

# **ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND DEVELOPMENT COOPERATION**, Michael Windfuhr, Executive Director, FIAN-International

## **Introduction: The Human Rights Approach to Development: A necessary but new agenda**

The human rights approach to development is increasingly talked about and is becoming a central element in development discourse. UNICEF uses rights language and increasingly a rights based approach since the adoption of the Convention on the Rights of the Child in 1989. The year 2000 Human Development Report is entirely focused on the issue. More and more governments and non-governmental development organisations (NGDO) are starting to consider human rights as framework conditions for their work. But we are still far from a clear definition: what elements a rights approach can and should cover, what it means methodologically for development cooperation. FIAN can contribute some ideas and proposals to the search for a common understanding based on its own experiences as an international human rights organisation working for the implementation of the right to adequate food.

In recent years FIAN has repeatedly been asked to contribute to discussions on a human rights approach to development cooperation, focusing on economic, social and cultural rights (ESC-Rights). In 1997 we were asked by the Protestant development agencies in Germany to look through their project portfolio and to study if and how many of their projects were relevant from an ESC-rights perspective and to make proposals how to better integrate ESC-Rights into their work. In 1998 we presented the results of that work to the Ministry of Development Cooperation. Similar work was done in 1999, when FIAN was asked by the Böll-Foundation to write a concept paper on how ESC-Rights should and can guide land policies in Central America. In 1998 FIAN wrote a background paper on the "Role of international organisations in the implementation of the rights related to food and nutrition" for the second expert consultation on the right to adequate food as a human rights, organized by the FAO and the Office of the High Commissioner for Human Rights (OHCHR) as a follow-up to the world food summit.

A rights approach to development cooperation must include all categories of human rights. This paper is focusing only on ESC-Rights because of the specific field of FIAN experiences and will concentrate on the challenges that arise from taking a rights approach to development cooperation with relation to ESC-Rights. Some challenges will be similar to civil and political (CP-Rights) such as requirements for access to justice or levels of obligations under each right. Other things will require a specific approach to ESC-Rights. For example, monitoring will be totally different for ESC-Rights since groups that are victim of violations differ and the required actions by states will involve other sectors or branches of government.

Beside the general misconceptions relating to ESC-Rights - that they are costly to implement, that implementation can only be done progressively and that they are therefore not rights at all but rather political objectives - one additional basic misunderstanding often comes up in discussions on how to integrate ESC-Rights into development cooperation, the concept that development cooperation automatically implements ESC-Rights because it is oriented to improve the health or food situation of groups of the population. However, a rights approach means foremost to talk about the relationship between a state and its citizens. The principal duty holder of all human rights is the state. The state has to comply with its obligations deriving from the rights contained in the human rights Covenants. Development cooperation can assist states in implementing their obligation. Moreover, the International Covenant on Economic, Social and Cultural Rights (ICESCR) also obligates states to international cooperation, meaning that states do not only have national but also international obligations.

## **Interlinkages between Economic, Social and Cultural Rights and Development Cooperation**

Development cooperation in many donor countries was facing major changes at the beginning of the nineties. The end of the Cold War released development cooperation from any geopolitical constraints. Since then the trio of 'good governance', 'democracy' and 'human rights' has been the point of departure for the formulation of donor policies. All three parts of the trio describe how states should look. It is a programme for the definition of state action, for the description of measures the state should refrain from and of policies it should implement. In that programme human rights are an important part, because human rights give concrete rules and guidance for state action with relation to the people living on its territory. Nowadays donor policies in many countries follow this basic orientation. Nevertheless, they vary a lot, because 'good governance', 'democracy' and 'human rights' mean different things to different donors. The understanding of 'good governance' varies for example from a mere definition of absence of corruption or a very lean state to a description of a state that is responsible and accountable to its citizens. The understanding of 'democracy' varies from a pure focus on elections to a broader understanding as a participatory political system. 'Human Rights' are also differently defined as only civil and political rights on the one hand and as all five categories of civil, political but also economic, social and cultural rights on the other. Depending on the respective definitions, donor concepts vary on how they describe the obligations and objectives of states.

It is in this context that ESC-Rights have become so interesting. If 'human rights' are understood as they should be, as indivisible, interrelated and interconnected, all categories of human rights must be used to define the objects and the omissions for state action. ESC-Rights help to define the role of the state in economic and social policy making. This will be the biggest value added of a rights approach to development, in that it allows us to describe precisely what states should do and what type of action they shall refrain from. In policy dialogues, criteria can be used which are beyond individual donor's preferences. Moreover, in times of globalization it can be of great help if ESC-Rights give a direction on what issues or in what areas state action is still required.

The principal duty-holder of all human rights is the state. The state has to comply with its obligations deriving from the rights contained in the human rights Covenants. The full implementation of economic, social and cultural rights requires a state orienting its policies to comply with its human rights obligations. Human rights in general and ESC-Rights in particular oblige the state to respect, protect and fulfil these rights for all citizens. These three different levels of state obligations have been described by the Committee on ESC Rights (CESCR) in several General Comments. In General Comments No. 12, 13, 14 on the right to adequate food, education and health the CESCR has developed a standard interpretation of the different rights of the Covenant in (1) describing the content of the respective right, including a core content and (2) in clarifying the specific state obligations following the three levels 'respect', 'protect' and 'fulfil'. This has led to greater interpretative certainty. Many misconceptions and misinterpretations of ESC-rights have been the result of the historically unequal treatment (missing clear definition, missing text book representation, missing references in case law etc.) of these rights compared to civil and political rights. I will now briefly introduce the definition and the state obligations concerning the right to adequate food as it is contained in General Comment No. 12.

### **Elements of a rights approach towards food and nutrition**

In Article 11 (1) the states parties "recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". The human right to adequate food is therefore a distinct part of the right to an adequate standard of living. Hence the accessibility of adequate food should not interfere with the enjoyment of other human rights and other components which are necessary for an adequate standard of living, such as shelter and education. From Article 11 (2) thus derives the fundamental right of everyone to be free from hunger. In both parts of the article international cooperation is especially mentioned.

The content of the rights to food and nutrition can be described briefly as follows: The realisation of the right to adequate food requires the availability of food in a sustainable way for everybody, free from adverse substances and culturally acceptable, in a quantity and quality which will satisfy the nutritional and dietary needs of every individual. The ultimate objective of the right to adequate food is to achieve nutritional well-being. Nutritional well-being is dependent on parallel measures in the fields of education, health and care. In this broader sense, the right to adequate food is to be understood as the right to adequate food and nutrition. Poverty is the major cause of food insecurity and missing access to adequate food and nutrition. Therefore, the availability of adequate food requires that every individual living alone or in community with others have access to productive resources, e.g. access to adequate land or natural resources like fish or the possibilities of gaining an income in ways consistent with human dignity.

The primary duty-holder under the right to adequate food is the state. States parties to the Covenant of ESC-rights have (1) to **respect** the right to adequate food under all circumstances for everyone under their jurisdiction. That means that states have to respect physical and economic access to adequate food or to a resource base appropriate for its acquisition. The obligation to respect requires also that the state must not take political or other measures destroying existing access by parts (specially vulnerable parts) of the populations to food or to a resource base like food producing resources. Secondly, the States parties have to **protect** everyone under their jurisdiction from having their access to food undermined by a third party. The obligation to protect includes the state's responsibility to ensure that private entities or individuals, including transnational corporations over which they exercise jurisdiction, do not deprive individuals of their access to adequate food. This involves the protection of the freedom to feed oneself and the use of resources to regulate other actors, through, *inter alia*, the adoption of legislation and administrative measures that protect the access to adequate food. It means also to guarantee that the food available is healthy and culturally acceptable. Protection against nutritional disinformation also belongs to this level of obligation. Finally, whenever an individual or group is unable to enjoy the right to adequate food, states have the obligation to **fulfil** that right. This requires first that the States parties identify vulnerable populations within their jurisdiction. Secondly the states have to try their utmost by using the maximum of their available resources to ensure the long-term ability of people to realise this right for themselves. States are moreover under the obligation to immediately start with the resources available to guarantee ESC-rights. All States Parties to the Covenant on Economic, Social and Cultural Rights are under the obligation to take immediate steps to fulfil their obligations under the Covenant. The obligation to achieve progressively the full realisation of the right to adequate food (Art. 2, ICESCR) requires State Parties to move as expeditiously as possible towards its realisation (Limburg Principles). This obligation also applies to persons who are victims of natural or other disasters. Nevertheless, there will always be groups or individuals who cannot make use of possibilities to feed themselves. For this group the obligation to fulfil also means providing adequate food. Failure to perform any one of these three obligations constitutes a violation of human rights. Economic, social and cultural rights must be guaranteed without discrimination as to national or social origin, property, race, gender, language, religion, political or other opinion.

Even in the case where a state faces severe resource constraints, whether caused by a process of economic adjustment, economic recession or other factors, vulnerable persons are entitled to be protected through social programs directed to facilitate their access to adequate food and fulfil their nutritional needs. All states have the duty to satisfy a minimum core obligation, which means that everyone is, as a minimum, free from hunger. Additionally governments should devise policies and programmes oriented to the full realisation of the right to adequate food. Priority should be given, as far as possible, to local and regional sources of food in planning food security policies, including under emergency conditions.

A rights approach for the work of development cooperation requires orienting development policies or programmes in a way that they become fully supportive of the requirements for the implementation of the right to adequate food in a double sense. First, development cooperation should guarantee that the majority of the resources invested in the food and nutrition field is directed towards the requirements mentioned above. Additionally, all programmes and policies should be developed in a way consistent

with the standards deriving from the right to adequate food. On the second level a rights approach requires use of the resources available by supporting states to fully guarantee the right to adequate food. A rights approach also means development of a dialogue with states that are not complying with their obligations under the right to adequate food.

International cooperation in the text of the Covenant (*Articles 11.1, 11.2 and 2.1*) refers to both obligations that states parties have with respect to their international cooperation concerning the implementation of the right to adequate food in other countries and to the responsibilities and role international organizations have towards the full realization of the rights enshrined in the Covenant.

The role of development cooperation starts, when a state is not able to comply with its obligations, even if the reason for the non-compliance is grounded in external shocks (economic, climatic ones, etc.) or on internal problems caused by political, economic or other developments. There are basically five roles development cooperation can take in supporting the implementation of the right to adequate food. The first three roles are linked to positive elements of support for the implementation of the right. The last two describe the responsibilities of development cooperation in minimizing possible negative outcomes of policies or on the ability of states to comply with their human rights obligations.

Positive and negative roles:

(1) Development cooperation can help states which are resource poor and unable to guarantee the right to adequate food and the right to freedom from hunger for all its citizens, whether temporary, periodic or long term. The support can be in kind or in cash, as technical or financial support or as advisory service. The possibility of receiving support should not help states - even resource poor ones - to escape from their immediate obligations under the right to adequate food to use the maximum of available resources as expeditiously as possible.

(2) Development cooperation can give legal, political or administrative advice to states which are not complying with their obligations under the right to adequate food, even if they could adopt adequate policies. The reasons for inadequate policies can be manifold such as influential lobby-groups, unwillingness to make necessary changes, missing knowledge about the possible impact of certain policies and programmes etc.

(3) The third role lies in the active support or promotion of the right to adequate food. Development cooperation can promote actively the full implementation of that right by advising states, by analysing and making known problems with the implementation of that right, by encouraging and supporting important actors inside governments but also inside the societies.

(4) A fourth role would be that development cooperation has to ensure that donors' own policies and programmes do not limit states in implementing the right to adequate food. Development cooperation can create options as well as limiting choices of governments through conditionalities. In that sense development cooperation influences the policies available to governments and is under these circumstances therefore co-responsible for the possible problems in the implementation of the rights. The responsibility exists also with the governments' position and decisions in international organisations, such as the World Bank, that may influence country policies.

(5) On a fifth level development cooperation should monitor donors' own government policies and programmes in other policy fields like trade and finance to guarantee that these do not contribute to violations of the right to adequate food in other countries.

International organisations have co-responsibilities in the implementation of ESC-Rights. There is so far little clarity about a precise description of what the Covenant demands of states in development cooperation. The CESCR is more and more precise in interpreting the provisions in a manner that defines development cooperation as a binding obligation. The CESCR is also encouraging states during state reporting procedures to highlight in which areas other effects or actors are severely limiting states abilities to implement these rights. These are the first steps in getting a binding understanding on the content of the obligations to international cooperation contained in the Covenant.

The increasing interdependence and interrelatedness of national economies are increasing the sensitivity and vulnerability of every society to international trends and developments. These trends can even limit or diminish considerably the ability of states to deliver on national policies in a way

that are conducive to the implementation of food and nutrition rights. On the other hand it is important that states do not misuse any globalisation rhetoric to distract from their own unwillingness to implement the rights at home by using the "maximum of the available resources" in Article 2 as an excuse.

It is of utmost importance for an adequate understanding of ESC-Rights to clarify the relationship between ESC-Rights and economic development. Any rights approach to ESC-Rights is confronted with some basic assumptions on the nature of the relation between economic development and the enjoyment of ESC-Rights which first have to be answered to create space for a better understanding of ESC-Rights.

(1) The first is the traditional assumption that economic growth will in the long run help states to foster economic and social development, but as long as states are poor they need to have low social standards as a comparative advantage. While implementing policies is obviously always easier for wealthy than for poor states, the argument is still based on the trickle down myth, that economic growth will in the long run automatically lead to social development and the end of poverty. This is neither true at national nor at international levels. Growing income disparities between and among nations have been a trend for a long period. To change that trend policy decisions are needed. As long as ESC-Rights are violated and people are hungry or without shelter, it is not only a mere moral issue of social justice but also a clear cut violation of human rights which requires governments to act. Moreover, talking about state obligations does not mean only talking about costly investments, it is first and foremost talking about respect and protection of peoples' existing access to food etc. Implementing ESC-Rights is not an issue of comparative advantages but of respect for human rights.

(2) Very prominent is the second assumption that the implementation of ESC-Rights will always be costly and that like all policy decisions taken under conditions of scarcity, one has to make hard decisions on the use of scarce resources i.e. to judge which of the ESC-Rights have to come first because poor states do not have the resources to implement all rights at the same time. This argument has recently been promoted eloquently by Amartya Sen and has found its way into the Human Development Report 2000 (HDR) in the discussion of the rights approach to development. The use of this argument shows that only the obligation to fulfill rights found its way into the HDR with the limited understanding of ESC-Rights as implementable only progressively. This argument neglects the obligations under the ICESCR to protect rights by not forcibly evicting people, by not discriminating in the access to the health system for women or minorities and so on. These are not costly - they only require policy making based on a human rights framework.

(3) The third of the economic development arguments is often used publicly by the USA as a rationale for its opposition to ESC-Rights. The argument is that the implementation of ESC-Rights requires good economic policies. If an enabling environment is created, the realization of ESC-Rights is seen as only a matter of time. Therefore according to the argument the implementation of ESC-Rights cannot be seen as a binding obligation because it would then limit the state's possibilities to choose the best policies for an enabling environment (e.g. the fastest growth). The argument neither recognizes the negative character of obligations linked to ESC-Rights nor that ESC-Rights are directly justiciable. In case of hunger and malnutrition, the states are obliged to immediately guarantee freedom from hunger. The General Comment on the right to adequate food points out that states have to prove that they have unsuccessfully sought to obtain international help if they are unable to implement the right to freedom from hunger immediately. Moreover, the central part of the argument is not convincing in claiming that ESC-rights prescribe specific policies limiting states' options to choose the best policies. ESC-Rights do not require specific policy measures or programmes. They only require checking the results of policies. If the number of violations of a certain ESC-Right is increasing, if the implementation is not progressive, if maximum available resources are used not to implement the rights, then other policies should be considered and used. Therefore ESC-Rights are also important for development cooperation, because they provide criteria to check the quality of government policies with respect to their development orientation.

### **ESC-Rights as guidelines for development policies:**

The role that ESC-Rights can play in providing direction for development policies can be summarized in seven elements of a rights approach.

- ESC-Rights set minimum standards for state behaviour, concerning rule of law, accountability of government actions etc. It is therefore a reference framework for a policy dialogue or for negotiation with a recipient country.
- ESC-Rights are very relevant for specific groups that are vulnerable to violations or a neglect of their rights. Groups like indigenous communities, landless persons, the elderly are in some countries often victims of violations of the right to adequate food. A rights approach will start out by identifying the specific vulnerable groups with respect to the implementation of a specific ESC-Right.
- A rights approach to ESC-Rights will make development cooperation sensitive to circumstances where certain actions will be critical in ending violations of a specific right. The implementation of the right to adequate food require in this respect a high sensitivity to issues of land tenure, security of access to land, land distribution and agrarian reform issues.
- A rights approach needs as a precondition the right and the possibility of people concerned to complain and to hold their government accountable. Access to complaints procedures is essential for accountability. Also essential are the principles of participation and empowerment to enable people to enter into a dialogue with their government.
- A rights approach can be supported through projects which are specifically designed to help victim groups or broader groups of affected person. These include legal aid projects, for example, access to juridical or legal advisory services etc.
- A rights approach can and should lead to additional activities in the field of education, training and building of knowledge networks both in developing countries and in the donor countries. A rights based approach can thus increase the legitimacy of development policy because development cooperation is than based on an internationally recognized and accepted framework of human rights.
- A rights based approach will require complementary advocacy work to support the work of victims or other affected groups in holding their government accountable. It will also require holding ones own development policies and programmes accountable to ESC-Rights.

The seven areas require an integration of these elements into project work. This will have implications for the design, the planning, the specific issues or target groups of projects. A rights approach requires support for the interested actors in developing countries to hold their governments accountable.

An illustrative list of issues that should be integrated in the rights approach to the right to adequate food appears below. The implementation of the right to adequate food requires steps to be taken by all appropriate means, including in particular the adoption of legislative measures, supported by the necessary administrative capacity. Development cooperation has normally already taken a bunch of measures to promote food security at different levels. But very few measures are designed explicitly to support the implementation of the rights to food and nutrition. The following list of means and measures which can help to better implement the right to adequate food focuses on those measures which could be explicitly linked to a rights approach.

The role of development cooperation in fostering the implementation of the right to adequate food can be described more precisely by following the different levels of state obligations. The FAO in its background paper in December 1997 presented a food security matrix which also follows the three levels of obligations. The FAO has used the food security matrix to assign its own policies and programmes to the different levels of obligations.

#### **(A) Concerning the obligation to respect**

##### **Production-related**

- Steps to ensure access to food producing resources require establishing and maintaining of land registries, respecting the usage of ancestral lands particularly by indigenous peoples, and preventing forced eviction or resettlement. Development cooperation can help to develop a national monitoring system, identify the most important regions and areas with problems of

access to productive resources. If forced evictions have occurred, development cooperation can support states in relocating the affected group of the population and in paying for adequate rehabilitation.

- Change and innovation in farming systems must give due respect to traditional farming practices. Measures must be adopted to ensure sustainable patterns of production, preventing soil and water pollution and protecting the fertility of the soil, the biodiversity of genetic resources and the climate. Development cooperation can support states in complying with these obligations.
- Access to productive resources should exist without discrimination and with the availability of work with remuneration which provides for a decent living for wage earners and their families. Women should have full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology, if necessary guaranteed by legislative and administrative reforms. All these measures can be promoted by development cooperation.

#### Distribution-related

Development cooperation can become active both on the national as well as the international level. At the national level it can support, advice or recommend policies with objectives like:

- Ensuring that local food producers have access to markets for their products.
- Steps to ensure satisfactory access to food should include measures to respect and protect self-employment.
- The rights of vendors (like street vendors, hawkers, petty traders etc.) should be strengthened.
- Ensuring that tax-policies do not negatively affect people living at the subsistence level.

At the international level it can help document and challenge possible negative effects of trade embargos jeopardizing the vital food supply of other state's population.

#### Consumption-related

Steps to ensure adequate consumption of food should include measures to respect and promote traditional food (production) patterns. The role of development cooperation in respect to this objective can be major by giving technical (knowledge) and financial support.

### **(B) Concerning the obligation to protect**

#### Production-related

The special tasks of development cooperation under the obligation to protect could be manifold:

- Support or promotion of land registers, of minimum wage policies for workers and their families, of traditional farming, of the protection of the right to adequate food of future generation by helping to safeguard the conservation of soil, fertility, biodiversity of genetic resources etc.
- A very important part of the problems of the non-agricultural population are issues like the right to organize collectively and to join and establish trade unions. Development cooperation can help to create an atmosphere conducive to civil-society participation.
- In their own policies and programmes development cooperation should guarantee that no measures are implemented leading to resettlement without equivalent compensation.

#### Distribution-related

- Dumping of food products from other countries which undermine market opportunities for local producers must be prevented.

#### Consumption-related

Development cooperation should help states and guarantee that their own programmes and policies are pursued in a way to establish and implement legislation for food safety control and for the protection of consumers from nutritional disinformation and commercial fraud.

- Products included in international food aid programs must be nutritionally safe and culturally acceptable to the recipient population.

### **(C) Concerning the obligation to fulfill**

#### Production-related

Development cooperation can help considerably to better the access to productive resources of groups currently having problems with this access or which are excluded:

- Agrarian reforms must provide vulnerable smallholders and landless peasants with access to land. Linked to agrarian reform are measures like offering credit facilities, marketing support etc. to producers.
- Support for economic activities creating self-employment of persons and families living in the informal sector.

#### Distribution-related

- Local food storage and distribution should be promoted and enhanced.
- The development of local and regional agro-industries stimulating the rural economy is an important step towards the realisation of the right to adequate food.
- Helping states and securing an end to corruption and commercial fraud.

#### Consumption-related

Development cooperation can support states and can guarantee that in their own policies the infrastructure for local food storage and distribution is functioning to allow rural and urban food systems to function effectively

Development cooperation must never pressure a state or other international organizations to violate the human right to adequate food. Development cooperation should be accountable under the international provisions relevant to the human right to adequate food and should submit to similar standards of transparency, public control and freedom of information as individual states. People's access to adequate food must be respected and protected by development cooperation. Moreover, development cooperation should support states in protecting and fulfilling people's access to adequate food.

Development cooperation must guarantee that while negotiating international treaties, donors' own governments ensure that nothing in the treaties will override state obligations under the right to adequate food or more general ESC-Rights.

One of the biggest challenges to development cooperation in a strategy for a better implementation of the right to adequate food will be to create better co-ordination and coherence between the different programmes and policies promoted by the same government. Problems with coherence can occur on all levels, whether in macro economic policies or in regional or sectoral policies. Donor countries should investigate the option to establish complaint procedures, which would allow victims of their own foreign economic policies in other countries (like in trade policies) to complain.

An important part in a strategy for a better implementation of the right to adequate food would be an active promotion of the rights approach. This include publications, regular documentation of violations of the right to adequate food, support to the respective monitoring bodies of the UN human rights system, support for new international legal instruments to strengthen the rights to food and nutrition. Economic, social and cultural rights all still facing neglect inside the UN-system and also outside. To promote the right to adequate food in the respective environments can help to change the understanding of that right considerably. National implementation (e.g. in terms of legislation) is of the utmost importance in strengthening the implementation of the right to adequate food. In this respect development cooperation can help states in developing adequate legislation and the respective administrative skills. International organizations can also widen the support to civil society groups which are working in favour of implementing the right to adequate food.



## **ESC-Rights and other actors**

Globalization has brought problems with the realization of ESC-rights in general and the right to adequate food in particular when the state's ability to implement human rights is diminished. There are basically three processes which are contributing to a decline in states resources to implement ESC-Rights: (a) the development of a set of new international rules, regulations, policies and programmes, (b) the growing influence of policies of other states on national development, (c) the growing importance of actors other than states, especially in the economic sphere. One loophole in the international protection of human rights is caused by the human rights system so far concentrating on the state as the principal duty holder under international law. If other actors become more important, new regulations will have to be found to bind their activities to the internationally recognized human rights standards.

The influence of new rules, policies and programmes can have two directions: they can be supportive for the realization of ESC-rights, but they can be at the same time of negative influence on states' capacity to guarantee ESC-rights. It was the Copenhagen Declaration and Plan of Action that specifically asked the international community to ensure that the social and economic impact of Structural Adjustment Programmes (SAPs) were minimized. Some endeavours have succeeded in minimizing the most negative impacts of those programmes but still the effects are often negative, whether in the overall amount of government money directed for social priority areas, or a too rapid approach to market liberalization, which can, for example, put small farmers at a very high risk of being forced out of production when they cannot compete with cheap imports. If no adequate support is given to the affected sectors of society by those changes, especially vulnerable groups of the society will be at much higher risks of poverty than before.

One has to also discuss possible negative outcomes on the enjoyment of human rights caused by external policy effects of another country. One example is the possible negative effects of EU agricultural trade policies on small farmers' access to markets in African countries. The EU policies are based on the use of huge amount of export subsidies, putting small farmers in other countries at risk. The Committee on ESC-Rights has just started to discuss such policy impacts when discussing the human rights report of countries. So far violations of ESC-Rights as a transnational policy outcome has not been dealt with in the human rights system.

The importance of private actors is also increasing. They do have responsibilities under the Universal Declaration of Human Rights to respect human rights. Their new importance comes from their economic power, which may allow them to pressure governments to adopt standards or legislation more favourable for them and possibly hindering governments in implementing their human rights obligations. If governments are in a very competitive economic environment it may be difficult for them to strictly abide by their human rights obligations.

Most of the considerations presented in this paper are not new. The basic premise is that a rights approach is also needed for ESC-Rights. A rights approach needs to be taken carefully into consideration by each donor and has to be applied to the different programmes and policies implemented by the respective donor country. It is important not to confuse a rights approach to ESC-Rights with general economic development planning. The most important single argument in favour of a rights approach is that it changes the situation of the beneficiary or the beneficiary groups. These are no longer aid recipients but they are empowered to hold the responsible actors accountable to human rights standards. They thus become rights holders.