

THE
RIGHT TO FOOD
GUIDELINES

INFORMATION PAPERS AND
CASE STUDIES





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CASE STUDIES

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
ROME, 2006

Reprinted 2007

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ISBN 978-92-5-105512-0

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FOREWORD

The latest major international development concerning the right to food took place in FAO in November 2004 when its Council unanimously adopted the Voluntary Guidelines on the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. This was an important event for several reasons. It was the first time that human rights had been discussed in substance within FAO. It was also the first time that countries negotiated on what should be done to implement and realize a recognized economic, social and cultural right. FAO welcomed the Voluntary Guidelines as a tool for the achievement of the hunger reduction target of the first Millennium Development Goal and eventual achievement of food security in the world.

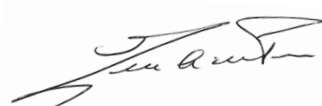
The negotiations took two years. They were facilitated by the FAO Secretariat. Uncertainties and controversies about the right to food and its implications, as well as concerns about the legal implication of the Voluntary Guidelines emerged. The FAO Secretariat thus produced a number of information papers on different subjects to facilitate the negotiations on contentious areas.

We believe that the papers reproduced here facilitated the negotiations and remain relevant for implementing the Voluntary Guidelines. Countries need to examine the implications of the Voluntary Guidelines and to reach consensus about appropriate action to take in each case to pursue the right to food. The studies analyze crucial questions such as whether the right to food can and should be justiciable, whether international trade agreements are compatible with the right to food, what the implication of the Voluntary Guidelines are for States that are not parties to the International Covenant on Economic, Social and Cultural Rights, and lessons to be learned from the experience of countries that have already taken steps to implement the right to food.

With the adoption of the Voluntary Guidelines the world now has concrete and practical recommendations on how to realize good food security policies within a human rights framework. The challenge for States is to recognize their obligations to put an end to hunger and poverty and put the Voluntary Guidelines into practice. FAO will continue to support its Member Nations in this endeavour by further developing the normative and operational aspects of the right to food. It is our hope that this publication will contribute to a better understanding of the right to food and its progressive realization.



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TABLE OF CONTENTS

FOREWORD	iii
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INTRODUCTION: BACKGROUND AND PURPOSE OF THE INFORMATION PAPERS	1
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INFORMATION PAPERS

1. FOOD AID AND THE RIGHT TO FOOD

I. INTRODUCTION.....	5
II. FOOD AID DONORS, TYPES AND FLOWS	6
III. HOW CAN FOOD AID CONTRIBUTE TO THE REALIZATION OF THE RIGHT TO FOOD?.....	9
A. Protection during emergencies:.....	9
B. Enabling development.....	10
C. Insulating the poor from food price fluctuations:.....	11
IV. DO CURRENT FOOD AID PRACTICES CONTRIBUTE TO THE REALIZATION OF THE RIGHT TO FOOD?.....	11
A. The impact of programme food aid on increased food availability.....	12
B. The impact of aid to cover emergency shortfalls	14
V. HOW CAN THE IMPACT OF FOOD AID ON THE RIGHT TO FOOD BE STRENGTHENED?.....	15
A. Change focus from donors' needs to recipients' needs	15
The importance of macro and micro targeting.....	16
B. Use better procurement and disbursal methods	17
Set up evaluation and monitoring systems	18
C. Use food aid to enable development	18
D. Ensure that emergency food relief also contributes to long-term economic development	19
VI. CONCLUSIONS	20
VII. SELECT REFERENCES	23

2. MONITORING THE IMPLEMENTATION OF THE RIGHT TO ADEQUATE FOOD

I. INTRODUCTION.....	25
II. RIGHTS BASED MONITORING.....	26
III. WHAT TO MONITOR.....	28
IV. HOW TO MONITOR.....	34
A. Important considerations in RBM processes	34
B. Identification and characterization of vulnerable groups	35
C. Institutional and legal framework	37
D. Benchmarks	38
E. Reporting	39
V. MONITORING FOR WHOM?	41
VI. MONITORING BY WHOM: INSTITUTIONAL ASPECTS	42
A. Institutional responsibilities and attributes	42
B. Capacity development	44

VII. IMPLEMENTATION STRATEGY, AGENDA, WORK PLAN	46
VIII. CONCLUSION	47
REFERENCES.....	49
ANNEX I - INDICATOR DEVELOPMENT FRAMEWORK 1	50
ANNEX II - INDICATOR DEVELOPMENT FRAMEWORK 2	51
ANNEX III - INDICATOR DEVELOPMENT FRAMEWORK 3	53
ANNEX IV - USERS AND USES OF RIGHTS-BASED MONITORING INFORMATION.....	54

3. RIGHT TO FOOD PRINCIPLES AND INTERNATIONAL TRADE AGREEMENTS

I. INTRODUCTION.....	55
II. INTERNATIONAL AGREEMENTS AND THE RIGHT TO ADEQUATE FOOD	56
III. ANALYSIS OF SELECTED WTO AGREEMENTS IN THE CONTEXT OF FOOD SECURITY AND RIGHT TO FOOD	59
Agreement on Agriculture	59
(a) Is the AoA as a whole conducive to food security, i.e. does it contain elements that contribute to food security in food-insecure countries?	60
(b) Do trade rules limit the ability of food-insecure states to pursue rights-based approaches to food security?	63
The Marrakesh Decision – safeguarding against some food insecurity risks through a multilateral transfer mechanism.....	66
Agreement on trade-related aspects of Intellectual Property Rights (TRIPS)	67
The SPS/TBT Agreements	68
IV. CONCLUDING REMARKS	69

4. JUSTICIABILITY OF THE RIGHT TO FOOD

I. INTRODUCTION.....	71
II. DEFINITIONS AND CONCEPTS	72
III. JUSTICIABLE DIMENSIONS OF THE RIGHT TO FOOD	75
A. Explicit ICESCR obligations	76
1. To take steps	76
2. Non-discrimination	77
B. Levels of obligations.....	79
1. Respect	79
2. Protect	81
3. Fulfil (facilitate)	82
4. Fulfil (provide)	83
IV. SOME SPECIFIC ISSUES CONCERNING JUSTICIABILITY	86
A. Are socio-economic rights of a different nature?.....	87
B. Is the right to food too vague?	88
C. Is justiciability compatible with separation of powers?	89
D. Do resource implications prevent justiciability?	90
V. POSSIBLE OUTCOMES OF JUDICIAL AND QUASI-JUDICIAL DECISIONS.....	92
VI. CONCLUSION	94

5. IMPLICATIONS OF THE VOLUNTARY GUIDELINES FOR PARTIES AND NON-PARTIES TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

I. INTRODUCTION.....	97
II. TREATIES, DECLARATIONS AND CUSTOMARY INTERNATIONAL LAW	98

A. International Covenant on Economic, Social and Cultural Rights	99
General Comments	99
Role of FAO in the ICESCR	101
B. UN Charter and Universal Declaration of Human Rights	101
C. Right to Food as customary international law	103
III. LEGAL BASIS FOR VOLUNTARY GUIDELINES	106
A. World Food Summit	106
B. Mandate of the IGWG	107
C. Nature of the Voluntary Guidelines	108
IV. CONCLUSION	109
6. RECOGNITION OF THE RIGHT TO FOOD AT THE NATIONAL LEVEL	
I. INTRODUCTION	111
II. HUMAN RIGHTS TREATIES	112
A. Ratification	112
B. International Covenant on Economic, Social and Cultural Rights	113
C. States' Reports to CESCR	114
D. Applicability of the ICESCR at the national level	116
III. NATIONAL CONSTITUTIONS	117
A. Dimensions of the Right to Food	117
B. Level of constitutional protection	120
IV. JURISPRUDENCE ON THE RIGHT TO FOOD	120
A. Justiciability	120
B. Switzerland	121
C. India	122
D. South Africa	124
V. CONCLUSIONS	125
ANNEXES	127
7. SAFETY NETS AND THE RIGHT TO FOOD	
INTRODUCTION	141
STATES' OBLIGATION TO PROVIDE FOR THE REALIZATION OF THE RIGHT TO FOOD	141
SOCIAL SAFETY NETS AND FOOD SAFETY NETS	142
REQUIREMENTS OF RIGHTS-BASED SAFETY NETS	143
THE BROADER AIMS OF SAFETY NETS	144
KEY CRITERIA FOR CHOOSING A PARTICULAR DESIGN	145
DESIGN OPTIONS	149
THE CHOICE BETWEEN CASH AND FOOD TRANSFERS	150
CONCLUSIONS	152
BIBLIOGRAPHY	153
8. IMPLEMENTING THE RIGHT TO ADEQUATE FOOD: THE OUTCOME OF SIX CASE STUDIES	
A. INTRODUCTION	155
B. FOOD AS A HUMAN RIGHT	156
C. POLICY FRAMEWORK	157
D. LEGAL FRAMEWORK	163
E. INSTITUTIONAL FRAMEWORK	169
F. OPERATIONALIZING THE RIGHT TO FOOD: SOME KEY ISSUES	170
G. CONCLUSIONS	174
VOLUNTARY GUIDELINES	177

INTRODUCTION: BACKGROUND AND PURPOSE OF THE INFORMATION PAPERS

1. BRIDGING THE GAP BETWEEN LEGAL RECOGNITION AND EFFECTIVE REALIZATION

The right to food has been recognized as a human right since the Universal Declaration of Human Rights in 1948, in numerous binding and non-binding legal instruments, notably Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).¹ However, guidance on its implementation was not available until 2004 when, after two years of negotiations under the umbrella of FAO, Member States adopted the “Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security”².

The Voluntary Guidelines were developed to fight hunger and malnutrition using a rights-based approach. The need for better realization of the right to food is evident given the persistent high prevalence of undernourishment and hunger. FAO estimates that 852 million people were undernourished worldwide in 2000-2002: 815 million in developing countries, 28 million in countries with economies in transition, and 9 million in industrialized countries³.

2. THE CALL FOR A VOLUNTARY INSTRUMENT ON THE RIGHT TO FOOD

The process towards the adoption of the Voluntary Guidelines began in 1996 with the World Food Summit. The Rome Declaration on World Food Security “reaffirmed the right of everyone to have access to safe and nutritious food,

¹ See, Extracts from international and regional instruments and declarations, and other authoritative texts addressing the right to food, FAO Legislative Study No. 68, Rome, 1999.

² <http://www.fao.org/docrep/meeting/009/y9825e/y9825e00.htm>.

³ FAO, 2004, *State of Food Insecurity in the World (SOFI) 2004*, Rome.

consistent with the right to adequate food and the fundamental right of everyone to be free from hunger”⁴. Moreover, Objective 7.4 of the accompanying Plan of Action also mentioned, for the first time, “the possibility of formulating voluntary guidelines for food security for all”.⁵ In the inter-summit period, important right to food follow-up activities took place which culminated in the adoption of General Comment 12 on the Right to Adequate Food⁶ adopted in May 1999 by the Committee on Economic, Social and Cultural Rights, the supervisory mechanism of the ICESCR. When States reconvened at FAO for the World Food Summit: *five years later* in June 2002, the idea of developing a voluntary instrument on the right to food was generally supported: States invited the FAO Council “to establish at its 123rd Session an Intergovernmental Working Group, with the participation of stakeholders ... to elaborate, in a period of two years, a set of voluntary guidelines to support Member States’ efforts to achieve the progressive realization of the right to adequate food in the context of national food security.”⁷

3. THE DEVELOPMENT OF THE VOLUNTARY GUIDELINES

The FAO Council created the Intergovernmental Working Group (IGWG) as a subsidiary body of the Committee on World Food Security on 29 October 2002. Some 90 member states of FAO and several UN-agencies participated in the meetings. Relevant international and regional institutions, as well as NGOs, civil society groups, parliamentarians, academic institutions and foundations as well as the private sector were invited to participate in the work of the IGWG as observers.

After almost two years of discussions and negotiations, the IGWG adopted the Voluntary Guidelines by consensus at its fourth session on 23 September 2004. They were subsequently endorsed by the Committee on World Food Security and adopted by the FAO Council. The Guidelines are composed of three sections: I. Preface and Introduction; II. Enabling Environment, Assistance and Accountability; and III. International Measures, Actions and Commitments. Section II contains 18 very specific guidelines that deal with issues ranging from good governance and the need for legislation, to food safety nets and to access to natural resources.

⁴ World Food Summit, Rome Declaration on World Food Security, FAO, Report of the World Food Summit, Rome 13 to 17 November 1996, Part I, Appendix, Rome, 1996, para. 1.

⁵ World Food Summit, Plan of Action, FAO, Report of the World Food Summit, Rome, 13 to 17 November 1996, Part I, Appendix, Rome, 1996.

⁶ General Comments are issued by all the Treaty Bodies and are generally considered to provide authoritative, interpretation of the treaty provision in question.

⁷ Report of the World Food Summit: *five years later*, Part one, Appendix. Available on <http://www.fao.org/docrep/meeting/005/y7106e/y7106e09.htm>

The establishment and work of the IGWG represent a major new development in the field of socio-economic rights. For the first time, an FAO body discussed the right to food in substance and detail, and States agreed on the meaning of this right.

4. THE ROLE OF FAO AND OF THE INFORMATION PAPERS

During the negotiation process, FAO facilitated the work of the IGWG by providing technical assistance where needed. The information papers and case studies report reproduced here were developed in this context. The topics of the information papers reflect issues that were controversial amongst the IGWG's Members or complex legal questions for which clarification was requested. In addition, five country case studies were commissioned to assemble knowledge of best practices regarding the right to food. Their findings are shared in the case studies summary report.

All papers were initially published as meeting documents and are available at www.fao.org/righttofood. They are reproduced here in the format in which they were published. Since the papers were drawn up to support the negotiation process, they are concise and written for a non-specialist audience. The purpose of publishing the papers in this collection is to provide a source of information on a variety of aspects of the right to food for development practitioners in governments and UN agencies, for civil society as well as for academic institutions.