

## THE RIGHT TO ADEQUATE FOOD

### **Digest of [the Report of the Special Rapporteur on the Right to Food to the Human Rights Council \(A/HRC/19/59\)](#) as it relates to children's rights to adequate food and health**

The December 2011 report to the Human Rights Council (A/HRC/19/59) of the Special Rapporteur (SR) on the right to food focused on nutrition as an integral part of the right to food. The report starts by clearly stating that “[t]he right to food cannot be reduced to a right not to starve. It is an inclusive right to an adequate diet providing all the nutritional elements an individual requires to live a healthy and active life, and the means to access them.”

#### **The challenges to the realization of the right to adequate food identified by the Special Rapporteur**

Food security has been largely linked to the lack of calorie intake, often neglecting **the link to nutrition and to dietary adequacy**.

**Agricultural policies** in the context of globalized food chains have been at the root of increasingly inadequate diets by favouring the production of unhealthy, heavily processed foods and by lowering the relative prices of these.

**Micronutrient deficiencies**, such as vitamin A deficiency, iron, iodine and zinc deficiency, in addition to hunger and undernutrition, affect a large number of people, with children being particularly vulnerable. “Like undernutrition, micronutrient deficiency or ‘hidden hunger’ is a violation of a child’s right to a standard of living adequate for the child’s physical and mental development, and to the enjoyment of the highest attainable standard of health, recognized under article 6, paragraph 2, and article 24, paragraph 2 (c), of *the Convention on the Rights of the Child*. The environment, not genetics, explains differences in child development between regions.”

As a consequence, the SR affirms that “States have a duty to *support exclusive breastfeeding for six months and continued breastfeeding, combined with adequate complementary foods, until the second birthday of the child*; and to establish food systems that can ensure each individual’s access not only to sufficient caloric intake, but also to sufficiently diverse diets, providing the full range of micronutrients required.”

**Overweight, obesity and non-communicable diseases (NCDs)** linked to unhealthy diets constitute a systematic problem and should not be described only as a result of ‘lifestyle choices’. We have created obesogenic environments and developed food systems that often work against, rather than facilitate, making healthier choices”. Bad diets rich in salt, sugar, saturated fats and alcohol, coupled with lack of physical activity are detrimental for health. With regards to child nutrition, “[a] predisposition to diabetes could be caused *by infant formulas*”. While a country transitions towards higher income levels, it is the poorest segments of the population that increasingly bear the burden of overweight and obesity. Women are particularly at risk because their incomes are in general lower than those of men. “Overweight or obese women tend to give birth to children who themselves tend to be overweight or obese, resulting in lower productivity and discrimination. Thus, socio-economic disadvantage is perpetuated across generations by the channel of overweight or obesity.”

**Marketing practices by agrifood industry**, and in particular marketing to children, are at the root of the problem. “Most advertisements promote unhealthy foods, high in total energy, sugars and fats, and low in nutrients. [...] The ability of these marketing practices to change consumer behavior is remarkable in developing countries, in part because brands of North-based global companies carry positive connotations”.

### **Pathways for protecting and promoting adequate diets**

Governments recognize the urgent need to take action and have become aware of the adverse impacts of the spread of non-communicable diseases, caused by suboptimal breastfeeding and young child feeding and unhealthy diets. “In 2002 and 2004, respectively, WHA adopted *the Global Strategy for Infant and Young Child Feeding* and the *Global Strategy on Diet, Physical Activity and Health*. [...] States are encouraged to adopt a national strategy on diets and physical activity; to provide accurate and balanced information to consumers; to align food and agricultural policies with the requirements of public health; and to use school policies and programs to encourage healthy diets. [...] More recently, in 2011, Governments pledged to promote, protect and support breastfeeding and strengthen the implementation of the International Code and to ‘reduce the impact of the common non-communicable disease risk factors’, including unhealthy diets, by implementing ‘relevant international agreements and strategies, and education, legislative, regulatory and fiscal measures’.”

In order to address concurrently the challenges of undernutrition, micronutrient deficiency and overnutrition, **the agrifood system must be reshaped**. The SR recommends the following actions to states and the agrifood industry, all relevant for the realization of children’s right to adequate food and to the highest attainable standard of health.

### **State Action**

- The SR recommends to States to “[a]dopt a national strategy for the realization of the right to adequate food which integrates the objective of guaranteeing the right to adequate diets for all and sets specific targets and time frames for action”.
- The SR considers that the protection of the right to food requires nothing less than direct intervention by States. **Regulating marketing practices** of the agrifood industry is essential as “[s]elf- regulation by the agrifood industry has proven ineffective”.
  - States are urged to “[t]ranspose into domestic legislation the International Code of Marketing of Breast-milk Substitutes and the WHO recommendations on the marketing of breast-milk substitutes and of foods and non-alcoholic beverages to children, and ensure their effective enforcement”.
  - States should “[a]dopt statutory regulation on the marketing of food products, as the most effective way to reduce marketing of foods high in saturated fats, trans-fatty acids, sodium and sugar (HFSS foods) to children, as recommended by WHO, and restrict marketing of these foods to other groups”. Bolder action is needed for the commercial promotion of unhealthy foods to children, such as prohibiting advertising that exploits the credulity of children and controlling the amount of advertising that influences children’s diets. Given the international nature of commercial promotion of inadequate foods, the SR proposes the adoption of an “an international framework, in the form of an international code of conduct regulating marketing food and beverages in support of national efforts”.

- The SR suggests that States can take other measures to guarantee the right to adequate food. **Taxation** can be a powerful tool to encourage healthy diets and discourage use of unhealthy foods. **Revising the existing system of subsidies** can help promote the production of healthy foods. **The promotion of local food systems, improvement of the links between local farmers and the urban consumers and shorter supply chains** can play a key role in making a shift towards more healthy diets. This means prioritizing access to balanced and diverse diets that are socially and environmentally sustainable over “a food sciences approach, such as through the provision of ready-to-use therapeutic foods or micronutrient-enriched ‘health foods’”.

## Private sector

- The SR urges the private sector, consistent with its responsibility to respect the right to adequate food, to “[c]omply fully with the International Code of Marketing of Breast-milk Substitutes, abstaining from promoting breast-milk substitutes, and comply with the WHO recommendations on the marketing of foods and non-alcoholic beverages to children, even where local enforcement is weak or non-existent”.
- The private sector should abstain from “[i]mposing nutrition-based interventions where local ecosystems are able to support sustainable diets, and systematically ensure that such interventions prioritize local solutions and are consistent with the objective of moving towards sustainable diets.” The agrifood industry should also ensure that in the sourcing chains of fortified foods for these interventions, workers are paid living wages, and farmers are paid fair prices for their products to ensure the right to adequate food of all people affected by the interventions.
- The agrifood industry should “[s]hift away from the supply of HFSS foods and towards healthier foods and phase out the use of trans-fatty acids in food processing.”

## The sustainability of nutrition initiatives

The SR also pays attention to several nutrition initiatives that have emerged and which target micronutrient deficiency in children in particular, such as the recent Scaling up Nutrition (SUN) or the Global Alliance for Improved Nutrition (GAIN). SUN is a multi-stakeholder initiative that aims at improving nutrition for mother and children during the 1000 days period from pregnancy to age two. GAIN is a public-private-partnership which aims at improving access to micronutrients in diets.

The SR is concerned that these initiatives are **not aligned within a human rights framework** and they “overlook the entitlements that have been established under international law for women, children, minorities, refugees and internally displaced persons, and other groups that may be subjected to marginalization and discrimination”. In this regard, the SR finds it “troubling that *the 1981 International Code of Marketing of Breast-milk Substitutes and subsequent World Health Assembly (WHA) resolutions* remain under-enforced, despite the wide recognition that exclusive breastfeeding for the six first months and continued breastfeeding, combined with safe and adequate complementary foods, up to 2 years old or beyond is the optimal way of feeding infants, and reduces the risk of obesity and NCDs later in life.”

The SR therefore emphasizes that “[c]ountries committed to scaling up nutrition should begin by regulating the marketing of commercial infant formula and other breast-milk

**substitutes, in accordance with WHA resolution 63.23, and by implementing the full set of WHO recommendations on the marketing of breast-milk substitutes and of foods and non-alcoholic beverages to children, in accordance with WHA resolution 63.14.”**

While the focus on pregnant and lactating women is comprehensible, these initiatives should not shift the attention from the need to fulfill the right to food universally. “This pleads in favor of broad-based national strategies for the realization of the right to food that address the full range of factors causing malnutrition, rather than narrowly focused initiatives that address the specific needs of a child’s development between conception and the second birthday.” Moreover, nutrition intervention do not address the structural causes of inadequate diets which are inequitable food systems, not “sufficiently inclusive of the poorest and small-scale farmers and that do not reduce rural poverty. [...]”. The SR recommends to SUN to **“take appropriate steps to ensure that such interventions strengthen local food systems and favour the switch to sustainable diets.”**

Another concern derives from the proposed solutions which rely on **imported technology**. This may result in dependences for the communities concerned if such technologies are protected by intellectual property rights, and in limited market access for local farmers, if the markets are captured by the economic actors introducing such technologies. For example, GAIN aims at reaching the bottom of the pyramid, or the potential customers that are too poor to constitute a solvent market in the short term. While this is one of the reasons why companies partner with GAIN and this allows for increased market penetration for the companies, there is no exit strategy in place for its programs to allow for the empowerment of the communities to feed themselves.

These initiatives should comply with the requirements of a human rights based approach: *accountability, participation and non-discrimination*. The last one in particular means that the nutrition interventions need to link efforts to improve nutrition during childhood with later life through adopting a **“life-course perspective** as recommended by WHO, in order to take into account, for instance, that in contrast to breastfeeding, formula feeding may be a cause of obesity”. As a consequence States “have a duty to support exclusive breastfeeding for six months and continued breastfeeding, combined with adequate complementary foods, until the second birthday of the child”. To the SUN (and other like-minded interventions), the SR recommends to **“improve the SUN agenda by basing all interventions on the human rights principles of accountability, participation, and non-discrimination, and fit them under broader national strategies for the realization of the right to food adopting a life-course approach in order to improve their effectiveness and their ability to contribute to sustainable, long-term solutions.**

### **The Special Rapporteur on the Right to Food met the CRC Committee** (Geneva, 7 June 2012)

On 7th June 2012, the **Special Rapporteur on the Right to Food, Mr. Olivier de Schutter**, met with the members of the Committee on the Rights of the Child (CRC) and presented the findings from his report on healthy and adequate diets ([A/HRC/19/59](#)).

The right to food is not simply a right not to starve, but a right to receive an **adequate diet** including a range of foods that contribute to a balanced diet and satisfy the needs of all people at their various stages in life. Mr. De Schutter also stressed the importance of acknowledging that human rights must be *transnational*, not limited to inside states but also

across states. He is one of the authors of the [Maastricht Principles on the Extraterritorial Obligations of States](#).

IBFAN-GIFA took the initiative to organize this briefing, as it strongly believes that the recommendations in the Special Rapporteur's report will benefit the work of the CRC Committee, in particular as it is currently elaborating two General Comments: on the right to health (Article 24 of the CRC) and on child rights and business.

The meeting was chaired by Ms. Marta Mauras Perez, Vice-Chairperson of the CRC Committee.

### **Combating Under- and Malnutrition with Breastfeeding**

Mr. De Schutter addressed the issues of under- and malnutrition, explaining how this affects immunity to diseases and normal psychological/physical development. He emphasized the importance of **breastfeeding** as the primary step in child development and the importance of supporting pregnant and lactating women. The **1000-day window** between conception and the 2nd birthday of child is key for combating maternal and child malnutrition and for the development of the child, both physically and mentally. Proper nutrition during this time period will protect the child from illness and disease as well as lower the risk of becoming overweight or obese in their adult life. Nutritional diets for mothers need to be improved, and Mr. De Schutter explained that social protection programs are effective measures to improve the situations of mothers, reduce child mortality rates and fight poverty.

### **Government Role**

Mr. De Schutter emphasized the importance of comprehensive country action plans that address the issue of nutrition and adequate diets. Such plans must focus on the broad-based view that links food and nutrition concerns with the long-term concern of sustainable local food systems that raise incomes of poor. This can occur by increasing the accountability level of governments and demanding that they fulfill their international human rights commitments. Courts, national human rights institutions, and civil society can play an important role in this regard if they are empowered to hold governments accountable and monitor their actions.

### **Demand- rather than supply-driven interventions**

Many nutrition-related interventions are supply-driven rather than demand-driven because of the lack of community participation and therefore risk not being well adapted to the context. For example, the Scaling up Nutrition (SUN) initiative, which has the advantage of prioritizing nutrition at country level, could be further improved in this way. Mr. De Schutter emphasized that it is important to make sure initiatives on child nutrition are developed to strengthen rather than displace local agri-food systems, and that these initiatives provide income opportunities for those on the ground and respect traditional diets of different cultures.

### **The Code**

Nutrition related interventions should not be seen separate from development plans and should be based on established human rights entitlements. One important example Mr. De Schutter used in this regard was the monitoring and implementation of the **International Code of Marketing of Breast milk Substitutes (the Code)**. He emphasized that even though many countries have taken some kind of action to implement the Code nationally, "enforcement remains lacunary". It is necessary for countries to implement legal instruments in order to fill this gap. Moreover, governments should require business companies to be aware of their human rights responsibilities. He suggested that companies who partner with governments in public-private partnerships should be the first ones to lead by example and commit to fully comply with Code. This would be in line with the recent [WHO Resolution](#)

[65.6](#), which urges countries to develop or strengthen monitoring of breast milk substitutes and avoid conflicts of interests when partnerships are formed.

### **A Life-Cycle Approach**

The Committee members had many comments and questions for the Special Rapporteur, and they were very interested in his report on nutrition in relation to their two General Comments: on the right of the child to the highest attainable standard of health and on child rights and business. One member brought up the idea that the right to food should vary for all aspects of and situations in life, such as during ill health, emergencies and crises. The Special Rapporteur responded by expressing his shared concern with focusing on the 1000-day window and forgetting about the rest of a person's life. He reaffirmed the point that a **life-course approach**, as recommended by WHO, is important and that governments should not forget their duties to all ages of people.

### **Advertising: How the Media Shapes Food Practices**

The Committee members also stated that feeding practices and how food is consumed are affected by the media and by advertisement and promotional activities by food companies. The Special Rapporteur acknowledged that there is an increasing variety of techniques that junk food companies are using to attract younger audiences, such as through the media, the television, by sponsoring events, by supporting schools and the marketing of "fun-foods". While it is difficult to label food as 'evil' because it is a primary source of life, some types of food can be seen as analogues to tobacco because of the harm they cause to human health. The increasing rates of non-communicable diseases and of obesity, many of which are caused by inadequate diets, are causing life expectancy to decrease for the first time in certain countries. The **effective monitoring of the Code and monitoring of food promotion to young people** are important measures that can contribute in controlling the effect of marketing and advertisement on child health.

Mr. De Schutter reiterated his concern over a worrying trend with short-term interventions becoming replacements for sustaining food systems, and he insisted on the need to align short-term interventions with long-term sustainable strategies strengthening local food systems. He used the example of the distribution of infant formulas during emergency situations to respond to acute malnutrition, which has unfortunately created a dependency for mothers on infant formula as well as an opening for transnational corporations to market their products.

### **Nutrition Education**

Promoting **nutrition education** and healthy eating practices is also an important strategy in order to teach children and parents about adequate and sustainable diets. Unhealthy diets are encouraged by cultural, social, and media norms, and marketed in manipulative ways so as to be desirable. The Special Rapporteur emphasized the importance of **educating mothers about the benefits of breastfeeding** and the dangers of using substitutes and supplementary food and the importance of **school feeding programs** as a tool to teach children and parents about adequate diets.

### **Taxation of Soft Drinks**

Many Committee members remarked on the importance taxation of soft drinks and junk food and their removal from in and around schools. Referring to a certain study published in the *British Medical Journal* that confirms the conclusions of his report on that point, Mr. De Schutter suggested that these products are taxed across society and that the money collected by these taxes go to the distribution and production of adequate food for poor families so that they can eat nutritiously. One of the main barriers in regulating the marketing and distribution of soft drinks is the intense lobbying by industry.

**New vs. Old**

Although issues of food security are not new problems for society, for the past 40 years, the focus has been on improving, expanding, and increasing production to provide a level of supply that matches increasing demand. But the emphasis on macronutrients and calorie-protein availability has led to a severe lack of essential micronutrients in diets. Today everyone understands that the view is narrow and that the right to food is not just about calories, but an adequate and nutritious diet matters as well. In order to ensure this human right, governments and transnational corporations should support, rather than risk undermining, local food systems: accountability based on the right to adequate food is key in ensuring this.

**More Information**

[Report of the Special Rapporteur on the Right to Food to the Human Rights Council \(A/HRC/19/59\)](#)