



FRAMEWORK LAWS ON THE RIGHT TO ADEQUATE FOOD

'A world without hunger and malnutrition is still within reach, but we must act quickly and decisively. It is our common responsibility to promote the political will that will allow us to guarantee that everyone can feed themselves with dignity. Zero Hunger by 2030 is still possible if we all work together.'

José Graziano da Silva, FAO Ex-Director-General,
Global Parliamentary Summit against Hunger and Malnutrition (Madrid, October 2018).

BACKGROUND

With the 2015 Sustainable Development Goals (SDG2), member countries of the United Nations pledged to end hunger by 2030 through decisive national action and international and regional cooperation. In the Latin American and Caribbean region, countries had committed to eradicate hunger five years earlier, by 2025, through the [Hunger-Free Latin America and the Caribbean Initiative 2025 \(IALCSH\)](#). For this, the main roadmap is the [Food Security, Nutrition and Hunger Eradication Plan 2025](#) adopted in 2013 by the Community of Latin American and Caribbean States (CELAC). This initiative, added to the ratification by the countries of the region of international and regional human rights treaties that guarantee the right to adequate food, are clear indicators of their determination to achieve the eradication of hunger.

For this purpose, countries must act separately and collaboratively to put into place an enabling environment that includes effective legislative measures, such as framework laws on the right to adequate food. To increase the incidence of these laws in national contexts, FAO, together with the Spanish Cooperation and the Mexican Agency for International Development Cooperation

(AMEXCID), promotes the [Parliamentary Front against Hunger in Latin America and the Caribbean \(PFH LAC\)](#). This permanent and plural parliamentary network is composed of 21 national parliaments¹ and four regional and sub-regional parliaments. The PFH LAC pays special attention to the right to adequate food and nutrition, especially in the context of the COVID-19 pandemic (FAO, 2020a) and the new challenges countries will face in the post-pandemic period.

The [Voluntary Guidelines to support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security](#), adopted by the FAO Council in 2004, provide useful recommendations as to how to realize the right to food. They address key aspects for the realization of the right to adequate food related to the establishment of an adequate enabling environment for people to feed themselves or to get assistance when they cannot do it on their own. Regulatory areas of these guidelines include nutrition, education, food safety,

¹ The following 21 countries have parliamentary fronts: Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Granada, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the Dominican Republic, Saint Vincent and the Grenadines and Uruguay.



access to employment and natural resources and safety nets for the protection of the most vulnerable. Guideline No. 7 encourages States to create and implement frameworks laws and strategies to secure the right to food over the long term. The Committee on Economic, Social and Cultural Rights has made a similar recommendation.

The **Committee on Economic, Social and Cultural Rights** General Comment 12, 1999. Paragraph 29. Benchmarks and framework legislation, inter alia:

..... 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.

FRAMEWORK LAWS IN LATIN AMERICA AND THE CARIBBEAN

The right to food is recognized in framework laws in some countries of Latin America and the Caribbean. In **Brazil**, the **Organic Law on Food and Nutrition Security No. 11.346** (2006) establishes a Food and Nutrition Security System (SISAN), which aims to promote, throughout the national territory, the human right to adequate food. In **Ecuador**, the Framework Law of the **Food Sovereignty Regime** (2009) establishes the Food and Nutrition Sovereignty System (SISAN) as an articulated body of public and social actors for the participatory construction of public policies. In **Guatemala**, the **National System of Food and Nutrition Security Law, Decree No. 32** (2005), establishes an institutional structure that facilitates planning and coordination between State institutions, consultation and involvement of civil society, non-governmental organizations, and international cooperation agencies related to food and nutrition security, at different levels of the country (national, departmental, municipal and community). In the **Dominican Republic**, the **Law that creates the National System for Food and Nutrition Sovereignty and Security No. 589** (2016), establishes that this system is in charge of adopting and implementing food and nutrition sovereignty and security policies, as instruments directed to respect, protect, facilitate and exercise the right to adequate food, in accordance with human rights principles, in order to improve the quality of life of the Dominican population².

In 2012, the Latin American and Caribbean Parliament (PARLATINO) adopted the **Framework Law on Right to Food, Food Security and Sovereignty**. This law, prepared with the technical assistance of FAO, is the result of the consensus among parliamentarians from Latin America

² Other relevant framework laws in the region are those of Honduras "Food and Nutrition Security Law" Decree No. 25 (2011), Mexico "Food and Nutrition Security Law for the Federal District" (2009), Nicaragua "Law of Food and Nutrition Sovereignty and Security" No 693 (2009) and Venezuela "Organic Law on Agrifood Safety and Sovereignty", Decree No. 6.071 (2008).

and the Caribbean. The law identifies the essential regulatory elements that a law on the matter should include and incorporates a human rights-based approach. The PARLATINO framework or model laws, despite not being binding, are a relevant tool that countries can use as a reference and adapt to their different realities.

HOW CAN A FRAMEWORK LAW HELP?

Food and nutrition security and the right to adequate food are multidimensional and cross-sectoral in nature. Their realization cuts across economic, social, cultural, environmental and political life and is intrinsically linked to that of other human rights, such as the right to water, the right to property, access to land and other productive resources, the right to health, the right to decent work and fair pay, among others.

A **framework law** is a law used to legislate on multisectoral matters in a consistent, coordinated and comprehensive fashion, laying down general principles and obligations while leaving the details to lower-level laws and giving the competent authorities the power to define the necessary measures within the framework established by law.

A framework law provides a legislative structure that brings together under one governing law, different sectoral disciplines, as well as the legal grounds for organizing the multiple state actors responsible for securing the right to food. A good framework law will provide clarity as to the definition, scope and content of the right to adequate food, and will aid the interpretation and implementation of this right at the national level. It can also serve to integrate plans, programmes and policies, to provide direction for institutional mechanisms, to define budgetary allocations that the law will have for its implementation and provide grounds and mechanisms for effective reparation.

At the same time, a framework law acts as a guide for the adoption and implementation of complimentary regulations or legislation, enabling a degree of freedom and autonomy for the diverse sectors and disciplines. This way, room is left for geographical or regional adjustments, to ensure the optimum and most applicable operation of the law in accordance with the particular context, discipline or environment of implementation. A framework law is not intended to regulate in detail any of the many sectoral areas relevant to the realization of the right to food.

A framework law on the right to adequate food that results from extensive and inclusive consultations, and contains a clear definition of the regulated sectors, the roles and responsibilities of relevant actors, budget provisions and transparency and accountability mechanisms, can be a useful and effective tool for guaranteeing, implementing and monitoring the right to adequate food and achieving food and nutrition security in the long term.

DRAFTING A FRAMEWORK LAW ON THE RIGHT TO FOOD

Given the multi-dimensional nature of the right to adequate food and food and nutrition security, the preparation of a framework law to secure the right to food, requires adequate and informed multi-stakeholder consultation. Its effective implementation will depend on the broad and crosscutting support it receives from society and institutions.

The law should be prepared with the participation of various ministries, such as those of agriculture, health, education, justice, finance, planning, trade, women, environment and employment. Moreover, civil society organizations, the private sector, small and medium sized farmers, women and youth organizations, rural and urban organizations from all geographical, ethnic and linguistic regions, academia and professional associations and international development agencies, among other stakeholders, should also be involved. Such broad-based consultations are useful in terms of providing empirical evidence on the issues to be addressed, enriching the substantive contents of the law, promoting policy coherence in the pertinent sectors and creating awareness on rights and duties relating to food and nutrition security among relevant stakeholders.

Drafting a framework law on the right to food and food and nutrition security may include the following actions:

- Identify the international and regional right to food commitments of the country regarding the right to food, and the laws, policies and programmes that may be affecting this right;
- Review the context of the right to food in the country, the state of food and nutrition security, the groups that are most vulnerable to food insecurity and the causes for food insecurity;
- Consider the legal and institutional environment, the potential for redesigning policies that may affect the right to food and the opportunities that exist for a successful framework law;
- Consider what form and legal status in hierarchy of national legal sources the framework law should take (for example, below the Constitution but with higher status than ordinary law);
- Carry out an impact analysis, including a costs-benefit analysis, of the potential social, administrative, budgetary and economic consequences of the framework law (among other aspects), to determine capacity for its implementation, the proper allocation of a budget for this purpose and its most effective enforcement modality;

- Design a participatory drafting process by building alliances with multisector partners (for example civil society entities, human rights experts and academia), facilitating the buy in by counterpart agencies and ministries.
- Consider opportunities for South-South Cooperation: could your country's experience benefit other countries or could your country benefit from the support by other countries?.

GENERAL PROVISIONS OF A FRAMEWORK LAW

The following table sets out a checklist of key elements to structure a framework law on the human right to adequate food and food and nutrition security. It provides a list of possible contents that drafters can customize to suit the needs and obligations of each country.

1. General Provisions	Recommendation
Preamble	Set out the overall objectives and reasons for the law, including express reference to the country's goals to end hunger and malnutrition, and guarantee sustainable food and nutrition security; the human rights principles using international human rights instruments as a guide and the context for implementation.
Title and Objectives	Consider including the 'right to adequate food' explicitly in the title. Make explicit that the realization of the human right to food is the main objective. Consider formulating public policy goals on food and nutrition security and specify that the purpose and objectives of the law should be achieved in a way that is consistent with human rights principles.
Scope	Clearly determine who is governed by the law and what activities and subject matters it covers, for example, refer to who the rights holders are, and the duty bearers, including the obligation to protect and regulate third party activities and the specific responsibilities of different state authorities, as well as the hierarchical status of the law within the domestic legal sphere.
Definitions	Provide clarity in terms and concepts, such as: 'food security', 'nutrition security', 'adequacy', 'availability', 'vulnerability' etc. Include definitions of main key terms and ensure the definitions are consistent with international human rights law.
Principles	Set out the fundamental principles for all levels of government actions: for example, participation, accountability, non-discrimination, transparency, human dignity, empowerment, and rule of law.
2. Substantive Provisions	Recommendation
The right to adequate food	Fully establish the right to adequate food and the approaches to its realization by specifying the fundamental right of every person to be free from hunger with the consequent obligations on the State to act immediately; and the right of all to adequate food, including reference to groups of the population with special needs such as the elderly, people with disabilities, certain chronically sick people, children and pregnant or lactating women etc. conferring the obligation upon the State to take measures to ensure the conditions for food and nutrition security.
Non-discrimination with remedies	Set out the right of every person not to be discriminated against either directly or indirectly by the organs of the State; consider including 'special measures' to remedy the effects of discrimination and to achieve formal and substantive equality in implementation; identify specific groups that may be subject to situations of vulnerability, for example, women, indigenous peoples or other groups and reinforce the duty to prevent and eliminate discrimination against them.
State obligations	Set out the State's obligation to respect, protect and fulfill the right of all to feed themselves with dignity. Ensure these terms are defined and covered by specific clauses in the framework law (See Briefing 1 for further explanation).
Impact assessment	Consider including provisions requiring right to food impact assessments to ensure compatibility with the obligation to respect, protect and fulfill the right to food and to avoid interference in the exercise of the right.
Emergencies	Include provisions on ensuring the right to food in emergency situations, covering disaster risk management and preparedness, early warning systems, as well as the designation of a coordinating authority.

3. Provisions for Implementation	Recommendation
Information	Stipulate the right of every person to seek and receive information of relevance to the right to food. Require competent authorities to disseminate and provide requested information promptly, clearly and in the most appropriate form, considering linguistic barriers and illiteracy rates. Provide for improved systems of data collection and statistical analysis.
Education and awareness raising	Include measures for education and awareness-raising on nutrition, human rights, sustainable development etc. with specific provisions for children and adults.
Coordinating institutions	Provide for a national coordinating authority for the multisector and interdisciplinary collaboration of public/private institutions and stakeholders with adequate budget and powers. Consider also coordination bodies at regional or municipal levels.
Sectoral review	Provide for the review of sectoral legislation for its compatibility with the right to food, with priority areas and suggested time frames for completion.
Monitoring system	Make provision for independent human rights-based monitoring of the realization of the right to food and of the framework law itself. Include the designation of a responsible authority to collect sound data, ensure separation of powers and transparency throughout (consider establishing National Human Rights Institutions in accordance with the Paris Principles).
Civil society representation and participation	Include provisions for civil society participation in the coordinating body, in monitoring and in regular consultation spaces.
Remedies	Provide for adequate remedies in cases of breaches or violations. This should include adequate budget and allowance for administrative complaints, judicial remedies, and the functioning of national human rights institutions, including training for judges and other public officials.
Timeframes	Compliance provisions should be included with deadlines for the adoption of specific implementing legislation.
Financial provisions	Provisions should be made on financing for the implementation of the law, including the establishment of any special funding areas. Transparent financial reporting obligations should be established.
International cooperation	Consider whether to include any aspect related to international cooperation for implementation or whether any relevant extraterritorial obligations should arise (for example, in the elaboration of trade deals).

CHECKLIST FOR PARLIAMENTARY ACTION

All State bodies, including the legislative body, have the obligation to respect, protect and fulfil (facilitate and enforce) the right to adequate food for all.

The [Parliamentary Front against Hunger in Latin America and the Caribbean \(PFH LAC\)](#) promotes this kind of initiatives in the region and provides a space to foster participation, connect interested parties, enhance transparency and promote technical assistance and awareness-raising. Its alliance with FAO, the Spanish Cooperation, and the Mexican Agency for International Development Cooperation (AMEXCID) opens the possibility for parliamentarians and their advisors to participate in trainings, exchanges of experiences and public information, and media campaigns to generate greater impact.

As elected representatives, parliamentarians could take the following actions to promote the adoption of a framework law on the right to adequate food and food and nutrition security:

- Consider joining one of the national chapters of the Parliamentary Front against Hunger and Malnutrition in your country, or forming one of these fronts if it does not exist in your country;
- Review national legislation and policies for inclusion of the right to adequate food and look for opportunities to formulate and enact relevant legislation;
- Promote the ratification of international and regional treaties, such as the ICESCR and the Protocol of San Salvador, that protect the right to adequate food and incorporate the provisions on the right to adequate into national legislation instruments;
- Consider expert reports on the state of the right to adequate food, for example, from human rights institutions, UN bodies and other sources, and follow up on their recommendations;
- Revise and approve budget proposals that ensure public funding will be used as effectively and efficiently as possible in the implementation and protection of the right to adequate food and monitor approved budgetary expenditures, identifying allocation and spending gaps;

- Seek improvement of knowledge and skills related to the right to adequate food, for example, by participating in trainings and capacity building activities;
- Spread the word, inform and generate consensus and public support, support the financing of public awareness and education activities on right to food;
- Secure partnership, and find allies to support the drafting of a framework law, seeking expert support for the drafting;
- Organize parliamentary hearings and consultative meetings to discuss the right to food framework law and promote free and inclusive public participation and input from civil society organizations, including women's organizations, rural and community groups, academia, government, public and private sector representatives, etc.;
- Share good practices and experiences with other parliamentary groups around the region and the world.

REFERENCES AND RESOURCES FOR FURTHER INFORMATION

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