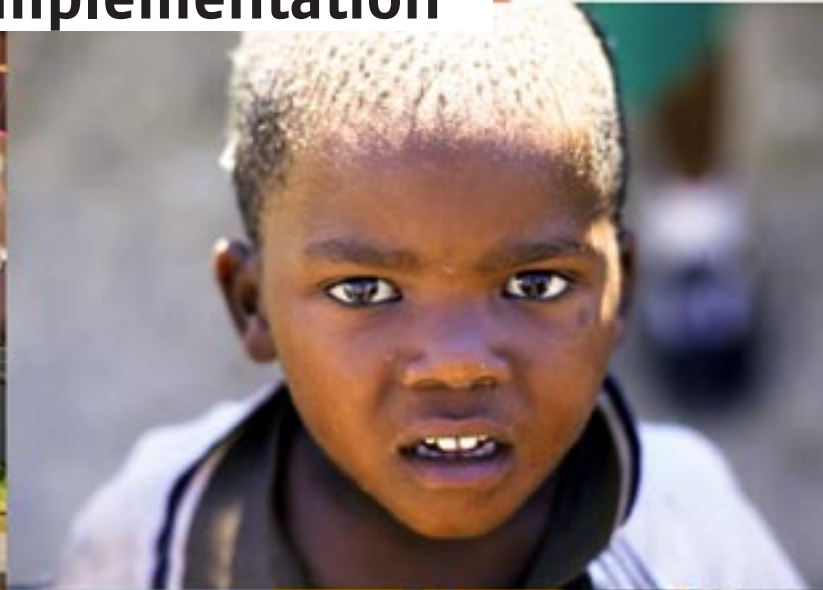




**Voluntary Guidelines  
on the Right to  
Adequate Food  
From Negotiation to Implementation**



**Documents**





**FIAN – Food Rights International**

**Document**

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# Voluntary Guidelines: A new instrument to promote the implementation of the right to adequate food

By Michael Windfuhr, Secretary General, FIAN International

The Council of the Food and Agriculture Organisation (FAO) adopted in November 2004 unanimously the text of a new legal instrument concerning the right to adequate food, which has the cumbersome title: the "Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security". With the Voluntary Guidelines a practical tool box is now available on how to implement the right to adequate food at the national level. For FIAN, the international human rights organisation that has been working for a better recognition and implementation of the right to adequate food since 1986, it was a big success to get 187 governments to adopt such a new legal instrument on the right to adequate food. The text includes a good standard of interpretation of the right to adequate food. For around 20 years FIAN and other civil society organisations have invested quite an amount of lobby and advocacy work to achieve an international understanding of the content and the state obligations under the right to adequate food. Without such an understanding it was much more difficult to use the right to adequate food in concrete situations of violations of the right to food.

For a human rights organisation working on economic, social and cultural human rights (ESC-Rights) it has been essential to invest part of its capacity into widening the understanding and acceptance of ESC-Rights. FIAN concentrated a great part of its resources during its first years until the Vienna Conference on Human Rights in 1993 on achieving a better recognition of ESC-Rights and to overcome many of the misconceptions. While the Vienna conference proved to be an effective moment to improve the general recognition of the ESC-rights by highlight-

ing the interdependence, the interrelatedness and interconnectedness of all human rights, the specific understanding of each of these rights was still at the very beginning in the mid-nineties. It was therefore a strategic decision of FIAN to use the upcoming World Food Summit in 1996 (WFS) as an opportunity to bring forward the legal interpretation of the right to adequate food and nutrition. Today nine years later, much has been achieved in the follow-up work to the WFS. As direct results the UN-Committee on Economic, Social and Cultural Rights (CESCR) developed a legal interpretation of the right to food with its General Comment No. 12 (GC 12) on the right to adequate food in 1999. In November 2004, the FAO Council unanimously adopted the "Voluntary Guidelines on the progressive realization of the right to adequate food in the context of national food security". With these two new texts much of the necessary standard setting in international law has been achieved. Human rights organisations but also other legal experts including judges, who would like to understand the details of the right to food, now have enough material at their disposal that can be applied to specific case situations.



NGO meeting before the second session of the guidelines negotiations, Rome, December, 2003.

In order to understand what has been achieved at the WFS and in the follow-

up process afterwards, let us have a short look back: The right to adequate food received prominence in the context of the FAO during the World Food Summit (WFS) in 1996. The declaration adopted at the WFS reiterates the "fundamental right of every person to the right to food and to be free from hunger". The emphasis on the right to adequate food in the WFS declaration and the subsequent follow-up work on the right to adequate food – based on the Plan of Action that was adopted in 1996 – was a great achievement because it focuses attention on what governments can contribute to ending hunger and malnutrition. Focusing on the role and responsibility of governments is important due to the fact that it is basically the lack of political will – which the FAO has been emphasizing this since 1996 in all its documents – that is responsible for the persistence of hunger and malnutrition worldwide. If missing political will is at the core of the problem, governmental policy changes are needed to move forward in reducing the number of hungry and malnourished. This is why a rights-based approach to the problem of hunger and malnourishment is needed and can be extremely helpful: We have to identify what types of government policies that are responsible for creating or reducing hunger and malnutrition. If one looks carefully into the core causes of hunger and malnutrition today, one can see how great the importance of the quality of governance is for achieving progress in combating hunger. A rights based approach does not replace other forms of development policies, but it is a necessary complement in achieving long term success.

Besides knowing the absolute number of hungry and malnourished worldwide it is important to identify which groups are those most affected by



hunger. The most recent endeavour to develop a typology of hunger was undertaken in the UN-system by the Task Force on Hunger of the United Nations Millennium Development Project. Their data show that close to 80 % of the world's hungry live in rural areas. The majority of the people facing hunger and malnutrition are smallholder farmers, depending mainly or partly on agriculture for their livelihoods. In fact, half of the number of hungry people is peasants who live from small plots of land and lack adequate access to productive resources such as land, water and seeds. Out of these smallholder peasants two thirds live on marginal soils and under environmentally difficult conditions, such as mountainous areas or such threatened by droughts or other natural risks, like flooding and mud slides. Additionally, 22 % of the ones suffering from hunger and malnutrition are landless families who often survive from income obtained under precarious working conditions as landless labourers. Additionally 8 % can be found in rural communities engaged in fishing, hunting and herding activities. About 20 percent of the hungry are urban – they constitute the fastest growing group.

The key lesson from the brief typology presented is that hunger and malnutrition are deeply entrenched in groups that are politically and geographically marginalized and live in relatively remote areas. Fighting hunger and malnutrition requires tackling the problems of discrimination and marginalization that characterise the situation of those families and persons affected. Small holder farmers on marginal lands often lack access to secure land titles, to credits, agricultural extension services, to local markets and agricultural research. Landless families lack access to jobs or productive resources such as land, seeds or water. The lack of access to productive resources or jobs makes families unable to produce or to buy adequate food. Hunger is therefore less a problem of the total amount of production as often argued, but rather a question of securing access to such productive resources. The role of governments is important, not related to production

but in the creation and securing of an enabling environment. At the core of a rights-based approach is the idea that people can claim respect of all human rights from their governments. In that sense, human rights create entitlements of persons vis-à-vis their governments. These entitlements can be legally claimed and are therefore a good tool to hold governments accountable.



### The new instrument

The Voluntary Guidelines are a new legal instrument to guide the implementation of the right to adequate food. They describe what governments can and should do within several policy areas when they begin to orient their policies towards a rights based approach to implement the right to adequate food. The first achievement is that the text strengthens the legal interpretation of the right to food which was developed in the course of the last ten years by international law experts and civil society organizations. The definition of the right to adequate food used in the Guidelines reflects that the content of the right to adequate food is broader than simple access to food, but contains also the access of individuals and groups to productive resources. It is clear in the Guidelines that states have various obligations vis-à-vis people living in their territory. The text of the guide-



lines refers to the triads of obligations developed over the years and also used in the General Comment No. 12, to respect, protect and fulfil. Governments have to respect existing access to food and to productive resources, protect people from being deprived by economically more powerful actors and to invest the maximum of the available resources to progressively achieve the full realization of the right to food, by taking immediate and courageous steps to do so.

An essential element of the Guidelines requires that governments need to have a national strategy for the implementation in place, either by an overall right to food strategy or via integration of right to food aspects in already existing poverty or food security strategies. The Guidelines are specific in describing the five necessary elements of such a national strategy, which are a precondition for an effective implementation of the right to adequate food. Such a strategy has to start (1) with a careful analysis of the causes of hunger and be followed by (2) an assessment of the existing legislative and policy framework and identification of problematic legislation or areas in which adequate legislation is missing. A third element of the national strategy is that (3) all policy measures taken by govern-

ments need to be screened in order to make sure that they do not contribute to violations of the right to adequate food and ensure that the state is using the maximum of available resources to progressively implement the right as well as to direct its implementation particularly to those groups which are extremely marginalized in the country. The fourth element (4) is that governments install a functioning monitoring mechanism which will help to identify victims of violations as well as progress over time. Finally (5) governments have to have in place effective recourse procedures which allow victims of violations of the right to adequate food to claim their rights and ask for meaningful remedies. The Guidelines contain many provisions in different parts of the text that explain in detail how these elements could be part of an integrated national right to food strategy. Thus, governments are not asked to do business as usual but to do the necessary changes at all five stages of the implementation strategy.

The structure of the 19 guidelines dealing with government responsibilities at the national level is convincing. They regroup recommendations for government policies along the lines of different policy areas. There are specific guidelines on access to resources, economic development policies, national strategies, food safety etc. Those actors willing to implement parts of the guidelines can easily find guidance on how to best implement the right to adequate food.

The responsibilities of other actors than the nation state are only covered in the Guidelines by means of government obligations to effectively control these actors. One of the most controversial debates during the negotiations revolved around the question whether international responsibilities of nation states beyond their borders, e.g. to assist other states in implementing the right to food, can be mentioned or not. While industrialized countries in particular tried to avoid any international dimension in the text, the text was finally adopted as an annex, Part III on International measures, actions and commitments. Even though this

section is just a reiteration of agreed commitments at other forums, the achievement is that the text recognizes that without enabling international framework conditions it can be difficult for the nation state to fully guarantee the right to adequate food. Some international framework conditions, such as trade or structural adjustment policies seriously influence the nation states capacity and possibility for policy choices.

It is often asked whether the voluntary nature of the document does not take away the force that is needed in order to increase political will for policy changes. While it would of course be ideal to have strong legally binding treaties on all aspects of human rights law, one has to recognize that only the voluntary nature of the document has guaranteed the broad and universal acceptance of the right to adequate food. One should not forget that the vast majority of the member states of the FAO are already legally bound to implement the right to adequate food by being state party to the International Covenant on Economic, Social and Cultural rights (ICESCR). For this group of states, the Guidelines are an important reference text for the orientation of national policies and measures. The Guidelines do not contain or create new binding legal obligations. For those countries that are not yet state parties to the ICESCR, or that do not intend to become a state party in the foreseeable future, the text does not create a binding basis for the promotion and protection of the right to food. Nevertheless, it is a text full of ideas for best practices and a toolbox for improving national policy making. The Guidelines are a voluntary instrument by their very nature, but can nevertheless become a forceful practical guide to influence state policies. Civil society organisations can use them to challenge governments that are inactive or which are implementing inadequate policies. In a certain way, probably the single most important factor that will contribute to a successful use of the Guidelines is that that CSOs will start using the guidelines for scrutinizing government policies and start demanding specific

government responses based on the recommendation of the Guidelines.



FIAN during the third session of the guidelines negotiations, Rome, May, 2004.

Civil society organizations working with a rights-based approach can basically follow two different directions in their work: they can either work with the rights holders or with the duty bearers. A non exhaustive list of examples of possible activities is: (1) In their work with the rights holders, CSOs can inform people about their rights, conduct training and education work, help develop skills on how to document cases of violations of ESC-rights, advise or support local groups of victims to use legal remedies or other recourse procedures at the national level etc. (2) Secondly their work can be directed towards the duty bearers, e.g. training and education of government officials or legal personal including lawyers and judges, it can direct institutions such as independent human rights institutions, ombudsman system etc. The documentation and publication of cases of violation can help government institutions to redirect policies that contribute or lead to such violations. Lobby and advocacy work can be developed to propose or amend legislation that has an impact on the food situation.

### Next steps for civil society organisations

The CSOs community that has influenced the process over the last years met again in June 2005 in Berlin where the German government hosted an international expert workshop "Policies against Hunger IV: Implementing the Voluntary Guidelines." During a pre-



conference the CSOs met and discussed how to best make use of the Guidelines in the coming months and years. There was an agreement in Berlin that the follow-up work by civil society must start first and foremost at the national level. The Voluntary Guidelines offer an excellent tool to start a broad and substantive education process on the right to adequate food and nutrition. One of the first priorities detected at the meeting was the need for educational activities with rights holders as the right to food and nutrition is still not very known. The value added of international law in national political or legal struggles needs to be explained, education material needs to be developed, and training courses at the national level organised. Education and training work should be directed towards different civil society groups, such as human rights organisations on the one hand and social movements on the other. The different nature and content of each of the guidelines can be used for specific target groups. A good way of promoting the Guidelines will be to start using it as a tool to monitor governments' compliance with their obligations under the right to adequate food. The Guidelines can

be quite easily transferred and used as a tool to check the quality and adequacy of government policy interventions. It can be checked if the different proposals in the subparagraphs of each guideline are taken up by governments and if yes, whether the policy measures taken are adequate to achieve the targets or objective mentioned in that paragraph. It was proposed to gather this information in forms of shadow reports that could be published regularly to watch government policy decisions. The monitoring should be organized along the five elements of the national implementation strategy mentioned above.

Moreover, it was pointed out that monitoring has to carefully differentiate between different levels of government responsibilities. Sometimes national legislation might be excellent, while politicians are ineffective or corrupt. The monitoring should therefore be specific: what are the problems at the local, regional and the national level? Finally monitoring must include problems caused or aggravated by international framework conditions. The documentation of cases of violations and the identification of responsible

institutions or actors for these violations will equally be an essential element of good monitoring. It was also decided that the CSO community will develop a legal commentary on the Guidelines in order to clearly delineate what type of obligations are contained in each guideline and what would constitute a violation. FIAN-International will develop such a commentary in the second half of the year.

A good monitoring of government performance of the realization of the right to adequate food will be a successful base for lobby and advocacy work with governments. The Guidelines will be an excellent background for such a lobby work as they have been accepted by basically all governments worldwide. CSOs should start collecting good examples and best practice of the use of the Guidelines at all levels of national policies and make them known to other CSOs in other countries. It was therefore agreed that a web-site will be set up by FIAN that shall offer space for a regular exchange of ideas and experiences in the use of the Guidelines among all interested CSOs from different countries.

CSOs must also insist that the government, the duty bearer, is promoting the right to adequate food and nutrition and that the Guidelines are actively being promoted in schools and other public institutions. Besides spreading the information and making it available nationally, governments can train their own staff within ministries and administration at the local, regional, and national level on how to read the Guidelines and how to implement it best.

In Berlin CSOs from all continents were present and hence it was also discussed that regional civil society networks should be contacted and asked if they can help distributing the information on the Guidelines. International NGO / CSO networks shall also be contacted in order to disseminate information and to reach out to national civil society organisations, such as the IPC-network (the International NGO/CSO Planning Committee for Food Sovereignty) . The NGO network working in the SCN (Standing Committee on Nutrition) -context, and the newly established network on economic, social

and cultural rights (ESCR-Net) provide further examples of such interlinking. At the same time, the Guidelines need to be promoted at the international level. Moreover, the CSO community has to monitor and push for the FAO to start a meaningful follow-up work on the Guidelines. Despite important initiatives by the FAO, incorporating a rights-based approach into their work is still at the beginning. Due to the fact that the Guidelines refer to several policy areas they are a relevant tool for several international organisations. First of all other food and hunger related organisations such as the World Food Programme and the International Fund for Agricultural Development, but also other agencies such as the World Health Organisation, and UNICEF etc. It has to be ensured that the human rights system is using the Guidelines systematically. The UN-Committee on Economic, Social and Cultural Rights has already announced that they will use the Guidelines as a tool when examining state parties performance on the right to adequate food. Other human rights institutions and treaty bodies can use the Guidelines accord-

ingly. Besides doing lobby work to guarantee that these institutions use a rights based approach in general and the Guidelines in particular, CSOs can use the Guidelines as a monitoring instrument for state performance in human rights bodies. Many human rights organisations write parallel or shadow reports to treaty bodies related to the right to food and nutrition. The Guidelines can become a good guide for these parallel reports.

CSOs in Northern countries will try to ensure that the Guidelines become a good tool to promote good governance and respect for the right to food through development aid. Bi- and multilateral donors can use them as an advisory tool for their own aid policies but also for their policy work and dialogues. It was pointed out in Berlin that a rights based approach is weak in the current debate on the implementation of the Millennium Development Goals. The Guidelines offer an excellent tool to integrate ESC-rights into the implementation work on the first MDGs, the reduction of the number of poor and hungry by half by 2015. ■

## Interview : with Hartwig de Haen, Assistant-Director-General, Economic and Social Department, FAO

*By Gertrude Klaffenböck, FIAN Austria*

**FIAN:** In September 2004, the governments of the Food and Agricultural Organisation (FAO) adopted the Voluntary Guidelines on the right to food. What do you think do the guidelines mean for the governments as well as for the reduction of hunger and malnutrition?

**Hartwig de Haen:** The guidelines interpret the right to food in a practical way. They emphasise the rights of human beings and they obligate governments. Thereby they facilitate transparent public discussions and political decision making processes in favour of the fulfilment of the right to food. Incidentally, in the first instance this does not mean having the right to receive help in terms of food aid, but primarily the right to have adequate preconditions to feed oneself as well as the priority for politicians to protect directly the poor and hungry. Furthermore, the

guidelines show how the rights to economic and physical access to food can be implemented. For this reason, the guidelines are an additional instrument to achieve faster the aims of the World Food Summit and the Millennium Goals.

**FIAN:** What were the favourable factors for the acceptance of the guidelines? How do you assess the role of NGOs within this process?

**Hartwig de Haen:** The acceptance of the Voluntary Guidelines was facilitated by the positive and constructive attitude of all member states and involved groups. This process was supported by the active and competent bureau of government representatives (Intergovernmental Working Group, IGWG) that moved the negotiations further between the proceedings. Of central importance was a



secretary within the FAO financed by the German Government, who organized the panel of the negotiations and provided information about the different aspects of the right to food. Furthermore, the negotiations were led by a particularly competent and impartial chairman.

For at least 10 years, NGOs have been playing an important role in putting the right to food on the international agenda. The code of conduct promoted by them in the end of the nineties certainly served as a model for the guidelines. The NGOs definitely contributed in an important way to the success of the government negotiations with their informative, constructive and well elaborated interventions. This was also recognised by participating states.

**FIAN: Which roles and capacities might the FAO and its member states have in your opinion when it comes to the implementation of the guidelines?**

**Hartwig de Haen:** It is a new working area for the FAO and its member states to realise the concept of the right to food. Even though we gained valuable experiences already during the negotiations of the guidelines, we still need more efforts to be made to make sure that the right to food will be an integral part of the work within the FAO. Now it is a challenge for the FAO to make sure that the member states understand the principles of the right to food and the derived duties. The pre-condition for the implementation is the cooperation between the International Organisations, the Governmental Organisations and the Non-Governmental Organisations. The FAO will have to extend its capacities to support the member states in the implementation of the right to food and steps are already taken to establish the right to food within the working programme of the organisation.

**FIAN: Are there any special measures or programmes planned within the FAO for the realisation of the guidelines?**

**Hartwig de Haen:** The experiences and perceptions gained during the development of the guidelines show the importance to carry out different activities in the following four areas: (a) the right to food has to be an integral and permanent part within the working programme of the FAO; (b) materials for the implementation have to be developed; (c) communication and training must be given priority; (d) countries that want to realize the right to food should be supported if necessary by the FAO.

**FIAN: What is planned regarding the future cooperation between the FAO and the human rights system of the United Nations?**

**Hartwig de Haen:** The international community concentrates itself on poverty reduction within the context of the millennium goals. Furthermore the so called "rights based approach" is supported. The General Secretary of the United Nations demanded for example human rights "mainstreaming" within the UN in his "Agenda for Reform" of 1997. To achieve this the FAO will reinforce cooperation with the UN High Commissioner for Human Rights, the UN Committee on Economic, Social and Cultural Rights and with the Special Rapporteur on the Right to Food. ■



*Hartwig de Haen is Assistant Director General, Economic and Social Department, FAO.*

## Report from the UN Special Rapporteur on the right to food <sup>1</sup>

By Jean Ziegler

In accordance with the mandate given to him by the Commission on Human Rights, the Special Rapporteur has actively participated in the international initiative to develop a set of internationally accepted Voluntary Guidelines to support the progressive realization of the right to adequate

food in the context of national food security. Although the Special Rapporteur has expressed some serious concerns in his previous reports and contributions to the negotiations,<sup>2</sup> he believes that this is an important international initiative that will help raise awareness that the right to food is

a human right that must be respected and enforced around the world [...].

<sup>1</sup> This is an extract from the report of Jean Ziegler presented at the 6th session of the Commission on Human Rights (E/CN.4/2005/47), reprinted with the permission of the Special Rapporteur.

<sup>2</sup> See [www.righttofood.org](http://www.righttofood.org)





This is an important step, because in adopting the Voluntary Guidelines, Governments have reaffirmed a solid commitment to the right to adequate food and have agreed on an internationally accepted understanding of the right to food. This marks important progress. Indeed, FAO has hailed this effort as a "landmark commitment to human rights" as this signifies universal acceptance of what the right to food means and provides a practical tool that will "empower the poor and hungry to claim their rights".<sup>3</sup>

The Voluntary Guidelines are groundbreaking in the sense that they provide an internationally accepted definition of the right to food. The definition adopted by Governments (see paragraphs 16 and 17) closely follows the definition adopted by the Committee on Economic, Social and Cultural Rights. It also follows the interpretation offered by the Committee that States are obliged to respect, protect and fulfil the right to adequate food, which has important implications for the acceptance of this framework across all economic, social and cultural rights. Paragraph 17 states that:

"... 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."

The Guidelines are also groundbreaking in recognizing the international dimension related to the right to food, addressing questions of international trade, food aid and embargoes, for example. This is important because it extends understanding of the right to food beyond the traditional relation between a State and its citizens towards a greater recognition of "extraterritorial" responsibilities (see the next section where this concept is treated in greater detail). This set of guidelines also addresses questions of non-State actors, encouraging direct responsibility for the right to food and improved regulation of markets to ensure food security.

The Voluntary Guidelines also show how the right to food can be incorporated into government strategies and institutions. They show how the key human rights principles – non-discrimination, participation, transparency, accountability and access to justice – can be incorporated into a rights-based approach to food security. They also call on States to promote "broad-based economic development that is supportive of their food security policies" (guideline 2.1), to "pursue inclusive, non-discriminatory and sound economic, agriculture, fisheries, forestry, land use, and, as appropriate, land reform policies" (guideline

2.5) and to incorporate the right to food into poverty reduction strategies. They also urge States to "take account of shortcomings of market mechanisms in protecting the environment and public goods" (guideline 4.10) and that, particularly for women (guideline 8.3) and vulnerable groups:

"... States should respect and protect the rights of individuals with respect to resources such as land, water, forests, fisheries, and livestock without any discrimination. Where necessary and appropriate, States should carry out land reforms and other policy reforms consistent with their human rights obligations and in accordance with the rule of law in order to secure efficient and equitable access to land and to strengthen pro-poor growth. Special attention may be given to groups such as pastoralists and indigenous people and their relation to natural resources" (guideline 8.1).

The Voluntary Guidelines also call on States to set up mechanisms to inform people of their rights and improve access to justice for the right to food (guideline 7). For the Special Rapporteur, greater recognition of the right to adequate food at the national level and assuring access to justice for all, with priority for the poorest and most vulnerable, would significantly improve the realization of the right to food. The Voluntary Guidelines therefore have the potential to have a positive impact in the struggle for the right to food. However, it is essential that they now be adopted as a practical instrument to guide government policies and programmes in order to have a real impact on hunger and food insecurity in the world. ■

<sup>3</sup> See <http://www.fao.org/newsroom/en/news/2004/51653/index.html>.



**Jean Ziegler**  
is UN Special  
Rapporteur  
on the right  
to food.

# The Voluntary Guidelines and the work of the High Commissioner for Human Rights

By Carlos Lopez <sup>4</sup>

The United Nations High Commissioner for Human Rights has principal responsibility for the protection and promotion of all human rights. It was created in 1994 by the United Nations General Assembly. Provision of technical assistance and coordination of human rights activities are within its mandate. Promotion and protection of the right to food has been a permanent preoccupation of the High Commissioner who has had a longstanding and prominent role in the landmark activities and events in this area during the last two decades.

In the Declaration and Programme of Action of the World Food Summit 1996 the High Commissioner was requested to clarify the content of the right to food and to consider means of implementation, including Voluntary Guidelines (Objective 7.4). In response to this invitation, the High Commissioner convened two international consultations and worked with the Committee on Economic, Social and Cultural Rights in the preparation of General Comment No. 12 which the Committee adopted in 1999. In 2001 the High Commissioner, in collaboration with the German Government, convened another expert consultation on the right to food whose main conclusions stressed the need to move towards the implementation of the right to food norms and standards. The decision to elaborate Voluntary Guidelines to support the realisation of the right to adequate food within the FAO provided an opportunity for further engagement of the High Commissioner along the path of implementation.

High Commissioner Ms Louis Arbour has defined the strategic approach of her office to the promotion and protection of human rights in which the implementation of norms and standards is stressed.<sup>5</sup> But effective implementation of the right to food faces many

obstacles at the national and international level. For that reason the High Commissioner has set a strategy of effective country engagement, stronger leadership and building partnerships. Practical instruments such as the Voluntary Guidelines will be useful in this strategy given its focus on practical guidance for the implementation of the right to food.



Ambassador Mohammad Saeid Noori Naeeni (middle), chair person of the Intergovernmental Working Group that led the negotiations of the voluntary guidelines.

A strategy that focuses on implementation requires first and foremost working with Governments. The Voluntary Guidelines offer a good starting step in this regard since they were elaborated and adopted by Governments. The Office of the High Commissioner (OHCHR) and concerned Governments could take the Voluntary Guidelines' recommendations as an agenda for their mutual dialogue and joint work for the realisation of the right to food. OHCHR provides technical advisory services and resources to countries at their request and through technical cooperation agreements that include activities on capacity building at the national level, in particular the national systems of protection of human rights (including the judiciary and national human rights institutions). The Voluntary Guidelines provides a list of issues and guidance that may help to focus some of those activities on the right to food and related rights. OHCHR also works with other agencies, programmes and funds of the United Nations present in each country with the

objective to mainstream human rights in their joint and individual work. Planning and strategy documents of the United Nations will be anchored in human rights and the Voluntary-Guidelines could help to clarify areas of cooperation among agencies as well as in priority setting.

OHCHR provides support to other United Nations human rights bodies with mandate on the right to food. OHCHR will provide information and encourage the use of the Voluntary Guidelines by the Special Rapporteur on the right to food in his/her country visits as a guide for monitoring the different aspects of the realisation of the right to food. It also supports the work of the Committee on Economic, Social and Cultural Rights in their monitoring of country reports inter alia regarding levels of realisation of the right to food. The Voluntary Guidelines could serve as an agenda for the constructive dialogue between the Committee and the concerned country and for the formulation of questions and recommendations on priority areas to Governments to attend in the future.

Finally, the Office of the High Commissioner has been working closely with FAO both in the process of elaborating the Guidelines and on other related activities. OHCHR continues that collaboration that is crucial for the realisation of the right to food. ■

*Carlos Lopez is Human Rights Officer with the Ad Hoc Unit on the Right to Food in FAO posted at the Office of the UN High Commissioner of Human Rights.*

<sup>4</sup> This article reflects the personal views of the author and should not be attributed to his organization.

<sup>5</sup> The OHCHR Plan of Action: Protection and Empowerment, Geneva, May 2005 available at [www.ohchr.org](http://www.ohchr.org)

# Let's make the right to food a reality!

By Yves Berthelot

The Guidelines combine two complementary approaches in a mutually supportive way: first, the traditional approach, where the State has the responsibility of designing and conducting appropriate policies to secure the well being of the population; second, the rights based approach where citizens are invited to express their needs and to participate in the design of policies, and have the possibility to access justice if the State fails to protect, respect and fulfil their rights. In other words, the Guidelines combine a top down approach with a bottom up one, or, they mitigate State authority by empowering people.

Among the issues addressed in the Guidelines, three that are of particular importance for an economist will illustrate this assertion: development strategies, access to resources and assets, and the international dimension.

It is particularly useful that the Guidelines remind governments that they should assess "food insecurity and its causes" and "consider adopting a national human-rights based strategy for the progressive realisation of the right to adequate food". Even if the language is less strong than might be desired, the words "causes" and "national strategy" are important to suggest sustained and well-focused policies. "In developing these strategies, States are encouraged to consult with civil society organisations and other key stakeholders". Here, the language may be weak, but it is for the CSO to act so that these consultations take place and are more than rubber-stamp.<sup>6</sup>



Access to labour for the worker, to land, water, genetic resources, and services for the peasants are necessary to generate the income that will permit them and their family to access adequate food. The guidelines are strong in stating that "States should respect and protect the rights of individuals with respect to resources such as land, water, fisheries and livestock without any discrimination". They are realistic in encouraging "sustainable development in order to provide opportunities for work that provides remuneration allowing for an adequate standard of living".

It is for the workers and peasants to organise themselves in unions and associations strong enough to be able to have a dialogue with the government and to seek judicial recourse if their rights are violated.<sup>7</sup>

The international dimension has the merit of urging States "to refrain from any unilateral measure [...] that [...] hinders the progressive realisation of their (the population of the affected countries) right to adequate food".<sup>8</sup> This is the recognition that policies of one country or group of countries may affect the right to food of people in other countries. Nevertheless, there is no provision in the Guidelines that could "be interpreted as amending, modifying or otherwise impairing rights and obligations under national and international laws"<sup>9</sup>. Even if they do not supersede any rights or international obligation, or establish any priority among them, they could be used in international forums. In particular, they could be used in the Human Rights Commission to assess if a State respects the right to food, in the WFP to assess if an International Organisation has relevant programmes, or in the WTO to avoid provisions that would undermine the capacity of a State to facilitate the realisation of the right to food. Here again, it is for the CSO to take initiatives so that the right to food and the Guidelines are not forgotten in international debates.

This leads to the main conclusion: The Guidelines have strong and weak points, but the major risk is that they could be ignored. For the Guidelines to be used as an instrument for the realisation of the right to food, the CSOs will have to organise and mobilise themselves nationally and internationally. They have, here, a major responsibility. ■

<sup>6</sup> *FAO Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, Rome 2004. Guidelines 2.2 and 3.1, p. 8 and 9*

<sup>7</sup> *idem, Guideline 8 (8.1 and 8.8), p. 13 and 14*

<sup>8</sup> *idem, Section III.3, p.24*

<sup>9</sup> *idem, Section I, 9 p.3*



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# "Zero Hunger": a strategy for the progressive realization of the right to adequate food and the promotion of food and nutritional security in Brazil.

By Adriana Veiga Aranha and Roseane do Socorro Gonçalves Viana

In Brazil, poverty linked with social inequalities creates a situation of food insecurity. Hunger in Brazil is a result of inequality in accessing food as well as the lack of available food. Thus, the challenge of Lula's Government since 2003 has been to integrate and articulate public actions and initiatives aiming at eradicating hunger and at the same time face the problem of poverty through the Zero Hunger (Fome Zero) Program.



Land conflict, Usina Aliança, Pernambuco, Brazil.

The Zero Hunger Program is a strategy initiated by the federal government to ensure the human right to adequate food to all people with restricted access to food. The strategy is part of the promotion of food and nutritional security, aiming also at social inclusion and the affirmation of citizenship of those most vulnerable to hunger. The program is based on principles of integration between different sectors and cross-cutting of state actions at all governmental levels and, the development of joint initiatives between the State and society aiming at overcoming economic, social, gender and race-based inequalities.

The Zero Hunger strategy is based on four pillars: to increase access to food, to strengthen family based agriculture, to promote income generation as well as social articulation and mobilization. These combined actions of many ministries that are all implementing policies in line with the Zero Hunger guidelines enable a well-planned and articulated effort to better ensure access to food, improvement of education opportunities and health, access to water supplies and infrastructure, all in line with citizenship rights.

The political moment in Brazil today is favourable for the consolidation of state actions in the area of food and nu-

trition. The first positive aspect of the Zero Hunger Program was its ability to put issues such as hunger and poverty on the public agenda. This brought worldwide impacts and strengthened social participation and mobilization. Secondly, Zero Hunger managed to enable a linkage between the Food and Nutrition Security Policy and the necessity of rethinking state actions. The more integration between different areas involved in these issues and the more stimulation of partnerships and promotion of popular participation and public control, the better the possibilities of an effective consolidation of programs and state actions are in the attempt to overcome poverty and consequently also inequalities in access to food.

The first pillar of Zero Hunger, **Increasing Access to Food**, consists of programs for social transfer, food and nutrition, and access to information and education. "Bolsa Família", one of the biggest programs of social transfer of the federal government, benefits 6.5 million families. Within this program, 60% of Brazilian families living in poverty receive on a monthly basis approximately R\$ 75,00 (US\$ 29,20) from the federal government. The benefits are conditional on a family's effective participation in education and health programs promoting better living conditions with the perspective of social inclusion. Research shows that the resources received by the families are used mainly for the purchase of food.

The National School Feeding Program offers at least one adequate meal per day for some 37 million children and teenagers in public schools. Since the beginning of Lula's government, the financial amount per capita handed over to the state and municipal governments has increased by 40%, from R\$ 0,13 (US\$ 0,05) to R\$ 0,18 (US\$ 0,07). Zero Hunger also develops innovative programs with a great potential of growth. One of the best examples is the construction of cisterns in the semi-arid region of Brazil with one of the lowest social development indicators in the country. Up until now, some 50 000 cisterns for water accumulation have already been built. The technology used was developed by the communities themselves and also implemented by them. Today some 250 000 people are benefiting from access to quality water in their homes.

Another innovating action has been the creation of popular restaurants in the main urban centres. These restaurants offer daily meals at the price of R\$ 1,00 (aprox. US\$ 0,39) to low income workers. The second pillar of the Zero Hunger Program, **Strengthening of Family Agriculture**, seeks to develop specifically the area of family based agriculture and

to promote generation of income in rural areas as well as the increase of food production. In 2004, the amount of R\$ 5.6 billion (US\$ 2.2 billion) was invested in the National Program for Strengthening of Family Agriculture (Pronaf). These grants benefited 1.57 million families of agricultural workers and peasants settled by means of agrarian reform. Last year, the Lula government, invested 47% more financial resources into the program than in 2003 and compared to 2002, 133% more. In 2004, approximately 430 000 families had for the first time access to rural credits. The Program for Food Acquisition, (Programa de Aquisição de Alimentos – PAA) is another innovative initiative of the Zero Hunger Program. This program creates mechanisms to facilitate the selling of food products by small-scale farmers and the redistribution of this production to social entities and other vulnerable groups. Thus, at the same time as the program tries to guarantee income and work to peasants it also contributes to the improvement of nutritional conditions among poor families.

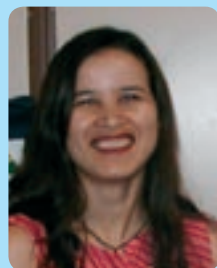
The third pillar is the Promotion of Processes for Income Generation (Promoção de Processos de Geração de Renda) and represents an attempt to encourage the development of an economy of solidarity (economia solidária) as well as initiatives for education of the low income population in order to improve their inclusion in the labour market.

The fourth pillar, Articulation and Mobilization (Articulação e Mobilização) aims at stimulating society to form partnerships with the federal government in order to promote campaigns against hunger and programs for food and nutritional security. The actions and programs within the Zero Hunger form a political commitment towards the progressive realization of the human right to adequate food of

those parts of the population that are vulnerable to hunger and misery. This commitment is in line with the recommendations of the Voluntary Guidelines on the Human Right to Food, adopted by the FAO Council in 2004. Moreover, the Zero Hunger Program represents a one-of-a-kind strategy for the fight against hunger and marks a historical point in Brazilian society: This is the first time issues such as hunger and poverty are considered a political priority and that the government shows a willingness to fulfil its international and constitutional obligations regarding the implementation of policies against hunger and food insecurity in Brazil. ■



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## The Voluntary Guidelines and the exigibility and justiciability of the Human Right to Adequate Food in Brazil

By Flavio Luiz Schieck Valente

It is difficult to foresee what will be the impact of the approval of the Voluntary Guidelines (VG) on the exigibility and justiciability of the human right to adequate food in Brazil. However, the preparation of the Brazilian government for the international discussion related to the elaboration of the VG, which was carried out in partnership with civil society, has already had a significant impact on the awareness of different sectors of government on the implications of the human rights approach to policy elaboration, implementation and monitoring. These discussions

initially involved only the diplomatic mission in the FAO, later on the Ministry for External Affairs, in Brazil, got more involved. Later on, the Special Secretariat on Human Rights, linked to the Presidency of the Republic, with the status of a Ministry, decided that the Minister of Human rights should go to the Rome meeting to reaffirm the understanding of the Brazilian Government that the Human Right to Adequate Food is a human right in equal standing with all other human rights. In preparation for the III session of the Inter Governmental Working Group (IGWG III – July

2004), other Ministries such as the Ministry for Social Development and Combat Against Hunger, the Ministry of Health and the Ministry of the General Secretariat of the Presidency got involved in the discussion, and took part in the official governmental delegation to IGWG III.

Parallel to these internal discussions the Ministry for External Affairs assumed a progressively more proactive position in the international scene defending a stronger human rights language for the VG within regional and international groupings, such as the GRULAC and the G-77, in the bilateral discussions with the EU, the US, and the in the negotiations of the IGWG Bureau, in which Brazil represented GRULAC. The government, through the Ministry for External Affairs, has translated and broadly distributed the VG final text into Portuguese, since January 2005. It has also proposed to the National Food and Nutritional Security Council (CONSEA) the launching of a broad campaign to publicize the VG throughout Brazil. The campaign would consist in getting a formal commitment from the different branches of government – executive, legislative and judiciary – at national, state and municipal level to fully implement the VG within a period of time to be agreed upon. In parallel, civil society organizations will be asked to sign on to a similar declaration, related to the promotion and monitoring of the implementation of the VG. This campaign was approved by civil society organizations and by National CONSEA, and was launched in June 2005, having as its high point the signature by the Presidency of the Republic, of the National Congress and of the Supreme Court of a formal document endorsing the implementation of the VG in Brazil, on World Food Day, 2005.

It is relevant to mention once more that Brazil is experiencing a very special moment when it comes to the discussion of the central role that an integrated food and nutritional security policy, within the human rights perspective, must have in a human development strategy capable of promoting equity, justice and human sustainability, in full respect to cultural diversity. Government and civil society, will through CONSEA, present to the President of the Republic, in 2005, a project of National Food and Nutritional Security Framework Law, within the Human Right to Adequate Food (HrtAF) promotion context, including the outline of a national food and nutritional security system, with a strong monitoring system. Similar processes are underway at the state level. This discussion is fully underway and has already incorporated several of the provisions advanced in the VG.

In parallel to this, during 2005, the National CONSEA Standing Commission on the Human Right to Adequate Food is analyzing the most relevant national Food and Nutritional Security programs, from the HrtAF perspective, and, on the basis of this, producing recommendations to the governmental organizations responsible for their implementation, and monitor their fulfillment. The VG text has also been useful for this effort.



Flavio Valente on a fact finding mission investigating violations of the right to food together with FIAN, Pernambuco, North East Brazil, June 2004.

Finally, Brazilian civil society organizations and social movements are organizing a national network to protect and promote the Human Rights to Adequate Food, Water and Rural Land, in partnership with several already existing civil society networks and movements, and to support the work carried out by the National Rapporteur on these rights, an initiative of the civil society Brazilian Platform on Economic, Social and Cultural Human Rights, supported by the United Nations Volunteer Program. One of the goals of this network is to lobby for the mainstreaming of the VG in all public food and nutritional security related programs at all levels.

So, for Brazil, the VG approval is very timely. The important thing to evaluate now is how much of all of these efforts will be effective in changing political choices and in improving public policies with a final significant impact on the degree of realization of the Human Right to Adequate Food of the Brazilian people. This is what we really want to see. ■



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# Promoting the Human Right to Food in Malawi

By Carole Samdup

Now that the UN's Food and Agriculture Organization (FAO) has adopted the Voluntary Guidelines for the Progressive Implementation of the Right to Adequate Food in the Context of National Food Security (the Guidelines), the challenge ahead lies in their practical application. Malawi, like many countries seeking to meet treaty obligations with regards to the human right to food, faces the devastating impact of hunger every single day. However, because of an innovative project developed by civil society and the keen support of its parliamentarians, Malawi also provides hope in the form of a unique pilot project that will both test-run the Guidelines and challenge the political will of its donor community.

The Human Right to Food in Malawi Project was launched in 2001 as a village-level initiative to promote basic human rights principles. In its first phase, the project emphasized grassroots outreach and training. As such, it was able to benefit from and contribute to an international debate about the human right to food within the FAO's Guidelines process. Village perspectives on hunger and its causes in Malawi were later integrated into a draft "Right to Food Bill" and submitted to parliamentarians for study. Subsequently, the Parliamentary Committee on Agriculture met with representatives of the village committees and international non-governmental groups to discuss the various advantages and challenges of such an approach. A campaign towards the eventual adoption of the Right to Food Bill into Malawi's law has become the focal point for phase two of the project.

Rooted in a human rights vision, the Right to Food Bill reiterates government obligations as well as prohibited acts or acts of omission that may under-

mine realization of the human right to food in Malawi. The Bill also provides mechanisms for financial transparency and perhaps most importantly, it facilitates State accountability through the creation of a para-governmental monitoring institution.



At the same time as this civil society process is building momentum, the Government of Malawi, in collaboration with the international donor community, is developing a national food security „policy“. Once enacted, the policy could become the rubric under which the right to food legislation will be adopted and implemented. This approach is appropriate because Malawi has ratified the core international human rights treaties and incorporated economic, social and cultural rights, including the right to food and the right to development, within its constitution.

A successful outcome to this legislative initiative will have positive implications beyond the eventual eradication of hunger in Malawi. It will also serve as a unique case study for the promotion of human rights at the international level and application of the Guidelines. Moreover, its adoption will set a considerable precedent for the promotion of economic, social and cultural rights in general. Even if the Bill is not adopted by Parliament, or if it is adopted with weakened language, the participation process from village to national level will remain an im-

portant model for similar initiatives in the future.

A civil society taskforce has been created to shepherd the legislation to its conclusion. Its next steps include: refinement of the text based on continued consultations with parliamentarians and civil society; a national advocacy campaign, and; a formalized stock-taking exercise designed to identify entry points for application of the legislation once it has been adopted.

The Human Right to Food in Malawi Project was founded and is coordinated by Church & Society, a social justice advocacy organization of the Blantyre Synod of the Church of Central Africa Presbyterian (CCAP). It currently receives limited funding from two Canadian organizations – the Presbyterian World Service & Development (PSW&D) through its account with the Canadian Foodgrains Bank, and Rights & Democracy.

For more information about the Human Right to Food in Malawi Project, please contact Billy Mayaya, Acting Executive Director of the Church & Society at [mayayabilly@yahoo.co.uk](mailto:mayayabilly@yahoo.co.uk). ■



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Canadian institution founded by an Act of the Canadian Parliament in 1990 and mandated to promote the International Bill of Human Rights. For more information about the work of Rights & Democracy, please see <http://www.dd-rd.ca>



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