

Action Sheet 19

Access to food and nutrition

Key message

The right to adequate food and nutrition is "the right of every man, woman and child alone and in community with others to have physical and economic access at all times to adequate food or means for its procurement in ways consistent with human dignity".

Access to adequate food and nutrition is one of the most important humanitarian concerns for any human being together with access to water, particularly in situations of conflict and even more so in displacement. The first form of humanitarian aid to protect the lives of displaced and war-affected populations is often food aid. If delivered strategically and in a protection-sensitive manner, food aid will not only save lives but also contribute to the rebuilding of communities and foster peace and reconciliation efforts. Conversely, if provided without due regard to the political environment and the underlying causes of displacement and food insecurity, food aid can do more harm than good.

For food aid-related activities to be effective, it is important to ensure the means that allow for an optimum utilisation of the food provided, such as through education on food preparation, or the provision of non-food items like cooking fuel and utensils. In addition, food security is closely interlocked with income-generation, self-reliance and development activities, which have been dealt with in the chapter on livelihoods¹. This chapter will therefore concentrate mostly on protection issues related to food aid and nutrition until such time as livelihoods start to be restored and IDPs increasingly regain their independent access to adequate food.

1. Food insecurity and malnutrition in the context of internal displacement

During displacement, all stages of human nutrition – production, procurement, preparation, allocation, consumption and biological utilisation of food – are disrupted, leaving malnutrition, disease and death in its wake². Communities, which may have developed coping mechanisms and solidarity networks to mitigate the impact of food shortages find themselves suddenly scattered and without their vital safety nets.

In addition, poverty and food shortages can expose displaced persons to serious risks, such as prostitution and sexual exploitation of women and girls. Particularly mothers can feel compelled to use any possible means for obtaining food for their children, including by agreeing to sex favours or prostitution. Food shortages and inadequate nutrition in the case of children, can seriously affect a healthy physical and mental development which may be vital in situations of conflict. It can also prevent them from going to school and push them into child labour to contribute to the family's income.

*Understanding the nature of displacement, the context in which food insecurity has arisen and its real causes, as well as the social dynamics of the communities with whom humanitarian agencies operate, is essential to ensure that food aid not only contributes to preserving the life and adequate nutrition levels of those affected by displacement, but also realises its full potential to become itself an **agent of protection**.*

As an agent of protection, food aid can contribute for instance towards ensuring children's, -- particularly girls'- access to education through school feeding schemes, so that children, in food-insecure communities, such as those affected by internal displacement, can stay attend school regularly and in increasing numbers by providing meals.

2. Responsibility of the State

States should do everything possible to promote full enjoyment of the right to adequate food for everyone within their territory; some of these measures would be of an obviously immediate nature, while

¹ See Action Sheet 17, *Access to livelihood opportunities*

² Pejic, Jelena, The right to food in situations of armed conflict: the legal framework, in *IRRC*, December 2001, Vol. 83, No. 844, pp. 1097-1109.

other measures would have a longer-term character, to achieve progressively the full realization of the right to food¹. In this context States must:

- Abstain from taking any measure that could prevent IDPs' and other affected populations' access to food;
- Take active steps to secure the right to adequate food whenever an individual or group is unable to enjoy this right by the means at their disposal. This includes preventing discriminatory access to food on the basis of sex, age, disabilities or specific background, as well as preventing malnutrition or starvation. If the State does not have the resources to, it should seek international support.
- Strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. This includes enforcing security measures in key locations such as roads, settlement sites, agricultural areas and marketplaces.
- Ensure that food not only provides the optimum nutrition required for a healthy and active life, but that it is also culturally acceptable and free from harmful substances
- Take conflict-resolution and prevention measures to ensure access to- and sharing of vital resources for food preparation such as firewood.

3. The role of human rights and humanitarian actors

Humanitarian aid in situations of displacement must focus on restoring food security, both in the short-term by distributing emergency rations and related non-food items, and in the long-term by providing opportunities to either generate income with which to obtain food, or to produce food in the places of origin or resettlement.

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Assessment and analysis*

- ✓ At the onset of a crisis, food aid agencies are usually the first ones to have access to displaced populations. It is essential to liaise with them to obtain first-hand information on the overall conditions and existing protection gaps.
- ✓ Participatory and joint assessments to establish food and nutrition needs should be preferably carried out in conjunction with specialised staff in the fields of protection and community services to enable adequate identification of protection risks for persons of different ages, sex or backgrounds.
- ✓ If joint assessments are not possible, protection mandated agencies should coordinate with food aid agencies to ensure that food-aid and nutrition assessments look beyond the need for food and into the (potential) protection concerns of a community:
 - To ensure that food distribution does not exacerbate vulnerability: (by identifying who are the most invisible groups in the community and what are the power-relations and existing specific needs of any groups according to age/sex).
 - To ensure that the community's and individuals' own coping mechanisms are supported and, if possible, reinforced (for instance, assess the level of "visibility" IDPs have and whether they have opted for hiding in order to protect themselves. This will greatly impact on food distribution modalities)
 - To ensure that specific nutrition needs of different groups are protected (including children, elderly, chronically ill and pregnant and lactating women).
- ✓ Ensure that joint assessments on food and related sectors include populations who are not in camps or broader settlements, but also those dispersed in smaller groups and living with host families.
- ✓ Ensure that the food needs as well as their nutrition and public health conditions of host communities are also assessed from the planning stage to avoid creating tensions by assisting only displaced communities amongst an overall impoverished population. Eventually approach the food-aid programme with a broader perspective, such as fostering cohabitation between IDPs and other affected populations.

<p>Planning* and programming of food aid and nutrition support programmes</p>	<p>Promote joint planning and programming between protection and food-specialized agencies. Consider possible protection-related aspects in the programming of food aid, such as:</p> <ul style="list-style-type: none"> ✓ Ensuring that distribution methods take into due account the IDP's protection coping strategies, such as invisibility (see above). ✓ Despite higher logistical constraints, promoting a food-aid system that enables IDPs to live amongst host families or in a more dispersed manner. To the extent possible, avoid that food aid creates a pull factor for encampment if there are other alternatives.³ ✓ Ensuring life-saving nutritional support to malnourished children ✓ Ensuring that mothers receive specific support to maintain breast-feeding and that appropriate infant and young child feeding is promoted and protected ✓ Concrete measures to ensure that the possession of food does not expose IDPs to further human rights violations: <ul style="list-style-type: none"> ▪ Undertake joint planning with internally displaced women and men, including but not exclusively IDP leaders, to ensure that adequate measures are taken to minimize protection risks for the population. ▪ Planning the frequency of distributions has key protection implications, since more spaced distributions may imply providing larger quantities, thereby potentially putting the IDP and other affected populations at risk of attacks and pillages. ▪ Planning the location of distribution points and their distance from places of residence also has protection implications. Recipients of food aid should not have to traverse long distances or go through conflict zones, which may expose them to serious safety risks, particularly women and children. 	<p><i>In war-torn countries where infrastructure has been destroyed, markets depleted and there is no possibility of growing or purchasing food, food warehouses and convoys have been repeatedly attacked. On occasions, IDP settings have been attacked by fighters, either during or immediately after a food distribution, as was the case in Liberia in the late 1990s. The realisation that food aid could be diverted and fuel conflict prompted some NGOs and UN Agencies to issue the Joint Principles or Operation, a first attempt at a code of conduct for humanitarian actors which operated in Liberia in the late 1990s and early 2000s.</i></p>
<p>Registration</p>	<p>Within the “cluster approach”, registration is not the sole resort of food agencies. Yet, food distribution is, indeed, one critical situation where registration of IDPs is warranted.⁴</p> <ul style="list-style-type: none"> ✓ Systems should be devised in cooperation with other agencies and should include relevant information that would allow not only to address food needs but also to reveal other, especially protection-needs (as explained in the assessment “box”) ✓ At a minimum, registration should include data disaggregated by age, sex, place of origin, ethnic background, etc. ✓ Registration should be individual. The concept of “head of family” should be abandoned or at least never used to exclude the registration of other adult family members. ✓ In addition, given the sensitivity of the information, personal data and lists of recipients should be kept strictly restricted to concerned actors and kept safe from unintended use. ✓ Special attention should be made for the timely registration of births, which has a direct impact on the exercise of the right to access food. 	

³ See chapter xxxx on shelter

⁴ See chapter xxxx on registration and profiling

<p>Provision and facilitation of assistance*</p>	<ul style="list-style-type: none"> ✓ Ensure that there are procedures in place to guarantee the safety of women and children during food distribution, such as a zero-tolerance policy for sexual exploitation and other forms of abuse of power by aid workers or those collaborating in provision of food aid should be adopted. To this end, it is important to particularly consider: <ul style="list-style-type: none"> ▪ Making sure that all IDPs are aware of their entitlements. ▪ Ensuring that distributions are undertaken by a combined group of stakeholders, including men and women, to avoid corruption and deviation for other purposes. ▪ Hiring female staff for key managerial positions. ▪ Frequent monitoring of store’s management and records keeping, ▪ Providing for safe areas for children waiting for their parents during lengthy food distribution processes, to avoid any forms of violence and abuse or family separation during that time. ▪ Ensuring that all humanitarian staff know the consequences of abuse of power. ▪ Ensuring that women are the ones receiving the food-rations so that they use them directly to ensure adequate feeding of their families. ▪ Providing means for assisting women, children, older persons and persons with disabilities with food transportation.
<p>Monitoring*</p>	<ul style="list-style-type: none"> ✓ Conduct regular consultations and post-distribution monitoring with the community to assess the impact of food distributions, utilization of food, or protection problems that may arise during or after distributions. Involve the community in the identification of solutions. Monitor regularly the consumption of food rations by recipients to ensure that aid is not being diverted after the distributions. ✓ In camp situations, consult closely with agencies monitoring the civilian character of camps and provide relevant information relating to food monitoring. ✓ Monitoring mechanisms should include a system for referral of detected cases in need of immediate response; i.e. medical care and legal assistance and counselling, for instance, in cases of food-related sexual exploitation, abuse or corruption. ✓ Undertake country-wide surveys together with other agencies to identify instances of food blockage by armed actors or other actors as well as discriminatory access to food aid, which should be followed up by the Protection Cluster or working group and the HC with the relevant stakeholders. ✓ Monitor whether school-feeding projects attract, retain and increase the percentage of boys and girls at school and review the programmes as necessary. ✓ Monitor whether food aid has an impact on the level of prostitution or survival sex amongst women and, if so, assess which are the key factors that trigger it (i.e. lack of diversity in food items, too small quantities, etc) ✓ Ensure appropriate monitoring of the nutrition status of the population by specialized agencies
<p>Training and awareness raising</p>	<p>In order to ensure the incorporation of protection elements in the programming of food aid and nutrition, secure:</p> <ul style="list-style-type: none"> ✓ Training on protection issues to those involved in food distribution and food monitoring to ensure that they understand the implications of food aid as a whole, and that they are able to foresee and/or detect abuses ✓ Training of food aid and related sectors staff to become acquainted with the mandates and specific tasks of protection agencies as well as on referral mechanisms. ✓ Maximize the use of food distribution exercises for community mobilisers to promote awareness of certain protection issues, such as access to education, situation of separated children, nutrition, female genital mutilation, etc.

4. Key legal principles

The right to food and the right to be free from hunger

Access to adequate food is both an **individual right** and a **collective responsibility**. The right to freedom from hunger is intrinsically linked to the right to life; at the very minimum, States must ensure that populations in their territory do not starve.

The Universal Declaration of Human Rights in its Article 25, states that "everyone has the right to a standard of living adequate for the health and well-being of himself and his family, **including food...**" The International Covenant on Economic, Social and Cultural Rights recognises the "the right of everyone to an adequate standard of living ... including **adequate food**"⁵ and, "the fundamental **right of everyone to be free from hunger**"⁶.

As with other economic, social and cultural rights, the right to food requires **States to take specific actions**. The Covenant on Economic, Social, and Cultural Rights establishes a **general obligation of States to work toward "progressive realization"** of these rights using the maximum of "available resources"⁷ Nonetheless, it is generally agreed that this principle does not exclude the imposition of immediate obligations irrespective of State resources. States are obliged to "take steps" to continuously improve conditions, and they have a duty to refrain from adopting deliberately "retrogressive measures"⁸.

In addition, States have an immediate **obligation to avoid discrimination in access to adequate food**. This requires that someone not be discriminated against on the basis that they are displaced. The Guiding Principles on Internal Displacement⁹ establish that "humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination".

According to the Committee on Economic, Social and Cultural Rights,¹⁰ the **right to adequate food** requires that food be available in quantity and quality sufficient to satisfy the dietary needs of individuals (by feeding oneself directly from productive land or other natural resources or through distribution networks). Food supplies must be safe, culturally acceptable and economically and physically accessible.

The right to food does not mean that the State has an obligation to feed everyone. Frequently individuals themselves are able to satisfy their own livelihood needs if given the chance to do so. Hence a basic obligation of States is **to respect the right of individuals to an adequate standard of living by not interfering with them in their attempts to access food**. For example, unless the authorities are able to provide an alternative source of foodstuffs, it would not be legitimate for them prevent IDPs from growing their own food on unused public lands. Similarly, States have an **obligation to protect against such violations** of rights by companies, individuals or other non-State actors and eliminate incentives to violate rights by third parties.

At the same time, however, States have an obligation to **fulfil** these rights. This means that States are required **to create conditions that guarantee food security, for example through legislation, public policy and specific programmes**. To the degree permitted by the circumstances, such measures must take into account the specific needs of IDPs and other persons affected by armed conflict. The obligation to fulfil the right to food also comes into play in humanitarian emergencies: "whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfil (provide)* that right directly. This obligation also

⁵ ICESCR, Art. 11.1

⁶ ICESCR, Art. 11.2

⁷ Article 2.1 of the ICESCR, see also Article 4 of the CRC.

⁸ See interpretation of art. 2 of the ICESCR in CESCR General Comment No. 3

⁹ Principle 24.1.

¹⁰ CESCR, General comment 12.

applies for persons who are victims of natural or other disasters.”¹¹ With regard to IDPs specifically, the Guiding Principles¹² set out that “[a]t the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to: (a) Essential food and potable water”.

Oftentimes **States are unable to provide food assistance to prevent malnutrition and starvation**. International human rights law has also taken this into account by providing for certain **obligations relating to international cooperation and assistance**. The ICESCR establishes a general obligation of States Party “to take steps, individually and through international assistance and co-operation, especially economic and technical” to achieve full realization of economic, social and cultural rights.¹³ This requires that States which are unable to guarantee that the population is free from hunger must seek international assistance, including from bilateral, UN and NGO sources.

The Committee on Economic Social and Cultural Rights indicates, that **States in a position to assist “have a joint and individual responsibility**, in accordance with the Charter of the United Nations, to cooperate in providing disaster relief and humanitarian assistance in times of emergency, including assistance to refugees and internally displaced persons.”¹⁴ “Food aid should, as far as possible, be provided in ways which do not adversely affect local producers and local markets, and should be organized in ways that facilitate the return to food self-reliance of the beneficiaries. Such aid should be based on the needs of the intended beneficiaries. Products included in international food trade or aid programmes must be safe and culturally acceptable to the recipient population.”

International humanitarian law includes the **prohibition of attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population**. This prohibition is a norm of customary law and applies in both international and non-international armed conflicts.¹⁵ This includes foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.

IHL also **prohibits the use of starvation of the civilian population as a method of warfare**, also a customary rule which applies in international and non-international armed conflicts. Doing so constitutes a war crime under the Statute of the International Criminal Court.¹⁶ Under IHL, this rule does not prohibit the use of siege to achieve a military objective. However, when conducting such military operations the parties to the conflict are to respect another customary rule of IHL, they “must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need which is impartial in character and conducted without adverse distinction, subject to their right of control.”¹⁷

5. Key partners

In addition to the displaced persons and the other affected communities, key partners include: Agencies (WFP, ICRC, UNHCR, UNICEF, OHCHR, FAO, specialised food and/or nutrition NGOs) with expertise in the fields of food aid, nutrition, protection, public health, self-reliance, security, logistics, education.

¹¹ CESCR, General Comment 12, The right to adequate food, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/3d02758c707031d58025677f003b73b9?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/3d02758c707031d58025677f003b73b9?Opendocument). See also Guiding Principle 25 which states that “The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities”.

¹² Guiding Principle 18.2.

¹³ ICESCR art. 2.1. This is reinforced in art. 11.2 under which States “shall take, individually and through individual cooperation” measures to fulfil the right of everyone to be free from hunger.

¹⁴ CESCR General Comment 12.

¹⁵ Rule 54, Customary International Humanitarian Law, Vol. 1: Rules

¹⁶ ICC Statute art. 8(2)(b)(xxiv).

¹⁷ Rule 55, Customary International Humanitarian Law, Vol. 1: Rules . Art 54 (2) Protocol I, art. 14 Protocol II.

Familiarity with conditions in both the area of displacement and the area of origin is of utmost importance to ensure culturally appropriate food as well as local procurement of food and NFIs to the extent possible.

It is essential to co-ordinate all activities within the country team as a whole, and particularly with the Camp coordination and management-, Health-, Nutrition-, Education- and Agriculture sectors/clusters, as well as the Logistics common service area and the Food sector, the latter two led by WFP.

When not available locally, expertise and advice should be sought through the Global Emergency Shelter Cluster. The latter can field a specialist to coordinate activities in this sector, at least for the initial planning/implementation period, as well as to undertake an evaluation and make specific recommendations for the re-orientation of the programme. .

Government line ministries (Social Welfare, Health, Public Health, Education, Religious Affairs, Foreign Affairs, Interior).

Faculties of Medicine, Public Health, Agronomy, local industry and professional organizations.

6. Resources

Slim, Hugo and Bonwick, Andrew, *Protection – An ALNAP guide for humanitarian agencies*, Active Learning Network for Accountability and Performance in Humanitarian Action, ODI, 2005.

UNHCR, UNICEF, WFP and WHO, *Food and Nutrition Needs in Emergencies*, 2003.

UNHCR, *The UNHCR Tool for Participatory Assessment in Operations*, First Edition June 2006.

WFP, *Food aid and livelihoods in emergencies: Strategies for WFP*, WFP/EB.A/2003/5-A, May 2003.

WFP, *Nutrition in Emergencies: WFP experiences and challenges*, WFP/EB.A/2004/5-A/3, April 2004.

WFP, *Targeting in emergencies*, WFP/EB.1/2006/5, January 2006

WFP, *Food Distribution Guidelines* (new version forthcoming)

Useful websites

www.righttofood.org

www.fao.org

www.wfp.org

www.alnap.org