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Implementation of the right to food at the national level

Contribution of the Food and Agriculture Organization of the United Nations

A. STATE OBLIGATIONS AND THE LEGAL FRAMEWORK

A.1 State obligations

State Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognize the right of everyone to adequate food and undertake to take appropriate steps for the progressive realization of that right (Articles 11 and 2). The very least that can be inferred from that obligation, therefore, is that State Parties must have policies that have the aim of securing the right to food for all, in other words, a food security¹ policy. As Article 2 commits State Parties to take such steps to the maximum of available resources, there is also a duty to prioritize spending of financial and other resources on action that contributes to achieving food security.

Most State Parties to the ICESCR are also Parties to the International Covenant on Civil and Political Rights and other human rights instruments. Moreover, they participated in the World Conference on Human Rights, which declared that all human rights are universal, indivisible, interdependent and interrelated.² This entails that in implementing specific rights, such as the right to adequate food, other rights - civil, cultural, economic, social and political - must also be respected. The obligations of conduct are thereby reinforced along the obligations of result. A rights based approach to food security therefore is concerned not only with the achievement of food security for all, but that the process of achieving that result is the best possible.³

While the whole range of human rights instruments give an indication of the principles involved in a rights based approach, they are sometimes⁴ shortened in the following way:

- *Participation* - in decisions by those affected, by beneficiaries of programs
- *Accountability* - by government institutions for their actions, through internal and external recourse as well as through public scrutiny
- *Non-Discrimination* - regarding all human rights, on basis of race, sex, religion etc.
- *Empowerment* - of the poor and the disadvantaged so they can claim their rights for themselves
- *Legislative framework /Rule of Law* - human rights outcomes and processes ensured through reference to international and national human rights standards in defining development objectives and government action governed by law.

¹ Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life (Plan of Action of the World Food Summit, paragraph 1, *Report of the World Food Summit, Part One*, Attachment, FAO, Rome, 1997)..

² Vienna Declaration and Programme of Action, Report of the World Conference on Human Rights, UN Document A/CONF.157/23, paragraph 5.

³ See also paragraph 4 of General Comment 12 of the CESCR, E/C.12/1999/5,

⁴ See for instance *Human Rights in Development, What, Why and How*, OHCHR, Geneva, 2000.

A.2 Legislative measures

Article 2 of the ICESCR commits State Parties to take legislative measures for the implementation of the rights recognized in the Covenant. In the case of the right to adequate food, relevant legislation ranges from food safety through production and marketing to social security. Food security and the right to food are thus multidimensional and cross sectoral in nature, requiring legislative measures in many different areas.

General Comment 12 of the CESCR recommends the adoption of framework legislation on the right to food⁵. Such a regulatory framework, while not an obligatory measure for State Parties, would be useful for several reasons.

- It could assign responsibility to the different government agencies involved, and define overall responsibility for one particular organ, thus overcoming the problem arising from too many actors bearing responsibility, which tends to lead to lack of responsibility.
- Greater accountability would be achieved through legislation laying down the responsibility. Legislation in itself is a transparent measure, and it can also provide for public access to government information that otherwise would not necessarily be released.
- Participation in decision making is a key element of rights, this could also be provided for in the legislation, by formalising the role of communities, NGOs and civil society at large.

Human rights should be ensured through effective recourse in case of violations. Such recourse could be defined, for instance, by deciding by law the modalities of oversight by human rights bodies (Ombudsmen, Human Rights Commissions and the courts) and which aspects are actionable. Without specific legislation, relying only on constitutional or international legal provisions, recourse is ill defined and may not be effective, for instance in defining who can claim recourse for which action or omission by which government organ. If not defined by law, recourse would depend on the inclination and practices of the courts and other such organs solely.

While framework legislation would probably not dictate policy in any detail, it would establish the principles to which such policy should conform, as well as perhaps defining actions which were forbidden to ensure respect for the right to food. It would also set in action review of other, sectoral legislation and set targets for the progressive achievement of the right to food, which will be monitored by specified actors.

Finally, the process of establishing framework legislation should itself be participatory and tailored to the particular circumstances of different countries. For that reason, no attempt has been made so far at drafting model legislation. However, some guidance could be envisaged, in particular if and when experience in specific countries becomes available.

B. IDENTIFYING FOOD INSECURE: CONCEPTUAL ISSUES AND INFORMATION REQUIREMENTS

B.1 Poverty and Food Insecurity: Exploring The Linkages

Poverty seems to have taken centre stage in the development debate and the centre of attention of programmes of international bodies, international conference declarations, bilateral donors and multilateral funding organisations. Less attention (at least in public

⁵ See paragraph 29, GC 12, E/C.12/1999/5.

pronouncements) has been paid to food insecurity, although it is one of the direst traits of poverty in most societies especially those in the developing world.

And while poverty is a generic concept that manifests itself in multiple ways in different socio-cultural and economic contexts, the concept of food insecurity (do people have reliable access to enough, adequate food or not?) is highly specific, forming an effective tool to target, design and monitor policies and programmes for poverty reduction. Ensuring the right to adequate food is the first step towards poverty alleviation.

Extreme poverty (income under US \$ 1/day) is affecting 1.2 billion people, while food insecurity (undernourishment) affects 0.8 billion. Looking at maps and trends, the incidence of the two symptoms is consistent, and they have largely moved through time following similar patterns. The main cause for the difference is that the undernourished are identified on the basis of physiological needs – less than 1.55 BMR⁶ (about 1800 kilocalories for an average person) – while extreme poverty is based on social needs – \$ 1 per day, covering the value of a basic food basket (some 2100 kilocalories) and other essential needs. The majority of the extreme poor are undernourished, and nearly all of them are vulnerable to food insecurity. But even though the two phenomena largely overlap, there are reasons to highlight the particularities of food insecurity with respect to extreme poverty.

Undernourishment is the prime cause of the energy deficiency in humans, and of their lack of other essential nutrients that can only be obtained from sufficient and wholesome food. One often hears that “the poor have labour as their only asset”. For the hungry however, even their labour is a very poor or non-existent asset. They are not able to work, and their bodies and intellect are damaged – permanently when hunger was their fate from birth onwards. The health of mind and body is compromised by lack of food both in the quantity and variety required. While the economic handicap of being hungry has long been established at individual level, recent research has shown that this handicap extends to the overall economic performance of a country. When a significant proportion of the population is undernourished – and indeed, in 28 countries totalling nearly half a billion people, from one to two thirds of the population is food insecure – potential rates of economic growth are curtailed.

Food insecurity means that those affected must sacrifice all available resources to ensure mere survival. No investment, no risk taking opportunity, no forward-looking undertaking can be considered if this may jeopardise the short-term survival of the individual or family group. Food insecurity is the face of poverty for people living in it.

B.2 Information in support of the right to food: The Food Insecurity and Vulnerability Information And Mapping Systems (FIVIMS)

The importance of monitoring in the context of implementing country-level strategies towards fulfilling the right to food is raised in paragraphs 29 and 31 of the General Comment 12 i.e. provision of appropriate mechanisms for monitoring targets as part of the *framework law* establishing a national strategy for the right to food (para. 29) and as part of the strategy itself - monitor progress towards the realisation of the right to adequate food for all (para. 31).

⁶ BMR: Basic Metabolic Rate

An indispensable requirement of a national strategy striving to promote access to adequate food by all, is information on the extent and nature of undernourishment, the identification of those in need, their socio-economic and demographic characteristics (age, gender) the range of factors which place people at risk of being food insecure and the means at the disposal of households to deal with such risks. Such information is deemed necessary for proper targeting of the needy and for setting priorities for allocation of limited resources among competing targets. Available through time, such information ensures proper identification of progress, reveals the weaknesses in strategy implementation and points to the necessary changes in intermediate objectives or instruments.

Putting together such information at the national level requires the co-operation of people who work in diverse sectors such as agriculture, nutrition, health, education social welfare, economics, public works and the environment. Many countries have already in place statistical services and information systems which provide and analyse information relevant for measuring and monitoring food insecurity and vulnerability (periodic censuses and surveys, sectoral statistics, health statistics, nutritional status, early warning etc.). Information provided by such systems varies from country to country, while in some, even basic information for assessing food insecurity and vulnerability is lacking.

In the context of a right to food, food security information systems are a central component of the war against hunger and malnutrition, while those systems are probably lacking where they are most needed, i.e. in countries with high prevalence of food insecurity and undernourishment . To design policies, programmes and legislation to realise food rights, we need answers to the following questions⁷:

1. Who is food-insecure and/or vulnerable to food insecurity?
2. Where are the food insecure located in space and what are their demographic and socio-economic characteristics (employment category, demographic groups)
3. What are the causes of food insecurity and vulnerability?
4. What is being done about food insecurity and vulnerability?

FAO hosts the international secretariat for the inter-agency Food Insecurity and Vulnerability Information Mapping Systems (FIVIMS) initiative, which endeavours to build a technical consensus on standards for food security information systems at the international level and seeks to provide coordinated cross-donor technical and material support to these systems at the national level. The establishment of FIVIMS was called for in the World Food Summit Plan of Action.⁸

B.2.1 Identifying Food-Insecure And Vulnerable People

Who is food-insecure? How many people are living in a state of food insecurity or are vulnerable to episodes of food insecurity? Where do they live? Answers to these questions

⁸ World Food Summit Plan of Action, Objective 2.2, paragraph (a): “[governments ... will] Develop and periodically update, where necessary, a national food insecurity and vulnerability information and mapping system, indicating areas and populations, including at local level, affected by or at-risk of hunger and malnutrition, and elements contributing to food insecurity, making maximum use of existing data and other information systems in order to avoid duplication of efforts;” (In Appendix to FAO. 1997. *Report of the World Food Summit*, part one. Rome). For more information on FIVIMS visit the website of the Inter-Agency Working Group on FIVIMS: www.fivims.net

serve to assess the overall progress made towards the realization of the right to food. Measures of the extent and degree of food insecurity can be compared with national policy benchmarks and targets. What is equally important is that the information helps to identify the types of people who are food-insecure as well as the areas affected. This enables policy-makers to target the groups or areas that are most in need of assistance.

There are several methods for identification. The FIVIMS initiative has provided a forum for discussing the appropriate measure(s). These range from anthropometric indicators of child and adult nutritional status, such as child stunting and wasting and adult body mass index, to dietary adequacy measures, which compare food intake with dietary needs. The food security problem can also be expressed in terms of income and people's food-purchasing power.

B.2.2 Identifying the Causes and Appropriate Responses

It is not enough simply to know who is food-insecure or vulnerable. To design policies capable of having a decisive impact on the realization of the right to food, we also need to know *why* people are food-insecure. Positive (or negative) impacts can be realized from interventions in a large number of areas as diverse as food quality control, female education and water use and sanitation. To know where to intervene, we need to identify which factors affect food insecurity and the channels of influence. If malnutrition is very strongly related to a high prevalence of water-borne diseases, improving access to clean drinking-water may be much more effective than introducing a school-feeding programme, for instance. Understanding some of the complex interactions that make people food-insecure is, perhaps, the major challenge to be addressed by FIVIMS.

B.2.3 Measuring Policy Progress and Impact

While the main focus of FIVIMS to date has been on the first two questions, FIVIMS could also generate indicators of policy performance in respecting, protecting and fulfilling the right to food. Thus, it would also serve as an information bridge between different bodies, such as FAO's Committee on World Food Security and the Committee on Economic, Social and Cultural Rights.

The basic purpose of collecting information on what is being done to realize the human right to food, not only by governments but also by NGOs, is to enable the identification of gaps in policy and programmes so as to give priority to locations, groups and sectors that are not covered by the existing framework. It is also important to know whether existing programmes are efficient and are achieving their objectives. This can sometimes be achieved using quantitative assessment methods, but systematic qualitative policy assessment is also effective.

B.2.4 Information Systems : What needs to be done

In order to direct policy towards the realization of the right to food, there is a pressing need to improve the quality of food insecurity information systems. The existing systems are often weak. They do not answer the three main questions that we raised above and fail to provide an adequate service to policy-makers. The FIVIMS initiative seeks to address these critical weaknesses in three ways:

1. enhancing the collection of critical information through the identification of the most important indicators and technical assistance to data collection authorities;
2. standardizing and improving analytical techniques through the design of appropriate analytical tools, and providing advisory support to national systems;
3. ensuring faster, more effective dissemination of information through Web-based technologies that are simple to use and have been specifically designed for FIVIMS.

An important question the identification of appropriate indicators to enable the exchange of pertinent information between food agencies such as FAO and international bodies concerned with the right to food such as the CESCR. Monitoring carried out by the CESCR can be useful for food agencies in providing the most appropriate assistance in this context. However this depends in turn on the availability for the CESCR of relevant information from the food agencies.

Assessment and monitoring necessitate a conceptual framework to define what to assess and monitor before designing indicators. Baseline, process and outcome indicators are needed. Strong collaboration between concerned bodies is a prerequisite to design such indicators and to pursue a rights-based approach in general. This will prove difficult for economic, social and cultural rights bearing in mind that a rights-based approach requires indicators tailored to the nature of state obligations with regard to such rights.

C. DEVELOPMENT STRATEGIES PROMOTING THE RIGHT TO FOOD

Enhancing Availability And Access To Food : Short-term Measures and Long Term Strategies.

Fundamental for fulfilling the right to food is a national plan / programme for its attainment. This should set out the short, medium and long-term policies and strategies for securing that the fundamental preconditions for the right to food are met. Periodic updating of such plans should be mandatory and consistent with the framework legislation referred to above. National plans and national actions backed by international support provide the speediest means to the fulfilment of the right to food.

As was mentioned in the introduction to this brief, the minimum obligation which countries have as members of the International Covenant on Economic, Social and Cultural Rights with respect to the recognition of the right of everyone to adequate food is to have a food security policy. Such policy should be part and parcel of each country's development strategy since overall development is the sustainable way out of poverty and food insecurity and vice versa : alleviating hunger is shown to promote overall development. Towards that end, countries should commit financial and other resources to sectors and activities in a way that promotes growth , while, at the same time attaining maximum impact on food security.

In formulating an effective and efficient strategy to enhance people's right to food, it is important that the socio-economic characteristics of those suffering from food insecurity be taken into account. Overall, data show that some 70% of the poor in developing countries live in rural areas where poverty is concentrated. This is particularly true in countries with high undernourishment. These countries depend on agriculture, directly or through related

activities, for the largest part of the employment of the labour force, and for a high proportion of their economic output and export earnings. The percentage of labour force employed in agriculture in 1999 was 56% on the average in developing countries. In Africa where 34% of the population was undernourished⁹ in 1996-98, employment in agriculture is as high as 67% of the total labour force . In addition to its role in providing food, employment and income opportunities to the rural poor, agriculture in developing countries is also the basis for a number of rural non-farm activities up and downstream of primary production sectors. Those activities in turn, provide additional income and employment opportunities to the rural poor and food insecure. Thus, development of agriculture addresses key issues at the heart of any national strategy towards enhancing peoples' rights to food, namely availability and access.

Enhancing the productivity and productive capacity of the agricultural sector so as to make a substantial dent to poverty and food insecurity, requires commitment of substantial resources to the sector by farmers themselves but also by governments in the form of public spending for the sector (basic infrastructure, research , education and extension, irrigation, marketing services etc.) but also public assistance in other forms such as creation of appropriate institutions and legislation. Analysis of available data clearly demonstrates that in countries with high incidence of undernourishment, and which are basically agriculture based, public spending on agriculture does not reflect the importance of where agricultural development is most crucial for food security. Although this may reflect lack of political will or commitment for the sector, it may also reflect the decline in external resources towards the sector (official development assistance) by donors and multilateral lending institutions.

This is not to say that agriculture alone can provide the solution to poverty . The economic history of all nations is made of a continuous flow of workers out of agriculture towards more productive sectors. The development of agriculture in society must combine productivity growth within the sector with economic out-migration from agriculture – with or without dislocation. This is needed both to preserve a ratio of agricultural assets to agricultural workers that enables them to maintain or increase income, and to supply the other sectors of a transforming society with labour. But a balance is essential between the two sides of this transformation. In addition to agricultural productivity improvements, a favourable rural environment is therefore indispensable to provide the necessary support to agricultural growth; to diversify income and work opportunities; and to prevent excessive out-migration that plagues towns and sterilises progress in the countryside. Economic diversification starts at the household – within the household. Cross-sector linkages are taking place through the diverse economic activities of the farm household members, through the use of non-agricultural savings in agriculture and vice-versa, through the economic opportunities for agriculture offered by the off-farm sector and reciprocally.

But agricultural development is a lengthy process and its beneficial impacts on poverty and food security alleviation will take time to materialise. Meanwhile, hunger is not a problem to be solved in the future. For those who cannot benefit now from better and more equitable growth, food safety nets, well targeted through school feeding, programmes for pregnant and lactating women, food for work and employment guarantee schemes, have shown their usefulness. Their economic rewards are not perceptible immediately, but research has

⁹ The term “undernourishment” is used to refer to the status of persons whose food intake does not provide enough calories to meet their basic energy requirements. The term “undernutrition” denotes the status of persons whose anthropometric measurements indicate the outcome not only of inadequate food intake but also of poor health and sanitation conditions that may prevent them from deriving full nutritional benefit from what they eat (FAO, “*the State of Food Insecurity in the World*”, 2000)

demonstrated the importance of nutrition for the well being of a nation, not only for individuals. More generally, risk is a major feature of the poor and food insecure livelihoods; risk management solutions need to be available to cope with the varied factors that threaten the rural poor and prevent them from taking the road of progress. Financing and other risk management schemes for agriculture and rural development should aim at including the poor and the very destitute.

Thus, from FAO's viewpoint enhancing people's right to food in countries with high incidence of undernourishment is a process that combines safety nets and risk coping mechanisms, with actions which strengthen productivity in the agricultural sector. In this the political institutional context is of paramount importance. People cannot by themselves overcome the barriers that the social system and the existing distribution of assets and endowments erect around them. Access to resources like land, water, capital can only be improved by enacting legislation, adjusting institutions, and creating windows of opportunities where the poor can find their place. This is a fundamentally political problem, that of setting the priorities right within society, and of empowerment, i.e. creating the conditions for the poor to gain a voice in decisions decisive for their life. Institutions that foster participation, responsive governance, gender mainstreaming, community based action, are key to compliance with the right to adequate food as a human right – compliance with the obligation to respect the right of everyone to apply their efforts at ensuring their food; to protect this right against encroachment by third parties; to facilitate, mainly through appropriate policies, the fulfilment by everyone of this right; and to fulfil it when is becomes necessary.