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the Realization of
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LEGISLATE FOR THE RIGHT TO FOOD

Legislative measures for the implementation of the human right to adequate food are highlighted both in the International Covenant on Economic, Social and Cultural Rights, and in the Right to Food Guidelines*. There are three distinct legislative areas to consider: constitutional provisions, framework law and sectoral legislation.

Constitutions

Most constitutions in the world have a human rights chapter that sets clear limits and direction for state legislation and policies. Incorporating the right to food into the constitution gives courts and human rights institutions a standard with which to measure government action. Most often, constitutional provisions mirror the language of human rights treaties, stating rights and freedoms in broad terms.

Framework Law

A framework law lays down broad principles that outline state obligations to immediately ensure that every person is free from hunger and to progressively realize every person's right to food. It does so in more detail than constitutional provisions and lays down more precise obligations and institutional arrangements for the implementation of the right to food.

Key Provisions

A framework law should cover the whole spectrum related to the right to food, but remain at the general level. It is the umbrella beneath which institutions can be built, systems created and relevant secondary legislation implemented. Key provisions of framework law include:

- definition of the content of the right to food and corresponding obligations for public authorities
- prohibition of discrimination and special measures for vulnerable population groups
- measures to enhance right to food implementation such as requiring a right to food impact assessment or education and information measures
- institutional setting for its implementation, including mechanisms for civil society participation
- procedures and remedies for possible right to food violations
- financial and budgetary arrangements
- provisions on implementing legislation and compliance

Legislative Process

A participatory drafting process is as important for an effective framework law as choosing the specific elements that will be addressed. All sectors of society, including government, civil society and private sector, should be involved. The process should

analyze and consider budgetary, economic, social and administrative impacts that implementation would involve.

Emergency Preparedness

The right to food applies under all circumstances, including natural disasters or periods of conflict. Framework law should call for the establishment of measures and procedures to be employed during such emergencies.

Institutional Arrangements

Implementation of the right to food is not possible without collaboration across various sectors, institutions and actors – public and private – involved in ensuring availability, accessibility and adequacy of food in a given country. Right to Food Guideline 5 stresses institutional coordination. States should establish a national coordinating authority on the right to food, defining its legal status, composition, mandate and functions. Mechanisms for civil society participation in relevant institutions should be created.

Monitoring and Recourse

The availability and accessibility of recourse mechanisms are vital to ensure that human rights are realized. Those who believe their human rights have been violated must be able to appeal to administrative bodies, courts of law or national human rights commissions for redress. Equally important is monitoring government compliance with its obligations and evaluating its performance and effective progress in realizing this fundamental right. Right to Food Guideline 7 stresses the role of government in ensuring that rights-holders know about their particular rights and entitlements.

Financing

Developing a right to food framework law allows governments to stipulate financing arrangements to implement this fundamental human right and to specify the principles that will govern allocation and spending of resources. While it is up to governments to design budgets or fiscal policy, the law must ensure that they do not abuse their discretion to do so.

Sectoral Legislative Review

The fact that the right to food cuts across different sectors can either contribute to its realization or work against it. Key sectoral areas often include trade, natural resources, labour, education, social security, food safety, product labelling and consumer protection. States must examine relevant sectoral legislation to ensure compatibility with the right to food. A review of national legislation should begin by establishing institutional responsibility for review and identifying relevant sectoral areas where action is needed. This review body would then select specific laws, define review and reporting criteria (“screening standards”) and develop a plan of action.

** The Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by FAO Council in November 2004 are available for downloading on the right to food website: www.fao.org/righttofood.*

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