Civil Society Initiatives on Right to Food Act Making Process in Nepal
Opportunity & Way Forward

Mass Lobbying with Parliamentarian right after Ministry of Agriculture & Livestock Development tabled the Bill in the Parliament, organized & facilitated by FIAN Nepal in Kathmandu

'CSO Working Group on Right to Food Bill/Act'
Secretariat
FIAN Nepal
1. Hunger & Poverty: National Context
   - Total Population: 26.5 million
   - Below National Poverty Line: 28.6%, i.e. 29 out 100 (NPC, Multi-dimensional Poverty Index, 2018)
     - Rural Poor: 33% - Urban Poor: 7%
   - Poor: Whose annual income is below 19262 NRs
   - High Poverty rate: Province No. 2, 6 & 7
   - Hunger and malnutrition: 4.1 Million
     - 64% Agriculture dependent Population (Ministry of Agriculture)
     - Female Ownership on House & Land or Land Only: 19.7% (CBS)

   

   **Provincial wise Poverty Situation** (NPC Multidimensional Poverty Index, 2018)

<table>
<thead>
<tr>
<th>Province</th>
<th>Total Numbers</th>
<th>%</th>
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<tbody>
<tr>
<td>1</td>
<td>9 Lakh</td>
<td>19.62</td>
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<tr>
<td>2</td>
<td>25 Lakh</td>
<td>47.89</td>
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<tr>
<td>3</td>
<td>6 Lakh 75 Thousands</td>
<td>12.24</td>
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<tr>
<td>4</td>
<td>3 Lakh 40 Thousands</td>
<td>14.11 (Gandaki Pradesh)</td>
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<tr>
<td>6</td>
<td>6 Lakh</td>
<td>51.22 (Karnali Pradesh)</td>
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<tr>
<td>7</td>
<td>8 Lakh 50 Thousands</td>
<td>33.56 (Sudur Paschim Pradesh)</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>73 Lakh 65 Thousands</strong></td>
<td><strong>28.62</strong></td>
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</tbody>
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2. International & National Commitment:

   **International:**
   - UDHR, 1948 – Art 25 - Member state
   - IESCR, 1966 – Art 11 - Party state
   - SDG, 2030 – Goal 1 & 2 – pursued

   **National:**
   - Constitution 2015:
     A. Art 36 – RtF Guaranteed as Fundamental Rights
     B. Art 47 - 3 Years Mandate to enact RtF Act
   - Zero Hunger Challenge, National Action Plan 2016-2025 endorsed to address Goal 1 & 2 of SDG 2030


   As a result of cumulative efforts made by civil society, political parties and other concerned stakeholders, 'Right to Food' is guaranteed as a 'Fundamental Right' under Article 36 in the Constitution for the first time in history of Nepal. Accordingly, Article 47 of the Constitution has mandated the Government to make legal provisions for the implementation of fundamental rights within three years (by 2018) of the commencement of the Constitution. Hence, the 'Cabinet of Ministerial', in January 2016, mandated Ministry of Agriculture as a 'Line Ministry' for overall responsibility and instructed 'Nepal Law Commission' to draft the 'Bill of Right to Food Act' for making the fundamental right of citizen to food as a 'Claimable Right'. As soon as the government instructed Nepal Law Commission to draft RtF Bill, 'Right to Food Bill Working Group' was formed on the initiative of FIAN Nepal on 18 March 2018 including the members of 'Civil Society' working in the right to food, food security and food sovereignty issue aiming to initiate 'CSO Collective Initiatives' for effective advocacy and lobby work with the 'Law & Policy Makers' so as to make the Bill in favor of RtF Violated Communities & in line with International

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1 FIAN Nepal has been holding the 'Secretariat' of 'RtF Bill Core Group' as per the decision of meeting of 'RtF Bill Core Group' on 18 March 2018.
Standard focusing to the National context. In this connection, series of supportive, pressurize & follow up actions from local to national level has been carried out respectively with 'Nepal Law Commission' and 'Ministry of Agriculture & Livestock Development'. As a result, Nepal Law Commission has prepared 'First Draft of RtF Bill' incorporating feedback & suggestions from CSOs and submitted to Ministry of 'Agriculture & Livestock Development' in May 2017 to take further action for the RtF Act making process. Following to this, Ministry of Agriculture & Livestock Development finalized the Bill including feedbacks/suggestions from CSOs, taken the approval from Ministerial of Cabinet on the Bill on 26 June 2018 and tabled the Bill in the Federal Parliament on 17 August 2018 for the ratification. In this regards, Government, taking into consideration of short period of time, has decided to follow the 'Fast Track Process' to ratify the RtF Bill from the Parliament within a week from 23-31 August 2018. i.e. (1) first step to conduct 'Theoretical Discussion' on RtF Bill in the House of Representatives, (2) Following to the 'Theoretical Discussion', submission of 'Amendment Proposal on the Bill' to the Parliament (before 4:30 on 29 Aug 2018) by the Members of Parliament who are interested to make any amendment/suggestion on the Bill within 72 hours, & (3) finally conduct 'Section wise Discussion' & ratification of Bill by the Parliament. Finally, Parliament passed the RtF Bill on 16 Sept 2018 and President approved the Bill on 18 Sept 2018.

### Interim Constitution of Nepal, 2007

**Art 18. Right relating to employment & social security:**

(3) Every citizen shall have the right to food sovereignty, as provided in law

### Constitution of Nepal, 2015 (2072)

**Art 36. Right to food:**

1. Each citizen shall have the right to food.
2. Every citizen shall have the right to be protected from a state of starvation, resulting from lack of food stuffs.
3. Every citizen shall have the right to food sovereignty as provided for in law.

4. CSO Engagement on RtF Act Making Process:

- **Formulation of ‘RtF Bill Working Group’** on the initiation of FIAN Nepal holding Secretariat: 18 Mar 2016

- **Role:**
  - Supportive, pressurize & follow up actions for enacting Act within constitutional mandated timeframe by 2018 (3 Years)
  - Review of Bill from HR/RtF perspective- to make Act RtF Friendly

- **Key Strategy Applied:**
  - Alliance Building & joint advocacy: Like-minded CSOs, Political Leaders, Media,
  - Engagement & sensitization to Law & policy makers on RtF – Nepal law commission, Ministry of Agriculture Development, related government authorities, NHRC, Parliamentarians.
  - Knowledge generation & dissemination on RtF etc

- **Key Advocacy/Lobby Interventions: Three Stages**

  **A. First Stage: Nepal Law Commission**

<table>
<thead>
<tr>
<th>SN</th>
<th>Advocacy/Lobby Interventions with Nepal Law Commission</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Submission of 'CSO Version of RtF Model Framework Bill' to Nepal Law Commission</td>
<td>Feb 2016</td>
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<tr>
<td>3</td>
<td>Facilitated the Team of Nepal Law Commission to visit &amp; interact with RtF violated communities being supported by FIAN Nepal as a sample basis</td>
<td>April 2016</td>
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<tr>
<td>5</td>
<td>Conducted 1 National &amp; 5 Provincial Level Consultation Workshops with key stakeholders in collaboration with NHRC &amp; Nepal Law Commission</td>
<td>14, 15, 21 Feb &amp; 24 Mar 017</td>
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<tr>
<td>SN</td>
<td>Activities &amp; Date</td>
<td>Date</td>
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<tr>
<td>6</td>
<td>Submission of ‘CSO Suggestion Paper’ to Nepal Law Commission that was prepared after consultation workshop at national and provincial level</td>
<td>23 April 2017</td>
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<tr>
<td>7</td>
<td>Actively Participated in the Consultation, Coordination &amp; other Meetings being invited by Nepal Law Commission</td>
<td>30 May, 14 June, 25 &amp; 36 Nov 2016, 10 Feb</td>
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<td>8</td>
<td>Close &amp; continue coordination, collaboration, communication and follow up to Nepal Law Commission</td>
<td>Ongoing</td>
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### B. SECOND STAGE: MINISTRY OF AGRICULTURE

<table>
<thead>
<tr>
<th>SN</th>
<th>Advocacy/Lobby Interventions with Ministry of Agriculture &amp; Livestock Development</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Lobby/Coordination Meeting with Legal Department</td>
<td>7 Sept 2017</td>
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<tr>
<td>2</td>
<td>Lobby meeting with Agriculture Secretary</td>
<td>8 &amp; 12 Feb 2018, 18 Apr 2018</td>
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<tr>
<td>3</td>
<td>Follow up</td>
<td>10 May 2018, 11 June 2018</td>
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<tr>
<td>4</td>
<td>Delegation to Minister of Agriculture Development, Land Management &amp; Cooperatives</td>
<td>2 July 2018</td>
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### C. FEDERAL PARLIAMENTARIANS: 3RD STAGE

<table>
<thead>
<tr>
<th>SN</th>
<th>Activities &amp; Date</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Lobby Meeting with 'Key Members of Parliament'</td>
<td>21 Aug 2018</td>
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<tr>
<td>2</td>
<td>'Mass Lobbying with Parliamentarians' with regard to 'Food &amp; Food Sovereignty Bill, 2018' tabled in the Parliament:</td>
<td>22 Aug 2018</td>
</tr>
<tr>
<td>3</td>
<td>Meeting of with 'Law Makers' in FIAN Nepal Office:</td>
<td>27 Aug 2018</td>
</tr>
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<td>4</td>
<td>Follow up Lobby Meeting with Parliamentarians to make common understanding on 'Amendment Proposal on RtF Bill'</td>
<td>5 Sept 2018</td>
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CSO delegates after submission of 'Recommendation Letter' on draft Bill to Chairperson of Nepal Law Commission demanding to initiate 'RtF Bill Making Process' before constitutional deadline 19 Sept 2018.

CSO delegates submitting 'Recommendation Letter' on draft Bill to Agriculture Minister demanding to initiate 'RtF Act Making Process' before constitutional deadline 19 Sept 2018 (Below).

Vulnerable sections to get free, subsidised food

Penalty provisions

- Ten years jail or Re 50,000 fine or both for those creating a famine-like situation or obstructing people’s access to food.
- Three years jail or Re 20,000 fine or both for destroying or misusing food stuck kept for emergency situation, disrupting food supply in emergency situation, and disrupting transport, supply, distribution, and marketing of basic food items.
- Five years jail or Re 50,000 fine for displacing people driving them of livelihood.
- One year jail or Re 10,000 fine for not supplying food to the targeted group.

Right to Food Bill

Farmers are facing difficulties due to rural or urban poverty, geographical remoteness, natural disaster or other reasons, and supply of food to provincial and local levels concerned.

The Right to Food Bill was included in the Federal Parliament in the Federal Assembly today passed 11 bills through fast-track method and the House of Representatives passed two bills, depriving lawmakers of their chance to adequately debate the bills.

As the deadline for passing the bills related to fundamental rights draws closer, the National Assembly today passed 11 bills through fast-track method and the House of Representatives passed two bills, depriving lawmakers of their chance to adequately debate the bills.

The Upper House has already passed four other bills related to the Right to Free and Compulsory Education Act, the Right to Land Act, the Right to Food Act, and the Right to Healthcare Act. But the bills are yet to be passed in the House of Representatives due to the constitutional deadline.

The parliament has extended bills related to fundamental rights through fast-track process to meet the constitutional deadline, federal parliament secretary Bhandari Gauraj said told The Himalayan Times. Both houses have suspended parliamentary rules to fast-track the passage of the bills.

Four bills that originated in the Upper House will be signed by the chairman of the Upper House, Ganesh Timilsina, and 11 bills that originated in the Lower House will be signed by Speaker Krishna Bahadur Dahal on Tuesday morning before being sent to the office of the President for authentication.

A source at the parliament said that Prime Minister KP Sharma Oli, C-Chair of Nepal Communist Party (NCP) Pushpa Kamal Dahal and main opposition Congress President Sher Bahadur Deuba had reached an agreement to fast-track the passage of the bills related to fundamental rights so that the constitutional deadline was not breached.

The source said that they would amend these laws if any shortcomings were found later.

Fundamental rights-related bills passed

Rights guaranteed thru law so far

- Right to social security
- Right to land
- Right to free and compulsory education
- Right to employment
- Right to privacy
- Right to food
- Right to shelter
- Right to health
- Right to consumer protection
- Right against discrimination and untouchability
- Right to safety, maternity and family
- Right of people with disabilities
- Right to environmental protection
- Right to crime victims’ protection
- Right of children

MPs cast doubt over implementation

KATHMANDU: Some lawmakers said they doubted that the bills that were passed without adequate debate on their contents would be implemented.

"We framed the constitution in a hurry and we are passing these crucial bills in a hurry," said independent lawmaker Hridayesh Tripathi, who contested election on NCP (NCP)’s ticket. He said the state lacked the resources to fulfill the promises in these bills, and there was a question whether these laws would be implemented.

"People may move the court to claim their rights as per the laws. Media will report it and we will read the status of implementation of the laws," he said. NC lawmaker Sita Devi Yadav said she did not have a chance to read the contents of the bills as the process to pass the bills was short. "I do not believe that those laws will be implemented properly. The government has not reflected people’s voice in these bills," she said. Rastriya Janata Party-NCP lawmaker Chandra Chaudhary said she did not believe that even five to 10 per cent of the bills’ contents would be implemented.
5. Silent Features/Provisions of Right to Food & Food Sovereignty Act, 2018:

- **Covers three aspects of Food:** Right to Food, Food Security & Food Sovereignty
- **Preamble:** To make appropriate mechanism to implement RtF, FS & F SoV to ensure citizen's access to food
- **Clear Definitions:** Food, Farmer, Arable Land, Food Security, Food Sovereignty
- **Rights of Citizens to:** ‘Right to Food, Food Security & Food Sovereignty’ & List of these rights
  
  A. **Right to Food & Protection from Food Insecurity:** Every Citizen shall have following right
     ✓ To get regular access to adequate, nutritious and quality food without discrimination;
     ✓ To be free from hunger;
     ✓ To be protected from a state of starvation, resulting from lack of food stuffs
     ✓ To receive sustainable access to food and nutrition support by the person or family facing hunger or food insecurity;
     ✓ To enjoy culturally acceptable food.

  B. **Protection & Promotion of Right to Food Sovereignty:** Each farmer shall have Right to Food Sovereignty:
     ✓ To get identity & respect by each farmer or food producer;
     ✓ To participate in food & agricultural production system;
     ✓ To get access to means & resource required for work of agriculture;
     ✓ To select local seed, technology, tools and agricultural species and to get protection of their intellectual property;
     ✓ To protect traditional and local food;
     ✓ To get protection from arbitrary prevention from agricultural occupation

- **Obligation to Respect, Protect & Fulfillment of Right to Food:** Federal, Provincial & Local

- **Pension for farmer:** based on contribution

- **Compensation to the farmers for the loss of crop production:** Due to seed, technology, method, procedures or fertilizer recommended by organization, entity, company or firm,

- **Control & Prevention of Famine/Hunger:**
  ✓ Vulnerability Identification, Identification of Targeted Household, Issue ‘Food Assistance Identity Card (I. In the Name of Female Member, if no, Senior Member, II. Cancellation & issue in the name of female member once female member completes the age of 18 years) & Provide ‘Food Assistance’ to targeted households
  ✓ Storage of required food
  ✓ Determine standard of nutrient of food
  ✓ Declare Food Crisis Area
  ✓ Priority to local food

- **Right to Food Implementation Process :**

  ✓ National Food Plan: By coordinating Agencies at all level
    o Right to Food Implementation Monitoring Framework shall be taken as base,
    o Promotion of RtF, F&NS & F Sov: Including in periodic development plan
  ✓ Develop ‘Right to Food Monitoring Indicators’: to monitor the implementation of Act
  ✓ Operation of Food & Nutrition Security program every year: By Local Governments
  ✓ Food & nutrition education and information: By the Government of all level
  ✓ Research and development of scientific technology: By the government of all level
    o For sustainable development of agriculture, increase in food production, and promotion of food and nutrition security
- **Right to Food Implementation Mechanism:** Formation of ‘Food Councils & Coordination Committees’ to protect, promote & fulfill RtF, Food Security & Food Sovereignty at all level
  A. **National Food Council** under Chairmanship of Minister of Agriculture: at National Level
  B. **Province Food Council** under the Chairmanship of Minister of Agriculture: At Provincial level
  C. **Local Food Coordination Committee** under Chairmanship of Mayer/Chairperson of Municipality or Rural Municipality: At local level

- **Offence and Punishment:**

<table>
<thead>
<tr>
<th>Offence:</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevents anybody from access to basic food and inflicts severe harm or carries out any activity that creates situation of starvation;</td>
<td>Imprisonment up to 10 years and fine up to 10 hundred thousand rupees</td>
</tr>
<tr>
<td>✓ seizes, destroys or misuses reserved or collected food for the purpose of emergency assistance ✓ creates obstruction in emergency food assistance distribution ✓ creates hindrances in organized or unorganized form in transportation, supply, distribution and marketing of basic food stuff.</td>
<td>Imprisonment up to 3 years and fine up to 3 hundred thousand rupees</td>
</tr>
<tr>
<td>makes anybody displaced from residence in a way to prevent from base of livelihood earning</td>
<td>Imprisonment up to five years and fine up to five hundred thousand rupees</td>
</tr>
<tr>
<td>✓ does not distribute food to be distributed to targeted class or left-behind class ✓ carries out any other activity against this Act or Regulation</td>
<td>Imprisonment up to one year and fine up to one hundred thousand rupees</td>
</tr>
</tbody>
</table>

- **Compensation:** for harm or loss due to any offence according to this Act

- **Case investigation & filing of Case:**
  ✓ By Supervision Officer
  ✓ File case before concerned District Court within 35 days after the date of complaint received

6. **Challenges:**

- To develop common understanding among Stakeholders: RtF, FS & F Sov
- Inadequate Laws & Policies related to RtF: Regulation, Directives, Procedural etc
- Coordination and collaboration among Government Policy Makers and Sectoral agencies
- Limited Capacity and Resources at all level: Research/studies, Documentation, Monitoring & Evaluation etc
- Authentic Data: Poverty, hunger, malnutrition, landless etc
- Federal System at implantation stage:
  ✓ Elected bodies & government personnel's are unfamiliar with new laws and policies.
  ✓ Laws & Policy Provisions are in the process of formulation and amendment: Regulation, Directives & Procedural
    - At Local & Provincial level: In formulation process
    - Federal Level: Formulation and amendment process
  ✓ Inadequate infrastructure – Local level Office set up etc
  ✓ Restructuring of government staffs – delay staff placement at local level
  ✓ Common understanding among stakeholders (Gos, CSOs & people): RtF, FS & F SoV
7. **Opportunities:**
- RtF as a fundamental rights: ‘Claimable Rights’ after enactment of RtF Act, 2018
- Wider dissemination of RtF Act including related laws and policy provisions
- Mainstreaming RtF at All Level: Laws, Policies & Programs in Federal structure – Amendment & Formulation
- Monitoring & reporting of implementation of human right to food – Watch-dog role
- Develop ‘Local Food & Nutrition Security Plan’ from RtF perspective at local level based on Section 21 & 22 of RtF Act.
- Existing of RtF Network from Local to Global Level

8. **Way Forward:**
- Build common understanding among concerned Stakeholders at all level: RtF, FS & F Sov
- Wider dissemination of RtF Act & provisions related to RtF at level. Local & Provincial Level
- Mainstreaming RtF Act at All Level: Laws, Policies & Programs Formulation & Amendment process
- Engage to develop ‘Local Food & Nutrition Security Plan’ from RtF perspective at local level based on Section 21 & 22 of RtF Act to eliminate poverty, hunger & malnutrition etc (ZHC, SDG)
- Strengthening capacity of RtF Networks at all level for proper implementation & Monitoring of RtF Act.
- Monitoring and reporting of implementation of RtF in Nepal
- Research, study in line with RtF Act - Existing law, policy and programs

9. **Other Acts Formulated by Government related to Fundamental Rights and directly interlinked with Right to Food Act, 2018**
- Right to Housing, 2018
- Social Security Act, 2018
- Right to Employment Act, 2018
- Right of People with disability, 2018
- Right to education, 2018
- Right to Public Health Services, 2018
- Consumers Protection Act, 2018