Civil Society Initiatives on ‘Right to Food Law Making Process’ in Nepal
Achievement & Way Forward

‘Civil Society Working Group on Right to Food’
Secretariat
FIAN Nepal
Civil Society Initiatives on 'Right to Food Law Making Process' in Nepal

Support
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Secretariat
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Cover Photo: Mass lobbying with Members of Parliament right after tabling the Bill of ‘Right to Food & Food Sovereignty Act, 2018’ by the Ministry of Agriculture & Livestock Development in the Federal Parliament

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'Food' is indispensable for human survival while, access to adequate food is directly linked to human dignity. Therefore, international human rights documents have recognized ‘food’ as a ‘fundamental human right’ of the individual. The Constitution of Nepal has guaranteed the ‘right to food’, ‘food security’ and ‘food sovereignty’ as a fundamental rights of every citizen under "Article 36: Right related to Food", and accordingly, Nepal Government has enacted 'Right to Food & Food Sovereignty Act, 2018' for the practical implementation of this fundamental right. Nepal is now the first country in Asia to enact a law to ensure the right to food and sovereignty of its citizens.

The concept of right to food & sovereignty and related issues were new in Nepal. Therefore, since its inception, FIAN Nepal initiated "Right to Food Campaign" in coordination and collaboration with the concerned stakeholders aiming to promote the "Right to Food" in Nepal. In this connection, FIAN Nepal, at different stages, has been taking the lead of series of civic initiatives and campaign focusing to ensure the right to food as a ‘fundamental right’ in the constitution and enactment of the Right to Food Act accordingly. As a result, the Federal Parliament has passed the ‘Right to Food & Food Sovereignty Act, 2018’ on 18 September 2018.

The Right to Food & Food Sovereignty Act, 2018 has established the right to food and food sovereignty of the citizens as a ‘legal right’ and has ensured the ‘legal remedy’ to claim if these rights are violated. However, the Act provides for delegated legislation stating that most provisions will be "as prescribed in the law". Therefore, ‘Regulation’ of the Act needs to be enacted to make the ‘legal rights’ as a ‘claimable right’. Otherwise, individuals, families and communities whose right to food has been violated will not be able to claim their right to food. Therefore, in the coming days, the collective initiative of civil society will be focused on continuous advocacy/lobby with the Federal Ministry of Agriculture & Livestock Development for the formulation of ‘Regulation’ as per the spirit of the Constitution and the Right to Food & Food Sovereignty Act, 2018; as well as support and create pressure to the governments at the federal, province and local levels to formulate ‘implementation mechanism’ (such as National Food Council, Provincial Food Councils & Local Food Coordination Committee envisioned by the Act) at all levels for the effective implementation and monitoring of ‘Right to Food & Food Sovereignty Act, 2018’ in Nepal. I believe that this booklet will be helpful to provide information about the role of civil society in the promotion and protection of the right to food and achievement in Nepal.

Finally, I would like to express my special gratitude to the staff of FIAN Nepal who played an important role in the preparation of this booklet and to the members of the executive committee & others who provided necessary advice and suggestions. I would further like to thank all the cooperation partners who have contributed financially for the publication of this booklet.

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1. Background

The Constitution of Nepal (2015) promulgated by the ‘Constituent Assembly’ has ensured “Rights Relating to Food”1 as a ‘Fundamental Rights’ for the first time in its history. Fundamental rights manifest themselves in society as generally accepted basic values. Guaranteeing of fundamental rights will give people a sense of security as it guards their basic human rights. The public authorities have an obligation to respect, protect, fulfill and promote their implementation. In order for Nepal to address right relating to food ensured by the Constitution and International Treaties to which Nepal is a party2, the Government of Nepal, Ministry of Agriculture & Livestock Development introduced the Bill of Right to Food & Food Sovereignty Act, 2018 (RtF Bill) in the Federal Parliament in late 2018 and accordingly Federal Parliament passed the Bill on 18 September 2018 to fulfill the compulsory mandate of the Article 473 of the Constitution, and the result of ‘collective campaigns/actions’ of CSOs, human rights activists, political parties and other concerned stakeholders in Nepal.

Incorporating the right to food in the Constitution as a fundamental rights and enacting legislation to ensure "right to food" itself is a huge achievement for Nepal. The passing of the Bill on the ‘basic rights’ is a significant achievement, no doubt, but it will also increase the liability and requires a lot of attention along with technical capacity for all three tiers of the state mechanism while implementing these rights in reality. While such social security measures sound exciting, the government has to make sure that the state is in a position to support the schemes. Should the state fail to deliver it, then the whole spirit of fundamental rights will be lost. For that, Civil Society has been working as a ‘watch dog’ as supporting and creating pressure to the Federal, Provincial and Local Governments in Right to Food related Legislation making and implementation process in Nepal.

CONSTITUTION (2015)

- Right Relating to Food: Art 36
  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.

1 Article 36 Right relating food: (1) every citizen shall have the right relating to food, (2) every citizen shall have the right to safe from the state of being in danger of life from the scarcity of food; (3) every citizen shall have the right of food sovereignty in accordance with

2 Nepal is a party to 41 international human rights treaties including International Bill of Human Rights. Article 25 of the Universal Declaration of Human Rights 1948 and article 11 of the International Covenant on Economic, Social and Cultural Rights 1966 ensures right to food as a basic human rights.

3 As per the article 47 of the Constitution of Nepal, “the State shall, as required, make legal provisions for the implementation of the rights conferred by this Part (Bill of Rights/Fundamental Right), within three years of the commencement of this Constitution by 19 Sept 2018.
2. Formation of ‘CSO Working Group on Right to Food’ to Initiate ‘Collective Advocacy’:

On the initiation of FIAN Nepal ‘Civil Society Working Group on Right to Food’ ⁴ (CSO Working Group on RtF) was formed on 18 March 2018 to initiate collective efforts, conduct effective advocacy and lobby interventions with the ‘Law Makers & Government Officials’ to make the Right to Food Bill as per the spirit of Constitution & in line with international human rights standard. In addition to that, it is intended to make the proposed RtF Bill people friendly within the constitutionally mandated timeframe.⁵ Considering FIAN Nepal as a lead human rights organization working in the field of Right to Food ‘CSO Working Group’ has decided to hold Secretariat in FIAN Nepal⁶. Civil Society working in the field of right to food, food security and food sovereignty are the members of CSO Working Group.

3. Objectives of Collective Advocacy Campaign:

FIAN Nepal as the leading CSO in Nepal has been working on promoting and ensuring right to food as a ‘fundamental right’ in Nepal since the formulation of the Interim Constitution⁷. It has been engaged with different stakeholders including the Government, Parliament, leaders of the political parties, CSOs and right to food vulnerable persons, families and communities at Local, Provincial and Federal Level. Hence, it has wider network in the country and trusted by the authorities and the concerned stakeholders. Members of the Parliament and all three tiers of the Governments frequently made collaboration with FIAN and Working Group for the technical support as an expert advice. This was a great opportunity for the FIAN Nepal to engage

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⁴ Refer to Annex-1 for the list of ‘CSO Working Group’ in Nepal
⁵ Ibid
⁶ The ‘Working Group’ applied three fold strategies to initiate collective advocacy interventions as: (1) build alliances with like-minded CSOs, political leaders & media; (2) develop strategic engagement & sensitization to Law Makers, Government Officials including Nepal law commission, Ministry of Agriculture Development & related government authorities, Parliamentarians & Committees, National Human Rights Commission; & (3) knowledge generation & mass awareness on Right to Food.
⁷ FIAN Nepal, as a Secretariat of ‘CSO Working Group’ & the members, extensively engaged during the Constitution building process to ensure right to food in the Constitution as a fundamental rights. As the concept and issue related to right to food was very new in the context of Nepal Civil Society under the leadership of FIAN Nepal initiated ‘Right to Food Campaign’ since 2004 with objective of promoting and mainstreaming, raising of right to food related issues in Nepal, and then further ensuring the right to food as a ‘fundamental right’ in the Interim Constitution of Nepal, 2007. In this connection, the concept, issue and importance of right to food in the context of Nepal were conducted through series of mass-awareness & sensitization to the key stakeholders including CSOs, political leaders, media, Government Officials, Members of Constitutional Assembly & right to food vulnerable communities from local to national level. For that purpose, collaboration was made with the media, public dialogue were conducted with the Agriculture Minister, Constitutional Assembly Members (CA Members) & Officials along with Signature Campaigns, mass rally, IEC materials production & dissemination on RtF, CSO Version Suggestion Letters submission to the Speaker of the House of Representatives by collecting views & feedbacks from diverse stakeholders from local to national level. The submission was addressed to the key stakeholders/authorities demanding to incorporate ‘Right to Food’ as a ‘Fundamental Right’ in the Constitution. In addition to that, series of lobby meetings with CA Members & Chairpersons of Major Political parties to support & create pressure for ensuring RtF as a fundamental right in the Interim Constitution were conducted.
heavily with Law Makers and Officials on Right to Food Legislative Process adopting wider level participatory approach. Hence, FIAN Nepal tapped such opportunity to help the Government and Parliament on such an important phase of the legislative process. In this connection, FIAN Nepal in collaboration with ‘CSOs Working Group’ conducted advocacy & lobbying initiatives with the Government Authorities notably Nepal Law Commission, Ministry of Agriculture & Livestock Development, different Legislative Committees of Federal Parliament and various Members of the Parliament and concerned officials to ensure the quality of the Bill. Thus, the key objectives of CSO collective efforts are as follows:

• To make the right to food vulnerable people & communities aware and informed about the ‘Right to Food Bill Making Process’,
• To offer expert advice to the Law Makers and Officials on Right to Food Bill based on International Human Rights Standard and Practices focusing key provisions, strengths, gaps and potential options;
• To create awareness on the Right to Food issues, Nepal’s duty towards the fulfillment of the international obligations as per the spirit of article 36 of the Constitution, Article 25 of the UDHR 1948 and article 11 of the ICESCR 1966;
• To facilitate ‘law makers’ including ‘officials,’ convince them maintaining the international human rights standard, norms and values as per the Constitution of Nepal and incorporate issues of the affected/needy people in the Bill through initial drafting and amendment process;
• To ensure participatory law making process and promote wider participation from concerned stakeholder from all over the country on the Right to Food Bill.

4. The Process Adopted by the Government & Federal Parliament to Enact the RtF Legislation:

• On January 2016, the Cabinet meeting decided to direct the ‘Ministry of Agriculture & Livestock Development’ for the initiation of the ‘Right to Food Bill’ as a ‘Government Bill’ as per the Article 36 and 47 of the Constitution for making fundamental rights of citizen as ‘claimable rights’.
• Accordingly, the ‘Ministry of Agriculture & Livestock Development’ instructed ‘Nepal Law Commission’ to prepare initial draft on ‘Right to Food Bill’. During this initial phase, ‘CSO Working Group’ conducted series of advocacy and lobbying interventions to support authorities of Nepal Law Commission & create sufficient pressure for ensuring the ‘right to food Bill’ as per the spirit of Article 36 of the Constitution and in line with the international human rights standard. As a result, Nepal Law Commission prepared ‘first draft of the Bill’ incorporating inputs from CSOs and submitted to the Ministry of ‘Agriculture & Livestock Development’ in May 2017 to take further action.
• Following to this, ‘Ministry of Agriculture & Livestock Development’ finalized the Bill including feedbacks from CSOs and submitted to the Cabinet for the ‘principle approval’. The Cabinet granted principle approval on the draft Bill on 26 June 2018. Then the Bill was tabled in the Federal Parliament on 17 August 2018 (1 Bhadra 2075) by Ministry of Agriculture for further discussion and approval. In this connection, the

Provincial Level ‘Consultation Workshops’ to collect feedback/suggestion on GOs draft ‘Right to Food Bill’ in collaboration with National Human Rights Commission
Government, taking into consideration of short period of time, decided to follow the ‘fast track process’ to pass the Bill from the Federal Parliament within a week from 23-31 August 2018. The process includes (1) conduct ‘theoretical discussion’, (2) submission of the ‘amendment proposal on the Bill’ to the Parliament before 4:30 pm on 29 Aug 2018 by the Members of Parliament those are interested to make any amendment on the Bill within 72 hours, & (3) ‘clause wise discussion’ on the Bill. Finally, the Bill was passed by the Federal Parliament at the verge of deadline and authenticated by the President on 18 September 2018.

5. Advocacy Interventions made by the CSO to Support Right to Food Legislative Process:

Secretariat independently and jointly with the members of ‘Working Group’ worked with the Federal, Provincial and Local level governments and other stakeholders prior and during promulgation of the Constitution and its implementation process to ensure the right to food as a fundamental rights in the Constitution & formulation of effective right to food legislation accordingly. Key advocacy and lobby interventions carried out in relation to right to food legislative process are listed as below:

I. Support to the Nepal Law Commission (NLC):
A number of interventions facilitated to the Nepal Law Commission as the first stage of its support includes drafting a ‘CSO Version Draft Framework for Model Bill on Law relating to Right to Food’ & submission to the Nepal Law Commission, facilitation to the Commission for visit the right to vulnerable communities (Terai, Hill &

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8 FIAN Nepal facilitated Nepal Law Commission to visit the right to food vulnerable communities in support of FAO Nepal
Mountain region) to make them familiarized with diverse nature of Right to Food Violation issues & cases so that bill could be made from vulnerable people perspective, reviewed ‘Zero Draft Bill’ from human rights and more focusing on right to food perspective and submitted with ‘CSO Version Recommendation’, Federal and Provincial level consultation workshops on ‘Zero Draft RtF Bill’ in collaboration with National Human Rights Commission and Nepal Law Commission to collect feedbacks and suggestions from wider stakeholders (Parliamentarians, Political Parties, CSOs, Government Line Agencies, Media, RtF Networks, Farmers Associations, RtF Affected Communities, Lawyers etc.) from local to national level & submission of ‘CSO Version Suggestion Paper on the Right to Food Bill’ to Nepal Law Commission along with continuous engagement for the finalization of draft bill etc.

II. Advocacy and Lobbying at the Ministry of Agriculture & Livestock Development:
In the second stage, the ‘CSO Working Group’ created continues support and pressure to the Ministry of Agriculture & Livestock Development of the Federal Government. The Working Group conducted number of lobby meetings with the Ministry including coordination meeting with the Legal Department, meetings with the Secretary and delegations at the Ministry etc.

III. Advocacy and Lobbying at the Federal Parliament:
In the third stage, the Secretariat developed its strategy to support and create pressure to the Federal Parliamentarians. In this connection, Secretariat conducted number of advocacy and lobby related interventions at the Parliament level of the Federal Parliament as below:

CSO delegates during delegation to the Agriculture Minister demanding to initiate ‘RtF Legislation Making Process’ before constitutional deadline 19 Sept 2018
- **'Close Group Meeting' with Key Members of Federal Parliament:**
  As the Bill was tabled by ‘Ministry of Agriculture & Livestock Development’ in the Federal Parliament on 17 August 2018, the next day on 18 August 2018 Secretariat organized a ‘Close Group Meeting’ with the key Members of the Federal Parliament jointly with ‘All Nepal Peasants Federation Association’ (ANPFA) focusing to discuss on the ‘Right to Food Bill’ and exploring further advocacy strategy with action points. The meeting made an understanding to organize another ‘Bigger Mass Lobbying with Parliamentarians’ on 22 August 2018 to create more pressure and provide expert advice for the ‘Amendment Proposal’ on the RtF Bill. Out of 12 representatives; 5 MPs, 5 representatives from ANPFA & 2 from FIAN Nepal participated in the meeting.

- **Lobby Workshop with Law Makers:**
  A ‘Large-Scale Lobby & Advocacy Meeting’ was organized with key Members of the Federal Parliament including the Members of Agriculture & Human Rights Committee, Former Agriculture Minister, and National Human Rights Commission along with the Civil Society members in Kathmandu on 22 August 2018. Secretariat made a presentation on major provisions, strength & gaps of the proposed RtF Bill. A rigorous discussion was made on pros & cons of the Bill and inputs offered by the MPS were collected. An understanding was made with MPs to submit an ‘Amendment Proposal’ in the Parliament based on the inputs offered by the participants in each sections of the Bill. For this purpose, 8 Members ‘Core Group’ was formed including 5 Members of Parliament, 1 representative from ANFPA & 2 from FIAN Nepal aiming to conduct clause-wise review on the Bill, identifying key gaps & draw potential recommendations for the preparation of ‘Amendment Proposal on the RtF Bill’ to be submitted by Parliamentarians in the Federal Parliament on 29 August 2018. Out of 28 participants, 12 MPs, 4 from NHRC, 6 CSOs members & 6 from FIAN Nepal participated in the meeting.

- **Consultation Meeting of ‘Core Group’ to Prepare ‘Amendment Proposal’ on the Bill:**
  Consultation meeting of ‘Core Group’ organized together with the key Members of Federal Parliament on 27-28 August 2018 at FIAN Nepal Office. The meeting conducted in-depth clause-wise review on the Bill and identified gaps and potential areas to address in the Bill. Based on the output of the ‘Consultation Meeting’ & feedback offered by Members of Parliamentarians in ‘Mass-Lobby Workshop’ the ‘Core Group’ had prepared ‘Amendment Proposal’ for MPs and handed over them to register in the Parliament. Due date and time to Mass lobbying with ‘Federal Members of Parliament’ to make the ‘Right to Food & Food Sovereignty Act’ in line with the spirit of Constitution and International human rights standard.
register amendment proposal in the Federal Parliament was 29 August 2018 before 4:30 PM. 5 key MPs, 1 members of ANFPA and 2 experts from FIAN Nepal attended in the workshop. Because of these initiatives, 11 MPs registered amendment proposal on RtF Bill in the Parliament on 29 August 2018.

- **Follow up Meeting with Key Parliamentarians:**
  On 5 September 2018 a follow up meeting was organized with 11 Members of Parliament, who had registered amendment proposal in the Parliament, to prepare a ‘common understanding’ on the amendment proposal registered in the Federal Parliament. Theoretical basis of the proposal, justifications and technicalities were clarified and prepared justifications on each of the amendment proposals. 5 MPs from the committee attended in the meeting and agreed to defend amendment proposals based on given justifications and rationales.

6. **Post Legislation Review & Sharing with Concerned Stakeholders:**

‘Secretariat’ reviewed the Act focusing its strengths, gaps & further areas of improvement. Following to the review work, a sharing workshop was organized with Parliamentarians, representatives from Ministry of Agriculture & Livestock Development, Office of the Prime Minister, Forest Ministry, Departments, Nepal Law Commission, National Human Rights Commission, Political Leaders, CSOs with the objective of celebrating the collective efforts and offering acknowledgements to the key stakeholders including law makers, Government Officials, Nepal Law Commission, National Human Rights Commission, CSOs, Media people who have played instrumental role during RtF legislative process. The key provision of the document was shared in the workshop, gaps were identified and further recommendations were offered to address the gap in the Act through amendment process in the future.

I. **Positive Aspect/Strength of the Act:**
   - The Act defines ‘Food’ as a ‘Right’ of citizen and established ‘legal bases’ for access to adequate, nutritious and quality food;
   - Right to Food, Food Security & Food Sovereignty are established as a ‘legal rights’ according to the spirit of Article 36 of the Constitution of Nepal;
   - Obligations of the States (respect, protect, promote and fulfill) towards right to food is determined to the three tires (Federal, Local and Provincial) of the governments;
   - State is made responsible for the prevention and control of famine as well as ensure right to food citizens during emergency period;
   - Established ‘legal bases’ for the identification of food insecure families including food support and distribution system for ensuring their right to food;
   - Ensured ‘gender friendly’ food distribution system as the ‘food support identity Card’ shall be issued in the name of senior most female member of the targeted household;
   - Created ‘legal basis’ to ensure the right of the farmers ensuring compensation against harm and loss
of agro products or agro crops etc.;
• Established ‘the institutional mechanism’ such as Local Food Coordination Committee and Provincial & Federal Food Council for the implementation of right to food;
• Mandate to Federal Government to develop ‘Monitoring Indicators’ for the implementation of right to food and food sovereignty in Nepal;
• Defined an ‘act’ that leads to create hunger & food insecurity and ensured compensation for the loss due to crime against the act etc.

II. Major Gaps/Areas for the Improvement in the Act:
• The Act is unable to define “right to food” though it defines food security and sovereignty. Hence, there are possibilities to manipulate the right to food in the Rules and Procedures as per the political interest and against the spirit of the Constitution and international human rights standard.
• The definition of agriculture is missing in the Act though it incorporated the definition of farmer. Hence, there is risk to undermine the rights of the real farmer as industrial investors (National and International) are also incorporated as a farmers as of the existing legal provision;
• The Act provides rights to its citizens only. As per the Article 25 of the ICESCR, it has to ensure to each and every individuals as Nepal is a party to that Covenant;
• The Act ensured institutional (Councils in Federal and Provincial level and Coordination Committee at the Local level) arrangement in each tiers of the government, however, it does not specify the roles and responsibilities of the Councils and Coordination Committee. There is risk of misinterpretation in the Rule of Procedure. Substantial issues needs to be incorporated in the Act itself;
• The Act leaves a lot of rooms in many places saying “as provided for in the law” on substantial provisions also. There is limitation on delegated legislation. It has to be corrected and substantial provisions need to be incorporated in the Act itself;
• Right to food is directly linked with the right to life. The right to life of any persons will be threatened in case he or she is deprived of access to right to food. Hence, there should be judicial, quasi-judicial and administrative remedial provisions at Local, Province and Federal level in order to get immediate remedy by the right to food vulnerable persons and communities. However, on the remedial part, the Act only provides judicial remedy which is lengthy, expensive and difficult process for the vulnerable communities. It was expected quasi-judicial and administrative remedy also in all three tiers of the government.

7. What we Achieve?

Introducing a comprehensive right to food & food sovereignty legislation by the Federal Parliament as per the Article 36 and 47 of the Constitution itself is a huge achievement. Now, the Government is in the process to finalize the Rules of ‘Right to Food & Food Sovereignty Act, 2018’. CSOs space is shrinking down gradually however ‘Secretariat’ is being trusted entity among all three tiers of the government. The Government, Ministry of Agriculture & Livestock Development requested to provide a draft Rules of Procedure with the Secretariat. As per the request, the Secretariat prepared a ‘Civil Society Version of Draft Rule on the ‘Act Relating to Right to Food & Food Sovereignty, 2075’ and submitted to the Minister for the Agriculture & Livestock Development (GoN) on 26 November 2019. Based on the draft, Right to Food Rules of Procedure is being finalized by the Federal Government. Now, the Secretariat is working with Provincial and Local Governments on Provincial and Local level Right to Food Legislation drafting process and sensitization of MPs, political leaders, human rights communities, vulnerable communities and professional organizations. Key achievements gained after CSO contributions are listed as below:
• Advanced form of ‘Right to Food & Food Sovereignty Act, 2018’ authenticated by the President on 18 September 2018;
• Right to Food Rules of Procedure is being finalized by the Federal Government as per the draft submitted by the CSOs Working Group;
• Enhanced the capacity of MPs, government officials, human rights activists, vulnerable families & communities and other concerned stakeholders on issues associated with the “right to food & food sovereignty” including human rights norms and values, state responsibility and the spirit of the constitution of Nepal;
• Right to Food became a national issue and widely covered by the local, provincial & national media and it has been accepted as priority issue of the all tiers of the Government;
• Level of trust between different tiers of the Government, Parliament and the Secretariat increased substantially;
• The Secretariat is identified as a ‘Pioneer Organization’ in Nepal on RtF and requested by the provincial and local government to support drafting provincial and local legislations (FIAN already drafted a Right to Food Bill for Karnali Province and is approved by Provincial Parliament on 10 June 2020 and facilitated to the 3 Local Governments to develop ‘Local Food & Nutrition Security Strategic Plan etc.)
• General people have started taking the right to food as an important right and have started raising the issues of right to food in the concerned governments & authorities.

8. Key Challenges to Implement the Law

• The legislation/Act will only be implemented once the Rules of Procedure drafted by the Government of Nepal which has not been finalized yet;
• Institutional Capacity to implement the legislation at Local, Provincial and Federal level is limited in terms of human resource and finance;
• Number of provisions are contradictory with the Constitution and international human rights treaties to which Nepal is a party;
• The legislation demands many interventions from local level but the mindset of political leaders and government officials is unitary. Federal government is playing role as the blocking factor rather than facilitator;
• Developing ‘common understanding’ among stakeholders (Gos, CSOs & People) on right to food, food security and food sovereignty, need series of coordination and collaboration among Government agencies, policy makers, sectoral agencies and CSOs. For that, the attitude of the Government agencies towards CSOs and role of the CSOs has to be constructive as both treated them as “necessary evil”.
• To assess the situation and monitor the implementation status of law, government agencies lacks authentic data of poverty, hunger, malnutrition, landless etc. Base line data, continuous monitoring with the scientific indicators and systematic data management is the prerequisite for the effective implementation of the rights.

9. Opportunities for CSO:

Right to food and right to food sovereignty as fundamental rights and the subsequent legislation to implement the fundamental rights created a lot of opportunities for CSOs working in the field of ‘right to food’, ‘food security’ and ‘food sovereignty’. Implementation of ESCR itself is a huge task. It needs plenty of resource, systematic planning and strong commitment of the government. The government alone cannot fulfill this right as it also needs awareness, capacity building, technical knowledge, resource allocation and accountability. CSOs working
in the area of ESCR, notably in the area of Right to Food and Right to Food Sovereignty have opportunities in following areas:

- **Coordination & collaboration with three tires of government for effective implementation of Act:**
  Act has defined ‘Food’ as ‘Claimable Rights’ of the citizens and creates corresponding obligations to the Local, Provincial and Federal Governments to fulfill these rights. Hence, for the effective implementation of this Act, right holders and duty bearers need to be clear on their roles, responsibilities and legal provisions. Right holders are entitled to claim these rights and for that, they also need to know their entitlements and the claiming procedure. To enhance the capacity of both rights holders and duty bearers an effective coordination and collaboration with all three tiers of the governments and rights holders is required. CSOs can play instrumental role to build strong tie with the government authorities, enhance their capacity through technical advice and resource sharing and empowering to the right holders to make them able to claim their rights through coordination, advocacy, lobbying and capacity building interventions etc;

- **To Build Common Understanding on concept of right to food, food Security & food sovereignty:**
  The stakeholders are still seems lack of understanding in the concept and terminologies of right to food, food security and food sovereignty used in the Act. For that, CSOs having expertise in these areas can play vital role to build common understanding among these concept with the key stakeholders through orientations and series of dialogues etc.;

- **For the Policy Level Coordination and Collaboration:**
  For the implementation of “Right to Food Act,” a comprehensive “Rules of Procedure”, effective policy, guidelines and procedures are required. For that, CSOs can offer technical support drafting relevant legislations, policies, guidelines and operational manual from local to national level governments etc.;

- **To Develop Plans & Programs:**
  CSOs have opportunities to support different level of the government drafting strategic plan and programs for the food and nutrition security as per the clause 22 of the Act;

- **To Develop Monitoring Indicators:**
  CSOs can support to the government, national food council, provincial food council and local coordination committees drafting indicators for the monitoring the implementation of right to food at Local, Provincial and Federal Level and facilitating them to use such indicators for the effective monitoring and implementation of right to food & food sovereignty;

- **To Monitor the Implementation of the Right to Food and Reporting:**
  CSOs can play watch dog role through periodic & continuous monitoring the implementation of right to food & food sovereignty and reporting to the concerned agencies including government, UN system and rights based commissions.

10. **Key Recommendations for the Implementation of the Act**

The Act was formulated at a time when the Constitutional deadline was about to collapse. It is understandable that, the Act is not as standard as the Constitution expected due to time pressure. However compared to the
other legislations; it was discussed and consulted with concerned stakeholders to follow the participatory law making process. It would have been much better if it was initiated on time and consulted more with the concerned stakeholders. Still, the Federal Parliament can amend the law as per the spirit of the Constitution and international human rights standard considering Nepalese reality prior to going too far for the implementation of this law. The Act provides a huge responsibility to the local and provincial government - specifically to the Local Government. The Ministry in the Federal Level, Provincial Governments and Local Level are suffering from the technical capacity with limited resource & technical skill to address this issue. Following recommendations can be picked as the potential options to implement this legislation in effective way:

- The Act is the key legal document to implement Right to Food and Food Sovereignty in Nepal. It came to fulfill the requirement of Article 36 of the Constitution of Nepal. Right to food and Right to Food Sovereignty is ensured to the ‘citizens’ only in the Constitution, which needs to be provided to all people living within its territory as per the International Covenant on Economic, Social and Cultural Rights 1966;
- Some provisions of the Act are contradictory with the Constitution and international human rights treaties to which Nepal is a party. Such contradictory provisions need to be amended as soon as possible;
- Delegated legislation is left in many places as it says, “as provided for in the law.” Such provisions provide opportunities to the government to manipulate the letter and spirit of the lawmakers. Substantial provisions need to be incorporated in the legislation itself. Thus, Rules of Procedure need to be enacted as soon as possible as per the spirit of Constitution and the Act, 2018 incorporating inputs from the concerned stakeholders;
- For the implementation of the legislation, a lot of sensitization and capacity building initiatives need to be conducted for the all tiers of the government, leaders of political parties, CSOs, media & right holders.
- The Act directs provincial and local governments on certain issues, which is against the spirit of the Federal System. The legislation cannot be left in vacuum. An implementation guideline need to be developed until the Rules is approved by the government;
- The law is ambitious comparing the existing capacity of the State. It may create frustration due to lack of resource and capacity. We might need to face piles of cases in the court in near future if the State fails to address this issue properly. Proper strategy, plans and policies for each level of the government need to be initiated and implemented effectively to implement the legislation;
- Providing rights in the Constitution as fundamental rights raises higher expectations – fulfilling constitutional mandate need to have strong dedication, fully equipped institutions, accountable mechanism and coordinated approach. Proposed institutions are weak in terms of capacity, accountability directs towards right holders and monitoring mechanism is weak. NHRC & CSOs can play vital role for monitoring the effective implementation of this right;
- The Constitution incorporated right to food, food security and food sovereignty under the “right to food” as an inseparable components and the Act defined all three components as basic rights. State alone cannot fulfill the requirements of the legislation. State has to realize that, civil society is a vital partner in the mission for this kind of positive relationship between a democratic state and its citizens. Civic engagement among various layers of law making and implementation process builds up ‘trust’ and promotes participatory culture. To implement such an ambitious law, both all tiers of the state mechanism and CSOs should work together.
- The Act is considered as an umbrella Act on right to food, food security and sovereignty. All tiers of the government need to amend existing legislations, policies and programs to make in line with the Article 36 of the Constitution harmonizing their other legislations with “Right to Food and Food Sovereignty Act.
- Chapter four of the Act directs to the Government of Nepal to prepare “National Food Plan” consulting with government agencies, three tiers of the government and CSOs. Such plan need to be made and
implemented immediately;

- The status of implementation of right to food cannot be monitored at Local, Provincial and Federal until the government develops monitoring indicators. Hence, the government need to develop an indicators as per the clause 23 of the Act consulting with Federal and Provincial Food Council and Local Coordination Committee along with NHRC and CSOs for the effective monitoring and execution of the Act;

- Since the right to food falls under concurrent (common) list of the Constitution, local level cannot execute legislation without getting clear guidelines on the Act and Rules. The legislations including Rules of procedure should guide/facilitate to each level of the government to make laws, plans and execute them effectively.

11. Conclusion:

Due to the time pressure as the Bill had to pass by the parliament before reaching three years of the promulgation of the Constitution Federal Parliament was bound to adopt fast track process. Large number of stakeholders heavily criticized the government, as it could have been started much earlier, so that, there is sufficient time to discuss on the draft Bill among the stakeholders and MPs. However this law was discussed much with the concerned stakeholders in compared to other legislations. Even though the legislation came in haste and there are several issues that need to be amended in the legislation, CSOs takes it as huge achievement as this is the first Act which was made by the government in participatory way through consultation with diverse stakeholders – CSO, political leaders, media, Right to food vulnerable communities etc. Hence, support and create pressure to the governments at Federal, Provincial & Local Level for the effective implementation of this Act is key priority of the CSOs. Accordingly, Secretariat is actively working with the Federal, Provincial and Local Legislature to prepare Federal Rules, Provincial and Local level right to food & food sovereignty related law, policy and programs.

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9 As per the article 47 of the Constitution, “the state shall, as required, make legal provision for the implementation of the rights conferred by this part, within three years of the commencement of this Constitution.”
### I. List of CSO Working Group on Right to Food

<table>
<thead>
<tr>
<th>SN</th>
<th>Name of Member Organizations</th>
<th>Type</th>
<th>Contact Person</th>
<th>Contract Email</th>
<th>Cell</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>FIAN Nepal Secretariat</td>
<td>Secretariat</td>
<td>Tilak Adhikari</td>
<td><a href="mailto:tilak.adhikari@fiannepal.org">tilak.adhikari@fiannepal.org</a></td>
<td>9858422408</td>
</tr>
<tr>
<td>2</td>
<td>National Network on Right to Food (NRtFN)</td>
<td>Member</td>
<td>Dr. Keshab Khadka</td>
<td><a href="mailto:dr.ksd@gmail.com">dr.ksd@gmail.com</a></td>
<td>9851046945</td>
</tr>
<tr>
<td>3</td>
<td>INSEC Nepal Member</td>
<td>Member</td>
<td>Samjha Shrestha</td>
<td><a href="mailto:samjha@insec.org.np">samjha@insec.org.np</a></td>
<td>9841255540</td>
</tr>
<tr>
<td>4</td>
<td>Nepal Small Farmer Group Federation (NFGFN)</td>
<td>Member</td>
<td>Udday Adhikari</td>
<td><a href="mailto:udday.adhikari@gmail.com">udday.adhikari@gmail.com</a></td>
<td>9841298026</td>
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<tr>
<td>5</td>
<td>NNDWO, Member</td>
<td>Member</td>
<td>Mohan Sing Sunar</td>
<td><a href="mailto:mohan.sing.w@gmail.com">mohan.sing.w@gmail.com</a></td>
<td>9851054403</td>
</tr>
<tr>
<td>6</td>
<td>FEDO Member</td>
<td>Member</td>
<td>Bhairat Nepal</td>
<td>bairant.nepal@fedonep website.org</td>
<td>9847823691</td>
</tr>
<tr>
<td>7</td>
<td>DWO Member</td>
<td>Member</td>
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<td><a href="mailto:tank.b@gmail.com">tank.b@gmail.com</a></td>
<td>9851147352</td>
</tr>
<tr>
<td>8</td>
<td>Social Transformation Campaign Nepal Member</td>
<td>Member</td>
<td>Birendra Adhikari</td>
<td><a href="mailto:birendra.adhikari@gmail.com">birendra.adhikari@gmail.com</a></td>
<td>9848054441</td>
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<tr>
<td>9</td>
<td>WOREC Member</td>
<td>Member</td>
<td>Sarita Thapa</td>
<td><a href="mailto:sarita@worecenepal.org">sarita@worecenepal.org</a></td>
<td>9841373911</td>
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<tr>
<td>10</td>
<td>Juri Nepal Member</td>
<td>Member</td>
<td>Rishi Ram Adhikari</td>
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<td>4252597</td>
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<td>11</td>
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<td>Ganesh K.C.</td>
<td><a href="mailto:ganeshkail@gmail.com">ganeshkail@gmail.com</a></td>
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<td>RRN</td>
<td>Member</td>
<td>Ratna Karki</td>
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<td>15</td>
<td>CSRC</td>
<td>Member</td>
<td>Jagat Deuja</td>
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<td>16</td>
<td>Forest Action</td>
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<td>Nirmal BK</td>
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<td>9841635663</td>
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<td>17</td>
<td>NGO Fed</td>
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<td>18</td>
<td>Janta Media</td>
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<td>9851023792</td>
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<td>DCA Nepal</td>
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<td>21</td>
<td>Care Nepal</td>
<td>Member</td>
<td>Jyoti Baidya</td>
<td><a href="mailto:Jyoti.baidya@care.org">Jyoti.baidya@care.org</a></td>
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<td>22</td>
<td>LWF Nepal</td>
<td>Member</td>
<td>Dr. Subash Gurung</td>
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<td>23</td>
<td>WWH</td>
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<td>Oxfam</td>
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<td>Action Aid</td>
<td>Member</td>
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<td>27</td>
<td>UMN</td>
<td>Member</td>
<td>Puspa Raj Poudel</td>
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<td>28</td>
<td>Food and Agriculture Organization - FAO</td>
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<td>9841902223</td>
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<td>29</td>
<td>Practical Action – Nepal</td>
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<td>30</td>
<td>Dan Church Aid – DCA</td>
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<td>Surendra Thapa</td>
<td><a href="mailto:sbth@dca.dk">sbth@dca.dk</a></td>
<td>9851016812</td>
</tr>
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</table>
Vulnerable sections to get free, subsidised food

Penalty provisions

- If the penalty is Rs. 100,000 for each violation, the person shall be punished with imprisonment for a term of up to two years.
- If the penalty is Rs. 200,000, the person shall be punished with imprisonment for a term of up to five years.
- If the penalty is Rs. 500,000, the person shall be punished with imprisonment for a term of up to seven years.

*RIGHT TO FOOD BILL*

News coverage by National Print Media related to 'Right to Food Bill'
“FIAN Nepal is a member based human rights organization to promote and advocate for the realization of human right to adequate food in Nepal. FIAN Nepal was registered as a Non-governmental Organization in Kathmandu District Administration Office in December 2008 and Social Welfare Council (SWC) in 2009. In the same year, FIAN Nepal became a section of FIAN- International working for promoting and realizing RtF in Nepal.”