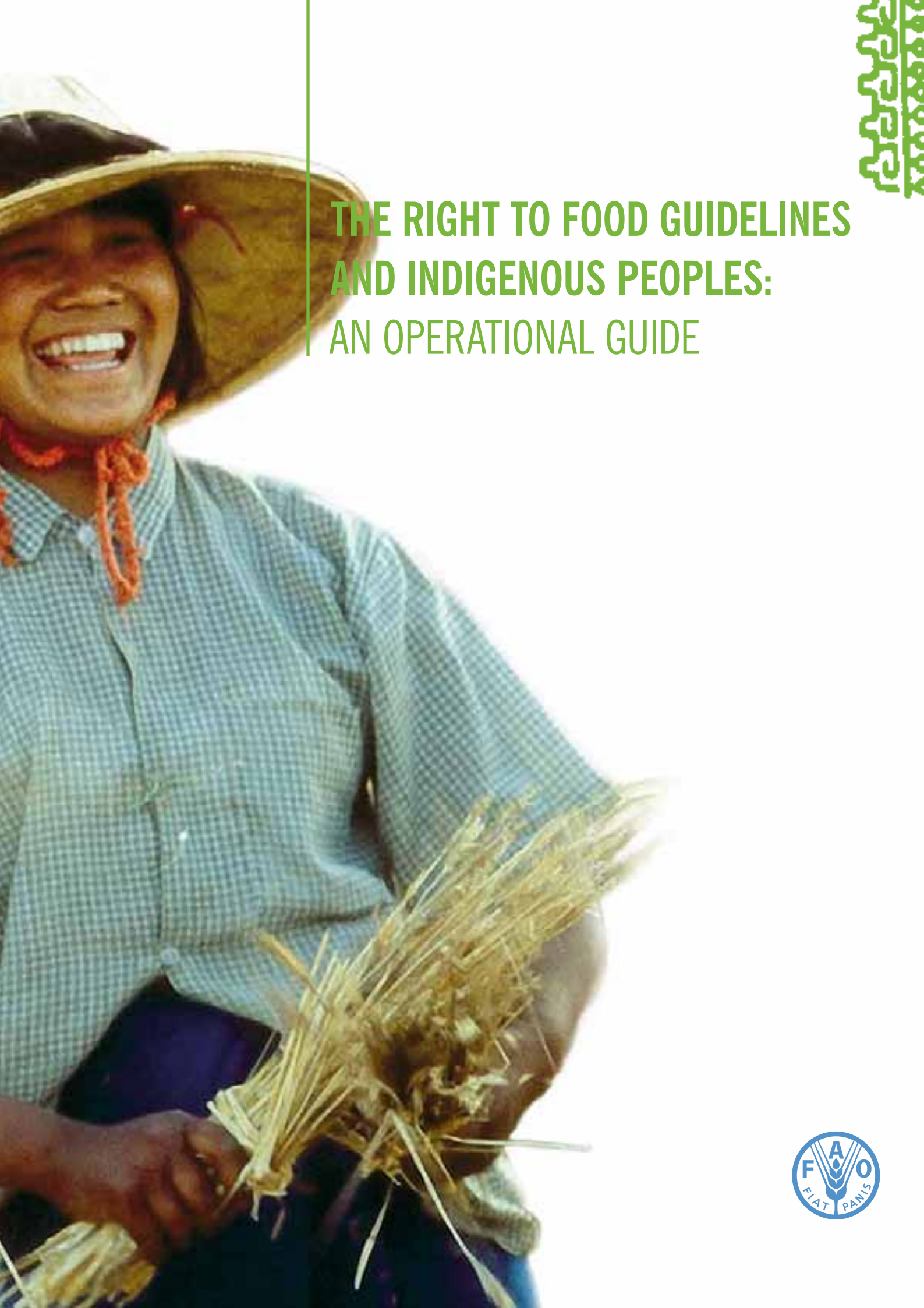


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F I A T P A N I S

# THE RIGHT TO FOOD GUIDELINES AND INDIGENOUS PEOPLES: AN OPERATIONAL GUIDE







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# ACRONYMS

<b>CBD</b>	Convention on Biological Diversity
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CESCR</b>	Committee on Economic, Social and Cultural Rights
<b>CFS</b>	Committee on World Food Security
<b>CRC</b>	Convention on the Rights of the Child
<b>CSO</b>	Civil Society Organization
<b>FAO</b>	Food and Agriculture Organization
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>IFAD</b>	International Fund for Agricultural Development
<b>IGO</b>	Inter-Governmental Organisation
<b>IITC</b>	International Indian Treaty Council
<b>ILO</b>	International Labour Organization
<b>IMF</b>	International Monetary Fund
<b>NGO</b>	Non-Governmental Organization
<b>TRIPS</b>	Trade-Related Aspects of Intellectual Property Rights
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNDG</b>	United Nations Development Group
<b>UNDRIP</b>	United Nations Declaration on the Rights of Indigenous Peoples
<b>UNPFII</b>	United Nations Permanent Forum on Indigenous Issues
<b>WFS</b>	World Food Summit
<b>WTO</b>	World Trade Organization

# ACKNOWLEDGEMENTS

The *“The Right to Food Guidelines and Indigenous Peoples: an Operational Guide”* has been prepared by Lidija Knuth, Legal Consultant, under the supervision of FAO’s Focal Point for Indigenous Issues, Regina Laub, and in collaboration with FAO’s Informal Working Group on Indigenous Issues.

The Focal Point for Indigenous Issues would like to thank the many individuals who provided comments and suggestions for the preparation of this Guide.







# 1. INTRODUCTION

This Guide aims to assist indigenous peoples and their organizations on how to use the *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*<sup>1</sup> (hereafter “Right to Food Guidelines” or “Guidelines”) to promote their own interests in the area of food security. It also intends to increase awareness and improve understanding among development workers as well as United Nations (UN) staff, government officials and indigenous peoples themselves, of linkages between issues affecting indigenous peoples and the Right to Food Guidelines.<sup>2</sup> The Guide is thus mainly about using the Right to Food Guidelines as an instrument to advocate and lobby in favor of indigenous peoples’ interests.

The Right to Food Guidelines were adopted unanimously by the Food and Agriculture Organization of the United Nations (FAO) Council in 2004. They represent an action plan, reflecting a consensus among FAO members on what needs to be done in relevant policy areas to promote food security through a human rights-based approach.

The Right to Food Guidelines provide guidance on areas and types of actions the state should take in order to meet its obligations under the right to food, and at the same time indicate ways for indigenous peoples to be more active to work towards realizing their right to food.

The Right to Food Guidelines are not specifically tailored to indigenous peoples. However, they refer to indigenous peoples as a vulnerable group throughout the text stipulating that states should



<sup>1</sup> FAO, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, available at <http://www.fao.org/docrep/008/y5906m/Y5906M08.htm>. [hereinafter Right to Food Guidelines].

<sup>2</sup> The Guide complements the study on “The right to adequate food and indigenous peoples” and a Joint Brief of the FAO and UNPFII. See FAO. 2009 and FAO/UNPFII. 2009.



pay particular attention to their needs. Beyond these implicit references to indigenous peoples,<sup>3</sup> Guideline 8 refers explicitly to indigenous peoples and communities in the context of access to resources and assets.

### Box 1. WHAT IS THE RIGHT TO FOOD?

The right to food is a human right laid down in several international human rights instruments. Its most important legal basis can be found in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>4</sup> The ICESCR constitutes binding international law. Thus, States Parties to the ICESCR are obliged to implement effectively the provisions of the treaty into national law in order to ensure that the rights contained therein form part of their national legal system. Article 11 of the ICESCR recognizes two dimensions of the right to food:

- An element of an adequate standard of living (Article 11.1, ICESCR).

<sup>3</sup> Guidelines 8.10 and 8.12 refer explicitly to indigenous peoples, while the following Guidelines refer to them implicitly as members of vulnerable groups: Guidelines 3.3 on strategies; 7.2 on legal framework; 8.2 and 8.3 on access to resources and assets; 12.3 on national financial resources; 13 on support for vulnerable groups; 14.4 on safety nets; 15.1 on international food aid; 17.2 and 17.5 on monitoring, indicators and benchmarks.

<sup>4</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, Art. 1, U.N.T.S. 3. A covenant is an international treaty which constitutes binding international law for those states which have consented to be bound by the provisions of the treaty – in other words are party to it.



- A fundamental right to freedom from hunger (Article 11.2, ICESCR).

According to these provisions every person is entitled to an economic, political, and social environment that will allow her or him to achieve food security through her or his own means. Under the right to be free from hunger, individuals who do not have the capacity to meet their food needs for reasons beyond their control – such as age, disability, economic downturn, natural disaster, or discrimination – are entitled to be provided with food directly from the state.

According to the UN Special Rapporteur on the right to food, the right to food is

“the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.”<sup>5</sup>

This definition of the right to food is in line with the definition provided by General Comment 12

(GC 12).<sup>6</sup> GC 12 is an authoritative but non-binding interpretation of Article 11 of the ICESCR by the Committee on Economic, Social and Cultural Rights (CESCR)<sup>7</sup>.

Understanding what the right to food means to indigenous peoples is complex. Many indigenous peoples have their own particular conceptions of food, hunger, and subsistence. In general, it is difficult to separate indigenous peoples’ relationship to food from their relationships to land, resources, culture, values and social organization. Food procurement and consumption are often an important part of culture, as well as of social, economic and political life. Many indigenous peoples understand the right to adequate food as a collective right. They often see subsistence activities such as hunting, fishing and gathering as essential not only to their right to food, but to nurturing their cultures, languages, social life and identity.<sup>8</sup>

However, because advocacy, information sharing and implementation are invariably related, practical arguments for the right to food are included in section 5 and Annex III for those who may be interested.

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<sup>5</sup> UN. 2001.

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<sup>6</sup> United Nations Economic and Social Council, Committee on Economic, Social and Cultural Rights (twentieth session 1999), The right to adequate food (Art.11): 12/05/99. E/C.12/1999/5. (General Comments), para. 8. This definition of the right to food builds on the now commonly used definition of food security of the World Food Summit 1996 and its four main pillars (availability, access, utilization and stability).

<sup>7</sup> The CESCR is the body of independent experts that supervises States Parties’ implementation of the ICESCR

<sup>8</sup> FAO/UNPFII. 2009, p. 1.







## 2. WHY AND HOW WERE THE RIGHT TO FOOD GUIDELINES DRAWN UP? DID INDIGENOUS PEOPLES PARTICIPATE IN THE PROCESS?

The Declaration of the World Food Summit (WFS): five years later, in June 2002, reaffirmed the importance of strengthening the respect of all human rights and fundamental freedoms and invited “the FAO Council to establish .... an Intergovernmental Working Group (IGWG) to elaborate ... a set of Voluntary Guidelines to support Member States’ efforts to achieve the progressive realization of the right to adequate food in the context of national food security.”<sup>9</sup> The Guidelines serve to translate the normative definition of right to food into operational terms.

The IGWG included Member States of FAO and of the UN at large. Various Non-Governmental Organizations and intergovernmental agencies actively participated in the discussions and contributed significantly to the preparation of the Guidelines. Non-Governmental organizations included indigenous organizations, such as the International Indian Treaty Council (IITC), which coordinated and submitted indigenous inputs to the development of the Guidelines, emphasizing a “rights based approach” and “taking into account a wide range of important human rights principles”<sup>10</sup> from an indigenous peoples’ perspective.

The Guidelines are meant to contribute to achieving Millennium Development Goal 1 of reducing by half the number of hungry people in the world by the year 2015. This is particularly relevant to indigenous peoples who constitute a disproportionately high number of hungry people.<sup>11</sup>



The Right to Food Guidelines were endorsed by the Committee on World Food Security (CFS) in September 2004 and approved by the FAO Council in November 2004.

<sup>9</sup> FAO, Report of the World Food Summit, page 84, Rome 2002, available at <ftp://ftp.fao.org/docrep/fao/meeting/005/y7106e.pdf>.

<sup>10</sup> See Annual report 2004 “Working for the Rights and Recognition of Indigenous Peoples Internationally”, IIPC, available at [http://www.treatycouncil.org/PDFs/IITC\\_Annual\\_Report2004.pdf](http://www.treatycouncil.org/PDFs/IITC_Annual_Report2004.pdf)

<sup>11</sup> Indigenous peoples constitute approximately 5% of the world’s population but make up 15% of the world’s poor. IFAD (2007), *Statistics and key facts about indigenous peoples*.





### 3. NATURE OF THE RIGHT TO FOOD GUIDELINES

The Guidelines reflect the collective views of the 187 states which adopted them. They are non-binding but have interpretive weight.<sup>12</sup> In some cases, they may reflect obligations of states under human rights treaties and instruments that recognize the right to adequate food, namely:<sup>13</sup>

- the Universal Declaration of Human Rights (Art. 25 UDHR);
- the International Covenant on Economic, Social and Cultural Rights (Art. 11(1) ICESCR);
- the Convention on the Elimination of All Forms of Discrimination against Women (Art. 12(2) CEDAW);
- the Convention on the Rights of the Child (Arts. 24(2)(c) and 27 CRC); and,
- at regional level, the Protocol of San Salvador (Art. 12);
- moreover, Article 11(2) of the ICESCR guarantees the right to freedom from hunger, i.e. the right to the minimum nutritional intake ensuring survival.<sup>14</sup>

All these provisions apply to everyone including indigenous peoples, without discrimination.

The Guidelines reiterate major existing legal standards of the international instruments which are relevant for the interpretation of the right to

food of indigenous peoples. Indeed, although the Guidelines are of non-binding nature, they strengthen the existing legal obligations for the 160 states that have ratified the ICESCR<sup>15</sup> and are thus obliged to respect, protect and fulfil the right to food. Because of the degree of specificity in the Guidelines, they may be more relevant to implementation than vague or ambiguous standards in a binding text.

As the Guidelines are based on, and have taken into account, relevant international instruments,<sup>16</sup> they should be interpreted accordingly. In the context of indigenous peoples, the Right to Food Guidelines should in particular be interpreted in light of the International Labour Organization (ILO) Convention No. 169<sup>17</sup> and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>18</sup>

<sup>12</sup> Preface, para. 9: These Voluntary Guidelines are a human rights-based practical tool addressed to all states. They do not establish legally binding obligations for states or international organizations, nor is any provision in them to be interpreted as amending, modifying or otherwise impairing rights and obligations under national and international law. States are encouraged to apply these Voluntary Guidelines in developing their strategies, policies, programmes and activities, and should do so without discrimination of any kind, such as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

<sup>13</sup> See Annex II for text of the relevant provisions of these treaties.

<sup>14</sup> Without the “adequacy” standard entailed by the right to adequate food.

<sup>15</sup> As of 5 January 2009; the list of ratifying states is available at <http://www2.ohchr.org/english/bodies/ratification/3.htm>. Furthermore, 185 states have ratified CEDAW and 193 States the CRC (as of January 2009).

<sup>16</sup> See Right to Food Guidelines, Introduction, para. 10.

<sup>17</sup> International Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO Convention No. 169), June 27, 1989, 72 ILO Official Bull. 59, entered into force Sept. 5. 1991.

<sup>18</sup> The Declaration has been adopted by the General Assembly at its 61st Session on 13 September 2007.







## 4. CONTENT - KEY GUIDELINES RELEVANT TO INDIGENOUS PEOPLES

All the Right to Food Guidelines are relevant to the realization of indigenous peoples' right to food. The following analysis, however, focuses on some of the most relevant ones. First, an overview with some concrete examples of the application of the rights-based approach to food security is provided. This is followed by a more detailed examination and discussion of the most relevant Guidelines from an indigenous peoples' perspective.

### 4.1 Human rights based approach to food security [see Guidelines 1-19]

As emphasized by the Right to Food Guidelines, the realization of the right to food, as any other human right, requires the application of human rights principles. Adopting a rights-based approach to food insecurity and hunger implies the application of principles such as Participation, Accountability, Non-discrimination, Transparency, Human dignity, Empowerment and the Rule of law (PANTHER)<sup>19</sup>. These principles are reflected in the Guidelines which translate them into concrete measures such as that states should:

- “provide information to individuals to strengthen their ability to participate in food related policy decisions that may affect them, and to challenge decisions that threaten their rights” (Guideline 11.5 specifies the principles of participation and transparency);
- “design and implement programmes that include different mechanisms of access and appropriate use of agricultural land directed to the

poorest populations” (Guideline 8.7 translates the principles of empowerment and non-discrimination into a concrete recommendation);

- identify or design “...process indicators .. so ... that they explicitly relate and reflect the use of specific policy instruments and interventions with outcomes consistent with the progressive realization of the right to adequate food...” (Guideline 17.4 promotes the use of monitoring tools to increase the principle of accountability).

Indeed, as already stated above, for indigenous peoples the Guidelines can serve as a checklist for the application of the rights-based approach to food security decisions and measures of the government.

Applying a human rights-based approach to food security in the context of indigenous peoples primarily means recognizing the entitlements and specificity of indigenous peoples' situations and cultures in policy-making and programming in the area of food security. In particular, the suggestion by indigenous communities to integrate their right to adequate food into future development strategies must be considered. This would give the opportunity to fully address the challenges they are facing, ensuring respect for their cultures and cross-cutting rights, and protecting their survival and well-being. In this context, participation of indigenous peoples, including indigenous women, must be an over-arching principle. Furthermore, state actions in the area of food security must address the fact that some indigenous people, such as indigenous women and children and indigenous persons with disabilities, often suffer from multiple sources of discrimination within their communities and the larger societies in which they live. The human rights standards contained in, and principles derived from, the UDHR, the UNDRIP and other

<sup>19</sup> FAO's Right to Food Unit uses as a memory hook the word PANTHER. Each letter stands for a human rights principle. See mini lessons available on the website of the Right to Food Unit/FAO: [http://www.fao.org/righttofood/kc/eresources\\_en.htm](http://www.fao.org/righttofood/kc/eresources_en.htm)

international human rights instruments, as well as the recognition of indigenous peoples' collective rights, provide an additional framework for adopting a human rights-based<sup>20</sup> and culturally sensitive approach when addressing the specific situation of indigenous peoples' food security.

In order to fully realize the right to food, indigenous peoples should rely on these human rights principles with regard to their entitlements, and the development, implementation, evaluation and monitoring of state action in the area of food security. As part of a rights-based approach to food security, in fact, the Guidelines promote a human rights-focused assessment and monitoring which is particularly relevant for indigenous peoples (e.g. Guidelines 2.2, 3.2, 3.3, 5.2, 5.3, 10.3, 17, 18.1). Assessing and monitoring the right to food is in many ways the same as assessing and monitoring food security, basic data and analytical tools are the same. However, right to food monitoring pays special attention to the human rights aspects and should also itself be carried out in ways that are consistent with human rights. Indigenous peoples should claim that the assessment and monitoring process should be with the full and meaningful participation of the indigenous communities concerned and serve to empower individuals and their communities to change their environment and ask for changes to the central government (see Guideline 17.6). For this to happen, it is essential that the assessment and monitoring information be disseminated to the communities in question, in ways that they understand, thus in the relevant indigenous languages.

<sup>20</sup> Of special interest are the OHCHR publication Human Rights: A Basic handbook for UN Staff (available at <http://www.ohchr.org/english/about/publications/docs/handbook.pdf>) and The Human Rights-Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies (available at [http://www.undp.org/governance/docs/HR\\_Guides\\_CommonUnderstanding.pdf](http://www.undp.org/governance/docs/HR_Guides_CommonUnderstanding.pdf)).

A human rights-based approach emphasizes the need to target the groups that are most vulnerable to food insecurity which is essential for the realization of the right to adequate food of indigenous peoples. Such an approach involves establishing transparent and non-discriminatory eligibility criteria. Thus, rights-focused monitoring requires that the food insecure and vulnerable groups (e.g. indigenous peoples) are clearly defined and identified to ensure that all those in need are included in actions to reduce food insecurity and vulnerability. In this context, Right to Food Guideline 13 is particularly relevant to indigenous peoples as it emphasizes the need to “develop and identify corrective measures to be implemented both immediately and progressively to provide access to adequate food”. In order to do this effectively, states need to “systematically undertake disaggregated analysis on the food insecurity, vulnerability and nutritional status of different groups in society...,” including indigenous peoples (see also section 4.6).<sup>21</sup>

Another example, fundamental for the application of a human rights-based approach to food security, concerns financial resources. Right to Food Guideline 12: (i) encourages regional and local authorities to allocate resources for anti-hunger and food security purposes in their respective budgets, (ii) gives emphasis on the need for transparency and accountability in the use of public resources, particularly in the area of food security, (iii) encourages states to promote basic social programs and expenditures, in particular those affecting the poor and the vulnerable segments of society, and to protect them from budget reductions, while increasing the quality and effectiveness of social services and access to adequate food. The practice example from Brazil in Box 2 illustrates the

<sup>21</sup> Section 4.6 deals more comprehensively with the importance of the collection of disaggregated data.



impact of the application of the rights-based approach to the allocation of the food and nutrition security budget for indigenous peoples.

## BOX 2. EXAMPLE FROM BRAZIL

Illustrating the impact of the application of the rights-based approach to the allocation of the food and nutrition security budget for indigenous peoples

The food and nutrition security budget defined by the Brazilian National Food Security Council (2005), and used to make budget proposals to the executive branch of government, consists of 16 food and nutrition related areas, which in turn cover a total of 59 programmes. Each programme is divided into specific public actions, ranging from 1 to 13 actions per programme, for a total of 186 public actions or activities. The 16 food and nutrition areas include as one area specifically the “food and nutrition security of indigenous populations”.<sup>22</sup>

The Right to Food Guidelines particularly stress the principle of non-discrimination of any kind, including racial and gender discrimination: “...States should pursue inclusive, non-discriminatory and sound economic, agriculture, fisheries, forestry, land use and land reform policies...” (Guideline

2.5). Indeed, the Guidelines affirm in the different thematic contexts, the need to pay particular attention to the situation of vulnerable groups (e.g. Guidelines 2.5, 8.1, 8.13, 10.8 and 13).

However, without sufficient attention to education and awareness raising, it will be difficult to achieve important changes concerning the perception of the economic, social and cultural rights of a population. Therefore, states should offer, reinforce and extend opportunities in education, especially for indigenous peoples and often even more for indigenous women (Guideline 11). If decision-making concerning right to food policies (as prescribed by Guideline 1.2) are to be participative, crucial efforts will have to be made in information, awareness raising, education and training.

The establishment of an accountability mechanism is fundamental for a rights-based approach (see also Guideline 1). This implies to provide indigenous peoples who are victims of the violations of the right to food with an accessible forum where they should be able to voice their concerns. Adopting a human rights approach to food security requires moving towards a multiangular form of accountability, by involving more closely national parliaments, Civil Society Organizations (CSO) and international institutions in monitoring the efforts which are deployed to improve access to resources, food production and raise the incomes of the poor (e.g. Guidelines 1.2, 7.2 and 18.1).

<sup>22</sup> FAO. 2008, p.49.



## 4.2 National strategies to ensure the right to food of indigenous peoples [see Guideline 3]

The Right to Food Guidelines recommend that states adopt national strategies for the realization of the right to food as part of an overarching national development strategy (see Guideline 3.1). A right to food strategy is an overarching strategic platform and reference point for all policies and programs that impact on the right to food. The strategy needs to cover various dimensions, such as legal, institutional and policy frameworks, and should include national priorities and food security and nutrition goals.

States should work towards the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles (right to food strategy) that define the objectives, and the formulation of policies and corresponding benchmarks (see Guideline 3.3). Indigenous peoples need to ensure that their rights and concerns be taken into account in such a strategy. A right to food strategy should comprise the establishment of appropriate institutional mechanisms, particularly in order to: (i) identify emerging threats to the right to adequate food at the earliest stage possible, through adequate monitoring systems; (ii) improve coordination between the different relevant ministries and between the national and sub-national levels of government; (iii) improve accountability, with a clear allocation of responsibilities, and the setting of precise timeframes for the realization of the dimensions of the right to food which require progressive implementation; and (iv) ensure adequate participation, particularly of the most food-insecure segments of the population, including indigenous people. As part of this strategy, States should adopt a framework legislation

ensuring that the right to food is justiciable before national courts or that other forms of redress are available (Guidelines 7.1 and 7.2). Such accountability mechanisms may contribute to ensure that, where macroeconomic or social policies are misguided or are not well targeted (for instance because they disregard or underestimate the needs of indigenous peoples), this will be identified at an early stage and corrected. However, when developing a national food security strategy particular attention should be paid to the integration of it into superordinate strategies, in particular poverty reduction strategies (Guideline 3.1). The Guidelines stipulate upon the state to apply a participatory approach (e.g. 2.6, 3.7, 3.8, 5.4).

Thus, governments should promote a strategy in conjunction with CSOs and NGOs, composed of peasants, indigenous peoples and other affected groups, in order to achieve the realization of the right to food. Indigenous peoples should press their demand to participate in the development of a national strategy.

## 4.3 Access to natural resources [see Guideline 8]

Natural resources are a main source of food for the majority of indigenous peoples. Land and water are central to food production. Forest resources provide a basis for subsistence harvesting as well as for income-generating activities, e.g. through the collection and use of non-wood forest products. Thus indigenous peoples' right to food often depends closely on their access to and control over their lands and other natural resources in their territories. For many traditional communities, especially those living in remote regions, access



to hunting, fishing and gathering grounds for their subsistence livelihoods is essential for ensuring their adequate nutrition, as they may have no physical or economic access to marketed food. There is therefore an important relationship between realizing the right to food and improving access to natural resources which is also recognized by the Right to Food Guidelines.

The right to food may be exercised through direct food production, through income-generating activities (on- or off-farm) that enable procurement of food, or through combinations of both.<sup>23</sup> This approach emerges from the statement that the right to food is realized when individuals or groups “have physical and economic access [...] to adequate food or means for its procurement”<sup>24</sup>. This applies to both food availability and accessibility. The availability of food may be assured through either direct food production or “well functioning distribution, processing and market systems that can move food from the site of production to where it is needed”<sup>25</sup>. Accessibility of food may be achieved through “any acquisition pattern or entitlement through which people procure their food”<sup>26</sup>; this would include both food production and food procurement.<sup>27</sup>

This approach is also taken in Right to Food Guideline 8 which deals with access to natural resources such as land, water and genetic resources. Other natural resources (e.g. forests, grazing) must also be considered as included, however.

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<sup>23</sup> General Comment 12, para. 6.

<sup>24</sup> General Comment 12, para. 6.

<sup>25</sup> General Comment 12, para. 12.

<sup>26</sup> General Comment 12, para. 13.

<sup>27</sup> Part of this analysis is from Cotula, L. 2008, page 21.

This is in line with the more general wording of the first paragraph of Guideline 8.1 (“resources” and “assets”) and with that of other Right to Food Guideline provisions (e.g. “productive resources” in Guideline 2.4).

Guideline 8 urges states to adopt measures to secure land rights and, calls “as appropriate”, for agrarian reform to enhance land access for the poor (Guideline 8b). In addition, the Guideline also deals with income-generating activities in a food-procurement mode. It calls for measures to promote employment and self-employment (Guideline 8a). Similarly, Guideline 2 calls for a “holistic and comprehensive approach” to hunger resolution, including measures to ensure access to productive resources and to employment (Guideline 2.4).

These provisions clarify the meaning of Article 11 of the ICESCR, particularly its call for states “to improve methods of production, conservation and distribution of food”, including “by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources” (Art. 11.2(a)). Guideline 8<sup>28</sup> clarifies that improving access to natural resources is a key mechanism for the realization of the right to food.

Securing access to productive resources for all individuals and groups is crucial for the realization of the right to food of indigenous peoples. Fighting hunger and malnutrition requires tackling the problems of discrimination that characterize the situation of many indigenous communities. In this regard, Right to Food Guideline 8.1 states, *inter alia*, that “[S]tates should respect and protect the

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<sup>28</sup> As well as General Comment 12.

rights of individuals with respect to resources such as land, water, forests, fisheries, and livestock without any discrimination” and that “special attention may be given to groups such as pastoralists and indigenous peoples and their relation to natural resources”. This Section recognizes the fundamental importance of securing rights regarding land and resources for indigenous peoples and highlights the need for special protection.

Empowerment and participation are stressed in the Guidelines as key elements of a rights-based approach, and people’s capacity-building is indicated as one way to enhance them. Thus, in relation to indigenous peoples, there is a critical intersection between the hunger problem with that of discrimination. Indeed security of land tenure and access to land as a productive resource are essential for food security and the protection of the right to food. This is particularly the case in the current context of increasing trade liberalization in agriculture which results in pressure to concentrate land in the hands of large agricultural producers. The recent increase in the price of primary agricultural commodities on international markets has led investors to buy land suitable for cultivation while speculating on further increases in the price of land in the future, which may result in poor land users being priced out of land markets. The Right to Food Guidelines emphasize the need to promote and protect the security of land tenure, especially with respect to women and poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, including the right to inherit; and they recommend advancing land reform to enhance access for the poor and for women, including indigenous peoples.

In sum, with regard to the right to food of indigenous peoples and in particular of indigenous women and their access to productive resources as a means to fulfil this right, Guideline 8 stipulates a series of recommendations upon the state parties, such as:

- to give “special attention ... to ... indigenous peoples and their relation to natural resources” (Guideline 8.1);
- “to promote and protect the security of land rights, especially with respect to ... poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, ... ” (Guideline 8b); and
- to give “special consideration ... to the situation of indigenous communities.” (Guideline 8b).

#### 4.4 Traditional knowledge [see Guideline 8.12]

Indigenous peoples oppose the intellectual property rights system (established by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)) that is nowadays in place. It has been recognized that the international trade system often has a negative impact on the poor, in particular including indigenous peoples. Indeed, the UNDRIP<sup>29</sup> defines protectable subject matters more broadly than existing intellectual property law.

Guideline 8.12 on genetic resources for food and agriculture advocates for “specific national policies, legal instruments and supporting mechanisms

<sup>29</sup> And the Guidelines for the Protection of the Heritage of indigenous peoples



to prevent the erosion and ensure the conservation and sustainable use of genetic resources for food and agriculture, including,... for the protection of relevant traditional knowledge”.

Indeed, for the realization of indigenous peoples’ right to food, the protection of their traditional knowledge is a central issue. The Guideline, however, limits the recommendation concerning the protection of traditional knowledge by adding that measures should be taken “as appropriate”. Furthermore, the Guideline clarifies that national measures<sup>30</sup> should be “consistent with state obligations under relevant international agreements”.

International agreements, however, would not only imply international trade agreements but would necessarily also include relevant human rights agreements, which may be in contravention of the former.<sup>31</sup>

However, by providing “for the protection of relevant traditional knowledge and equitable participation in sharing benefits arising from the use of these resources” and by stressing the importance of “encouraging, as appropriate, the participation of local and indigenous communities ... in making national decisions on matters related to the conservation and sustainable use of genetic resources”,



the Guideline reasserts the content of provisions 8(j) and 10 of the Convention on Biological Diversity (CBD).<sup>32</sup> Indeed, where traditional knowledge is associated with genetic resources, the distribution of benefits should be consistent with measures established in accordance with these provisions of the CBD. This is in line with the demands of indigenous peoples to be consulted about the ways their knowledge is used, and to equitably share in any benefits. Thus, the Guideline 8.12 strengthens the protection of traditional knowledge against misuse, the role of prior informed consent, and the need for equitable benefit-sharing from the right to food perspective.

<sup>32</sup> However, the wording of the CBD Articles goes beyond the Guidelines. *Article 8(j)* of the CBD creates legal obligations for states Parties to respect, preserve and maintain the knowledge, innovations and practices of indigenous peoples related to the conservation and sustainable use of biodiversity. This Convention also recognises the right of indigenous peoples to share in the economic and social benefits that accrue from the wider application of their traditional knowledge and practices. *Article 10* protects indigenous peoples customary use of biological resources in accordance with traditional cultural practices, which has been interpreted to require recognition and respect of indigenous tenure over terrestrial and marine estates, control over and use of natural resources and respect for indigenous peoples’ self-determination and self-government.

<sup>30</sup> As already stated above, Guideline 8.12 refers to “policies, legal instruments and supporting mechanisms”.

<sup>31</sup> FAO. 2009, page 46.

## 4.5 International trade vs. local production? [see Guidelines 2.3, 3.7 and 4.5]

In the Atitlán Declaration on the right to food, the representatives of indigenous communities criticized the dominant model of economic development based on globalized free trade, industrial agriculture and unsustainable development, for undermining alternative modes of subsistence and violating their right to food.<sup>33</sup> Indigenous peoples insist on the principle of so-called food sovereignty, which is defined as “the peoples’, countries’ or state unions’ right to define their agricultural and food policy, without any dumping vis-à-vis third countries”.<sup>34</sup> Indeed, the promotion of local and small-scale production is fundamental for the subsistence of indigenous peoples. Food sovereignty and the right to food are concepts that indigenous peoples often use together or interchangeably. The fundamental difference between these concepts is that the former is a policy concept whereas the latter is a human right. It needs to be highlighted that these concepts are not competing but are rather complementary to each other.

The Right to Food Guidelines do not favour either market-oriented policies or small-scale production in a particular manner. Rather, they seek a balance between these two directions.

This is expressed in several Guidelines:

Guideline 3.7 encourages states, “... inter alia and in a sustainable manner, to increase productivity and to revitalize the agricultural sector ... through special policies and strategies targeted at small-scale and traditional fishers and farmers in rural areas, ...”.

<sup>33</sup> See Declaration of Atitlán, adopted at the First Indigenous Peoples’ Global Consultation on the Right to Food in April 2002 in Guatemala.

<sup>34</sup> See What is food sovereignty?, available at [http://www.nyeleni2007.org/IMG/pdf/Foodsov\\_triptico\\_english-2-2.pdf](http://www.nyeleni2007.org/IMG/pdf/Foodsov_triptico_english-2-2.pdf).

The same Guideline stipulates that in order to achieve these objectives, emphasis should be put on “the removal of constraints to agricultural production, marketing and distribution”.

Similarly, Guideline 4.5 states that “States should, as appropriate, promote the development of small-scale local and regional markets and border trade to reduce poverty and increase food security”.

The stipulation that any action taken to realize the right to food must comply with the WTO agreements has to be interpreted in line with the call for the renegotiation of trade commitments in order to provide special treatment for developing countries.<sup>35</sup> Indeed by taking the realization of the right to food as the benchmark for current efforts towards achieving food security, the Right to Food Guidelines put the role of trade in the right perspective – as an instrument of development, rather than as an end to be pursued for its own sake. The current path of trade liberalization in agriculture has led many states to focus on some limited export sectors at the expense of their much wider small-holder farming sector. Trade can work for development but it can do so only under specific circumstances that are different from those of the current trade regime.

The role of trade should be determined in reference to human rights and development objectives as suggested by the Right to Food Guidelines. States should consider the integration of their small-holder farming sector in the regional and global economy as a part of their national strategy for the realization of the right to food (see also Guideline 3.7), and they should avoid excessive reliance on international trade to achieve food security. The use of the right to food framework would

<sup>35</sup> See Guideline 4.4 and 8.5.



ensure that policies and strategies systematically consider the most vulnerable, including indigenous peoples. The Guidelines could provide an important tool and strengthen the position of states in trade negotiations, particularly if they assess the impact of trade agreements on the situation of the right to food in their countries prior to the conclusion of trade agreements. Small-scale and local producers (e.g. indigenous peoples) should call upon states to adhere to the stipulations in the Guidelines and request the state to adopt protective measures for them.

The decades-long liberalization of agricultural trade has led to the strengthening of globalized food system where prices are fixed by dominant players with excessive market power, a situation which is detrimental to the majority of farmers, indigenous peoples and countries in general. Framing the plans of the international community with the help of such tools as the Right to Food Guidelines in a right to food perspective means that new regulations must be urgently debated, adopted and implemented to re-orient this course and make it work for the majority. Any trade regime which increases the volumes traded but does not benefit the hungry, particularly smallholders such as indigenous peoples and landless laborers, will not contribute to achieving the Millennium Development Goal no 1, and it could in fact bring us even further from achieving that goal.

Indigenous peoples should insist on a favorable interpretation of the Right to Food Guidelines and use them to promote their interests in this area.

#### 4.6 Collection of disaggregated data [see Guideline 13.2]

Despite widespread awareness of the vulnerability of indigenous peoples, there is a lack of disaggregated data on the situation of indigenous peoples and therefore often little information available about the exact extent of hunger and malnutrition among indigenous populations.<sup>36</sup> The general lack of information often reflects the reluctance of governments to recognize the issues faced by their indigenous populations.

The Guidelines promote the collection of disaggregated data as part of the rights-based approach. Indeed, ethnically disaggregated data is an essential tool in the battle against hunger, malnutrition and discrimination of indigenous peoples. Right to Food Guideline 13.2 invites States “...to systematically undertake disaggregated analysis on the food insecurity, vulnerability and nutritional status of different groups in society, with particular attention to assessing any form of discrimination...” The reasons for disaggregated data are clear: data provide information, knowledge, and work as basic tools for understanding reality. Furthermore, they are necessary to the making of sound rights-based food security policies. In the absence of data broken down by race or ethnicity, indigenous peoples cannot know, measure or prove the impact of a range of practices on indigenous peoples’ status of food insecurity and vulnerability to food insecurity or malnutrition. Without such data, the prohibition against discrimination is often an empty exhortation, impossible to monitor or enforce the realization of the indigenous peoples’ right to adequate food.<sup>37</sup>

<sup>36</sup> These are the results of a study undertaken by the Inter-Agency Support Group for the Permanent Forum on Indigenous Issues, [E/C.19/2003/4].

<sup>37</sup> FAO. 2009, see section 3.3.



#### 4.7 Nutrition and culture [see Guideline 10]

The Right to Food Guidelines emphasize the important link between food, nutrition and culture. This link is fundamental for indigenous peoples' right to food because it has a particular cultural dimension which is relevant in terms of food choices, food preparation and acquisition. Culturally appropriate foods and the activities to obtain them, such as agriculture, hunting and fishing, form an important part of cultural identity. Right to Food Guidelines 10.9 and 10.10 on nutrition highlight the cultural aspects of nutrition and pertain to indigenous peoples in particular. Guideline 10.9 translates this principle into a practical policy recommendation by urging states to recognize "that food is a vital part of an individual's culture" and encouraging them "to take into account individuals' practices, customs and traditions on matters related to food". Guideline 10.10 reminds states "...of the cultural values of dietary and eating habits in different cultures..." Indeed in today's world, where there is a lack of attention to indigenous culture

and rights, food policies that take due account of indigenous peoples' right to food and the right to enjoy their culture, may counteract the growth of chronic disease in these communities.<sup>38</sup> The current situation, in which indigenous peoples increasingly lose their traditional way of life, requires states to take additional action in favour of indigenous peoples. Indigenous peoples should require states to "adopt measures to eradicate any kind of discriminatory practices, ... in order to achieve adequate levels of nutrition within the household" (Guideline 10.8). Therefore, states should in the context of indigenous peoples take into account the relationship between traditional food systems and traditional cultural practices in indigenous communities.<sup>39</sup>

<sup>38</sup> Damman, S., Eide, W.B. & Kuhnlein, H. V. 2007.

<sup>39</sup> See the outcome of the 2nd Global Consultation on the Right to Food, Food Security and Food Sovereignty for indigenous peoples "Cultural Indicators for Food Security, Food Sovereignty and Sustainable Development", available at [http://www.hrusa.org/workshops/prepsession2007/resources/Conclusions\\_Global%20Consultation.doc](http://www.hrusa.org/workshops/prepsession2007/resources/Conclusions_Global%20Consultation.doc)



## 5. WHAT IS THE VALUE ADDED OF THE RIGHT TO FOOD GUIDELINES AND HOW CAN INDIGENOUS PEOPLES USE THEM?

Governments, international organizations and civil society can all use the Right to Food Guidelines in their respective work. However, this section will primarily focus on how the Right to Food Guidelines can assist CSOs, NGOs (in particular indigenous peoples' organizations) and indigenous communities to demand different state actors to meet their obligations and responsibilities and to make sure they behave in conformity with the Guidelines. NGOs and indigenous communities can use them for a variety of other activities: an organization or indigenous community that wants to influence policy decisions and legislation in the area of food security should lobby governments to support the realization of their right to food using the Guidelines to measure and assess whether the different entities of the state follow the recommendations and meet the benchmarks for the realization of this right. With the help of the Guidelines human rights organizations can identify any lack of state commitment and action to implement the right to food.

They can allege violations of the right to food as provided for in the Optional Protocol<sup>40</sup> and report on right to food violations to other relevant international institutions (e.g. UN Special Rapporteur on the Right To Food, UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples) and national human right institutions.

The Guidelines can be used by CSOs, NGOs and indigenous communities for operational as well as campaigning purposes. They:

- *inform about the relevance of the right to food for the different policy areas* addressed by the Guidelines (e.g. consumer protection, education, natural resources);
- *strengthen and provide arguments* of organizations and communities that inform, advise, and lobby for right to food and food sovereignty issues;
- can be used for *capacity-building activities* by organizations that provide training to indigenous communities or other indigenous peoples' organizations. The Guidelines provide the necessary information for strengthening the understanding and implementation of the right to adequate food at the national level;
- are an educational instrument that can be used to *open up debate and initiate processes with state governments* on how to implement better the right to adequate food at the national level. The Guidelines can also open debate among NGOs and within civil society on their use for the realization of the indigenous peoples' right to food;
- constitute a *checklist* for the own activities of organizations and indigenous communities that implement development projects or provide services that affect the right to food;
- should also be used as a *checklist for the documentation and communication of violations of the right to food* to national human rights bodies (e.g. the Ombudsman, the Human Rights Commission), as well as international human rights institutions such as the CESCR. With the help of

<sup>40</sup> On December 10, 2008 the UN General Assembly adopted by consensus an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR), establishing a complaints procedure for violations of economic, social and cultural rights. The Optional Protocol will provide victims of right to food violations who are not able to get an effective remedy in their domestic legal system with redress at the international level.



the Guidelines, organizations can urge national human rights institutions, to take up concrete cases of violations of this right. Moreover, NGOs and indigenous communities can use the Guidelines when claiming a violation of the right to food in front of national courts;

- can be used as a reference document *for the preparation of shadow reports* on the human rights situation in a country.

The Guidelines can help *governments* design appropriate policies, strategies and legislation which focus on the most vulnerable groups, including indigenous peoples. Although voluntary, they can have a significant influence on state policies and the realization of the right to food, since they arise from a consensus among FAO member states.

The Right to Food Guidelines can contribute to:

- creating the necessary political will to find a long-overdue solution to the problem of acute hunger and chronic malnutrition, in particular of the most vulnerable such as indigenous peoples;
- systematically assembling a tool box of successful individual measures for the realization of the right to food for all including specific groups;
- mobilizing national resources and refocusing international support where necessary;
- raising awareness about the sustainable use of resources and the international obligation to cooperate in the eradication of hunger and chronic malnutrition.

These Guidelines stipulate that states need to pay attention to the specific social, economic and cultural circumstances of indigenous peoples groups.<sup>41</sup> They show how additional protection and an enabling environment conducive to the realization of indigenous peoples' right to food, can be provided. The Guidelines should guide policy decisions affecting indigenous peoples' food security. Thus, on the one hand, the Guidelines can serve as an important advocacy tool for indigenous peoples to lobby their own governments to adhere to their commitments. On the other hand, states should use the Guidelines as a yardstick for policy decisions affecting indigenous peoples' food security.



<sup>41</sup> Primarily the Guidelines refer to indigenous peoples implicitly as a vulnerable group.

# CONCLUSION

The analysis has shown that indigenous peoples' special needs and rights may be better acknowledged and addressed through the active use of the Right to Food Guidelines. For indigenous peoples, they constitute advocacy tools for more equitable policies and programmes, paving the way for indigenous peoples to promote their right to food in all areas that intersect with this right. On the other hand, the Right to Food Guidelines provide national governments with moral obligations and a roadmap for domestic implementation of the human right to food in the context of national food security.



## Box 3. SUMMARY: HOW THE RIGHT TO FOOD GUIDELINES BENEFIT INDIGENOUS PEOPLES?

As a tool for implementation, the Right to Food Guidelines may:

- increase leverage for civil society holding governments accountable for non-compliance with their obligations to the right to adequate food;
- facilitate assessment and monitoring of state performance in regard to concrete situations and specific vulnerable groups (e.g. indigenous peoples), in particular through the participation of indigenous peoples;
- strengthen the basis a) for communications to the CESCR alleging violations of the right to food as provided for in the Optional Protocol 7 and b) for parallel reporting by civil society to the CESCR and national human right institutions.

The Right to Food Guidelines reiterate the need for an explicit focus on the most food insecure, including indigenous peoples:

- in data disaggregation;
- in developing suitable indicators, causal and impact assessments and analysis;
- in formulating human rights based strategies and policies in the area of food security.



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# ANNEX I

## SUMMARY OF THE CONTENT OF THE RIGHT TO FOOD GUIDELINES

The Guidelines are structured into three main sections:

- Section I contains Preface and Introduction, including the text of major international legal instruments and definitions of food security, the right to food and human rights based approaches.
- Section II is entitled Enabling Environment, Assistance and Accountability, and contains Guidelines 1 - 19.
- Section III is devoted to International Measures, Actions and Commitments.

### **Guideline 1: Democracy, Good Governance, Human Rights and the Rule of Law**

focuses on the elements necessary for a free and democratic society to provide a peaceful, stable and enabling environment in which individuals can feed themselves and their families in freedom and dignity.

### **Guideline 2: Economic Development Policies**

focuses on promoting sustainable, broad-based economic development in support of food security based on an assessment of the economic and social situation and the degree of food insecurity and its causes. Policies should be sound, inclusive and non-discriminatory. The need to focus on agriculture and rural development is emphasized when poverty is predominantly a rural phenomenon. Due regard is also given to the growing problem of urban poverty.

### **Guideline 3: Strategies**

encourages States to consider adopting a national human rights-based strategy for the right to food based on a thorough assessment of legal, policy and institutional frameworks. It calls for a human rights perspective to be incorporated into existing strategies, which should be transparent, inclusive and comprehensive and be elaborated in a participatory manner.

### **Guideline 4: Market Systems**

stresses improvements in the functioning of markets to promote economic growth and sustainable development. Non-discriminatory access to markets should be ensured. The state obligation to protect rights holders is stressed as is the state responsibility, *inter alia*, to prevent uncompetitive market practices and to seek the commitment of all market players to realize the right to food through policies that foster food security.

### **Guideline 5: Institutions**

stresses the importance of public institutions at all levels and suggests entrusting a specific institution to coordinate the application of the VGs.

### **Guideline 6: Stakeholders**

encourages a multi-stakeholder approach to national food security with full participation of civil society and the private sector

### **Guideline 7: Legal Framework**

focuses on legal measures and instruments to support implementation of the progressive realization of the right to food and judicial and quasi-judicial remedies when this right is violated.

### **Guideline 8: Access to Resources and Assets**

discusses the obligation of the state to respect and protect the rights of individuals regarding access to natural resources, and facilitate sustainable, non-discriminatory and secure access to such resources, if need be by undertaking land reform. The guidelines make recommendations on labor, land, water, genetic resources, sustainability and services.

### **Guideline 9: Food Safety and Consumer Protection**

focuses on both legal and institutional arrangements to ensure food safety and consumer protection, whether through domestic production or imports.

**Guideline 10: Nutrition**

promotes strengthening dietary diversity and healthy eating habits and food preparation to prevent malnutrition. Changes in availability and access to food should not negatively affect dietary composition or intake. Cultural values as well as dietary and eating habits should be taken into account when making policy and programme decisions.

**Guideline 11: Education and Awareness Raising**

focuses on strengthening education and training opportunities, especially for girls and women, to support sustainable development. Human rights education should be integrated into school curricula and officials and members of civil society trained to participate in the progressive realization of the right to food.

**Guideline 12: National Financial Resources**

encourages allocation of budgetary resources to anti-hunger and poverty programmes. Basic and social programmes and expenditures should be protected from budget reductions.

**Guideline 13: Support for Vulnerable Groups**

emphasizes the need to identify the food insecure, along with reasons for their food insecurity, and to devise measures to immediately and progressively provide access to adequate food. Discrimination against specific groups should be overcome and assistance should be targeted effectively.

**Guideline 14: Safety Nets**

recommends that safety nets be established and maintained to provide for the weakest segments of society. Safety nets should be accompanied by complementary measures, such as access to clean water and sanitation, health care and nutrition education, in order to promote sustainable food security in the long run.

**Guideline 15: International Food Aid**

stresses that food aid should be safe and take into account dietary and cultural food consumption patterns. Food aid programmes should not disrupt local food production or markets and should avoid creating dependency by having a clear exit strategy. Humanitarian agencies should be guaranteed safe and unimpeded access to needy populations. Emergency food aid should also take into account long-term relief and rehabilitation objectives.

**Guideline 16: Natural and Human-made Disasters**

recalls certain provisions of international humanitarian law with regard to the destruction or withholding of food as a method of warfare. It also emphasizes the importance of comprehensive early warning systems and effective natural disaster response mechanisms.

**Guideline 17: Monitoring, Indicators and Benchmarks**

points to the need to establish systems to monitor and evaluate the realization of the right to food, especially with regard to vulnerable groups such as women, children and the elderly.

**Guideline 18: National Human Rights Institutions**

suggests that national human rights institutions be independent and autonomous and include the right to food in their mandate. States without such institutions are encouraged to establish them.

**Guideline 19: International Dimension**

encourages states to fulfil measures, actions and commitments that have been endorsed at the international level, as listed under Section III of the VGs.

Source: **FAO**. 2009a. *Curriculum outline for the human right to adequate food, Right to Food Unit, Rome, 168 pp.*

# ANNEX II

## OVERVIEW OF RELEVANT RIGHT TO FOOD PROVISIONS OF INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

### International Covenant on Economic, Social and Cultural Rights

#### Art. 11: The Right to an Adequate Standard of Living

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, ...

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition ...

#### Art. 12: The Right to Highest Attainable Standard of Health

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child.

### Convention on the Rights of the Child

#### Art. 24: The Right to Health

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(c) To 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.

(d) To ensure appropriate pre-natal and post-natal health care for mothers.

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents.

#### Art. 27: The Right to an Adequate Standard of Living

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure within their abilities and financial capabilities, the conditions of living necessary for the child's development.





3. State parties shall take appropriate measures to assist parents [...] to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

## Convention on the Elimination of all Forms of Discrimination Against Women

Art. 12(2): The Right to Health

States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

# ANNEX III

## THE RIGHT TO FOOD IN PRACTICE

### Why pursue the right to food?

There are a number of reasons that justify why governments, civil society, indigenous peoples, the business sector and FAO should support the realization of right to food.

**From human rights and legal point of view;** for the 160 countries that have ratified the ICESCR<sup>42</sup>, the right to food is a legally binding human right. In addition, many countries have included right to food in their constitutions and legislation. All countries have a moral obligation to realize this right.

**Right to food makes sense from a social and political point of view.** People, communities and countries aspire to be able to feed themselves in dignity without dependence on the charity of others. Starvation and malnutrition can cause social unrest and upheaval. Starvation is abhorred and is a blight on the image and reputation of nations and governments. There is international consensus that hunger and malnutrition are often structural caused by underlying social and political factors. A rights based approach provides the powerless with leverage to address such causes. By focusing on the hungry and their rights as being central to development, right to food tackles the root causes of hunger thereby contributing to sustainable processes of decision making, implementation and monitoring. Participation is reinforced.

Right to food helps strengthen the social contract between government and society thereby reinforcing state stability. International attention

to hunger and malnutrition is likely to intensify as inequalities between poor and rich widen and as population growth and development puts increasing pressure on scarce natural resources.

**From a development perspective** research continues to show that reducing hunger and malnutrition, particularly in children, leads to healthier and more productive individuals, communities and societies – which in turn reduces social costs, public expenditures and leads to increased national output. There is growing evidence that the persistence of hunger limits economic growth. Hence, in addition to a strong moral and legal foundation, Right to food has an important economic justification. It can strengthen the social and human dimensions of those economic development policies which, so far, have not lead to sufficient progress in reducing hunger. Realizing right to food is a strong catalyst for development.

While it may be difficult to demonstrate causality between good governance and economic growth especially in the short term, there is ample evidence that economic growth is facilitated by stable, just societies with efficient administrations that ensure property rights and the basic freedom of individuals to expand their choices and capabilities. Right to food promotes such elements of good governance by emphasising human rights principles such as participation, transparency and accountability in policies and programmes and by enabling those whose basic human rights have been infringed upon to seek redress.

By targeting those whose right to food has been violated, the approach serves to ensure that

<sup>42</sup> As of 26 September 2008. See <http://www2.ohchr.org/english/bodies/ratification/3.htm>

development policies and programmes cater particularly for the needs and circumstances of the absolute hungry and poor. This focus on the poor, and the need for their empowerment, is amply reflected in calls for increased spending on the hungry and malnourished, for better targeting of those to be assisted, for those targeted for assistance to have a say in how services are provided, and for poor communities to be empowered to control the way money set aside for them is spent.

Orthodoxies which overly emphasise increased role for private rights (land, property etc) and the liberalisation of market transactions in the interests of growth and development can exacerbate hunger and malnutrition by contributing to inequitable wealth distribution at the expense of the resource poor. Right to food sets out to address these social and political determinants of poverty by reducing such imbalances and by correcting social investment skewed against the poor.

Integrating human rights into development imperatives brings new stakeholders into the battle to eliminate hunger; it broadens the support base for development from an institutional and political point of view.



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