

Assessment of the right to food

The content of this handbook is based on FAO's *Guide to Conducting a Right to Food Assessment*, written by Frank Mischler with the valuable contribution of Uwe Kracht and Maarten Immink.

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The purpose of this handbook on ASSESSMENT is to provide practical information and tools for conducting a right to food assessment as a first step in developing a strategy to ensure this right and in taking the pertinent measures to meet the obligation to progressively realize this right.

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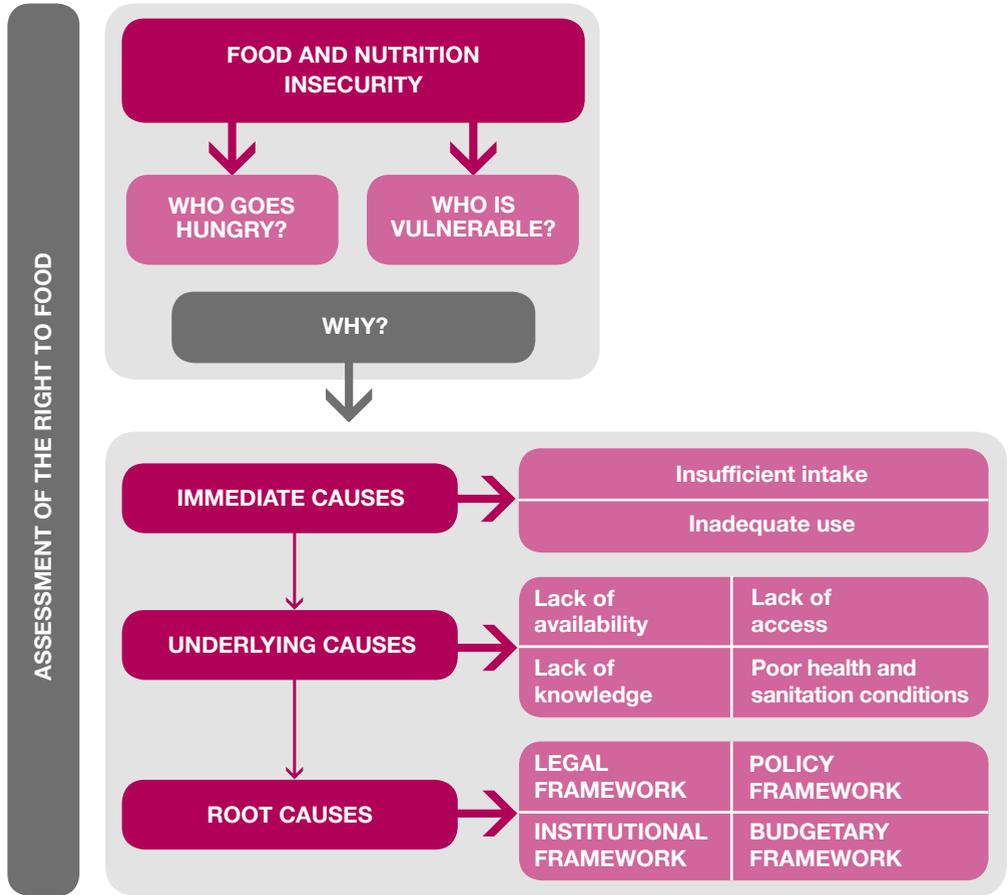
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 The FAO glossary on the right to food is available at:
<http://www.fao.org/righttofood/knowledge-centre/glossary/en>

The human right to food was recognized in the Universal Declaration of Human Rights (1948), accepted as a binding obligation by 162 states¹ that ratified the International Covenant on Economic, Social and Cultural Rights, and reasserted at the World Food Summits (1996, 2002 and 2009).

How can this right become reality? In 2004, the Council of FAO unanimously adopted the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of the national food security* (Right to Food Guidelines).

The progressive realization of the right to food involves legal, political, social and institutional action based on principles of transparency, accountability, participation, non-discrimination, empowerment, human dignity and the rule of law.² The legal and institutional frameworks must therefore be assessed in order to identify the causes of hunger and the measures required to tackle them.

Guideline 3.2 “The elaboration of these strategies (national strategies to realize the right to food) should begin with a careful assessment of existing national legislation, policy and administrative measures, current programmes, systematic identification of existing constraints and availability of existing resources. States should formulate the measures necessary to remedy any weakness, and propose an agenda for change and the means for its implementation and evaluation”.

1. Number of States Parties as of April 2014. For up-to-date ratification status, please visit: <https://treaties.un.org>

2. Known as the PANTHER principles. See definition in Handbook 1.

The assessment suggested in Guideline 3.2 involves identifying those whose right to adequate food has not been recognized, where they are, and the reasons that have led them to food insecurity. Furthermore, the legal, political and institutional settings must be analysed in order to ascertain whether or not the right to food could be jeopardized.

The initiative to assess the right to food shall normally be up to the state, either on its own or through civil society organizations. In any event, it is highly recommended that it be done by governments and social institutions.

Why should an assessment of the right to food be conducted?

- In order to properly ground a human rights-based food and nutrition security strategy.
- In order for technical staff and government civil servants to get clear references enabling them to put into practice the required measures to promote realization of the right to food.
- In order to prepare the national reports on the status of the right to food (and other economic, social and cultural rights) that states must present periodically to the United Nations Universal Periodic Review.

Assessment of the right to food must include:

1. Assessment of the causes of food and nutrition insecurity, which involves identifying:
 - who suffers from food insecurity and vulnerability;
 - where those people are;
 - the causes of their food insecurity or vulnerability.
2. Assessment of the various settings:
 - legal framework;
 - political framework;
 - institutional framework and civil society participation;
 - budget analysis.

The states that have ratified the International Covenant on Economic, Social and Cultural Rights are obliged to progressively realize the right to food. According to Article 11 of the Covenant, the States Parties recognize “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”.³

In a human rights-based approach to the right to food, rights-holders can hold their governments accountable for non-compliance and, if applicable, obtain reparations.

THE RIGHTS-BASED APPROACH

A human rights-based approach highlights the autonomy of rights-holders and allows them to actively participate in the realization of the right to food. This type of approach requires that all participants in the process of the right to food be accountable for their actions. This can be achieved through legal, administrative or political tools. Rights-holders, be they individuals or groups in certain circumstances, may demand that their governments respect, protect and realize their rights.

Source: FAO. 2006. *The Right to Food Guidelines: Information papers and case studies*. Rome.

3. For further information on the right to food in human rights law, see Handbook 1.

With the rights-based approach, the final result, here food and nutrition security, is as important as the process through which it is achieved, which in turn must be transparent, participatory and inclusive.

CHARACTERISTICS OF THE HUMAN RIGHT TO FOOD-BASED APPROACH

- It acknowledges the right to access food as a human right.
- It places human beings at the heart of development.
- It acknowledges that human beings are rights-holders, and not just beneficiaries.
- It makes progressive realization of the right to food compulsory and not optional.
- It makes states aware of their obligations and indicates those obligations incumbent upon other stakeholders.
- It serves to prevent harmful policies and activities that violate the obligation to respect and protect the right to food.
- It attaches priority to combatting hunger nationally.
- It applies human rights principles:
 - non-discrimination and equality;
 - transparency and participation;
 - accountability and rule of law; and
 - human dignity and empowerment.
- It acknowledges that all human rights are universal, indivisible and interdependent, and are interrelated.
- It instates mechanisms for claims and appeals against the violation of the human right to food.
- It ensures that those who are obliged to realize this right must be held accountable for their actions and omissions.

Source: based on FAO. 2006. *The Right to Food in Practice: Implementation at the national level*. Rome.

The ultimate objective of the right to food is to generate a setting enabling all persons to feed themselves either by producing their own food or by being financially able to access food.

Food and nutrition insecurity results from the lack of recognition of the right to food for any given population. This translates into insufficient food intake due to the impossibility of acquiring food, either because of a lack of supply on local markets or a lack of ability to purchase or produce, or both at once.

Food insecurity may be:

- **transitory**, when it comes during times of crisis;
- **chronic**, when it occurs continuously;
- **seasonal**, when it is transitory yet recurrent, that is, limited in duration but predictably sequential.

In order to assess food and nutrition insecurity, one must know:

- who is going hungry or suffers from food and nutrition insecurity, and where they are;
- which people belong to vulnerable segments of the population, and where they live;
- why they are in this situation: analysis of the causes and effects.

In order to make this assessment, one must ascertain how many people suffer from food and nutrition insecurity and the areas where they live. We should be mindful of the fact that we may find other related terms and concepts such as hunger, subnutrition, malnutrition, hidden hunger, and so forth.

CONCEPTS RELATED TO FOOD INSECURITY

Hunger	General term used to refer to low food consumption or malnutrition, usually chronic. According to FAO, the concept of hunger is usually used in situations of intense food deprivation related to several forms of malnutrition – including those due to restricted access to enough food and a deficit of essential nutrients in food required from a nutritional standpoint – which impact the physical and mental faculties of the person affected.
Famine	Famine refers to relatively protracted social and economic crises, consisting of the gradual impoverishment of the most vulnerable groups and the deterioration of their means of subsistence with a widespread increase of hunger. It also brings with it displacement of the population, the propagation of epidemics, the fragmenting of communities and, in the most severe cases, an increase in mortality.
Hidden hunger	Hidden hunger is the lack of micronutrients, basically minerals and vitamins (iron, iodine, vitamin A, etc.). The term 'hidden' refers to the fact that in mild and moderate cases, there are no visible signs and those suffering from this condition are unaware of their deficiencies.
Subnutrition	This is also known as chronic hunger, and is characterized by an ongoing food intake insufficiency. Calorie intake does not meet minimum needs for energy from food. The immunological system may be weakened, making the person more vulnerable to diseases. It is difficult to establish exactly how many calories are required given that many factors, such as age, gender, activity, physiological conditions and so forth come into play. However, the World Health Organization generally estimates that adult males should have between 2 000 and 2 500 kilocalories per day and adult women should have between 1 500 and 2 000 per day.
Undernutrition	This comes as a result of subnutrition or poor absorption and/or biological use of the nutrients consumed.
- Wasting	Being underweight given one's height generally results from weight loss due to a recent period of starvation or grave illness. When body weight is 20% under average, there is moderate wasting and once it is 30% below average, there is severe wasting.
- Stunting	This is slowed growth, i.e. small stature for one's age. Normally associated with poverty, it reflects recurrent episodes of malnutrition.

CONCEPTS RELATED TO FOOD INSECURITY (cont.)

- Underweight	This index takes the previous two factors into account and reflects the result of a lack of food, previous malnutrition or fragile health. It is the indicator used to monitor Millennium Development Goal 2. In children, underweight is considered by age while for adults, it is defined as a body mass under 18.5.
Malnutrition	This is an abnormal physiological state resulting from imbalances in the intake of energy, proteins and/or other nutrients in the diet, be it due to excess or insufficiency. Any nutritional disorder leading to changes in growth, development or maintaining health.
Food vulnerability	This is the situation faced by population groups who are affected or threatened by factors placing them at risk of suffering from food insecurity or malnutrition.

3.1. WHO GOES HUNGRY?

The reports published periodically by FAO on the status of food insecurity in the world include estimates on the number of persons undernourished. In other words, FAO measures hunger in the world as the number of people who do not consume the minimum daily dietary energy intake requirement, meaning the number of calories needed according to gender and age for light activity and to maintain good health.

A variety of circumstances are transforming the profiles of those who grow hungry. A turning point must be sought in the wake of the food crisis (2006–2008) and world economic crisis that immediately ensued (2009), both of which dealt hard blows to those who were already suffering from food insecurity.

Most of the undernourished live in developing countries, and 60% live in one of the following seven countries: the People's Republic of Bangladesh, the People's Republic of China, the Democratic Republic of the Congo, the Federal Democratic Republic of Ethiopia, the Republic of India, the Republic of Indonesia and the Islamic Republic of Pakistan. Those living in China and India alone account for 43%.

REVISION OF THE FAO METHODOLOGY FOR MEASURING HUNGER

The Committee on World Food Security, in its period of sessions held in 2010, requested that FAO examine its methodology for estimating subnutrition in order to provide more timely updates of data and include all of the pertinent information, including the analysis of a large number of surveys of households that have made themselves available to the stakeholders over the last few years.

In order to improve its methodology, FAO shall make various adjustments including the estimate of how changes in access to food due to variations in income and the price of food affect subnutrition. In addition, work is being done to improve the preparation of food balance sheets. A large number of surveys on household spending are being processed in order to provide more accurate estimates of the breakdown of food consumption within countries. FAO estimates on subnutrition will also be complemented with several different indicators in order to more properly reflect the multifaceted nature of food insecurity.

Source: FAO. 2011. The State of Food Insecurity in the World 2011. Rome.

Currently, most of those who go hungry are to be found among poor consumers who have seen their purchasing power drop and who have to spend 40% of their income on average to purchase food (in certain countries, the poorest segments of the population spend up to 70%). Food prices affect the poorest of the poor, in other words those who lack land, the urban poor and female-headed households.

3.2. WHO ARE THE VULNERABLE?

In addition to answering the question of who goes hungry, one must consider the factors that cause vulnerability, that is, those that lead people to run the risk of suffering from food insecurity or malnutrition.

Guideline 13.1 “Consistent with the World Food Summit commitment, States should establish Food Insecurity and Vulnerability Information and Mapping Systems (FIVIMS), in order to identify groups and households particularly vulnerable to food insecurity along with the reasons for their food insecurity....”

MAJOR RISK GROUPS ACCORDING TO FAO

Rural poor	<p>Most of those who do not have enough to eat live in poor rural communities in developing countries. Many have no electricity or drinking water. Public health, education and sanitation services are often low quality.</p> <p>The persons in the world who are the hungriest and most exposed to food insecurity are often directly involved themselves in food production. They cultivate small plots of land. They raise animals. They fish. They do what they can to provide food for their families or earn money on the local produce market. Many do not have their own land and work for salaries to obtain enough money to make ends meet. Often work is seasonal and the family has to move or separate in order to make a living.</p> <p>It is hard and complicated to save money for emergencies. Even when there is enough food, the threat of hunger is always present.</p>
Urban poor	<p>They produce little or no food, and often lack the means to purchase it. Cities are continuously growing. In the year 2000, nearly two billion people lived in cities, but by the year 2030, this figure will have at least doubled.</p> <p>As cities grow and more people migrate from rural areas to urban areas, the urban population will increase. Therefore, hunger and access to affordable food in cities will be an issue of increasing importance.</p>
Victims of disaster and conflict	<p>Each year, floods, droughts, earthquakes and other natural disasters in addition to armed conflicts cause widespread destruction and force families to leave their homes and farms. Victims of disasters often do not only face hunger, but even face the threat of starvation.</p>

Source: <http://www.fao.org/hunger/en>

Most people who suffer from hunger or malnutrition live in areas where environmental, economic or other factors expose them to a high risk of impoverishment or food insecurity.⁴ Therefore it is necessary to analyse vulnerable areas both nationwide and regionally and locally.

4. FAO. 1999. *The State of Food Insecurity in the World 1999*. Rome.

Guideline 13.2 “States are invited to systematically undertake disaggregated analysis on the food insecurity, vulnerability and nutritional status of different groups in society, with particular attention to assessing any form of discrimination that may manifest itself in greater food insecurity and vulnerability to food insecurity...”

Most research has focused on the geographical areas with the greatest likelihood of having vulnerable populations exposed to food insecurity. While this may be valid from a cost-effectiveness standpoint, a right to food-based approach involves ascertaining the conditions in which the population lives in order to determine which segments are vulnerable and why.

VULNERABLE SEGMENTS OF THE POPULATION IDENTIFIED THROUGH THE FIVIMS PROCESS

Victims of conflict	Migrant workers and their families	Marginalized populations in urban areas
<ul style="list-style-type: none"> - People who have been displaced within the country - Refugees - Landless returnees - Landmine victims - War invalids 	<ul style="list-style-type: none"> - Migrant herders tending herds of others - Migrant labourers seeking seasonal work - Female-headed households left behind by migrant male labourers 	<ul style="list-style-type: none"> - School dropouts - The unemployed - Rickshaw and motorcycle taxi drivers - Recently arrived migrants - People living in slums in urban periphery - Dockworkers and porters - Construction workers - Workers in the informal sector - Homeless people - Orphans - Street children - People living on small fixed incomes or without support (elderly, pensioners, widows, invalids, handicapped people) - Beggars
<p>People belonging to at-risk social groups</p>	<p>Some or all members of low-income households within vulnerable livelihood systems</p>	<p>Dependent people living alone or in low-income households with large family size</p>
<ul style="list-style-type: none"> - Indigenous people - Ethnic minorities - Illiterate households 	<ul style="list-style-type: none"> - Subsistence or small-scale farmers - Female-headed farming households - Landless peasants - Agricultural labourers - Fishers - Nomadic pastoralists - Sedentary herders, small-scale livestock producers - Agropastoralists - Forest dwellers - Peri-urban small-scale agricultural producers and market gardeners - Day or contract labourers 	<ul style="list-style-type: none"> - Elderly - Women of childbearing age, especially pregnant and nursing mothers - The ill and disabled

Source: FAO. 2012. *The State of Food Insecurity in the World 2012*. Rome.

Guideline 17.5 “States should, in particular, monitor the food security situation of vulnerable groups, especially women, children and the elderly, and their nutritional status, including the prevalence of micronutrient deficiencies.”

3.2.1. Vulnerability indicators

While there are highly diverse factors that translate into vulnerability for those affected, the following indicators were used in various case studies done by FAO (*The State of Food Insecurity in the World 1999*):

EXAMPLES OF INDICATORS USED TO MEASURE FOOD VULNERABILITY	
Indicators related to demographic trends	Annual population growth (annual %)
	Urban population rate (annual %)
Indicators related to productive resources	Tilled area (% total area)
	Extremely impoverished land (% total area)
Indicators related to food production	Cereal production, variation per hectare (annual %)
	Production of staples, variation per hectare (%)
	Food production rate
Indicator related to food diversity	Main group of basic foodstuffs by % of diet
Indicator related to economic behaviour	Increase in GDP (annual %)
Indicators related to the coverage of basic needs	Access to drinking water (% population)
	Illiteracy rate (% population)
Indicator related to market access opportunities	Asphalted roads (% of total)

More recently, the report on *The State of Food Insecurity in the World 2012* pointed to the following vulnerability indicators:⁵

- volatility of domestic food prices;
- variability in food production per capita;
- variability in food supply per capita;
- political stability and lack of violence/terrorism;
- value of food imports as regards the total goods exported;
- percentage of tillable land with irrigation systems;
- share of dependency on cereal imports.

3.2.2. Context of vulnerability

Once the vulnerable segments of the population have been identified, it is helpful to analyse the context of vulnerability and the means of subsistence:

- Several types of factors can be distinguished within the context of vulnerability, i.e. environmental factors (soil degradation, erosion, pollution, etc.); natural disasters (droughts, floods, earthquakes, heat waves and cold snaps, etc.); armed conflict; individual impacts (illnesses, deaths, loss of employment, etc.); impacts caused by economic or financial crises (food price increases, decreases in official development aid, etc.).
- Using the sustainable livelihoods approach (SLA) used by FAO, insofar as means of subsistence are concerned, there are five different assets to be taken into account: human, social, physical, natural and financial capital.

5. The values of these indicators are available at: <http://www.fao.org/economic/ess/ess-fs/ess-fadata/en>

3.3. CAUSALITY ANALYSIS

Causality analysis constitutes a significant part of assessment. The causes of malnutrition can be divided into three categories:

- immediate causes
- underlying causes
- root causes

3.3.1. Immediate causes of malnutrition

The immediate causes are directly linked to the consumption of food and the body's possibilities for properly absorbing it. Therefore, the immediate causes of malnutrition fall into one of two major categories:

- inadequate intake of calories and nutrients;
- inadequate use of the nutrients by the organism (this is normally due to a protracted medical condition in the case of certain illnesses).

In most cases, malnutrition is the result of a combination of both causes. The analysis of these causes requires close attention to be paid first to food consumption (harvesting, preparation and consumption of foods as well as the quality of the diet) and then to the person's health.

These causes explain the strong synergy between health and nutrition. A person who is ill will in all likelihood suffer from loss of appetite, eat a poor diet, digest food poorly, and use some of the nutrients to combat infections. A malnourished person in turn has a weakened immune system and is more prone to infections that increase the potential for and/or severity of malnutrition.

3.3.2. Underlying causes of malnutrition

We can make a distinction between four areas of underlying causes:

- i. **Lack of food availability** due to weather conditions, market failure, or violent destruction. After considerable progress in agricultural production and improvement in infrastructure and transportation that have generated opportunities for delivering food to areas where there are shortages, the relative impact of availability as a cause of food insecurity is diminishing. Nevertheless, this factor should not be excluded from

the assessment, particularly when taking into account certain vulnerable groups who depend to a large extent on subsistence farming, those who live in areas with weather-related risks, or those who have been displaced from their land.

- ii. **Lack of access to food due to physical or economic constraints.** In most cases, people cannot access enough food for financial reasons (very little or no income, exceedingly high food prices, etc.). An analysis of poverty and economic indicators can be helpful in this part of the assessment. Some useful indicators are: the percentage of the population whose consumption is under one dollar, the percentage of the population living below the national poverty line, and the poorest quintile's share of domestic food consumption.
- iii. **Lack of knowledge regarding nutrition.** In many cases, the poor have deficient diets lacking in basic foodstuffs such as fruit, vegetables, fish and meat. This is often due to financial constraints, but may also be because of inadequate knowledge about nutrition. Nutritional knowledge includes the preparation and processing of food, dietary habits, beliefs (i.e. taboos regarding foods), and how food is distributed within the household. Some examples of careful practice include infant feeding and weaning practices (nursing), healthy habits, cognitive stimulation and support for children, and care and support for mothers during pregnancy and nursing.

A mother's ability to properly care for her children will depend to a certain extent on how her time is divided between productive (income-generating) and reproductive (household) work, as well as her access to health services, water and fuel supply, in addition to food markets. Within the household, her economic and social status will govern the degree to which she controls her time and income, and in turn, her ability to take care of her children and watch out for their health and welfare. In some countries, there may be national statistics available to measure some of these factors.

- iv. **Poor sanitation and health care.** Access to drinking water and sanitation, a healthy environment and proper housing conditions will determine a person's nutrition. Both the World Health Organization (WHO) and the UNDP indicators are useful for carrying out this assessment. For instance, the percentage of the population with or without sustainable access to an improved water source, the proportion of households with or without a secure dwelling, the percentage of births attended to by specialized health personnel and the number of vaccinations are all noteworthy indicators.

Therefore, the immediate causes of malnutrition may be determined by a long list of underlying causes. It is sufficient to keep the assessment to the factors that the assessment team identifies as the most critical on a case-by-case basis in each context.

3.3.3. Root causes of malnutrition

The structural and fundamental causes of hunger refer to the determining factors (social, economic and political) that lead to the underlying causes of malnutrition. Assessing the root causes of malnutrition is the step needed in order to complete the causality analysis and link the prevalence of malnutrition to the country's particular setting.

The list of causalities found to determine the various underlying causes may be extensive and therefore one may need to focus on the most important ones. Identifying the correct fundamental cause, the cause that ultimately leads to malnutrition is extraordinarily complicated, and in many instances, causality cannot be proven.

Root causes may be analysed subnationally, nationally or internationally.

On **subnational levels**, the smallest economic unit is the family. At this level, the fundamental causes of malnutrition may be found within the subsistence system itself. The means of subsistence (the human, natural, financial, social or physical means) may be insufficient and linked to internal aspects, such as a high degree of dependency or inappropriate strategies to tackle the problem, or may be linked to external aspects such as negative events, upheavals, seasonality and so forth.

Insofar as a country's institutions are concerned, often the lack of capability or will of duty-bearers on a subnational level jeopardizes the right to food. In many countries, the proper policies and laws are formulated and passed, but do not reach the rural areas where most of the people suffering from food insecurity live.

Ideological factors cover even broader aspects of society such as religion, culture, traditions and beliefs. The fundamental causes may be discriminatory practices that continually create disadvantages for a given group. Reasons for imbalances may often not be able to be explained by unfair policies or laws, but rather by the social behaviour inherent to a given population. In other words, the power structure within and among households is often legitimized by traditional ideology, rooted in the accepted culture. These traditions sometimes conflict with human rights principles and represent a structural disadvantage for certain groups.

Root causes within the **national sphere** are described in Guideline 1.1 and tie in with the analysis of the surrounding environment that we will tackle in the next section. The idea is to link the government's framework action with both the immediate and the underlying causes of malnutrition. The laws, policies and institutions that have played determining

roles in the non-realization of the right to food for certain groups must be identified for this purpose.

Guideline 1.1 “States should promote and safeguard a free, democratic and just society in order to provide a peaceful, stable and enabling economic, social, political and cultural environment in which individuals can feed themselves and their families in freedom and dignity”.

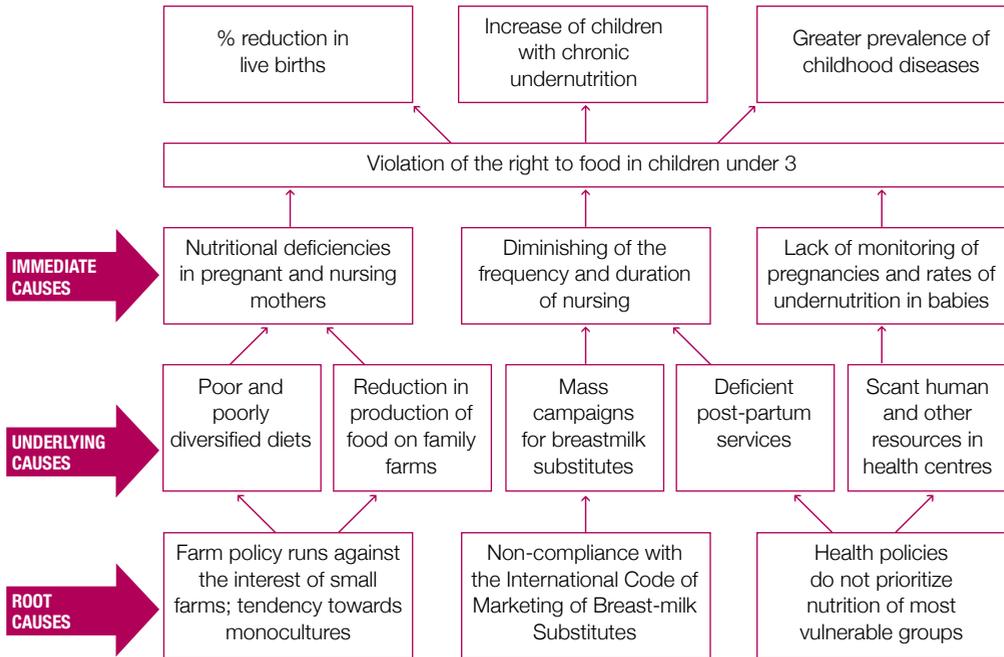
In the **international sphere**, states are connected politically (through regional alliances, defence alliances, and through the United Nations) and also economically (free trade areas, the World Trade Organization) and legally (international human rights law). Any and all states will perceive themselves as being affected, either positively or negatively, by the endeavours of neighbouring states. Impact will depend to a great extent on their power and ability to negotiate. The influence of other countries or the international system overall may contribute to a greater prevalence of malnutrition in a given country.

In addition, climate change, epidemics and pests cross borders, and stand as a further example of international conditioning factors that may be relevant for vulnerable groups.

3.3.4. Causal relationships

There are three types of causes of food insecurity: immediate, underlying and fundamental. Causal relationships between them allow us to relate them to each other and establish hierarchies. The problem tree method may be used for representing these relationships and establishing how they interact.

EXAMPLE OF A PROBLEM TREE



Source: Institute of Hunger Studies and "Right to Food. Urgent" Campaign. 2011. *Guide for the Practical Application of the Right to Food Approach in Development Projects*. Spain.

The right to food environment assessment should include:

- Legal framework
- Policy framework
- Institutional framework
- Civil society participation
- Budget analysis

OPTIONS TO IDENTIFY THE MOST RELEVANT LAWS, REGULATIONS, POLICIES AND INSTITUTIONAL SETTINGS AND DEFINE THE ASSESSMENT DOMAIN

- Refer to the causal analysis results: select the laws, regulations and policies most directly related to the underlying causes of food insecurity and vulnerability, and the institutions with responsibilities for those laws, etc.
- Start with a national food and nutrition security policy and/or strategy, if in place, and examine linkages with sector policies, specific laws and regulations, and the institutions responsible for implementation of the policy and/or strategy.
- Start with laws and policies that relate more directly to the core content of the right to adequate food: food availability, economic and physical access to food, food adequacy and food utilization.
- Conduct one or more brainstorming sessions with key informants from key line ministries, a human rights institution, office of the ombudsman or national rapporteur, to draw up an initial inventory or to validate an inventory of laws, regulations, policies, and of the institutions responsible for these.
- Examine similar assessments conducted in other countries, and internalize the process and results within the context of your country.

Source: based on FAO. 2009. *Guide to Conducting a Right to Food Assessment*. Rome.

4.1. THE LEGAL FRAMEWORK

Guideline 7.1 “States are invited to consider, in accordance with their domestic legal and policy frameworks, whether to include provisions in their domestic law, possibly including constitutional or legislative review that facilitates the progressive realization of the right to adequate food in the context of national food security”.

The objective behind analysing the legal framework in the right to food is to **determine whether the legal setting is unfavourable for the progressive realization of the right to food**, and therefore to establish whether its modification should be a priority for the country.⁶

POTENTIAL RELEVANT COMPONENTS INVOLVED IN THE LEGAL SETTING

- States' international obligations *vis-à-vis* the right to food.
- Reflection in the constitution of the right to food.
- Specific national legislation on the right to food and/or food and nutrition security.
- Sectoral national legislation that may have repercussions on the right to food.
- Customary law that may have repercussions on the right to food.
- Resource mechanisms.
- Case law pertaining to the right to food and/or other related rights.
- Human rights institutions.

Source: based on FAO. 2009. *Guide to Conducting a Right to Food Assessment*. Rome.

First, analyse the state's international human rights obligations stemming from the ratification of international human rights treaties, particularly:

- International Covenant on Economic, Social and Cultural Rights (ICESCR) and its optional protocol;
- International Covenant on Civil and Political Rights;
- Convention on the Elimination of All Forms of Discrimination against Women;
- Convention on the Rights of the Child;
- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa;

6. For assessing the legal setting, it may be helpful to consult Handbooks 1, 2 and 3, on right to food legislation.

Guideline 7.2 “States are invited to consider, in accordance with their domestic legal and policy frameworks, whether to include provisions in their domestic law, which may include their constitutions, bills of rights or legislation, to directly implement the progressive realization of the right to adequate food. Administrative, quasi-judicial and judicial mechanisms to provide adequate, effective and prompt remedies accessible, in particular, to members of vulnerable groups may be envisaged”.

- Additional Protocol (San Salvador) to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights;
- European Social Charter.

Second, the national legal framework must be analysed because many laws, ranging from those on food security to those that regulate access to natural resources, private law, labour law, and laws on welfare and social security, serve to realize the realization of the right to food.

Within the national legal framework both the existence of legislation referring to the right to food and its enforcement must be analysed in the following spheres:

- the constitution: constitutional recognition of the right to food, explicitly, implicitly, or as a guiding policy principle;
- national legislation: framework laws on the right to food or food and nutrition security, as well as other sectoral legislation or legislation with a bearing on the basic content of the right to food;
- customary law, which in certain countries is very important on issues such as access to productive resources, land and water.

Assessment must not only cover legislation as it exists or is formulated, but also how it is developed and enforced.

Assessment of the right to food should also describe quasi-judicial and/or judicial recourse mechanisms when legal and/or constitutional rights are violated, and who can access these appeals (i.e. individuals, groups, NGOs, and so forth). Here it is important to ascertain whether or not there is pertinent case law, not only regarding the right to food, but also allowing one to determine the judiciary’s attitude towards social and economic rights, in order to ascertain whether they are considered individual rights that can be sought before a court.

Human rights institutions may also play an important role in the realization of economic, social and cultural rights. Therefore, it is useful for the assessment to examine the type of human rights institutions that are present (i.e. ombudsmen, human rights committees, etc.), whether their mandates include the right to food, and their attributions and competences.

Guideline 18.1 “States that have as a matter of national law or policy adopted a rights-based approach, and national human rights institutions or ombudspersons, may wish to include the progressive realization of the right to adequate food in the context of national food security in their mandates. States that do not have national human rights institutions or ombudspersons are encouraged to establish them. Human rights institutions should be independent and autonomous from the government, in accordance with the Paris Principles. States should encourage civil society organizations and individuals to contribute to monitoring activities undertaken by national human rights institutions with respect to the progressive realization of the right to adequate food”.

4.2. POLICY FRAMEWORK

The assessment of a country's policy framework must reveal **the extent to which policies, programmes and strategies favour the gradual realization of the right to adequate food**, and whether the policy framework is responding to the underlying and fundamental causes of the non-realization of this right *vis-à-vis* certain groups.

The policy framework should contribute to generating an enabling environment for persons to access food themselves. Direct food policy should have clear and practical definitions of the policies that enable the right to food to be progressively achieved. Indirect policies on food must at least respect and protect the right to adequate food.

THREE BASIC CRITERIA THAT SHOULD GUIDE A HUMAN RIGHTS-BASED POLICY

- The policy or programme must contribute to the realization of human rights.
- Human rights principles must guide all of the phases of programming and enforcement.
- Human rights-based programmes and policies must contribute to capacity building of rights-holders and duty-bearers so that they are aware of their obligations and take on their responsibilities.

Source: based on OHCHR. 2006. Frequently asked questions on a human rights-based approach to development cooperation. New York and Geneva.

There are two potential situations where the overall policy framework does not contribute to creating an enabling environment for the realization to the right to adequate food:

- i. When there are no adequate policies geared towards the population suffering from food insecurity and vulnerability. From the human rights standpoint, the analysis of the lack of policies must ascertain whether or not the state is complying with its obligations to respect, protect and safeguard the right to food.
- ii. When policies have unfavourable repercussions on the population. Assessment of the policies in force should address whether or not they are solid, have been formulated and implemented in accordance with human rights principles, address the causes of food insecurity and vulnerability, are geared towards the most needy, and whether or not they have a positive impact on realization of priority groups' right to food.

In addition to policies and programmes, it is important to evaluate the quality and sustainability of their implementation. This depends on several factors, such as the ability to manage the person or institution responsible; rights-holders' ability to obtain benefits from programmes or policies; ties between specific policies in this area and other public policies; the allocation of sufficient resources; and so forth. This part of the assessment may be complemented with stakeholder consultation and interviews with vulnerable groups.

The Right to Food Guidelines include the most pertinent areas of policy that may be considered in the implementation of the right to food, and may therefore serve as a reference in the assessment.

- Guideline 8: Access to resources and assets
 - Guideline 8A: Labour
 - Guideline 8B: Land
 - Guideline 8C: Water
 - Guideline 8D: Genetic resources for food and agriculture
 - Guideline 8E: Sustainability
 - Guideline 8F: Services
- Guideline 9: Food safety and consumer protection
- Guideline 10: Nutrition
- Guideline 11: Education and awareness raising
- Guideline 13: Support for vulnerable groups
- Guideline 14: Safety nets

In addition to the policies that have a direct relationship with food security, there are broader policies such as fiscal, monetary and general development policies, that may directly or indirectly have an even greater effect on the right to food. These policies may pose conditioning factors to other food and nutritional policies and thus impact the constraints and incentives that individuals facing them have when they try to meet their dietary needs.

Here, the macroeconomic environment is determined by certain parameters and essential rules, often established by the government, that affect nations' trade relations and

conditions for economic growth over the long term. These parameters and rules may be placed in one of three major categories:¹¹

- those that affect the international flow of resources, such as foreign exchange regulation;
- those that have to do with the monetary regime, such as interest rates;
- those that governments establish to finance their own functioning, such as taxes and levels of government spending.

11. Thomson A. & Metz. M. 1998. *Implications of Economic Policy for Food Security: A Training Manual*. Training Materials for Agricultural Planning, 40. FAO. Rome.

4.3. INSTITUTIONAL FRAMEWORK

Guideline 5.1 “States, where appropriate, should assess the mandate and performance of relevant public institutions and, where necessary, establish, reform or improve their organization and structure to contribute to the progressive realization of the right to adequate food in the context of national food security”.

In many countries, **realization of the right to food rests on the proper functioning of certain public institutions** considered to be agents that perform specific functions. In this case, they contribute to progressive realization of the right to food. The intersectoral nature of this right requires coordination between the various ministries and national, regional and local government offices. Clarifying the attributions that the different sectors and areas of government have can lead to an increase in accountability and more effective action.

Inadequate and ineffective institutional performance, or a lack of institutional response because no appropriate institution exists, may be contributing factors to the non-realization of the right to adequate food.

As a result, the first step for assessment is to select the institutions responsible for ensuring the right to food. There may be many pertinent institutions from the right to food standpoint. A list of ten institutions at most will be sufficient to analyse the institutional framework’s ability to respond to the real causes of hunger and work with a human rights-based approach. The following institutions are likely to be of particular interest:

- Institutions in charge of social protection programmes (school feeding programmes, food stamps, cash transfer, food aid, food for work, etc.).
- Overarching commissions or committees responsible for coordinating food security/ right to food at different levels.
- In countries where hunger is predominantly a rural problem, institutions for agrarian development and land administration might influence realization of right to food.
- Institutions in charge of health, nutrition, education, agriculture, sanitation, housing or similar functions highly relate to the realization of the right to food.

RELEVANT ASPECTS TO BE FACTORED INTO INSTITUTIONAL ASSESSMENT

<p>Responsibility / mandate</p>	<p>Does the institution have a mandate to act? What are its terms of reference? What role does the institution play in implementing the right to food? Are the institution and its staff aware of their task and their role as duty-bearer? To what extent does the mandate target vulnerable groups and groups with food insecurity? What adjustments are needed in the institutional mandate?</p>
<p>Authority</p>	<p>Does the institution have the necessary authority to perform the functions foreseen? Can the institution speak with authority on a given topic? What is the institution's position?</p>
<p>Access and control of resources</p>	<p>Does the institution have command over sufficient resources to perform its functions? Are enough staff hired to conduct the tasks? Does the institution interact and coordinate with other institutions?</p>
<p>Capacity</p>	<p>Does the institution have the technical capacity to perform its functions? Are the staff adequately trained on their subject matter and the right to food?</p>

Source: based on FAO. 2009. *Guide for Conducting a Right to Food Assessment*. Rome.

4.4. PARTICIPATION OF CIVIL SOCIETY ORGANIZATIONS

Guideline 18.2 “States are invited to encourage efforts by national institutions to establish partnerships and increase cooperation with civil society”.

Civil society organizations (CSOs) are important when supporting claims made by vulnerable groups in order for their right to food to be recognized. Equally important are their activities in training and advocacy so that holders of the right to food become aware of their rights, understand what non-compliance to the right to food is, and are informed of the mechanisms in place to seek remedy and file complaints so that their right to food, if violated, is finally recognized.

For the progressive realization of the right to adequate food, rights-holders (or their representatives) must be aware of this right, understand its content, and know how to claim it. One important factor is for rights-holders to have access to complete, updated and impartial information on at least the issues affecting their livelihoods and their enjoyment of rights. They need to know who to hold accountable for violations of the human right to food and with whom they should file their complaints. While the poor are often well informed about government programmes from which they might be able to directly benefit, they do not know where to turn when they are denied access to these programmes or when the services promised are not performed. Also, they are often unfamiliar with the notion of being rights-holders. This is why the work in training, information and awareness raising that CSOs can do with rights-holders is so important.

Furthermore, assessment must both observe how CSOs participate in designing, implementing and supervising policies, and evaluate the quality of CSOs’ commitment.

4.5. BUDGET ANALYSIS

The budget is the most important economic policy instrument any government produces. Formulating a public budget requires concrete decisions about how money should be raised and spent. The budget analysis constitutes an important part of the assessment of the country's policies and programmes. Public budget allocations and expenditures, when adequately analysed, reflect the implementation of political commitments (or the lack thereof) towards policy goals and targets, including those that relate to the realization of the right to adequate food.

Due to its complexity, analysing public budget allocations and expenditures on achieving food and nutrition security is no easy task, and it should be commended to an expert on both budgets and the right to food. Despite the difficulties involved, this part of the assessment reflects whether or not there is compliance with Article 2.1 of the ICESCR which obliges each state party to “take steps ... to the maximum of its available resources with a view to achieving progressively the full realization of the rights”. This article implies that states must not retrogress from levels of realization previously achieved, and that the government as primary duty-bearer should prioritize the allocation of resources to necessary public services.

The assessment should concentrate on these two issues:

1. whether the state, in allocating resources, is prioritizing the realization of economic, social and cultural rights in general, and the right to food specifically;
2. whether or not the state is retrogressing from levels of realization previously achieved.

Budget analysis must therefore reveal:

- the resources available and how they evolve over time;
- how they are used over various budgetary periods;
- what the priorities are.

The multisectoral nature of the right to food makes it particularly hard to analyse budgets to identify which budget items promote this right. Also, differences between budgets that have been approved and actual spending, in addition to the relative efficacy and efficiency of the expenditures made, complicate the analysis even further.¹²

12. See Handbook 8 for further information about budget analysis.

WHEN DOES A PUBLIC BUDGET TAKE INTO ACCOUNT THE RIGHT TO FOOD?

- The fight against hunger is reflected in the budget as a government priority.
- A growing proportion of the budget is targeted to food insecure, vulnerable and marginalized populations with resources allocated to improve their quality of life.
- The budget allocations and expenditures are equitable and non-discriminatory, and promote social and economic inclusion.
- Detailed budget information is fully accessible at all stages of the budgeting process (formulation, legislative, implementation and audit phases).
- Budget cuts are not disproportional at the expense of social policies.
- In case of signs of retrogression from already achieved levels of right to adequate food, compensatory measures are included in the budget.

Source: based on FAO. 2009. *Guide for Conducting a Right to Food Assessment*. Rome.

Currently, there is no consensus on what should be included on a “food security budget line”. However, FAO puts forward eight indicators that can serve to orient us in this budget analysis that goes beyond the assessment of the right to food:

1. **Action against hunger.** This indicator may manifest a government’s commitment to combat hunger in order to, for instance, meet the Millennium Development Goals (MDGs).
2. **Institutionalization of combating hunger.** This indicator would show the funding allocated to the main institution responsible for food security.
3. **Investment in agriculture.** It is important to know the percentage of public spending on resources for small-scale farms because they suffer from food insecurity the most.
4. **Employment.** This indicator would serve to ascertain the percentage of resources allocated to generating employment and income to eradicate hunger.
5. **Basic health services.** Investment in basic health.
6. **Emergency mitigation.** Percentage of the budget allocated for emergencies and particularly emergency food relief.
7. **Participation.** This indicator provides information on whether or not civil society organizations are involved in the budgeting process and whether their participation is effective.
8. **Public debt.** Repayment of the debt may have repercussions on budgetary items, and particularly basic social services.

This collection of RIGHT TO FOOD HANDBOOKS has been compiled from publications forming part of the Right to Food Methodological Toolbox prepared by FAO's Right to Food Team.

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For more information on the Right to Food Methodological Toolbox, visit the website: www.fao.org/righttofood or contact us at: righttofood@fao.org

RIGHT TO FOOD HANDBOOKS

1. The right to food within the international framework of human rights and country constitutions
2. Development of specific right to food legislation
3. Review of the compatibility of sectoral laws with the right to food
4. General aspects regarding monitoring the right to food
5. Procedures for monitoring the right to food
6. Information for monitoring the right to food
7. Assessment of the right to food
8. Advocacy on the right to food based on the analysis of government budgets
9. Who's who in the right to food
10. Right to food training

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