



**Exploring the Potential for Introducing an Academic Course Linking Food,
Nutritional Health and Human Rights in South Africa**

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**The Right to Food Guidelines: New Demands for
Academia in Research and Capacity Development**

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I. Introduction

The right to food is recognized in several legally binding international instruments, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), where it is recognized as part of an adequate standard of living, which also includes housing and clothing, and separately as the fundamental right to be free from hunger

FAO's Constitution sets out the purpose of FAO, in its preamble, as "raising levels of nutrition and standards of living ... and thus ... ensuring humanity's freedom from hunger."¹ The Constitution was amended in 1965 to this affect, at the same time as the ICESCR was in its final drafting stages. FAO views the right to food as central to its mandate.²

The right to food under international law implies the right to means of production or procurement of food of sufficient quantity and quality, free from adverse substances and culturally acceptable. This right should primarily be fulfilled by individual's own efforts or in community with others, and must be enjoyed by all without any adverse distinction based on race, religion, sex, language, political opinion or other status.

Under the ICESCR, State Parties are obliged to take all appropriate steps, to the maximum of available resources, to progressively realize the right to food for all. A distinction is made between obligations of conduct and of results, and violations can be of commission or of omission. A distinction is also made between the unwillingness and the inability of States to take action.

Under international law, the State is accountable for the enjoyment of human rights within its territory. However, the State may assign responsibilities to different levels of government, and should indeed, through its national strategy or legislation, assign as precise a responsibility for action as possible, especially in addressing multisectoral and multidimensional problems such as food insecurity.

State obligations can also be viewed as being at different levels, to respect, protect and fulfil the right to food. While the importance of creating an enabling environment where everyone can enjoy the right to food by their own efforts should be stressed, it remains incumbent on the State to ensure that those who are unable to do so for themselves are adequately provided for, so that as a minimum, no one suffers from hunger.

In the following, the key international milestones will be reviewed, including the numerous treaties that recognize the right to food and the main events in the development of a better understanding this right. Then the normative content and main obligations concerning the right to food in international law will be briefly explained, before turning

¹ FAO, Basic Texts, Rome, 1999

² Jacques Diouf, Director-General of FAO, Address to International Workshop on "Policies Against Hunger", Berlin, 22 May 2002. Available on <http://www.fao.org/english/dg/2002/berlin2205.htm>

to the content of the Voluntary guidelines on the progressive realization of the right to adequate food in the context of national food security, which were recently adopted in FAO.

II. Key international milestones

Freedom from want was one of the fundamental freedoms identified by the founders of the United Nations in the wake of the Second World War.³ They felt it was evident that hungry people could not be free. In order to be able to enjoy freedom of speech and assembly and other civil rights, people must be adequately fed. Death by starvation has the same final result as death by bullets. Hunger is not only painful; it cuts at the very dignity of the human being.

The Universal Declaration of Human Rights (UDHR), which was adopted by the United Nations General Assembly in 1948, declares a range of human rights, all of which are indispensable for human dignity. The UDHR has been so widely accepted that many scholars believe that at least certain of its provisions have become customary international law.⁴ The status of the right to food as customary norm, is however uncertain. In any case, the UDHR enjoys a higher status than normal soft law instruments, also because it is very much linked to the fundamental principles and purposes of the United Nations, as spelled out in the UN Charter, the highest treaty in international law.

1. Treaties

The right to food is recognized in a number of international instruments,⁵ the adoption of each of which represents further recognition and reaffirmation of the right itself.

- The right to an adequate standard of living, including food, clothing and housing was proclaimed in the Universal Declaration of Human Rights in 1948.
- This right was codified in the International Covenant on Economic, Social and Cultural Rights of 1966, which also recognized the fundamental right to be free from hunger.
- The protection of the right to life in the International Covenant on Civil and Political Rights has been interpreted to also cover death from malnutrition.

³ F.D. Roosevelt, "State of the Union" address, 1944. Quoted UN, *Right to Adequate Food as a Human Right*, Human Rights Study Series 1, New York, 1989, final report of Asbjørn Eide, Special Rapporteur on the right to adequate food of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1987/23). This was the so-called "four freedoms speech", the four being freedom from fear, freedom from want, freedom of religion, freedom of expression.

⁴ H. Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, (1995) 25 Georgia J. Intl & Comp. L.289 at 317ff.

⁵ FAO Legislative Study 68, *Extracts from international and regional instruments and declarations, and other authoritative texts addressing the right to food*, Rome, 1999.

- The Convention on the Prevention and Punishment of the Crime of Genocide of 1948 proscribes deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.
- Prisoners of War, internees and other persons in the power of a Party to the Geneva Conventions of 1949 enjoy wide-ranging rights to be fed. In addition, the deliberate starvation of civilians is prohibited and warring parties must allow relief consignments to go through.
- The Convention relating to the Status of Refugees of 1951 and the Convention relating to the Status of Stateless Persons of 1954 accord the same treatment to refugees and stateless persons relating to rationing and public relief as to nationals.
- The Convention on the Elimination of All Forms of Discrimination Against Women of 1979 establishes the obligation to ensure adequate nutrition to women during pregnancy and lactation. It also contains provisions of access to resources for rural women.
- The Convention of the Rights of the Child obliges States to combat malnutrition and to provide adequate and nutritious foods, as well as to provide material support to nutrition programmes.
- The Statutes of the International Criminal Court of 1998 defines genocide in the same way as the Genocide Convention and specifies that crimes against humanity include deprivation of access to food calculated to bring about the destruction of part of the population. War crimes include the deliberate starvation of civilians, including by wilfully impeding relief supplies.

International Covenant on Economic, Social and Cultural Rights

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

(In Annex to UN General Assembly Resolution 2200A (XXI), 16 December 1966)

2. Interpretation & Implementation

The global reaffirmation and recognition of the right to food is by itself not sufficient. The right must be understood and the corresponding obligations implemented and enforced. There has been considerable progress in understanding the meaning of the

right to food, in developments that started in the 1980s and accelerated in the follow-up to the World Food Summit of 1996.

The seminal work of Mr Asbjørn Eide as Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities in the 1980s had a great influence, but was perhaps somewhat before its time, given the global geopolitics at the time.⁶

In the preparations for the World Food Summit, some countries, and most of the NGOs, attempted to obtain agreement on the adoption of a Code of Conduct regarding the right to food. In the end, however, the idea proved not politically feasible at the time, and the Plan of Action of the WFS contains only a rather vague reference to such a code, as discussed below. The Rome Declaration on World Food Security reaffirmed the right to adequate food and fundamental right to be free from hunger and recognized the role of other human rights and democracy in creating the environment for achieving food security.⁷

Rome Declaration on World Food Security

We, the Heads of State and Government, or our representatives, gathered at the World Food Summit at the invitation of the Food and Agriculture Organization of the United Nations, reaffirm the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger.

...

Democracy, promotion and protection of all human rights and fundamental freedoms, including the right to development, and the full and equal participation of men and women are essential for achieving sustainable food security for all.

Report of the World Food Summit, part one, appendix, FAO, Rome, 1997.

The main purpose of Objective 7.4 of the WFS Plan of Action is to call for the clarification of the content of the right to adequate food and how it may be implemented.⁸ These questions were among the main objections made to considering and adopting a code of conduct on the right to food: there could be no discussions about a code of conduct unless the normative contents and effective ways of implementation are clearer.

⁶ UN, *Right to Adequate Food as a Human Right, Human Rights Study Series 1*, New York, 1989, final report of Asbjørn Eide, Special Rapporteur on the right to adequate food of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1987/23). Mr Eide updated his study in 1999 at the request of the Sub-Commission, UN, Sub-Commission on the Promotion and Protection of Human Rights. *Updated study on the right to food*, submitted by Mr. Asbjørn Eide, UN Document No E/CN.4/Sub.2/1999/12, 28 June 1999.

⁷ *Rome Declaration on World Food Security*, paragraphs 1 and 4. *Report of the World Food Summit*, part one, appendix, FAO, Rome, 1997. See also Objectives 1.1; 1.2 b); 1.3; 1.4; 2.1; 2.2; 2.3 and 2.4 for provisions on rights, equitable access, support to vulnerable groups, etc.

⁸ FAO, *World Food Summit Plan of Action*, Objective 7.4, *Report of the World Food Summit*, part one, appendix, Rome, 1997.

Of course, this was not the only objection, but this need for clarification did provide the basis for the consensus that emerged.⁹

World Food Summit Plan of Action

Objective 7.4

To clarify the content of the right to adequate food and the fundamental right of everyone to be free from hunger, as stated in the International Covenant on Economic, Social and Cultural Rights and other relevant international and regional instruments, and to give particular attention to implementation and full and progressive realization of this right as a means of achieving food security for all.

To this end, governments, in partnership with all actors of civil society, will, as appropriate:

(a) Make every effort to implement the provisions of Article 11 of the International Covenant on Economic, Social and Cultural Rights (the Covenant) and relevant provisions of other international and regional instruments;

(b) Urge States that are not yet Parties to the Covenant to adhere to the Covenant at the earliest possible time;

(c) Invite the Committee on Economic, Social and Cultural Rights to give particular attention to this Plan of Action in the framework of its activities and to continue to monitor the implementation of the specific measures provided for in Article 11 of the Covenant;

(d) Invite relevant treaty bodies and appropriate specialized agencies of the UN to consider how they might contribute, within the framework of the coordinated follow-up by the UN system to the major international UN conferences and summits, including the World Conference on Human Rights, Vienna 1993, within the scope of their mandates, to the further implementation of this right;

(e) Invite the UN High Commissioner for Human Rights, in consultation with relevant treaty bodies, and in collaboration with relevant specialized agencies and programmes of the UN system and appropriate intergovernmental mechanisms, to better define the rights related to food in Article 11 of the Covenant and to propose ways to implement and realize these rights as a means of achieving the commitments and objectives of the World Food Summit, taking into account the possibility of formulating voluntary guidelines for food security for all.

Report of the World Food Summit, part one, appendix, FAO, Rome, 1997.

The NGO Forum at the WFS also adopted a declaration and called for the drafting of a Code of Conduct on the human right to adequate food.¹⁰ After the WFS, three NGOs took the lead in the preparation of a Code of Conduct, FIAN International, WANAHHR and the International Jacques Maritain Institute. A draft was produced in 1997 and more than 800 NGOs supported it.¹¹

The WFS gave rise to increased interest and momentum within FAO and the human rights community. While respecting that the human rights bodies should take the lead, FAO took an active role in assisting the High Commissioner for Human Rights with her

⁹ Gerald Moore and Margret Vidar, *FAO and the Right to Adequate Food*, in Notes et Documents, n.s. 56, septembre - décembre 1999, Institut International Jacques Maritain.

¹⁰ FAO, *Statement by the NGO Forum to the World Food Summit, Report of the World Food Summit*, part one, Rome, 1997.

¹¹ FIAN, *The Code of Conduct on the Right to Adequate Food, Hungry for What is Right*, No 19, August 2000.

mandate and concluded a Memorandum of Understanding to that effect with her Office. FAO also issued publications¹² and a website¹³ on the right to food. As part of the follow-up to the WFS, the UN High Commissioner for Human Rights, prompted and supported by FAO, organized a series of Expert Consultations in 1997, 1998 and 2001¹⁴. The first two - along with the NGO Code of Conduct - inspired the work of the Committee on Economic, Social and Cultural Rights, which in May 1999 issued General Comment 12 (GC12) on the right to adequate food, giving an authoritative interpretation of that right as contained in Article 11 of the International Covenant on Economic, Social and Cultural Rights.¹⁵

The Commission on Human Rights appointed a Special Rapporteur on the Right to Food in the year 2000.¹⁶ The Special Rapporteur, Mr Jean Ziegler, reports both to the Commission and to the General Assembly. He has a wide mandate to investigate issues and situations and to make recommendations. He has issued several reports, discussing, *inter alia*, justiciability, gender, fisheries, international trade and international humanitarian law, and undertaken missions to Niger, Brazil, Bangladesh and the Occupied Palestinian Territories.¹⁷

The joint and separate activities of FAO on the one hand and human rights bodies and NGOs on the other, mentioned above, contributed greatly to the clarification of the normative content of the right to adequate food and its implementation. The Expert

¹² FAO, *The right to food in theory and practice*, 1998, Rome. FAO Legislative Study 68, *Extracts from international and regional instruments and declarations, and other authoritative texts addressing the right to food*, Rome, 1999 (In English, French and Spanish).

¹³ www.fao.org/Legal/rtf/rtf-e.htm, launched in commemoration of the 50th Anniversary of the Universal Declaration and dedicated to the right to food.

¹⁴ UN, *The right to food*, Report of the High Commissioner for Human Rights, UN Document No E/CN.4/1998/21, 15 January 1998. *The right to food*, Report of the High Commissioner for Human Rights, UN Document No E/CN.4/1999/45 20 January 1999. 15 January 1999. *The right to food*, Report of the High Commissioner for Human Rights, UN Document No E/CN.4/1999/45, 20 January 1999. *The right to food*, Report on the Third Expert Consultation on the Right to Food, UN Document No. E/CN.4/2002/148, 3 March 2001.

¹⁵ Committee on Economic, Social and Cultural Rights, *General Comment 12, the Right to Adequate Food (Article 11 of the Covenant)*, UN Document No E/C/12/1999/5, 12 May 1999.

¹⁶ Commission on Human Rights Resolutions 2000/10, 17 April 2000. See also General Assembly Resolution 56/155, The right to food, 15 February 2002.

¹⁷ UN, *The right to food*, Report by the Special Rapporteur on the right to food, Mr. Jean Ziegler, submitted in accordance with Commission on Human Rights resolution 2000/10, UN Document No E/CN.4/2001/53, 7 February 2001; *The right to food*, Report by the Special Rapporteur on the right to food, Mr. Jean Ziegler, submitted in accordance with Commission on Human Rights resolution 2001/25 and General Assembly resolution of ****, and *Addendum, Mission to Niger*, UN Document No E/CN.4/2002/58/Add.1, 23 January 2002; *The right to food*, Note by the Secretary-General**, UN Document No A/56/210, 23 July 2001; *The right to food*, Note by the Secretary-General, UN Document No A/57/356, 27 July 2002; *The right to food*, Report by the Special Rapporteur on the right to food, Mr. Jean Ziegler, submitted in accordance with Commission on Human Rights resolution 2000/10, and *Addendum, Mission to Brazil*, UN document E/CN.4/2003/54/Add.1, 3 January 2003. These and advance unedited reports of the missions to Bangladesh and the Occupied Palestine Territories are available on the website of the Special Rapporteur www.righttofood.org

Consultations used the NGO Code of Conduct, which then fed into the drafting of General Comment 12. The Special Rapporteur has contributed to the clarification of the right to food; the mandate also constitutes a way of implementing the right. Discussions are underway on a possible Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which would allow for individual and group complaints over State Party performance.

These developments led to mounting pressure for the next step to be taken, namely to negotiate a Code of Conduct on the Right to Food, or as mentioned in Objective 7.4, above, “voluntary guidelines for food security for all”.

III. World Food Summit: five years later

At the World Food Summit: *five years later* (WFS:*fyl*) in 2002, Heads of State or Government reaffirmed the right of everyone to adequate food and the fundamental right to be free from hunger. It also decided to request the FAO Council to establish an Intergovernmental Working Group (IGWG) to elaborate a set of voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security¹⁸. The FAO Council formally established the group in November 2002¹⁹.

1. IGWG-RTFG Mandate

The establishment and work of the Intergovernmental Working Group on Right to Food Guidelines (IGWG-RTFGs) was a major new development in the field of socio-economic rights. This was the first time that the right to food was discussed in substance and detail within an FAO body and also the first time States agreed on the meaning of the right to adequate food. In the following, the establishment, mandate and process of the IGWG will be reviewed briefly before discussing the content of the Voluntary Guidelines and the steps that still need to be taken in terms of research and capacity development.

The mandate given to the new IGWG had several significant elements, which merit mentioning:

1. The IGWG had two years in which to conclude its work. This was a remarkably short time, in particular in light of the fact that most delegations had little prior experience with human rights in general or the right to food in particular. There was a steep learning curve, but the IGWG managed to conclude its task within the allocated time span.

¹⁸ FAO, *Declaration of the World Food Summit: five years later, International alliance against hunger*, Operative paragraph 10, Report of the World Food Summit: five years later, part one, Appendix, Rome, 2002.

¹⁹ FAO, *Establishment of the Intergovernmental Working Group requested in Paragraph 10 of the Declaration of the World Food Summit: five years later*, Report of the 123rd Session of the Council, 28 October to 2 November 2002, paragraphs 26-28 and Appendix D.

2. The Guidelines are voluntary, i.e. as such they contain no binding elements. However, they reflect and build on international law and provide guidance on implementation of already existing obligations.
3. The WFS: *fyl* specifically instructed that the Guidelines be elaborated “with the participation of stakeholders”. This meant that international non-governmental organizations (NGOs) with a relevant mandate were allowed to participate fully in discussions, without having to wait until all Governments have spoken²⁰. Only members, i.e. States, had the right to vote, however, which implied that NGO objections did not count in the search for consensus. National NGOs could participate either as members of international NGOs or as part of their national delegations. FAO also encouraged States to include representatives of human rights commissions, public defenders and ombudspersons in their delegation. Finally, intergovernmental organizations were also stakeholders who participated in the IGWG. The conduct of the debate in such a way that allowed for a genuine dialogue between States and stakeholders was generally welcomed by participants, as this allowed stakeholder views to be taken fully into account.

2. Definitions of Food Security and the Right to Food

Building on the developments described in the previous section, the Voluntary Guidelines provide a definition of food security and the right to food, as well as an introduction of rights based approaches. The definition of food security is taken from World Food Summit documentation, whereas the discussion of the right to food draws largely on General Comment 12 of the Committee on Economic, Social and Cultural Rights (CESCR)²¹. The language reflects the level of agreement of the members of the IGWG and thus represent a significant normative development.

Food Security and the Right to Food

15. 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. The four pillars of food security are availability, stability of supply, access and utilization.

16. The progressive realization of the right to adequate food requires States to fulfil their relevant human rights obligations under international law. These Voluntary Guidelines aim to guarantee the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals; physical and economic accessibility for everyone, including vulnerable groups, to adequate food, free from unsafe substances and acceptable within a given culture; or the means of its procurement.

²⁰ See Appendix D, *op.cit.*

²¹ Committee on Economic, Social and Cultural Rights, *General Comment 12, the Right to Adequate Food (Article 11 of the Covenant)*, UN Document No E/C/12/1999/5, 12 May 1999, hereinafter GC12..

17. States have obligations under relevant international instruments relevant to the progressive realization of the right to adequate food. Notably, States Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) have the obligation to respect, promote and protect and to take appropriate steps to achieve progressively the full realization of the right to adequate food. States Parties should respect existing access to adequate food by not taking any measures that result in preventing such access, and should protect the right of everyone to adequate food by taking steps so that enterprises and individuals do not deprive individuals of their access to adequate food. States Parties should promote policies intended to contribute to the progressive realization of people's right to adequate food by proactively engaging in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. States Parties should, to the extent that resources permit, establish and maintain safety nets or other assistance to protect those who are unable to provide for themselves.

18. States that are not Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR) are invited to consider ratifying the ICESCR.

19. At the national level, a human rights-based approach to food security emphasizes universal, inter-dependent, indivisible and inter-related human rights, the obligations of States and the roles of relevant stakeholders. It emphasizes the achievement of food security as an outcome of the realization of existing rights and includes certain key principles: the need to enable individuals to realize the right to take part in the conduct of public affairs, the right to freedom of expression and the right to seek, receive and impart information, including in relation to decision making about policies on realizing the right to adequate food. Such an approach should take into account the need for emphasis on poor and vulnerable people who are often excluded from the processes that determine policies to promote food security and the need for inclusive societies free from discrimination by the State in meeting their obligations to promote and respect human rights. In this approach, people hold their governments accountable and are participants in the process of human development, rather than being passive recipients. A human rights-based approach requires not only addressing the final outcome of abolishing hunger, but also proposing ways and tools by which that goal is achieved. Application of human rights principles is integral to the process.

Right to Food Guidelines

3. Main Attributes of Right to Food Guidelines

The Right to Food Guidelines are addressed to all States, whether or not they have ratified particular human rights treaties. They are voluntary, but build on existing international law. The Guidelines are meant to be a practical tool to guide States that want to implement the right to food; they can also be used as an advocacy tool for other stakeholders wishing to encourage better implementation of the right to food at the national level.

The Guidelines stress the principles of universality of human rights, non-discrimination and interdependence of all human rights. They also seek to strengthen good governance and the rule of law.

4. Supporting FAO Action

FAO supported the elaboration of the Voluntary Guidelines in a number of ways. A series of information papers were issued to provide background information on a variety of issues.

Information papers

1. Implications of the Voluntary Guidelines for Parties and Non-Parties to the International Covenant on Economic, Social and Cultural Rights;
2. Recognition of the Right to Food at the National Level;
3. Safety Nets and the Right to Food;
4. Implementing the Right to Adequate Food: The Outcome of Six Case Studies;
5. Right to Food Principles vis-à-vis Rules Governing International Trade;
6. Food Aid and the Right to Food;
7. Justiciability of the Right to Food;
8. Monitoring the Implementation of the Right to Adequate Food.

Case studies were undertaken in five countries: Brazil, Canada, India, South Africa and Uganda. In addition, the Indian State of Orissa was studied. At the same time, FAO is supporting country level activities in a few countries: Brazil, Sierra Leone and Honduras, in which aspects of a right to food approach are being explored.

FAO is currently seeking financial support to continue its normative and operational work on the right to food and its implications, with a view to strengthening efforts towards achieving the Millennium Development Goals and the goal of the World Food Summit, of halving hunger and extreme poverty by the year 2015.

5. Content of the Voluntary Guidelines

The Guidelines are structured into three main Sections:

- Section I contains preface and introduction, including the text of major international legal instruments and definitions of food security, the right to food and human rights based approaches.
- Section II is entitled Enabling Environment, Assistance and Accountability, and contains Guidelines 1 – 19.
- Section III contains International Measures, Actions and Commitments.

Section II: Guidelines 1 – 19

- 1: Democracy, Good Governance, Human Rights and the Rule Of Law
- 2: Economic Development Policies

- 3: Strategies
- 4: Market Systems
- 5: Institutions
- 6: Stakeholders
- 7: Legal Framework
- 8: Access to Resources and Assets
- 9: Food Safety and Consumer Protection
- 10: Nutrition
- 11: Education and Awareness Raising
- 12: National Financial Resources
- 13: Support for Vulnerable Groups
- 14: Safety Nets
- 15: International Food Aid
- 16: Natural and Human-Made Disasters
- 17: Monitoring, Indicators and Benchmarks
- 18: National Human Rights Institutions
- 19: International Dimension

6. Research and Development Needs

Despite the comprehensive nature of the Voluntary Guidelines, considerable work still remains in deepening understanding of the right to food and its implications at all levels. Thus, there is to date no experience with actual application of the Guidelines and there are still a number of areas that need further clarification.

Guideline 3: Strategies begs a number of questions of methodological nature that academics could usefully focus on in different countries:

- How should a right to food strategy be formulated?
- How should the right to food be taken into account in poverty reduction strategies?
- How should existing legislation, policies and strategies be assessed to gauge how they advance the right to food?
- How should institutional competence be designated and strengthened to support right to food implementation?
- How would a right to food strategy be different from a good food security strategy?

GUIDELINE 3: STRATEGIES

3.1 States, as appropriate and in consultation with relevant stakeholders and pursuant to their national laws, should consider adopting a national human-rights based strategy for the progressive realization of the right to adequate food in the context of national food security as part of an overarching national development strategy, including poverty reduction strategies, where they exist.

3.2 The elaboration of these strategies 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.

3.3 These strategies could include objectives, targets, benchmarks and time frames; and actions to formulate policies, identify and mobilize resources, define institutional mechanisms, allocate responsibilities, coordinate the activities of different actors, and provide for monitoring mechanisms. As appropriate, such strategies could address all aspects of the food system, including the production, processing, distribution, marketing and consumption of safe food. It could also address access to resources and to markets as well as parallel measures in other fields. These strategies should, in particular, address the needs of vulnerable and disadvantaged groups, as well as special situations such as natural disasters and emergencies.

3.4 Where necessary, States should consider adopting and, as appropriate, reviewing a national poverty reduction strategy that specifically addresses access to adequate food.

3.5 States, individually or in cooperation with relevant international organizations, should consider integrating into their poverty reduction strategy a human rights perspective based on the principle of non-discrimination. In raising the standard of living of those below the poverty line, due regard should be given to the need to ensure equality in practice to those who are traditionally disadvantaged and between women and men.

3.6 In their poverty reduction strategies, States should also give priority to providing basic services for the poorest, and investing in human resources by ensuring access to primary education for all, basic health care, capacity building in good practices, clean drinking water, adequate sanitation and justice and by supporting programmes in basic literacy, numeracy and good hygiene practices.

3.7 States are encouraged, *inter alia* and in a sustainable manner, to increase productivity and to revitalize the agricultural sector including livestock, forestry and fisheries through special policies and strategies targeted at small-scale and traditional fishers, and farmers in rural areas, and the creation of enabling conditions for private sector participation, with emphasis on human capacity development and the removal of constraints to agricultural production, marketing and distribution.

3.8 In developing these strategies, States are encouraged to consult with civil society organizations and other key stakeholders at national and regional levels, including small-scale and traditional farmers, private sector, women, and youth associations, with the aim of promoting their active participation in all aspects of agricultural and food production strategies.

3.9 These strategies should be transparent, inclusive and comprehensive, cut across national policies, programmes and projects, take into account the special needs of girls

and women, combine short-term and long-term objectives, and be prepared and implemented in a participatory and accountable manner.

3.10 States should support, including through regional cooperation, the implementation of national strategies for development, in particular for the reduction of poverty and hunger as well as for the progressive realization of the right to adequate food.

Guideline 7: Legal Framework similarly raises a host of questions that need further considerations:

- Would framework law be a useful tool? What would it look like?
- How should the rights and entitlements of individuals be spelled out in law?
- How should institutional responsibilities be spelled out in law?
- What is needed to empower individuals to claim their right to food?
- How should legislative changes be costed and budgeted?

GUIDELINE 7: LEGAL FRAMEWORK

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.

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.

7.3 States that have established a right to adequate food under their legal system should inform the general public of all available rights and remedies to which they are entitled.

7.4 States should consider strengthening their domestic law and policies to accord access by women heads of households to poverty reduction and nutrition security programmes and projects.

A third area that could be mentioned as needing more work is covered in *Guideline 17: Monitoring, Indicators and Benchmarks*. The Guideline points towards the importance of disaggregated data collection, participatory methodologies and right to food impact assessment. What is not clear yet is how to select process indicators for the enjoyment of the right to food and whether it is being progressively realized. Some of the questions that academia should be encouraged to analyse include:

- What is different in measuring the right to food from measuring food security?
- What information is relevant to rights holders to enable them to exercise their right to food?
- What information must duty bearers have to perform their duties?
- How should right to food information be communicated?

GUIDELINE 17: MONITORING, INDICATORS AND BENCHMARKS

17.1 States may wish to establish mechanisms to monitor and evaluate the implementation of these Guidelines towards the progressive realization of the right to adequate food in the context of national food security, in accordance with their capacity and by building on existing information systems and addressing information gaps.

17.2 States may wish to consider conducting “Right to Food Impact Assessments” in order to identify the impact of domestic policies, programmes and projects on the progressive realization of the right to adequate food of the population at large and vulnerable groups in particular, and as a basis for the adoption of the necessary corrective measures.

17.3 States may also wish to develop a set of process, impact and outcome indicators, relying on indicators already in use and monitoring systems such as FIVIMS, so as to assess the implementation of the progressive realization of the right to adequate food. They may wish to establish appropriate benchmarks to be achieved in the short, medium and long term, which relate directly to meeting poverty and hunger reduction targets as a minimum, as well as other national and international goals including those adopted at the World Food Summit and the Millennium Summit.

17.4 In this evaluation process, process indicators could be so identified or designed that they explicitly relate and reflect the use of specific policy instruments and interventions with outcomes consistent with the progressive realization of the right to adequate food in the context of national food security. Such indicators could enable States to implement legal, policy and administrative measures, detect discriminatory practices and outcomes, and ascertain the extent of political and social participation in the process of realizing that right.

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.

17.6 In this evaluation process, States should ensure a participatory approach to information gathering, management, analysis, interpretation and dissemination.

IV. Conclusion

FAO believes that the Voluntary Guidelines are a potentially useful tool in achieving the goals of the World Food Summit towards the eradication of hunger and malnutrition. The

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Guidelines can help governments design appropriate policies, strategies and legislation and can also provide civil society with a powerful tool to demand changes in policies. Yet, the successful implementation of the Guidelines depends on the capacity of duty bearers and rights holders in making use of them. Academia can provide the crucial bridge between all role players, particularly between governments and the governed. The Guidelines can be incorporated into curricula, and research projects can take up aspects of the Guidelines for in-depth study and analysis.

FAO will be seeking partnerships with academia in the design and implementation of training material and tools to strengthen capacity of its own staff, of the UN country teams and of government counterparts. It is our hope that academia will respond to the challenge by building its own capacity to deepen the understanding of the right to food which is needed for its meaningful implementation.

Internet Links

IGWG-RTFGs

www.fao.org/righttofood

FAO Legal Office Right to Food webpage

www.fao.org/Legal/rtf/rtf-e.htm

Office of the UN High Commissioner for Human Rights

www.unhchr.ch

UN Special Rapporteur on the Right to Food

www.righttofood.org

Annex:

Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security, Final Report of the Chair, FAO document CL 127/10-Sup.1