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HOW TO USE THE VOLUNTARY GUIDELINES ON THE RIGHT TO FOOD

A Manual for Social Movements, Community-Based Organisations and
Non-Governmental Organisations



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Acknowledgments

The present handbook is a collective product that has benefited from highly valuable inputs by various civil society experts. It tries to grasp on initiatives carried out by NGOs and CSOs, and especially by those members of the Right to Food working group of the International Planning Committee for Food Sovereignty (the IPC which is a civil society network working with the food and agriculture UN agencies in Rome).

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Voluntary Guidelines to support the progressive realization of the
right to adequate food in the context of national food security

adopted by the FAO Council in November 2004

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Preface

“How to Use the Voluntary Guidelines on the Right to Food” is one in a series of manuals on the human right to food. Other publications in this series will be titled “How to Identify and Document Violations of the Right to Food”, and “The Voluntary Guidelines on the Right to Food as a Monitoring Tool”. The purpose of these publications is to invite civil society organisations to make use of the progress made for food as a human right in the decade after the World Food Summit 1996 – and to equip civil society and other actors with some tools to hold governments accountable.

The human right to food is a central and coherent element of economic, social and cultural human rights. Over the past 20 years it has been pioneering the development of these human rights in civil society and at the UN. The FAO Voluntary Guidelines on the Right to Food are yet another important step: For the first time in history states have come up with guidelines how to achieve the realisation of food as a human right. These guidelines will be helpful to the 156 states parties to the International Covenant on Economic, Social and Cultural Rights, who are duty-bound under international law to achieve this full realisation as soon as possible. Moreover it is significant that the other remaining states – all of whom consented to the Guidelines – thereby supported the right to food as an individual human right.

The purpose of the Guidelines is reflected in its full title “Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of food security”. What then is meant by the “realisation of a human right”? This is quite different from food security – something which only provides the “context” for full realisation. The right to food is realised not if people have enough to eat, but if they command a certain range of state obligations (through quasi-legal mechanisms or legal guarantees) which make the states respect and protect their access to adequate food and resources – and to fulfil this access where it does not

exist. Obligations have to be met as soon as possible and to the maximum of available resources. Many obligations can indeed be met immediately: This includes the respect-bound obligations, cases of discrimination and many protect-bound obligations. Others need a certain time period for progressive realization, where the maximum resource provision implies that progress has to be as expeditious as possible. Realization includes the establishment of quasi-legal and legal mechanisms for victims to address violations and obtain remedies. Obviously food security is implied by the full realisation – rights based food security.

A rights-based approach to food does not only mean to make use of human rights mechanisms to achieve food security for all: Human rights are never a means to an end – they themselves are the aim of progress. Using a rights-based approach means making explicit the dimension of human rights institutions and guarantees linked to food security. Human rights describe obligations which make states “civilized states”. States breaching their right to food obligations under international law and thereby inflicting damage to specific persons, violate the right to food of these persons. Conceptual issues about the right to food are spelled out in detail in General Comment 12 on the Right to Adequate Food of the UN Committee on Economic, Social and Cultural Rights – the authoritative UN interpretation of the right to food.

What is the added value of the Right to Food Guidelines beyond the clarifications already provided by the General Comment? This added value can be seen in the policy guidance it provides in areas where states obligations might not be immediately clear: Mainly under the general obligation to realize progressively and the specific obligation to fulfil the right to adequate food. Under this specific obligation states have to institutionalize programmes and policies which provide access to food for those in need – and to facilitate the access to (and utilization of) resources to acquire food. The right

to food is fully realized once states have established guarantees for provision and facilitation in this sense – their “fulfilment system”. States have a certain level of discretion to design their own appropriate fulfilment systems – and to choose their own ways (their “right to food policies”) to establish these systems as quickly as possible. The Guidelines give a framework to monitor such right to food policies. For some of the guidelines the non-compliance with these guidelines may not imply a breach of obligations under the right to food - for others it may signal a violation or a threat thereof.

The need for guidelines in some areas of the right to food should not distract from the fact that the certain state obligations are clear and immediate – this is for instance true for the obligation of non-discrimination and the obligation to respect access to food and resources. Such respect does neither require resources nor does it permit discretion: States have to refrain from destroying people’s access to food and resources. The same is normally true for the state obligation to protect persons and groups against their access to food and resources being destroyed by third parties. Even the obligation to fulfil-provide is almost immediate towards those persons and groups who suffer hunger and malnutrition. If states do not provide such persons or groups with food or cash to buy food, they violate the right to food – unless they can prove that they lack the resources to do so, and that international assistance for such provision systems was not available. In the latter case the onus of violation would fall on the community of states for denial of international cooperation.

The time has come for states to implement those right to food obligations under international law which can be implemented immediately – and to progress as quickly as possible with the others. Neither one nor the other will happen unless states develop a culture of human rights and unless civil society uses the tools available to hold states accountable: The International Bill of Human Rights, the General Comments, the Guidelines, and many national constitutions. Alerting civil society and other relevant actors to apply these tools is the purpose of this series of manuals.

*Dr. Rolf Künemann
Human Rights Director
FIAN International*



1 Introduction

1.1 THE RIGHT TO FOOD AND THE FIGHT AGAINST HUNGER

Worldwide about 852 million people suffer from hunger and malnutrition while at the same time there is enough food to feed every human being. Demands for increased productivity thus are an insufficient and inadequate response. In fact, in most cases hunger is a problem of access to available resources. It is linked to marginalization, discrimination, or extreme poverty: small-scale peasants are forcibly evicted from their land, economic exploitation and environmental degradation threaten the livelihoods of indigenous people, to the urban poor the physically available food is simply not affordable. The overwhelming majority of the chronically hungry are victims of violations of their right to food.

Therefore, a human rights approach to development policies and hunger eradication strategies is needed. A rights-based approach identifies those deprived of their human right to food and places them at the centre of political struggle and policy considerations. In so doing, a rights-based approach leads to the empowerment of formerly passive objects of benevolence of the rich and powerful. As human rights give rise to entitlements which shall in turn be regarded as enforceable claims against governments, overcoming hunger and malnutrition can no longer be considered as a matter of charity, but of social justice and state obligations.

1.2 THE OBJECTIVE OF THIS MANUAL

With this manual we would like to invite civil society actors to use the *Voluntary Guidelines to support the progressive realization of the right to adequate food* (also called "Right to Food Guidelines", and hereafter also the Guidelines). The basic proposition of this manual is that the Guidelines, the human rights principles they enshrine and the rights-based approach they prescribe are addressed not only to civil society organizations working in the field of human rights. The conviction that food is a fundamental human right can guide the work of non-governmental actors ranging from women's organizations, development actors, nutritionist actors and social movements, indigenous, health activists, disabled, children, and the detailed provisions of the Guidelines can be utilized in their activities towards the full realization of this right.

The manual is designed so as to provide background information on negotiations and content for advocacy work; it also intends to give some first thoughts on what can be started with in various constituencies whose work will benefit from the implementation of the Guidelines.

Indeed, the manual is addressed to civil society organizations which may use the Guidelines as a tool to operationalize the right to food. It advises different types of civil society organizations on how they could configure their activities to best realize the right to food and to achieve food and nutrition security. We propose on

which topics civil society actors should focus their work and which institutions they could contact. Civil society participation emerged as a crucial point in the process of the realization of the right to food. As members of civil society at the 2005 Policy against Hunger IV conference in Berlin agreed, even where there is a lack of political will from the side of governments, civil society can be an important force to push for the implementation of the right to food and can monitor and assess the actions of governments. This is also one of the general findings of the country case studies conducted by FAO.

At the end, this manual presents the perspectives and challenges faced by civil society. We really hope that this will be a good first toolkit for activists who want to act as multipliers to bring this document closer to their own work. It is the purpose of this manual to explore the avenues for political action, to suggest concrete and constructive proposals for change in the approach to reduce hunger in a way which is more compatible with human dignity and freedom. Finally, putting the Guidelines to work will still take time and will develop in different steps. This manual is one of the first steps.

Resources, References and useful links

- The country case studies conducted by FAO on the right to food in Brazil, Canada, India, Uganda and South Africa can be found in the Right to Food virtual library http://www-data.fao.org/righttofood/kc/library_en.htm
- FAO: "Implementing the Right to Food: Six Case Studies", in *The Right to Food Guidelines: Information Papers and Case Studies*, Rome, 2006. http://www.fao.org/docs/eims/upload/214344/RtFG_Eng_draft_03.pdf

2 Right to Food Guidelines

2.1 SUMMARY OF THE PROCESS

In response to the 1996 World Food Summit's call for clarification of the content of the right to food, FIAN, WANAHHR and Jacques Maritain International Institute elaborated in 1997 the *Draft Code of Conduct* on the Right to Adequate Food. The text was discussed among experts and civil society actors and brought together close to 1000 organisations and associations from all over the world. This mobilization of civil society around the Code of Conduct has been crucial throughout the process which led to the adoption first and foremost in 1999 of the General Comment 12 on the right to adequate food by the UN Committee on Economic, Social and Cultural Rights (CESCR), which can be considered the authoritative interpretation of the human right to food under international law. Furthermore, the Code of Conduct and the coordinated efforts of civil society have largely contribute to achieve the creation by the World Food Summit : *five years later* (2002 in Rome) of an Intergovernmental Working Group (IGWG) of the FAO Committee on World Food Security (CFS) mandated to develop a set of voluntary guidelines on the right to food.

The "Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security" were adopted by the 187 FAO member states in November 2004 after two years of difficult negotiations in the IEWG. They propose general strategies of how to overcome hunger and malnutrition and how to realize the right to food. The Guidelines help state actors to define coherent national programmes necessary for the implementation of the right to food.

2.2 DEFINITION OF THE HUMAN RIGHT TO ADEQUATE FOOD

The Right to Food Guidelines start with the renewed recognition of the human right to adequate food through their analysis of the relationship between the achievement of food security and the right to adequate food (Guidelines Section I).

There, the Guidelines reiterate the major existing legal standards of international law which are relevant for the interpretation of the right to food. It is important to point out that their 'voluntary nature' in no way diminishes existing international legal obligations of States regarding the right to food. Out of the 187 states that adopted the Guidelines, 155 are states parties to the International Covenant on Economic, Social and Cultural Rights which are obliged to respect, protect and fulfil (facilitate/provide) the right to adequate food.

A number of provisions, such as a national framework law and monitoring mechanisms, are contained in General Comment 12.

As the reference definition entailed in General Comment 12 stated:

"The right to food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equated it with a minimum package of calories, proteins and other specific nutrients."

Concretely, food must be available and accessible (both physically and economically) to all. Food must also be sufficient in quantity and quality, safe and culturally acceptable. Finally, access to food must be exercised in a sustainable manner in order not to endanger future generations' access to food.

On the one hand, food is economically accessible to a person or community if the person or community has access to food or sufficient income as a result of their economic activities in the widest sense. These economic activities can be food production based on access to natural productive resources (land, water, forests, pastures, fishing grounds, etc.) and other resources and means of production. Economic activities may also include work as a self-employed or wage-employed person. On the other hand, physical accessibility of food means that food is made available even if people live in remote areas and that people who are not able to use productive resources still have access to food, such as children, elderly people, persons with disabilities or persistent medical problems.

Furthermore, the definition highlights basic facts in relation with the realization of the right to adequate food: Enough food is not sufficient to realize this right. Much more the processes through which people access food are important to take due account of the dimensions of dignity and freedom which are inherent to human rights. The right to food is fully realised not only when food security at an individual level is achieved but when, additionally, reliable and effective judicial or quasi-judicial safeguards do exist to address and remedy right to food violations.

In a next step, General Comment 12 clarifies obligations which states are bound to in the progressive realization of the right to adequate food. The states as single most important actors in charge of the implementation of the right to food have both general and specific obligations.

Article 2 of the International Covenant on Economic, Social and Cultural Rights spells out these general obligations of all states which have ratified the Covenant: "Each state party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization

of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

The nature and scope of these obligations were further defined in General Comment No. 3, “On the Nature of States Obligations,” which the CESCR adopted in 1990. The key general obligations are the following :

• **Appropriate Measures**

According to General Comment No. 3, appropriate measures for taking steps toward the realization of rights in the Covenant can take many forms. The Committee highlights the importance of legislative measures. Nevertheless, it also insists on the importance of a full range of measures, depending on the circumstances in the individual state, including programmatic, policy, administrative, educational, social, judicial or financial measures leading to full achievement of the right.

• **Progressive Achievement**

The flexibility given to states to achieve full realization of the rights in the ICESCR over time, rather than immediately, recognizes that some state decisions and measures towards the full realization of the right to food will take time to develop and to really have an impact. The realization of human rights requires states to take steps but it does not require them to do the impossible. However, this general obligation of states should not become an excuse to not act and states have the clear duty to move “as expeditiously and effectively as possible”. This in turn makes retrogressive measures almost impossible to justify.

• **Maximum Available Resources**

The requirement to take steps “to the maximum of available resources” is both a safety valve for states and an ambitious requirement. On the one hand, it recognizes that states have resource limitations and that a state cannot be required to use more resources than it possesses in order to meet its human rights obligations. On the other hand, it challenges states, obliging them to utilize all of these available resources to meet their human rights obligations. Priority is given to addressing the needs of the most vulnerable members of the population.

It is of utmost importance to use the Guidelines to recall and strengthen “hard law”, i.e. binding legal obligations of states which should be by no means undermined or re-interpreted by promoting and implementing the Guidelines. Indeed, commitments of states under binding international law shall not be treated as mere developmental and political aspirations. And it is in this perspective that the Guidelines can best serve educational and capacity-building purposes as regard to the right to adequate food.

Resources, References and useful links

- The Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security accessible at <http://www.fao.org/docrep/meeting/009/y9825e/y9825e00.htm>
- Documentation of the works of the Intergovernmental Working Group can be accessed at http://www.fao.org/righttofood/en/highlight_51596en.html
- Urgente, Right to Food Campaign in Spain: “Comments on the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security”, the English summary and further publications can be ordered at info@derechoalimentacion.org
- General Comment 12 of the Committee on Economic, Social and Cultural Rights on the Right to Adequate Food, May 1999, UN doc. E.12/1999/5, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/4bdfaf59b43a424c12563ed0052b664?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/4bdfaf59b43a424c12563ed0052b664?Opendocument)
- General Comment 3 of the Committee on Economic, Social and Cultural Rights on the Nature of State Obligations, 1990 (fifth session) [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/3d02758c707031d58025677f003b73b9?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3d02758c707031d58025677f003b73b9?Opendocument)

2.3 CONTENT

The Right to Food Guidelines are mostly policy recommendations: They do not investigate into right to food violations as in General Comment 12. Therefore, they complement a legal approach by translating the right to food into concrete proposals for legislative, institutional and policy action.

They provide for a holistic and comprehensive national strategy to realize the right to food, covering policy areas such as economic development, market systems, agriculture, nutrition, social policy, education, and emergency measures in food crises.

The Guidelines consist in 19 individual guidelines which relate to the most important policy and operational sectors that are involved in the achievement of food security, and which entail recommendations on how to design, carry out and monitor state policies in these sectors to support the realisation of the right to food.

The detailed content of the Guidelines

Section I: Preface and Introduction

Preface

Introduction

BASIC INSTRUMENTS

THE RIGHT TO ADEQUATE FOOD AND THE ACHIEVEMENT OF FOOD SECURITY

Section II: Enabling Environment, Assistance and Accountability

GUIDELINE 1: DEMOCRACY, GOOD GOVERNANCE, HUMAN RIGHTS AND THE RULE OF LAW

GUIDELINE 2: ECONOMIC DEVELOPMENT POLICIES

GUIDELINE 3: STRATEGIES

GUIDELINE 4: MARKET SYSTEMS

GUIDELINE 5: INSTITUTIONS

GUIDELINE 6: STAKEHOLDERS

GUIDELINE 7: LEGAL FRAMEWORK

GUIDELINE 8: ACCESS TO RESOURCES AND ASSETS

Guideline 8a: Labour

Guideline 8b: Land

Guideline 8c: Water

Guideline 8d: Genetic Resources for Food and Agriculture

Guideline 8e: Sustainability

Guideline 8f: Services

GUIDELINE 9: FOOD SAFETY AND CONSUMER PROTECTION

GUIDELINE 10: NUTRITION

GUIDELINE 11: EDUCATION AND AWARENESS RAISING

GUIDELINE 12: NATIONAL FINANCIAL RESOURCES

GUIDELINE 13: SUPPORT FOR VULNERABLE GROUPS

GUIDELINE 14: SAFETY NETS

GUIDELINE 15: INTERNATIONAL FOOD AID

GUIDELINE 16: NATURAL AND HUMAN-MADE DISASTERS

GUIDELINE 17: MONITORING, INDICATORS AND BENCHMARKS

GUIDELINE 18: NATIONAL HUMAN RIGHTS INSTITUTIONS

GUIDELINE 19: INTERNATIONAL DIMENSION

Section III: International Measures, Actions and Commitments

INTERNATIONAL COOPERATION AND UNILATERAL MEASURES

ROLE OF THE INTERNATIONAL COMMUNITY

TECHNICAL COOPERATION

INTERNATIONAL TRADE

EXTERNAL DEBT

OFFICIAL DEVELOPMENT ASSISTANCE

INTERNATIONAL FOOD AID

PARTNERSHIPS WITH NGOS/CSOS/PRIVATE SECTOR

PROMOTION AND PROTECTION OF THE RIGHT TO ADEQUATE FOOD

INTERNATIONAL REPORTING

In terms of strategy, the Guidelines prescribe the following steps:

- 1 In line with a rights-based approach, a careful analysis of the causes of hunger and malnutrition and the identification of vulnerable groups stand at the outset.
- 2 On this basis, an assessment of the existing legislative and policy framework is conducted in order to identify problematic legislation or areas. (All policy measures should be screened so as not to contribute to violations of the right to adequate food and not to represent a threat of violation, and to the contrary should contribute to the realization of the right to adequate food)
- 3 Formulation and enactment of policies, strategy, institutional and legal framework conducive to the realization of the right to food.,
- 4 A functioning monitoring mechanism needs to be installed by states (with the full participation of civil society) in order to examine progress in the implementation of the right to food and to identify violations of the right to food.
- 5 In cases of violations, effective recourse procedures have to be provided so that individuals can claim their rights and be given access to adequate remedies.

2.4 HUMAN RIGHTS PRINCIPLES

In proposing a right to food strategy, the Guidelines promote basic principles embedded in human rights.

Some of them are highlighted below: empowerment, participation, transparency and non-discrimination.

• Empowerment

Guideline 1 stipulates that individuals should be enabled to raise demands to their governments so that political decisions correspond to their specific needs. Legal and other remedies against violations should be made accessible to them financially, socially and physically. Education and awareness raising, as specified in Guideline 11, are seen as a means by which victims can claim their rights, articulate demands and fully participate in political and social life.

• Participation

The importance of democracy is highlighted in Guideline 1. Freedom of opinion and expression, freedom of information and press, freedom of assembly and association should be guaranteed. Policies should be made in close consultation with those directly affected themselves (Guideline 5.4). For instance, small-scale farmers and fishers should be involved in the development of agrarian reform and fisheries policies. States are asked to consult civil society organizations.

The company Ghana Gold Limited had to resettle local communities in the Brong Ahafo region because it planned to carry out its Ahafo Gold mining project. The Resettlement Committee which had been set up by the company started its work in March 2004. Nevertheless, many members of the affected communities lost access to land and water. So the ability to feed themselves was immensely threatened. The participation of the affected farmers has not been facilitated due to a lack of transparency of the decisions of the company. Farmers did not adequately take part in the planning and design of the resettlement. Only the Resettlement Negotiation Committee decided upon the compensation rates to be payable for crops to the ones affected by the operations of the company. Even if farmers were present while their farm was surveyed, they were not informed about how the size and number of crops on the farm were determined.

The affected farmers complained about the process of resettlement, the level of compensation and the living conditions in the resettlement village. They found the compensation rates very low but they were not given the possibility to negotiate a higher and fairer compensation rate. Under the right to food, the Ghanaian state has violated its obligation to protect the right to food of groups of its population. Indeed, the state should have ensured that people maintain their economic access to food through the access and control on productive resources and against the abuses by private actors.

• Transparency

The decision-making processes of governments should be transparent (Guideline 1.2, 12.2), especially those related to the use of public resources in the area of food security. This means that the strategies taken should be open and inclusive, so that civil society has the ability to participate in and monitor the process. It should be possible to hold states accountable for their activities (Guideline 12.2).

• Non-discrimination

The principle of non-discrimination entails priority to most vulnerable (Guideline 13), especially when the vulnerability is attributed to race, sex, social origin etc. Efforts against discrimination of particular social or ethnic groups and of women should be integrated in states' poverty reduction strategies (Guideline 2.4). Wage inequality has to be avoided (Guideline 2.5), access to the labour market as well as the possibility to gain equal benefits from productive resources, such as land, water and credits and appropriate technologies (Guideline 2.6 and 8) should be ensured. Furthermore, labour related education programmes should be implemented regardless of race, colour, gender, language, religion, political opinion, national or social origin, property, birth or other status (Guideline 8.9).

PANTHER

- *Participation* (everyone has the right to have a say in decisions that affect them; the poor have a right to participate in the design, implementation and evaluation of services, programs and projects intended to strengthen their self-reliance)
- *Accountability* (politicians and civil servants must be accountable for what they do or do not do; appropriate means of holding them accountable must be ensured: elections, referenda, judicial procedures and other)
- *Non-Discrimination* (of any kind such as, sex, race, colour, religion, creed, language, caste, age, etc., with emphasis on improving the status of disadvantaged groups in particular, women and indigenous populations)
- *Transparency* (people must be able to know what the policies are, on what the money is being spent, who is benefiting from interventions)
- *Human Dignity* (the human being has absolute and inherent worth. People should be treated in a dignified way and not humiliated)
- *Empowerment* (people should have the power, capacities, capabilities and access needed to change their own lives, improve their own communities and influence their own destinies).
- *Rule of Law* (every member of a society, even a ruler, must follow the law, which should govern decisions and policies and keep duty-bearers accountable)

2.5 FOLLOW-UP TO THE ADOPTION OF THE RIGHT TO FOOD GUIDELINES

Since the adoption of the Guidelines, some steps toward application and implementation have been taken. At the Policies against Hunger IV conference in June 2005 in Berlin, FAO announced that it would set up a unit specifically charged with implementing the right to food. This new unit started its work in 2006. This is a significant development because FAO carries considerable political weight. This might usher in a gradual and important change within FAO from a technical approach to food security towards a stronger emphasis on the right to food. FAO traditionally relies on normative standards and guidelines in its policy advice and technical cooperation work.

The Committee for Economic, Social and Cultural Rights (CESCR) has indicated that it will apply the Guidelines when examining states parties' performance on the right to adequate food. Other inter-governmental organizations such as the World Health Organization have shown interest in using a right based approach and starting processes similar to the Guidelines within FAO.

2.6 WHAT IS A RIGHT BASED APPROACH TO DEVELOPMENT COOPERATION ALL ABOUT?

The so called "right based approach to development" has been discussed in a plethora of documents and forums. Development discourse and development cooperation places human rights more and more at the centre of domestic development efforts it aims at supporting. However, what is really behind the phrase "right based approach" is not always clear. The Guidelines give rise to opportunities to give the phrase more substance. Discussions in different forums provided practical elements in regard to the content of a right based approach to development policies and strategies. The debate naturally focused on the right to food but many of the outcomes and principles are also valid for other economic, social and cultural rights as well as for human rights in general. There again, NGOs have a great role to play to influence the development policies at the national and international levels by discussing and promoting this approach and its expected outcomes.

The basic idea underlying the right based approach to development assistance would be that, in the context of international cooperation, efforts done in the name of development shall be conducive to the realization of human rights. This means on the one hand that development cooperation shall not impede the enjoyment of human rights, while, on the other hand, it should also contribute to improve the enjoyment of those rights for all.

Operationalising the right based approach to development assistance

In this context, it is possible to identify various roles that can be played by development cooperation in order to support the implementation of the right to food.

Negative roles

- Development cooperation creates options but may also limit choices of governments. Donors should therefore ensure that their development policies do not impede recipient states' ability to implement the right to food (either in bilateral or multilateral cooperation);
- Development cooperation should monitor donors' own policies in fields relevant to the enjoyment of the right to food such as trade or finance, and make sure that those policies do not violate the right to food abroad.

Positive roles

- Development cooperation can support states which are not able to guarantee the right to food and freedom from hunger to their populations because of lack of resources;
- Development cooperation can provide administrative, political and legal advice to states

which are not complying with their obligations under the right to food for various reasons such as unwillingness or lack of knowledge.

- Development cooperation can promote the right to food and its full realization by supporting the relevant actors within governments and societies.

One of the most consensual aim of development cooperation, especially in the perspective of the MDGs, is to fight poverty. To combat poverty, one has to fight against hunger and vice-versa since hunger is both a cause and consequence of poverty. As such, fight against hunger and implementation of the right to food are in most cases prerequisite to overcome extreme poverty. FAO has in the past promoted a twin-track approach aiming at building an enabling environment for self-reliance and direct assistance to those who need it, which takes into account this relation of hunger and poverty. A right based approach to development cooperation is one of the most holistic, coherent and sustainable strategies to fight poverty as it also includes the “tracks” of obligations and accountability.

Efforts explicitly centred on the Guidelines are underway. The Brazilian Government has advocated the Guidelines in several international institutions, such as the G-77, but also in bilateral discussions with the EU and the US. According to FAO Director-General Jacques Diouf, Sierra Leone is also one of the first African countries to put the Guidelines into practice. Germany, in its 2005 plan of action on human rights, had committed itself to support the implementation of the Guidelines nationally and to promote a human rights approach to hunger eradication in relevant multilateral institutions.

Against the background of these positive developments, civil society has a decisive role to play in keeping up the political momentum. What avenues for political action do the Guidelines open up? How can civil society utilize the Guidelines to fight against hunger with the right to food? What lessons can be derived from ongoing efforts to implement the Guidelines?

Resources, References and useful links

- Germann, Julian; Ratjen, Sandra & Windfuhr, Michael: “Implementing the Voluntary Guidelines – The Potential of the Guidelines for the Right to Adequate Food to help achieving the Millennium Development Goals”, Documentation of the Policies Against Hunger IV Workshop, Berlin, Federal Ministry of Food, Agriculture and Consumer Protection, FIAN and GTZ, 2005, accessible at www.policies-against-hunger.de/fileadmin/redaktion/dokumente/Endbericht_PAH_IV_eng.pdf
- De Haen, Hartwig & Thomas, Julian: “Putting the Right to Adequate Food into practice – Concepts and Lessons”, published by FAO, the German Federal Ministry of Food, Agriculture and Consumer Protection and GTZ, 2005, can be ordered with the Right to Food Unit, righttofood@fao.org,



3 The Guidelines as a Mainstreaming tool for the Right to Food : Advocating for the right to food in various constituencies and institutions

Economic, social and cultural rights continue to be marginalized politically even as their legal interpretation has progressed. Education and Information are needed at all levels of society (Guideline 11). On the one hand, the Guidelines can be used for education and awareness raising purposes but they need vectors using all media available (especially popular media such as local radios) and translations in local languages and in easy understandable tools (including clips, videos, songs, rallies) and publications. The Guidelines as such are neither an educational tool or an easily accessible document but they provide for a unique occasion to mobilise the public and explain concretely the legal and political, as well as the social, cultural, economic and developmental issues at stake in the realization of the right to be free from hunger and the right to adequate food. On the other hand, victims also have to be informed on their rights and on how they can better claim them. The Guidelines provide an interesting framework to carry out capacity building work with victims and their support groups through the training of activists and multipliers. Campaigns to mobilise and attract attention of the general public, of journalists as well as of social movement leaders, consumer associations and community-based organizations will be necessary both in the North and in the South in order to reach the level of awareness necessary to trigger off democratic demands for change in right to food policies. Last but not least, if decision-making processes concerning right to food policies (as prescribed by Guidelines 1.2) are to be participative, crucial efforts will have to be made in information, awareness raising, education and training.

Now that the Guidelines have been adopted, their existence needs to be communicated and information on their various provisions disseminated throughout civil society. Guideline 7.3 asks States to inform the citizens of all available rights and remedies to which they are entitled. Under Guideline 11 states themselves are required to spread information and raise public awareness regarding the right to food and the Guidelines. This obligation reflects the one contained in the ICESCR under the obligation for states to fulfil/facilitate the right to adequate food, especially by making sure that relevant information is accessible. The Guidelines should be translated into local and national languages, and educational material should be devised that explains the strategies proposed and the policy areas covered by the Guidelines. An example for the government's effort to spread the Guidelines text is Brazil where the Ministry for External Affairs translated the Guidelines final text into Portuguese and publicized the Guidelines throughout Brazil.

Now as then, civil society shall complement the states' efforts to inform victims of violations of the right to food and to let vulnerable groups know that food is their human right. Civil Society capacities can be strengthened through the formation of networks and national platforms that unite actors from diverse areas such as human rights, health and nutrition, the educational system, consumer protection, agriculture, gender and development. Hence, education and training work should target community-based organizations, human rights and development NGOs as well as reach out to social movements. Local workshops should be organized to discuss the right to food and the Guidelines. To transmit the content of the Guidelines widely, it is desirable to use diverse forms, such as theatre, songs and other types of presentations.

In Brazil a campaign has been launched by the National Council on Food Security (CONSEA) – made up of both state officials and civil society representatives – to raise awareness and promote the Guidelines at the national, regional, and municipality level. The main objective is to achieve the official commitment of executive, judiciary and legislative to the implementation of the Guidelines.

Civil society should ensure that the most vulnerable and most affected segments of the population are reached and push for the inclusion of community-based organizations and NGOs, as well as FAO national representatives and bilateral donors in any such activities.

In 2001 the human rights and advocacy department of the Blantyre Synod of the Presbyterian Church in Malawi initiated a comprehensive capacity-building project. So far, about 1600 seminars have been held in villages across Malawi to discuss issues of human rights and the right to food in particular. The project coincided with and benefited from the Guidelines negotiations. Ideas and priorities emanating from the village-level discussions have framed the elaboration of a right to food draft legislation which in large part also draws on the definitions provided in the Guidelines. The dynamics generated by the capacity-building activities are now being channelled into promoting the adoption of the draft right to food bill at the national level.

Civil Society should take action:

- *Disseminate the Guidelines and relevant information in national and local languages*
- *Organise training workshops and other activities for victims of right to food violations to know what their rights are*

- *Hold local workshops to discuss the Guidelines with human rights and development NGOs, social movements and other community-based organizations*

Resources, References and useful links

Examples of popular educational material, please see:

- Kallmann, Karen & Khoza, Sibonile: "Knowing & claiming the right to food", Cape Town, Community Law Centre, University of Western Cape, 2004.
<http://www.communitylawcentre.org.za/ser/publications.php>
- Innocente, Taciana: "I learned, I thought : a educational experience", Sao Paulo, Universidade Federal de São Paulo – Centro de Recuperação e Educação Nutricional, 2006
<http://www.unifesp.br/suplem/cren/aprendi/index.htm>
- Natanauan, A.Rommel: "Rural Women and the Right to Food in the Philippines", A training manual, FIAN Philippines, Cartoon, 2006

However and despite the indirect use of the Guidelines for educational and general awareness raising, the Guidelines remain an instrument to guide state policies with regard to national food security decisions in a view to realize the right to food. The stock taking on legal and moral commitments as well as the policy recommendations entailed in the Guidelines provides a strong basis to promote and mainstream the right to food in the relevant institutional contexts. Thus, the Guidelines can be used in various constituencies and advocacy forums at the local, national, regional and universal level to promote the right to food and formulate practical policy proposals in favour of this right. As the Guidelines show it, the right to food offers an interesting framework to address the effectiveness and coherence of political and developmental objectives and choices. Civil society networking within and between those different levels will be also fundamental to achieve real changes towards the realization of the right to food. In the following, this manual identifies several constituencies, which are covered in the Guidelines and could become active users of the Guidelines. Which contents can civil society organizations advocate, where exactly can they start? As appropriate, the particular strength of a rights-based approach is highlighted, and examples of good practices are provided.

3.1 AWARENESS-RAISING AND CAPACITY-BUILDING ACROSS THE STATE APPARATUS

Duty-bearers (that is to say the ones who are in charge of the implementation of the Guidelines and of the progressive realization of the right to food) should be made more aware of their responsibilities and duties under the Right to Food.

The introduction of the Right to Food Guidelines recalls the basic international instruments on which the

Guidelines are based and upon which the entirety or the broad majority of states have agreed. The Guidelines thus emphasise the standards in international law relevant for the human right to adequate food before they go on proposing concrete policy steps towards progressive realization.

Furthermore, many of these international standards have been incorporated in domestic law or can be derived from general principles and provisions in national constitutions. This being said, a lot of energy still remains to be invested in order to overcome lack of knowledge and misconceptions about ESC-rights and the right to food, in all levels of society.

The Guidelines request states to promote the Guidelines through training of administrative bodies on different levels (Guideline 11.9) and in national education initiatives for judges (Guideline 11.9). More generally, the three powers in the state are concerned and the legislators should also be trained. Civil society should promote and support these efforts wherever possible. As for educating the duty-bearer, seminars should be held that bring together state authorities and experts from civil society. Positive experiences have been made with holding such seminars in cooperation with the Office of the High Commissioner for Human Rights (OHCHR), as this tends to increase the respectability of such activities. Other possible UN partners include FAO, UNICEF, WHO and UNDP.

Examples of such activities have been realized in Guatemala. In July 2005 and October 2006, FIAN in cooperation with the Supreme Court of Justice and the Judicial School held two seminars to raise awareness among judges, attorneys, human rights' ombudsman and government representatives concerning the commitments of Guatemala under the ICESCR. The focus was on the due application of the right to food in agrarian conflicts. Different steps were considered: the constitutional provisions recognizing international human rights treaties, the conceptual matters defined by the General Comments and the Guidelines, and the appropriate application of the concepts in the context of judicial practice on agrarian issues. The general feedback was that the right to food concept was new to them and offers a legal framework to resolve in a more appropriate way the land conflicts they deal with.

Political commitment of state authorities needs to accompany these education strategies. Duty-bearers may be aware of the right to food but unwilling to fulfil their obligations. In any case, it is clear that education efforts targeted at state authorities cannot stand by themselves, but must be complemented by capacity-building within civil society in order to create the necessary thrust.

In this perspective, the role of civil society is crucial to promote the Guidelines and mainstream the right to food across the state institutions. To this end, the creation of national platforms or task forces with all interested sectors of civil society and in constructive collaboration with decision makers and national human rights institutions have proved to be an interesting forum to formulate common strategies for the right to food. Guideline 3 prescribes the setting up of national strategies based on human rights in order to ensure the realisation of the right to food. Since the Guidelines tackled various policy fields, they are particularly adapted to orientate the design of a coherent and comprehensive strategy for the systematic mainstreaming and the progressive realization of the right to food. According to the fundamental principles inherent to human rights based processes, these strategies shall be developed with due consultation of all relevant actors, which includes vulnerable groups and associations working with them. The first advantage of the setting up of such a strategy is the mobilisation of forces within the country.

Civil Society should take action:

- *Hold expert-level seminars that reach out to government decision-makers and state authorities*
- *Prepare adequate information material*
- *Use events to draw attention of the media on the right to food and the Guidelines*
- *Design a strategy for media work*
- *Set up and participate in interface working groups and task force between state actors and civil society*

Resources, References and useful links

- Künemann, Rolf & Epal-Ratjen, Sandra: "The Right to Food: A Resource Manual for NGOs", published by HURIDOCS/AAAS, Washington D.C., 2004, accessible at http://www.fian.org/live/index.php?option=com_doclight&Itemid=100&task=details&dl_docID=53
- FAO, "The Right to Food – Putting it into practice", Brief 6: Education and Awareness Raising, Rome, 2006, available in the Right to Food Virtual Library http://www-data.fao.org/righttofood/kc/library_en.htm
- FAO, E-learning tool on the Right to Food to food, accessible at http://www.fao.org/righttofood/kc/dl_en.htm
- FAO, Right to Food web site http://www.fao.org/righttofood/index_en.htm

3.2 HUMAN RIGHTS COMMUNITY

At the centre of the strategies which this manual sets out to explore stands the fact that food is a human right. This naturally connects but is not limited to the international human rights regime. While promoting the application of the Guidelines by relevant UN human rights institutions and treaty bodies including the Office of the UN High Commissioner for Human Rights (OHCHR), civil society efforts should now focus on promoting the justiciability and enforceability of human rights at the national level.

• Promoting a National Framework Law

A national framework law can promote the enforceability of human rights of individuals vis-à-vis their governments. UN General Comment 12 envisages a framework law as a useful and important step in the realisation of the right to food. States parties to the ICESCR are thus required to set up justiciable remedy mechanisms for the victims of violations of this human right and to develop national strategies in order to get the respective policies, laws and programmes started. According to Guideline 7.2, States must provide for adequate, effective and prompt remedies through administrative, quasi-judicial or judicial means. While the Guidelines themselves do not create new legal obligations and are not justiciable at the national level, they can be used as an interpretation of national laws or constitutions which contain the right to food. Furthermore, in terms of the content of a national framework law, the policy recommendations of the Guidelines constitute an important source of inspiration. Guideline 7 advises States to establish provisions in their domestic law, which facilitate the progressive realization of the right to adequate food.

Civil society should promote the adoption of a framework law. An important step forward would be the formation of a national task force in charge of informing and following the process of development, adoption and monitoring of such a law. This task force should be composed of people from trade unions, community-based organisations, farmer organisations and women's organisations as well as from other civil society actors, NGOs, academia and the political sphere. Above all, those whose right to food is violated should be integral part of such mobilisation efforts. The diversity of such a task force would not only be able to secure broad acceptance of the objectives, but also unite the necessary expertise. The additional benefit of mobilizing a national campaign for a framework law is that it also generates actors and monitoring capacities which can ensure that a framework law, once adopted, will be implemented.

Finally, national experiences such as in Brazil, Guatemala and Sierra Leone have shown that the inter-institutional coordination is a crucial element of coherence and efficiency for such national strategies.

An interesting case here is Honduras, where civil society groups are drawing from the provisions of the Guidelines in an effort to elaborate national framework legislation. Such a national legal framework should enshrine the right to food and specify state obligations. In the case of Honduras, it should, inter alia, be based on the human rights principle of non-discrimination, in particular of women (Guidelines 2.5, 3.5, 8.3, 8.6), it should assure policy coherence, provide access to resources and assets (Guideline 8), and recognize the traditional rights of indigenous people and communities regarding their natural resources.

Civil Society should take action

- *Promote human rights institutions and ombudspersons (according to the Paris Principles)*
- *Organize a broad national coalition to advocate the adoption of a national framework law*
- *Review existing national law from a human rights perspective*
- *Encourage UN Human Rights institutions and treaty bodies, including the Office of the UN High Commissioner for Human Rights (OHCHR) to utilize the Guidelines*
- *Promote the creation of national rapporteurs on the right to adequate food (like in Brazil)*

• Promoting political and judicial enforceability of the right to food

The term 'enforceability' comprises various forms to claim rights as well as political pressure and mobilization to make the state regard its obligations to respect, protect and fulfil human rights. It must be understood that Human Rights are legal rights: Almost all States have entered into binding obligations to secure the achievement of various ESC rights under international treaties, as well as national constitutions and laws. The executive and legislative branches are called upon to implement the right to food through public policy-making and corresponding legislative acts. ESC rights have been shown capable of precise application.

The legal state obligations constitute a central point of departure for civil society. Civil society should promote the establishment of independent and autonomous national human rights institutions (NHRI) and work closely with the existing institutions as recommended in Guideline 18. Human rights institutions should be endowed with the capacity to advice the government, to give impulses to policy designs, to monitor state obligations and should investigate human rights violations. They could bring cases to court or support the work of the judiciary. Civil society has a privileged role to play in collaboration with NHRI (Guideline 7).

In November 2003, 1150 Colombian families who had been forcibly evicted from their land brought a constitutional complaint to court. It was directed against the Social Solidarity Net, the Administrative Department of the Presidency of the Republic, the Ministry of Public Finance and Credit, the Ministry of Health, the Ministry of Labour, the Ministry of Social Protection, the Ministry of Agriculture, the Ministry of Education, as well as municipal and departmental administrations.

Many of the displaced people had, although being registered in the Unique Register of displaced population, not received any type of aid from the Social Solidarity Net or from other entities. Before using the mechanism of the constitutional complain they tried to raise many petitions to various institutions but did not find an effective answer. The accused would have had the duty to protect the evicted population. Furthermore, they had not effectively responded to former demands for housing and productive projects, attention to health, education and humanitarian aid.

In Colombia, a constitutional complaint, called *tutela*, can be initiated if public authorities violate fundamental rights. It is possible to use this mechanism if the minimum standard of living is not guaranteed and if it is necessary to receive a direct answer to the demands.

The Court found, among others, following fundamental rights violations: The right to life in dignified conditions, the right to health, work and education. The right to a minimum quantity of food is mentioned, too. It was recognised to be violated because the displaced found themselves in situation of extreme poverty. They were prevented from satisfying biological necessities which consequently determine the enjoyment of all the other fundamental rights.

The Court judged that the State has to provide means to overcome the situation in which those rights are violated. It ruled that the Director of the Social Solidarity Net, the Ministers of the various ministries and the members of the national Council for the integral attention to the displaced population should take all the necessary measures to guarantee the violated rights within a period of one year. In this case, the national ombudsperson, the "Defensoria del Pueblo", played a key role in monitoring the implementation of the decision.

• Promoting justiciability of the right to food

Justiciability is one major aspect of enforceability. Even if legal remedies will not solve all problems of the hungry, the possibility to bring to courts cases of violations is of utmost importance for the full realisation of the right to adequate food.

A right is justiciable if it is possible to complain against a violation of the right before courts or other relevant quasi-judicial bodies and to obtain redress for this violation or for threats of violations. Whether or not a violation of a right is justiciable depends largely on the degree of legal recognition and hence on the legal system of a state- but also on its judges and whether or not they apply national or international human rights law where it exists. No right can be fully realized until and unless full justiciability is provided for it. Courts and other adjudicative bodies play an important role in holding States and others accountable (Guidelines 7).

The Ogoni case:

The Nigerian military government has been directly involved in the oil production through the state oil company, the Nigerian National Petroleum Company (NNPC). It is the majority shareholder in a consortium with Shell Petroleum Development Corporation (SPDC) which caused serious environmental degradation. The disposal of toxic waste into the environment and local waterways caused serious health problems among the Ogoni people in Nigeria. The Nigerian Government facilitated these violations by placing the legal and military powers of the State at the disposal of the oil companies. The Army was furthermore involved in invasions of Ogoni villages and psychological tactics of displacement.

The government ignored concerns of Ogoni Communities regarding oil development, and responded to a non-violent campaign of MOSOP (Movement of the Survival of Ogoni People) against the destruction of their environment with massive violence and executions of Ogoni leaders. The Nigerian Government completely failed to investigate these attacks.

In March 1996, a complaint was brought to the African Commission on Human and Peoples' Rights by the Social and Economic Rights Action Center (SERAC), a non-governmental voluntary initiative concerned with the promotion of economic and social rights in Nigeria, and the Center for Economic and Social Rights (CESR), a New York-based, non-governmental organization devoted to the promotion of economic and social rights on a global scale. The African Commission found the Nigerian Government in 2001 to have destroyed and threatened the Ogoni food sources through contamination of soil and water upon which Ogoni farming and fishing depended. The Commission stressed that the State must ensure access to adequate food for all citizens, and must not destroy or contaminate food sources or allow private parties to do the same. On the basis of the examination of the case by the Commission, the Assembly of Heads of State and Government of the O.A.U. endorsed the findings of the

Commission. The Federal Military Government of Nigeria as a member state of the Organization of African Unity and a state party to the African Charter on Human and Peoples Rights has been convicted of violations to the right to life, to food, to property, to health, to family life, to a healthy environment, to development, to an adequate standard of living and the right to self-determination.

Justiciability of ESC-rights, the assurance that victims of the right to food violations have access to effective remedy and adequate redress, has long been contested, and misconceptions continue to persist among authorities even as jurisprudence on ESC-rights has evolved significantly over the last decades. As a matter of fact, however, today several countries all over the world incorporate ESC-rights in their constitutions or in national legislation and provide for judicial review.

India's Supreme Court

A particularly successful example for the justiciability of the right to food is India, a pioneer state inasmuch as it has a substantial right to food case pending at the Supreme Court. In the face of an inadequate government response to a severe drought, the People's Union for Civil Liberties (PUC) in April 2001 approached the Supreme Court of India with a writ petition based on the legal argument that the right to food flows from the right to life enshrined in Article 21 of the Constitution.

While this case is awaiting final judgement, the Court has issued a series of interim orders which address the systematic violations of the right to food in social programmes and require the State to ensure the functioning of the public distribution system (PDS) and to implement food-for-work programmes and mid-day school meals in affected areas.

It is important to note that, contrary to what is often being claimed, the Court did not actively engage in public policy-making, but – as a safeguard of the constitution – reviewed existing programmes on their conformity with right to food. On the other hand, the court orders can be used by civil society to advocate concrete policies that extend beyond legal remedies.

Civil Society should take action

- *Promote human rights institutions and ombudspersons (according to the Paris Principles)*
- *Organize a broad national coalition to advocate the adoption of a national framework law*

- *Review existing national law from a human rights perspective*
- *Encourage UN Human Rights institutions and treaty bodies, including the Office of the UN High Commissioner for Human Rights (OHCHR) to utilize the Guidelines*
- *Learn from adjudicated cases concerning violations of civil and political rights and use legal precedents*
- *Monitor the implementation of decisions by courts and quasi-judicial bodies*

3.3 HUMAN RIGHTS CONDUCTIVE DEVELOPMENT

The Guidelines provide guidance to states on how to adopt a rights-based approach to development assistance, so as to progressively realize the right to adequate food. It is necessary to treat the right to food as a fundamental right and not as a political goal which can be achieved through providing civil and political rights.

The following section gives some ideas on how to introduce the rights based approach to other agreements on development proceedings, such as the UN Millennium Goals, the Paris Agenda on Aid Effectiveness, the International Alliance against Hunger, as well as the World Bank and WTO proceedings.

In this regard, the international donor conferences, convoked by States, the World Bank or the UN are certainly a good forum to emphasize the right to food in development strategies.

• Millennium Development Goals

On September 18th 2000 the UN General Assembly unanimously adopted the UN Millennium Declaration. States committed themselves to eight Millennium Development Goals (MDGs), set out to alleviate substantially hunger, poverty, disease, illiteracy, environmental degradation and discrimination against women. The first of the MDGs is to reduce by half the proportion of the hungry and poor by 2015.

Five years on, it is clear that the rhetorical commitment has not been matched by the necessary political will. Progress toward even such a modest goal is extremely slow and in certain regions of the world has even been reversed. In its 2005 Human Development Report, the UNDP critically reflects upon this failure and identifies a 'distributional blind spot' of the Millennium Development Goals: "The MDGs set quantifiable targets that lend themselves to policy responses rooted in technical and financial terms. Ultimately, however, the real barriers to progress are social and political. They are rooted in *unequal access to resources* and distribution of power within and among countries."

This illustrates just how much a rights-based approach to development has to offer and how urgently it is needed to fight poverty and eradicate hunger. Indeed,

it is not possible to understand the MDGs outside of a rights-based perspective." Only if Human Rights are involved a long term success can be achieved. 2005 was a particularly important year in this regard. The first big review of progress in the implementation of the MDGs took place from 14 to 16 September 2005. The mobilisation of the international community and of national public opinion had hardly ever been so strong for the struggle against hunger. Civil society and non-governmental organizations should use this dynamic to promote the right to food as a coherent approach and instrument to eradicate hunger. The provisions of the Guidelines and the right to food should be raised at different levels, especially with civil servants and ministries in charge of the MDG review. Guideline 19 and Section III especially deal with the international dimension of the realization of the right to food with a list of measures, actions and commitments in relevant areas of international cooperation.

Benin is one example of such efforts. In connection with the MDG review process, national alliances and platforms have formed and brought together some 150 NGO/CSOs. These organisations have been classified according to working fields so that the government has a clearer overview on whom to consult on the various issues. In addition, a parallel report on the MDG which explicitly draws on the provisions of the Guidelines.

The provisions of the Guidelines touch upon each of the eight Millennium Development Goals. The Guidelines thus offer an excellent tool to integrate a rights-based approach into the MDGs.

• International Alliance Against Hunger

An International Alliance Against Hunger (IAAH) was initiated at the 2002 *World Food Summit: five years later* as an umbrella association which promotes and interconnects partnerships between governments and other stakeholders at the global, regional and local level in order to achieve the reduction of hunger and poverty by 2015, in accordance with the World Food Summit and the first millennium development goal. The same actors are encouraged to form national alliances, as has been done for instance in Argentina, Burkina Faso, France, Guatemala, Haiti, Italy, Jordan, Madagascar, Nicaragua, Rwanda, Sierra Leone, Switzerland, and in the United States. They can indeed serve as crucial focal point for civil society capacity-building efforts in the development sphere as well as an excellent forum where the Guidelines can be discussed and utilized.

• Paris Agenda on Aid Effectiveness

The Guidelines can further be used by civil society organizations to ensure that the right to food is respected and promoted in development projects. They

can also lobby for the reorientation of development aid assistance towards this goal. In this regard, the Paris Agenda on aid effectiveness may provide for a useful focal point:

The Paris Declaration on Aid Effectiveness, adopted on 2 March 2005, commits participating development organizations as well as partner countries to increase efforts in harmonizing and aligning aid to recipient needs and priorities. Recipient countries should devise national development strategies with “clear strategic priorities linked to a medium-term expenditure framework and reflected in annual budgets” and donor countries should support recipient ownership of these strategies.

• Development projects of European countries

Civil society can, on European level, contribute to the formulation of policy, and secondly can play a significant role as actor in development programmes. The Development Programme of the European Commission holds a continuous dialogue with CONCORD the Confederation of European Non-Governmental Organisations for Relief and Development. An intensive dialogue is wished to be held between the European Commission and its Commissioner Louis Michel. When the DG Development plans to prepare communications it invites NGOs and other civil society actors with expertise in relevant fields to contribute with their comments and opinions on particular issues.

• Gaining influence on the World Bank

In line with the promotion of a rights-based approach to development and Guideline 3.5, the reporting mechanisms of World Bank Poverty Reduction Strategy Paper (PRSP) could be utilized. Civil society should push governments to refer to the Guidelines and wherever possible, participate actively in the elaboration of PRSP revisions (Guideline 3.5). In Uganda, civil society has been successful in participating in the definition of the policies against poverty.

Sierra Leone, despite its commitment to a time-bound realization of the right to food, does not make mention of the right to food in its March 2005 PRSP, but instead focuses exclusively on food security. Similarly, the Malawi Poverty Reduction Strategy despite sustained civil society activism, does not make reference to food security or human rights.

Civil Society should take action

- *Promote a rights-based approach within the development community in general, in the monitoring of the Millennium Development Goals in particular and influence national poverty reduction strategies (Guideline 3.6).*

- *Form national alliances to ensure that development policies respect and promote the right to food*
- *Help clarifying recipients needs and priorities*
- *Give advice towards and be involved in the definition of a national poverty reduction strategy*

Resources, References and useful links

- For more information on the international and national alliances against hunger, see http://www.iaahp.net/news_en.html
- The full text of the Paris Declaration can be found at www.worldbank.org/harmonization/Paris/finalparisdeclaration.pdf. For an in-depth analysis of the Paris agenda on aid effectiveness, see Andrew Rogerson, “Aid Harmonisation and Alignment: Bridging the Gaps between Reality and the Paris Reform Agenda”, in *Development Policy Review* 23, no. 5 (2005), pp. 531-552.
- For the Millennium Development Goals, see: www.un.org/millenniumgoals/
- Aliro-Omara, Joel. “Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food: An Important Tool for Realizing the Millennium Development Goals”. *Standing Committee on Nutrition News* 30 (2005): pp. 40-43.
- Shetty, Salil. “Can a Rights-based Approach Help in Achieving the Millennium Development Goals?”, in *IDS Bulletin* 36, no. 1 (2005): pp. 73-75.
- UNDP, “Human Development Report 2005: International Cooperation at a Crossroads: Aid, Trade and Development in an Unequal World”, New York, 2005.

3.4 INTERNATIONAL TRADE

In Section III of the Guidelines the crucial role of international trade for the promotion of economic development, the alleviation of poverty and the improvement of food security (para. five) is stressed. Guideline 4.4 highlights that measures towards the objective to protect consumers should not infringe upon WTO agreements. However, WTO regulations for global trade constitute a risk for the realisation of the right to food.

Trade regulations can generate high price fluctuations on global markets which national political powers can hardly influence. Furthermore, subsidized imports from industrial countries are a threat to the income of small farmers in developing countries. In this way trade policies can be a hindrance for development policies and do not leave states the political space to regulate for the protection of human rights. Therefore international attention has to be paid on the supremacy of human rights over trade and therefore on the coherence between trade policy measures or trade regulations and human rights policies. In a situation of conflict between

both legal regimes, human rights have to prevail. For instance, under WTO agreements, states shall not undermine their obligations under the International Covenant on Economic, Social and Cultural Rights.

Precise analyses on the relationship between trade and human rights are desired. The topic has been touched by the High Commissioner for Human Rights and the United Nations Conference on Trade and Development (UNCTAD). In 2001, the UN Special Rapporteur on the Right to Food dedicated an entire chapter in his first report for the UN General Assembly to the relationship between trade and the right to food. As far as they are concerned, the Guidelines (para.9, Section III) reiterate commitments taken by states within the WTO negotiations, and especially the Doha mandate and declaration demanding that food security, rural development and non-trade concerns are taken into account.

Civil Society should take action:

- *Attention should be drawn on WTO new regulations where they constitute a danger to the right to adequate food*
- *Civil society activists should address those responsible in national trade ministries, or as the case may be, units within the ministry of economics, for social standards in connection with trade*
- *In some countries, offices for coherence between international treaties and trade regulations exist. It is necessary to establish contacts to those offices and to stress the supremacy of human rights over trade regulations*

As Example of Civil Society's action, in 2005 and 2006 different actors in Colombia, Ecuador and Guatemala filed claims to the judicial courts against the Free Trade Agreements. The complaints claimed specifically the protection of ESC Rights from violations that could be caused by Trade Agreements to be ratified with the USA. In the case of Colombia the Tribunal ordered cautionary measures to avoid such violations

Resources, References and useful links

- Windfuhr, Michael: "Human Rights come before Trade", Heidelberg, FIAN Factsheets series g25e, 2003 www.fian.org/live/index.php?option=com_doclight&Itemid=100&task=details&dl_docID=39
- Windfuhr, Michael: "Trade and Human Rights. A New Perspective", Heidelberg, FIAN Fact Sheet g24e, 2003 www.fian.org/fian/index.php?option=com_doclight&Itemid=100&task=details&dl_docID=10
- Ziegler, Jean: "Report of the Special Rapporteur on the right to food to the UN Commission on Human Rights, 2004", Section on trade, accessible at

<http://daccessdds.un.org/doc/UNDOC/GEN/G04/107/77/PDF/G0410777.pdf?OpenElement>

- FAO/INF: resource paper on trade, published in The Right to Food Guidelines; Information Papers and Case Studies, can be ordered with the Right to Food Unit, righttofood@fao.org

For additional information and for networking on trade and human rights, please visit following homepages:

- The NGO 3D (Trade, Human Rights, Equitable Economy) <http://www.3dthree.org/en/>
- The INCHRTI (International NGO network on Human Rights in Trade and Investment Agreements) <http://www.lutheranworld.org>

3.5 AGRARIAN REFORM AND RURAL DEVELOPMENT WITH HUMAN RIGHTS

Hunger is still basically a rural phenomenon. Eighty percent of the world's hungry live in rural areas. The majority of the hungry is hungry because they lack sufficient income. Most processes leading to poverty and social marginalisation start by denying people access to productive resources, primarily access to land.

The rise of neo-liberal policies has created an increasingly unfavourable environment for ensuring access to land and assets for the poor. While in many countries avoidance of agrarian reform policy prevails, at the same time there is great pressure for privatising and modernising traditional forms of access to land. States have to guarantee access to productive resources for all those suffering from landlessness, hunger and malnutrition.

Paragraph 1 of the Guidelines, following the authoritative interpretation of the right to food in General Comment 12 makes reference to the basic content of the right to food and states: "These Voluntary Guidelines aim to guarantee the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals; physical and economic accessibility for everyone, including vulnerable groups, to adequate food, free from unsafe substances and acceptable within a given culture; or the means of its procurement." The aim of the Guidelines then is to guarantee the availability of food, or means of its procurement. With regard to the availability of food, General Comment 12 includes the possibilities that an individual has either of feeding herself directly from productive land or other natural resources, or through well functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand.

Based on this interpretation, it is clear that the direct availability of food through an individual cultivating her own land is part of the basic content of the right to adequate food for individuals and rural groups who want to exercise this right as such. The direct availability of food through own cultivation implies economic access to productive resources: it is necessary to have access to

land and access to other productive resources in order to be able to cultivate the land and to have direct availability of food. This implies then that access to land is part of the basic content of the right to adequate food, be that land in order to cultivate it and feed oneself, or to take advantage of other natural sources of food.

The Special Rapporteur on the Right to Food, Jean Ziegler, also affirms that “access to land and agrarian reform must form a key part of the right to food” given that “access to land is often fundamental for ensuring access to food and to a livelihood, and therefore freedom hunger”.

Due to the close correlation between access to land and the right to food, these three types of obligations can be directly applied to access to land: State Parties to the ICESCR are obligated to respect, protect and fulfil access to land, given that this forms part of the basic content of the right to food and is particularly important for peasants, indigenous peoples, fisherfolks, pastoralists, and people living in rural areas and who have no alternative options for earning a living. The Special Rapporteur on the Right to Food has already adopted this interpretation and considers it to be clear that governments should respect, protect and fulfil access to land.

Finally, while Article 11 of the ICESCR already contained the right to adequate food and advised state parties to reform agrarian system in such a way that guarantees the right to adequate food, the Guidelines reiterate this obligation. They touch upon the topic of access to resources and assets in Guidelines 8.1. and 8.10. It is recommended to establish a legislation that protects the full and equal right to land tenure and other property. States are urged by the Guidelines to implement policy mechanisms that advance land reform, so that the access to land is guaranteed to those who want and need it to realize their right to food. However, it is not just the redistribution of land that is required. Peasants must be able to make use of the land given and to become self-reliant. The rights-holders need access to affordable credit facilities, to rural infrastructure, agricultural advisory services, to new information and technology, education and marketing assistance, as well as access to agricultural inputs. Furthermore, agrarian reform policies have to take into account the sustainability of agriculture. Future generations’ human right to food requires the conservation of food producing resources like the soil, water, and bio-diversity and therefore a sustainable and diversified agriculture.

In this context, the international debate on the issue of agrarian reforms is ongoing. A very important milestone has been the international conference on the issue: the International Conference on Agrarian Reform and Rural Development (ICARRD) organised from 7 to 10 March 2006 by the Brazilian government and FAO. In the Final Declaration adopted at the end of the ICARRD, FAO members recognised again the role of agrarian reform for ensuring sustainable development and realisation of human rights and food security. Furthermore, the

Declaration explicitly recognised the essential role the Guidelines should play in the promotion of rural development. The civil society groups working actively with FAO and those who have been involved in the adoption of the Guidelines should observe and influence the follow-up which will be given to the ICARRD commitments.

Civil Society should take action:

- *Should push for the implementation of agrarian reform*
- *Should demand the setting up of information and marketing assistance points accessible to rural people*
- *Demand available and affordable credit facilities*
- *Should get involved in the follow-up work of the ICARRD conference at FAO and at national levels*

Resources, References and useful links

- FAO: “The Right to Food - Putting it into practice”, Brief 4: Agricultural and Food Policy, Rome, 2006, available in Right to Food Virtual Library http://www-data.fao.org/righttofood/kc/library_en.htm
- ICARRD Final Declaration and documentation accessible at <http://www.icarrd.org/index.html>

3.6 EMPOWERMENT OF WOMEN

The majority of the 1.5 billion people living in poverty are women – a striking disproportion which continues to grow. This ‘feminization of poverty’, as it has frequently been called, has its roots in the economic, social and cultural oppression of women across societies and cultures. It is also reflected in the marginalization of and discrimination against women when it comes to the enjoyment of the right to food: Women very often do not have access to and control over land and other productive resources. They work under more flexible, insecure and worse paid labour conditions, they are often solely responsible for the water supply of the household which becomes increasingly difficult and they are confined to household production.

Women’s organisations and human rights organisations have achieved major progress towards formal gender equality and non-discrimination, which are now firmly established as human rights principles in numerous declarations and conventions, including the Universal Declaration of Human Rights (art.2), ICESCR (art.3) with its General Comment 16 which stresses the equal right of men and women to the enjoyment of all economic, social and cultural rights, and the Committee on the Elimination of all Forms of Discrimination against Women (CEDAW) – major international human rights instruments that also encompass the right to food.

The UDHR includes food in the right to an adequate standard of living and enshrines the universal principle

that “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as [...] sex [...]”. The ICESCR reiterates “the equal right of men and women to the enjoyment of all economic, social and cultural rights” and spells out the measures to be taken to realize the right to adequate food.

The Guidelines emphasize the specific role that women play in food security, their particular vulnerability to right to food violations and the attention they should be given in state policies. For this reason, provisions regarding non-discrimination and empowerment of women in relation to food security are to be found throughout the Guidelines. For instance, Guideline 8 prescribes that states promote the full and equal participation of women in the economy thanks to measures like the ones recommended in Guideline 8A on the encouragement of adult education and training programmes regardless of gender as a means to improve access to labour markets. Another example of the usefulness of the Guidelines for the empowerment of women is the recommendation entailed in Guideline 13 to channel food assistance through women in order to strengthen their decision-making power and to ensure that food needs at the households level are effectively met.

Civil Society should take action:

- *Empower women through education and awareness raising*
- *Carry out awareness raising and education with women and men on gender biases in the enjoyment of the right to food*
- *Apply a gender perspective to the five steps to be considered in the use of the Guidelines (see page 4)*
- *Link up with gender organisations/ women movements which work critically on current development and agricultural policies, such as the MDG process, poverty reduction strategies*
- *Support claims for more justice in labour conditions (equal payment, stable contracts, protection against abuse and harm of the health, maternity leave, etc.)*
- *Claim adequate nutrition especially during pregnancy and lactation. For that it is recommended to address: public health institutions, nutrition departments, women and family ministries, etc.*
- *Demand and promote compensatory measures or affirmative action in order to achieve de facto equality and in accordance with Art. 4 CEDAW (e.g. access to land and credits especially for women)*

3.7 HEALTH AND NUTRITION

In recent years, the human rights and nutrition community have begun to combine forces under the banner of the human right to adequate food. Understood as the right of everyone to safe, nutritious and culturally acceptable food, the right to food offers many an opportunity for health-related and nutritional concerns to enter into a rights-based approach to food security and development. No other instrument has been as explicit in stressing this relationship as the Guidelines. Against the background of this promising liaison, a number of fruitful points of convergence are discussed below.

Most significantly, Guideline 10 spells out what the obligations of governments are and provides examples of policies to implement the provisions related to nutrition. Guideline 10 takes up malnutrition in the form of both under-consumption and over-consumption (Guideline 10.2). Under the rubric of “unbalanced diets” to be addressed also provides an opportunity to discuss the issue of hidden hunger (micronutrient deficiencies). The special duty of States to assume the responsibility of providing education and of promoting healthy eating is stressed also in Guideline 10.2.

The special importance of healthy eating habits is underlined, for, micronutrients deficiency, such as a vitamin A deficiency often leads to growth retardation and blindness and is assumed to contribute to maternal mortality. Iodine deficiency is seen as one cause of mental retardation in children and increases the number of stillbirths. The Guidelines therefore suggest “to increase the production and consumption of healthy and nutritious foods” (Guideline 10.3), as well as a fair distribution of food within communities and households (Guideline 10.10). Therefore, States should lay emphasis on cooperation with all relevant stakeholders”(Guideline 10.3).

Among other issues, the importance of breastfeeding for food security is clearly recognized by the Guidelines (Guidelines 10.1, 10.5, 10.6). Breastfeeding indeed has an important contribution to make to realize the right to adequate food for infants and young children and also, as pointed out by the Standing Committee on Nutrition (SCN) Working Group on Breastfeeding and Complementary Feeding, in efforts to achieve the Millennium Development Goals.

This in turn places great importance on the maternal nutritional status and forcefully inserts gender into nutritional concerns. In this regard, Guideline 10.8 is a valuable addition as it requires states to protect girls and women from discriminatory practices within households that may threaten their nutritional needs.

The cultural adequacy of food is another important point stressed in Guidelines 10.9, 10.10 and 14.5. The cultural habits should be respected in international food aid (Guideline 15.1).

Civil Society should take action:

- *Follow the work done by the Standing Committee on Nutrition (SCN)*
www.unsystem.org/scn/
- *Disseminate the Guidelines among the nutritionists community*
- *Carry out awareness raising on nutrition aspects of the right to adequate food*

Resources, References and useful links

- FAO: "The Right to Food - Putting it into practice", Brief 5: Nutrition and Consumer Protection, Rome, 2006, available in Right to Food Virtual Library http://www-data.fao.org/righttofood/kc/library_en.htm
- Eide, Wenche Barth: "Nutrition and Human Rights", in Nutrition: A Foundation for Development, Geneva, Standing Committee on Nutrition, 2002.
- For a detailed analysis of the Guidelines from the perspective of the nutrition community, see issue no. 30 (2005) of the Standing Committee on Nutrition's journal SCN News entitled "Closing the Gap on the Right to Adequate Food", which is available online at <http://www.unsystem.org/scn/Publications/SCNNews/scnnews30.pdf>.

3.8 FOOD SAFETY AND CONSUMER PROTECTION

The food available on national markets, whether locally produced or imported, needs to be free from contaminants and adverse substances. The State has the duty to guarantee the safety of food. The Guidelines advise States to install comprehensive food control systems (Guidelines 9.1, 9.2, 9.3) Training and information on food safety (Guidelines 9.5, 9.6), and the consumers' choice of food should be facilitated through a comprehensible food labelling (Guideline 9.7). In Guidelines 15.1 and 15.2 internationally agreed food safety standards are mentioned in relation to International food aid.

An example of relevant national institutions which can be approached to address food safety and consumer protection issues is the UK Food Standards Agency (FSA). This independent body, created in 2000 and directly accountable before the Parliament, has been in charge of monitoring the domestic food system to protect consumers from food contamination threats and promote healthy eating. The FSA can collaborate with the health sector to promote and monitor the right to health.

Civil Society should take action:

- *Education on nutrition/ right of everyone to adequate food in quantity and quality*
- *Advice to national programs on food supply/ national food programs/ food banks*
- *Search for resources to ensure adequate food to everyone*

Resources, References and useful links

- FAO: "The Right to Food - Putting it into practice", Brief 5: Nutrition and Consumer Protection, Rome, 2006, available in Right to Food Virtual Library http://www-data.fao.org/righttofood/kc/library_en.htm
- The SCN has carried out four country case studies in Brazil, Bolivia, Angola and Mozambique which investigate ways to strengthen food and nutrition programmes in national development plans to achieve the MDGs. The case studies as well as a synthesis report and executive summary can be found at <http://www.unsystem.org/scn/>.

3.9 CASH TRANSFERS AND SAFETY NETS

Under the human right to food states are obliged to fulfil-provide food and resources directly to those in need for reasons beyond their control. Moreover, if a person in the territory of a state does not have access to basic food items, this state is prima facie seen as violating this person's human right to food.

This view is justified as simple programmes – which can be implemented even in resource-poor states - can guarantee at least this minimum level of the right to food. The Right to Food Guideline 14, which deals with safety nets, draws attention repeatedly to the risks involved in providing food in kind. If food is missing in a certain area, it should be procured in neighbouring areas rather than abroad. Moreover, generalized food scarcity is normally not the problem: Usually food is available to those who have the money to buy it. There is a growing body of evidence that cash transfers provide a straightforward way of providing access to food.

Antipoverty movements worldwide can make use of the right to food and Guideline 14 to advocate cash transfers or other appropriate forms of safety nets. Moreover peasants' movements can use Guideline 15 on international food aid to counter inappropriate food aid when it undermines their efforts to provide food for the local markets.

Civil Society should take action:

- *Identify the pockets of hunger and malnutrition in their countries.*
- *Determine whether appropriate safety nets are in place – and if so, why they are ineffective for those pockets.*
- *Make their states institutionalise cash transfers or other appropriate safety nets to remedy the respective violations.*

Resources, References and useful links

- Department for International Development (DFID): "Using social transfers to improve human development", in UK: Social protection briefing note number 3, London, February 2006. This publication provides comprehensive links to a lot of publications on cash transfers and similar programmes.
- FAO: "The Right to Food - Putting it into practice", Brief 7: Social Safety Nets, Rome, 2006, available in Right to Food Virtual Library
http://www-data.fao.org/righttofood/kc/library_en.htm
- Künnemann, Rolf: "Basic food income – option or obligation?" FIAN International, Heidelberg 2005. A discussion paper criticizing - on the basis of the human right to food - means tested cash transfers and analysing the concept of basic food income.





4 The Guidelines as a Checklist for the Right to Food: Monitoring states performance in realizing the Right to Food

Experience has demonstrated the need to establish instruments that allow State authorities, civil society and international organizations to monitor how a State's policies comply with its obligations to realize the right to food. This includes monitoring whether the State has taken immediate steps to respect, protect and fulfil the right, and whether policies contribute to the progressive realization of the right to food.

The Guidelines provide guidance for States in their implementation of the right to food when developing public policy. Their specific structure, in which state obligations under the right to food are sorted according to responsibilities of the various ministries, make them particularly adapted for monitoring. Since the Guidelines provide an implementation guide for the right to adequate food, which is a binding international law standard for most states (ICESCR), they offer the possibility to check state policies according to human rights, i.e. to ask for human rights accountability. Monitoring is of utmost importance because it allows to check different measures and policies of specific governments and to evaluate them according to criteria, which enables to develop proposals for improvement. Monitoring is also the best and easiest way to encourage CSOs to systematically integrate the Guidelines in their work.

Furthermore, in addition to providing this valuable frame of reference for the monitoring activities of civil society, the Guidelines themselves (17.1.-17.6.) explicitly mention monitoring as an integral part of a national strategy to realize the right to food. As for the institutional framework, Guideline 18.1 encourages states to establish independent human rights institutions or ombudspersons and give them the mandate to monitor the right to food. Civil society should push for the implementation of these provisions, and, in countries where such institutions exist, should seek cooperation and even when relevant bring cases of violations of the right to food to their attention. In this last case, the Guidelines can be very useful in order to appreciate to which extent right to food obligations have been breached.

4.1 HUMAN-RIGHTS BASED MONITORING

• How to monitor States' actions with the Guidelines?

Monitoring mechanisms refer to all tools and procedures at disposal in institutions in order to check the implementation or non-implementation of the commitments states (or other relevant actors) have agreed upon.

Strong monitoring mechanisms are indispensable to achieve an effective implementation of the right to food. Civil society is called upon most urgently when states are not complying with their right to food obligations under international law. Making cases of right to food violations public, naming the responsible institutions, identifying the inactive part of governments etc. are tools to move states to stop violations and to act in favour of victims of human rights violations. With the Guidelines, civil society now has a strong instrument at its disposal to monitor state performance. However, the Guidelines as such are not shaped as a monitoring instrument and a tool needs to be developed on the basis of the text of the Guidelines to facilitate their use by civil society for monitoring purposes.

FIAN International, with the support of the German Agro Action and the FAO Right to Food Unit has developed such a tool. As announced in the Preface, this publication is therefore only one element of a series of manuals on the right to adequate food. The next handbook to be published in the series will present the monitoring tool based on the Guidelines. National seminars are organised in order to apply the tool at the national level. In a first phase, seminars have taken place in Bolivia, Colombia, Guatemala, India and Uganda.

The Guidelines can support the development of a checklist to monitor whether the proposals made in the various subparagraphs are being followed by governments, and to assess if the policy measures taken are adequate to meet the objective of the respective paragraph. Five useful steps that can be derived from the Guidelines set out can be framed in terms of the following questions:

- 1 Do governments assess the hunger situation and the problems of the different vulnerable groups? (Guideline 13.2, 17.5)
- 2 Do they check if their own legislation, administrative routines policies, programmes and projects contribute to violations? (Guideline 3.2, 17.2)
- 3 Do they plan to update and improve legislation and policy measures to better implement the right to food?
- 4 How are governments monitoring the impact of such measures?
- 5 Do states offer access to recourse mechanisms?

In Guatemala, the Guidelines have been used to assess the National Policy on Food and Nutrition Security (Política Nacional de Seguridad Alimentaria y Nutricional) of 16 August 2004 and national legislation on the right to food adopted by Congress on 6 April 2005. These legislative and policy measures have been criticized by FIAN as not recognizing the legal nature of the right to food as a human right, as being deficient on the human rights principles of non-discrimination and participation, and as not providing effective recourse mechanisms. Moreover, one can see that the first two steps of the national strategy prescribed by the Guidelines, i.e. the identification of causal factors of food insecurity (Guideline 2.2, 13.2) and the assessment of existing food security policies and programmes (Guidelines 2.4, 3.2) are missing.

• What is special about rights based monitoring - RBM?

RBM is not simply monitoring the execution of tasks or State activity in general, it is monitoring based on human rights.

This means going beyond monitoring the efficiency, effectiveness and transparency of the State in achieving its objectives. RBM measures whether the State, in its legislative, executive and judicative activities directly related to the right to food or those which might affect it indirectly, is carrying out its human rights obligations and follow human rights principles, both derived from regulations and standards of international law.

An adequate monitoring mechanism should help examine the progress of implementation of the right to food and detect violations or situations which pose a risk of violation. Not only does it serve civil society in demanding policy changes (citing States' human rights obligations) but it also serves legislative authorities, showing them the problems they should address when making laws. Administrative authorities also have use for an adequate monitoring mechanism as it shows them how they can improve their work. Judges also benefit from an adequate monitoring mechanism which they can use to analyze concrete violations, and on which they can base their decisions towards the fulfilment of the States international human rights obligations.

Civil Society should take action:

- *Use the Guidelines as a standard against which to assess national legislative and policy measures*
- *Use the reporting mechanisms of the UN human rights system and of FAO*
- *Report individual human rights violations to human rights organisations and UN Special Rapporteurs*
- *Promote the use of the Guidelines in national and international reporting mechanisms, like CFS*

reporting procedure or the World Bank Poverty Reduction Strategy

- *Monitoring should be carried out regularly and needs international resonance and momentum.*

Resources, References and useful links

- Landivar, Natalia et al.: "Consideraciones sobre la Ley y La Política Nacional de Seguridad Alimentaria y Nutricional de Guatemala", Heidelberg, FIAN International, 2005.
- Wiese, Anja Kristina & Martin Wolpold-Bosien: "The Human Right to Food in Guatemala", Heidelberg, FIAN International, 2005.
- Windfuhr, Michael: "What Can Civil Society Groups Working in the Field of Right to Food and Nutrition Do With the Guidelines?", in Right to Food, 2nd ed., edited by Colin Gonsalves, P. Ramesh Kumar and Anup Kumar Srivastava, pp. 507-514. New Delhi: Human Rights Law Network, 2005.
- For more information on the FIAN & German Agro Action project and the Monitoring Tool, please see www.fian.org or send an email to ratjen@fian.org

4.2 REPORTING AND COMPLAINT MECHANISMS AVAILABLE WITHIN THE UN HUMAN RIGHTS SYSTEM

The basic idea and endeavour under this section is to encourage the preparation of information at the national level to bring them to international scrutiny at the UN.

At the international level, several reporting mechanisms exist that can be utilized by civil society to monitor state performance regarding the right to food on the basis of the Guidelines. Within the human rights system, states parties to an international human rights treaty have to submit regular reports on the implementation of their human rights obligations agreed upon by ratifying the treaty. Three out of the seven international human rights treaties deal with the rights to food and nutrition; their respective monitoring bodies: the Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Committee on the Rights of the Child (CRC), could thus serve as focal points for civil society monitoring activities. Hereafter, there are brief information on some of the forums in which monitoring can be carried out.

• Parallel Reporting before the UN Committee on ESC- Rights (CESCR)

The CESCR is in charge of monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights. The CESCR has been the first treaty supervising body to allow NGOs that have consultative status with the United Nations to make oral submissions and to submit written statements regarding the situation of economic, social and cultural rights in the different states. Everybody who has registered with the CESCR secretariat can send information to the CESCR.

Parallel reports are a complement to the CESCR state party reports which are required every fifth year. They are supposed to document the measures that state parties have adopted and the progress they have made in order to guarantee the realisation of all the rights included in the Covenant. Independent sources of information should facilitate the Committee to obtain a more comprehensive picture of the human rights situation in a country and a state compliance with economic, social and cultural rights. The parallel reports are able to provide a clear illustration of the government policy orientation towards the realisation of these rights and can influence the Committee recommendations and pronouncements concerning a particular country. Through parallel reporting, international and national public attention to specific human rights violations can be drawn.

The reporting gives an NGO the possibility to challenge government policy and present concrete cases of human rights violations. The Committee holds its sessions twice a year, a spring session and an autumn session. NGOs can contribute to the CESCR work in various ways on which more information can be found in the references below.

Resources, References and useful links

- Epal, Sandra: "Parallel Reporting before the UN Committee on ESCR", Heidelberg, FIAN International, 2003. This publication will be updated in order to integrate the monitoring tool announced at the beginning of this section 3.3 (publication available end of May 2007, please visit <http://www.fian.org/live/index.php?option=content&ask=category§ionid=4&id=35&Itemid=93>)
- Information available on the Homepage of the Office of the High Commissioner for Human Rights at <http://www.ohchr.org/english/bodies/cescr/index.htm>

• Individual human rights violations before the CESCR

The Committee does not examine individual cases or "complaints" concerning violations of the rights enshrined in the CESCR. However, concrete situations in which the right to food or another right is grossly violated shall be used to illustrate state failures. Therefore it is helpful to document recognized human rights violations and to inform human rights organisations and human rights rapporteurs.

The following list of points can serve as an example. It is however only a list of some key questions which have to be answered while documenting violations. In the context of the series of FIAN manuals to come, a publication on the specific issue of documentation shall give more information:

Precise identification of the victim/group of victims

- 6 The country and exact location of case (district, town or village) have to be documented**
- 7 A short description of the events including the dates is necessary. Furthermore the background of an eventual conflict has to be explained, e.g. cause and development of the conflict, political, social, economic, ethnic and legal aspects of the situation.**
- 8 The international organisations, foreign states or TNCs responsible in the case should be documented and it should be exposed to what extent they can be considered responsible.**
- 9 It is necessary to indicate what responsibilities lie with the national government**
- 10 If women are especially affected in this case this should be exposed. It is necessary to describe how they are affected and who can be contacted to give further details about their situation.**
- 11 Another question is if access to clean water resources is at risk. Demands to re-establish water resources and a compensation for the damage or loss of access to water should be mentioned.**

At the same time, it is important to highlight here the mobilisation and the efforts of many social movements, NGO and individuals to obtain the adoption of an "Optional Protocol" to the ICESCR. This protocol would provide the ICESCR and its monitoring body with procedures enabling victims of violations of the right to food to bring their specific cases in the form of complaints against their states.

Resources, References and useful links

- To know more both about the Optional Protocol to the ICESCR and the international NGO Coalition, please visit www.opicescr-coalition.org, the homepage of the Coalition.

• **Parallel Reporting to the Committee on the Elimination of all Forms of Discrimination against Women (CEDAW)**

The CEDAW is the committee in charge of controlling the application of the convention with the same name. Civil society can present parallel reports to this Committee.

CEDAW is specifically devoted to realize gender equality, and inter alia, specifies the right of women “to participate in all community activities; to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes; to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.” Article 14 concerns the special rights of rural women inasmuch as it claims to consider the significant roles which rural women play in the economic survival of their families. Rural women frequently are not remunerated for their work which means at the same time that they are excluded from social security programmes. Rural women may not be discriminated concerning access to education and employment. This includes the opportunity to receive agricultural credits and loans as well as the possibility to found self-help groups.

It is stated that all women do have the same employment rights, which means that their job has to be saved the same way as that of men. A special right for women should be guaranteed in times of maternity. States have to prohibit dismissal because of pregnancy or maternity (Art.11) and maternity leave shall not mean that women lose their job. Job security and safety in working conditions should be guaranteed. Article 12.2 of the CEDAW on adequate nutrition during pregnancy and lactation provides for a unique and valuable legal avenue for women to claim their right to food.

Article 2 provides for the establishment of a legal framework that prohibits discrimination of women and that sanctions violations of the principle of non-discrimination and Article 3 requires all State parties to take all the appropriate measures to ensure the full development and advancement of women so that they can enjoy human rights equally as men.

• **The Optional Protocol to CEDAW allowing for individual complaints**

With the Optional Protocol to CEDAW a Communications Procedure is established. Individuals or groups of individuals can submit complaints to the committee. A complaint can be presented to the committee on behalf of a person whose rights were violated if the persons gives her consent. The victim of ESC rights violations can seek redress, for the Committee can contact the State party in question and can even start an investigation process (Art. 8) when the information received is reliable and when there is a justifiable assumption that a systematic violation exists. After such an investigation the State Party is invited to present its measures taken to redress the human rights violations.

The Guidelines are a significant contribution to these legal standards, making frequent reference to women as potentially vulnerable groups and thus as beneficiaries of policies as well as active claimants of their rights. While many of these policies apply generally to vulnerable groups identified through the monitoring of food security situations (Guidelines 17.5), that is, to groups such as the elderly, the disabled, people affected by HIV/AIDS, or ethnic minorities, women are likely to be subject to multiple discrimination because of the prevalence of patriarchal structures and gender-based exploitation.

To remedy these imbalances, the Guidelines stipulate that women shall be enabled to participate fully and under equal terms in the economy (Guideline 8.6) and “to earn a fair return from their labour” (Guideline 2.5). Under their obligation to fulfil/facilitate the right to food, states should guarantee women secure and equal access to, control over, and benefits from productive resources, including credit, land, water and appropriate technologies (Guideline 8.6). Gender-sensitive legislation should provide women with the right to inherit and possess land and other property (Guideline 8.6), and land reform should be designed to benefit women (Guideline 8.10). In devising strategies to realize the right to food, the specific access problems of women and other vulnerable groups should be taken into account (Guideline 8.3); poverty reduction strategies should prioritize them (Guideline 3.5), and they should be given access to corresponding programmes (Guideline 7.4). Furthermore it is stressed that education opportunities should be strengthened especially for girls and women (Guideline 11.2) as well as it is suggested to assign food assistance to women as a means of enhancing their decision-making role (Guideline 13.4).

The right to food is not just a legal matter – it must form part of a social and political struggle. As Cindy Clark notes, “[a] gendered approach to rights fundamentally shifts the way that rights are understood. It requires understanding rights not merely as legal entitlements, but also as a political tool in social change strategies.” Significant avenues for this political struggle outlined in the Guidelines could be taken up by women’s rights organizations:

Resources, References and useful links

- Information available on the Homepage of the United Nations at <http://www.un.org/womenwatch/daw/cedaw/>

• **Committee on the Rights of the Child**

The Committee on the Rights of the Child (CRC) is the UN body in charge of supervising the implementation of the Convention on the Rights of the Child. As others UN “treaty-bodies”, the CRC is composed of independent experts who examine regular state reports and issue general comments on issues relevant to the Convention and the rights enshrined in it. The Convention on the

Rights of the Child obviously insists on the importance of education of children and support for parents in their role and responsibilities. The Guidelines also emphasize the importance of primary education, especially for girls, in the realization of the right to food (Guideline 11.2).

The Convention also recognizes the “right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health”. State parties shall therefore take measures to inter alia “combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution” (article 24). Furthermore, the Convention in its article 27 stipulates that state parties recognize “the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development” and obliges state parties to take “in accordance with national conditions and within their means, shall take (...) appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing”.

Children are a particularly vulnerable population to right to food violations and to food insecurity since they belong to the groups who are dependent to care and assistance to access food in an adequate way. Moreover, children are particularly vulnerable to ill-nutrition and to detrimental marketing by industrial food disclaimers (Guideline 10.1, 10.2 and 10.5 and 10.6).

The Guidelines with their educational and nutrition policy recommendations are well adapted to be used in parallel reports to the CRC and to be brought to the attention of this Committee while it examines state performance related to the rights enshrined in the Convention on the Rights of the Child.

Resources, References and useful links

- Information available on the Homepage of the United Nations at <http://www.ohchr.org/english/bodies/crc/index.htm>

•The Special Rapporteurs

The UN Commission on Human Rights which has been replaced by the new elected Human Rights Council created so-called special procedures among which Special Rapporteurs. These rapporteurs are in charge of either thematic issues or specific countries and have the task to produce reports with analysis and recommendations on Human Rights issues and situations. These procedures should be used by civil society groups. Indeed, they have several means of action at disposal and closely work with NGOs and national civil society. They go on country missions (field visits) and have the possibility to launch urgent appeals with communication to governments

on urgent and individual cases of threats or violations of human rights. The most relevant of those mandate for the right to food is the Special Rapporteur on the Right to Food in the person of Jean Ziegler (for the two first consecutive mandates amounting to 6 years). Jean Ziegler has repeatedly mentioned and promoted the Guidelines in its annual reports. However, other special rapporteurs or procedures can be approached, i.a. the Special Rapporteurs on the Right to Housing, on the Right to Health, on the Right to Education, on Indigenous Peoples, etc... The Guidelines can generally be used to influence the work of the Special Rapporteurs insofar as they give guidance for state action in various policies areas which are key to several human rights dealt with under the special procedures.

Resources, References and useful links

- Information available on the Homepage of the Office of the High Commissioner for Human Rights at <http://www.ohchr.org/english/bodies/chr/special/index.htm>

• Human right defenders

In the Guidelines (Guideline 1.4), those fighting for the right to food are explicitly recognized as human right defenders. As such, they are accorded the protection of, among others, the Special Representative of the Secretary-General on Human Rights Defenders.

The Special Representative is allowed to carry out country visits, to send urgent and allegation letters. The current Special Representative, Mrs. Hina Jilani explains for example in her definition of who is a human rights defender that: *“It is not essential for a human rights defender to be correct in his or her arguments in order to be a genuine defender. The critical test is whether or not the person is defending a human right. For example, a group of defenders may advocate for the right of a rural community to own the land they have lived on and farmed for several generations. They may conduct protests against private economic interests that claim to own all of the land in the area. They may or may not be correct about who owns the land. However, whether or not they are legally correct is not relevant in determining whether they are genuine human rights defenders. The key issue is whether or not their concerns fall within the scope of human rights. ”*

Furthermore, in the preliminary report on her mission to Brazil, the Special Representative writes about the defenders involved in social movements, such as those for the rights of landless rural workers, peasants and indigenous communities.

The Special Representative has the possibility to consider urgent action in form of a letter sent to governments so that the violation be stopped.

4.3 MONITORING MECHANISMS AVAILABLE WITHIN FAO

Under the FAO Committee on World Food Security (CFS), a review procedure was established at the 1996 World Food Summit (WFS) to monitor the implementation of the WFS Plan of Action (PoA). The Plan of Action contains the goal of reducing the number of undernourished people. States were subsequently asked to report regularly to the CFS and the first monitoring period was set for October 2006. In this regard, Guideline 19.1 holds that states may wish also to report on their achievements in implementing the Guidelines. As this is a weak formulation, it is particularly important for NGO/CSOs to encourage states to utilize the CFS reporting procedure in this way. The reporting format for the mid-term review of the PoA, which was held within the 32nd Session of the CFS in October 2006, did not refer to the Guidelines.

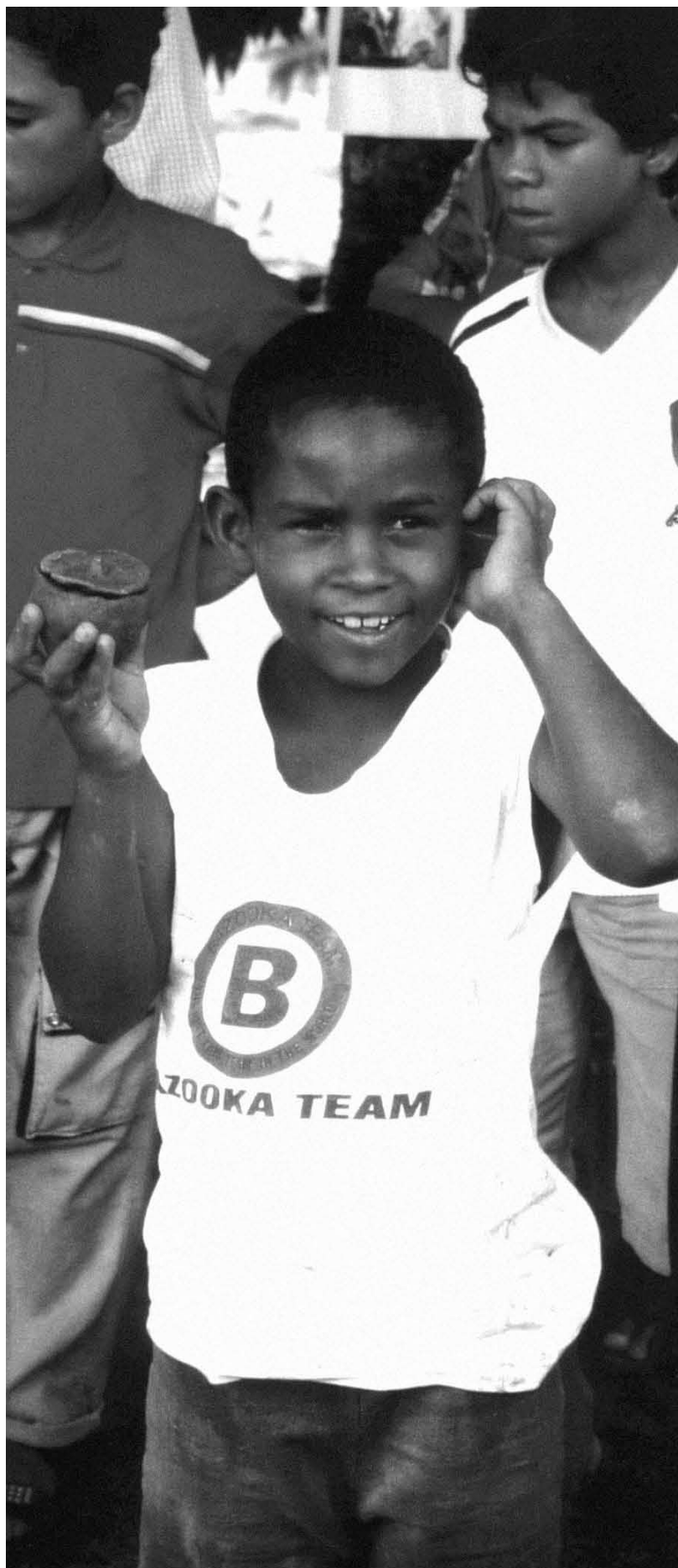
4.4 OECD- MONITORING

Monitorable targets are set out in Section III of the Paris Declaration and a set of eleven indicators was subsequently elaborated by the OECD Development Assistance Committee and adopted as part of the UN Millennium Review Summit in September 2005. A Working Party on Aid Effectiveness is conducted by the recently established Group on Monitoring the Paris Declaration which by the end of 2005 developed a monitoring plan and designed a questionnaire for country-level data collection.

Civil society through appropriate channels of communication with OECD member states can try to influence the monitoring process. At the national level, the Declaration invites partner countries to periodically assess progress toward meeting these commitments. Civil society here can play a significant role in pointing out shortcomings of particular policies.

NGOs and CSOs have already criticized the indicators and monitoring procedures on several accounts. Important targets and indicators are missing or inadequate, as in the case of untying aid and reducing donor conditionality. They found that monitoring also relies too heavily on World Bank data and assessment. The data collection appears to be insufficient, while at the same time the World Bank determines the process unduly.

The process offers opportunities for civil society in both the Global North and South to approach these shortcomings and to stress the right to food. The promotion of recipient ownership of national development strategies, including poverty reduction and thematic strategies, provides for a national forum where civil society can discuss and utilize the provisions of the Guidelines. (See also Chapter 3.3 on Monitoring the Right to Food). North-South alliances, as well as North-North and South-South alliances to design the development cooperation are recommended.



5 Summary and perspectives

5.1 SUMMARY

With this manual we have tried to stress the important role of civil society actors in the process of implementing the right to food and to assess the possible use of the Guidelines in this context. Civil society's special role is to promote the right to food in various areas of society. Besides raising awareness among all stakeholders, educating victims of human rights violations and disseminating information about the right to food throughout the whole society, civil society organizations and networks are asked to monitor the process of implementation.

An important step for civil society to take is to advocate a national framework which guarantees the right to food. Furthermore it is indispensable to create human rights institutions and judicial or quasi-judicial remedy mechanisms. A promising step would be to build a task force out of various civil society actors including those whose right to food has been violated.

But, to create such civil society organizations it is in many cases necessary to take efforts to empower people and to make them aware of their human rights and to enable them to claim these rights effectively.

Furthermore the state institutions need to be accessible for civil society demands. Awareness raising and capacity building with the duty-bearers is therefore one of the efforts needed to make the state respondent to the citizens' needs. A good partnership and dialogue between the state and different society sections is certainly the most promising approach to fully implement the right to food.

5.2 PERSPECTIVES

In November 2004, all FAO member states unanimously adopted the Guidelines for the realization of the right to food. Now, this text can be very useful to promote a human rights approach to hunger and food security at the national and international level. Taking into account the general lack of implementation of the 1996 Plan of Action, this achievement is a surprising step forward and a big chance to trigger off a constructive dialogue to address missing political will and to discuss the necessary policy changes in the struggle against hunger.

In this context, the Right to Food Guidelines offer a way to support the affected people in their attempts to hold their state accountable. They also allow to give a central role to control and monitoring mechanisms applying to state policies.

Since all major standards of interpretation of the right to food have been reaffirmed in the Guidelines, one can consider that the standard setting exercise in international law has reached a satisfactory degree. What is needed now is effective implementation of state obligations through adequate domestic policies.

The Guidelines have been adopted by all the 187 FAO member states and therefore enjoy great importance in the future interpretation of the right to food. These Guidelines will be helpful in the work of national Human Rights institutions which observe and monitor state policies regarding the right to food. They will also provide an orientation in relevant court cases. Finally they will enable civil society actors to assess whether states take their obligations under the right to food seriously. And this is the single most important task which CSOs and NGOs will have to fulfil in the next months and years. Indeed, they will have a fundamental role to play in using the Guidelines and making sure that they will be used at the national level if they do not want these Guidelines to lose their meaning and prominence.



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