

# **The Office of the United Nations High Commissioner for Human Rights’ comments on the Draft One of the Voluntary Guidelines on Food Systems and Nutrition (VGFSyN)**

**04/02/2020**

1. The Guidelines provide a great opportunity to delineate and inspire concrete State’ actions to ensure a human rights sound food system and adequate nutrition for all in line with the normative content of the right to food. The Guidelines should benefit from the rich body of recommendations and jurisprudence of human rights mechanisms, including UN Treaty Bodies, Human Rights Council Special Procedures and the Universal Periodic Review that offer guidance especially in protecting and empowering often marginalized groups, such as indigenous peoples, peasants, women, youth, older persons, persons with disabilities, migrants and ethnic or racial minorities.
2. These mechanisms are particularly helpful in giving meaning to the principle of equality and non-discrimination in the realm of food systems and nutrition that has been analysed and unpacked in general comments, authoritative interpretations of the content of human rights by UN Treaty Bodies.
3. The present draft could benefit from drawing more systematically from human rights standards and mechanisms, in particular on crucial issues such as participation/access to information, equality and non-discrimination, accountability and transparency. In particular, OHCHR would invite the OEWG on Food Systems and Nutrition to consider the following suggestions.

## **I. On the Guiding Principles: Section 2.2**

### **A) Authentic participation in shaping food systems should be a core principle**

4. The guidelines should include participation as a core guiding principle and provide greater clarity on how to promote the authentic participation of all rights holders in shaping food systems, which is a fundamental human right and for which access to information is key. Lack of access to education can also prevent rights-holders from obtaining knowledge on nutrition and therefore contribute to unhealthy or inadequate diets, therefore the enjoyment of the right to education should be explicitly acknowledge as an enabling right for healthy diets.

### **B) Gender equality vs gender equity**

5. The Guidelines have the opportunity to promote gender equality more vigorously. In particular, the text should call for removing all discriminatory provisions in the law, combatting discrimination that has its source in social and cultural norms, eroding gender

stereotypes through education, public information campaigns and social protection systems and using temporary special measures to accelerate the achievement of gender equality.

6. Gender equality should be included as a guiding principle since it is defined in international human rights instruments and it has been further clarified by human rights mechanisms, while gender equity has no agreed meaning and concrete references for its interpretation.

## **II. On Section 3: the Voluntary Guidelines on Food Systems and Nutrition**

7. On 3.1.1. For transparent, democratic and accountable governance of food systems, the OHCHR Guidelines for States on the effective implementation of the right to participate in public affairs provide a useful guidance on how to ensure that a meaningful and inclusive dialogue takes place and the VGFSyN could recall them specifically as a guiding example.
8. On 3.2.1. In a context in which commercial pressures on land are increasing, it is crucial that the Guidelines stress the importance to secure access to resources, including land, water and seeds. The text recalling explicitly the Voluntary Guidelines on Responsible Governance of Tenure of Land and other Natural Resources is a step into strengthening the protection of land users.
9. On 3.2.2. Support local food systems by reinvestment in agriculture and rural development is key for healthy diets. The Guidelines should call for adequate support to sustainable farming approaches that benefit the most marginalized groups and that are climate smart. The Guidelines should prioritize the provision of public goods, such as storage facilities, extension services, means of communications, access to credit and insurance and agricultural research.
10. Closely related to this is the support to small-scale farmers. The Guidelines should encourage preferential sourcing from small-scale farmers through recommending fiscal incentives and should connect small-scale farmers to markets promoting decent prices for their products. The Guidelines could refer and draw from the UN Declaration on the Rights of Peasants approved by the UN General Assembly in November 2018.
11. Moving towards sustainable modes of agricultural production is vital for future food security and an essential component of the right to food. Agro-ecology has enormous potential and the Guidelines should explicitly promote the adoption of agro-ecological practices which is only mentioned in 3.2.1.c. In particular, the Guidelines could support decentralized participatory research and the dissemination of knowledge by relying on existing farmers' organisations and networks. The Guidelines could recommend to increase the budget for agro-ecological research at the field level, farm and community levels, and national and sub-national levels.
12. On 3.3.1 equitable access to nutritious food, the Guidelines refer to food deserts and should explicitly recommend to use the normative content of the rights to food, health and adequate housing to combat the phenomenon, for example with devising sound urban planning. Adequacy in the normative definition of the right to food means that the food must satisfy

dietary needs taking into account the individual's age, living conditions, health, occupation, sex, etc. Nutrition is an essential component of both the right to health and the right to food.

13. On 3.4.2 utilizing policies and tools to increase knowledge, education and information: to reshape food systems for the promotion of sustainable diets and effectively combat the different faces of malnutrition, the Guidelines should encourage more incisively States to:
  - statutory regulate the marketing of food products, as the most effective way to reduce marketing of foods high in saturated fats, trans-fatty acids, sodium and sugar (HFSS foods) to children, and restrict marketing of these foods to other groups;
  - tax soft drinks (sodas), and HFSS foods, in order to subsidize access to fruits and vegetables and educational campaigns on healthy diets;
  - the complete replacement of trans-fatty acids with polyunsaturated fats;
14. It is very encouraging that the Guidelines promote the adoption into domestic legislation of the International Code of Marketing of Breast-milk Substitutes and the WHO recommendations on the marketing of breast-milk substitutes and of foods and non-alcoholic beverages to children, and ensure their effective enforcement. The Guidelines should refer and draw from the Guiding Principles on Business and Human Rights with regard to governance issues, States' duty to regulate private sector activities<sup>1</sup> and responsibilities of private actors.
15. The Guidelines, after having outlined States' obligations to regulate private sectors' activities in food production, processing and marketing, should remind companies to:
  - Comply fully with the International Code of Marketing of Breast-milk Substitutes, and comply with the WHO recommendations on the marketing of foods and non-alcoholic beverages to children, even where local enforcement is weak or non-existent;
  - Abstain from imposing nutrition-based interventions where local ecosystems and resources are able to support sustainable diets, and systematically ensure that such interventions prioritize local solutions;
  - Shift away from the supply of HFSS foods and towards healthier foods and phase out the use of trans-fatty acids in food processing.
16. On 3.5 gender equity (OHCHR would suggest "Equality") and women's empowerment, the guidelines could recall explicitly the Convention on the Elimination of All Forms of Discrimination against Women that outlines concrete actions necessary for creating an enabling environment for women to enjoy the right to food. For example, article 14 requires State parties to take measures to ensure the rights of women in rural areas:
  - to participate in the elaboration and implementation of development planning at all levels; to have access to adequate health-care facilities, including information, counselling and services in family planning;
  - to benefit directly from social security programmes; to obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, the benefit of all community and extension services, in order to increase their technical proficiency;

---

<sup>1</sup> [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)

- to organize self-help groups and cooperatives in order to obtain; equal access to economic opportunities through employment or self-employment; to participate in all community activities; to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.