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**ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Written statement\* submitted by FoodFirst Information and Action Network (FIAN  
International), a non-governmental organization on the Roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2006]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

FIAN International would like to express its satisfaction regarding the progresses made on the issue of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR). FIAN is an active member of the international NGO Coalition for an Optional Protocol to this Covenant. Such an Optional Protocol will provide victims of violations of economic, social and cultural rights (ESC-Rights) with access to justice by offering an international recourse procedure in case the national mechanism fails.

FIAN International has been advocating for a complaint mechanism to address violations of ICESCR provisions since the preparations for the Vienna Human Rights Conference, almost fifteen years now. Besides the Convention on the Rights of the Child, the ICESCR is the only Human Rights treaty within the UN system which does not have a monitoring body with quasi-judicial functions.

The discussions in the Open-Ended Working Group set up by the Commission on Human Rights in 2003 have been rich during the last three years. A plethora of documents and inputs on justiciability of ESC-Rights have contributed to that richness of discussion. Experts from regional Human Rights systems also contributed to the discussions and proved that there is no doubt regarding the ability of international quasi-judicial bodies to address ESC-Rights issues without interfering with the field of competence of domestic states.

In the view of our organization and of the NGO Coalition for an OP-ICESCR, the absence of such a complaint mechanism for ESC-Rights is unacceptable. It fails to take into account the development of jurisprudence at the national and international level, as well as the work done by the Committee on Economic, Social and Cultural Rights during the last two decades to interpret the provisions of the ICESCR. Furthermore, it fails to take into account the recognition of the right to adequate food made by the 187 member states to the UN Food and Agriculture Organization in November 2004 when the “Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security” were adopted. Indeed, the “Voluntary Guidelines” reiterates the standards developed by the CESCR concerning the right to adequate food and the related state obligations. They also finally provide guidance for states to develop, implement and monitor policies conducive to the realization of this right in all fields relevant to food security.

According to the data of the UN Food and Agriculture Organization, less than 10% of the hungry world wide are victims of natural catastrophes or man-made disasters such as civil wars. The overwhelming majority of hungry people suffers from so-called “hidden hunger”, and is located in marginalized rural communities. Often they are victims of violations of the right to adequate food. FIAN International has been working for twenty years with concrete case work at the grassroots level to defend the rights of these victims. Our case work shows that many violations of this right can be addressed by courts and remedied without imposing a non manageable financial burden onto the state:

Firstly, states have the obligation to respect the right to adequate food of all parts of its population. This means that states must refrain from impeding existing access to food and productive resources for its procurement. Unfortunately, FIAN experience shows that cases of non compliance with this obligation are very common. An illustration of this is the huge number of forcible evictions which leave poor rural communities without livelihood since these communities depend on subsistence agriculture. Another example of non compliance with the obligation to respect is the failure to ensure an adequate and non discriminatory functioning of

safety nets and social security programs aiming at providing the most vulnerable groups with access to food. Recent cases of starvation deaths in India due to the denial of access to food cards programs for jobless and extremely poor families belong to such violations. The affected families in Andhra Pradesh were legally entitled to the benefits under the said programs, but were de facto denied the distribution of food cards by the local authorities even after several members of one family died due to severe undernourishment. In such situation, state authorities should have made sure that families without any income and legally entitlement to food cards programs have immediate and equitable access to food.

Secondly, states have the obligation to protect its population against acts of third parties impeding the access to adequate food and means for its procurement. The Ahafo case in Ghana is a typical situation of non compliance with the obligation to protect. In this case, a rural community was victim of eviction without adequate compensation for the benefits of a private gold mining company. The members of the Ahafo community have not been provided with alternative land or adequate compensation for the loss of their means of subsistence, for the lost land and harvests, for the denied access to water, for destroyed houses, belongings and schools, etc. Resettled in tiny houses without kitchen, without woods for cooking, having to walk long ways to get access fields and water. Many of their economic, social and cultural rights as well as civil and political rights have been violated. In the Ahafo case, the Ghanaian state should have prevented the violations caused by the acts and omissions of the private company who was in charge of carrying out the compensation and resettlement process.

Thirdly, states have the obligation to fulfill, i.e. to facilitate the realization of the right to food and access to food, as well as to provide food whenever people are not able to feed themselves for reasons beyond their control. A typical case of non compliance with the obligation to fulfill the right to adequate food is the refusal to deliver food aid to victims of famine. Another example can be the failure to carry out agrarian and land reforms in countries where access to land is a crucial and necessary for landless and poor rural communities to realize their right to adequate food. The marginalization of many rural communities, who often lack access to any extension services, to credits, to local markets, and who suffer insecurity in tenancy regulation etc. are at the core of many violations of the right to food. People do not have or cannot make adequate use of productive resources to feed themselves, while at the same time no safety nets are available.

All these examples illustrate facts that have been identified by a large number of state delegations, Human Rights experts and NGOs. These facts are that state obligations under the right to food and more generally under ESC-Rights are identifiable, if a case is analyzed in detail. Furthermore, it is possible to bring violations of those rights under the scrutiny of judicial and quasi-judicial bodies in the form of individual and collective communications. Finally, it shows that the compliance with state obligations in most cases do not imply an impossible financial and material burden on states but rather a fairer redistribution of available resources.

For all these reasons, FIAN International alone and as member of the international NGO Coalition for an OP-ICESCR urges member states to the Commission on Human Rights to enable progress in the process towards the elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. To that end, FIAN would like to appeal upon states to extend the mandate of the Open-Ended Working Group set up by the Commission on Human Rights and to amend it in order to allow this Working Group to start drafting an optional protocol. An optional protocol would help to gain case specific experiences

on violations of these rights and to become more precise in describing state obligations. These experiences at the international quasi judicial body would facilitate that the right to food will be taken up more regularly and more consistently by national courts and quasi judicial procedures. It would therefore become an important tool to improve and speed up the implementation of the economic, social and cultural rights in many countries.

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