

## Submission to the consultation on 'nutrition and the right to food' by the Special Rapporteur on the Right to Food

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### General information

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### About World Cancer Research Fund International

World Cancer Research Fund International leads and unifies a network of cancer prevention charities with a global reach. We are the world's leading authority on cancer prevention research related to diet, weight and physical activity. We work collaboratively with organisations around the world to encourage governments to implement policies to prevent cancer and other non-communicable diseases (NCDs).

We advocate for the wider implementation of more effective policies that enable people to follow our Cancer Prevention Recommendations (<http://www.wcrf.org/int/research-we-fund/our-cancer-prevention-recommendations>). The evidence shows this will reduce the chances of people developing cancer and other NCDs.

[www.wcrf.org](http://www.wcrf.org)  
[www.wcrf.org/NOURISHING](http://www.wcrf.org/NOURISHING)

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### A human rights based approach to nutrition governance

1. ***How can a human rights based approach to nutrition at the national level ensure comprehensive policies that place obligations on duty bearers and ensure improved access to nutrition for most vulnerable groups?***
  - 1.1 World Cancer Research Fund International welcomes the opportunity to provide a written submission to this important consultation by the Special Rapporteur on the Right to Food.
  - 1.2 We are encouraged by the proposed inclusion of language in the Special Rapporteur's report that highlights that the right to food and the right to health go hand in hand. We believe that the two areas must be considered together to efficiently tackle malnutrition in all its forms (stunting, wasting, micronutrient deficiencies and overweight & obesity).
  - 1.3 The Committee on Economic, Social and Cultural Rights sets out that the right to health is "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and portable water and adequate sanitation, an adequate supply of safe food, **nutrition** and housing, healthy occupational and environmental conditions, and access to health-related education and

information... ”, whilst the Committee further argues that the right to food is realised 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.

- 1.4 Malnutrition in all its forms affects every country in the world, and often stunting, wasting, micronutrient deficiencies and overweight & obesity is found side by side within communities, families and even individuals. The Global Nutrition Report<sup>1</sup> now refers to malnutrition in all its forms as the ‘new normal’, with one in three people worldwide suffering from one or multiple forms of malnutrition, and 57 out of 129 surveyed countries currently experiencing serious levels of both undernutrition and adult overweight & obesity. Malnutrition in all its forms disproportionately affects low- and middle-income countries, as well as lower socio-economic classes.
- 1.5 NCDs are now the most common cause of death and disability worldwide, and 40% of deaths occur prematurely, i.e. during a person’s most productive years of life<sup>2</sup>. Almost two thirds of NCDs are linked to lifestyle risk factors of unhealthy diets, smoking, not exercising enough and the harmful use of alcohol. What a person eats and his/her nutritional status affects the development of NCDs such as cardiovascular disease, diabetes and some cancers, as well as NCD-related indicators such as elevated blood pressure and high cholesterol<sup>3</sup>. Therefore, a human rights based approach to nutrition must both the right to health and the right to food.
- 1.6 The report by the Special Rapporteur on the Right to Health focusing on ‘unhealthy foods, non-communicable diseases and the right to health’ (A/HRC/26/31, 2014), highlighted the urgent need for States to address the negative structural changes in the food environment, which is linked to an increase in unhealthy diets and NCDs. The report outlined and supported a number of policies Member States should implement to increase the availability and accessibility of healthier food options, and the responsibility of the food and beverage industry to refrain from producing, marketing and promoting unhealthy food and drinks. World Cancer Research Fund International strongly supports the recommendations in this report and believes that it provides a solid foundation for further enquiry into the importance of nutrition and the right to food.
- 1.7 The Political Declaration of the High-Level Meeting of the General Assembly on the Prevention and Control of NCDs (2011), the WHO Global Action Plan for the Prevention and Control of NCDs (2013-2020), the WHO NCD Global Monitoring Framework, the Rome Declaration and Framework for Action from the Second International Conference on Nutrition (2014), and the Sustainable Development Goals (specifically target 3.4 and target 2.2), also provide a solid basis for increased action by Member States in the area of addressing malnutrition in all its forms.
- 1.8 However, the synergies between NCDs and a human rights based approach remain under-utilised and under-explored. This is partly due to the overall lack of specific references to human rights in NCD action plans and

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<sup>1</sup> 2016 Global Nutrition Report (accessed on 6 July 2016 at: <http://globalnutritionreport.org/2016/06/16/the-new-normal/>).

<sup>2</sup> NCD Alliance. *Non-communicable diseases: a major challenge for sustainable development* (accessed on 5 July 2016 at: [https://ncdalliance.org/sites/default/files/rfiles/Two\\_pages\\_NCDs\\_in\\_SDGs\\_forWeb.pdf](https://ncdalliance.org/sites/default/files/rfiles/Two_pages_NCDs_in_SDGs_forWeb.pdf)).

<sup>3</sup> World Cancer Research Fund International, NCD Alliance. *The link between food, nutrition, diet and non-communicable diseases*, 2014 (accessed on 7 July 2016 at: [http://www.wcrf.org/sites/default/files/PPA\\_NCD\\_Alliance\\_Nutrition.pdf](http://www.wcrf.org/sites/default/files/PPA_NCD_Alliance_Nutrition.pdf)).

frameworks at the global governance level. Researchers have argued that “a human rights based approach to NCDs would require the adoption of an approach shaped by human rights principles, norms and standards (...), in particular participation, equality and non-discrimination, attention to legal and policy environment and accountability”<sup>4</sup>, but that in most NCD responses “work to incorporate human rights is in its infancy”<sup>5</sup> both within existing NCD action plans, as well as in the operationalisation of human rights indicators within its frameworks for implementation. As such, human rights have the potential to offer a logical and robust set of norms and standards, define the legal obligations of governments and provide accountability mechanisms that can be used to enhance current approaches at a national level to NCD prevention and control<sup>6</sup>.

- 1.9 There is a need for more rights-focused champions within Member States at the highest policy levels and there is an urgent need to build global capacity and inter-sectorial collaboration around a ‘health in all policies’ approach. As the right to health is based on ‘progressive realisation’ it is vital that Member States include dedicated measures in National Plans of Action with allocated resources available for its implementation.
- 2. *What are examples of effective State intervention to address malnutrition (examples of effective market regulation, taxation, regulation of advertising, education initiatives, supporting local agriculture as opposed to supermarket chains, agro-ecology projects, etc.) and lessons learned? Good practices are welcome.***
- 2.1 Dietary changes towards highly-processed, nutritionally poor and high-calorie foods – the ‘nutrition transition’<sup>7</sup>- must not be seen as an inevitable consequence of economic development or international trade. Trade and economic development do not have to lead to unhealthy diets, in fact they could instead promote healthy diets. This requires a close examination of international and regional trade and investment agreements and national legislation and fiscal measures such as subsidies and taxes.
- 2.2 World Cancer Research Fund International encourages a comprehensive policy approach to promote healthy diets to reduce preventable cancers and other NCDs. Our approach compliments the ‘policy approach’ highlighted by the Special Rapporteur on Right to Health and outlined in the 24<sup>th</sup> thematic report submitted by the mandate holder to the UN Human Rights Council (A/HRC/29/33, 2015). Member States should implement policy actions across the ten policy areas outlined in our NOURISHING framework (see Figure 1). These actions are grouped into three domains, each of which is important in determining what a person eats: food environment, food system, and behaviour change communication. A comprehensive approach is needed where policy actions are implemented across all ten areas of NOURISHING to promote healthy diets and prevent overweight and obesity.

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<sup>4</sup> L. Ferguson et al. *Non-communicable diseases and human rights: Global synergies, gaps and opportunities*, Global Public Health, March 2016, p. 2.

<sup>5</sup> *Ibid.*, p. 16.

<sup>6</sup> *Ibid.*, p. 4.

<sup>7</sup> World Cancer Research Fund International. *Second Expert Report: Food, Nutrition, Physical Activity and the Prevention of Cancer: A Global Perspective*, 2007 (accessed on 7 July 2016 at: <http://www.wcrf.org/int/research-we-fund/continuous-update-project-cup/second-expert-report>).

**Figure 1. World Cancer Research Fund International's NOURISHING framework**

| <b>N O U R I S</b><br><b>FOOD ENVIRONMENT</b> |  | <b>H</b><br><b>FOOD SYSTEM</b> | <b>I N G</b><br><b>BEHAVIOUR CHANGE</b> |
|---|--|--------------------------------|---|
|   | POLICY AREA  |                                |   |
| <b>N</b>                                      | Nutrition label standards and regulations on the use of claims and implied claims on foods |                                |   |
| <b>O</b>                                      | Offer healthy foods and set standards in public institutions and other specific settings   |                                |   |
| <b>U</b>                                      | Use economic tools to address food affordability and purchase incentives                   |                                |   |
| <b>R</b>                                      | Restrict food advertising and other forms of commercial promotion                          |                                |   |
| <b>I</b>                                      | Improve nutritional quality of the whole food supply                                       |                                |   |
| <b>S</b>                                      | Set incentives and rules to create a healthy retail and food service environment           |                                |   |
| <b>H</b>                                      | Harness supply chain and actions across sectors to ensure coherence with health            |                                |   |
| <b>I</b>                                      | Inform people about food and nutrition through public awareness                            |                                |   |
| <b>N</b>                                      | Nutrition advice and counselling in health care settings                                   |                                |   |
| <b>G</b>                                      | Give nutrition education and skills  |                                |   |

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- 2.3 Many Member States around the world are implementing policy actions to promote healthy diets. World Cancer Research Fund International's NOURISHING framework is accompanied by a policy database ([www.wcrf.org/NOURISHING](http://www.wcrf.org/NOURISHING)) of examples of actions being taken across the ten policy areas. The NOURISHING policy database provides a brief description of implemented government policy actions and is a valuable resource for monitoring what is happening in countries around the world. The framework and database also help policymakers to identify where action is needed, select and tailor options suitable for different populations and assess if an approach is sufficiently comprehensive. The database currently holds over 260 implemented government policies across 100 countries.
- 2.4 Targeted government interventions and regulations are necessary to promote healthy diets in order to reduce nutrition inequalities and inequities within a population, with a particular focus on children and women. Examples of policy actions that target specific populations from our NOURISHING policy database are included below (mentioning a policy does not imply that it has been rooted in a human rights approach):
- Slovenia: All school meals must follow dietary guidelines as set out by Slovenia's School Nutrition Law (2013). The Law is complemented by dietary guidelines (including a list of foods that are not recommended), recipe books, cross-curriculum nutrition education and food procurement standards available to all schools.
  - South Africa: The Integrated Nutrition Programme was implemented in 1995 and focuses on children under 6 years old, pregnant and lactating women and all people living with chronic diseases, and targets

malnutrition in South Africa. It is located in the primary health care framework and includes protocols and guidelines on nutrition education and counselling.

- UK: The Healthy Start programme provides pregnant women and/or families with children under the age of four with weekly vouchers to spend on foods including milk, plain yoghurt, and fresh and frozen fruit and vegetables. Participants or their family must be receiving income support/jobseekers allowance or child tax credits. Pregnant women under the age of 18 can also apply. Full national implementation of the programme began in 2006.
- USA: In 2009, the U.S. Department of Agriculture (USDA) implemented revisions to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to improve the composition and quantities of WIC-provided foods from a health perspective.
- Uruguay: In September 2013, the government of Uruguay adopted Law No 19,140 “Alimentación saludable en los centros de enseñanza” (Healthy foods in schools). The law prohibits the advertising and marketing of foods and drinks that don’t meet the nutrition standards. Advertising in all forms is prohibited, including posters, billboards, use of logos/brands on school supplies, sponsorship, distribution of prizes, free samples on school premises and the display and visibility of food.

2.5 Furthermore, World Cancer Research Fund International developed a policy brief entitled *Food Policy Highlights from Around the World* (2014) which contains good practice examples of implemented policies. Briefly, these policy actions are:

- New Zealand and Australia’s health claims standard
- The European Union’s mandatory nutrition labelling
- Finland’s salt warning label
- South Korea’s food advertising restrictions for children
- Mexico’s sugary drinks tax
- Hungary’s public health tax
- French Polynesia’s tax on sugary products
- New York City’s ‘Health Bucks’ Programme
- Slovenia’s school nutrition law
- New York City’s Food Procurement Standards
- Argentina’s salt law
- UK’s voluntary salt reduction targets
- South Africa’s mandatory salt-reduction targets
- Denmark’s trans fat law
- Austria’s trans fat regulation
- Ghana’s fat content standards
- Singapore’s ‘Healthier Hawker’ Programme
- Western Australia’s ‘Go for 2&5’ fruit and vegetable campaign
- France’s National Nutrition & Health Programme

2.6 For more details about the actions included and why they were included as ‘highlights’, please refer to the brief: <http://www.wcrf.org/int/policy/our-policy-recommendations/food-policy-highlights-around-world>.<sup>8</sup>

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<sup>8</sup> World Cancer Research Fund International can conduct further evaluations of specific legislation and policies included in the NOURISHING database on request – please contact [policy@wcrf.org](mailto:policy@wcrf.org).

- 2.7 Our latest policy brief, *Ambitious SMART commitments to address NCDs, overweight & obesity: Make the UN Decade of Action on Nutrition count for all forms of malnutrition*<sup>9</sup> (2016), lists further case studies and examples of good practices. It also identifies 'double-duty actions' that governments can promote to tackle both undernutrition and overweight & obesity at the same time. Country examples range for Mexico's sugar tax to Chilean legislation on front-of-pack labelling of calories, sugar, and fat.
- 2.8 However, Member States' capacity, resources, knowledge and interest in fulfilling the ambition of taking a right-based approach varies worldwide – despite certain good initiatives and progress by Member States in some areas, the actions described within our NOURISHING policy database suggest an overall fragmented approach to policymaking indicative of 'implementation gaps' (A/HRC/29/33) and a lack of evaluation of implemented policies.

### **The role of the private sector and accountability**

#### **3. *How to ensure accountability in sectors such as the marketing of infant formula, the fortification of staple food and the delivery of school food and nutrition programmes? Sharing of good practices is encouraged.***

- 3.1 *"Omission by States to legislate and enforce regulatory frameworks with respect to the food industry may in itself be a violation of the right to health."*<sup>10</sup>
- 3.2 We believe that it is the responsibility of Member States to generate the conditions that respect, protect and fulfil the opportunity of its citizens to be as healthy as possible. Through policy and legislation Member States are able to improve the overall health of their population by creating healthier food environments, influencing the food system, and supporting individuals to make positive changes to their health.
- 3.3 Adopting a combined right to health and right to food approach increases the avenues available to citizens and NGOs to ensure greater monitoring and accountability of Member States, but also supports Member States in implementing legislative, judicial and administrative mechanisms that respect, protect and fulfill citizens' rights, including those which help to regulate food and beverage industry pressures.
- 3.4 World Cancer Research Fund International reiterates the importance of the recommendations made by the Special Rapporteur in report A/HRC/26/31, which highlights the impact of globalisation, foreign direct investments, and food and beverage industry pressures on Member States obligation to make legislative, judicial and administrative mechanisms available, accessible and effective for citizens with regards to promoting healthy diets. Industry self-regulation does not work. At the very minimum it has to be linked to a threat of government regulation.
- 3.5 A recent joint report by WHO, IBFAN and UNICEF on the implementation of the International Code of Marketing of Breast-milk Substitutes by Member States has shown that governments are still only partially implementing the

<sup>9</sup> World Cancer Research Fund International and NCD Alliance. *Ambitious, SMART commitments to address NCDs, overweight & obesity*, 2016 (accessed on 8 July 2016 at: <http://www.wcrf.org/int/policy/our-policy-work/ambitious-smart-commitments-address-ncds-overweight-and-obesity>).

<sup>10</sup> Anand Grover, A/HRC/26/31, para. 50.

Code<sup>11</sup>. Negotiations in the lead-up to the 69<sup>th</sup> World Health Assembly in May 2016 on the endorsement of a new WHO Guidance on Ending the Inappropriate Promotion of Foods to Infants and Young Children have demonstrated that 35 years after the adoption of the Code, have given additional evidence that governments still allow industry interests to override the right to health and healthy nutrition of mothers and infants.

- 3.6 We call for the UN Human Rights Council to endorse a resolution on the Guidance which not only seeks to protect and promote breastfeeding but also to protect healthy diets for infants up to 3 years of age. We encourage the Special Rapporteur on the Right to Food to include such a call in the final report.

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<sup>11</sup> WHO. UNICEF. IBFAN. *Marketing of Breast-milk Substitutes: National Implementation of the International Code*. Status Report 2016.