

Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges

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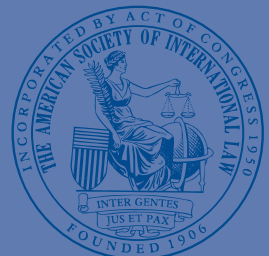
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Chapter 4

The Rights to Food and Water

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INTRODUCTION

Conflict, both internal and inter-state, has been identified as the foremost cause of acute hunger in recent years, often because it results in displacement.¹ Displacement can be precipitated by factors other than conflict, but whatever the cause, the widespread result is that displaced persons are deprived of their main sources of food, safe drinking water, livelihoods, and income. Where displaced communities do have access to food, it is not always adequate, sufficient, or nutritionally balanced, and in many areas that have large displaced populations, agricultural practices or employment to enable access to food and water is fraught with challenges. Food insecurity often results in malnutrition; statistics indicate that malnutrition among internally displaced persons (IDPs) is very high, in some cases exceeding the World Health Organization's (WHO) 15 percent threshold.² Displaced children, the elderly, and pregnant or lactating women, are particularly vulnerable.

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¹ Food and Agriculture Organization of the United Nations [FAO], *The Right to Food: Theory and Practice* (1998), available at <http://www.fao.org/Legal/rtf/booklet.pdf>; Food and Agriculture Organization of the United Nations [FAO], *State of Food Insecurity in the World Report* (2006).

² *Global Overview 2005—Nutrition and Health*, available at [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/34842E0B6DF3CD3AC12571F600466460/\\$file/Gobal%20Overview%202005%20-%20Nutrition%20&%20Health.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/34842E0B6DF3CD3AC12571F600466460/$file/Gobal%20Overview%202005%20-%20Nutrition%20&%20Health.pdf).

LEGAL FRAMEWORK

Relevant Guiding Principles

Principle 18 of the *Guiding Principles* on Internal Displacement provides for the right to an adequate standard of living, including the rights to food and water. This chapter aims to provide guidance on the rights of IDPs to food and water under international law as well as in national regulatory frameworks. The right to food is a self-standing right, while the right to an adequate standard of living incorporates the right to food as one component towards its achievement.

Principle 18 recognizes the rights to “essential food” (implying nutritional adequacy) and potable water; highlights that this should be achieved without discrimination; and accounts for the particular role of women in the distribution of these essentials. Competent authorities must provide these basic supplies and must ensure safe access to them. The third paragraph of Principle 18 highlights the need for “special efforts” “to ensure the full participation of women in the planning and distribution of these basic supplies.” This provision recognizes the socio-cultural role played predominantly by women towards the achievement of food security and adequate nutrition at the family level, but also explicitly protects a particular group, which as a result of political, socio-economic or cultural factors, may elude protection by the law. Principle 4(2) provides that “certain displaced persons such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.”

In situations where a decision by the state requires population displacement, Principle 7(2) provides that “the authorities undertaking such displacement shall ensure, to the greatest practicable extent, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene.” While the rights to food and water are human rights of universal application and apply at all times, certain causes for displacement such as conflict may also trigger the application of the relevant provisions of humanitarian law.

Principle 10(2b) recaps the humanitarian law obligation that prohibits starvation as a method of combat.

Legal Basis

Under international law, the right to an adequate standard of living is associated with the right to food. Article 25(1) of the Universal Declaration of Human Rights (UDHR) lays down the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family, including food.” Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides:

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, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right....
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 programs, which are needed...

With regard to the right to water, Article 14(h) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides for the right “to enjoy adequate living conditions, particularly in relation to...water supply”; and Article 24(2)(c) of the Convention on the Rights of the Child (CRC) sets forth the child’s right to “...adequate nutritious foods and clean drinking-water.”³ The Special Rapporteur on the Right to Food asserts that the right to food comprises liquid and semi-liquid

³ Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. No. 49 at 167, U.N. Doc. A/44/49 (1989), 1577 U.N.T.S. 3, 28 I.L.M. 1456 (1989).

nourishment as well as drinking water⁴ and refers to food and water as being “inextricably linked.”⁵

A number of instruments provide the legal basis for special attention on the right of women to food and water. Article 15 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa provides that the States Parties agree to “provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food [and] establish adequate systems of supply and storage to ensure food security.” Article 12(2) of CEDAW directs Member States to “ensure to women...adequate nutrition during pregnancy and lactation.” Vulnerable sub-groups of the displaced population often suffer from decreased nutritional levels—these generally include children, pregnant women, the elderly and those with HIV/AIDS. Articles 23(1) and 50 of the Convention (IV) Relative to the Protection of Civilian Persons in Time of War (hereinafter, the Fourth Geneva Convention) require states to allow “...the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.”

The Fourth Geneva Convention and its Additional Protocols provide the framework for international humanitarian law. Article 54 of Protocol I⁶ of the Fourth Geneva Convention governing international conflicts and Article 14 of Protocol II⁷ on non-international conflicts protect objects indispensable to the survival of the civilian population. These provisions prohibit targeting “objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking

⁴ The Special Rapporteur, *Report by the Special Rapporteur on the Right to Food*, ¶ 32, submitted in accordance with Commission on Human Rights resolution, U.N. Doc. 2000/10, E/CN.4/2001/53 (Feb. 7, 2001).

⁵ *Id.* at ¶¶ 44-51.

⁶ Protocol Additional to the Geneva Conventions of 12 Aug. 1949, and relating to the Protection of Victims of International Armed Conflicts, (Protocol I), 1997.

⁷ *Id.*

water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population”.⁸

Article 55 of the Fourth Geneva Convention provides that where land is occupied, the occupying power is responsible for “ensuring the food and medical supplies of the population” especially if the resources of the occupied territory are inadequate. As regards humanitarian aid, the obligation not to interfere with access to food is also included in Articles 50 and 59 of the Fourth Geneva Convention which makes provisions for relief schemes undertaken by states or impartial humanitarian organizations supplying, *inter alia*, consignments of foodstuffs.

The Committee on Economic Social and Cultural Rights (hereinafter, the Committee) has been responsible for delineating the scope and application of the rights in the ICESCR through the issuance of General Comments which, while not legally binding, are widely considered authoritative interpretations. General Comment No. 12 on the Right to Adequate Food (1999) and General Comment No. 15 on the Right to Water (2002) provide important elaborations on these rights.

The obligation to respect the rights to food and water prohibits direct or indirect interference by the state in the enjoyment of those rights; that is, it must respect existing access.⁹ Respecting the right to food may include implementing a legal framework that facilitates the ability of an individual to claim this right in a court of law, or the formal repeal or suspension of laws and policy that prevent access to food or its procurement.¹⁰ National strategies should include “measures to respect and protect self-employment and work which provide a remuneration ensuring a decent living for wage earners and

⁸ *Id.* at art. 54(2).

⁹ U.N. Econ. & Soc. Council [ECOSOC], Comm. on Econ., Soc. and Cultural Rights, General Comment No. 15, *The Right to Water*, ¶ 21 (2002) [hereinafter General Comment No. 15 (2002)]; U.N. Econ. & Soc. Council [ECOSOC], Comm. on Econ., Soc. and Cultural Rights, General Comment No. 12, *The Right to Adequate Food*, ¶ 15 (1999) [hereinafter General Comment No. 12 (1999)].

¹⁰ General Comment No. 12 (1999), *supra* note 9, at ¶ 19.

their families (as stipulated in Article 7(a)(ii) of the Covenant).”¹¹ The state’s obligation to protect compels it to prevent interference by a third party in the access to food¹² or water of an individual through measures such as adopting “necessary and effective legislative and other measures to restrain, for example, third parties from denying equal access to adequate water.”¹³

Where an individual cannot attain their rights to food and water through their own efforts, the state must fulfill this right; this obligation includes the duty to facilitate, promote, and provide enjoyment of these rights.¹⁴ With regard to the duty to facilitate, the government must create an enabling environment for people to feed themselves, with particular attention given to vulnerable groups such as IDPs.¹⁵ With regard to promoting the rights to food and water, the state would proactively strengthen access to and utilization of resources, including through land reform, as well as livelihood means. Fulfillment of the right to food also includes setting up social safety nets in situations where IDPs would be unable, for reasons beyond their control, to feed themselves. The duty to fulfill these rights requires that where a state is unable to directly assume this obligation, it must request international assistance and bear the burden of proof of showing that it has tried to do so.¹⁶ The obligation to fulfill this right also includes the duty to take positive actions to identify vulnerable

¹¹ *Id.* at ¶ 26.

¹² *Id.* at ¶ 15.

¹³ General Comment No. 15 (2002), *supra* note 9, at ¶ 23.

¹⁴ *Id.* at ¶ 25.

¹⁵ The Special Rapporteur, *Report by the Special Rapporteur on the Right to Food*, ¶ 5, submitted to the General Assembly in accordance with U.N.G.A. resolution 58/186, U.N. Doc. A/59/385 (Sept. 27, 2004).

¹⁶ General Comment No. 12 (1999), *supra* note 9, at ¶ 17.

groups, their location and needs, and formulate emergency and contingency arrangements.¹⁷

OVERVIEW OF OBSTACLES TO THE IMPLEMENTATION OF THE GUIDING PRINCIPLES

Humanitarian assistance during emergencies often prioritizes the provision of food and potable water, although logistical challenges exist. Sometimes people are forced to flee to remote areas that are difficult to access, or where the general security climate makes it difficult for humanitarian personnel to deliver supplies. This can be especially problematic where IDPs are settled in areas of the country outside the direct control of the state.

A related but separate point regarding access to food and water that often arises in the context of conflict is a lack of physical safety and security of the displaced person, which restricts mobility.¹⁸ Fear of leaving settlements is a frequently-cited obstacle to accessing food, water, and other essential supplies. As women often have a particular role in delivering food and water for their families, such constraints can affect them disproportionately and place them at risk of physical and sexual violence.¹⁹ Restricted mobility also limits the possibility of working outside camps and settlements or accessing local markets.

A lack of income or employment is a significant obstacle to accessing food and water because “the right to food is not primarily about food aid, but about the right to be able to feed oneself through an adequate livelihood.”²⁰ A survey of IDPs in Nepal revealed that over 70 percent were unable to support their

¹⁷ Margret Vidar & Frederica Donati, *International Legal Dimensions of the Right to Food*, in *GLOBAL OBLIGATIONS ON THE RIGHT TO FOOD* (George Kent ed., 2007).

¹⁸ See chapter two in this volume on movement-related rights.

¹⁹ Burmese Border Consortium, *Reclaiming the Right to Rice: Food Security and Internal Displacement in Eastern Burma* (Oct. 2003), available at <http://www.burmaissues.org/En/ReclaimingtheRighttoRice.pdf>.

²⁰ *Id.*

families.²¹ In some cases, IDPs have difficulty gaining proper residence status in their new locations and can face administrative difficulties such as in replacing identification documents that are needed to receive unemployment benefits, welfare supplements for food and supplies, and eligibility status to work.²² For example, in Montenegro, employers that hire persons without a permanent resident permit are penalized.²³

The destruction of productive land is common during times of conflict, either as a by-product of hostilities or as a result of direct targeting. Besides removing direct access to food products, this also results in reduced access to a potential source of livelihood.²⁴ Land mines can be a particular obstacle to revitalizing the livelihoods of returning IDPs. Furthermore, IDPs often leave behind seeds, livestock, and tools when they flee, which inhibits their chance to farm in new settlement areas.

Infrastructural damage to the water supply system (collection, purification, and distribution) affects the entire civilian population, but the particular vulnerability of displaced groups to such changes often entails worse conditions of sanitation, health, hygiene, and drinking water in their temporary settlements when they return or relocate. This problem is compounded because IDPs often settle in areas where available resources are already under strain.²⁵

²¹ Prabhu Raj Poudyal, *Situation of Internally Displaced Persons in Nepal and Recommended Responses*, Rural Urban Partnership Programme/UNDP 2005.

²² Concluding Observations of the Committee on Economic, Social and Cultural Rights, Consideration of Reports submitted by States Parties under Articles 16 and 17 of the Covenant—Serbia and Montenegro, ¶ 14, E/C.12/1/Add.108 (June 23, 2005).

²³ Decree on the Employment of Non-resident Physical Persons, Official Gazette of the Republic of Montenegro 28/03.

²⁴ The Special Rapporteur, Human Rights in Lebanon, *Report of the Special Rapporteur on the Right to Food on his Mission to Lebanon*, ¶ 20, A/HRC/2/8 (Sept. 29, 2006).

²⁵ Poudyal, *supra* note 21.

Governments do not always sufficiently address the food and water needs of IDPs beyond emergency situations, thereby failing adequately to address the crucial issue of sustainability and durable solutions. Even where they do exist, medium and long term policies for IDPs often ignore gender or cultural dimensions, which can reduce their effectiveness. For example, in many regions of the world, women are traditionally responsible for both the gathering and preparation of food and the maintenance of home gardens and subsistence crops.²⁶ Policies that fail to take into account the role of women in the provision of food for their families, for example, are less likely to be successful. Related to this is the fact that the formulation of laws and policies often fails to consult affected groups.

The strongest gauge of legal commitment to the standards contained in international instruments is a legal framework at the national level that recognizes, protects, and enforces the rights to food and water. Although some states, notably Brazil, Ecuador, and Guatemala, have recently promulgated food security laws and policies, many countries do not yet have such a framework in place. However, even where an enforceable right has been laid down by statute, laws and policies are not always consistent with one another. For example, benefits conferred to IDPs through specifically targeted legislation should not be negated by conflicting legislation applicable to the whole population. This inconsistency is reflected, for example, in laws that provide tax relief for IDPs but require certain criteria to be fulfilled that, as a result of their status, are not practical or possible. Also, food-related provisions in legislation for the protection of IDPs generally direct assistance in the form of food supplies without delineating the substantive scope of such food and water rights and the considerations they entail.

A significant challenge for returning IDPs is proving property ownership.²⁷ This can be problematic in countries with low levels of title registration, particularly for women who often do not have formal recognition of their land titles either as a result of the operation of statutory or customary rules. In

²⁶ Burmese Border Consortium, *supra* note 19.

²⁷ See Chapter 10 of this volume on property rights.

many countries, land rights are connected to land use which may cause difficulties for persons who have been displaced and wish to return. Also, in Georgia for example, displaced persons cannot own land without losing the legal status of IDP and the benefits that the status confers as they have to register as a permanent resident to own land.²⁸

REGULATORY FRAMEWORK

Legislative recognition can vary from inclusion in the national Constitution or Bill of Rights to laws, decrees, or even administrative regulation. Different legal instruments have varying authority, and the less authoritative the instrument used to protect the right, the greater the implication of inferiority of that right in terms of policy priorities. Inclusion in national constitutions not only signals a clear message of the importance of these rights but also protects them from the legislative amendments of governments of the day. A survey of 203 written constitutions reveals a variation in the way the rights to food and water are protected.²⁹ A comprehensive formulation explicitly guaranteeing the right to food applicable to the whole population can be found in twenty-two countries. The best example is the South African Constitution which echoes the wording of the ICESCR in its Section 27. Other formulations protect the right to food only with reference to a specific part of the population (usually children), or protect a broader right, such as an adequate standard of living, dignified life, or the right to health (which implies the right to food).

The most appropriate way to provide a comprehensive food security regulatory structure is to include right to food and water provisions in the constitution, and enact a law that specifies the contents of such rights. Comprehensive laws can ensure that all elements are covered in multi-sectoral rights such as to food and water, and ensure that this cross-cutting nature is highlighted and accommodated in the legal framework. Ecuador's Law on

²⁸ Ludwig Boltzmann, *Implementing The Guiding Principles On Internal Displacement On The Domestic Level: An Analysis Of Domestic Legislation And Policies And Recommendations On Areas For Further Research* (2005).

²⁹ Margret Vidar, *State Recognition of the Right to Food at the National Level*, Research Paper No. 2006/61 (2006).

Food Security and Nutrition (2006) prioritizes vulnerable groups (Article 2)³⁰ and highlights certain principles such as the guarantee of physical and economic access for all; and culturally acceptable, nutritious food that meets caloric requirements. The Brazilian Law No. 11.346 establishes the National System for Food and Nutrition Security (SISAN) with a view to implementing the right to food, providing general objectives and the substantive elements of such a right.³¹ Guatemala's Law on the National System for Food Security and Nutrition contains useful definitions of concepts and specifies the institutional arrangements to implement its policy.³²

Several laws on food security also mention the right of access to water. The adoption of a framework law has been noted as being “instrumental” to achieve the right to food, and:

should include provisions on its purpose; the targets or goals to be achieved and the time-frame to be set for the achievement of those targets; the means by which the purpose could be achieved described in broad terms, in particular the intended collaboration with civil society and the private sector and with international organizations; institutional responsibility for the process; and the national mechanisms for its monitoring, as well as possible recourse procedures.³³

³⁰ Ley de Seguridad Alimentaria y Nutricional, Registro Oficial N° 259, 27 de abril de 2006 (Ecuador).

³¹ Lei N° 11.346, de 15 de Setembro de 2006, Cria o Sistema Nacional de Segurança Alimentar e Nutricional—SISAN com vistas em assegurar o direito humano à alimentação adequada e dá outras providências, art. 1 (Brazil).

³² Decreto N° 32/05—Ley del Sistema Nacional de Seguridad Alimentaria y Nutricional (Guatemala).

³³ General Comment No. 12 (1999), *supra* note 9, at ¶ 29.

The framework governing supply distribution systems for domestic and imported items as well as price-setting, marketing and agricultural boards and related management systems is also relevant to the individual's actual ability to access food.³⁴

National water sector legislation often contains substantive norms on water rights, including access and supply. However, many water laws could be improved by the inclusion of indicators that highlight disparities between vulnerable groups in terms of water access.³⁵ The South African Water Services Act explicitly establishes a right to water and basic sanitation, allowing for differentiation between “different geographic areas, taking into account, among other factors, the socioeconomic and physical attributes of each area.”

A range of other laws in a number of fields will also impact on the right to adequate food and water. Those laws include consumer protection, health, water, minimum wage and social welfare, agricultural, natural resources, including land and water use and management, and environmental laws.³⁶

SUBSTANTIVE AND PROCEDURAL ELEMENTS OF STATE REGULATION

Prior to Displacement

Early Warning Systems

Through the use of early warning systems that are based on international cooperation, and disaggregated data derived from consistent and accurate monitoring, natural or conflict-related displacement disasters can be mitigated

³⁴ Kendra Reddekopp, *An Analysis of The Effects of Legislation on Food Security in Canada* (1999).

³⁵ Centre on Housing and Evictions [COHRE], *Legal Resources for the Right to Water: International and National Standards*, Source No. 8 (2004).

³⁶ Reddekopp, *supra* note 34.

or even avoided altogether.³⁷ It is important to include in such early warning systems conflict-related management and surveillance of areas that are drought or flood-prone. The success of early warning systems, specifically monitoring food security levels, depends on timely and decisive responses both at national and international levels that are based on periodic review. Guatemala's Food and Nutrition Law establishes a Secretariat whose role includes designing and implementing an early warning system that identifies situations of food insecurity in the country.³⁸

Emergency Preparations

Relevant emergency preparations in the form of food stocks and grain reserves, together with planning functioning distribution mechanisms, are good examples of how the state can prepare ahead of time. The Uganda National Policy on Internal Displacement—Policy and Institutional Framework (NPID) makes provision for setting up adequate grain stores for IDPs during displacement, and for the initial period of resettlement. The development of seed-saving strategies and seed-banks in anticipation of disasters allows those who have lost seeds to access these facilities; this also reduces the period between seed harvest and marketing.³⁹ Contingency arrangements and technical cooperation should ensure that supplies are capable of meeting anticipated needs.⁴⁰ The Ukrainian Ministerial Decree No. 1029 validating the Regulation on the Modalities of the Formation of the

³⁷ Voluntary Guidelines on the Progressive Realization of the Right to Adequate Food in the Context of National Food Security 2005, adopted by the 127th Session of the FAO Council Nov. 2004, guideline 16.7 [hereinafter Voluntary Guidelines].

³⁸ Decreto No. 32/05, *supra* note 32, art. 22(d).

³⁹ Ruth Haug & Estrellita Rauan, *Operationalising the Right to Food in Africa*, Noragric Report No. 2 (Sept. 2001) [hereinafter Noragric Report].

⁴⁰ Protection of Internally Displaced Persons' Inter-Agency Standing Committee Policy Paper (Dec. 1999).

State Food Reserves 2005⁴¹ is one example of a law setting out the responsibilities to establish food reserves.

Relocation Sites

Planning should also include the formulation of strategies for the positioning of potential settlement areas throughout the country, with detailed logistical planning including outlining transport routes for food and supplies. A settlement that has been pre-planned should have functional supply routes, as well as locations for cooking and waste disposal. It should be located far way from fighting or safe from natural dangers such as flooding. Contingency plans for camps that need to be constructed *impromptu* should also follow a general design that facilitates these aspects.

Environmental impact assessments can be conducted to choose locations for temporary sites which would have the least detrimental effects to the surrounding environment. Camps and settlements often impact the surrounding environment negatively, degrading soil quality, forests, and water bodies. This damages the quality of resources available for food production in the area and, in turn, impacts living conditions of the settlements as well as the resident population.⁴²

Important Sources for an Adequate Policy and Legal Framework

General Comments on the Rights to Adequate Food and to Water—Nos. 12 and 15 respectively—provide guidance on the standards and levels of protection which should be included in statutes addressing IDP rights. The *Voluntary Guidelines on the Progressive Realization of the Right to Food in the Context of National Food Security* is instrumental in providing “practical guidance to States in their implementation of ... the right to adequate food in

⁴¹ An Implementing Statute of Law No. 1877-IV on State Support of Agriculture (2004).

⁴² Lorenzo Cotula & Margret Vidar, *The Right to Adequate Food in Emergencies*, 77 FAO LEGISLATIVE STUDY 68 (2002).

the context of national food security.”⁴³ *Centre on Housing Rights and Evictions (COHRE) Source No 8: Legal Resources for the Right to Water: International and National Standards*⁴⁴ is a useful source document highlighting the international instruments containing explicit or implicit mention of the right to water and sample provisions of right to water legislations around the world. The *Sphere Project Humanitarian Charter and Minimum Standards in Disaster Response* (hereinafter the Sphere Handbook) identifies the minimum standards to be attained and the key indicators which demonstrate that they have been achieved, particularly its sections on nutrition, food aid, and water supply. The 1999 Food Aid Convention principles for international food aid such as the “appropriateness” and “adequacy” of the food aid, protection of local production and markets, and the principles for delivery, make provisions for both food aid and food-related aid.⁴⁵

During Displacement

Humanitarian Assistance

In some countries, a majority of the food requirements of the IDP population is met through food aid.⁴⁶ The Committee on Economic, Social and Cultural Rights notes that the right to adequate food implies the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free

⁴³ Voluntary Guidelines, *supra* note 37, at Preface, ¶ 6.

⁴⁴ Centre on Housing Rights and Evictions [COHRE], Right to Water Programme, Jan. 2004.

⁴⁵ Cotula & Vidar, *supra* note 42.

⁴⁶ *Right to Food Case Study: Uganda*, InterGovernmental Working Group on the Elaboration of a Set of Voluntary Guidelines to Support the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security, Study conducted for FAO in support of the Intergovernmental Working Group, FAO 2004, [hereinafter Uganda IGWG].

from adverse substances, and acceptable within a given culture.⁴⁷ This is particularly important, for example, in observing religious practices regarding certain types of meat. The Sphere Handbook identifies ways in which the cultural aspect of the right to adequate food can be gauged. Principal considerations include consultations with beneficiaries regarding the acceptability and appropriateness of the food and ensuring that the distributed items do not conflict with traditional or cultural beliefs, that the staple food is familiar to the population, and that culturally important condiments such as sugar or chilies are provided.⁴⁸

Food aid must be sufficiently diverse as to prevent malnutrition among the recipients. Priority in the distribution of food supplies must target the most vulnerable segments of the population,⁴⁹ and when developing the parameters for the program, policies and legal instruments should also emphasize the importance of the special nutritional needs of children and expectant mothers. Targeted interventions in the form of micronutrients and vitamin supplements can reduce the incidence of malnutrition.⁵⁰ Programs such as those administered by the World Food Programme (WFP) recognize that a majority of IDPs are women and focus their strategies at ensuring the direct access of women to appropriate and sufficient food, their participation in decision-making, and their access to resources, jobs, and markets.⁵¹ On a national level, school feeding programs for IDP children not only improve school attendance, particularly among female children, but also provide them with at least one nutritional meal per day which has an important effect on educational progress.

⁴⁷ General Comment No. 12, *supra* note 9, at ¶ 8.

⁴⁸ Cotula & Vidar, *supra* note 42.

⁴⁹ General Comment No. 12 (1999), *supra* note 9, at ¶ 38.

⁵⁰ Department of Agriculture (Republic of South Africa) (2002), *The Integrated Food Security Strategy for South Africa*, Pretoria.

⁵¹ WFP Commitments for Women, noted in 'Protection of Internally Displaced Persons' Inter-Agency Standing Committee Policy Paper New York, Dec. 1999.

While urgent and sufficient quantities of aid is often necessary following emergency situations, the flow of aid needs to be stemmed following a certain period to avoid negative effects on local harvests, production, and marketing structures.⁵² The Colombian Law 387 of 1997, Article 15, paragraph 1, indicates a time limit of three months for the right to emergency humanitarian assistance, with the possibility of renewal under exceptional circumstances for another three months. In contrast, the Sri Lankan National Framework for Relief, Rehabilitation and Reconciliation 2002 rejects the use of arbitrary time limits as a basis for determining eligibility for food assistance and instead provides that “clear-cut criteria for eligibility should instead be established, taking into account the need to encourage productive activity while protecting vulnerable groups.”

States should also provide the form of aid that best meets the purpose of stimulating “local agricultural development, strengthen[ing] regional and local markets and enhance[ing] the longer-term food security of recipient countries.”⁵³ This can be achieved through “triangular purchases” involving a third developing country, perhaps from the region; or “local purchases” from more productive areas of the country being assisted.⁵⁴ In order to address the problem of interrupted and hijacked food and essential supplies during times of conflict, agreements should be reached between all state and non-state actors to ensure the safe and unimpeded access of displaced persons to assistance.⁵⁵ Institutions responsible for providing this security should be clearly identified. The Peruvian Law Concerning Internal Displacement (Law No. 28223) of May 20, 2004, explicitly recognizes the importance of security and protection of those providing humanitarian aid (including their means of

⁵² Food Aid Convention of 1999, art. XIII(a)(i), available at <http://untreaty.un.org/english/notpubl/notpubl.asp>.

⁵³ *Id.* at art. XII(a).

⁵⁴ Cotula & Vidar, *supra* note 42.

⁵⁵ Voluntary Guidelines, *supra* note 37, at 15.3.

transportation and their supplies) in Article 11, although there is no indication of who should be responsible for this protection.

Security

The Uganda National Policy for Internally Displaced Persons (2004)⁵⁶ recognizes the security of person and property and the freedom of movement as fundamental entitlements of IDPs. Ensuring security is delegated to the Uganda People's Defense Forces (UPDF), the Uganda Police Force, and other specialized national security agencies. The Defense and Internal Affairs Ministries through the police are responsible for maintaining law and order among displaced communities. The UPDF protects perimeters and areas surrounding IDP sites and protects relief and assistance agency personnel. The Food and Agricultural Organization approach in augmenting a sense of security is to increase the visibility of aid organizations in problematic areas in order to deter violence and eliminate the sense of physical isolation of IDPs.⁵⁷ A Cooperative Housing Foundation (CHF) International study demonstrated the nexus between organized livelihood programs and activities, particularly for women, and perceived increase in security for both men and women.⁵⁸

⁵⁶ Office of the Prime Minister, Department of Disaster Preparedness and Refugees, *The National Policy for Internally Displaced Persons* (Aug. 2004), available at http://www.brook.edu/fp/projects/idp/idp_policies_index.htm [hereinafter Uganda's National Policy for IDPs].

⁵⁷ *Protection of Internally Displaced Persons*, Inter-Agency Standing Committee Policy Paper, Dec. 1999.

⁵⁸ Judith A. Hermanson, *Victim to Survivor: the Case of CHF International in Darfur*, CHF International, Apr. 2006, available at <http://ponpo.som.yale.edu/Darfur%20Case%20Study.doc>.

Physical Accessibility and Availability

Water and food must be within safe physical reach⁵⁹ for IDPs. It is recommended that states give priority consideration to policies and strategies with respect to accessibility (both physical and economic) of food.⁶⁰

The water supply must be sufficient, continuous,⁶¹ and adequately maintained. Food availability denotes the opportunity to feed “oneself directly from productive land or other natural resources, or from well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand.”⁶² Water and food must also be safe for human consumption.⁶³ The Angolan Decree No. 79 of 2002 on Standard Operating Procedures for the Enforcement of the Norms on the Resettlement of Displaced Populations elaborates in Article 17 the following on water and sanitation:

1. The Provincial Government shall: a) Ensure that adequate measures are taken for the provision of water and sanitation; b) Collaborate with the community to ensure appropriate management of water and sanitation systems, including aspects related to water quality; c) Carry out other tasks as assigned.

2. To implement paragraph 1, the Provincial Government, through relevant bodies of agriculture and rural

⁵⁹ General Comment No. 15 (2002), *supra* note 9, at ¶ 2(c)(i) and General Comment No. 12 (1999), *supra* note 9, at ¶ 13.

⁶⁰ General Comment No. 12 (1999), *supra* note 9, at ¶ 13.

⁶¹ General Comment No. 15 (2002), *supra* note 9, at ¶¶ 12(a), 16(c), 16(f).

⁶² General Comment No. 12 (1999), *supra* note 9, at ¶ 12.

⁶³ General Comment No. 15 (2002), *supra* note 9, at ¶ 12(b); General Comment No. 12 (1999), *supra* note 9, at ¶ 10.

development, fishing and the environment, social assistance and social reintegration, and former soldiers and war veterans, shall adopt the following procedures: a) Enable access to potable water for IDPs; b) Place the public water supply points not further than 500 meters from the houses; c) Guarantee the supply of drinking water; d) Enable the functioning of each water pump to serve 600 persons for 10 hours a day[.]

National strategies for ensuring the right of IDPs to food and water should also incorporate mechanisms for providing information about entitlements. Accessibility of water has been noted to imply the right to seek, impart, and receive information regarding water issues.⁶⁴ An individual has a right to consultations where the right to water has been interfered with, and is entitled to the full timely disclosure of relevant information.⁶⁵ States may consider prioritizing food assistance via women as a means of enhancing their decision-making role and ensuring that the food is used to meet the household requirements.⁶⁶ The use of home and school gardens has been noted as an important way of combating micronutrient deficiencies and promoting healthy eating.⁶⁷

Employment

Within the right to food framework, “economic accessibility applies to any acquisition pattern or entitlement through which people procure their food and is a measure of the extent to which it is satisfactory for the enjoyment of the right to adequate food. Socially vulnerable groups such as landless persons and other particularly impoverished segments of the population may need

⁶⁴ General Comment No. 15 (2002), *supra* note 9, at ¶ 12(c).

⁶⁵ *Id.* at ¶ 56(a)-(b).

⁶⁶ Voluntary Guidelines, *supra* note 37, at 13.4.

⁶⁷ *Id.* at 10.3.

attention through special programmes.”⁶⁸ Food accessibility must be sustainable,⁶⁹ and a choice should not have to be made between the rights to food and water, and other rights. With regard to water, economic accessibility means that states could adopt mechanisms which may include, *inter alia*, a range of appropriate low-cost technologies, free or low-pricing policies, and income supplements.⁷⁰

Article 11 of the Angolan Decree 1/01 of 5 January, Norms on the Resettlement of Displaced Populations, recognizes the utility of food-for-work programs aimed at preparing land, rehabilitating social infrastructures, and other activities necessary for community stability. The *National Framework for Relief, Rehabilitation and Reconciliation in Sri Lanka* describes these types of projects as multi-purpose—serving simultaneous goals. It explains that:

[a] traditional food-for-work project to reconstruct a damaged school—normally seen as a relief effort—illustrates the case: it provides food to villagers whose harvests may have failed (relief); it provides temporary employment (relief and rehabilitation); it rebuilds a damaged asset (rehabilitation); it enables children to continue their schooling (development); and it strengthens institutional capacity to handle this type of crisis situation (disaster preparedness).⁷¹

⁶⁸ General Comment No. 12 (1999), *supra* note 9, at ¶ 13.

⁶⁹ *Id.* at ¶ 8.

⁷⁰ General Comment No. 15 (2002), *supra* note 9, at ¶ 27.

⁷¹ See *National Framework for Relief, Rehabilitation and Reconciliation in Sri Lanka*, June 2002, at 20, available at http://www.brookings.edu/projects/idp/Laws-and-Policies/sri_lanka.aspx.

In Ethiopia, food-for-work projects and direct food distribution comprise the formal safety nets arrangement in place for the general population.⁷² Approximately 80 percent of food aid has been distributed through food-for-work; and up to 50 percent of surveyed respondents identified these activities as preventing their own starvation and that of their families. One overlooked aspect was the gender dimension which was not sufficiently considered in the design of some of the projects, proving problematic in a country where women are primarily responsible for carrying out domestic roles and have very little time for other forms of work.⁷³ Such programs should also consider alternatives for certain other vulnerable groups within the IDP community, for instance those who as a result of old age or disability cannot participate in the food for work programs.⁷⁴

Other mechanisms exist which, through strategic targeting of IDPs, stimulate local food production and increase food security. In Zambia, for example, safety nets projects also include cash-for-work and inputs-for-work schemes.⁷⁵ Another option is the provision of credit to the most vulnerable groups. It has been found that Grameen Bank structured credit programs, which use a group lending approach, were successful in negating temporary shocks on the rural poor caused by natural disasters.⁷⁶ The Azerbaijan State Program for the Improvement of Living Standards and Generation of Employment for Refugees and IDPs also outlines projects designed to generate livelihood activities for displaced persons.⁷⁷ Under the Serbian National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons (2002), employment schemes involve in-kind grants such as the donation of tools for

⁷² See Haug & Rauan, *supra* note 39.

⁷³ *Id.*

⁷⁴ See Cotula & Vidar M, *supra* note 42.

⁷⁵ See Haug & Rauan, *supra* note 39.

⁷⁶ *Id.*

⁷⁷ Article 16 of the Law on the Status of IDPs and Article 7 of the Law on Social Protection of IDPs.

work. Other employment schemes involve interest-free loans and micro-credits, soft loans granted for the establishment and development of small and medium sized enterprises (SMEs) in industry and services, employment within existing successful companies, and training programs.

Consultation/Participation and Information Exchange

Consulting IDP community representatives is an important factor for the successful implementation of programs. Information exchange should be two-way; while there should be mechanisms for consultation for IDPs to convey their interests, the government can also use this opportunity to ensure that IDPs are aware of general and basic food safety and nutrition issues. Many legal frameworks provide for the right to participation of IDPs in decision-making regarding resettlement and relocation. The Great Lakes Region Protocol on the Protection and Assistance to Internally Displaced Persons, for example, provides in Article 6 Chapter V that its “Member States shall ensure the effective participation [...], particularly women, in the planning and management of their relocation.”

Gender Sensitivity

In their distribution of water and food supplies (and indeed other interventions), aid agencies must ensure their processes and procedures do not directly or indirectly have a discriminatory impact on the displaced beneficiaries. For example, procedures must be gender sensitive, particularly in female-headed households, which is in line with the United Nations Inter-Agency Standing Committee (IASC) Policy Statement for the Integration of a Gender Perspective in Humanitarian Assistance.⁷⁸ To illustrate, procedures with potentially discriminatory effects on women include the requirement to register to receive benefits, which fails to account for the cultural and social

⁷⁸ United Nations Inter-Agency Standing Committee [IASC], *Policy Statement for the Integration of a Gender Perspective in Humanitarian Assistance*, May 31, 1999, available at <http://www.unicef.org/emerg/files/IASConGender.pdf>.

considerations which would make this difficult for women in some countries.⁷⁹ Policies should seek to integrate women in informal social networks and involve them in management decisions regarding the distribution as well as the day-to-day operational aspects of such distribution. Also, greater security measures should be taken for women leaving the camp in search for resources, for example in small convoys accompanied by security personnel. Use of the Participatory Rapid Appraisal (PRA) has been advocated as an awareness raising tool for gender sensitization, increasing the understanding of beneficiaries of the important role played by women in emergencies.⁸⁰

Monitoring

The extent of the realization of the rights to food and water can be monitored through the use of human rights indicators and verifiable benchmarks⁸¹ as provided for in the *Sphere Handbook*. In the context of IDPs, the government should ascertain whether the right to food and water has been denied as a result of their status and identify what measures can be taken to remedy the situation. This involves gathering information on the causes for non-realization of the right to food which must be updated periodically. It would also be useful to classify food security challenges according to their nature and scope, for example if they can be dealt with in the short or long-term, with budgetary allocations made accordingly.⁸²

By monitoring and researching the coping strategies of IDPs, states can tailor response mechanisms to effectively address their needs. Before the distribution of food rations, a nutritional survey of the camp should be

⁷⁹ Regional Disaster Information Center [CRID] Latin America and the Caribbean, *Food Aid and Gender in Emergencies*, available at www.crid.or.cr/digitalizacion/doc/eng/doc13584.doc.

⁸⁰ *Id.*

⁸¹ General Comment No. 12 (1999), *supra* note 9, at ¶ 29.

⁸² Department of Agriculture (Republic of South Africa), *The Integrated Food Security Strategy for South Africa*, Pretoria 2002.

undertaken in order to assess the immediate requirements of the population. A wide compilation of data is necessary, including nutritional surveys and detailed information on malnutrition which can be disaggregated not only in terms of IDPs with respect to the general population but also between sub-groups of IDPs, according to sex, age, disabilities, etc, but also with surveys carried out at the household level. Food security information should be “multi-sourced and, when using existing data collection systems through established agencies, cooperation and coordination is key to establishing efficient and cost-effective systems.”⁸³ Guideline 13.1 of the UN’s Food and Agriculture Organization (FAO) 2004 *Voluntary Guidelines* encourages states to establish Food Insecurity and Vulnerability Information and Mapping Systems (FIVIMS) which identify vulnerable groups and reasons for their food security, followed by specific corrective measures to provide food access.⁸⁴

In the Context of Durable Solutions

Agriculture

It is important to promote agricultural development in IDP settlements and rehabilitation schemes for its role in sustaining livelihoods, providing a source of employment, and enabling displaced communities to become self-sufficient and less dependent on food aid. Return and resettlement on agricultural sites requires good planning, input, and infrastructure provision and can therefore be quite resource intensive and require careful and efficient organization. This can include assisting the establishment of cooperatives; affirmative action schemes that favor IDPs and smallholders with facilitated access to extension services and credit; and investment in rural infrastructure education schemes to promote environmentally sound water use and agricultural practices. The Law of Georgia on Internally Displaced Persons—Persecuted exempts IDPs from paying land tax on agricultural land plots, although this provision is in

⁸³ *Id.*

⁸⁴ See Food and Agriculture Organization of the United Nations, *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/009/y7937e/Y7937E00.HTM>.

the context of temporary use and should be valid for a longer time period until farmers have settled and begun sufficient production.⁸⁵

With a view to promoting self-sufficiency, the Angolan Decree No. 79 of 2002 on Standard Operating Procedures for the Enforcement of the Norms on the Resettlement of Displaced Populations legislates for the provision of Resettlement Kits (Article 15). Productive Packages, provided by Oxfam in Colombia, comprise one-off donations or consecutive contributions over a six or twelve month project duration.⁸⁶ Agricultural emergency and development activities encouraged by FAO are designed to enhance nutritional security by promoting livestock and crop diversification as well as environmentally sound land and water management techniques and soil conservation.⁸⁷ The Ugandan Plan for Modernization of Agriculture (PMA) seeks to create opportunities for poor farmers through the transformation and diversification of agricultural production, processing, and marketing.⁸⁸

It is important not to withdraw food assistance too early. Food aid baskets are sometimes included in Oxfam's Productive Packages to prevent beneficiaries from hastily selling off input items to meet their daily food needs.⁸⁹ The Angolan Decree No. 79 of 2002 on Standard Operating Procedures for the

⁸⁵ Law No. 335-II S on Internally Displaced Persons—Persecuted, *available at* <http://www.legislationline.org/documents/action/popup/id/5531>.

⁸⁶ Antonio Hill, *Protection versus Promotion of IDP Livelihoods in Colombia*, 20 FORCED MIGRATION REV. 21-23 (2004).

⁸⁷ The Brookings-SAIS Project on Internal Displacement, *Basic Course on International Displacement: Background, Program Foundation and Program Approaches for International Agency Staff*, Sept. 2004, *available at* http://hrea.org/erc/Library/display_doc.php?url=http%3A%2F%2Fwww.brookings.edu%2Ffp%2Fprojects%2Fidp%2Fsyllabi%2F33-IASCmodules-d2-com.pdf&external=N

⁸⁸ See Uganda IGWG, *supra* note 46.

⁸⁹ See Hill, *supra* note 86.

Enforcement of the Norms on the Resettlement of Displaced Populations sets out principles in Article 18 on social assistance that guarantee food assistance to resettled or returned populations; distribute food free of cost until the first agricultural harvest; and ensure the continuation of food assistance depending on the outcome of the agricultural campaign and the nutritional and food security assessments.

*Land*⁹⁰

Property transfer processes that are long or cumbersome should be reformed to accelerate restitution or redistribution policies with safety mechanisms to ensure that IDPs are not granted unsuitable or poor quality land. In the South African context, actions towards removing some of the remaining vestiges of the apartheid era through land reform prompted recommendations which included passing legislation that formalizes and recognizes customary land; establishing a “first right of purchase” of agrarian land for sale; and promoting the use of compulsory appropriation and compensation for underused agricultural land.⁹¹ Land distribution and resettlement policies are crucial to enable equal access to agricultural and natural resources. In this regard, Article 3 of the Angolan Decree No. 1 of 2001, Norms on the Resettlement of Displaced Populations, makes provision for the identification of land for resettlement and return sites. The law also considers the importance of clearing return sites of mines and legislates for the creation of mine awareness brigades as well as carrying out de-mining operations. Appropriate defense and security agencies and humanitarian organizations must certify the security of the resettlement sites.

Access

Transport systems and water utility infrastructure are important to ensure continued access to food and water. Therefore, new constructions, repair, and

⁹⁰ See Chapter 10 of this volume on property rights.

⁹¹ An Overview of Agrarian Reform and Food Security in South Africa is available at <http://www.landcoalition.org>.

maintenance, particularly in rural areas, are crucial to ensure the continued supply of basic provisions and commodities to and from markets.

Resource Sharing Programs

States may opt for the development of resource-sharing and income-sharing programs for longer-term solutions, not only in the context of IDPs but also to ensure a wider sense of food security throughout the country which would also be of benefit to IDPs. In the area of resource-sharing, programs with a positive impact on food security would include natural resource initiatives such as land reform or redistributive agrarian reform; capital resource initiatives; employment guarantee schemes; and education and training campaigns.⁹² Income-sharing programs work as safety nets and include minimum income stipulations, social security, food subsidies, cash transfers conditioned to the purchase of food, food stamps, and food aid.⁹³

INSTITUTIONAL ELEMENTS OF STATE REGULATION

Prior to Displacement

Once the legal framework has been set up, institutional regulation as provided therein must function so as to carry out effectively the stated law and policies. The institutional set-up may consist of varying combinations of key entities involved in the provision of food for emergencies, including the agriculture ministry, food quality and safety control agencies, the private sector (for example water companies), human rights commissions, NGOs and IGOs, and security forces and military personnel to provide the government with responsive task forces equipped with the technical know-how to respond to emergency situations.

Accessing justice can be difficult for IDPs who have low-income levels, and therefore makes affordability an important consideration in the provision of

⁹² Rolf Künemann, *Basic Income: A States' Obligation Under the Human Right to Food*, paper presented to IX BIEN International Conference, Geneva, 2002.

⁹³ *Id.*

legal services. Often, NGOs, universities, or human rights institutions can provide legal assistance to assert claims before court and to offer legal counsel as to alternative remedies. Special Funds are often set up for providing humanitarian assistance to IDPs. One such fund can be found in the Colombian framework (Law 387 of 1997) instituting the National Fund for Comprehensive Assistance to Populations Displaced by Violence, which finances programs for displacement prevention, emergency, return, socioeconomic consolidation, and stabilization. Relevant institutions should have decentralized services to counter the problem of physical accessibility to legal institutions which are often located in major urban centers.

During Displacement

As a result of the multi-sectoral character of the right to food, coordination is a crucial aspect for successful and sound implementation. Inter-sectoral mechanisms will make the most efficient use of limited resources.⁹⁴ States are encouraged to institute anti-corruption and transparency mechanisms in the food management sector and particularly in the management and distribution of food aid.⁹⁵ Food security coordination mechanisms may provide valuable insight in the identification of legislative gaps.⁹⁶ The Brazilian National Council on Food and Nutrition Security (CONSEA), which is comprised of one-third government officials and the remainder of civil society representatives, has an inter-sectoral reach spanning different ministries involved in aspects of food security and nutrition. It oversees compliance with agreements relating to the Food and Nutrition Security Policy. The Council uses the budget allocated to Brazil's Fome Zero (or Zero Hunger) food security policy, to design and implement food access measures, such as cash transfers, food and nutrition interventions, strengthen family farm agriculture production as well as provide access to information and education.⁹⁷

⁹⁴ Voluntary Guidelines, *supra* note 37, at 5.2.

⁹⁵ *Id.* at 5.5.

⁹⁶ *See Vidar, supra* note 29.

⁹⁷ Patrus Ananias de Sousa, *Fome Zero: Building a Policy for Food and Nutrition Security in Brazil*, Statement at the United Nations System Standing Committee on

As a primary obstacle for IDPs in accessing food is lack of security, appropriate institutional responses would include, where possible, the protection of camps, settlements, and surrounding areas as a priority for government security personnel. Angolan Decree No. 79 of 2002 on Standard Operating Procedures for the Enforcement of the Norms on the Resettlement of Displaced Populations provides an example of how the law can set out the tasks and responsibilities of various responsible authorities, as well as elucidating how co-ordination and collaboration of entities functions to carry out a specific activity.

The government should ensure the efficient functioning of redress institutions which are accessible to victims of violations of the rights to food and water; these can be commissions, ombudspersons, or courts.⁹⁸ Ombudspersons working alongside local NGOs can carry out investigations and assessments to ensure greater conditions of safety for IDPs. Robust and independent human rights commissions or ombudspersons are instrumental in providing remedies for violations of the rights to food and water. States that do not have such structures are encouraged to establish them, with their autonomy and independence in accordance with the Paris Principles.⁹⁹ Brazil has in place a Special Rapporteur on the Right to Food responsible for collecting data on the right to food, highlighting problematic areas, identifying violations, and addressing emerging issues. Human rights entities should also be involved in information campaigns which inform the public of the rights they hold and the remedies to which they are entitled.¹⁰⁰

In the Context of Durable Solutions

Well-functioning and coordinated mechanisms are particularly important at the return and resettlement phase. Government agencies with mandates which

Nutrition [SCN] Information Meeting on the Critical Role of Nutrition for Reaching the Millennium Development Goals, New York, June 2005.

⁹⁸ See Cotula & Vidar, *supra* note 42.

⁹⁹ Voluntary Guidelines, *supra* note 37, at 18.1.

¹⁰⁰ *Id.* at 7.3.

specifically include providing assistance to IDPs must liaise with numerous other government entities, including the army, to provide assistance with clearing mines in agricultural resettlement or return sites. Liaisons with local municipalities are also critical in the construction of wells for potable water and to ensure the maintenance of water facilities, for example.

With respect to the restitution of property—as regards the rights to food and water, this would mean the identification of appropriate productive agricultural land for resettlement and ensuring formerly owned agricultural plots are still viable for production. Institutions should ensure that the complex and drawn-out processes of land transactions are streamlined and made cost-effective to cater to the situation of IDPs. Institutions are particularly important in filling in the gaps between formal statutory and customary systems, particularly in African, South Asian, and Latin American countries, where it can be hard for displaced persons to prove their ownership rights. Roles for institutions include awareness campaigns to explain resettlement policies, informing communities of their rights, and assisting with the completion of registration forms.

Mechanisms should be in place for redress of grievances, varying from administrative hearings for complaints to access to courts for breach of rights. Angolan Decree No. 1 of 2001, Norms on the Resettlement of Displaced Populations, is a useful reference law in this regard, setting out the organs responsible for the resettlement and return of displaced populations and the composition of such organs. It goes on to list the competences of the various responsible agencies, state administration, and institutions responsible for social assistance.

INTERNATIONAL ROLE

Article 11 of the ICESCR, delineating the right to an adequate standard of living and the right to food, is the only provision for which the requirement of state cooperation is specifically reiterated.¹⁰¹ Agreements between

¹⁰¹ Marc Cohen et al., *Recommendations, in* GLOBAL OBLIGATIONS FOR THE RIGHT TO FOOD (George Kent ed., 2007).

governments and humanitarian organizations can also establish the parameters for collaboration. The Protocol for the Creation of a Permanent Framework for Consultation on the Protection of Displaced Persons between the Government of Burundi and humanitarian organizations of the United Nations System (2001) created the Permanent Framework for Consultation on the Protection of Displaced Persons (CPF/PDP). Its mandate includes ensuring consultation and information-sharing, designing initiatives to promote the effectiveness of existing structures, and implementing intervention mechanisms, including joint field missions. The Great Lakes Region Protocol on the Protection and Assistance to Internally Displaced Persons provides an example of inter-state cooperation providing a regional framework for the monitoring and follow-up of the standards contained in the *Guiding Principles*.

Recommendations have been made that international fora should be convened along the theme of the implementation of the right to food in order to discuss extra-territorial responsibilities and international state obligations within the context of the ICESCR framework.¹⁰² Advocates of IDP rights might use these fora to ensure that obligations specifically refer to IDPs. Through joint strategies and partnerships with relevant international organizations, local NGOs can complement the resources and assistance brought in by international actors by providing context and cultural-specific information. It is also important to distinguish between the different types of obligations on the various actors at the international level. The obligation of states to protect the rights to food and water apply equally to agents of the state and non-state actors. The significant role of transnational corporations in privatized water services as well as food production, trade, processing, and marketing means they should be regulated to observe human rights principles not only by the state in which they act but through international cooperation as well.¹⁰³ Any state parties that can influence, either politically or by legal means, other third parties to respect the right to food, should do so in accordance with the United Nations Charter and relevant international law.¹⁰⁴

¹⁰² *Id.*

¹⁰³ See Vidar & Donati, *supra* note 18.

¹⁰⁴ General Comment No. 15 (2002), *supra* note 9, at ¶ 38.

SUMMARY OF RECOMMENDATIONS

Humanitarian assistance

1. Mechanisms should be developed in line with the main tenets of the Food Aid Convention.
2. Sphere Project Humanitarian Charter and Minimum Standards in Disaster Response guidelines should be followed.
3. Nutritional considerations should also be taken into account, such as the provision of sufficiently varied food items, and targeted interventions in the form of micronutrients and vitamin supplements for vulnerable subgroups such as children or expectant mothers.

Physical Access to Food and Water

4. Government security forces, intervening states, or emergency assistance agencies should prioritize the creation of a secure environment for IDPs through the clearing of sites and agricultural land of mines and unexploded ordnance (UXOs) or munitions and explosives of concern (MEC), providing protection for those needing to leave camps and other verifications of security.
5. Targeted assistance should be provided to IDP groups in the form of extension services, marketing, credit, tools, and technology provision.
6. Strategies which enhance nutritional security by promoting livestock and crop diversification, soil conservation, and environmentally sound land and water management techniques should be encouraged.
7. Technical assistance should be provided in coordination with other government bodies to locate appropriate land, provide assistance with moving, and provide the necessary input assistance for resettled communities to begin production.

8. Adequate grain stores, seed saving strategies, and seed banks should be set up as contingency plans to be used during displacement and for the initial period of resettlement.
9. Rainwater harvesting and similar technology should be constructed to make use of available water resources. The law should mandate water supply points within a safe distance from the camp or settlement, and determine the minimum quantity to be supplied.
10. Settlements should be located near transport routes in areas away from conflict zones, with a sufficient supply of natural resources so as not to strain or damage the surrounding environment.

Economic Access to Food and Water

11. Limited use of short-term solutions such as resource-sharing schemes and welfare benefits should be encouraged where necessary and greater emphasis is placed on specifically targeted affirmative action programs to increase employment prospects for IDPs.
12. Job creation should be diversified to include the support of small and medium scale enterprises, and labor-intensive public works.

General Law and Policy Considerations

13. A framework law on the right to food should be developed to provide a legal basis for the normative content of the right to food at the national level. This will assist implementation of food related provisions in IDP-specific protection laws.
14. The consistency of IDP-related legislation with the panoply of other laws impacting the right to food and right to water should be ensured.
15. The role of women in distribution and management of food and water should be strengthened.

16. IDP-related legislation should include clauses prohibiting discrimination against IDPs as a group, and also between various subgroups. Schemes designed to integrate or assist vulnerable sub-groups should be incorporated into policy.

17. The participation of IDPs in the projects designed to assist them should be ensured.

18. The government must provide information on policies and rights, creating an awareness of options available for IDPs.

19. Multi-sectoral agencies, local government, and other relevant stakeholders should assist in the design, implementation, management, monitoring, and evaluation of projects.

20. Response mechanisms should be decentralized to municipal and county levels.

21. Court procedures, during emergency situations, should be simplified and the availability of funds for legal aid increased. A network of institutions with right to food and right to water expertise that can provide legal counsel should be established.

Monitoring

22. A human rights based approach should be used in formulating indicators and benchmarks. States should gather information to identify why the right to food has not been realized with respect to a group or individual.

International Cooperation

23. Frameworks for collaboration with international organizations or neighboring states should be adopted.