overloaded with too many such things. We need to find mechanisms, which are amongst departments. I mean, you could have co-ordination with the department with each of the Ministers heading it. It should be internal to the department instead of somebody else from outside driving it on day-to-day basis. It would be the President's Office, which can oversee once in a while. That is my comment on this. Otherwise, the President's Office would be overloaded.

2) I just want to reflect on this question because I think it is a very important question - the issue of the private sector in the open free market regulating them to provide food. I think the best example can come from the pharmaceutical industry. Many countries have tried to work with the pharmaceutical industries, using self-regulation to bring prices down, which never succeeded. In Bangladesh, when the government started regulating them, it worked. It is an important question to ask. Should it be allowed, will it be guaranteed? I would like to conclude with a very interesting comment made by an Indian anthropologist. He said that when the tiger and the goat come to drink in the same water, the goat is always in a vulnerable position, and the only place that the tiger and the goat do not fight is in the circus. But in the circus, there is always the circus master who regulates them. This is a very extreme example but what I am saying is that this aspect will need to be looked at. Could there be a success story in which the market is left alone and then they feel their obligation, just because they do not want to make profit or want to make less profit?

3) I just want to ask this group, when they refer disabled people to Welfare. Is it that disabled people must necessarily be farmed off to Welfare or do they have their rights to be acknowledged as all other people? Also to be involved in the whole spectrum of food health and food security and support with effect to their human rights to be acknowledged as normal people.

4) The suggestion that these are duties for staff at provincial level, is there any alternative for provinces that do not have HRC offices?

5) Firstly, I think it was a very good and interesting presentation. I think a lot of useful things have come out. I noticed that they had some problems with the matrix that we have been working on in this matter. On the other hand, I think it is important to explain that the matrix is intended to give the overall view of state responsibility; not every institution will have to deal with all aspects in the matrix. Some of them feed into one bit of it; others feed into another bit. It is intended to give the overall view. Also by the way, it corresponds pretty well to the South African Constitution in Article 7, which uses practically the same words as this matrix is using.

The other point I want to make is this question of the President's office and the overload. I think one other way of dealing with it is that you need inter-departmental committees which try to look at the whole thing and then you make one of them the lead agency. This means that the lead agency has to make sure that the whole picture is taken into consideration. Probably the Ministry or the Department which has the greatest involvement in the matter, but seeing to it that those matters which are not in the mandate of its Ministry, its department, can be taken care of by the others and that has to be done through a Committee. But it is the lead ministry, or department, which has the overall responsibility and will report to the President that in fact they are taking care of that part of the Constitution. That is one way of handling that problem.

6) Thank you. It was an interesting report. I just wanted to pursue the issue raised by the person who questioned the possible role of the goat and the tiger. If one looks at the nutrition security matrix and looks down the food security column and across the row of protect. What is the role of

the state in protecting food security when we find, for example, in South Africa, that much state involvement as we heard yesterday from the Department of Health, is at the moment in food provisioning through a number of programmes? The primary school nutrition programme and some others. Most of this food provisioning is arranged through the tender system. The tender system virtually ensures that the private commercial sector will get the tender which they do and often provide at least in the provinces that I am familiar with, food which is not particularly nutritionally effective in terms of cost per nutrient, calorie, vitamin, mineral, etc. Moreover, food which promotes tastes in consumers, which in the long run undermines their ability to retain or strengthen household food security. For example, many of the feeding programmes use foods commercially produced, which are fairly nutritionally empty, available at much higher cost through retail outlets. Tests are being encouraged and in the long run, I would submit, nutritional security undermined by a government system, which in a way, conflicts with government's commitment to protect the right to food security. I would be interested in that particular issue, of micro application of the goat/tiger. It does seem that the Department of Health and government, through its tender system, is trying to ride the tiger and all of us face the problem of possibly being eaten.

Responses by the group

Thank you for your comments. I will try to respond very briefly on behalf of the group. I do not think we were trying to be prescriptive when giving our answer to the problem of lack of ultimate responsibility. One suggestion was the Premier's office but an alternative would be to have a lead agency. I think this is a problem that is faced in all complex situations. How do you actually reward people and get people to be responsible to see something through to completion?

I hesitate to answer the question about the special needs. I do not know if any of my colleagues in the group from that organisation are here, but I think the idea was not to partition disabled children off from normal people. We would certainly see everybody as being 'normal people', the phrase that was used. But just that rather one needs to recognise special constraints that exist with special groups so that provision needs to be made for them.

With regard to the question about the primary school nutrition programme, a question that was raised in our group, not specifically around that issue but the question was raised. What happens when there are violations of human rights? We did not actually manage to have time to answer that question but it is an important question. We flagged it but we did not come up with any actual answers.

Just to finish off on the question of the private sector and price control and whether private industry can be asked to regulate it. What was interesting is when we discussed that, we actually then realised that we had to look at other actors at that stage and say that the government also has a duty in terms of price regulation. Just to finish off with another quote from another Conference I went to, the quote was: "It is very hard to turn a man eating tiger into a vegetarian".

There was one last question pertaining to what the people who find themselves in provinces where the HRC has no offices, I think a response to that would be that those people should direct their comments to the head office in Johannesburg.

In fact, when we specified the question on disability, because of children whose grants are being cut (some of them in the rural areas hardly have grants and their parents are unemployed), so how do we really come up with seeing to them having good food. That was our ultimate concern.

4.2.1 Group Two: Policy Development and Implementation

Group two looked at policy development and implementation, the role of government and civil society. What we did was to first look at additional issues, which were not necessarily put in the pink papers that we were given. Then we looked at the outcomes that we needed from the whole group discussion. We looked at the existing situation in South Africa, the duty bearers and the duties, and lastly, recommendations.

The issues that we felt were additional to the deliberations suggested were as follows:

- Skills training, focusing on practical links on human rights and sectoral planning;
- Conceptualising human rights and nutrition, what would have to change, what do we need to do differently in applying a human rights perspective; and
- How will this help policy implementation.

We felt that we need skills acquisitions for street food vendors on food safety; a translation of policy into implementation, and we felt that there is resistance to change policies on the basis of emerging issues which means that, in order to make a realistic difference, policies must be flexible and adaptable. There must actually be a political will to change the 'how' of policy making and implementation, not only the 'what'. An example was given that in most instances policy makers breed policy makers, with the national office making policies, then translating them to the provinces, who in turn make policy, telling the local government what to do. At the end of the day, everybody tells everybody what to do but nobody tells anybody how to do it.

The process of policy development may need review. With more participation and shared responsibility (policy reformulation), there needs to be a joint governance mechanism on food security and nutrition, a connecting mechanism or body and the question was asked whether it should be led by the Department of Health or what particular department? We did not answer that one.

There is a need for legislative support to the Constitution, which should include monitoring mechanisms: the how. The monitoring mechanisms should be both vertical and horizontal. For horizontal we need to ask how would civil, society be able to monitor?

Then the second thing that we did was on expected outcomes. We felt that at the end of the process we need to have identified the optimum process of policy reformulation, including strategies for implementation, monitoring and evaluation, focusing on stakeholders, that is government, civil society and the private sector.

We also need to identify or propose a mechanism for co-ordinating human rights, nutrition and food security issues and where it should be placed. It was felt that we need to strike a balance between what was called convergence, integration, co-operation and co-ordination.

After that, we then looked at the existing situation in South Africa, what we felt were challenges or problems in the South African context. We found that there is fragmentation between the various departments. I think that point was raised by the previous group. Specifically between health, agriculture, trade, and industry there is lack of institutional capacity. Their connecting mechanisms are almost non-existent. Their capacity to understand issues is not similar. People sometimes feel when they are in group discussions, discussions around nutritional issues, that they understand terms such as 'nutrition' and 'food security' differently, making it almost impossible to come up with

one conclusive thing. A suggestion was made that perhaps there needs to be certificate courses implemented to get people to understand issues the same way.

There is no co-ordination of institutions into policy debates and system development. The programmes are run in isolation and there is loads of overlap between departments.

There are no joint training opportunities. Different sectors do their own training. For instance, the Department of Agriculture trains its own inspectors on agriculture and so forth. At the end of the day, you find three sectors talking about the same issue in different languages.

There are no sectors in ministries, which focus on training or review of policies. There are just small units or sectors that deal with nutrition.

We felt that the process of the disbursement of funds with regard to the following is poor. It requires written submissions, and experience has shown that most people do not have the skills to write them, with the result that the submissions are sometimes very poor and people do not get funds as a result. It requires proposal writing. There is sometimes limited implementation time frames resulting in money sometimes not being used.

The tender process, which happens to be a cumbersome business, sometimes delays implementation. There is lack of capacity to mobilise large sums of money on the part of both government and civil society. Moreover, there is no planning with regard to the usage of the development budget, which tends to be used for non-development issues. An example was given of the Indian experience where NGOs were normally used to undertake or develop the development budget with concern from the stakeholders, and it was suggested that we might learn a lesson from that.

There is lack of accountability on the part of government with regard to results. Accountability is rather based on financial aspects.

We then went on to identify duty bearers in relation to food and nutrition security. We were given the Brazilian example where the duty bearers were the Department of Health, Education and Culture, Environment Affairs, Agriculture, Justice, Water Affairs, Foreign Affairs, Finance, Trade and Industry. I think we put Eskom for the South African experience. For South Africa, we found it might not necessarily operate the same way because with South Africa we felt that for instance the Department of Finance should actually be put in as a key stakeholder with government.

Then we looked at other national actors or partners and we felt that the South African Human Rights Commission, the Commission on Gender Equality, the Youth Commission, Land Claims Commissions, Land Court, the Public Protector, churches and Nedlac would be partners in this whole process. We had actually set ourselves the task of to identifying the duties of the key government departments, but the group acknowledged that this is a process that must be consultative and should fully involve the sectors if joint governance is to be achieved. We felt that we did not have the jurisdiction to deal with that.

Then what we did was to look at the question, what would the government mechanism entail if we want to minimise fragmented policies in a human rights approach? We concluded that it is the duty of government to put into place policies to achieve food and nutrition security for all South Africans. It is the duty of government to develop mechanisms that minimise fragmentation and move towards co-ordinated policies. To do this in a human rights approach, government must ensure involvement of all kinds of society that is civil society, government and the private sector. Again, it is very crucial that this must be decentralised on a geographical level.

It was felt that in order, to achieve the above recommendations, government must establish a lead agency for co-ordination which must be politically placed and be in a position to co-opt ministers. The South African Human Rights Commission was seen to fit the profile.

There could be a sub-committee under the South African Human Rights Commission, whose key duties would be advocacy on a human rights approach, review of existing action plans of all government departments and review of sectoral papers, comparing them to the current situation. Also to identify key roles and duties of each department or agency pertaining to the human rights approach to food and nutrition security. It would realistically review existing goals and targets, and redevelop joint social indicators for monitoring at different levels, develop cost revised interventions, quantified time and cost targets, action plans with a guaranteed budget. It was felt that this is critical in order for this sub-committee to be able to function.

The last recommendation was to establish or review monitoring and evaluation mechanisms. It was felt that monitoring is important and should be both on a community base and vertical levels. There must be a physical analysis, both on a national and community level and a joint review by all partners.

In conclusion, in order to implement the above recommendations there is actually a need for serious advocacy, information, education and communication. Most importantly, it was felt that there is a definite need to revive the civil rights movement in South Africa. Members of the group said that South Africa at this present moment has become quite complacent when it comes to activism.

I think there is just one omission there, which I think is a very important one. The Department of Welfare did not feature there at all. It is a very important role player and I would like the group to reconsider that. This would be under duty bearers.

As a resource person of that very group, I would like to add a few things to this very well done presentation. I must say that we had an extremely lively group, which also made it very difficult for the rapporteur to keep track of all the interventions. They often went in all kinds of directions. Thus I would like to congratulate our rapporteur on trying to make some sense out of, I think, a very stimulating discussion that we had but again not always very conclusive.

I would like to raise three points. When discussing the Brazil experience as an example, the point was made by our Brazilian colleague that they developed a strategy in their co-ordinating mechanism or their governance mechanism so that all partners spoke the same language. Government, civil society, and the private sector learnt to speak the same language. The constraint raised from the South African side was that each department has difficulty understanding the other department.

Now, how did this come about in the case of Brazil? We did some brainstorming on this because I do not think there are easy answers. The important element was that in the whole movement in Brazil there was a strong, ethical commitment to the eradication of hunger and to establishing food and nutrition security for all. This common ethical commitment was the basis for everybody to be more receptive to other people's views of thinking and of communicating. We therefore came to the conclusion that ethical intervention is at the heart of human rights approach. Why do we want or think that we need a human rights approach? It is because we need to bring ethics to bear.

The second observation I would like to make is in establishing the duties of the duty bearers. We differentiate between core duties of core bearers. A Ministry of Agriculture may have certain core duties, which does not mean that it has to implement these all duties by itself. It may be or will be the responsibility of the private sector or civil society, but there must be one point in the governance system that is to be held solely responsible. This will be the key issue in defining core duties, not only spelling out what these duties are, but also in nailing down one single actor to be ultimately responsible and not have a big group that you cannot hold responsible and accountable.

Related to the definition of duties is also the need to be more precise about defining action and defining policies. We did look at the action plan on implementing human rights and at the food chapter in particular. One of the things that struck us when reading the action plan is that on quick reading, at least, it would appear as if the list of things to be done is long. We knew these things before the World Food Summit; we have known these things for a long time. We looked at a few selected items in the action plan and now, how would you monitor this? How would you be able to hold somebody responsible for this happening or not? Whatever the item was, it is defined in such vague terms that it is impossible to ask, are we moving towards this or are we not moving towards it?

The conclusion for us is that, after we have defined duties for duty bearers, we need to define policies and actions in ways that we can monitor. There is something that I did not see on the transparencies but maybe my attention slipped at that moment. We specifically said and very strongly emphasised the need for targets, quantified targets, time frame targets, costed targets. A statement of how and whether it can be done must accompany the importance of suggesting that something should be done. The financial aspect was pointed out as a very important component, which is normally missing when departments make proposals.

Furthermore, are proposals being made financially implementable? In some instances implementability is not tracked. We need to have targets in quantitative terms and with time frames that we can then also monitor. In this connection, we said that the monitoring process must regularly check on whether we are moving into the right direction, and that should not be done by a government unit. It should be done by a consultative group that jointly co-ordinates the activities of the entire food and nutrition security areas.

That brings me to another point. Look at what is proposed in the action plan. We just felt at that moment that we did not want to make any particular recommendation. Whether it should be creating a co-ordinating mission or whatever, the action plan has to say. What we felt, however, was that we need a body with sufficient political clout and we would have to ask ourselves, whatever is proposed in the action plan, whether that has the clout of combining ministers together, should a need arise. Thus, it cannot be a very technical inter-departmental committee. It needs to be something higher.

4.2.2. Discussion Session Following Group Two Presentation

1) Thank you very much for the presentation. I was looking at the national plan of action as you spoke and there is an enumerated list of bodies that are responsible for monitoring and implementation, specifically under the heading of food, and one of the bodies is the Food Security Working Group. I was wondering whether that has been considered and actually, what the status of that group is right now.

Also, in the first presentation, I noticed one group or structure that could be used is the National Plan of Action Steering Committee for Children, which is located in the office of the Deputy President and is an inter-ministerial group. That could be a structure that could be used in terms of some of the recommendations that have come out.

2) I want to support the previous speaker by emphasising the fact that I see the reporting group refers to the government and we must ask who the government actually is, who do they refer to? Do they refer to the few people up at the national office or are we the government, or do we have task teams within the government? We must not go out with the idea that we will wait for government to get to this policy or the decision taking. That will not work because to whom do you really refer? If we talk about government then we could refer, yes, have the final stamp by the President or by the applicable ministers, etc, on this particular policy, but we should not wait for something that is called government. Which body do we refer to? Who is actually supposed to do the work? It is the task teams that should be formed to address these policies or to alter the policies that already exist. Thank you.

3) Thank you. I just want to say that it is very important that we can get this co-ordinating body that has been suggested to try and co-ordinate issues. What is actually happening is that within the Department of Health the nutrition section has realised that there is a need for us to work together so as to be able to attain the goal of optimal nutrition for all the people of South Africa because that is not the duty of one department. That is the duty of many departments, as we are talking about food security and nutrition as a basic human right. But now, this section has gone on to developing a curricula, trying to re-orientate people, trying to educate people so that people can understand the issue of inter-sectoral action.

There is too much frustration down there where the other departments have not yet realised the issue of working together. You try to rope people in. You try to make them come and listen to what you are going to say, why you want them, but they do not come because they do not realise that it is important for them to come. We have this training, on how to go to the community, which we would like to make people aware of. What should we do so that we can reach that person? But you find this does not work because other people have not yet realised this issue of working together.

It is very important for us to have this co-ordinating body so that we can work out something that can make us come out of our own cocoons. We are in a cocoon and that is the problem. I really emphasise the issue that this government is looking at improving the quality of life of our people that are very poor and what is happening? We are not yet addressing that. If we are not working together, we will not be able to address it. With the few resources that we have, if we can work together we will be able to make change.

4) Just to take forward the one point so eloquently expressed, what seems to me to be missing or not stated explicitly enough when the action plan was put up is indeed this issue of capacity and human resource development. It is all very well to have a business plan to make sure that there are financial controls and monitoring and so on. Obviously, those are minimum needs. But what is not explicitly

stated - there is a desperate need to improve the capacity, particularly of public sector workers to address this problem. The fact is that in our present financial situation, in most provinces, ninety percent and more of provincial budgets is spent on salaries of public sector officials, in Health, in Education, etc. If those people are not functioning optimally then we are wasting money. Thus, it seems to me that if we are not going to get a huge increased budget, we have to improve the functioning of people in respect of nutrition and food security. The Department of Health has tried, its representative to rope in other ministries, but other ministries do not come. I have been to innumerable meetings but they do not come. Therefore, there is a need for a real big push in this regard. The next group will report on some of the advocacy aspects of that but in terms of policy implementation, unless there are many more concerted efforts on education about policies and what they mean, and what the specific duties are, and people in different ministries to implement those policies, I really think we will be meeting again in five years time discussing exactly the same thing.

5) I just wanted to comment on the similarity of the recommendations that came out of the two groups, particularly in relation to the need for co-ordinated action. I'd like to support the last two speakers and what the Chair has said, the final point and the recommendations made by Group Two with the need for a civil rights movement. It is all very well talking about what happens in government but we need to reinforce that from outside by social mobilisation. We know that from our own experience and from other countries. If you have a civil rights movement that is pressurising for delivery, that is pressurising people to work together, that will also increase the strength of the hand of people inside government bodies who want to do that, and in that way, we can all work together.

6) I just want to comment and share with the conference here, the issue of the status of the food security-working group of which I was a member. The life span of the group was very short lived. It was appointed by the Minister of Agriculture with the purpose of developing a food security policy. This group produced a fairly comprehensive discussion paper, which was a very good start. It even recommended that the way forward was a consultative process where this could be shared with various stakeholders and some amendments made. However, after the end of the process, the document was somehow overtaken by the official policy development process and it was used to inform the process. From here onwards, I do not know what is going to happen, now that the process of official policy is over. What is going to happen? Are we going to take it from there? Maybe I should have brought the document with me, so as to have a look at it but it can be made available.

7) In response to the question raised by the lady next to me about government being totally responsible. In fact, we talked about government structures, we talked about all the different parties coming together, being responsible for making sure that the plans that are discussed are implemented. We talked about the responsibilities that each of the groups must take during the planning stage so that civil society is present, government is present, and the private sector is present. At that stage of the planning, they must actually commit themselves to taking responsibility for implementation. The only problem was to make sure that someone from the Department of Finance is there to ensure that money is available, but more often than not, the money is just available to government. In terms of capacity building, we also said that it was a very important task for this group to ensure that advocacy and capacity building take place before they proceed any further. Something that was not discussed in the group that is quite important is for local government councillors and community councillors to be trained. This is because they are the ones who have got access, direct access, to the different elements of the community and that is where all the different departments come together. Human Rights, Agriculture, Trade, Welfare, all the

departments need to come together and to share their skills with local government councillors and they could disseminate that information.

8) I just wanted to comment on the issue of policy, particularly from the second group. Now I really feel that the Commission has got to look at the issues very clearly and seriously. The reason being that if the recommendations are not realistic, meaning that, do you really want this co-ordinating body to be some kind of policy change or programme institution, then you have to make a decision there and be clear what you want to do. Probably the report that we will get should give us clear direction. Maybe the second group might have to look again at their recommendations and see whether they come up with this co-ordinating body as the policy or sub-policy of a body that is going to be on its own or probably a unit under the Department of Health. The second issue is also addressed to the second group. Did you also look at the consequences leading to this body being a co-ordinating body? Did you look at the negative, positive consequences of making a decision, also whether it should be a policy programme?

I also emphasised partnerships in my group. We identified the issue of partnership as a challenge for all parties. That is government and all the stakeholders and I think the lady from the Health Department will probably have to encourage her partners to look at a model on partnerships. Lastly, I want to share an experience that we established in our Department. Last year we were asked to implement the Copenhagen Declaration. Now you know the Copenhagen Declaration is very broad. It deals with issues such as unemployment, governance, and social sector. It actually required all government sectors, NGOs, civil society, to take part. So what we did is this, we designed a framework and this in agreement with what Dr Eide was saying. We designed a framework where we thought we are a social development directorate, as the Department of Welfare. We know that looking at all the policies of other sectors, government sectors, they are implementing social development and therefore we said, how do we then get them to come in and be part of this. We wrote a motivation and said, "Trade and Industry, this is what you said you would do in your implementation strategies, or what you have done, and we feel that this is social development". We actually reached all the departments. In the end, they responded and acknowledged that they were implementing social development and we developed and established an inter-departmental committee on social development. We worked together for the whole of last year, and by January this year, we produced a report. It is an inter-sectoral report, reporting on all government sectors, agriculture, and labour, on social development. But it is a major, major framework that we can share with the Commission if you want it.

4.3.1. Group Three: Impact of Macro-Economic Policies

Our group looked at the effects of macro economic policies on the rights pertaining to food security and nutrition. We were quite a diverse group. There were participants representing people from provincial and national government, Departments of Health as well as Trade and Industry, local and international NGOs, academics, members of the South African Human Rights Commission and even representatives from Southern Africa Development Community (SADC).

One of the things we looked at was the relation between GEAR (Growth, Employment and Redistribution) and structural adjustment policies. For some definitions, macro economic policies are policies governments make about the overall strategic direction that the economy must take and measures that should be taken.

Structural adjustment policies on the other hand are macro-economic policies that governments must take on to structure their economies in exchange for the loans from Bretton Woods Institutes such as the International Monetary Fund and the World Bank. It is basically a loan conditionality.

There are some similarities between GEAR and structural adjustment policies. GEAR has many of the same characteristics as structural adjustment policies have, of which a few will be listed. The difference is that South Africa did not receive a loan from Bretton Woods Institutions because it was classified as a middle-income country. Yet, South Africa on its own developed a macro economic policy with a lot of similarities, to those the Bretton Woods Institutes induced structural adjustments programmes.

There are some differences. Subsidies to basic foodstuffs in South Africa are through zero Value Added Tax raising. In GEAR, this has not been removed. Exchange rates devaluation did occur in South Africa but not necessarily due to government but rather through some very complex processes.

Similarities: Funding to parastatals has been removed, some of which have been privatised, and liberalisation of trade did occur in South Africa.

Why did South Africa develop a macro economic policy with so many similarities to structural adjustment policies when it did not have to? There are a couple of explanations that came out of our group. One of them is that South Africa is trying to position itself politically and economically on a global arena. Politically, it has been very beneficial to South Africa to adopt GEAR and that has been indicated by Heads of States such as the British Prime Minister and, the President of the United States who congratulated South Africa for moving into the right direction. The head of the IMF embraced South Africa for taking on this policy.

Another explanation for South Africa taking on such a macro economic policy is that the dominant discourse, the way of talking about what is good and bad economic practice, very much closes some opportunities for debate. There is no alternative, or is it a claim, that comes from many different actors on the national and international arena?

We looked a little bit at the reality of globalisation. It is all fine and well for GEAR and other policies in South Africa to emphasise the development of small micro and medium enterprises, but in reality, these small enterprises are not really able to compete with the big people, nor is South Africa really able to compete on an equal footing in a globalising economy.

We moved on to the heart of our discussion. How much do macro economic policies such as GEAR, really impact on the ability to motivate and fulfil nutrition and food security? We wanted to differentiate between positive and negative aspects, interactions and consequences. The positive intention of GEAR is a reduction in government expenditure. Some of the positive consequences of that is a restructuring of government spending that has occurred. From 1994, less was spent on defence and more on social spending, such as health, welfare and education, in relation to the national budget.

The reduction in government expenditure has led to some calls to make government expenditure more efficient. Government spends too much on administration and salaries, rather than service delivery.

Some of the negative effects of GEAR, however, is that there has been zero or negative growth in provincial budgets. From 1999, the beginning of budgets saw a dramatic decrease, which made a lot of good work that people do in the provinces very difficult. So yes, we decided GEAR impacts on budgets but you cannot single it out as the only impact on budget. Just because there is, less money is not the main question one should ask. The issue is if there is less money, what is being done with the money. Efficiency of public service leaves a great deal to be desired.

Now from the experience in Brazil, the latest IMF condition for a government in Brazil is that it may not spend more than 60% of its budget on personnel. Now we were wondering how would this be received in South Africa, for example? It is important to note that the impact of macro economic policy is not only economic but also social. Stopping subsidies on foodstuffs and thus opening economies to food imports affects the ability of many local farmers to make a living, with all the social consequences that flow from that.

The budget, the amount of money spent as a whole, and on those activities with direct impact on food security, needs to really be looked at, not just as from an economic point of view but from a social point of view also. Brazil created special food security budget, which is followed every year to ensure that such important things as food security and nutrition do not fall by the wayside.

Another issue that was raised was the limits of GEAR, that it does not have such an economic or social emphasis. For example, GEAR has targets like increasing growth, that is economic growth, by 6%, but it does not necessarily mean that the poor will be better off. The stated intentions and security spending in GEAR are really good or may be good, but again, the poor may not necessarily be reached. Why is this? One of the reasons is probably because GEAR needs to be thinking more about exploding the budgets rather than reaching the poor; more about worrying on not exceeding the budget than really getting things done.

Thus, really, even though there might not be exact measurements, there seems to be enough evidence of the negative impact of the kind of thinking that GEAR instils which is at direct loggerheads to the kind of thinking this conference wants to instil. We decided that there is a need for an alternative model with which to fill the silence around GEAR and the questioning of GEAR.

This conference, we hope, can set in motion a process of tackling the holy cow of the discourse on globalisation and macro economic policies. On TV or wherever, the mass media, and even some capitalists, admit that capitalism is not without flaws. So why is there not more discussion going on?

Now just look a little bit at the major theory behind GEAR. The major theory behind GEAR simplistically put is that government is bad and market is good. Government is incapable of doing

things efficiently and the market is the most efficient way. That is a way of thinking that is very important and shows something that is fundamental to your theory of what government is and what government should do. Where are the discussions in civil society or in the world out there on the role of government versus the role of the market? Government has huge structures, experts, consultants, but a lot of the money goes into administration and salaries. It may be more useful to see how things on the ground can be funded, while there is control by the government.

Thus moving towards this alternative model, it actually took us into a discussion on the Reconstruction and Development Programme (RDP). Some of you might remember that very beautiful programme communities. The RDP advocates community based development, generation of employment while empowering. That is something we have been talking about for the last two days. The impact of GEAR on the RDP and perhaps even human rights kind of thinking is that such an approach becomes impossible because there are always these worries about financial constraints, of the bottom up approach which requires extensive capacity building, takes a long time and costs money.

Then we got to talking about some recommendations. The recommendations were basically put into two main categories. The one is capacity building and awareness raising and the other one is monitoring mechanisms. Let me start with the one on capacity building and awareness raising. It has come up with the previous two speakers that facilitation of awareness and knowledge improvement in communities is essential. What they need to know is that they have to know about human rights, about food security and nutrition. They also need to know about policies so that they are able to consciously monitor themselves and, therefore, there is a need for improved individual and collective understanding of the issues at hand.

One of the duties of the South African Human Rights Commission is to increase understanding amongst the groups that it relates to, whether they are government, civil society, national or international NGO's, on what macro economic policies are, because the people are really ill-informed. I am just going to jump a few points, it might not all be nicely flowing but it should make things clear.

GEAR could be used to instil that cultural justification that Judge Davis spoke about, in terms of government spending and channelling of funds and questioning how that is done. In terms of the Constitution, the government has to take reasonable measures to implement socio-economic rights. Not having enough money is not an excuse. That is all fine and well to know but the people on the ground have to know about that. Thus, the importance of capacity building and awareness raising is to get more active questioning of what is being done.

The South African Human Rights Commission comes across a lot of the norms and expectations of people who are not involved in decision-making or who are ill informed and the problems that are flowing from that. Government must learn to deal with those demands without becoming defensive. Not just government, everybody has to be able to deal with things without becoming defensive. The main thing coming out of this is that, there is a need to sensitise people to denote that human rights issues are not unrelated to economic issues. The Department of Finance and the Department of Trade and Industry have not come to terms really with the concept of human rights and its relation to economics. UN speakers at the conference all indicated that it took them a long time to develop a proper understanding of human rights. But it is not an impossible task. They got to the understanding.

Now we are all here at a conference and regardless of whatever comes out of this, we will need to be able to influence international agencies like the World Bank and the IMF. In thinking that the issues at hand are not primarily poverty, debt relief, but human rights. The South African Human Rights Commission needs to constantly insist that issues of economics and issues of human rights be linked.

One of the recommendations that came out was that we need an inter-ministerial commission to carry that out, like in Brazil. In Brazil, such a commission does things like impact reports of every policy, including macro economic policy. Once such impact is understood then policies can be changed or improved.

Very importantly, and what came out of our group, is that while we are able to discuss issues like slavery and colonialism as a political issue, globalisation and macro economic policy is seen as an economic issue. This closes the space for struggle, alternative and local knowledge systems and an ability to speak and debate about it. Therefore, you need to place that debate into a political context so that you can more clearly assess the impact of macro-economic policies on food security and nutrition. A critic of slavery only emerged after many, many years of struggle. This is why it is so important that there is more education and advocacy around issues of macro-economic policy.

In a context of globalising market economy, macro economic policies may present new mechanisms to expand control. But this needs to be explained to people. How does this really work and how does it politically affect them and what kind of power issues are involved?

Then lastly, for this capacity building and awareness raising, which includes the issue of training and information dissemination, was an example from Brazil. There were about eighty very successful community projects, which transformed food aid or charity kind of issues into making people pay in some way for the food. Not just monetarily but perhaps through some work or things like that. Then suddenly, the federal government decided to distribute food again. It indicates that one sector on the ground may be doing one thing and then another sector may be doing something totally different and that's not even a case of policy change. It is a case of miscommunication and misinformation. The only alternative then to things like that happening is local integrated development. Successful local development must be protected from outside interference like that. Four years of very empowering projects was lost, as in the example I just gave you.

The second section of recommendations deals with monitoring mechanisms. What and how to measure in terms of the impacts of macro-economic policies and how to monitor what is done in terms of these policies and their impact. There seems to be a gap in quantitative reporting and impact analysis on these kinds of things and there is a lack of economic special knowledge amongst human rights activists, social scientists and others concerned with security and nutrition. The lack of consultation around GEAR, led in a way by economic people, resulted in a relative lack of analysis of its social impact. The human rights movement involvement in scrutinising GEAR will have to do more than just look at the constitutional or legal aspects. It would to analyse GEAR in relation to its strength and weaknesses. It does not mean that the South African Human Rights Commission now all of a sudden has to specialise itself in economic issues. Its mandate does not require it to do so but it must develop its ability to monitor the impact of macro-economic policies on human rights, via partnerships.

The bottom sentence says that partnerships must be forged on all these recommended steps. I will explain a little bit about that. This deals directly with the whole myth around GEAR that such specialist knowledge is needed in order to understand it. Partnerships between NGOs, civil society,

government, and human rights people, there might be economists involved, will enable us to look at it more clearly.

Just to mention the issue of methodological problems around measuring the impact of GEAR. One of the people in the group did a study in Zimbabwe of the impact of structural adjustment policies on household health. The study could not attribute causality directly. The impact of HIV and AIDS might have been causality as well, in the decrease of household health. So how one measure the effects of macro economic policies on economic and social rights? Now there was some framework that was used in the study. It looked at three things. Inputs, which were macro economic policies or structural adjustment policies. Processes, which were the household economies on the one hand and the health sector on the other. The outcomes, looking at things such as child nutritional status. Several processes affected households' economies; others affected the functioning of the health sector. The health sector was, for example, affected because some structural adjustment instrument required that user charges be imposed. So there was in this case a need to monitor what are these user charges, what are these instruments of structural adjustment policy that impact on the use of facilities.

In terms of monitoring mechanisms, there is a need for further research and for adequate information systems. There is also a need for more data to facilitate monitoring.

In conclusion, there is a need to have indicators for people in the community to have a sense of how they reckon there has been success or failure in policies. Recommendations that communities make should be taken seriously. One of the main recommendations coming out of the poverty hearings was that people want to get out of the poverty cycle. They want to get hold, once again, of their independence. They want to lose their dependence. In rural areas, people are not asking for millions. People are not demanding complicated responses. They do not want lots of money but research and results are to be used as an advocacy tool. To avoid standing on an ideological soapbox on whether the macro economic policy is bad or good, rather we should look at whether macro economic policies are working. What communities can say is important for information dissemination. A lot of people do not even know what government policies are. Sending booklets of the Constitution to communities is as ineffective, somebody said in the group, as it would have been in the liberation struggle, to send out pamphlets to people on how bad apartheid is. What happened is that there was an active mass mobilisation? The same is necessary for macro economic policies. It is an approach, which has to be informed by a human rights mind set.

4.3.2. Discussion Session Following Group Three Presentation

1) Thank you, Mr Chairman. I would rather bring up some things that I think should have been said. I am still always surprised to hear comprehensive presentations on macro economic analysis in African countries, without mentioning the greatest threat and tragedy we are experiencing. That is HIV/AIDS. It is absolutely shocking how the conspiracy of silence penetrates all meetings, all of us, all the time.

The second point is, structural adjustment is of course one of the most effective and efficient mechanisms for the globalisation of capital in the world. Some call it globalisation only. I think that what I mentioned the other day, the privatisation of social services, particularly health and in particular education, is extremely threatening. I do not know if you know that President Mandela made a major point of this when he visited Tanzania a few months ago in his farewell speech to that country. He said that privatisation of education in African countries is the greatest contributor to rapid class differentiation in these countries. I think that we really need to take that seriously.

Now what is the global situation? I have two overheads that I would like to show, I try to show them every time because I think they are shocking. When we talk about structural adjustment in different countries we need to have the global picture clear. These two pictures, the first one is a map of the world that shows where people in the world live. You can see that many live in South Asia, America is not that big, Africa is quite big, formed in each country in proportion to the population of the country. Look at it for a few seconds and try to memorise this picture. Now I am going to show you another picture. That is where the money is. This is where the money is. If you have sharp eyes, you will discover Africa and it is actually half of it, two thirds of South Africa. India has become a small little peninsula. This is where the money is. This is where people are, and this is where the power is. This is the environment in which we are working. Whenever we talk about structural adjustment and macro-economic policies, we have to keep this in mind. It is the United States, Europe and Japan that dominate this world and quite frankly, we have small chances.

I want to end by noting that, as some of you know, my second home country is Tanzania. I know that country very well. I have known it for 25 years. You see, you talk about tigers and goats, but goats also eat something. South Africa is mainly a goat but South Africa is also eating something. You would not believe the South African capital, how that works in Tanzania. That country is being robbed today of its mineral resources, because of South African capital.

2) I have a congratulation and a general request, which is that the summaries on the overheads are so useful that I hope we can all get copies of them before we leave this conference. This is a request to the organisers, because this is extremely useful, my second point is that the question of structural adjustment and the point that was made that the dominant ideology is that governments are bad and markets are good. I certainly fundamentally disagree that markets are necessarily good and I think this debate is now coming up with great strength in many parts of the world. It is a strong debate in Europe around what is called the trap of globalisation and the efforts to develop what is called a third way. Still it is very vague and weak but there is a counter movement of some strength, which is increasing. However, when it comes to the other part of the equation whether governments are bad, I think that we have to recognise that sometimes governments are bad. I think if we look into the history of South Africa, it is probably the best illustration. It is interesting to take that into account and maybe for the purposes of discussing the process of structural adjustment.

You did have a government over a number of decades, which was concerned with the interests of a small part of the population and maybe the best way of explaining how even concepts can explain the differences, the notion of national food security. It comes out in the paper by the Minister of

Agriculture and I think that part of the paper is quite interesting. The way, in which national food security was conceived during the years of apartheid with the kind of power arrangement it had then, should be able to withstand international pressure by having national food security. But it did not concern itself at all with household food security. In fact, the government was simultaneously destroying household security while it was promoting national food security. This is a very good way of understanding the fundamental distinction between national food security on the one hand and household food security on the other hand.

What this brings me to assume is that a number of the legacies of the past government needed to be fundamentally restructured and maybe the policy of structural adjustment at least to some extent can be a contribution to the abolition of aspects of government, which really need to be fundamentally changed. But then comes the question, and that is why this was such an important contribution, the need for the alternative debate. What is there to build up, now that you can fundamentally restructure what was there? What can be built up? And I think that is why the analysis was so good and so useful even though of course, as Urban said, it did leave out a major issue, which is how to live with the HIV/AIDS problem. But apart from that, it was so useful in focusing on the need to build up an alternative debate.

To me it also brings an understanding of the need that you have in discussing structural issues, you have to look at the specificity of each and every country because the needs may be different. The historical past, as in the case of South Africa, is so different from any other country, such as for instance Tanzania, that the issues have to be dealt with in different ways in those countries. Thank you.

3) I would just like to first make a comment about the Brazilian experience. Sometimes we feel that presenting experiences is seen as something much better than it really is. We would like to put some historical perspective into that. Sometimes when we speak, we are very proud of what we are doing but you know, sometimes the mistakes are not as clear as the advances we have made. I think what we have is something very special, and what I think is really good, is the continuous social process of search for a new kind of governance in the country. I think enormous social mobilisation is bringing that about. Also, this is something that we are really proud of. I do not think the results are as good as we would like them to be but I think the process has been extremely positive over the last years. I think our victories are examples of what we can bring about with this kind of process. But they are not final, they are being built every day and we have to continue the process if we want to go any further.

I think I would just like to bring that out. In understanding that, I would like to bring two or three points that I think are very important to us and I think could be helpful to you here in South Africa. First, we understand that the problem of food and nutritional security as the elimination, eradication of hunger and implementation of the right to food as a human right, as an indivisible human right, as quality of life, as dignity, and everything else, is not a sectoral problem. It is a societal problem and therefore it must be a governmental duty as a whole, not as a sectoral duty. Then the co-ordination should not fall under one sector because the jealousy between sectors is so big and we know that it is very difficult to co-ordinate an action that has the name, that the human being cannot get food or nutrition or agriculture or jobs or whatever. So that I think, is something that we learnt. That if we bring it under sectoral co-ordination, it dies.

A second thing that I think we have learned a lot over the last years is that we come from an authoritarian regime, a very strong centralised, military, and powerful government, with the state police at the side, with no freedoms. That led to people being paternal again, but we have come also from a colonial period of paternalistic society. So there is still in Brazil, as much as I think there is

probably here, a hope that the state will solve all our problems and that it is the responsibility of the state to solve our problems. I think over the last twenty years the big lesson that we have learnt as people, is that the responsibility for carrying out the future of our country is the society's responsibility. The state has to represent that society, and it is the role of society to make it representative. We cannot hope it will represent us if we do not force it to represent us. Thus, the responsibility is on all of us, and so when we talk about public policy in Brazil nowadays we understand it as public, not as state policy. It is both the responsibility of the government and of the people to make it happen and the responsibility is both state responsibility and people's responsibilities.

Certainly, the duties are different; the responsibilities are different because the state has the money. But you know, we have responsibilities also and we need to make that money be used in the right way with no corruption and all that stuff.

We learnt that the public officers and public officials are citizens and I think the Citizenship Action Movement grew because of that, too. The people in government also felt like citizens when they were making policies. We cannot have a schizophrenic mind in public – they kept on being citizens when they were public officers.

The final thing I would say is that I think the partnership for us is filled with shared responsibilities but we understood that the partners had different responsibilities also aside from the shared responsibilities. The government cannot place responsibilities on civil society. But we cannot place responsibilities on the state that is not the responsibility of civil society, either. As has been said, that ethical principle is fundamental. We have been discussing this about what the responsibilities of civil society are and it comes to my mind, one big mistake that civil society has made sometimes and one phrase comes to my mind that I think is really dangerous, that "human rights is not an ethic". I think it is. It came from ethics and if it does not have ethics, it will never be anything else. It will lose something.

There is another phrase that civil society says that also worries me, that if you see somebody in the street beating up on a kid, this is not a civil right violation, this is a crime. But if it is a police officer that is hitting on the kid, then it is a civil rights violation or human rights violation. I think this is a horrible mistake. I think that human rights violation is occurring in both situations because the person is invested with power in some way and that power is violating the rights of the children. As a human society, we have to lean against both types of violation and not only the one by police. Parts of the military police in our country are not police but they also violate rights.

4) Thank you. I want to first congratulate our rapporteur from our group who put together an extremely lucid and detailed presentation from what was often quite a rambling and difficult discussion. I really want to congratulate her. She obviously worked a lot on it. I wanted to just raise one issue, which we touched upon, but did not really go into in-depth, which I believe poses an almost new and unparalleled threat to human food and nutrition security. It is one aspect of globalisation.

Over the last decade and particularly over the last five years the monopoly control of agricultural resources has increased dramatically with a few US based multi-nationals, Monsanto being by far the biggest, now monopolising between 80% and 90% of the world's agricultural resources. This has happened, through, amongst other things, one of the sub-clauses or one of the conventions under the World Trade Organisation namely (TRIPS), Trade Related Intellectual Property Rights, where these companies have essentially bought up genetic material. They now actually own and

control seeds of the major food crops, some of which they have genetically modified to be pesticide and herbicide resistant. They have also bought out pesticide, herbicide and fertiliser companies.

Therefore multinationals like Monsanto now control seed, fertilisers, and herbicides. Organic food crops are grown through pollination but some activities rendered those food crops sterile. There is an enormous threat now posed to humanity because there is a monopoly control over our food security. This has not really been raised in this conference. I was appalled actually when I read the Sunday papers. There was something in the Sunday Independent two weeks ago, where the advances in genetic engineering in food are hailed as a major breakthrough for humanity. South Africa's consciousness in this regard is extremely low. And I would appeal to the South African Human Rights Commission to really include this as a subject for discussion under this broad umbrella of nutrition and food security, because South Africa, as I understand it, is signatory to the World Trade Organisation and its conventions, including Trade Related Intellectual Property Rights. There is a growing consumer movement on this issue of biotechnology in food. South Africa is lagging far behind and it imposes a huge, and I would say unprecedented, threat to humanity's control over its own food resources.

5) I just want to add to the point made by David Sanders, which is something simply called a terminator gene. It increases productivity - you take the particular seed and you grow it. You mix it - normally the farmers use the same seed, I mean, they save the seed from the crop and use it for the next crop. This terminator gene will prevent germination when you use the seed a second time. This means that the dependence on the seed supply is then total.

6) I also want to start by commending that group and the rapporteur for a very detailed assessment of the impact of macro-economic policy, particularly for drawing our attention to the impact that might have on the provision and enjoyment of economic and social rights. Talking about macro economic policy on the South African side, I would have wished that, in the final report, there would need to be a more clearly balanced understanding because a bit of me feels that the way GEAR is intended to work is not typically structural adjustment although it has many, many forms of structural adjustment.

I think it is also important to acknowledge some of the provisions that have been made on poverty alleviation provision in the budget and more importantly, how in fact those resources have progressively been increased in the last two or three budgets from the Ministry of Finance. The critical question for me is where do those resources actually go (some answers we heard from the Department of Welfare here) and whether that is in fact the best the way in which those are to be handled.

It seems to me that in considering macro economic policy we also must not lose sight of the fact that as far as government is concerned, they believe they are taking account of the socio-economic needs of the most needy people in the country.

4.4.1. Group Four: Monitoring Assessment - Role of The Government, The Judiciary, The South African Human Rights Commission and Organs of Civil Society

Thank you very much, Mr Chairperson. The fourth group dealt with the monitoring of socio-economic rights. What you see before you is the pattern that we followed and those who cannot see it, the first point that we made was that whichever socio-economic right you look at, one way or the other they impact upon other rights like social and political rights and so on. The method that we followed focused on the following headings. First heading was: What is to be monitored? The second one, who should be monitored? Who should do the monitoring? How to monitor? Then compare the information received with what? And finally, enforcement.

Now that is the pattern we followed and what you see now. We went into each of those headings. The first one we looked at, was what is to be monitored? In doing so, we looked at various forms of legislation and treaties. The first one was the Bill of Rights itself. In looking at the Bill of Rights, we emphasised or we looked at mainly those sections that deal with disadvantaged persons in various forms. The sections were 7(2), 11, 27(1)(b), 24, 28(1)(c) and 35(2)(e). That is as far as the Constitution is concerned. And the CEDAW document, sections 5 and 14. The Convention on Children's Rights, section 24.

We also felt that the National Action Plan and the World Food Plan of Action are important. The International Convention on Economic, Social and Cultural Rights, in particular, article 11. The African Charter, section 14(c). Now we put a question mark there because when I looked at it later, section 14(c) deals with something else. Perhaps a person brought it up in the group to enlighten us further.

Then there is the Universal Declaration of Human Rights, Section 25. The point was emphasised in our group that in considering these various sections and statutes and treaties, we need to consider the region, in the South African context, how does it address gender issues, race issues, age, disability. In looking at the report we need to ask ourselves questions like why. But by and large, we could follow a mapping system called FIVIMS. That is the Food Insecurity, Vulnerability Information Mapping System, if you look in your blue book; you will find it at some point, on page 29, the blue book that you might have before you. If you look at the Bill of Rights and other statutes and treaties, then we also look at the progressive realisation of socio-economic rights. For that, one can follow the Limburg principles.

We also monitor resources. The example given the other night was for example, why a certain big figure is spent on say defence and why not on food. These are aspects that you can look at in our assessment of monitoring. We need to look also at the progress made by duty bearers and duty bearers have been the subject for discussion this morning.

We looked at administrative and other measures introduced by government. Then we have recommendations of treaty bodies. In looking at the recommendations made by the treaty bodies, we can see them more as obligations rather than mere recommendations.

The next heading was: Who should be monitored. Here we looked at firstly the primary duty bearers. There are certain aspects where our group was unanimous as to whom the duty bearers would be or should be. Firstly, the state, at all levels, was regarded as the duty bearer. That is at national level, the provincial level, and the local authority level. The view was expressed in our group that we should not be intimidated by the large number of local authorities, which is 847, and the way to do it, the suggestion was that we should work with both individual local authorities and

with South African Local Government Association (SALGA). Whatever information we get from state organ we should link up with other documents like the National Action Plan, and any other document that is before us.

The problem area in our group was the private economic enterprises: whether we should be monitoring them as well. In principle the group was unanimous that there should be monitoring, particularly because of the tendency at the moment for privatisation to creep in, in various institutions and also the fact that many existing private conglomerates are so big that there are socio-economic rights involved. Even without looking at whether the Constitution is unilateral or whether it is applicable to private organisations, there are existing statutes or documents that one can look at.

Firstly, the Open Democracy Bill which allows people the right to certain information, and the Constitution itself which allows for the obtaining of information where that information is required for the protection of one right or the other. As I said to you, the group agreed in principle about private enterprises being part of the duty bearers but how this was going to work in practice was something we did not come to a conclusion about.

Then, who should be monitored? We spoke about the parastatals. They should also be called upon to furnish information. The others are the World Bank and the IMF and SADC. Now here I am not too clear as to what authorities one could use to demand this but perhaps members of the group can assist.

Just to go back to the primary duty bearers on the national level, the emphasis was that in asking national government for information, we should not leave out these departments. That is, land and agriculture, water, health, welfare, education, in particular, with regard to feeding schemes, transport, trade, and then finance. That will come in under primary duty bearers.

Then we dealt with the two headings together that is who should monitor and how to monitor. The first name that came to us as to who should monitor is the South African Human Rights Commission itself. That should be done through the use of Section 184 and in doing so, the questions we felt should be participatory, making government departments feel proud of us. We should be asking questions that call for yes or no. We should be asking leading questions. These are not either or, but they are a combination of these to be used in any particular protocol.

In using section 184, we need to look at the South African Human Rights Commission as a whole. We need to look at its mandate as a whole, not just for social economic rights. We need to look at the function of the investigation, the education function and the promotion of human rights. Only then will we be able to get a sensible answer from government.

In compiling the questionnaire we need to look not only at compiling the questionnaire but also when we get the response, one needs to see whether there are goals mentioned there. One needs to see whether targets have been fixed and what sort of time frames have been given by government departments for projects and so on.

Thus how one should be doing the monitoring is that one should do it by assessment. In assessing them, we look at it in the light of international instruments, previous reports, if we have had any, how does it compare with that? We also need to look at what is to be monitored. In my first heading, we spoke about various sections of the Bill of Rights and various international instruments. When a report comes for assessment, we need to look at that in relation to what needs to be monitored. In doing the assessment, a further consideration should be the work done by NGOs.

Now to deal with the South African Human Rights Commission, how should we be doing it. How should the setting of targets by the South African Human Rights Commission for government departments be done? In doing so, one has to identify persons in a particular department, whoever might be the responsible official. In this regard and arising from complaints made in various documents that we see before us, we felt that particular officials who are targeted should be given specific training in the South African Human Rights Commission or similar bodies for reporting purposes, how to report, etc.

Under the question of how to monitor, there should be collaboration with civil society. We should consider, in doing the assessment, cultural beliefs and religious beliefs. These differ from area to area or group to group. Also under how, we need to look into how to start litigation on socio-economic issues. Although mentioned somewhat last here, poverty hearings occupied an important part of our discussions in that they should be followed from time to time. The outcome of poverty hearings would be a very good guideline as to the implementation of socio-economic rights.

We then moved on to other bodies that we felt should be doing the monitoring. The Commission for Gender Equality and under 'how', the use of section 187 was one way. There was the suggestion made that the Gender Commission should do referrals to the South African Human Rights Commission where appropriate, and the Gender Commission should act in terms of any other legislation that it can, in particular circumstances. Thus the Public Protector as an institution and as a structure, we felt, should be doing the assessments. The monitoring would be similar to the Commission for Gender Equality, except that the section would change.

Government was also regarded, as a body that should be doing monitoring and the way that government should be doing so would be to use the National Action Plan as a basis. In addition, government should be doing self-evaluation and self-criticism. Thirdly, there was the National Plan of Action Steering Committee. The government should also take a greater part in appointing reporting officers. Now that will facilitate the work of the Human Rights Commission in demanding reports or in requesting reports.

The other body we felt that should be doing the monitoring is Parliament itself. Parliament could form the role of overseeing what the provinces are doing and there is a provision in the Constitution, which allows for Parliament to oversee. The overseeing or monitoring can be done both for provinces and at national level. Facilitating this function of Parliament would be the committees that already exist, that is to say the parliamentary committees on various portfolios. These can be used to advantage.

We then came to the judiciary. Here we felt that there should be training of judges. We are aware that from time to time judges have a bosberaad. That could be a good platform for the training of judges on socio-economic aspects and on the need for proper interpretation of socio-economic rights.

There is the other function that the judiciary could perform and that is the scrutiny of parliamentary and executive action or inaction, as the case may be. The judiciary can also play an active role where applications are brought to the court for declaration of rights, but that will only be meaningful if there is proper training of judges.

We also spoke about the culture of justification where certain action on the part of people could be justified because of cultural norms. We dealt also with the organs of civil society as a category of persons that could do the monitoring. The way in which that could be done is firstly, the war on

poverty campaigns, which could be useful guidelines as to performance. Then there were the reports emanating from such bodies. These will be the alternate shadow reports.

Civil society will also be important and useful as far as advocacy and lobbying is concerned. We already have seen the role of civil society in the intervention in proposed legislation and in administrative processes. That is the other way in which civil society can assist.

Again, you have seen it happen already, where civil society gets involved in public interest litigation. In this context, it is related to socio-economic rights, where, for example Lawyers for Human Rights and the Legal Resource Centre do undertake public interest litigation.

Finally under civil society are the social mobilisation programmes that they embark upon from time to time. There is the other body, the Youth Commission. They could do things in terms of relevant legislation and similarly, the Auditor-General who could ensure that the expenditure is in accordance with the stated purposes, particularly when it comes to socio-economic aspects.

We spoke about the Public Service Commission, which can do things in terms of the various sections governing the public service. This would relate more to the overseeing of the avoidance of corruption and the proper training of staff and the conduct of staff.

Finally, the difficulties faced in the monitoring of socio-economic rights. The first one, which appears in your pink document, is the difficulty of having a database or even obtaining data from time to time.

The second problem was the question of funds where many institutions including the South African Human Rights Commission from time to time have difficulty with regard to funds to be applied for the purposes of monitoring.

The third one is the co-ordination. Co-ordination between government departments, NGOs, HSRC, generally, as a general heading, more co-ordination would be required.

And finally, an understanding of each other's roles and the understanding of the functions of particular departments. That is where our group stopped discussions.

4.4.2. Discussion Session Following Group Four Presentation

1) Again, I would like to emphasise that this was a very good report and it indicates how much you have to contribute also to the international processes because I think this is part of pioneering. The South African Constitution itself is pioneering in the sense that it spells out these rights in such detail, which most other constitutions haven't yet come to.

Secondly, what we are doing at this particular meeting if we get it all together will be very, very useful for others as well. There is just one little omission that I will raise which was mentioned in the working group that may have been forgotten in the presentation. When it comes to what to monitor, one should also take into account the code of conduct on the right to food, which is probably the most detailed document in terms of the human right to adequate food. Admittedly, it is a non-binding document but it is very useful to have as a background. It is referred to and part of it is contained in the FAO blue book on page 12 and 13 but the full text is not there. The full text has been distributed - International Code of Conduct of the Human Rights to Adequate Food. If there are, still some who have not got hold of it, you can get in touch with us on the e-mail address, which is contained in the leaflet available here, and we will see to it that you get a copy.

But thank you very much again, both for this and for the other reports and please try to pull it all together so that it can enrich other countries. Thank you.

2) It is not a question but perhaps an addition. It has not been mentioned in the presentation: it is the issue of training, as well as the procedure by which these protocols are now sent out to government. Protocols can be sent out to government departments, however if the civil servants there do not really have the notion of integrated human rights culture and the notion of what the human rights aspect of socio-economic rights are, the reporting will be a very static procedure and process and that will undoubtedly influence the answers the Human Rights Commission will receive. I just want to stress once that a very strong training component for civil servants is definitely needed for comprehensible reporting. Thank you.

3) Thank you. The other thing I would like to raise in this meeting is the issue that when the South African Human Rights Commission wants to get some information, they can look at sections within the department. You know, when for instance, they want to get information pertaining to food security and nutrition, they should actually look at the sections that are dealing with that issue, not just sending the protocol through to the department. Because you find that the protocol lands with somebody who is not interested in it and it sits there in somebody's in-tray. It did not go where it should, it did not reach the people who have got an interest in it.

4) Thank you, Mr Chairperson. I am going to talk about the question of legislation. Two days ago, I was in Frankfurt and there was an outbreak of some kind of illness. I would like to share this with the conference. The source was traced to milk that had been sold by a farmer at a very cheap rate to the township of Brandfort. The question I ask myself as a person concerned with food security, especially for our poorest of the poor was, where do you go in terms of tracing who this farmer was and what was wrong with the milk, so that that can be controlled. So that there could be some kind of control.

5) Mine, was on the point that was mentioned about poverty hearings. In our group yesterday I discussed the macro economic policies and an issue was raised that we need to empower the community at large in order to afford an opportunity to be able to engage in these issues. One thing that needs to be done around monitoring of socio-economic rights is to empower the Department so that it is able to engage in these things. I think we have already gone ahead with the poverty

hearings but I think it can actually be a very powerful opportunity to get the public involved in issues of socio-economic rights and really take this matter forward.

6) Mine, is more of a comment and it is basically, about what Tseliso just said. I think that our group never got round to talking about it due to the time constraints. I think it is really very important to begin to look at community based monitoring. We can learn from other African countries. There have been some good practices. So that may be something we would like to consider at a later stage.

7) I want to mention again goals and targets on time frames. I think what we were saying yesterday was that the Commission should urge the duty holders to set targets for themselves with a time frame, etc, not that the Commission should itself set targets for the government, because the Commission is a watch dog, it is the monitoring body. I do not think the roles should be confused. The Commission must be very careful not to mix itself with the duty holders. The Commission is not a duty holder. It is the monitoring body and I think those functions should be kept very clearly separated in our minds. Thank you.

8) Yes, my point is also on goals, targets and time frames, again. I am sure most of us realise it here but I just want to state it again for the record. The point of asking for goals, targets and time frames in the protocols is to see whether there is a progressive realisation of socio-economic rights. Which brings me back to our group's report on the fact that it is not an excuse that there is no money at the moment? And that brings me to budget allocation. One of the experiences apparently with sending protocols was that if you ask the provincial governments for their budget allocations they tended to send you or point you to the Finance Department. Now it does not help us because it does not tell us how much of the money it was allocated by the Finance Department has actually been used. There might be a lot of money floating around which is not used and also we need to find that out from the provincial department, to find out what the money is actually used for. I just wanted to make that point. Thank you.

9) I just want to qualify the point about capacity indicators, time frames and all those things. I am responding to the speaker before the last one. The Commission cannot do that but there is a need to determine minimum standards and there is international experience already, which we have to draw on. What the Commission does is really to influence the acceptance and recognition of the standards. If the government has not done that, it is our duty to actually influence government to do that. But we cannot, at the end of the day, dictate to government. You can advise and influence government as to what are the indicators, standards and everything else.

10) Just to respond to the last intervention. One needs to decide whether one wants to have some minimum standards set or laid down or whether one takes the targets set by the international conferences of this decade, starting with the Summit for Children, through to the World Food Summit, that South Africa has subscribed to and whether South Africa is now going to set its standards along the lines of those conventions that it is a party to.

11) Thank you very much to all the contributors, the rapporteurs as well. Just before wrapping up, I would just like to respond to the question from the front here. Clearly, that incident is an indication of where the duty of the state can protect the right. The state has to take action to prevent a third party from interfering with the right and one must then find out, as the South African Human Rights Commission, for example, what role there is for us. Identify the farmer; there is a possibility of civil action. If the farmer is receiving a subsidy to produce that milk, to see whether that subsidy can be in jeopardy. There is a whole range of actions that one can take around that that can give meaning to

this, rather than see it as a kind of civil action for the parties. I just thought I would mention that as part of the possible role of the South African Human Rights Commission.

4.5. Summary and Closing Comments on the Working Group Report

Perhaps just to wrap up then, it is not my intention to give a summary of what has happened. But simply to say that the deliberations of the working groups have certainly been of great benefit to this conference, as was quite evident from this morning's presentations. I think what clearly emerged is the need for an integrated approach and the realisation that our different actions in different directions do not necessarily represent the best utilisation of our resources. I do think that the valuable information, suggestions and recommendations that have emerged from the deliberations will certainly be an important resource for us as a Commission and for the greater South African society, in our quest to free our people from the oppression of hunger. once again, I thank all the groups most heartily from the South African Human Rights Commission. Thank you. We will take that from the floor with the understanding that if there is consensus around issues those will be incorporated into the statement when it is finalised. It is certainly our intention that we could move towards adopting the statement in its current form, with the additions that come from the floor.

5. CONFERENCE STATEMENT

- S.27 (1) “ Everyone has the right to access to: -
(b) sufficient food and water;”
(2) *The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of these rights.”*

1. The International Consultative Conference on Food Security and Nutrition as Human Rights, hosted by the South African Human Rights Commission, was held in Randburg, Gauteng, on 25 to 27 March 1999.

The Conference was called:

- To develop strategies and benchmarks to realise the commitments of the World Food Summit Plan of Action 1996 within the South African context;
- To facilitate the international and national networks among governmental, non governmental and other organisations around the mobilisation towards food security; and
- To promote advocacy on the promotion of the protection of socio-economic rights in South Africa, particularly rights pertaining to food security and nutrition.

The Conference was invited -

- To develop a common understanding of the concept connected with food security and nutrition and human rights;
- To identify and review instruments, tools and modalities for the practical application of food security and nutrition as human rights, and;
- To discuss the formulation of the universal, yet context specific framework for the promotion of food security and nutrition as human rights, through partnerships between government, civil society and the international community."

2. International and local delegates and participants attended the conference. They were government officials, representatives of local and international non-governmental organisations, academics, and a representative of the Brazilian Health Ministry, representatives of various UN agencies such as UNICEF, UNDP, FAO and WHO, and members of the South African Human Rights Commission.

Dr N Barney Pitso, Chairperson of the South African Human Rights Commission, officially opened the conference. Justice D M Davis gave the main address during the launch of the South African Human Rights Commission's first Economic and Social Rights Report.

Other speakers included Dr Asbjørn Eide from the World Alliance for Nutrition and Human Rights (WANAHR), Dr Urban Jonsson from UNICEF, Mr N Gopalaswami, the Secretary General of the National Human Rights Commission of India, Dr Flavio Valente from Brazil and representatives from UNDP, FAO and WHO. South African Government representatives from the Department of Health, Agriculture and Welfare also addressed the conference.

An official from the South African Department of Agriculture read a speech on behalf of the Minister of Agriculture and Land Affairs, Derek Hanekom (MP), entitled Agricultural Policy Reform and Food Security in South Africa.

THE CONFERENCE

1. Notes that five years after the first universally accepted democratic elections in South Africa and the passage of the new Constitution that entrenches fundamental human rights including judicially enforceable economic and social rights particularly those pertaining to food security and nutrition, many South Africans, especially children and women, continue to suffer from the effects of lack of basic and adequate nutrition and access to food and related disease and that the failure to address these issues is an affront to human dignity and the right to life.
2. Affirms the values enshrined in the Constitution and takes encouragement from the policies and legislation set in place since 1994 to promote the rights to food security and nutrition.

Conference believes that the transformation intended by these policies and legislation can only be achieved in an environment where the worth and dignity of each human being is affirmed, regardless of race, colour, gender or ability, where all South Africans work with devotion to advance these rights.

3. Endorses the obligations that South Africa has in international law. This is by reason of being state party to international human rights treaties such as the Convention on the Rights of the Child, 1989, Convention on the Elimination of all Forms of Discrimination Against Women, 1979, and the African Charter of Human and Peoples Rights, 1981.
4. Further notes that 1998 was the year in which the 50th anniversary of the Universal Declaration of Human Rights was commemorated and for South Africa, a National Action Plan for the Promotion and Protection of Human Rights was adopted.

THE CONFERENCE further resolves to affirm

5. That hunger, food and nutrition related disease are not only a violation of the right to basic nutrition and access to food, but also an affront to the values enshrined in our Constitution and in the international human rights instruments South Africa is party to.

That a violation of the right to food security and nutrition hampers economic development by undermining human resource development necessary for the technological and scientific development of our country and negates the right to human dignity and equality that constitutes some of the founding values of our democracy.

That a violation of these rights also bears direct responsibility for the prevalence of societal ills like crime and prostitution and social problems like poverty and illiteracy.

That the struggle to end hunger and related diseases is essential to ensure the coherence and integrity of society and the realisation of the national vision enshrined in our Constitution.

AND adopts the following plan of action:

6. The Plan of Action

- Promote programmes for the elimination of malnutrition, hunger and associated diseases by developing a culture of human rights in our country; by encouraging greater co-ordination and co-operation between all stakeholders and by encouraging dialogue and debate to address the problems pertaining to the rights to food security and nutrition.
- Encourage the efficient co-ordination of all efforts aimed at ensuring the promotion, protection and monitoring of rights pertaining to food security and nutrition.
- Ensure the respect for laws, regulations and policies designed to address food insecurity and lack of adequate nutrition and the implementation of appropriate mechanisms to monitor and implement them.
- Encourage the creation of a national or provincial office or community to oversee the realisation of the right to food.
- Empower communities, especially women, and relevant government officials to ensure effective systems to monitor and implement programmes for alleviating hunger and associated diseases.

The Conference accordingly

7. Calls for a national resolve to place all resources at the disposal of a campaign to eliminate food insecurity and lack of adequate nutrition. To set in place measures to monitor and assess the implementation of such campaigns. Also to devise programmes to raise awareness and to train the public and public servants about the problems pertaining to food security and nutrition. To devise strategies to address these issues effectively and efficiently, and in a collaborate effort between government, statutory bodies like the South African Human Rights Commission, civil society and the international community as represented by various UN agencies.

and

8. Calls upon government departments to comply timeously with the South African Human Rights Commission's mandate to fulfil its constitutional obligation to monitor social and economic rights in terms of section 184(3) of the Constitution.

and further

9. Calls upon the South African Human Rights Commission to co-ordinate the activities set out in this statement by providing information, monitoring, training, awareness raising and to secure appropriate redress where the right to food security and nutrition have been violated.

GAUTENG, 25 –27 MARCH, 1999

That is the statement. There has been another addition about how we include the question of vulnerable groups such as children, women, disabled and the aged, because we had input during the course of conference about that. But that is the statement and Chair, I will hand over to you.

6. DISCUSSION SESSION AND COMMENTS FOLLOWING THE CONFERENCE STATEMENT PRESENTATION

1) The statement attempts to reflect the broad deliberations and the spirit of the conference and where we want to go. Clearly in terms of this detail there may be gaps, etc, but those of a wider nature, perhaps we need not detail ourselves too much with that. There are two suggestions. The one is that if there is anything of substance that members who participated in this conference would like to contribute, let us spend a few minutes doing that. There is also a process in which we could feed in additional suggestions to Tseliso Thipanyane who could make available e-mails and whatever else.

2) Chairperson, thank you very much. I just want to start by commending the draft as we have it here, which covers a great deal. I want to say that clearly the section on the plan of action will benefit a great deal from the reports of the groups that came out here. I am thinking of what Urban was saying earlier on, about making that section that much more focused and much more pointed than it is, drawing substantially from the reports of the working groups.

3) I strongly feel that point nine, the last sentence where "societal ills like crime, poverty, illiteracy and prostitution", I just feel myself that it goes against the spirit of this conference to put crime and illiteracy, poverty and prostitution in one sort of line, as societal ills. It is a minor thing but it is also something that I think is important, that perhaps you should say societal ills like crime and prostitution, and societal problems like poverty and illiteracy, or something like that.

4) I would like to make public a proposal that the Brazilian delegation has made to Tseliso. That we should mention in the Declaration the intention of making tight collaboration and co-operative efforts between our countries, civil society and government in terms of capacity building, exchange of experiences and other models, to maybe speak of one item that we would be interested in.

5) What I want to say is, when you are asking the government departments to comply timeously, unless the word comply is a very loaded word, I feel timeously and properly or fully, should be there; some words to that effect.

6) Okay, timeously and substantially, I think that is valuable. If there are no other hands, I do think that this statement does reflect the consensus of this meeting, certainly. There have been additions, which have been alluded to by Shirley as she read through the document. There have been additional suggestions that came from the floor including the suggestion that the work of the working groups find its way into the plan of action, and some other suggestions that came from the three other speakers, that is the question of divorcing the ills of society in an ethical way.

7) Incorporating all those suggestions by reference, I think we have a document that then is truly reflective of where we started three days ago and where we will end. Then it will be appropriate for me to call for the adoption of this Gauteng statement. Is that how people feel? I would like to see you smile and say yes, instead of being silent. Yes? Okay, then perhaps I would say that by the powers vested in me, that we unanimously, as conference, adopt this with all the additions made by reference, by implication, the Gauteng Statement, with the assurance that those additions will be incorporated and you will in due course receive a final copy of this which we assure you will not deviate too much from this.

8) I just wanted to endorse the sentiments that Flavio has raised. This has been the beginning of a co-operative relationship with Brazil on this matter, I am looking at Mr Gopaldaswami behind me, and I do think a similar sentiment ought to arise in terms of our relationship with India on these matters. So that this does not just become an isolated thing and that we can actually, together, or at least all three of us at least, begin to develop some sort of movement around where we are based in order to advance these issues in every manner that we can. My hope would be that that would find its way into the statement, as Flavio has suggested.

7. VOTE OF THANKS - Ms Shirley Mabusela

Thank you very much, Chair. I am not going to do a closing address as indicated in our programme because I think the work that has been done has been pulled together by the groups and we have attempted to indicate what conference really would like to do in our statement. What is left for me to do is really to thank all of you for participating in this conference. Your input has really made a big difference because this debate is a debate that we think is still in progress, both at national level and also, hopefully, will also influence other discussions at international level.

Now I would like to thank representatives from The World Alliance for Nutrition and Human Rights (WANAHR), representatives from UNICEF, from all over, UNDP, FAO, World Health Organisation and our international visitors who do not necessarily come from the organisations that have already been mentioned.

I would also like to thank very specifically people from Brazil for coming to share with us their case study, which is very interesting. Yes, we have heard about the positives and the negatives but you know it has been a very good planning exercise for us. The input that we got from India too, was very helpful in terms of how we look at litigation and other issues pertaining to socio-economic rights.

I would also like to thank very, very much representatives who come from organs of civil society in South Africa and also thank most sincerely, those government departments that made input in terms of what their departments were doing in relation to social and economic rights. You really helped us understand what the case study for this country is. And I would like to also say thank you very much to those of you who come from national departments who did not necessarily make input to this conference directly from the podium but who made important inputs in terms of group work and also here in the plenary.

I would also like to say that the inputs that we received from provincially based participants have also been very important because most of those inputs relates to the practical applications of some of the issues around food security and nutrition in this country. I would like to say thank you very much to the staff of the South African Human Rights Commission without whom this conference would not be what it is. I would like to congratulate them, together with Shurnell for running this conference very well. I am not aware that there have been complaints but I hope if there were complaints, as it usually happens at conferences, that these were properly and professionally handled.

I would also like to thank Commissioners and staff who participated in our deliberations and made important interventions and say to you, thanks a million. This is just part of the process we are starting and may we all have the strength to go on. Thank you very much.

8. Conference Recommendations

Group 1: Concepts: Food Security and Nutrition as Human Rights

- A working definition of food security and nutrition should be a starting point. The group developed the concept of “nutrition security”, the attainment of which has the following prerequisites: Food Security + Care Security + Health Security. Care Security encompasses sustainability and a human rights approach.
- A framework for developing a common understanding of nutrition security with a particular focus on food security as a human right should be developed. Such a framework should entail as its main elements: Key actors and a human rights perspective. The purpose of the framework would be to facilitate greater co-ordination and effectiveness in promoting the rights to food security.
- A food security desk should be established in each provincial premier’s office with the following functions:
 - a) The promotion of food security and nutrition as human rights; and
 - b) Co-ordination of activities of different departments dealing with food security and nutrition matters.
- The South African Human Rights Commission’s protocols should include request for information on the following:
 - Practical steps being taken by the Departments of Health and Agriculture to ensure that food is safe at all stages in the food chain.
 - Measures taken by the Department of Welfare to ensure that children with disability and living in rural areas have access to adequate food.
 - Which organs of state have the responsibility for constitutional rights pertaining to food (access for everyone, specific food rights of children and those of prisoners).
 - The effectiveness of programs of relevant government departments pertaining to food security and nutrition.
 - Measures in place to ensure compliance with constitutional provisions and prevent violations.
 - Co-ordination measures where 2 or more departments share same responsibilities and the rationale thereof.

Group 2: Policy Development and Implementation: Role of Government and Civil Society

- There should be skills training on the implementation of policies pertaining to food security and nutrition.
- Need to conceptualise human rights and nutrition in an appropriate context that will facilitate greater protection and promotion of these rights.
- Current policies on food security and nutrition should be implemented, but these policies must be flexible and adaptable.
- There must be an appropriate political will in the implementation of pertinent policies.
- The process of policy development should be reviewed and should be more participatory and co-ordinated.

- There should be joint proper government co-ordination on food security.
- A co-ordinating body should be established and the Health Department should convene such a body. In this regard, conference agreed that:
 - It is the duty of government to put in place policies to achieve food and nutrition security for all South Africans.
 - It is the duty of government to develop mechanisms that minimise fragmentation and move towards co-ordinated and integrated policies.
 - There should be a greater involvement of all groups in society, both from government, civil society and the private sector in the promotion and protection of rights pertaining to food security and nutrition.
- There should be a subcommittee created under the SAHRC whose key duties would include:
 - Advocacy on a human rights centred approach to food security and nutrition issues.
 - Review of existing action plans including goals and targets.
 - Development of social indicators.
 - Review monitoring and evaluation mechanisms [monitoring on both horizontal (community based) and vertical levels].
- Need for advocacy, information, education and communication (IEC) and the empowerment of appropriate structures of civil society

Group 3: *Impact of Macro-Economic Policies:*

Capacity building and Awareness raising

- Facilitation of awareness and knowledge improvement in communities is essential.
- The South African Human Rights Commission should increase understanding amongst the members of the public and government on what macro economic policies are and their impact on food security and nutrition.
- GEAR (the Growth, Employment And Redistribution strategy) should be interrogated in relation to its impact on government spending and channelling of funds.
- International agencies like the World Bank and the IMF need to be interrogated and influenced where possible, on the impact of their policies on socio-economic rights issues in general.
- An inter-ministerial commission is need to carry out an impact assessment of every government policy including macro economic polices (Brazilian option).

Monitoring mechanisms

- The human rights movement should analyse GEAR, especially in relation to its strength and weaknesses.
- The SAHRC should enhance its ability to monitor the impact of macro economic policies on socio-economic rights, particularly on food security and nutrition.
- For effective monitoring, further research and adequate information systems and information on the impact of these policies will be necessary.
- There is need for indicators for people in the community to have a sense of the impact of macro-economic policies.

Group 4: *Monitoring and Assessment - Role of the Government, the Judiciary, the South African Human Rights Commission and organs of Civil Society*

What is to be monitored?

a) Legislation

- The Bill of Rights itself. In looking at the Bill of Rights [those sections that deal with disadvantaged persons in various forms, i.e., sections 7(2) 11, 27(1)(b), 24, 28(1)(c) and 35(2)(e)]
- CEDAW [sections 5 and 14]
- The Convention on Children's Rights [section 24]
- The International Covenant on the Economic, Social and Cultural Rights [Article 11]
- The African Charter
- The Universal Declaration of Human Rights [section 25] and the Limburg principles.

b) Guidelines, Plans of Action and Policies

- The SA National Action Plan
- The World Food Plan of Action.

c) Resources and administrative and other measures introduced by government

Who should be monitored

- The state, at all levels,[national level, provincial level, and the local authority level]
- Private economic enterprises
- Parastatals
- The World Bank, the IMF and SADC [where possible]

Who should monitor and how to monitor

- The South African Human Rights Commission [in terms of s 184 of the Constitution]
- The Commission for Gender Equality
- The Public Protector
- The Youth Commission
- Government [see the provisions of the SA National Action Plan]
- The National Plan of Action Steering Committee.
- Parliament
- The judiciary [However, judges need to be trained on socio-economic aspects to facilitate a proper interpretation of socio-economic rights]
- The Auditor General
- The Public Service Commission
- Civil society

General

- Monitoring bodies like the SAHRC should be adequately resourced.
- Greater co-ordination between government departments, NGO's and other monitoring bodies is essential.

**Research and Documentation Department
South African Human Rights Commission**