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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251  
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Report of the Special Rapporteur on the right to food, Jean Ziegler**

## Summary

The Special Rapporteur on the right to food is gravely concerned to report to the Human Rights Council that global levels of hunger continue to rise. The number of people suffering from hunger has increased to 854 million people and has been rising every year since 1996. Virtually no progress has been made in reducing hunger, despite the commitments made by Governments in 1996 at the first World Food Summit and again at the Millennium Summit in 2000. More than 6 million children still die every year before their fifth birthday.

This is unacceptable. All human beings have the right to live in dignity, free from hunger.

In this report, the Special Rapporteur commends a number of positive developments by Governments in combating hunger. However, he also calls the attention of the Human Rights Council to situations of serious concern related to the right to food, especially in the Darfur region of the Sudan, in the Democratic Republic of the Congo, in the Horn of Africa countries and in the Democratic People's Republic of Korea.

The Special Rapporteur also focuses on the silent tragedy of children suffering and dying from hunger and malnutrition. Without adequate food and nutrition during their first five years, children suffer from physical stunting and limited intellectual development, condemning them to early death or a marginal existence for the rest of their lives. Without respect for their right to food, children become involved in forced labour to help feed themselves and their families, including recruitment as child soldiers. Thousands of children make decisions to enlist in armed groups as a result of hunger, malnutrition and food insecurity, yet this is rarely discussed. Children's right to food must be the priority in efforts to combat hunger and guarantee peace.

Hunger forces tens of thousands of people to flee their own countries, particularly from sub-Saharan Africa. The Special Rapporteur calls the Council's attention to Africa's "refugees from hunger" and the criminalization of their forced migration. In 2006, tens of thousands of people who risked their lives to flee hunger continued to be deported to their countries of origin, even if their lives would be again at risk from hunger and famine. The Special Rapporteur believes that legal protection must be extended to these "refugees from hunger", as only then will Governments take seriously their obligations to respect, protect and fulfil the right to food of all human beings around the world.

The report ends with a series of recommendations for Governments regarding the realization of the right to food.

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## Introduction

1. The Special Rapporteur has the honour to submit his first report to the Human Rights Council pursuant to Council decision 2/102.
2. The Special Rapporteur is outraged to report that global hunger is still on the rise. According to the United Nations Food and Agriculture Organization (FAO)'s latest report on *The State of Food Insecurity in the World 2006*, there has been virtually no progress made on reducing hunger, despite the commitments made by Governments in 1996 and again at the Millennium Summit in 2000. While in 1996, the number of people suffering from undernourishment was estimated to be about 800 million people, FAO's latest estimate suggests that there are now 854 million people who do not get enough to eat every day. More than 6 million children die from hunger-related illness every year before their fifth birthday.
3. Our world is richer than ever, yet more people than ever are suffering from malnutrition, hunger and starvation. The world produces more food than ever, it could feed twice the entire global population, yet millions go to bed hungry at night. Young children who do not get enough food each day or sufficient micronutrients, are condemned to lead a life of stunted physical growth and limited intellectual development.
4. In a world overflowing with riches, hunger is not inevitable. It is a violation of human rights. The right to food is a human right that protects the right of all human beings to live in dignity, free from hunger. It is protected under international human rights and humanitarian law. As defined by the United Nations Committee on Economic, Social and Cultural Rights in its general comment No. 12 (1999), "the right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement" (para. 6). Inspired by the general comment, the Special Rapporteur defines the right to food as:

the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.

## Activities of the Special Rapporteur

5. The Special Rapporteur on the right to food has been honoured to continue in his capacity and to serve the Human Rights Council. He is ready and open to all suggestions from Members of the Council as to how he can best serve the Council and his mandate on the right to food.
6. In his work over the last year, the Special Rapporteur has continued to promote the right to food amongst Governments, United Nations agencies and non-governmental organizations around the world. During 2006, the Special Rapporteur made requests to conduct official missions to a number of different countries. In addition to the long-standing requests submitted to the Governments of the Democratic People's Republic of Korea, Malawi and Myanmar,

he has also submitted requests to the Central African Republic, the Democratic Republic of the Congo, the Philippines, and the Sudan. So far, whilst he is in constructive dialogue with these Governments, he has not yet received any official positive response. The Special Rapporteur was invited in September 2006 by the Government of Lebanon to undertake a mission there in the aftermath of the Israeli-Lebanon conflict, on which he reported to the Human Rights Council (A/HRC/2/8).

7. As part of his mandate, the Special Rapporteur is also required to receive and respond to information on the right to food submitted by governmental and non-governmental organizations. In 2006, the Special Rapporteur sent out 46 communications to Governments, asking them further information on specific allegations of violations of the right to food. A report on these communications is provided as an addendum to this report.

8. The Special Rapporteur has also continued to work closely with Governments and parliaments for the promotion of the right to food. On 14 July 2006, he attended an international conference in Rome, "Food insecurity and the right to food", hosted by Walter Veltroni, the Mayor of Rome, and organized in collaboration with the University of Florence and the Unidea-Unicredit Foundation. In May 2006, the Special Rapporteur spoke in Berlin before the Committee for International Cooperation and Development of the Bundestag and attended a symposium organized by the Green Party of Germany.

9. The Special Rapporteur has also continued to work closely with United Nations agencies, particularly the World Food Programme (WFP) and FAO. In 2006, the International Year of Deserts and Desertification, he initiated special collaboration with the secretariat of the United Nations Convention to Combat Desertification, on which he reported in his last report to the General Assembly. He also participated in an important international conference on "Desertification, hunger and poverty" held in Geneva in April 2006. In May 2006, he walked with WFP in its Worldwide March Against Hunger held in 400 cities in 116 different countries around the world. In Switzerland, over 1,650 marchers participated, each contributing enough to provide lunch for 60 schoolchildren. In November 2006, the team of the Special Rapporteur participated in a seminar on the creation of a new Global Right to Food Network, to be coordinated by the Right to Food Unit of FAO.

10. In order to protect children's right to food, the Special Rapporteur has followed the implementation of the International Code of Marketing of Breastmilk Substitutes. On 17 July 2006 he wrote to the European Commission regarding his concerns in relation to the draft European Commission directive on infant formula. Following the reply from the European Commission of 20 September 2006 affirming its commitment to uphold the right to adequate, safe and good quality food, the Special Rapporteur reiterated his concerns that the revision of this directive was not in full conformity with the advice of the Scientific Committee on Food, particularly in relation to the recommendation to use nutrition labelling rather than claims. In addition, the Special Rapporteur fears that the lowering of standards in the European Union directive may set a precedent for other regional and national institutions. The Special Rapporteur also wrote to the Government of the Philippines on

30 November 2006 to welcome the adoption of the new Implementing Rules and Regulations aimed at restricting those marketing practices promoting sales of formula milk for infants and to commend the Government's stand in protecting children's right to food and nutrition, despite external pressure.

11. At the same time, he has continued to work with NGOs involved in human rights and development. In June 2006, he participated in the World Social Forum on Migration held in Madrid from 21 to 24 June 2006. In March, he participated in an international conference entitled "How can we achieve the Millennium Development Goals?" held at the Palais des Nations in Geneva. In December 2006, he participated in a conference organized by the International League for the Rights and Liberation of Peoples at the Graduate Institute of International Studies in Geneva, on "Which future for peoples' rights?". In September 2006, the team of the Special Rapporteur participated in an expert seminar on the implementation of the right to food at the national level, organized by FIAN, FAO and the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, in the context of the twentieth anniversary of FIAN International. His team also took part in the creation of the Swiss Alliance against Hunger on 14 October 2006 in Bern.

12. The Special Rapporteur also continued close collaboration with academia on issues relevant to the right to food. In May 2006 his team participated at a symposium on "Indicators, benchmarks, scoping and assessment" (IBSA) at the University of Mannheim, organized by Eibe Riedel, Vice-Chairperson of the Committee on Economic, Social and Cultural Rights, and FIAN International. He also participated in a seminar on "Human rights in the fight against extreme poverty" held in Barcelona in November 2006 and organized by the Fundación la Caixa and the Centre for International Studies of the University of Barcelona. The Special Rapporteur and his team also participated in numerous other academic courses and seminars in 2006, including at the Graduate Institute of Development Studies and at the Faculty of Medicine of the University of Geneva, and at the Faculty of Law of the universities of Fribourg and of Grenoble.

## **I. POSITIVE DEVELOPMENTS IN REALIZING THE RIGHT TO FOOD**

13. The Special Rapporteur would like to bring to the Human Rights Council's attention the following positive developments regarding the realization of right to food around the world, in addition to the positive examples in India, Guatemala and Brazil on which he reported to the General Assembly.

### **Bolivia**

14. In September 2006, the Bolivian Parliament adopted a groundbreaking land reform bill, proposed by President Evo Morales to redistribute underused land to rural communities, especially indigenous communities. This new law states that only land that is unused or has been corruptly obtained will be used for redistribution. If properly and efficiently implemented, this law could lead to redistributing up to 20 million hectares of land, mostly to indigenous people,

and to improving their livelihoods and access to food.<sup>1</sup> About 41 per cent of Bolivia's population, the majority indigenous people in rural areas, suffer from poverty and do not have access to adequate food each day.<sup>2</sup>

### **Venezuela (Bolivarian Republic of)**

15. Access to land for the landless peasants has greatly improved during the reporting period. The Government of the Bolivarian Republic of Venezuela has distributed more than 3 million hectares of land to farmers, and provided credit to more than 3 million farmers, as part of its land reform programme. This started in 2001 with the enactment of the Law on Land and Agricultural Development, and continued in 2003 with a presidential decree creating the Plan Zamora, aimed at redistributing land to small and medium-sized producers and supporting sustainable agricultural development with a view to achieving food security and economic self-sufficiency.<sup>3</sup> Mission Mercal, which was launched in 2003, is aimed at creating subsidized grocery stores through a State-run company called Mercal, to help communities to become self-sufficient by replacing food imports with products from local farmers, small businesses and cooperatives. In 2005, 11.36 million Venezuelans benefited from Mercal food programmes on a regular basis. Mission Mercal food distribution sites are spread throughout Venezuela, and 4,543 metric tons of food are distributed each day. These programmes were intensified in 2006. The Special Rapporteur welcomes the attention of the Ombudsperson's office and the Government to the case of peasants, particularly in the border areas of Apure and Tachira, who have been facing violence and abuses on a daily basis from paramilitary groups.<sup>4</sup>

### **South Africa**

16. South Africa continues to be one of the best examples in the world of the justiciability of economic, social and cultural rights, including the right to food and the right to water, with positive impacts on the life of millions of people. The South African Bill of Rights, which is incorporated into the 1996 Constitution, explicitly provides that every person in South Africa has the right to access to sufficient food and water (sect. 27, para. 1 (b)), and that the State shall respect, protect and fulfil the realization of these rights (sect. 7, para. 2). It also gives powers to the South African Human Rights Commission to monitor the progressive realization of the right to food. To ensure the right to food, the Government has produced a National Food Security Draft Bill, with the active participation of the civil society, particularly active through the "Right to Food Campaign". The Special Rapporteur encourages the national Parliament to adopt this National Food Security Draft Bill as soon as possible.

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<sup>1</sup> BBC News, "Bolivia passes land reform bill", 11 November 2006, and Economist.com, "Land battles", 21 September 2006.

<sup>2</sup> Unidad de Análisis de Políticas Sociales y Económicas, Progreso de los Objetivos de Desarrollo del Milenio, 2003-2004.

<sup>3</sup> Global Exchange, Land Reform in Venezuela, 2003.

<sup>4</sup> Cadena Global, "Defensor del pueblo denuncia violaciones en el campo", 15 May 2006.

### **Civil society**

17. The Special Rapporteur also welcomes numerous initiatives of civil society around the world to promote the right to food.

18. In Colombia, the Special Rapporteur welcomes the initiative of the Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo, an association of 100 Colombian civil society organizations, which launched a national campaign on the right to food in 2006. In the context of an armed conflict and increasing malnutrition and food insecurity in Colombia, the Plataforma aims to raise awareness about the right to food and to identify new ways for its implementation.

19. In Malawi, non-governmental organizations have taken an important initiative, led by the National Right to Food Taskforce, to draft a Human Right to Food Bill, with the aim of creating an independent authority to ensure and monitor the implementation of the right to food. The bill recommends, inter alia, the creation of an authority able to investigate food rights violations and take action on behalf of the victims. The Special Rapporteur encourages the Government to consider seriously the proposed Human Right to Food Bill to strengthen the current national legislative framework for the protection and promotion of the right to adequate food.

20. At the international level, the Special Rapporteur welcomes the work of the global farmers' organization Via Campesina and the non-governmental organization FIAN and CETIM (Centre Europe - Tiers Monde) to improve the situation of small-scale and subsistence farmers, who are the main victims of hunger and malnutrition and of human rights violations. After consultations with peasant farmers worldwide, as well as an analysis of gaps in the existing legal framework protecting peasants (produced by FIAN and the International Commission of Jurists), Via Campesina has now proposed a Draft Declaration on Peasants Rights. It is important that attention is focused on how this declaration could offer greater protection of the right to food for those who suffer most from hunger.<sup>5</sup>

## **II. SITUATIONS OF SERIOUS CONCERN**

21. The Special Rapporteur would like to draw the attention of the Human Rights Council to the following situations of serious concern regarding the realization of the right to food.

### **Darfur, Sudan**

22. In the Darfur region of the Sudan violence has reportedly increased due to continuous attacks of the rebel groups and the use of aerial bombardments in North and South Darfur. The violence is causing terrible human casualties and violations of the right to food, including the pillaging of crops, food and livestock, destruction of water points, the forced displacement of people from their lands and the disruption of food assistance.<sup>6</sup> Attacks on humanitarian aid

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<sup>5</sup> La Via Campesina, FIAN International, *Rights, Resources and Resistance*, 2006.

<sup>6</sup> The DPA Monitor, November 2006.



workers and vehicles by various armed groups continue to prevent the delivery of food to people in urgent need. The security situation in and around IDP camps has continued to deteriorate, seriously hindering IDPs' access to livelihoods and means to procure food for themselves and their families. Despite the signing of the Darfur Peace Agreement (DPA), tensions between the parties to the agreement have mounted during the reporting period. The Special Rapporteur notes with concern that, although land and natural resources are central to the conflict in Darfur, the Darfur Land Commission to be established under the DPA to address these issues has not yet been put in place.<sup>7</sup>

### **Democratic Republic of Congo**

23. The security situation in some regions of the Democratic Republic of Congo is continuing to threaten the right to food and aggravate chronic malnutrition and food insecurity. During 2006, thousands of people were dying from hunger and related diseases, with 30 per cent of children under 5 suffering from malnutrition and 50 per cent of the population lacking access to safe drinking water.<sup>8</sup> People that have been forcibly displaced from their homes and lands are particularly vulnerable - at least 10 people were dying every day in Gety's displacement camps, mostly children.<sup>9</sup> The security situation was seriously affecting distribution of food and other humanitarian aid in other camps, including to the 16,000 displaced people in camps in Dubie.<sup>10</sup>

### **Horn of Africa**

24. Following severe drought at the beginning of this year, people in the countries of the Horn of Africa have faced overwhelming floods since 10 November 2006. In Somalia the scarce food stocks of an estimated 900,000 people have been destroyed or endangered by the floods.<sup>11</sup> In Kenya around 500,000 people have been affected, particularly in the remote north-eastern region, coastal districts and low-lying areas in the western parts of the country.<sup>12</sup> In Ethiopia it is estimated that 360,000 people have been affected by floods particularly in the Ogaden region where, along the Wabi-shebelle River, livelihoods have been seriously disrupted.<sup>13</sup> In this region, reportedly highly militarized, and in some of the areas affected by floods in Somalia,

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<sup>7</sup> Ibid.

<sup>8</sup> Figures from Action contre la Faim, 2006.

<sup>9</sup> Irin, "Aid workers pull out of Gety", 1 September 2006.

<sup>10</sup> Médecins Sans Frontières, "Food, nutrition and mortality situation of IDPs in Dubie", 2006.

<sup>11</sup> Irin, "Somalia. Floods increase risk of malnutrition", 8 December 2006.

<sup>12</sup> "Kenya, Red Cross appeals for US\$ 21.9 million for flood-affected people", 12 December 2006.

<sup>13</sup> OCHA, August 2006.

security concerns add to the difficulty of movement within the inundated areas. The Special Rapporteur applauds the efforts accomplished by humanitarian agencies to reach the affected populations and urges the Governments to guarantee security conditions for safe passage of assistance.

### **Shortfalls in food aid for sub-Saharan Africa**

25. The Special Rapporteur recognizes that there are important efforts being made by Europe, the United States and other developed countries to provide assistance and food aid in emergencies. However, despite the unrelenting commitment of WFP, the Special Rapporteur has received reports of serious funding shortfalls for some of its emergency programmes, threatening the lives of millions of people in Africa. WFP is being forced to cut food rations for 4.3 million people in sub-Saharan Africa. Food assistance being provided to mother and child nutrition centres and school feeding is even being cut. Some countries, including Malawi, Namibia and Swaziland face cuts of up to 80 per cent or the termination of assistance. A funding shortfall of more than 70 per cent has forced WFP to halve rations in Mozambique.<sup>14</sup> This means that people will be receiving less than half the calories necessary to sustain a healthy life. This is unacceptable.

### **Democratic People's Republic of Korea**

26. The situation in the Democratic People's Republic of Korea, which has been highly dependent on foreign aid to feed a large part of its population is also of great concern. Following the announcement of a nuclear test in October 2006, some bilateral donors planned to stop emergency aid to the country. Although it is difficult to ascertain the situation in the Democratic People's Republic of Korea, the Special Rapporteur has received indications that another food crisis may be imminent following the recent floods.<sup>15</sup> Reportedly the country received about 1 million tons of food aid in 2005 mainly from bilateral donors but has already finished its reserves from last and this year's harvests. On 10 May 2006 WFP signed a new food aid programme with the Democratic People's Republic of Korea for a duration of two years. Security Council resolution 1718 (2006) imposed sanctions against the country.<sup>16</sup> The Special Rapporteur is pleased to note that Council resolution 1718 (2006) provides that funds necessary for basic expenses, including payment for foodstuffs, be exempted from the sanctions. He would like to join the call to donors already made by other special procedures and United Nations agencies to continue supporting humanitarian aid to the Democratic People's Republic of Korea.<sup>17</sup>

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<sup>14</sup> Irin, "WFP halves rations for the hungry", 10 November 2006.

<sup>15</sup> Human Rights Watch, "North Korea: Ending food aid would deepen hunger", 11 October 2006.

<sup>16</sup> UN News, "Security Council imposes sanctions on DPRK", 14 October 2006.

<sup>17</sup> UN News, "UN human rights expert laments food aid cuts to DPRK", 25 October 2006.

### III. CHILDREN AND THEIR HUMAN RIGHT TO FOOD

27. On World Food Day, 16 October 2006, the Executive Director of WFP, James Morris said:

Every day some 18,000 children die of hunger and malnutrition. Yet there are no headlines and no public outcry. Instead these poor forgotten children die in silence, far from our sight in many countries of the world. This need not happen: we have every tool we need to solve hunger.<sup>18</sup>

28. There is no public outcry, because hunger and malnutrition in many parts of the world are still not treated as a human rights issue. Yet if an infant or child does not receive sufficient food and nutrition in their first days and first years, they will be condemned to limited physical and intellectual development, if they manage to survive. Régis Debray has called these children “crucified at birth”.

#### A. The extreme vulnerability of children to hunger and malnutrition

29. About 5.6 million children die every year before they reach the age of 5. In the Sahelian African country of Niger, one quarter of all children die before their fifth birthday. Millions more children suffer from stunted growth and limited intellectual development, as a result of the lack of adequate food and nutrition. About one in every four children around the world is underweight for their age, more than 96 per cent of low birth weight babies are born to underweight mothers in the developing world, reflecting a generational cycle of undernutrition, the consequences of which are passed along to children by mothers who are themselves in poor health and undernourished.<sup>19</sup> Although there has been some recent progress in reducing global levels of malnutrition, the Special Rapporteur is gravely concerned that the Millennium Development Goal to halve the number of underweight children by 2015 will not be met.<sup>20</sup>

30. Undernutrition causes more than half of all deaths of children under 5 years old. About 100 million children are still lacking sufficient vitamin A, essential for immune system functions and their survival, growth and development.<sup>21</sup> Millions suffer from iodine deficiency disorders, which prevent normal growth in the brain and nervous system, yet it is easily preventable through the simple iodization of salt.<sup>22</sup> Iron-deficiency anaemia seriously affects the

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<sup>18</sup> Child Rights Information Network, 26 September 2006.

<sup>19</sup> UNICEF, Progress for Children. A Report Card on Nutrition, May 2006.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

intellectual development in young children.<sup>23</sup> Undernutrition is also closely linked to diarrhoea and other water-borne diseases.<sup>24</sup> Unsafe water and a lack of basic sanitation and hygiene every year kill more than 1.5 million children.<sup>25</sup> Around the world approximately 125 million children under 5 years of age have no access to an improved drinking water source, and around 280 million children under 5 have no access to improved sanitation facilities.

### **B. Children's right to food under international law**

31. The Universal Declaration of Human Rights protects the right of every human being "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" (art. 25). The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right of everyone to an adequate standard of living "including adequate food" and the fundamental right of everyone to be free from hunger (art. 11).

32. Although all international human rights instruments apply both to children and adults, it is the Convention on the Rights of the Child (CRC) which is the main international human rights treaty specifically aimed to protect and promote children's rights, including children's right to food. Article 27 recognizes the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. Article 24 provides that States parties should take appropriate measures to combat disease and malnutrition, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution. Article 6 states that "1. States Parties recognize that every child has the inherent right to life; 2. States Parties shall ensure to the maximum extent possible the survival and development of the child". International humanitarian law also provides for a series of measures to protect the specific needs of children during armed conflicts.<sup>26</sup>

33. The Special Rapporteur believes that children's right to food can be understood within the framework laid out by the Committee on Economic, Social and Cultural Rights that requires States to respect, protect and fulfil the right to food of all members of their population, without discrimination. This implies that the right to food is not only a positive right, it is also a negative right that aims to prevent discrimination and violations of children's existing access to adequate food.

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<sup>23</sup> Ibid.

<sup>24</sup> UNICEF, "Progress for children: A report card on water and sanitation", September 2006.

<sup>25</sup> Ibid.

<sup>26</sup> Articles 23, 50, 89 of the Fourth Geneva Convention (1949) and article 70 of the Optional Protocol I (1977).

### **1. The prohibition of discrimination**

34. The prohibition of discrimination requires Governments not to discriminate against children in their access to food, nor to the means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status. Yet discrimination against children is still frequent between rural and urban areas or within different communities in one country. Children living in rural areas are twice as likely to suffer from malnutrition as those living in urban areas in almost all developing countries.<sup>27</sup> In South Asia, girls are more likely to be underweight than boys.<sup>28</sup> In India, Dalit children are discriminated against in multiple ways that affect their right to food.<sup>29</sup> These disparities, whether they are the direct or indirect consequences of governmental policies and practices, constitute violations of the prohibition of non-discrimination in the enjoyment of children's right to food.

### **2. The obligation to respect**

35. The obligation to respect the right to food requires that Governments refrain from taking any action that would negatively affect children's existing access to adequate food and water. This includes avoiding taking measures to forcibly evict from their land and means of livelihoods millions of families, including their children. States' agents should also refrain from destroying or encouraging the destruction of food crops, water supplies and health services, and engaging in forced displacement of families and communities during armed conflicts, as this takes a heavy toll on children. Privatization of public water systems very often leads to the violation of the right to clean drinking water for the poorest segment of the population.

### **3. The obligation to protect**

36. The obligation to protect requires measures by the State to ensure that third parties, including enterprises or individuals, do not deprive children of their access to adequate food. One clear example of measures that Governments can take to protect the right to food of children involves regulating marketing practices on breast milk substitutes. The International Code of Marketing of Breastmilk Substitutes protects against inappropriate marketing strategies that try to convince women that substitutes are better than breast milk. The International Code was adopted as a "minimum requirement" for all countries under resolution 34.22 of the World Health Assembly (WHA). Breastfeeding in the first six months of life is essential for stimulating babies' immune systems, and protecting them from diarrhoea and acute respiratory infections. Substituting breast milk carries high risks of infection, especially when substitute milk has to be mixed with contaminated water.

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<sup>27</sup> See note 24.

<sup>28</sup> *Idem*.

<sup>29</sup> Joel Lee, Sukhadeo Thorat, Dalits and the Right to Food: Discrimination and Exclusion in Food related Government Programmes.

#### 4. The obligation to fulfil (facilitate and provide)

37. The obligation to fulfil the right to food requires Governments to take steps to address hunger and poverty of children. This obligation is made up of two positive obligations - the obligations to *facilitate* and the obligation to *provide*. The obligation to facilitate means that the State must facilitate and actively engage in activities intended to strengthen families, parents and caregivers' access to and utilization of resources and means to ensure their livelihood, including food security. This will enable parents and caregivers to fulfil their responsibility of providing access to adequate and sufficient food to their children. In addition, whenever children or their families are unable, for reasons beyond their control, to enjoy the right to food by the means at their disposal, States have the obligation to provide that right directly. School meal programmes are one example of measures to fulfil the right to food. The Special Rapporteur welcomes the examples of India, South Africa, Cuba and Brazil, which have been at the forefront of efforts to make school meals an entitlement. Governments must also ensure that care and other institutions are able to provide for adequate and nutritious food to those children who remain in their care. This obligation also applies for children who are victims of natural or other disasters. In emergencies, relief programmes that provide food and nutrition must take special care to meet the special needs of children (A/51/306). In this regard, the Special Rapporteur welcomes the revision, which was finalized this year, of the 2001 operational guidelines for emergency relief staff and programme managers produced by the Interagency Working Group on Infant and Young Child Feeding in Emergencies.

#### C. Child combatants in armed conflicts and the right to food

38. The protection of children's right to food is fundamental in the fight to eliminate children malnutrition and early mortality, but also in the fight against child labour, including forced recruitment of children into armed forces. In Zambia, the official in charge of reducing child labour has declared that "I've heard children who work as prostitutes say they would rather die from AIDS, because it is slower than dying of hunger."<sup>30</sup>

39. The shocking number of children fighting in wars around the world is also a result of hunger and poverty.<sup>31</sup> Ten years after the seminal report of Graça Machel on the impact of armed conflict on children (A/51/306 and Add.1), the Special Rapporteur would like to review what role hunger and food insecurity play in creating an environment which leads children to become involved in armed groups.

40. In 2006 the United Nations estimated that more than 250,000 children were actively involved in armed conflict in government armed forces, government militias and in a range of armed opposition groups (A/61/275). Children are recruited to fight in wars in all regions of the world, from Africa (including Angola, Burundi, Côte d'Ivoire, the Democratic Republic of

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<sup>30</sup> *International Herald Tribune*, 24 August 2006.

<sup>31</sup> Brett R., Specht I., *Young Soldiers: Why they choose to fight*, 2004.

the Congo, Liberia, Sierra Leone, Somalia and Uganda) to Asia (including Afghanistan, Myanmar and Nepal), and from Latin America, where the phenomenon is prevalent in Colombia. Europe has also seen the problem of child soldiers during the conflicts in the Balkans, including in Kosovo (ibid.).

41. Thousands of children make decisions to enlist in armed groups as a result of hunger, malnutrition and food insecurity, yet this is rarely discussed in debates over this problem.<sup>32</sup> Although many children are forcibly recruited, the majority of child soldiers are adolescents between the age of 14 and 18 who “volunteer” because they are desperately in need of food and income, with which they can support themselves and their families.<sup>33</sup> In Guinea, research showed that almost 10 per cent of child soldiers declared having joined armed groups in order to obtain food or other benefits.<sup>34</sup> During the Liberian conflict, children also joined voluntarily to obtain food for themselves and their families. Similarly, in many of those regions affected by conflict in the Democratic Republic of the Congo and Uganda, children who enlisted came from the poorest families earning less than one dollar per day.<sup>35</sup>

42. Many young people decide to enlist as a means of covering basic necessities for them and their families, especially when livelihoods have already been eroded by war.<sup>36</sup> Many children and young people decide to join armed groups because they feel responsibility for contributing to supporting their families, especially when family breadwinners are killed, injured, imprisoned or disappear. Evidence from Nepal, for example, seems to indicate that children from very poor households headed by a single parent were more at risk of being recruited by Maoists on account of food insecurity.<sup>37</sup>

43. However, taking up arms or carrying out other duties for armed groups does not necessarily and automatically entail an improvement in children’s food security situation. At times armed groups promise rewards in the form of money, food and clothing to persuade young people to join, but these promises are often not kept. In a recent study, it was found that children were told by the commanders that they had to provide food or means to acquire it by themselves, a clear encouragement to looting families and communities.<sup>38</sup> Frequently, child combatants went hungry and died of starvation, as Josephine from northern Uganda, recounted:

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<sup>32</sup> See note 31.

<sup>33</sup> Idem.

<sup>34</sup> Small Arms Survey, 2006.

<sup>35</sup> Redress, Victims, Perpetrator or Heroes? Child soldiers before the International Criminal Court, 2006.

<sup>36</sup> See 31 above.

<sup>37</sup> Charu Lata Hogg, “Child recruitment in South Asian conflicts: A comparative analysis of Sri Lanka, Nepal and Bangladesh”, 2006, Chatham House, London.

<sup>38</sup> See note 35 above.

Sometimes we would go on an empty stomach for days. We had not food and were eating only wild leaves and wild fruit ... Sometimes we had one handful of beans for 10 people. Hunger kills many children, including the children of the commanders.<sup>39</sup>

44. The Special Rapporteur is impressed by recent efforts of the international community, NGOs from Sweden, the United States of America and Norway, to focus on the elimination of recruitment of children and armed conflicts. In 2005, the Security Council adopted a far-reaching resolution on conflict-affected children, calling for compliance with protection standards and norms and creating a Working Group with the aim of monitoring such compliance (see Council resolution 1612 (2005)). On the ground, collaboration between United Nations agencies, particularly UNICEF, Governments, regional organizations, NGOs and civil society has produced significant progress, including raising global awareness, strengthening the international human rights system so as to enhance protection for children's rights and integrating this issue within the United Nations (A/61/275). The International Criminal Court has also issued arrest warrants for five senior members of the Lord's Resistance Army (LRA) and the founder and leader of the Union of Congolese Patriots in the Ituri region of the Democratic Republic of the Congo for forcibly enlisting and using children under the age of 15 in conflicts.

45. The international legislative framework to protect children from the impact of armed conflicts has also been considerably strengthened with the entry into force in 2000 of International Labour Organization Convention No. 182 on the Worst Forms of Child Labour, 1999, which stipulates that States must take immediate action to prohibit and eliminate the worst forms of child labour, including forced or compulsory recruitment of children for use in armed conflict, and by the entry into force in 2002 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. These developments reflect significant advances in the efforts to eliminate child recruitment. However, the Special Rapporteur is concerned that these efforts are not always focusing on the root causes of child recruitment, which are hunger and lack of schooling.

46. There is an urgent need to recognize the link between hunger and food insecurity, and child recruitment into armed conflict. Concrete measures must be taken by Governments and the international community to respect, protect and fulfil children's right to food in order to remove the root causes of conflict and child recruitment. During conflict situations, if security permits, there must be a focus on ensuring adequate food and nutrition of all children, including through promoting measures such as universal school meals to keep children in school or food for vocational training programmes for adolescents. Special programmes must address the basic needs for food and safe drinking water for the 140 million children under age 12 who have no regular access to school. However, eradicating hunger and ensuring adequate access of all people to productive resources will be the key to eradicating child recruitment into armed conflict.

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<sup>39</sup> Ibid.



#### IV. FLEEING FROM HUNGER - THE WORLD'S HUNGER REFUGEES

47. In many regions of the world, particularly in Africa, famine, destitution and chronic hunger are forcing people to leave their homes, land and even their countries. Hunger and famine are due not only to drought, but also to economic problems as well as political problems of corruption and mismanagement. It is also due to the hypocritical policies of developed countries on agriculture and climate change, which are further contributing to hunger, poverty and inequality in developing countries. Famine and food are often used as a weapon of war against certain groups of people who are forced to flee for their lives. Yet hunger and violations of the human right to food are still not seen by the international community as good enough reasons or sufficient legal grounds for people to flee their countries. Tens of thousands of people fleeing from hunger and famine and crossing borders, especially if they try to flee to developed countries, are treated as "illegal migrants", arrested and held in often appalling conditions in detention and processing centres. Refused asylum, they are usually forcibly deported home, even when their lives remain at risk from famine and chronic hunger.

48. The situation is particularly dramatic for people fleeing from sub-Saharan Africa. How many young Africans are leaving their countries, risking their lives to try to reach Europe? It is estimated that about 2 million people try to enter the European Union illegally every year, and about 2,000 of them drown in the Mediterranean Sea. They try to reach the Canary Islands from Mauritania or Senegal, or to cross the straits of Gibraltar from Morocco. According to the Government of Spain, 37,685 African migrants reached Spanish shores in 2005. Another 22,824 migrants reached the islands of Italy or Malta, after leaving from the Libyan Arab Jamahiriya or Tunisia.<sup>40</sup> They also try to reach Greece through Turkey or Egypt. Markku Niskala, Secretary General of the International Federation of the Red Cross has appealed: "This crisis is being completely ignored: not only does no one come to the help of these desperate people, but there is no organization that even compiles statistics that record this daily tragedy."<sup>41</sup>

49. On the night of 28 September 2005, at least five African men were shot dead, when several hundred people trying to enter Spanish territory by climbing over two razor-wire fences separating Ceuta from Morocco, were confronted by law-enforcement officials.<sup>42</sup> On 6 October 2005, another six men were shot dead on the Moroccan side of the border. Amnesty International called for an independent international investigation into these events, as well as into further reports that a number of people had been injured as a result of ill-treatment and use of excessive force by Spanish and Moroccan security forces in Ceuta and Melilla.<sup>43</sup>

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<sup>40</sup> *Tribune de Genève*, 14 December 2006.

<sup>41</sup> *Ibid.*

<sup>42</sup> Amnesty International, 3 October 2005 <http://www.amnestyinternational.be/doc/article5981.html>.

<sup>43</sup> Human Rights Watch, 13 October 2005 <http://hrw.org/english/docs/2005/10/13/spain11866.htm>.

Amnesty International also expressed serious concern about deportations from Spain to Morocco after Médecins Sans Frontières reported that it had discovered more than 500 people abandoned in the desert on the Morocco-Algeria border by the Moroccan police, without any food or water.<sup>44</sup>

50. The Special Rapporteur recognizes that Spain, but also other European countries, have made impressive efforts to intensify their development aid to the countries most affected by hunger. Spain developed a special aid programme in favour of 18 countries of sub-Saharan Africa.

51. This tragedy of African refugees from hunger was a key focus of the World Social Forum on Migration held in Madrid on 21-24 June 2006, and is also a focus of Africa's own extremely diverse and dynamic civil society, including during the African Social Forum held in Bamako (22-25 January 2005) and the World Social Forum held in Nairobi (19-23 January 2007). Special days of commemoration for the bloody events at Ceuta and Melilla were focused on the theme of "Globalization and African migration" (29 September-7 October 2006 at Bamako). In the words of Aminata Traoré, former Minister of Culture of Mali and one of the most prominent writers of French-speaking Africa:

The human, financial and technological resources that Europe's 25 countries have deployed against the inflow of African migrants, in fact, signify a real war between this world power and these young, defenceless, rural and urban Africans, whose right to education, right to economic information, right to work and right to food have been denied in their own countries under structural adjustment. Victims of macroeconomic decisions and choices, through no fault of their own, they are chased, tracked down and humiliated if they try to flee. The dead, the injured and the handicapped of the bloody events of Ceuta and Melilla in 2005, as well as the hundreds of lifeless bodies that wash up on the beaches of Mauritania, the Canary Islands, Lampedus or elsewhere are also drowned by this forced and criminalized migration.

52. At the very moment when the Special Rapporteur finalized his report, on 18 December 2006, the international press reported that over 100 refugees had drowned the day before off the coast of Senegal on their way to Spain.<sup>45</sup>

53. The Special Rapporteur believes that the increasing criminalization of migration will simply lead to further violations of the right to life and the right to food. Legal protection must be extended to refugees from hunger. National Governments always bear primary responsibility for respecting the right to food, but if people flee their countries for their lives, they should not be sent back to situations of hunger that threaten their lives. He believes that, only by recognizing their obligations to the world's hunger refugees, will all Governments finally take seriously their responsibility for eradicating global hunger.

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<sup>44</sup> Ibid.

<sup>45</sup> *Le Courrier*, Genève, 10 December 2006.

### A. Fleeing from hunger

54. Hundreds of millions of people have been forced from their homes and lands for numerous reasons, but few have managed to cross international borders to another country. Around the world today, while there are millions of migrants who have moved within their own countries (whether through forced or voluntary migration), there are only about 190 million international migrants, living and working in a country other than their country of birth, which is only about 2.9 per cent of the global population.<sup>46</sup> There are even fewer refugees, with the Office of the United Nations High Commissioner for Refugees (UNHCR) estimating that, at the end of 2000, there were 9.2 million refugees around the world (defined as those who have crossed an international border fearing persecution). The vast majority of these refugees have left their countries, but remain in neighbouring countries in Africa or Asia. Only about 800,000 refugees are actively seeking asylum and refugee status in North America, Europe as well as in developing countries in 2006.<sup>47</sup> Many countries are setting up more barriers to reduce those eligible for asylum.<sup>48</sup>

55. According to the 1951 Convention relating to the Status of Refugees, all Governments are obliged to grant refugee status to those who qualify for international protection. Refugees are those who have to flee due to a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” (art. 1). Under this understanding, refugees are different from other migrants in that they are forced to leave their homes because of a change in their social environment which makes it impossible to continue their lives as they have known it before, usually involving a coercive force and political persecution. However, there is no such protection for other people who *voluntarily* leave their homes in search of a better life or better livelihood in another country. According to the UNHCR, an “economic migrant” is a person who voluntarily leaves their country, on the basis of economic, rather than political reasons, in order to take up residence elsewhere.<sup>49</sup> It is the voluntary and economic nature of this choice that define someone as an economic migrant. Economic migrants may be accepted into another country, but this is at the discretion of each country’s migration policy and is usually based on the country’s own national interest. Unlike refugees, States have no legal responsibility to accept economic migrants because it is believed that they have not been forced to leave their countries.

56. Many migrants do choose voluntarily to leave their homes and lands in search of a better life in another country. In a world where the richer countries are getting richer and the poorer are getting poorer, migration is an obvious response. A new study by the World Institute for Development Economics Research (WIDER) of the United Nations University, shows how

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<sup>46</sup> IOM, *World Migration Report 2005*.

<sup>47</sup> UNHCR, *State of the World’s Refugees 2006*.

<sup>48</sup> *Ibid.*

<sup>49</sup> UNHCR Handbook <http://www.hrea.org/learn/tutorials/refugees/Handbook/hbpart1.htm>.

extreme global inequality has become, with most of the world's wealth heavily concentrated in North America, Europe and high-income Asia-Pacific countries, including Australia and Japan.<sup>50</sup> People in these countries collectively hold almost 90 per cent of the world's total wealth, while the poorer half of the world's population owns barely 1 per cent of global wealth.<sup>51</sup> However, in a world where the poor and hungry are getting even poorer, there are increasing numbers of people who have little choice but to leave their homes and lands in order to survive, and it is becoming more difficult to distinguish between economic migrants and refugees.<sup>52</sup>

57. If migrants are fleeing from famine, chronic hunger and deprivation, then we must call into question whether such migration is "voluntary". Millions of people living in Africa, especially sub-Saharan Africa, regularly face famine and growing destitution. Sub-Saharan Africa is the only region of the world where levels of hunger have been constantly increasing since 1990. Between 1990 and 2001, the number of chronically undernourished people is estimated to have increased from 169 million to 206 million people.<sup>53</sup> It is the developing region with the highest proportion of people living in hunger - one third of the population does not get the minimum amount of calories every day that is necessary to sustain healthy life. In the 14 poorest countries, more than 35 per cent of the population goes hungry every day, even during normal times when there is no drought or famine.<sup>54</sup> Hunger has increased most in countries torn apart by conflict over the 1990s, including Burundi, the Democratic Republic of the Congo, Liberia and Sierra Leone.<sup>54</sup> This has been particularly severe in the Democratic Republic of the Congo, where the number of victims of undernutrition rose from 31 to 72 per cent of the Congolese people.<sup>54</sup> These close links between hunger and conflict are often exacerbated when food and famine have also been used as weapons of war in many African countries, against certain groups or communities.<sup>55</sup> It is difficult to suggest that mass population movements precipitated by famine, just as by conflict, are voluntary.

58. Environmental degradation, desertification and global climate change are also exacerbating destitution and desperation, especially in the highly arid countries of Sahelian Africa (see A/61/306). In 1995 (the last time a comprehensive assessment was carried out), the United Nations estimated that there were already 25 million people forced to leave their

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<sup>50</sup> UNU-WIDER, Anthony Shorrocks, James Davies, Susanna Sandström, Edward Wolff, "The World Distribution of Household Wealth", 2006, UNU Press, Tokyo.

<sup>51</sup> Ibid.

<sup>52</sup> Castles, Stephen, "Migration reform in the age of globalization", 2004.

<sup>53</sup> FAO, *State of World Food Insecurity 2006*.

<sup>54</sup> Ibid.

<sup>55</sup> Joanna Macrae, Anthony Zwi, "Food as an instrument of war in contemporary African famines: a review of the evidence", *Disasters*, 16, No. 4, 1991.

homes for environmental reasons, mostly from sub-Saharan Africa.<sup>56</sup> However, the Intergovernmental Panel on Climate Change has estimated that, by 2050, there may be as many as 150 million “environmental refugees”<sup>57</sup> - people forced to leave their homes and lands for environmental reasons linked to global climate change, including desertification and land degradation. Policies in developed countries are further exacerbating these effects - energy consumption in the North is contributing to global climate change, with the effects felt primarily in the South.<sup>58</sup> Agricultural policies in the North are also having destructive effects on agricultural livelihoods and hunger in the South.<sup>59</sup>

59. Migration has always been a strategy to cope with hunger and famine in Africa,<sup>60</sup> but this has not been a matter of choice, but rather of necessity. People leave their homes and lands when they are desperate, when they cannot feed themselves and their families. Although most migration happens in neighbouring countries in Africa, in today’s world no country can isolate itself from the effects of hunger; increasingly desperate people are trying to reach the shores of developed countries. Although the poor and hungry cannot always migrate very far if they cannot afford to pay boat passage or exploitative traffickers, many families gather together to pool all their resources to try to send just one person overseas. In the villages of Mali, for example, many people gather funds to send just one person to Mauritania or to Senegal to catch a boat to Spain. If that person succeeds, then the remittances they send home can feed several families. If they fail, however, then they can never return to their villages for the humiliation of loss and debt to their neighbours. Many thousands therefore stay in Mauritania or Senegal until they can make another attempt.

60. Despite the tragic events in Ceuta and Melilla in 2005, tens of thousands of Africans continued to flee to Europe’s shores in 2006. The Spanish authorities detained at least 28,000 people arriving in the Canary Islands in 2006 after a dangerous journey across the open sea in overcrowded open fishing boats, and at least 16,000 people have reached Lampedusa Island in the last year.<sup>61</sup> Nobody knows how many thousands of other people have died trying to make the journey, but bodies regularly wash up on the beaches or fishermen catch them in their

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<sup>56</sup> Myers, Norman, “Environmental refugees: an emergent security issue”, Economic Forum, Prague, May 2005.

<sup>57</sup> Ibid.

<sup>58</sup> Conisbee Molly, Simms Andrew, *Environmental Refugees: The Case for Recognition*, 2003.

<sup>59</sup> Oxfam, “Rigged rules and double standards: trade, globalisation, and the fight against poverty”, 2002.

<sup>60</sup> Pottier, Johann, “Migration as a hunger-coping strategy: paying attention to gender and historical change”, in Marcussen, H.S., *Institutional Issues in Natural Resources Management*, 1993.

<sup>61</sup> BBC News, 30 November 2006 <http://news.bbc.co.uk/go/pr/fr/-/2/hi/europe/6160633.stm>.

nets.<sup>62</sup> Many arrive in a terrible condition, too weak to walk or stand and chronically undernourished. Yet most of them are detained and held in processing or detention centres, before being forcibly repatriated to their own countries. The response of Europeans is increasingly militarized to control immigration and patrol the borders. The European Union has set up rapid reaction teams of border guards in a new institution called Frontex. Frontex's first Operation Hera II involved patrol boats, airplanes and helicopters from Spain, Italy, Finland and Portugal operating along the borders of Mauritania, Senegal and Cape Verde to intercept boats and return them immediately to shore.<sup>63</sup>

61. The European Governments are not the only ones who see the drama of migration as primarily a military and police problem. Hundreds of thousands of Mexicans and other Latin Americans attempt to cross the border into the United States. When tens of thousands of people were arrested trying to cross illegally the border during 2005 and 2006, President Bush signed into law the Secure Fence Act which included plans to build a 1,125 km fence to prevent people from illegally crossing the border.<sup>64</sup> Australia has also been criticized for the tightening of its migration and asylum policies.<sup>65</sup>

### **B. The need to recognize refugees from hunger**

62. The rights of refugees are legally protected under the 1951 Convention relating to the Status of Refugees. Elaborated in the aftermath of the Second World War to protect people fleeing from communist countries, the objective of international refugee law was to protect people who had a well-founded fear of persecution, understood as severe violations of their civil and political rights. Legal developments at the regional level, in particular in Africa and Latin America, have broadened the concept to protect those escaping generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances seriously disturbing public order. Many States in the past 50 years have also applied the Convention of 1951 to other asylum-seekers, such as the "person considered worthy of receiving asylum for humanitarian reasons" (Declaration on Territorial Asylum of the Committee of Ministers of the Council of Europe, 1977). And UNHCR has in practice considerably broadened the categories of people of concern to it, to assist and protect today internally displaced persons (IDPs), stateless people or asylum-seekers.<sup>66</sup> Yet, violations of economic, social and cultural rights, including the right to be free from hunger, have never been really taken into account.

63. The Special Rapporteur insists on this crucial point: refugees from hunger should not be confused with other categories of so-called "economic refugees". An economic refugee may be

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<sup>62</sup> BBC News, 24 October 2006 [http://news.bbc.co.uk/go/pr/fr/-/2/hi/talking\\_point/5404816.stm](http://news.bbc.co.uk/go/pr/fr/-/2/hi/talking_point/5404816.stm).

<sup>63</sup> BBC News, 10 September 2006 <http://news.bbc.co.uk/go/pr/fr/-/2/hi/europe/5331896.stm>.

<sup>64</sup> BBC News, 27 October 2006 <http://news.bbc.co.uk/go/pr/fr/-/2/hi/americas/6090060.stm>.

<sup>65</sup> Human Rights Watch <http://hrw.org/english/docs/2006/08/11/austra13964.htm>.

<sup>66</sup> See note 47 above.

somebody who seeks a better life by migrating to another country. He does so voluntarily. The refugee from hunger does not move voluntarily. He is forced to flee. Hunger is an immediate threat to his life, and the lives of his family. He has no choice. Especially when famine strikes a whole country or a whole region (for example, the 2005 famine in the Sahel zone of sub-Saharan Africa), refugees from hunger have no other choice but to flee across international borders.

64. Every human being has the right to food and the fundamental right to be free from hunger. These rights have been recognized in article 11 of the International Covenant on Economic, Social and Cultural Rights, as well as in many other international instruments, without any territorial or jurisdictional limitation. The Special Rapporteur has already presented, in several of his previous reports (see E/CN.4/2006/44), the legal consequences of this absence of territorial or jurisdictional limitations: States have the obligations to respect, protect and fulfil the right to food of *all* people, living within their jurisdiction or in other countries. In this particular context, this means that Governments have a legal obligation to help the refugees from hunger, regardless of their country of origin or status.

65. Today, however, most Governments treat crossing international frontiers to be free from hunger as an illegal act. The Special Rapporteur considers this response to be a shame on humanity. For those fleeing from hunger, the most appropriate response is to recognize that they have the right to seek asylum and to protection of temporary refuge, and in the long run, to recognize that they are refugees, entitled to international protection. To detain and then forcibly repatriate people fleeing from hunger to a territory where they will continue to suffer hunger and chronic undernourishment is unjustifiable. As the Office of the High Commissioner for Human Rights rightly stated, “there is little to distinguish between a person facing death through starvation and another threatened with arbitrary execution because of her political beliefs”.<sup>67</sup>

66. The principle of non-refoulement is a well established principle of international law. It means that no person shall be rejected, returned or extradited to a territory where his life, physical integrity or liberty would be threatened. Accordingly, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, urged all Governments to “observe the principle of non-refoulement scrupulously and not expel any person to frontiers or territories where they might run the risk of human rights violations, regardless of whether they have officially been recognized as refugees” (A/60/316, para. 52).

67. It is important today that this protection be enlarged to protect the refugees from hunger, to recognize that they have at least, but immediately, the right to seek asylum and the right to receive protection of temporary refuge. In the longer term, it is essential to take the most severe violations of economic and social rights into account in the determination of refugees, including violations of the right to food. To this end, States should consider the possibility of expanding the definition of refugees, either by revising the existing international instruments, or by adopting new instruments for the protection of all refugees, those fleeing to escape severe violations of civil and political rights as well as those fleeing to escape severe violations of economic, social and cultural rights.

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<sup>67</sup> OHCHR, Fact Sheet 20, *Human Rights and Refugees*.

## V. CONCLUSION AND RECOMMENDATIONS

68. The eradication of hunger and violations of the human right to food is the most urgent priority facing Governments today. In a world that is richer than ever before, it is unacceptable to allow children, women and men to suffer from hunger and famine. Hunger and people's lack of access to sufficient productive resources to be able to feed themselves will continue to create conflicts and force children out of school into forced labour, including recruitment into armed forces. Hunger will also continue to force people to flee their own countries. The answer is not a criminalization of those who suffer from hunger. The answer is to take immediate action to respect, protect and fulfil the right to food of every human being.

69. **The Special Rapporteur makes the following recommendations:**

**(a) Governments should follow the recent examples of Brazil, Guatemala, India, South Africa, Venezuela and Bolivia in the implementation of the right to food at the national level. The Special Rapporteur encourages Governments to adopt an adequate legal framework to ensure the right to food for all, including and in particular for the most vulnerable. This should include a clear definition of the right to food and the obligations of the Government to respect, protect and fulfil the right to food, without discrimination, as well as provisions for strong, independent and adequately financed monitoring mechanisms;**

**(b) All Governments should take immediate steps to eliminate child hunger. This should include programmes to address food security and adequate livelihoods, as well as nutritional security, especially in vitamin A, iron and iodine deficiencies and the promotion of breastfeeding. School meal programmes should be universalized and should ensure adequate nutrition for all children. Special programmes must be conceived for the 140 million children under 12 who still have no access to school;**

**(c) Governments and international agencies must guarantee safe passage in accordance with international humanitarian law and must ensure that relief assistance meets the specific food and nutrition needs of families and their children during emergency situations such as conflicts and natural disasters;**

**(d) All governmental and non-governmental armed forces must stop recruiting children as combatants or with other functions and release those who remain at their service, and measures must be taken to avoid the enlistment of child combatants who are forced into recruitment by hunger;**

**(e) All Governments and international agencies should address the root causes of migration and armed conflict, including realizing the right to food in those countries where people have little option but to flee their own countries or where children are forced to enlist in armed groups in order to procure food for themselves and their families;**



**(f) States should refrain from deporting people who have fled from their own countries as a result of hunger and violations of the right to food. States should institute legal protection for people forced to flee for reasons related to severe violations of economic and social rights into account, including violations of the right to food, either by revising existing international instruments on refugee protection, or through the adoption of new instruments;**

**(g) All Governments have a responsibility to respect the right to food. Article 11 of the International Covenant on Economic, Social and Cultural Rights and general comment No. 12 of the Committee on Economic, Social and Cultural Rights create the extraterritorial obligation of all Member States to respect the right to food of all human beings, regardless of their citizenship. This responsibility must include the principle of non-refoulement for people whose lives will be at risk if they are deported. Governments should not expel, return or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of suffering from hunger, chronic undernutrition or violations of the right to food. Governments should recognize that refugees from hunger have the right to seek asylum and the right to temporary refuge during famine.**

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