

# Basic food income – option or obligation?



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## 0. Introduction

A basic food income is a universal payment by the state unconditionally to each member of society with an amount sufficient to cover elementary food needs. Basic food income is not a level of income – but a state programme. Sometimes the term basic food income programme is used – but the word programme here is superfluous, as basic food income is by definition a state programme.

Minimum income describes a certain level of income. Minimum income programmes are cash transfer programmes guaranteeing a minimum income.

Monetary minimum income may not be sufficient to provide access to food – there must also be food to buy at a nearby outlet. The current problem for most malnourished persons, however, is not the lack of food in the markets, but lacking purchasing power. The „market problem“ in many countries – including the country with the largest number of malnourished people (India) - is not food scarcity but food surplus.

Basic food income is an innovative idea. If the state takes from everybody through taxes, why not give to everybody. In most countries there are states programmes transferring cash – and sometimes even to the needy ;-). Why then transfer cash to the rich? Under the logic of individual charity this does not make sense. This logic, however fails, when it comes to states obligations under the human right to food: State programmes can not only make available the volumes of transfers necessary to address the problem (which charity cannot). State programmes can even introduce “smart forms” of targeting which would be beyond the reach of individual charity.

Few people will object, when states programmes to provide cash to protect people from starvation are seen as obligatory under the human right to food: Indeed, how should the human right to food be guaranteed to households not in a position to feed themselves - even if they had land or other productive resources or if there were more jobs around. What about households who have no chance to participate in contributory social security provisions, even if they existed – simply because they have no contribution to make. These are the „labour-scarce“ households: Households with very scarce labour compared to the number of children, elderly, and diseased persons, that have to be taken care of, so that most of the available labour in the family is absorbed for care-work inside the household and little is left to work the fields or seek work on the labour market. According to some country studies every second malnourished household may belong to this category. What about their human right to food? The standard development paradigm risks to by-pass some 50% of the hungry and malnourished by focusing largely on issues of productivity and wage-labour. Even the safety-net and social security discourse fails to address these situations, because it considers something exceptional which is in fact deeply institutionalized in the fabric of societies: Freedom and human rights do not function without institutionalized sharing of income. The right of the hungry to get food as soon as possible has been almost absent in human rights debates as well, even though it is crucial for a large percentage of the malnourished households.

How should such transfer programmes look like? Human rights usually do not prescribe one particular type of state programme. Instead they formulate “obligations of result” and give states a “margin of discretion”. In the case of the right to food, one such states’ obligation of result is: “Introduce programmes which as quickly as possible provide food or food income to each person threatened by hunger and malnutrition – and make these programmes justiciable.” The right to food therefore rules out programmes from which it cannot be reasonably expected that they will lead as quickly as possible to this result. Through the absence of programmes which would qualify to meet this obligation of result – and by permitting severe malfunctioning of programmes – states violate the human right to food.

Is basic food income one type of programme which meets this states' obligation of result (and hence an option for states)? Or is it even the only such type of programme – and hence obligatory? There is doubt about the obligatory nature of basic food income. First of all it seems to prescribe one specific type of fulfilment programme – contrary to the usual margin of discretion in fulfilling human rights standards. Secondly there is not much experience with basic food income: Countries like South Africa or Namibia run a basic state pension scheme – a basic income programme for the elderly only. Brazil is the only country in the world so far which has legislated the introduction of basic income starting in 2005. Thirdly it seems to by-pass the logic of targeting which is promoted everywhere as the “state of the art” in state transfers. Fourthly basic food income for all seems to be beyond the financial reach of most states.

The current documentation nevertheless aims at presenting arguments for basic food income as a prima facie states obligation under the right to food. In the first two sections the human right to food is analysed. The full realization of the right to food (which is the commitment undertaken by the Human Rights Covenants) means that food is to be guaranteed individually. Policies and programmes that somehow “statistically” improve food security for the poor are welcome, but insufficient: They don't do the job. Human rights are not “statistical”, but meant to establish individual legal guarantees with judicial remedies. It is here, where most programmes fail.

In the third section basic food incomes will be introduced as minimum income programmes with “smart targeting”, showing that basic food income is not only more effective, but also more efficient than comparable programmes. The great importance of basic food income in immediately addressing the oppression and exploitation of women is underlined.

The fear of exorbitant programme costs is one of the key hesitations about basic income. The financial viability of basic food income programmes – even in low income countries – is demonstrated in section 4. The last section is then devoted to asking the big question once again: Basic food income – option or obligation?

## 1. The right to food in international law

The right to food is firmly rooted in international human rights law such as the Universal Declaration of Human Rights (art.25), the International Covenant on Economic, Social and Cultural Rights (art.11), but also the Declaration of the Rights of the Child (Principle 4), the Declaration on the Protection of Women and Children in Emergency and Armed Conflict (art.6), the Geneva Conventions, the Universal Declaration on the Eradication of Hunger and Malnutrition (art.1).

### 1.1 Overcoming the marginalization of the right to food

Since the times of the cold war the right to food, along with other ESCR (economic, social and cultural rights), has suffered a de facto marginalization in the United Nations human rights system. This was a result of the separation of the original draft human rights covenant into two covenants, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the ICCPR (International Covenant on Civil and Political Rights) and of the subsequent reductionist interpretation of the ICESCR from the early 1950s until the early 1990s.<sup>1</sup> Both covenants came into force in international law in 1976 and form the International Bill of Human Rights.

Since the 1980's the Right to Food has continuously improved its standing in international law. In 1983 the Economic and Social Council of the United Nations commissioned a Report on the Right to Adequate Food as a Human Right, the first study ever undertaken in the United Nations human rights system on a specific right of the International Covenant on Economic, Social and Cultural Rights. In 1984 the International Law Association formed a Right to Food Committee and the Netherlands Human Rights Institute in Utrecht held an international conference on the right to food. In 1986 a conference of international legal experts formulated the Limburg Principles which gave guidance to the further interpretation of the ICESCR. In 1987 the mentioned report was approved by the United Nations Human Rights Commission.<sup>2</sup>

The non-governmental human rights community itself was largely focused on civil and political rights. One of the first signs of change was the founding of FIAN in 1986 as an international human rights organization working for the human right to food. In the 1990s, economic, social and cultural rights made important inroads in international civil society and in the human rights community itself. The human rights community (both inside and outside the United Nations) has shown a growing interest in ESCR.

The human right to adequate food and the fundamental right to be free from hunger are enshrined in the ICESCR, article 11. The respective supervisory body to receive the states reports under the ICESCR is the CESCR (United Nations Committee on ESCR). The CESCR has developed the practice of producing General Comments as a means towards a better implementation of the ICESCR. In 1999 the CESCR produced a detailed General Comment on the Right to Food. GC 12 (General Comment Nr.12) is the most relevant and authoritative legal interpretation of the right to food in the ICESCR and will be frequently referred to in this section.

In 2000 the Commission on Human Rights decided to raise the profile of the right to food by appointing a Special Rapporteur on the Right to Food – Mr. Jean Ziegler of Switzerland. One of the topics

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<sup>1</sup> When the Universal Declaration was adopted in 1948, the plan was to expand the Declaration, which contains all types of human rights, into an International Covenant. This plan was dropped by a General Assembly Resolution in 1952 and replaced by the plan to draft two covenants. A landmark in the rehabilitation of ESCR after decades of marginalization was the 1993 World Conference on Human Rights in Vienna which stressed the indivisibility and equal importance of all human rights and called for an Optional Protocol to the ICESCR to allow for individual complaints.

<sup>2</sup> Report on the right to adequate food as a human right submitted by Mr. Asbjörn Eide, Special Rapporteur, ECOSOC E/CN.4/Sub.2/1987/23, 7 July 1987

propagated by Mr. Ziegler in his 2001 interim report was the issue of justiciability – the enforceability of the right to food in court.<sup>3</sup>

The 1996 World Food Summit was significant in the sense that it did not only refer to the right to food rhetorically, but formulated a commitment (in objective 7.4 of the Plan of Action) towards the clarification of states obligations and the development of guidelines for their implementation. On the basis of the Rome Declaration and Plan of Action, FIAN, in co-operation with the Jacques Maritain Institute and the World Alliance for Nutrition and Human Rights, produced a Draft Code of Conduct on the Right to Adequate Food in 1997, which was supported by 800 NGOs and welcomed by the High Commissioner on Human Rights. The Office of the High Commissioner organized three fruitful expert consultations (Geneva 1997, Rome 1998, Bonn 2001). The issue of the Code of Conduct on the Right to Food had been one of the most contested issues at the 1996 World Food Summit. It had pitted the Group of 77 and Norway (pro) against the United States of America (against) with the European Union as a silent observer. This situation had changed in June 2002 at the “World Food Summit – Five years later” conference in Rome. The European Union came out in favour and the United States was isolated. The conference called upon the FAO to establish an intergovernmental working group for drafting – within two years - guidelines on the right to food. In 2004 the working group concluded its work and the voluntary guidelines on the right to food were adopted by the community of states in the context of the FAO.

## 1.2 The core content of the right to food: Freedom from hunger and malnutrition

The right to adequate food as a human right entitles each and every human being to access adequate food. When, however, is food adequate? And what kind of access is meant? To specify the normative content of the right to adequate food means giving answers to these two questions. The minimum answer (and hence the minimum entitlement) that can be identified is not to specify the type of access at all, and to call food adequate if it keeps hunger away. This approach describes what is often called the minimum core content of the right to adequate food: Freedom from hunger.

The normative content of “the right of everyone to (an adequate standard of living ... including) adequate food ...” in article 11.1 therefore contains as its core content the normative content of the “fundamental right of everyone to be free from hunger” in Article 11.2. The United Nations Human Rights System referred to the notions of minimum core obligations and minimum essential level when dealing with resource-poor states, the lack of resources and the question whether or not certain obligations are incumbent on such states.<sup>4</sup>

The right to freedom from hunger is the only right in the Covenant termed “fundamental”. This coincides with the principle of the CESCR formulated in its General Comment 3 that states must uphold the minimum core content of economic, social and cultural rights for everybody in their territory under all circumstances (if necessary with the assistance of the international community) and that a defective core content *prima facie* indicates a violation of the respective human right by the state and/or the international community.<sup>5</sup>

The normative content of right to adequate food is much more than freedom from hunger: According to GC 12 the right to adequate food is fully realized 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”. Para. 6 warns us that “The right to food shall therefore not be interpreted in a narrow or

3 ECOSOC, General, E/CN.4/2002/58

4 The 1993 World Conference on Human Rights in UN Doc. A/CONF.157/PC/62/Add.5, Annex I, paragraph 16.

The Committee on Economic, Social and Cultural Rights referred to it for example in UN Doc. E/C.12/1993/11, paragraph 5. The Commission on Human Rights called upon states “to consider identifying special national benchmarks designed to give effect to the minimum core obligations to ensure the satisfaction of minimum essential levels of each of the rights. (Resolution 1993/14, paragraph 7)

5 General Comment No.3, UN Doc.E/1991/23, Annex III, paragraph 10

restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients."

### 1.3 Adequate access to food

GC 12 specifies not only the adequacy of food but also of access to food: "Accessibility encompasses both economic and physical accessibility: ..." (para. 13). Food is economically accessible for a person or community if the person or community has access to food as a result of its economic activities in the widest sense. These economic activities can be direct food production based on resources such as natural means of production (land, water, forest, pastures, fishing grounds), capital resources (tools, funds, technologies) and human resources (skills). Economic activities include work as a self-employed or wage-employed person. Para. 12 specifies for the availability of food: "Availability refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed ..." "Moreover economic accessibility applies to any acquisition pattern or entitlement through which people procure their food and is a measure of the extent to which it is satisfactory for the enjoyment of the right to adequate food."(para. 13). The income generated by such acquisition patterns and entitlements is to be sufficient for an adequate standard of living including food and other basic needs as well: "Economic accessibility implies that personal and household financial cost associated with the acquisition of food for an adequate diet should be at a level that the attainment and satisfaction of other basic needs are not threatened or compromised".(para. 13). The normative content containing both economic and physical access to food implies therefore the entitlement to access the means for its procurement: Natural resources and other resources (skills, knowledge, markets, funds etc.).

Contrary to economic accessibility of food, physical accessibility of food ignores whether or not the accessed food is in return to an economic activity. It puts the emphasis on the mere question of immediate access. "Physical accessibility implies that adequate food must be accessible to everyone ..." (para. 13). Physical accessibility of food must therefore make sure that people who may not be able to or willing to make use of resources still have access to food. Physical accessibility of food is unconditional, just as the right to an adequate standard of living in art.11 is unconditional. Access to food is in particular not conditional on economic activities or specific merits (whether or not people "deserve aid").

GC 12, para. 8, puts a particular emphasis on "The accessibility of such food in ways that are sustainable ...". This can be seen as an ecological as well as an economic requirement: "The notion of sustainability is intrinsically linked to the notion of adequate food or food security, implying food being accessible for both present and future generations and ...sustainability incorporates the notion of long-term availability and accessibility."(para. 7). Whereas long-term availability points to the ecological limitations of food production and distribution, long-term accessibility (of available food) points to the need that the access to food itself must not be risky but continual over time - even over a long period of time.

Moreover, food is to be accessible in a manner which does not destroy one's dignity as a human being.<sup>6</sup> This warning about non-interference with the enjoyment of other human rights reminds us that the right to food is an integral part of human rights, and in particular of the human right to an adequate standard of living. Access to food must therefore not be seen in isolation from the lack of an adequate standard of living. The absence of an adequate standard of living is the embodiment of poverty: Exclusion from the resources of humankind and the services of society.

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<sup>6</sup> Report on the right to adequate food as a human right submitted by Mr. Asbjörn Eide, Special Rapporteur, ECOSOC E/CN.4/Sub.2/1987/23, 7 July 1987, para. 52.

## 1.4 The obligations to respect, protect and fulfil

“The right to adequate food, like any other human right, imposes three types or levels of obligations on States parties: the obligations to respect, to protect and to fulfil.” (GC12, para. 15).

The obligation to respect access to adequate food is the mere states obligation not to act depriving people of their existing access to food or food producing resources.

The different acts breaching the respect-bound obligation are:

- passing a law or administrative measures destroying people’s access to food or food producing resources;
- carrying out activities which directly prevent people from maintaining access to food or productive resources.

The obligation to protect access to adequate food is the states obligation to actively prevent third parties from depriving people of their existing access to food or food producing resources. The destructive agent in this case is the third party. This makes the obligation to protect somewhat more difficult than the obligation to respect. States cannot regulate everything, they cannot – and should not - put a policeman next to every vulnerable person or group. What can be reasonably expected from states can best be determined on a case to case basis.

The first two types of obligations deal with the destruction of access to adequate food. If the destructive agent is a states’ authority (breach of respect-bound obligation) this act is a violation of the human right to food. If the destructive agent is a third party, this act is a crime against the human right to food. Civil and political rights (such as the right to physical integrity) make the same distinction between destructive acts of states authorities on the one hand (violations) and of third parties on the other (crimes). This difference is due to the fact that human rights are essential a legal relationship between persons/groups as rights-holders and the state as duty-holder rather than moral norms between any two entities. If states authorities could have been reasonably expected to prevent this crime or if they failed to take reasonable precautions, these omissions are breaches of protection-bound states obligations involved that have led to this crime. Such breaches are violations of the right to food. In many cases, unfortunately, states authorities actively collaborate, support or authorize the criminal third party.

The third type of obligations deals with persons or groups who lack access to food or food producing resources: Fulfilment-bound obligations require that the State must take the necessary measures to guarantee deprived groups’ access to adequate food and to food producing resources. Under the right to adequate food, access to food for deprived persons includes access to productive resources including employment - and the sharing of resources and food in systems of social security (based on the state, community or family). GC 12 insists both on physical and economic access to food and hence on sharing resources and income. States have to fulfil the access to adequate food for each and every person. Policies, however important, are insufficient to provide remedies for each individual person or community. What is called for to make the right to food justiciable for persons living in deprivation is a specific system of programmes - a fulfilment system (see section 2).

## 1.5 The obligation to implement justiciably as quickly as possible

Human rights are a source of states obligations. Violations of a human right are breaches of related obligations. This is true for the right to food as for any other human right. For the states parties to the ICESCR these obligations are legal obligations under international law. The general legal obligation is formulated in ICESCR art.2.1: "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures." The nature and the scope of these obligations have been clarified by the

CESCR in its General Comment 3 of 1990. The key terms are “progressive achievement” and “maximum of available resources”. They are to be interpreted as follows:

The reference to the fact that full realization cannot be expected immediately under all circumstances but has to be achieved progressively recognizes the fact that fulfilment-bound obligations (and to some extent protection-bound obligations) require the deployment of resources. This is nothing particular to the right to food, but holds similarly for civil and political rights (like the right to political participation or to freedom from slavery) – as soon as one proceeds beyond respect-bound obligations (which are free of cost).

States, however, have to use the maximum of the available resources to protect and fulfil the right to food. Priorities must be given to the core content and hence to the most vulnerable individuals. General Comment No. 3, para. 12, mentions “the duty of States parties to protect the vulnerable members of their societies assumes greater rather than less importance in times of severe resource constraints.” More generally, under the provision of maximum available resources, states are expected to use all means in their power and to do their best to meet their obligations under the right to food. “This imposes an obligation to move as expeditiously as possible towards this goal.” (GC 12 para.14). For this matter obligations which can be met immediately are immediately incumbent upon the states. This includes all obligations to respect the economic and physical access to adequate food. Taking the steps progressively (rather than immediately) is only permissible due to lack of resources and in such cases, states have the burden of proving that they lack the resources. General Comment 3, para. 10, stipulates that the state claiming inability to carry out its obligation for reasons beyond its control has to prove that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.

The Special Rapporteur in his interim report has put great emphasis on justiciability – a topic referred to in GC 12 (para. 32) and other General Comments (see.1.1). Full justiciability of the human right to food includes that each person without access to adequate food can sue the state (or the community of states) and through the court's injunction be provided food and/or the means to feed herself immediately. Equality before the law implies the existence of programmes applicable to this person and any other person in a similar situation. Besides immediate remedy the courts may have to rectify irregularities in fulfilment-bound programmes, provide compensation for the victim's sufferings, and punish persons responsible for severe irregularities. Implementation is the process of establishing (and enforcing) laws, regulations, programmes and policies which serve as tools for the justiciability of the human right to food.

Full realization of the human right to food means that it has been made fully justiciable and that victims and their support groups have in fact been making successful use of the related tools. Full realization will imply, of course, the absence of long term or widespread malnutrition, since the courts now can enforce the states' obligation to fulfil access to food for each person. Why is the emphasis here put on justiciability rather than the absence of undernutrition? Justiciability is necessary, because it brings about the reliability, security and sustainability behind the absence of malnutrition, which is the typical sign of a right realized: Without justiciability, malnutrition may be absent this year, but if it can happen next year without legal remedy for the hungry - then we cannot say today that the right to food has been fully realized, even if there is no malnutrition around now.

Full realization requires a system of legal and administrative measures fulfilling guaranteed access to food and food-producing resources for deprived persons. The necessary system of programmes (and policies backing up these programmes) is the state's “fulfilment system” for the right to food. It contains a complete set of tools (“implements”) for the victims, so that they can immediately realize their right to food. States have to establish the fulfilment system as quickly as possible: In the ICESCR art 2.1 states have undertaken to move expeditiously “to the maximum of available resources” towards the full realization of the right to food.

GC 12 stipulates that this process should be governed by a framework law: “[I]n this connection, States should consider the adoption of a framework law as a major instrument in the implementation of the national strategy concerning the right to food. The framework law should include provisions on its purpose; the targets or goals to be achieved and the time-frame to be set for the achievement of those targets; the means by which the purpose could be achieved described in broad terms, in particular the intended collaboration with civil society and the private sector and with international organizations; institutional responsibility for the process; and the national mechanisms for its monitoring; as well as possible recourse procedures.” A first step in direction of a framework law will be to assess the current state of legal implementation (and actual enforcement) of respect-, protection- and fulfilment-bound obligations and to compare with the required legal implementation under the right to food. The implementation of fulfilment-bound obligations can be formulated in terms of a fulfilment system with related backup policies.

## 2. The fulfilment system

### 2.1 Key elements of a fulfilment system

The fulfilment system consists of programmes which share resources and income - together with backup policies which make the success of these programmes sustainable. The fulfilment system has to be complete in the sense of finding a place for each man, woman and child to have access to food and resources to feed themselves. Such fulfilment systems have to be established expeditiously on the basis of the resources existing today - and not with a view to economic growth.<sup>7</sup> Full employment policies and redistribution policies have often been based on economic growth. This cannot be justified on the grounds of human rights. Moreover, in recent years the experience of jobless growth along with growth-triggered ecological destruction have reduced enthusiasm for this kind of approach.

Therefore economic access to food for deprived people requires society's sharing of current resources; physical access (in particular) requires the sharing of income. Therefore fulfilment systems have a two-fold structure reflecting both: deprived people's "right to feed oneself" and their "right to get food": The right to get food regulates the simple physical access to food. In order to be able to consume some basic food, a certain minimum income is a prerequisite. Sometimes this income is just the money value of the crop in the subsistence farmer's field, or of the food shared by the family or community. The right to feed oneself on the other hand regulates that the income is an income from economic activities feeding oneself, rather than income sharing only. In order to feed oneself, one needs resources: land, technologies, skills, funds, employment. The two sets of programmes within the fulfilment system carry the following elements:

#### a. Resource sharing programmes

- (i) Natural resource programmes (such as redistributive agrarian reform)
- (ii) Capital resource programmes (such as basic capital programmes)
- (iii) Human resources programmes (education and training programmes)
- (iv) Employment programmes (such as employment guarantee)

#### b. Income sharing programmes

- (i) Basic income, guaranteed minimum income programmes, social security, pension schemes
- (ii) Minimum wage programmes<sup>8</sup>
- (iii) Food stamps and food subsidies
- (iv) Emergency Food Aid

Every deprived person will need to participate first of all in income sharing programmes. In addition, however, the person needs guaranteed access to resource sharing programmes making sure that she can feed herself.

### 2.2 Levels of fulfilment systems

A minimum income is an income in cash or kind necessary to secure at least a certain essential basket of goods and services and consumption. Different understandings of essential consumption give rise to different levels of minimum income. The level of minimum income guaranteed by a fulfilment system is an important parameter of the system. Moreover it is crucial when it comes to estimating the scope and cost of fulfilment systems - and of related national and international financial obligations.

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7 The Limburg Principles of 1986, one of the most influential expert documents on ESCR, states in para 23: "The obligation of progressive achievement exists independently of the increase in resources; it requires effective use of resources available."

8 A minimum wage programme ensures that the income generated by work is fairly shared with the workers and therefore establishes a minimum wage. It is an income sharing programme although it is linked to economic activities.

There are basically three types of minimum incomes:

- (A) the minimum food income for which a person will be free from hunger and malnutrition.
- (B) the minimum needs income for which a person will have access to basic needs, and
- (C) the relative minimum income which people need to be free from relative poverty.

Each of the different minimum incomes gives rise to a certain level of the Fulfilment System: Hence we have Food Fulfilment Systems (A), Needs Fulfilment Systems (B), and Relative Fulfilment Systems (C).

Whereas food and needs income are monetarized values of a certain basket of goods, relative minimum income uses as terms of reference the income distribution of society. The most important indicators here are the mean and median of this income distribution. Relative minimum income would then be defined as a certain percentage, say 50%, of the mean or median.

Practical experience with minimum income programmes shows that the level of the minimum income may often be less important than the fact that all interested and vulnerable persons be served, and that they can rely on this guaranteed availability of a minimum income.<sup>9</sup> This will avoid the rationing and exclusion, the corruption and humiliation that can beset those programmes, which may provide a higher level of income but will not be available for each deprived person. Guaranteed availability and its justiciability are crucial for the human right to food.

### 2.3. What is a minimum food income?

Minimum income levels correspond to the so-called poverty lines. There is a well known international poverty line of 1 \$P. 1 \$P is the purchasing power of 1 USD in the USA. So \$P and USD agree in the USA - in all other countries the conversion factor into local currency will depend on a certain basket of goods chosen to define purchasing power.

There are good reasons to call 1 \$P pcpd (per capita per day) the “food security income” as it is only at this level that persons have some security to be free from hunger and malnutrition. Below this level there is a definite risk of hunger and malnutrition.

Only elementary food needs can be covered by 1 \$P. You can try this out for yourself. And the human right to food can certainly not be covered by such a crude quantification. Nevertheless, in some countries (like Zambia) more than 70% of the population has to survive on less.

There is another income level of interest in this context: The level of income below which hunger and malnutrition are basically secure: From food security to hunger security. This level is taken at 0.3 \$P pcpd - which corresponds to three simplest meals per day: Studies [cf. B.Schubert] show that in the rural areas of Zambia the lowest limit for a transfer allowing a household one very simple meal per day is at 0.4 \$P. (People there spent more than 80% of their income for food.) And only the „well-to-do“ households can afford 3 meals per day. If the right to freedom from hunger calls for a guarantee that a household can consume at least three such meals per day, the income must be 1.2 \$ per day. For a household of four this would correspond to 0.3 \$P per person. Minimum income levels below this value don't make sense anymore. For this matter this level of income could be called “minimum food income”.

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<sup>9</sup> v.Braun (ed.)1995 “Employment for Poverty Reduction and Food Security” (IFPRI, Washington)

### 3. Basic food income programmes

#### 3.1. Minimum income - unconditional

Minimum income is implied in the International Covenant on Economic, Social and Cultural Rights (ICESCR) in articles 11 and 7:

##### *Art.11*

*The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing....*

A person's income (economically speaking) is what a person can consume without touching resources or assets. Income need not be money income - it could be cash or kind. In this comprehensive sense an adequate standard of living implies a minimum income. It is noteworthy that art.11 does not make this standard of living conditional on anything, which would have to be "tested" before it is "legitimate". Art.11 therefore implies an unconditional minimum income.

Even though the emphasis in this paper is on minimum income, it should be noted at this point that a standard of living does not only require income but also assets - traditionally normally in the form of working capital. Everybody has the right to share in nature's resources and the assets accumulated by society. The concept of minimum assets is difficult to implement for obvious reasons. Proposals for implementation suggest instead an endowment once in one's lifetime with basic capital or land. Redistributive agrarian reform is one such approach.

##### *Art.6*

*The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work ...*

##### *Art.7*

*The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:*

- a) remuneration which provides all workers, as a minimum with. ...*
- (ii) a decent living ... in accordance with the provisions of the present Covenant.*

Art 6 and 7 together provide a right to a minimum work income - of course only if the guaranteed work has been taken up by the beneficiary of these rights. The reference in art.7.a.ii. to "the provisions of the present Covenant" refers to art.11 and indicates that minimum work income - attained with the help of the remuneration from work - must not be lower than the unconditional minimum income.

The right to work has a lot of implications in terms of labour market policies. A subjective right to wage labour on the market, however, would normally go too far: Competitive employers cannot be forced to employ any unemployed person. Wage labour on the market, however, is only one specific form of work. A lot of care work and non profit work for the common good is done (quite often by women) without appearing on the market. It is in this "common sector" (which also includes training and education) that work can and must in fact be provided individually in the sense of art.6.

Each person then has the right to participate in the production and reproduction process of the society. States have the obligation to facilitate freely chosen work in the market sectors and to provide such work the common sectors - and to make sure that the remuneration provides a decent income exceeding the minimum income. Persons who make no use of the opportunities in the market or common sector may not receive a decent income - but continue enjoying their right to a minimum income, of course.

The full realization of the right to food (one of the main aims of ICESCR according to art.2.1) requires not only the access of people to adequate food and resources, but also its full justiciability. The full implementation would thus allow each person without such access to sue the state (or community of states) and obtain (via an interim order) food or the money to buy food. For this matter states must provide minimum income programmes which guarantee a minimum food income for each person threatened by or suffering malnutrition.

### 3.2 Targeting – before transfer or after transfer?

Social transfers are supposed to benefit first of all those persons who are threatened by (or suffer from) hunger and malnutrition. How can they be reached? There are basically two types of possibilities to reach this „target group“:

#### 1) Post-transfer targeting („basic income“: targeting after the transfer)

These are state transfers to each person without a means test but with subsequent “claw back” of transfers (and more) from persons outside the target group. The retrieval of funds in basic income is usually done via consumption taxes, value added taxes and/or income tax. The net benefit of a person in this programme is, of course, the basic income minus the compensatory payment the person has to make to the state. If this payment is proportional to the private consumption of the person, then poor people (who consume very little) have a high benefit from the programme, whereas the non-poor (who consume more) have to make higher compensatory payments and have a small benefit or no benefit at all – in fact they may through their payments contribute to the financing of the whole programme. Therefore the programme manages to allocate the programme funds automatically, efficiently and fairly without any other bureaucracy than the tax system, which exists anyway.

Examples for post-transfer targeting: basic incomes, universal pensions, universal child grants.

#### 2) Pre-transfer targeting („selection“: targeting before the transfer)

In this approach the potential beneficiaries undergo a „test“ before the transfer is carried out: This selection contains for example:

- a means test to find out whether the person has the means to fend for herself or is really threatened by malnutrition.
- different degrees of willingness to actively search for work, accept work or participate in work programmes

Many current welfare state measures are administrated via selection.

Selective minimum income programmes are easy to grasp and to accept because they are similar to private charity: I want that my „personal donation“ reaches the poor and nobody else, therefore I take a careful look before I give.

Post-transfer targeting lacks this similarity to private charity. Basic income programmes are only feasible for state transfers, not for private transfers (charity) – simply because the tax system, which is the vehicle for targeting, is a state system: A donor cannot claw back his/her donation from people who are not eligible. A state can. Against the background of private charity the post-transfer targeted programmes seem counter-intuitive.

This background, however, is not a good advisor when it comes to judging the merits of states' transfer programmes, as the selective programmes suffer serious drawbacks compared to post-transfer targeting:

- i) Many target households are not reached (too much red tape, the target group needs special knowledge and/or assistance for coping with the red tape. In Germany, for example, only 50 to 70% of the target households do actually receive social assistance).
- ii) Selection is linked to social stigma. The transfers are not seen as a right of the target group, but as their special „benefit“ or as an „achievement“ for the rest of society. Those who receive transfers are frowned upon by many others.
- iii) The process of means testing is demeaning for the poor.
- iv) The bureaucracy in charge of selection is costly, in some countries one needs „personal connections“ or even bribes to get the transfers.
- v) Complicated selection criteria make the control of the bureaucracy's malfunctioning fairly difficult for the target groups.
- vi) There is misuse among recipients and in the selection bureaucracy. Recipients can try to cheat in the selection process and bureaucracy can misuse the programmes for political reasons, providing transfers only in exchange for political support (clientelism).
- vii) „Poverty trap“: In most systems of means testing, additional income earned will be subtracted from the transfer. The total income (as the sum of own income and transfer) will therefore remain the same – as if the additional income had been subjected to a 100% tax. This is a severe disincentive to work one's way out of the target group.

Some of these „drawbacks“ are in fact relevant for the implementation of human rights, in particular:

On i): Human rights require that the implementing programmes (in particular for such fundamental rights as the right to food) must be easily accessible for the target group. This is often not the case in selection programmes. There is a lot of red tape and procedures to follow.

On ii and iii): Human rights must be realized in human dignity. Programmes leading to social stigma (such as selection) are not acceptable and have to be replaced.

On iv and vi): The need to have „personal connections“ or to bribe bureaucrats excludes parts of the target group and is therefore discriminatory.

On v): Selection – and in particular complicated selection – is error-prone. For the victims (of intended or unintended failures) the result can be their exclusion from the programme. For fundamental rights like the right to food this will most probably mean sickness and death. Each such failure is a violation of human rights. Victims are usually not in a position to secure redress.

- i) Every person knows her right (as it is very simple) and has easy access.
- ii) There is no social stigma since all receive the same transfer.  
There is a partial decoupling of income and wage labour. Victims get a stronger position to deny demeaning and exploitative working conditions – and still be able to survive. The argument „to create job opportunities for the survival of the poor“ is often used to defend eco-destructive business. This argument will be weakened by basic income, and policies for sustainability will therefore be strengthened.
- iii) Administrative cost, bureaucracy and the related misuse are greatly reduced.  
The poverty trap disappears, since taxation of additional income is much more subtle than in selection programmes and does not act as a disincentive.

How about the cost of basic income programmes? Are they not terribly expensive, simply because everybody gets a transfer? Why pay a basic food income to local elites?

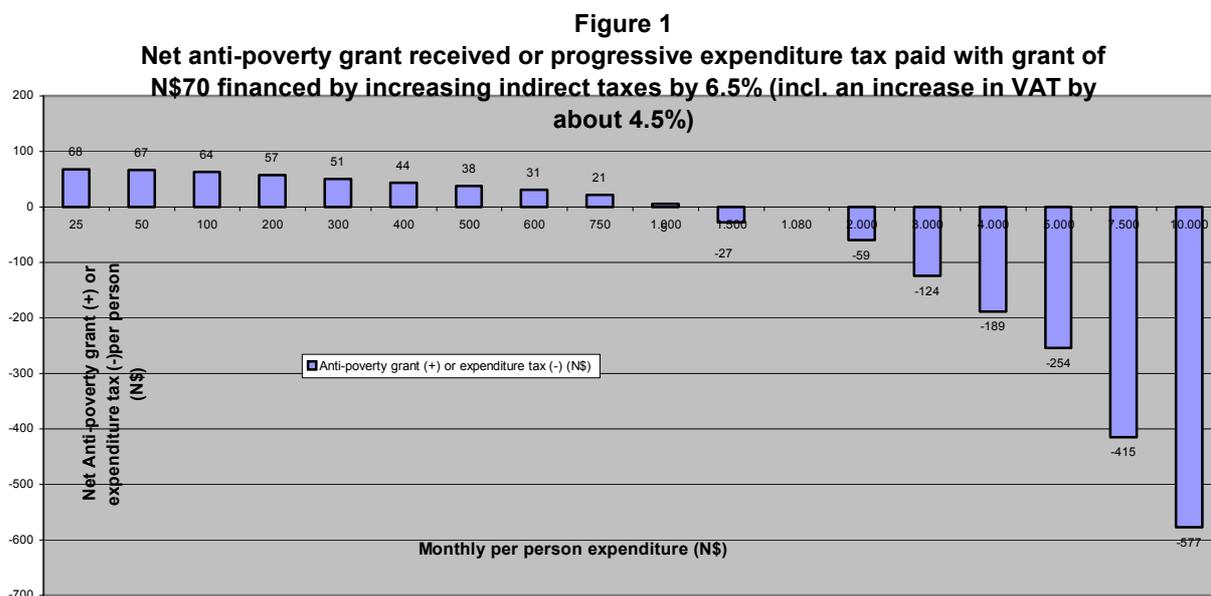
The point here is that basic food income programmes do not only give to local elites, they also take from them – and they take much more than they give: In post-transfer targeting the transfer and the subsequent targeting must be seen together. Targeting is implemented by choosing a certain form for financing the programme. In fact, targeting is identical with raising the income for the programme.

### 3.3 Post-transfer targeting: Effective and efficient

Under the assumption that food is available on accessible markets, the task of a minimum food income programme is to provide each person below the minimum food income with sufficient cash to reach (at least) this income level. Ideally one would have to assess the income of each person, check how far this income is below the minimum food income (if at all) in order to decide how much is transferred (if at all). This kind of „income targeting“ is impossible, for all practical purposes. It is impossible to consider each person's income: Normally, it is the household income which is assessed. The human right to food, however, is an individual right, not just a „household right“. There may be deprivation of women and children even in those households which – on the surface – seem to have sufficient income. Secondly under the circumstances of food insecure households, there are no clear income statements of households. Rough indicators have to be used to get a vague idea about the state of income of a household: How the floor of the house looks, whether the roof is patched or not, etc.. Thirdly it is a formidable task to look at every single household. Altogether one has to admit that there is room for biases and mistakes – which can amount to violations of the human right to food. Such violations can have deadly consequences – but even if they don't they are hard to address by the malnourished victims for all practical purposes - and therefore have to be rejected from a human rights point of view.

Instead of targeting on the basis of individual income, it is much easier and straightforward to target a cash transfer programme on the basis of individual expenditure. It is not necessary to assess such expenditure on an individual bases: It is sufficient to tax expenditure properly and balance such taxation with constant cash transfers to each person: If the „expenditure tax“ is collected properly on the basis of consumption, then people who spend very little because they are poor and malnourished can retain most of the cash transferred, whereas the affluent who spend a lot will have to pay a higher expenditure tax and – in fact – carry a net tax, which in fact finances the whole transfer programme. Expenditure taxes can be designed in different ways to best reach the purpose of targeting: They could be a combination of value added taxes and excise taxes (on luxury items such as alcohol, tobacco, big cars). They could exempt staple food altogether.

The following chart illustrates post-transfer targeting for a basic income grant in Namibia amounting to a cash transfer to each person of 1 \$P per day (amounting N\$70 per month). The chart was communicated by Le Roux (University of the Western Cape):



The chart brings on the horizontal axis the expenditure classes of the population starting with 25 N\$ per month being the poorest class (left) and reaching 10000 N\$ in the richest class. At least the poorest two classes are threatened by malnutrition. The poorest expenditure class would retain a net transfer of 68 N\$ under this programme: 70 N\$ are transferred and 2 N\$ have been taxed away. Even persons with no pre-transfer income at all would (after transfer) have more than a minimum food income to access the food to which they are entitled under the core content of the human right to food. Persons spending N\$ 500 would still get a transfer of N\$ 31. The „break-even point“ is slightly above a monthly expenditure of N\$ 1000: For all classes with higher income the expenditure tax would far exceed the transfer (reaching a net tax burden of N\$ 577 per month for the highest expenditure class).

It should be noted that the cash transfer programme will not change the relative income situation of participants: If person A is better off than person B, then this will continue to be the case after the transfers. In pre-transfer targeting there are usually cut-offs and thresholds to the effect that person B may be better off after the transfer than person A (for example, if B makes it into the programme and A doesn't). Such programme-induced „reversals“ have a considerable divisive potential between persons and communities and can make the programme unpopular among those who live close to the poverty lines and therefore carry a high risk to lose out (in a relative sense) through the programme, simply because their neighbour, who used to suffer almost the same poverty, now has additional income and has become „rich“ through the programme.

This is further aggravated by the transfers not being gradual and „smooth“ (as demonstrated in the chart), but by the lump-sum approach (with little differentiation) which is common in pre-transfer targeting. If you make it into the programme, you get something, if not, you get nothing.

Moreover in pre-transfer targeting, if you are in a certain poverty class and manage to increase your income (and expenditure) you may cross one of the targeting lines, lose the transfer and therefore be worse off afterwards even though you took a considerable effort to increase your income. Using the tax language: pre-transfer programmes can put very high taxes on additional income: If you cannot keep any of your hard worked additional income, because it will be subtracted from your transfer, this would be equivalent to a tax rate of 100%. This works, of course, as a strong disincentive to increase your income: The post-transfer targeting described in the chart taxes the additional income (in so far as it is spent) with a flat rate of 6.5%, thereby not creating any disincentive.

The grant described in the chart was meant as an „anti-poverty grant“ – aiming at a distribution of income rather than just a minimum food income. A basic food income programme could be further focused on the malnourished – with a lower break-even point without necessarily reducing the net transfer in the lowest two income classes. A mix of indirect taxes (different from the one used in the example) would lead to such a result.

In theory the transfer to expenditure classes, who are not threatened by malnutrition, may be seen as an inefficiency. For this purpose a clear focus on such an expenditure group should be built into the „expenditure tax“ used for targeting. Pronouncing such a focus will, however, increase the „disincentive tax“ mentioned above and will therefore – for all practical purposes – after some point not increase efficiency but hurt economic activities of the poor and therefore decrease the number of persons moving into higher expenditure classes. Thereby it prevents a reduction in the future cost of the programme. It makes future programmes unnecessarily expensive and hence works as an inefficiency. By choosing the appropriate mix of indirect taxes in post-transfer targeting an optimal result can be reached.

### 3.4 Equivalent pre- and post transfer targeted programmes

In classical physics people thought that if they knew the location and momentum of all particles in the universe at a given point in time, they could predict the future. They invented – just to illustrate the idea – a „Maxwell demon“ clever enough to know all these data. Similarly we can invent a little Maxwell demon to illustrate the principle that „If we knew the data of each person's own income, we could implement a means-tested programme without violating anybody's human right to a minimum income“.

Our Maxwell demon would rank persons according to their income. With these data the demon could draft Figure 2 showing in the vertical the income  $Y$  of the persons ranked from the poorest (income 0) to the richest – without making any mistake. The demon would laugh at the social scientists who can only produce such a graph on the basis of statistical estimates. At the left end he would have the persons currently starving to death (as they cannot survive with income 0).

Figure 2 was chosen to consist of three linear portions – for reasons of simplicity. The linear portion on the left covers the poorest 60% of the population. Then there is a portion of 20% of the population which happen to get the same income – namely the average income. And then there is the affluent 20% of the population. In reality it would probably look a bit different at the extreme ends – less pointed on the left end and more pointed on the right end. That 50% of income is concentrated among the top 20% is however not completely unusual.

Figure 2

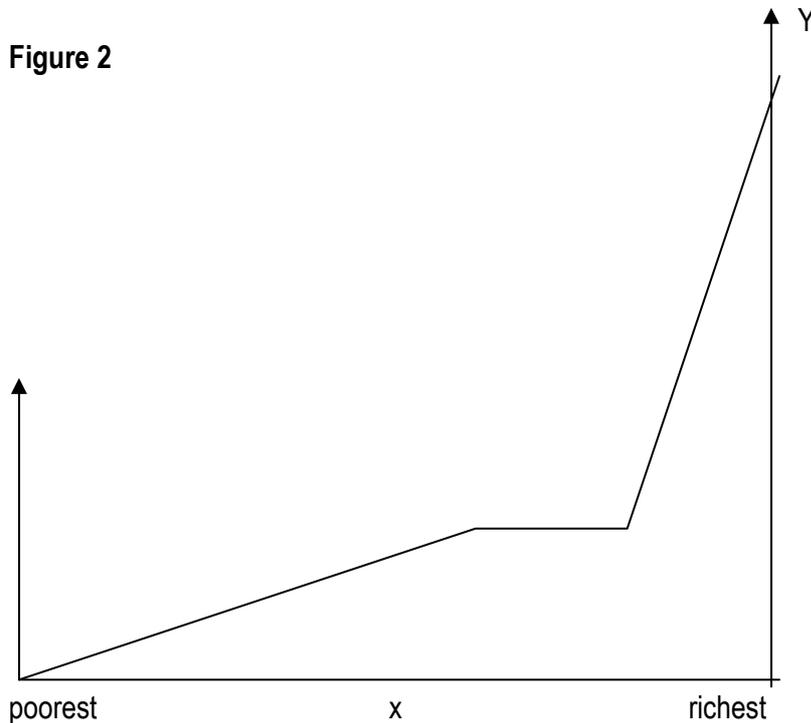
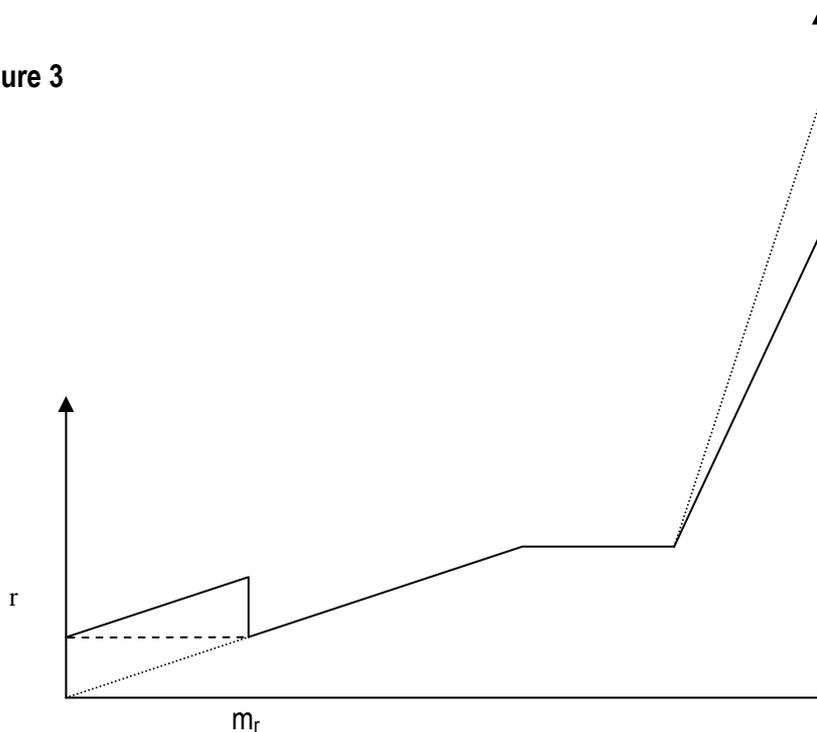


Figure 3



The easiest way to guarantee a minimum income at level  $r$  would be to pay to each person with income below  $r$  a transfer of  $r$ . If we freeze the ranking of persons from Figure 2, then Figure 3 shows the post-programme income. In this example we have chosen a flat tax on income above and beyond the average income to finance the programme.

Consider a person of rank  $x$  with an income  $Y_x$  smaller than  $r$ . If this person increases her own income and moves up the ranking by a little  $dx$  it can keep the extra income  $dy$  - unless her own income now surpasses  $r$ . In that latter case, she will fall out of the programme and her total income (compared to her previous situation) would be reduced by  $r-dy$ . This is a severe disincentive for most programme participants to earn extra income  $dy$  – as there will be a penalty („disincentive tax“) instead of a reward from this extra effort. This effect is the „poverty trap“.

A related problem is the turmoil in terms of ranking created by the programme. Two persons who started with very similar own income (not much above or below  $r$ ) will end up with a very different ranking after the programme – where the formerly poorer person ends up with almost double the income of the formerly richer person. This will create divisive tensions in each community and a feeling that the programme is unjust.

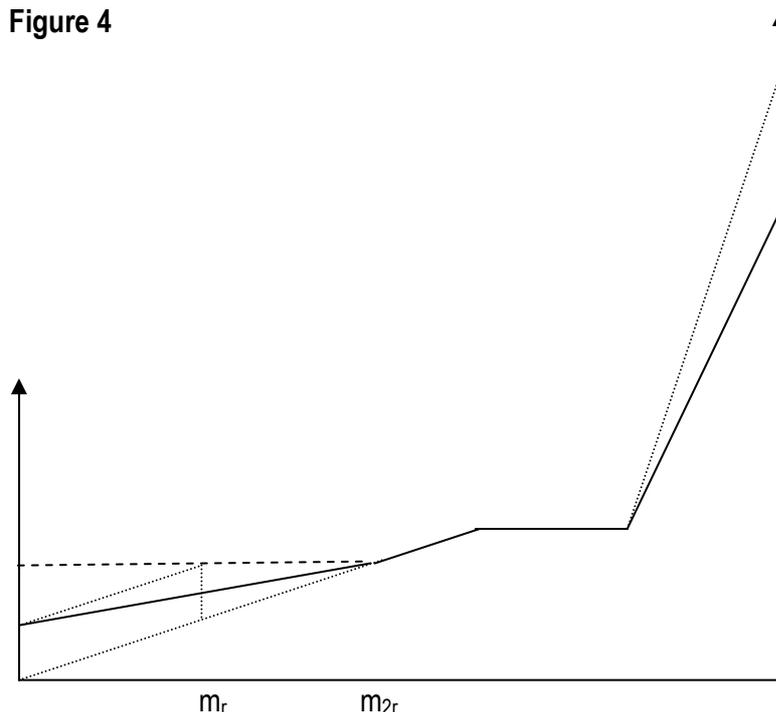
Even with the help of the Maxwell demon (preventing false exclusion from the programme by misjudging a person's means) this means-tested transfer programme A has two severe problems. The discontinuity at income  $r$ , and the discontinuity of ranking. These two problems can be remedied by a Programme B removing the discontinuity at income  $r$  and maintaining the ranking based on people's own income.

The post-programme income distribution (with the ranking frozen) of B is shown in Figure 4. A little geometry shows that

- the transfer volume in programme B is the same as in programme A.
- the percentage of people receiving a transfer is now  $2m_r$ .
- the amount of transfer (for a person with  $Y_x < 2r$ ) is  $r_x = r - 0,5Y_x$
- the „disincentive tax“ on additional income is 50%.

The job of the Maxwell demon now has become even harder: In programme A he would just have to know whether a person has own income above or below  $r$ . Now, in programme B, the demon would really have to know the amount  $Y_x$  for all persons with  $Y_x < 2r$ .

Figure 4



Now is the time to recall that all we have on income distributions is statistics. They do not help us in means-testing individuals: And there is no Maxwell demon to do this job for us. We should therefore emulate the encouraging effects of programme B by a post-transfer targeted programme C resulting in the same distribution of income for persons with income below  $2r$ . This would mean to pay a transfer  $r$  to all persons and to devise a certain combination expenditure taxes which gives the desired results in post-transfer income. This tax design is a job that can in fact be done on the basis of statistics – and the decision on individuals would happen in the market (through expenditure taxes) and not by some bureaucrat. The programme C will then automatically by market transaction lead to the desired programme effects – without knowing the income of a specific person.

C can be seen as an „equivalent“ post-transfer targeted system to A (and A an equivalent pre-transfer targeted system to C) in the sense that both programmes have the same transfer volume. The financial difference between these two equivalent systems is in the administration cost: The services of Maxwell's demon, if they existed, would be quite expensive. The administration cost of the post-transfer targeted systems would be small – even if compared to the current social welfare systems.

### 3.5 Gender and basic food income

Before returning to the cost of basic income programmes, here is another look at its benefits – for example in the field of gender.

In the introduction reference was made to „labour-scarce households“ as a large and most vulnerable group within the malnourished part of the population. For them transfer programmes such as basic food income are absolutely essential. Most of these households in fact are women-headed households, where the women are absorbed by care-work for children, the elderly or diseased members of the household and hence unable to work much outside the household to make a living.

Even in welfare societies with means-tested transfer-payments to labour-scarce households, the related red-tape and the experience with bureaucracies can be particularly harsh for women. An unconditional basic income would save women's efforts on procedures and formalities and strengthen the dignity of the women depending on such transfers.

Women make for the large majority within the ranks of the marginalized – even in households without labour-scarcity. The economic, social and cultural oppression of women in many societies is linked to their reduced access to resources and to income. Both resources and income are often controlled by males. It has been taken for granted far too long that women are often the care-workers without receiving much in return. The male members of the household as „breadwinners“ would essentially control the distribution of household income – even in the case of transfer payments. For this matter transfer programmes should be individualized for men and women (as in basic food income programmes), with the grant for the children going to the care-taker of the children and not necessarily the so-called head of the household.

In many societies the care-workers within the family (and the society) are women. This fixation of women on unpaid or low-paid care-work needs to be overcome, and men have to get liberated to change their own roles in this context.

The exclusion of women from income and resources is deeply ingrained in many cultures. Even where women are not legally disadvantaged in their access to resources and income, they are practically disadvantaged. Family care-work is immensely useful for society. Nevertheless this care-work is not remunerated by society. Moreover the care-work prevents or limits the time of women to access the labour market and have an independent income of their own. The cultural orientation for women towards care-work is a disincentive for their schooling and education, leaving them even more vulnerable and disadvantaged.

This overall lack of reliable income or opportunities to earn appropriate wages makes women vulnerable to exploitation of all sorts, including sexual exploitation and trafficking of women. It will be difficult to overcome sexual slavery and other forms of slavery (for women and men) without providing all vulnerable persons with a guaranteed food income. Real freedom for women to say no to demeaning jobs or working conditions (including unbearable marriages or partnerships) requires some guaranteed income.

Moreover the right to political participation for persons who have to concentrate on day-to-day survival is de facto denied. Women's political struggle to change gender relations, to improve their living conditions, and to establish control over resources would benefit from a reliable minimum food income. The denial of an institutionalized minimum income is co-responsible for the untold miseries of exploited women and destitute children.

As much as a recognition or appropriate remuneration of care-work in society is called for - basic food income programmes do not fit in this context. As an unconditional transfer, basic food income can rather be seen as the recognition of a person as an appreciated member of society. In many societies the fact that women get their hands on reliable cash of their own would contribute to changing gender relations. Equal rights would first of all be symbolically manifest in the equal payment under a basic food programme.

Basic food income programmes cannot seriously address the gender problem. They are, nevertheless, important steps in this direction.

## 4. Financing basic food income programmes

### 4.1 The real cost of basic food income

There are different aspects to the cost of basic food income programmes. Consider the following example: Suppose the government of a state with 10 million citizens eligible to vote introduces a programme that hands out 100 \$P to each voter entering the polling station, and then charges 100 \$P when she/he leaves the polling station. What would be the cost of this – nonsensical – programme?

In a technical sense the total expenditure (without administrative cost) for such a programme is 100 \$P times the number of voters – which can amount to 1 billion \$P in our case if all voters make use of their right to vote. The administrative cost is very low: It is the same „voting infrastructure“ which is in place anyways and can handle this additional programme task with only a minimal additional effort of, say, 0.05 \$P per voter, adding up to a total administrative cost of 0.5 million \$P.

There is no money transfer to anybody: People leave the polling station as rich or poor as they entered it. It therefore makes sense, when talking about the „cost of transfer programmes“ to distinguish between the total expenditure and the transfer volume.

What is the „cost“ of the programme? 1 billion (expenditure), 0.5 million (administration cost) or zero (transfer volume)? All of these three figures describe a certain component of the programme: The expenditure (1 billion) is the money moved around by the programme. The administrative cost (0.5 million) is the money needed to administrate the transfer. The transfer volume (zero) is the money transferred to the target group. For all practical purposes the most important figure in describing the nature of the programme is the transfer volume: It is the transfer programme being zero which makes the programme a nonsensical programme. A second important figure is, of course, the administrative cost. The real cost of the programme would then be seen as the sum of transfer volume and administrative cost.

Expenditure here is merely a technical book-keeping item. This may seem counter-intuitive: Intuitively the rich might feel they have to cover this „expenditure“ in the transfer programme. This, however, is wrong: They only bear the transfer volume (as in the equivalent means-tested programme, as introduced in subsection 3.2) and part of the administrative cost. Therefore, in comparing a basic food income programme and its equivalent means-tested programme, the real cost of the basic food income programme will be lower due to the lower administrative cost. There is no need for a means-testing bureaucracy: Such a bureaucracy would need sizeable funds. Post-transfer targeting just needs a functioning tax administration (which is needed anyways). Moreover means-tested programmes have considerable opportunity cost (disincentives, social disturbance) as mentioned above.

The administrative cost consists of two portions: Targeting cost and disbursement cost. The administrative cost in pre-transfer targeting is considerable: The programme needs a selection bureaucracy which is engaged in means-testing or food gap determination on a case to case basis before admitting a person to the programme. This administrative task is formidable and, in fact, impossible for all practical purposes. The administrative cost of the selection bureaucracy amounts to sizeable percentages in terms of the transfer volume: In some programmes 10% in others 25%. Post-transfer targeting, however, does not need a selection bureaucracy, as the targeting is established via the tax system, creating only minimal additional cost. Similarly, the disbursement cost in pre-transfer targeting can be considerable as there has to be a co-ordination between the selection and disbursement bureaucracies. Disbursement cost in post-transfer targeting is quite small: Ideally it is an automatic regular payment on everybody's bank account or – in countries where the target groups have no accounts – it is the cost for paying out the same amount in cash to each person via other appropriate outlets. Altogether administrative costs for post-transfer targeting (for example in basic food income programmes) are insignificant compared to the administrative costs of pre-transfer targeting.

It should be clear, however, that only if the retrieval of funds in post-transfer targeting can be fully implemented through an effective system of indirect taxes, will the expenditure be of low importance. Indirect taxes are not unusual, in particular in low income states where income tax plays only a reduced role, and indirect taxes sometimes stand for the bulk of tax revenue.

## 4.2 The financial viability of basic food income

In order to assess the financial viability of basic food income programmes it may be useful to obtain estimates for the transfer volume necessary. In the given context such estimates can only be based on „back of the envelop“ calculations.

What then is the transfer volume for basic food programmes? Obviously we will deal with a lot of money (compared to the funds usually involved in charitable transfers), and a good idea about the „availability of resources“ can be obtained by comparing the amount to the GDP of the country.

For the calculation we consider a basic income programme which pays to each person a monthly income amounting to  $r$  \$P.

Our model for financing such a programme is based on the following three principles:

1. Each country allocates 1 % of its GDP to cover the real cost of its basic food income programme.

Justification: This is the order of magnitude which OECD countries (e.g. Germany) spend on minimum income programmes (Sozialhilfe). Why not expect the same scope from low income countries?

2. In low income countries the programme will be co-financed by the international community.

Justification: The global GDP per capita and year (pcpy) is on the average some \$P 7000. Countries with a GDP of less than \$P 3500 pcpy can be seen as low income countries since they receive less than one half the average income. Countries with GDP from \$P 3500 to \$P 10500 are to be seen as middle income countries, the others as high income countries.

In the European context states see a need to address the situation of persons with less than half the average income and there is an obligation to provide transfers and an EU commitment to greatly reduce the percentage of this „low income population“. In an analogous way one can stipulate global transfers to low income countries as obligatory – first of all for the fundamental human right to be free from hunger.

Middle income countries can be expected to have sufficient resources to maintain minimum income programmes guaranteeing a level of \$P 350 pcpy. This amounts (almost) to 1 \$P per day and can be seen as sufficient for a food security income.

3. The percentage of a country's own contribution to the programme grows in the same proportion as its own financial resources (GDP).

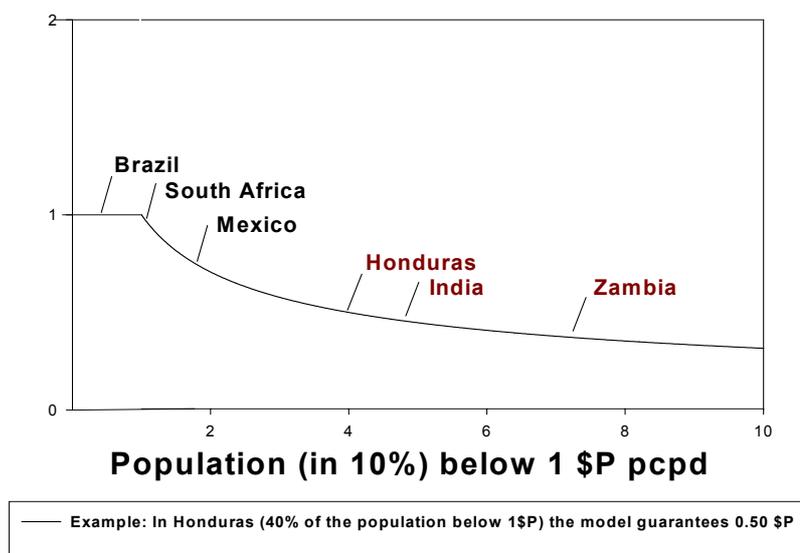
For low income countries there is mixed financing of the programme. The higher the GDP of the low income country, the higher its own share. We assume a linear growth of this share from 0% (for a fictitious country with GDP 0) to 100% for a country with GDP of 3500 \$P pcpy.

Let us consider what this model (calculated in the annex on the basis of these three principles) would mean for Zambia. Zambia has a GDP of 660 \$P. 70% of the population have to make ends meet with less than 1 \$P per capita per day. The calculation shows that the model along the lines of the three principles mentioned would guarantee a basic food income of \$P 0.38. This covers more than the minimum food income introduced in subsection 2.3 and would be sufficient to guarantee freedom from hunger.

One of the features of the model is that the level of its guaranteed basic food income only depends on the incidence of extreme poverty (percentage of the population with incomes below 1 \$P pcpd). In countries with a lower percentage of extreme poverty than Zambia the level of the basic food income grant would be higher (cf Figure 5):

Figure 5

### Income levels guaranteed in calculated model



Countries with an incidence of 40% would guarantee a cash transfer of 0.5 \$P and those with a 20% incidence can even secure 0.7 \$P. For countries with just 10% or less of its population with incomes below 1 \$P the model would guarantee a basic food income of 1 \$P.

What would be the cost of the subsidiary international states obligations? If only high income countries are expected to pay, the calculations (in the annex) indicate a cost of some 0.24% of their GDP. Even if this sum was simply added to current ODA the resulting volume of ODA would still be less than the 0.7% to which the OECD countries have committed themselves. For each state the percentages involved (1% nationally and 0.24% internationally) are certainly less than the obligatory „maximum of its available resources“ which the states parties to the International Covenant have to deploy towards the full realization of the rights recognized.

As long as the OECD countries do not implement these extraterritorial states obligations, it will be difficult to expect from low income countries to implement basic food income programmes at the level indicated. In such a situation the reduced cash transfer programme may no longer guarantee a minimum food income as a human right. The lack of international co-financing would have its strongest effect in Africa.

## 5. Basic food income – option or obligation?

The arguments so far should have made it clear that basic food income is an interesting programme option for states establishing programmes to meet their fulfilment-bound obligations under the human right to food. The question – whether this type of programme is even obligatory, needs further discussion.

Human rights usually do not prescribe one particular state programme as obligatory. In the field of fulfilment-bound obligations they usually formulate “obligations of result” and give states a “margin of discretion” to pick among different policies and programmes for which there is reasonable proof that they will lead to the obligatory result as quickly as possible in their specific context. The burden of proof, at least for the core content of human rights, is on the state. For fulfilment programmes under the fundamental right to freedom from hunger (the core content of the human right to food), states are obliged to provide proof that this specific programme can do the job in their specific situation quicker than any other programme. Afterwards there can be a debate whether or not the respective proof is acceptable within the margin of insecurity that exists. Failure to provide proof that the programme choice for minimum food programmes satisfies the human rights criteria, however, is a violation of the human right to food.

A fulfilment obligation is by its very nature first of all an obligation of result. The state activity must result - for each person deprived of the respective human rights standard - in the enjoyment of the human rights standard: A hungry and malnourished person must have access to food and be free from hunger. In view of art.2 ICESCR this translates (for example for the right to food) into the following obligation of states' conduct: Introduce justiciable programmes which as quickly as possible provide food or food income to each person threatened by hunger and malnutrition.

The right to food usually does not prescribe specific programmes. It does, however, intervene against programmes from which it cannot be reasonably expected that they will lead as quickly as possible to the provision of food for each malnourished person. And it intervenes against the malfunctioning of programmes. Severe malfunctioning and severely unreasonable programmes (or the absence of programmes altogether) violate the human right to food. Any proof whether or not a specific programme meets the mentioned obligation of state conduct includes, of course, an investigation of other programmes to the effect whether they can do the job quicker. And these “other programmes” include basic food income, as soon as its financial and administrative viability in the country has been established.

Subsection 3.1 indicated that minimum food income programmes are obligatory under the right to food – at least towards those persons who cannot otherwise access food: According to the General Comment 12 of the UN Committee on ESCR „states have the obligation to fulfil(provide) the right directly“ in such situations. What then are the violations of the right to food in this context:

A state violates the human right to food of a hungry and malnourished person, if this person is denied access to a minimum income programme or if the person suffers irregularities in such a programme which lead to hunger and malnutrition.

A state violates the human right to food of a hungry and malnourished person systematically

- (i) if the state does not prove that it has undertaken steps to the maximum of its available resources to introduce functioning minimum income programmes and it cannot be realistically expected from the person that she has access to existing programmes, because these do not exist in the region of the person or since such access is severely hampered by the nature of the programme.
- (ii) if the state can prove to have taken such steps, but failed to ask the international community for support in the introduction/maintenance of minimum income programmes.

The following two problems in selective food programmes are often dealt with on the same level:

1. Exclusion: An eligible person cannot participate in the programme.
2. Inefficiency: Non-eligible persons participate in the programme.

Exclusion, however, is most likely a violation of the human right to food, whereas inefficiency just makes programmes more expensive than necessary.

The human right to food has to be implemented to the maximum of available resources (ICESCR 2.1). Each state is obliged not to violate any person's human rights. And if such a violation occurs, remedy must be available for the victim. Such remedial measures could still secure the realization of the victim's human rights even in the case of selective programmes. Whether this can be realistically expected, however, depends on the level of the minimum income at stake.

For minimum food programmes, the result of exclusion (by failures in selection) is continuing hunger and malnutrition. This situation incapacitates the victims to an extent, that she is unable to use remedial procedures even if such procedures exist. This means that (at least) for minimum food income programmes post-transfer targeting is a must, as this minimizes (deadly) failures of targeting.

Selective minimum food income programmes therefore cannot fully implement the right to food as a human right, because selection failures can de facto not be remedied as the transfer will be blocked and therefore justiciability de facto not provided. This suggests prima facie that basic food income programmes are states obligations under the right to food.

The argument used here to show that means-tested minimum food programmes are hard to defend against basic food programmes in the light of the human right to food depends, of course, on the incapacitating effects of hunger and malnutrition. It remains to be seen how far the same argument can be generalized to higher levels of minimum income (for example in the sense of an adequate standard of living). If so, the human right to an adequate standard of living would imply an obligatory „adequate basic income“.

Recognizing basic food income as prima facie states obligations under the right to food implies that a state without a basic food income programme violates prima facie human rights.

In order to get rid of this onus, such a state would have to prove

- that minimum food income programmes are implemented (almost) without exclusion problems leading to hunger and malnutrition; or
- that exclusion problems can be easily remedied by the victims; or
- that basic food income programmes are not financially or administratively viable and that international assistance has been sought, but not found.

## Annex: Calculating the transfer volume of a basic food income programme

For the calculation we consider a simple basic food income programme

- which provides a certain guaranteed transfer  $r$  (above the minimum food income) to each person;
- the number of net recipients is twice the number  $m_r$  of persons with (non-programme) income below  $r$ .
- where the post-transfer targeting results (for net recipients) to a tax of 50% on additional own income available.

This is a programme of the type C in subsection 3.4. The transfer volume of such a post-transfer programme is (by definition) the same as that of the equivalent means-tested programme of type A, which guarantees to transfer the sum  $r$  only to those with an income below  $r$ . In this equivalent selection programme the calculation of transfer volume is not difficult:

The first programme to be considered is “Programme 1” transferring 1 \$P to each person with an average daily income/consumption of less than 1 \$P. This would in fact guarantee a minimum income of 1 \$P for each person.

GDP pcpy (per capita per year) is measured as multiples of 3500 \$P:  $k = \text{GDPpcpy}/3500$ .

A daily per capita income of  $k=0.5$  then means that the country has a GDPpcpy of 1750 \$P.

A country like Zambia with a GDPpcpy of 660 \$P is then seen as a country with income  $k=0.19$ .

If we denote with  $m$  the proportion of the population below a daily income/consumption of 1 \$P, the total transfer volume  $K$  of the programme (guaranteeing a basic income of 1 \$P) per person per year (counted for simplicity as 350 days) can be calculated as

$$K = m \times 350 = m \times (0.1 \times 3500) = m \times 0.1 \times \text{GDPpcpy}/k$$

Due to principle 3 in 4.2 the country's own contribution is  $k$  times the total cost  $K$ . Using the estimate for  $K$  just formulated:

$$kK = m \times 0.1 \times \text{GDPpcpy}.$$

This means that the country's contribution (in percent of the GDP) for such a One-dollar-a-day programme is about one tenth of the percentage of people living with less than 1 \$P per day. A country like Zambia ( $m=70\%$ ) would have to allocate about 7% of its GDP for Programme 1 to cover its own share in it. According to Principle 1 we don't want Zambia to allocate more than 1% of its GDP for the programme. Therefore the level of transfer has to be reduced from one-dollar-a-day to  $r$ -dollar-a-day.

In a second step we therefore generalize the „one-dollar-a-day“ Programme 1 to an  $r$ -dollar-a-day “Programme  $r$ ” (where  $r$  is an amount below 1\$P): Let us recall that the minimum food income was introduced in this paper as 0.3 \$P.

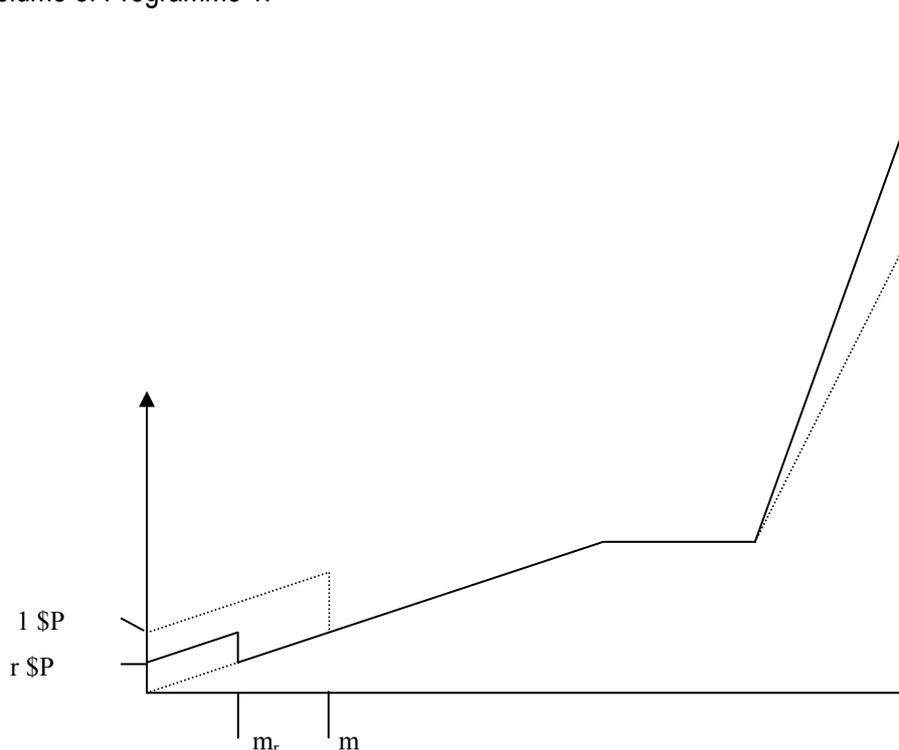
In order to calculate the transfer volume for such programmes we would need to know the percentage  $m_r$  of the population with consumption less than  $r$  \$P. These data are not readily available. There are data on the „income gap“ in the income bracket below 1 \$P. These would allow some fairly good estimates, but introduce lengthy extra calculations. Instead we will make the crude assumption that distribution of consumption for persons below 1 \$P is linear starting with no income at all for the poorest of the poor.

It can be shown from the data available on the poverty gap (e.g. World Development Report 2000/2001) that this assumption clearly overestimates  $m_r$  for almost all countries. Hence our estimate will be a conservative one for the cost of the programme.

On the basis of this linearity we can estimate that a share of  $r$  of the population below 1 \$P has an income below  $r$  \$P. Let us take the example of  $r=0.5$ : 50% of the population below 1 \$P has an income less than 0.50 \$P. In Zambia this  $m_{0.5}$  would be  $0.5 \times 70\%$  (=35%) of the whole population.

Compared to Programme 1, Programme 0.5 covers only half the population previously reached – with only 0.5 of the per capita transfers. Hence the total transfer volume will be  $0.5 \times 0.5$  (=0.25) of the previous transfer volume in Programme 1. In general: The transfer volume of Programme  $r$  is  $r^2$  times the transfer volume of Programme 1.

**Figure 6**



Given the estimate for Programme 1, this allows us to calculate the level of basic food income which a country can guarantee with 1% of its GDP in the co-financed model:  $1 = r^2 \times (m \times 0.1)$ , or

$$r = (m \times 0.1)^{-1/2}$$

This is the equation which gives rise to Figure 5.

In the case of Zambia we calculated its own share in Programme 1 as  $(m \times 0.1=)$  7%. Hence  $r^2=1/7$  and  $r=0.38$ . 0.38 \$P is then the respective guaranteed transfer. Recalling that the true costs are less due to the overestimation of  $m(r)$  above, the level guaranteed will be higher.

Even in the most unlikely case that (almost) the total population (100%) lives below 1 \$P, the level reached in this model will be  $10^{-1/2} = 0.316$ , and the current model therefore guarantees the minimum food income even here.

What would be the cost of the subsidiary international co-financing? Among the 1.2 billion persons with an income below 1 \$P pcpd 24% live in Africa, 23% in East Asia /Southeast Asia, 44% in South Asia and 6% in Latin America / Caribbean. In a crude approximation the GDP in the affected countries in East Asia and Southeast Asia is \$P 3000 with  $m=18\%$ , in Africa \$P 1000 with  $m=60\%$ , in South Asia \$P 1500 with  $m=40\%$  and in Latin America \$P 2500 with  $m=15\%$ .

The following table shows the steps in calculating the international cost per day for the different regions. The figures on *m* and *GDPpcpy* just given can be found in columns 2 and 6. The calculation of *r* (column 3) from *m* was shown above. Column 4 simply applies the percentages in the second sentence of the previous paragraph to the total of the 1.2 billion persons living with less than 1 \$P per day. This column would at the same time give the daily cost [in million \$P] for Programme 1. Multiplying with the factor  $r^2$  provides the daily cost for Programme *r* in column 5. Column 6 is used to calculate *k* and  $1-k$ , the international share. Finally the daily international cost (column 8) results from multiplying the total cost with the factor  $1-k$ .

Region	M [%]	r [\$Ppcpd]	Persons < 1\$P [mio]	TransferVol. pd [mio\$P]	GDP pcpy	1-k	Intern'l Cost pd [mio\$P]
Africa	60	0.41	288	48	1,000	0.71	34.0
South Asia	40	0.5	528	132	1,500	0.57	75.2
East/SE Asia	18	0.75	276	155	3,000	0.14	21.7
Latin America	15	0.82	84	56	2,500	0.29	16.2

The total transfer volume per day is obtained (by summing up column 5) as 381 mio \$P. The sum of the last column (147.1 mio \$P pd) shows the total international contribution: some 38% of the total cost. This adds up to an international contribution of 53.7 billion \$P per year. If we assume that only the high income countries (which had a total GDP in 1999 of 21763 billion \$P) contribute to the international cost, this would mean 0.25% of their GDP. Even if this sum would just be added (without replacing other ODA) to current ODA the resulting ODA is still below the 0.7 % of GNP promised by the OECD countries.

These calculations allow some further observations:

Even if the OECD countries would not contribute, low income countries could still run basic food income grants – at a lower level, however. For Latin America ( $k=0.71$ ) the transfer volume would be reduced to 71% - and hence the minimum income level would fall to 84% of its original value, had the internationally community contributed ( $0.84 \cdot 0.71$ ). Instead of a basic food income programme of 0.82 \$P Latin America would only realize 0.69 \$P.

The most serious effect of lacking international subsidies would be felt in Africa ( $k=0.28$ ): The minimum income would fall to 0.22 \$P – about one half of the previous minimum income and below the minimum food income of 0.3 \$P. Africa therefore cannot guarantee the right to food (in this model for implementation) without international co-financing.

#### Literature cited:

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