



# 1. MONITORING THE HUMAN RIGHT TO FOOD – AN OVERVIEW

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## IN THIS CHAPTER WE SHALL:

- Review the human right to adequate food in the context of international human rights law.
- Place the right to adequate food in the context of rights-based development.
- Discuss the Right to Food Guidelines and specifically Guideline 17.
- Present an overview of some key questions that need to be considered for country level implementation of monitoring the human right to adequate food.

These *Methods to Monitor the Human Right to Adequate Food* are intended to assist countries that are committed to the protection and realisation for all of the human right to adequate food. The focus is on the need to continuously assess and to monitor the implementation of measures that are expected to make the human right to adequate food a reality for all. This means examining the results and impacts of development processes, and of policies, programmes and projects, against specific goals that have been set as desired outcomes for the enjoyment of economic, social and cultural rights. Where food insecurity exists, measures should be implemented to restore or create physical and economic access to adequate food for those who are food insecure. Monitoring can significantly contribute to protect the enjoyment of the right to adequate food for those who presently have it, and of the elimination of food insecurity and vulnerability for those who do not.

## UNDERSTANDING THE HUMAN RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF INTERNATIONAL HUMAN RIGHTS

The human right to adequate food became part of internationally recognised human rights in 1948 through the Universal Declaration of Human Rights Article 25. It was further elaborated as international human rights law through Article 11 of the International Covenant on Economic, Social and Cultural Rights adopted by the United Nations General Assembly in 1966. At present the International Covenant on Economic, Social and Cultural Rights had been ratified by 157 States. The right to food for all children is implied in Articles 24 and 27 of the Convention on the Rights of the Child, adopted by the United Nations in 1989, and now ratified by all States of the world with two exceptions.

Under international human rights law, States have the primary responsibility for their countries' economic and social development, and for the fulfilment of all human rights. States are therefore the primary duty bearers in implementing the right to adequate food, and are required, under the United Nations Charter, Articles 55 and 56, to cooperate with each other for that purpose.

### BOX 1.1

*Heads of State and Governments at the World Food Summit in Rome in 1996 reaffirmed:*

*"...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".*

The United Nations Committee on Economic, Social and Cultural Rights has, in its General Comment No 12 on the Right to Food, stated that

*"The right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement".<sup>1</sup>*

Food is considered "adequate" when three conditions are fulfilled. These are:

- Daily food intake meets all nutritional requirements, quantitatively (energy content) and qualitatively (protein, vitamins and minerals content).
- The food is safe for human beings to eat and does not cause any disease.
- The food is culturally acceptable by those who consume it.

## THE RIGHT TO ADEQUATE FOOD IN RIGHTS BASED DEVELOPMENT

What is rights-based development? One definition is:

*"Human rights add significance to the agenda of development. They draw attention to accountability for the delivery of development benefits to all people, and lend legal and moral legitimacy and a sense of social justice to the objectives of human development"*

The following specific and unique elements are all considered necessary for a human rights-based approach to development<sup>2</sup>:

<sup>1</sup> UNDP. *Human Rights in UNDP. A Practice Note. New York, April 2005*

<sup>2</sup> *Statement of Common Understanding, 2003*

- Assessment and analysis is critical in order to identify the claims of right holders and the corresponding obligations of duty bearers as well as for understanding the immediate, underlying, and structural causes that limit the realisation of human rights.
- Programmes assess the capacity of right holders to claim their rights, and of duty bearers to fulfil their obligations. They then develop strategies to strengthen and enhance these capacities.
- Programmes to monitor and evaluate both outcomes and processes are guided by human rights standards and principles.
- Programming is informed by the recommendations of international human rights bodies and mechanisms.

Rights to adequate food should also be integrated with additional human rights principles to support harmonised development processes. Such an integrated approach aims at:

- Equitable distribution of development benefits.
- Transparency in governance and in the use of public resources.
- Efficient and effective use of all resources.
- Non-discrimination in development processes.
- Gender equality.
- Strengthening capacity to implement human rights principles and practices.
- Effective mechanisms to hold those responsible accountable for meeting development, poverty reduction and human rights goals and targets.
- Informed participation by right holders (and/or their representatives) in development planning and policy and programme formulation, implementation, and monitoring.

The processes of making human rights a reality for all and the processes of development are recognised as interrelated and mutually reinforcing. By applying a ‘human rights lens’, development is understood as a people-centred process that aims to fully and totally respect the dignity and the full capacities of all human beings. Rights-based development involves the integration of human rights norms, standards and principles in all national plans, policies and development processes. Democracy, development, respect for and protection and fulfilment of human rights and fundamental freedoms are recognised to be interdependent and mutually reinforcing<sup>3</sup>.

The interrelatedness of human rights has definite implications for monitoring the right to adequate food. Some methodological tools are specific to monitoring the degree to which the right to adequate food is being fulfilled. Others may be applied to broadly monitor Economic, Social and Cultural Rights and those rights that enhance the enjoyment of the right to adequate food (such as freedom of speech and the right to organise).

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<sup>3</sup> *Vienna Declaration and Programme of Action, 1993*

However, taking all of these rights and principles into account can easily become an overwhelming monitoring agenda. Care should be taken that a framework to monitor the right to adequate food clearly indicates what other rights are to be included. For example, rights to water and to work, and the obligation to provide land when this is important for a chosen livelihood, may be included because they are considered to be essential for the enjoyment of the right to adequate food.

There is room for flexibility as each country develops its own monitoring framework, adjusted for its own realities. United Nations development bodies recently agreed on what is implied in human rights approaches to development cooperation and programming. They affirmed that all programmes of development cooperation, policies and technical assistance should further the realisation of human rights, that human rights standards and principles should guide all development cooperation and programming in all sectors, and that development cooperation should contribute to the development of the capacities of 'duty bearers' to meet their obligations, and of 'right holders' to claim their rights<sup>4</sup>. It was further stated that:

*Human rights principles guide all programming in all phases of the programming process, including assessment and analysis, programme planning and design (including setting of goals, objectives and strategies); implementation, monitoring and evaluation.*

Among these human rights principles are: universality and inalienability; indivisibility; inter-dependence and inter-relatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law. See Annex 1 for a brief explanation of these terms. We expand on these further on within the context of monitoring the right to adequate food.

How can development processes be made more rights-based and contribute more specifically to the realisation of the human right to adequate food? In Part II of the Right to Food Guidelines, important elements of a development policy agenda are spelled out and are designed to foster an enabling environment. It is implied that development policies should address problems of:

- Unstable food supplies.
- Marketed foods being unsafe and culturally unacceptable.
- Inadequate access to food, specifically by food insecure and vulnerable population groups.
- Underlying causes for food insecurity and vulnerability.

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<sup>4</sup> The Statement was adopted by UN development bodies which met at the Interagency Workshop on Human Rights Based Approach in the Context of UN Reform, held in Stamford, May 2003.

Underlying basic causes for food insecurity and vulnerability within the context of low levels of development include:

- Low levels of investment in human capital (health, education).
- Poor conservation and management of natural resources.
- Non-functioning markets.
- Little investment in infrastructure.
- Little participation of the poor in policy decisions and programme implementation.
- Lack of access to affordable technologies and financial resources by the poor.
- Lack of policy and regulatory environments that are conducive to more equitable sharing of development benefits among different population groups.
- No enforcement of the rules of law, leading to high levels of corruption.

After a thorough assessment of its food insecurity, development and human rights situation, each country should establish its own policy priorities to address its most pressing problems.

## THE RIGHT TO FOOD GUIDELINES

The Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (now referred to as “Right to Food Guidelines”) were adopted by the FAO Council in November 2004. Formulation of the Right to Food Guidelines followed a two-year process that included the establishment of an intergovernmental working group by the Council in 2002 following a recommendation by the World Food Summit.

### BOX 1.2

The **objective** of the Right to Food Guidelines is to:

*“...provide practical guidance to States in their implementation of the progressive realisation of the right to adequate food in the context of national food security, in order to achieve the goals of the Plan of Action of the World Food Summit...”*

## TYPES OF ACTIVITIES THAT ARE PROMOTED IN THE RIGHT TO FOOD GUIDELINES

The Right to Food Guidelines address a range of activities that states should ideally undertake in order to realise the human right to adequate food. They are divided into three sections. The first section explains the objective of the Right to Food Guidelines and refers to relevant international instruments, and explains what the right to adequate food and the achievement of food security mean. Section two deals with creating an enabling environment for the implementation of the right to adequate

food, assistance and accountability mechanisms and outlines the nineteen Guidelines, identifying a wide range of components integral to the realisation of the right to adequate food<sup>5</sup>. The third section refers to commitments that States, relevant international organisations and other stakeholders should make towards the fulfilment of the human right to adequate food, and to a range of actions they should undertake to meet those commitments.

## **RIGHT TO FOOD GUIDELINES AND MONITORING THE RIGHT TO ADEQUATE FOOD**

Various guidelines deal with monitoring the realisation of the right to adequate food, and with evaluating the impacts of these measures. The importance of monitoring in a rights based way is recognised in *Guideline 17* (see Box).

*Guideline 17* also develops an analytical and methodological agenda to monitor the realisation of the right to adequate food. Additional relevant aspects related to monitoring are covered in other guidelines. For example, (i) undertaking right-to-adequate food assessments to formulate a national human-rights based strategy (*Guideline 3.2*), (ii) establishing national intersectoral coordination mechanisms to monitor and evaluate policies, plans and programmes (*Guideline 5.2*), (iii) involvement of stakeholders, particularly communities and local government in monitoring and evaluating food production and consumption programmes (*Guidelines 10.3*), (iv) undertaking disaggregated food insecurity, nutrition and vulnerability analysis to assess forms of discrimination (*Guideline 13.2*), and (v) participation by civil society organisations and individuals in the monitoring activities of human rights institutions (*Guideline 18.1*).

### **WHAT EXACTLY IS RIGHTS-FOCUSED MONITORING?**

In general rights-focused monitoring can be defined as:

*Rights-focused monitoring within a country consists of periodic collection, analysis and interpretation, and dissemination of relevant information to assess the progress in the realisation of the right to adequate food among all members of society, and whether this is being achieved in ways compatible with human rights principles and approaches.*

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<sup>5</sup> The themes of the nineteen Right to Food Guidelines are: 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.

**BOX 1.3 - 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 realisation 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 realisation 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 realisation 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 realisation 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.*

Rights-focused monitoring encompasses approaches that fully incorporate human rights principles in monitoring the formulation, funding, implementation and impacts of relevant policies, programmes, projects and community activities. They echo the human rights principles that should guide rights-based development, which are:

- Equity in terms of resource distribution, and of policy and programme impacts.
- No discrimination against any population groups.
- Transparency in public affairs and administration.
- Increased capacity among public officials with responsibilities related to the realisation of the right to adequate food (‘duty bearers’).
- Popular participation in the formulation of policies, programmes and other State actions.



- Mechanisms in place to hold public officials accountable for their performance.
- High degree of human rights awareness and capacity among all people ('rights holders').
- Adequate capacity within the regulatory and legal framework to process claims of rights violations.
- Full respect for the rule of law.

Information resulting from rights-focused monitoring provides guidance for the improved implementation of measures towards making the human right to adequate food a reality, and in ways that in themselves are fully consistent with human rights principles and approaches. This means that such implementation processes are equitable, non-discriminatory, transparent, participatory and inclusive. For example, implementation of right to adequate food measures should ensure equity in terms of resource distribution, should not discriminate against certain population groups, should guarantee transparency in public affairs, administration and decision making, and should ensure informed popular participation in the formulation of public policies and programmes. Information generated through rights-focused monitoring should foster accountability and respect for the rule of law, and should increase knowledge among food insecure and vulnerable groups about their right to adequate food, and about ways of claiming that right (as well as other rights).

## **WHAT DO WE MONITOR FROM A HUMAN RIGHTS PERSPECTIVE?**

A monitoring framework maps out and identifies what to monitor, suggests what methods to apply, how to interpret the results, and what information and indicators to include. These issues are covered in much greater detail in Volume II. To illustrate what additional dimensions are introduced in conventional monitoring from a human rights' perspective, we include the following questions:

- Are the norms, standards and principles of international human rights treaties and instruments followed up in national policies, regulations and in development programmes and sector plans?
- Are there gaps in the achievement of human rights norms, and of targets and benchmarks, and what are the causes of non-achievement?
- Are public decision-making and the implementation of pro-food security and nutrition policy and programme measures transparent and in accordance with good governance principles?
- Are rights holders becoming rights claimants because mechanisms are in place to seek redress for violations of the right to adequate food?
- Does the monitoring information make it possible to hold state duty bearers accountable for inappropriate use of public resources and poor delivery of public services, and for decisions that adversely affect the realisation of rights? Does the monitoring information contribute to the understanding of reasons for poor public performance?

- Are decisions and actions by non-state actors that impact on the enjoyment of the human right to adequate food covered by the monitoring information?
- Does the monitoring information cover legal and institutional frameworks that condition the realisation of the human right to adequate food?
- Does the monitoring information focus on food-insecure and vulnerable groups and on the underlying causality in these groups of food insecurity, vulnerability and malnutrition, for efficient policy and programme targeting and for relevant and effective follow-up actions?
- Is the implementation of pro-food security and nutrition measures non-discriminatory, and is the distribution of benefits of policy and programme measures equitable?
- Are monitoring processes participatory and inclusive, and are all those who participate in monitoring empowered in the process so that they plan actions in line with their own priorities? In other words, is the monitoring process itself rights-based?

## **TWO ADDITIONAL MONITORING APPROACHES**

Two additional approaches focus on monitoring compliance with state obligations and of individual or group violations. These two approaches are often linked and are more likely reflected in monitoring activities of civil society organisations. According to international human rights law, the state has legal and moral duties or obligations towards the country's inhabitants. These duties and obligations are spelt out in international agreements and covenants to which the state is a party. The State is bound by these obligations whether they are incorporated in domestic law or not. Three levels of state obligations related to the realisation of the right to adequate food are distinguished: (i) obligation to respect, (ii) obligation to protect, and (iii) obligation to fulfil. An expanded explanation of these state obligations is provided in Annex 1. Monitoring focuses on the extent to which the State (usually specific state institutions) is acting in accordance with these obligations.

This is often in concert with the violations approach, i.e. when someone's right to adequate food is violated. Such violations, when reported by the affected person or on her behalf by an organisation, to a human rights institution, may be investigated through judicial or quasi-judicial means. One part of the investigation will focus on how and why the State failed to respect, protect or fulfil the right to adequate food. Civil society organisations typically register cases of violations during given years. A change in the number of reported violations over time does not necessarily mean that more or less violations are taking place, or that the state performs better or worse with respect to its obligations. There is still relatively little country-level experience with these approaches, which also depend on the existence of judicial or quasi-judicial means available to claim the right to adequate food.

## WHO ARE THE USERS AND PROVIDERS OF MONITORING INFORMATION?

The main user groups of monitoring information are government officials, civil servants, civil society groups representing right holders, and private sector actors (for example, food producers and processors). In each case, the specific information requirements of these individual user groups should be recognised and appreciated. Their information needs should be understood before information collection is undertaken. This will help ensure that the final information produced and disseminated is technically and socially accessible, and relevant to different user groups. The right to adequate food is a multi-faceted right that is intertwined with other economic, social and cultural rights, as well as political and civil rights. Monitoring the right to adequate food requires information from different sources at different levels, such as sector databases, censuses, national surveys, poverty and livelihood vulnerability analyses, policy analyses, programme assessments and evaluations, food security and nutrition situation analyses, etc. Rights-based monitoring also requires establishing an institutional framework that specifies:

- Those institutions and organisations that will participate in the main components of the monitoring process and how responsibilities for information collection and analysis are divided among these entities.
- Which institution will have primary responsibility for monitoring.
- How monitoring information will be exchanged (horizontally and vertically) among institutions and organisations at national and local levels.
- What existing institutional capacities are, as well as gaps in those capacities, to adequately undertake rights-based monitoring of the right to adequate food.
- How to ensure that monitoring information is directly linked to follow-up decision-making and action.

The institutional implementation framework has to be country-specific and requires the enactment of appropriate legislation, as resources are needed to support the framework. Ideally it will involve a strong partnership between government and civil society, and will be implemented within the context of a food and nutrition policy or strategy with solid human rights underpinnings. Institutional issues are further discussed later on.

## TALKING THE SAME LANGUAGE – AN OVERVIEW OF COMMONLY USED TERMS

Before monitoring processes can be put in place, it is important that all persons and agencies that will play a role share a common understanding of the different terms that are typically used. Lack of a common understanding has been one of the stumbling blocks to implementing rights-focused monitoring to date. Key terms are reviewed in Annex 1.