

No Masterpiece of Political Will

Negotiations on the Voluntary Guidelines for the Implementation of the Right to Food failed to reach consensus this week at the UN Food & Agriculture Organization (FAO). Civil society organisations were discouraged by the obvious lack of political will among governments but will build upon the positive achievements and continue to press for final adoption of the Guidelines.

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At the conclusion of the third and final meeting of *the Intergovernmental Working Group (IGWG) for the Elaboration of a Set of Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, civil society and non-governmental organizations (CSO/NGOs) were disappointed that consensus was blocked by entrenched views on political issues and frustrated that much of the agreed-upon text contained weak and non-committal language. The lack of courage displayed by many governments during the negotiations highlighted that even when talking about a critical challenge such as hunger, national interests prevail over the political will and moral authority required to end, or even to reduce, hunger and malnutrition in our world.

Despite the disappointing outcome, CSO/NGOs remain confident that governments and international organisations will be able to successfully conclude the negotiations during the FAO's next meeting of the Committee on Food Security scheduled for September, 2004. In the meantime, CSO/NGOs promise to continue pressing for the inclusion of mission elements they believe are essential for strong and practical guidelines on the right to food.

The IGWG on the right to food was one of the few concrete and specific activities that emerged from the World Food Summit (WFS) process in 1996. At the WFS and at the WFS: five years later in 2001, a consensus emerged that political will was the missing element required to end hunger and malnutrition around the world. CSO/NGOs believe that a human rights approach to ending hunger and malnutrition will contribute to building political will by empowering people to hold their governments accountable to the international human rights treaties they have signed and ratified. CSO/NGOs are convinced that the voluntary guidelines will provide one means to substantially challenge governments who fail to meet these obligations.

Although the IGWG was unable to complete its negotiations on the guidelines, many positive results emerged from the negotiations. This is an initial assessment of text as it currently stands.

Achievements on which to build:

Since the World Food Summit requested a clarification of the content of the right to food ten years ago, several conceptual breakthroughs have taken place with regards to the definition and recognition of the human right to adequate food. The UN Committee on Economic, Social and Cultural Rights developed an extremely useful legal interpretation of the human right to food with the elaboration of the “General Comment 12”. Subsequently, the World Food Summit: five years later launched a process that led to the creation of an intergovernmental working group for the development of voluntary guidelines.

The overall political importance of this process is that it is the first government negotiation, undertaken outside the UN human rights system in Geneva, related to one of the economic, social or cultural rights. The voluntary guidelines have therefore introduced the human rights discourse to a broader audience within the United Nations and within government bureaucracies beyond the departments responsible for human rights.

The CSO/NGOs are satisfied that many of agreed-upon paragraphs in the current text reflect the central concepts for interpretation of economic, social and cultural rights. The agreed definition of the right to food reflects not only the access to food dimension, but also the access of individuals and groups to productive resources. It is clear in the voluntary guidelines that states have a range of obligations to the people living in their territory. For example, they must respect the existing access to food, they must protect people from being deprived by economically powerful actors and they must invest the maximum of available resources to progressively achieve the full realization of the right to food by taking immediate and targeted steps.

Moreover the guidelines recognize that the right to adequate food must be implemented based on national strategies which begin with a careful analysis of the causes of hunger and the existing legislative and policy framework. The guidelines also recognize that implementation begins by avoiding violations of rights and by taking specific steps to address the problems faced by marginalized groups. These achievements will allow CSO/NGOs to use the voluntary guidelines as a reference document in scrutinizing governments’ performance with regards to their commitments to combat hunger and malnutrition around the world.

Some examples of positive achievements in the guidelines:

- *The legal framework (guideline 6):* Governments are encouraged to incorporate the right to food into their national legislation and/or constitution so that people can claim it through judicial or quasi-judicial procedures. The right of affected people to effective remedies is thereby recognized.
- *Strategies (guideline 3):* Although the actual wording is weak, it is significant that governments are invited to develop strategies in order to realize the right to

adequate food. To be successful, such strategies must be based on an assessment of the causes of hunger in specific countries.

- *Access to resources and assets (Guideline 7):* The provisions in these guidelines guarantee that the affected people, particularly marginalized groups, and the poorest among them, have access to the means to earn a living from their work and to feed themselves and their families. These means include access to land, labour, water, seed, etc.
- *Safety nets (Guidelines 13):* Guideline 13 stipulates that governments must address the needs of those unable to feed themselves. This could be done through the provision of food, income or through safety nets. Governments should also provide such safety nets in time of economic crises.
- *Accountability and access to justice (guidelines 16 and 17):* Access to justice is fundamental within a human rights approach and a primary means of recourse for those whose human rights have been violated. (Examples circulated during the IGWG by FIAN demonstrate that recourse to justice can make a difference.)
- *Enabling environment and Unilateral Measures (International dimension):* These two elements included in the guidelines annex on the international dimension of the human right to food, although very cautiously drafted, acknowledge the relationship between trade and human rights. They also acknowledge that states have extra-national responsibilities with regards to the right to adequate food based on references to articles 55 and 56 of the UN Charter which address international co-operation in the context of human rights protection.

Areas where work remains to be done:

The CSO/NGOs were surprised by the divisive nature of the negotiations. Only a small minority of governments were fully supportive of the process. Most others engaged in order to water down the text to a level at which hardly any commitment remains. The text is full of very weak language. While in many areas, the worst outcome was avoided, in others the language is so weak as to be almost incomprehensible. Governments from both North and South should be ashamed of trying to avoid any meaningful policy change in support of the eradication of hunger. Political will is needed but it must be accompanied by a strong moral commitment if we are really to achieve the World Food Summit goal of halving the number of hungry world-wide.

Some examples of disappointing and weak language:

- The text is filled with discretionary actions such as, “States, *as appropriate, should consider adopting* a national strategy to progressively realize the right to food.” Many similar phrases can be found, which demonstrate a systemic aversion to any meaningful obligation.

- Even reporting on the implementation of the guidelines to the Committee on World Food Security (WFS) of the FAO has been made voluntary. This renders the whole text useless unless the civil society takes up the challenge to produce reports. CSO/NGOs believe that the value of the guidelines rests in their regular review, evaluation and implementation and therefore we will make use of both the CFS and the UN Committee on Economic, Social and Cultural Rights to do so.
- There was a failure to agree on language related to human-made emergencies, specifically the protection of the right to food in situations of foreign occupation. This was one of the issues that prevented consensus in the final hours of the negotiations.
- There was strong resistance from developing countries to have a guideline related to the protection of human rights defenders and the right to legal assistance particularly for vulnerable groups.
- The systematic opposition of the OECD countries to diverge from already agreed upon texts, such as the Doha Declaration and the Monterrey Consensus, with regards to the international framework is of deep concern to civil society. It renders the guidelines extremely unbalanced. Many demanding recommendations are addressed to the developing countries while there is no flexibility with regards to international agreements that were not conceived in the interests of achieving the progressive realization of the right to food. For example:
 - *International dimension or international guidelines?* The insistence of the European Union not to title the text related to the international dimension as a “guideline” illustrates this imbalance. The argument that already-agreed upon language cannot be changed is unconvincing, particularly when negotiations are ongoing in other fora, including the WTO. Those negotiations could benefit from additional guidance in order to efficiently address key issues identified in the Doha Declaration’s paragraph 13, regarding food security, the well-being of small farmers, as well as non-trade concerns which might include promotion of the right to adequate food.
 - *International trade.* The guidelines do not address the effect of dumping and subsidies on the ability of small family farmers to earn a living and to feed themselves. There is no recognition that this problem affects 70% of those who suffer hunger and subsequently no solution was offered for this problem.

Concluding remarks

The process initiated by the World Food Summit to develop voluntary guidelines on the right to adequate food has contributed to the mainstreaming of human rights among governments and within the FAO. The process is far from being complete. The eventual adoption of the voluntary guidelines will be only a small step – but one that could be particularly strong. It will empower people to hold their governments accountable by

encouraging them to seek remedies via judicial, quasi judicial, legislative or administrative procedures.

The active and constant intervention of CSO/NGOs during the week of IGWG negotiations led to considerable improvements in the document. The shortcomings denounced above indicate the areas in which the CSO/NGOs must focus their follow-up activities. From this point, they will gather examples, strengthen their analysis, disseminate their findings, mobilise public opinion and lobby governments in order to ensure that the final guidelines document is adopted when the IGWG next meets. CSO/NGOs will also press for a future evaluation and revision process for the guidelines within a five year period.

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