

# Implementing the Voluntary Guidelines: challenges and options

*Following unanimous approval of the Voluntary Guidelines (VGs) on the Right to Adequate Food by FAO member states, with civil society's broad support, the question of «next steps» arises. To explore how to put this important new tool to use, the German government, with support from FAO and German NGOs, organized its fourth International Workshop on «Policies Against Hunger», held in June 2005 in Berlin.*

Marc J. Cohen  
Research Fellow  
International Food Policy Research  
Institute (IFPRI)  
Washington, D.C., U.S.A.  
M.J.Cohen@cgiar.org

During the second half of the 1990s, the number of food-insecure people in the developing world (excluding China) increased [FAO, *The State of Food Insecurity in the World* 2004, Rome, 2004]. With business as usual, it will not be possible to meet the 1996 World Food Summit goal of reducing the number of hungry people by half by no later than 2015. Looking at food insecurity through a human rights lens offers a fresh approach to fighting hunger. This rights-based approach is also intrinsically valuable, since every human being is entitled to enjoy her or his rights by virtue of being human.

Right to food advocates have hailed the approval of the VGs as a watershed event [Wenche Barth Eide with Asbjørn Eide, *Overview: A 'New Deal' in the Efforts to Fight Hunger and All Forms of Malnutrition*, SCN News No. 30, Mid-2005, p. 8, posted at <http://www.unsystem.org/scn/Publications/SCNNews/scnnews30.pdf>]. But the VGs also offer states a practical tool for progressively realizing the right to adequate food.

Human rights are indivisible and interdependent. Civil and political rights are crucial components of citizenship, and also help to advance the progressive realization of the right to adequate food. When citizens can speak out and organize, they can demand government action. As the World Food Summit's Declaration emphasized, «promotion and protection of all human rights and fundamental freedoms ... are essential for achieving sustainable food security for all.» Also, as Professor Amartya Sen has pointed out, famines rarely occur in the presence of democracy and a free press (*Development as Freedom*, New York, Knopf, 1999).

Nevertheless, the right to adequate food has a privileged place among human rights: without food, human existence is compromised. General Comment 12 of the U.N. Committee on Economic, Social, and Cultural Rights characterizes this right as «indivisibly linked to human dignity and ...

indispensable for the fulfilment of other human rights.»

## The Workshop «Policies against Hunger»

To discuss further steps to implement the VGs in national law, the German government, in collaboration with the U.N. Food and Agriculture Organisation (FAO), organized an international workshop in June 2005. The three-day Workshop brought together about 100 officials of national governments and international organizations, civil society representatives, and scholars, from both the South and the North. Plenary speakers included key governmental and civil society players in negotiations over the VGs, as well academic experts and policy makers charged with implementing the guidelines.

Capacity Building International (InWEnt) facilitated two rounds of small group sessions. In the first round, facilitators created groups that included people from

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South and North, women and men, representatives of different institutions and sectors, and a balance between development and human rights perspectives. They focused on two questions: «What implications does the right to adequate food have for your working context?» and «What chances and challenges do you see for implementation of the right to food?» The second full day of the Workshop was devoted to working groups organized around the major themes of the VGs:

- Economic development, financial resources, and market systems;
- Legal framework and institutions;
- Agricultural, food, and nutrition policy;

- Safety nets and social policy;
- Education and awareness raising; and
- Emergencies, food aid, and relief.

### Working group discussions

Among the implications noted by the first round working groups:

- Human rights champions are needed within governments;
- Broad consultations should take place among government, civil society, and private sector representatives;
- Grass-roots pressure and advocacy coalitions must push governments to «do the right thing,» and resources are needed to assure monitoring and evaluation of policy implementation;
- Development cooperation policies need to support implementation of the VGs, and the right to food should be mainstreamed into those policies;
- The right to food perspective must confront issues related to trade, debt, HIV/AIDS, the international financial institutions, corporate policies, indigenous people, natural disasters, environmental degradation, and social policy in the North;
- States should ratify the International Covenant on Economic, Social, and Cultural Rights (ICESCR); and
- The VGs alone are not equivalent to the right to food.

The groups identified the following opportunities created by the VGs:

- Creation of a «preferential option for the vulnerable»;
- A very broad food-security agenda, as well as the chance to develop new human rights and food-security tools and institutions;
- Even where national governments lack political will to act, the VGs offer civil society and local governments an important tool to hold the state accountable;
- Momentum now exists to:
  - develop improved data on hunger and best practices;
  - promote conflict resolution;
  - strengthen regional institutions; and
  - foster stronger advocacy and networking.
- A focus on international obligations that can improve action at the national level;
- Clear recognition of the role of women; and
- Human dignity is now at the center of the development debate.

Yet, challenges remain:

- Lack of resources (both real and alleged);
- Incoherent and frequently changing policies in both South and North;
- The VGs do not address transnational companies;
- War and other shocks increase vulnerability, while social exclusion breeds demagoguery and violence;
- Too often, programs are poorly targeted and poorly monitored;
- Governments cannot or will not keep their pledges made at international summits;
- Governments and civil society often lack a shared vision;
- The rights-based approach to development is not yet institutionalized, and it challenges power structures at all levels; and
- Awareness-building is vital, and the debate must move beyond «preaching to the choir,» that is, just discussion among convinced experts.

### Recommendations for action

Participants emphasized that the rights-based approach involves a paradigm shift, from one that emphasizes charity, benevolence, and voluntary government action to a viewpoint in which people are empowered to demand a policy environment that enables them to meet their needs and participate in policy design. Still, sustainable development and food security perspectives remain complementary.

The VGs are addressed first and foremost to governments, as the primary duty-

bearers. Governments should establish an appropriate legal framework to implement the VGs. This might involve inclusion of the right to adequate food in the constitution, enactment of a framework law, or incorporation of treaties, such as the ICESCR, into domestic law. In addition, governments must establish institutions appropriate to national circumstances and legal and institutional approaches, for example a Human Rights Commission (as in India, South Africa, and Uganda), an Ombudsman, or a National Rapporteur (as in Brazil). The institutions should be based on the Paris Principles of independence of human rights institutions.

States' obligation to respect requires that they «do no harm». The VGs offer a checklist in this regard, to use in formulating, implementing, and evaluating policies. The duty to facilitate means that governments must take steps to assure that food-insecure people have access to productive resources and employment. In the case of people who are unable to feed themselves, e.g., for reason of disability, the duty to provide requires establishment of social safety net programs. Eligibility must be based on need, but program design and implementation should also incorporate human rights principles. It is important for governments to collect disaggregated data on vulnerable people as the basis for policies. Participatory and

The VGs request from states to ensure that food-insecure people have access to productive resources and employment.



Photo: FAO/Conit

transparent budgeting can help assure that resources are available. States' obligation to protect means that in addition to doing no harm, they must take measures to prevent others from undermining the right to adequate food. In the case of private sector activities, this might include establishing a system of civil liability, measures to prevent forcible evictions, food safety regulations, and competition policy.

The obligation to promote requires that governments foster knowledge of the right to adequate food and the rights-based approach amongst the residents of their territory. Civil society and the media have important responsibilities. Formal and non-formal education can advance public awareness of human rights, as can popular media, such as radio and television. All actors require education and training, including government officials at all levels, members of the professions, and representatives of the private sector and civil society.

Civil society must continue to act as a watchdog to assure governmental accountability. Shadow reports prepared by civil society organizations are an important complement to official government reports. At the same time, partnerships between government and civil society are important for the formulation and implementation of policies and programs. With regard to the section of the VGs entitled «The International Dimension», donor governments should provide official development assistance to support developing-country governments' efforts to implement the VGs. The VGs offer an important lens through which to formulate trade policies so that they do not undermine the right to adequate food, either at home or abroad.

Governments should encourage international organizations in both the U.N. and Bretton Woods systems, including the World Trade Organisation, to make use of the VGs and the rights-based approach. The U.N. Secretary General's Action Plan-2 of 2004 and the U.N. High Commissioner for Human Rights' Plan of Action for 2005 are noteworthy in this regard. The VGs should be incorporated into national development plans, including Poverty Reduction Strategy Papers. The VGs also provide interpretive aids for international and regional human rights bodies.

In the case of food emergencies, there should be more emphasis on maintaining local food production and procuring food aid locally, with less emphasis on external assistance. Greater emphasis needs to be given to prevention of emergencies, linking early warning and timely response, and creation of autonomous national disaster prevention and management bod-

### Excerpt from Pablo Neruda's «The Great Tablecloth»

*Let us sit down soon to eat  
With all those who haven't eaten.  
Let us spread great tablecloths,  
...*

*Set up planetary bakeries,  
Tables with strawberries in the snow,  
And a plate like the moon itself  
From which we can all eat.*

*For now I ask no more  
Than the justice of eating.*

ies. Food should never be used as a weapon.

Finally, participants noted that debate on meeting the Millennium Development Goals (MDGs) should take into account the full Millennium Declaration of 2000 in which the MDGs are contained. Although the MDGs themselves do not address human rights, the Declaration is fully consistent with the rights-based approach to development.

### The way forward: from «soft» to «hard» law

For the future, a key question will be the prospects for moving from «soft» declarations to «hard,» enforceable law on the right to adequate food. Recourse mechanisms (judicial and non-judicial) to enforce rights are indispensable; VG 7.2 recommends creation of «administrative, quasi-judicial and judicial mechanisms to provide adequate, effective and prompt remedies accessible, in particular, to members of vulnerable groups...».

Critics claim that realization of economic, social, and cultural rights, including the right to adequate food, would be costly, unlike enforcement of civil and political rights. In fact, realization of civil and political rights is hardly costless. Holding periodic free and fair elections, for example, requires substantial public expenditures. Furthermore, creating effective recourse institutions furthers not just the right to adequate food, but sustainable development and good governance more generally. An independent and effective judiciary is needed to enforce property rights and contracts, as well as to punish official corruption [M. Kherallah et al. *Reforming Agricultural Markets in Africa*, Baltimore and London: Johns Hopkins University Press for IFPRI, 2002].

To be sure, implementation of the right to adequate food requires substantial expenditures on agriculture, health, and education. But such public spending is required as well by conventional

approaches to food security (J. von Braun and M.J. Cohen, *The Human Right to Food, Economic Growth, and Development*, in S. Arnaldi and L. Postiglione Blommestein, eds., *The Right to Food and the Costs of Hunger*, Soveria Mannelli, Italy, Rubbettino, 2003).

Some analysts claim that the rights-based approach, with its emphasis on legal instruments and procedures, is a diversion from food security. Professor Donald Buckingham has countered «[T]he existence of law does modify behavior. Legally binding rights to food can contribute to world food security by prescribing and proscribing certain national and international actions» (*Legal Obligation and Rights to Food: What's New from Rome?* Canadian Journal of Development Studies, Vol. XIX Special Issue, January 1998: 209–236).

Over the last few years, there have been some developments toward «hard law» on the right to adequate food, most notably India's right-to-food court case. In post-apartheid South Africa, the Constitutional Court has ruled that citizens can take the government to court to assure that it advances economic, social, and cultural rights. In Brazil, public prosecutors have used public civil inquiries to press government agencies to extend benefits under existing food programs to uncovered, food-insecure people. Internationally, the International Criminal Court has received jurisdiction over war crimes, including use of «starvation of civilians as a method of warfare...». The Court recently issued its first warrants against leaders of the rebel Lord's Resistance Army in Uganda for various crimes against humanity, including the pillaging of villages and internally displaced persons camps [see <http://www.icc-cpi.int>].

Even if the development of «hard law» becomes more widespread, recourse institutions alone are unlikely to guarantee food security for all. Civil society campaigns often pursue litigation, as in India, but also engage in legislative lobbying, demonstrations, and public awareness activities. Political mobilization around the right to adequate food is especially important when legal recourse is not available. In Chile during the Pinochet dictatorship, civil society pressure prevented the government from terminating nutrition programs [J. Drèze and A. Sen, *Hunger and Public Action*, Oxford: Clarendon Press, 1989]. But even where rule of law prevails, litigation and political action generally prove complementary in the drive to achieve what the Chilean poet Pablo Neruda called «the justice of eating» (see box).

Plenary presentations and working group reports are posted at the workshop website, [www.policies-against-hunger.de](http://www.policies-against-hunger.de).