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The Right to Adequate Food of Rural and Indigenous Women in Guatemala

Written Submission

Submitted on the occasion of the 43rd session of the Committee on the Elimination of Discrimination against Women (19 January – 6 February 2009) by FIAN International, an NGO in consultative status with ECOSOC, working for the Human Right to Food.

Introduction

The world food crisis has worsened the food and nutrition situation for women. Of the 923 million hungry people worldwide in 2007 about 60 % are women. The high food prices and the crisis in general have particularly affected women and children in such way that their access to food has worsened. The discrimination against women in families means that they are the last to eat or that they eat less nutritious food. As with any crisis people try to save on costs for the basic budget with regard to food quality and quantity. These trends have been studied and documented in detail and the research has revealed that there has been an increase in malnutrition and morbidity in general and that the effects of hunger are even worse on pregnant and lactating women and children during their growth and development.

FIAN International, as organisation lobbying for the Right to Food for more than 20 years, has developed a dual track strategy to fight against violations of the Human Right to Food from a gender perspective, thus acknowledging that women often represent a disproportionately high percentage of disadvantaged, poor, undernourished and hungry sectors of many societies.¹

In Guatemala 60 % of the population lives in rural areas and about 61 % of the population is indigenous.² Poverty and extreme poverty is found mainly in rural areas and therefore affects peasant and indigenous women, in particular. The situation of these women is marked by a high work load (domestic and agricultural work), lack of access to education and information, high vulnerability to any kind of violence and the lack of access to productive resources like land and other economic possibilities to feed themselves and thereby be able to exercise their Right to Food.

1. The Right to Food and its Fulfilment

The legal international framework: Guatemala is State Party to the International Covenant on Economic, Social and Cultural Rights (CESCR) which recognises in its Article 11 the right of everyone to an adequate standard of living. This right includes the right to adequate food, the right to be free from hunger, the right to water and the right to the progressive improvement of living conditions. The state is therefore obliged to adopt progressive means – including legislative ones – for the realisation of this right.

In its General Comment No. 12 presented in 1999, the Committee on Economic, Social and Cultural Rights has published the following interpretation of the right to food: "The right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement." Paragraph 8 of this comment clarifies the basic content of the right to adequate food and determines its meaning:

- The availability of food in quantity and quality which is sufficient to satisfy the food requirements of every person, without any type of harmful substances and culturally acceptable;

¹ FIAN, Women's Right To Adequate Food, November 2008

Y: FIAN, Género hace una diferencia. La Estrategia de Género de FIAN 2007-2010.

² FAO, La mujer en la agricultura, medio ambiente y la producción rural, Servicio de Género y Desarrollo.-

- The availability of food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

Participation, responsibility, access to information and effective measures should be assured on all levels of implementation of the Right to Food.

Furthermore General Comment 12 demands the following: "The principal obligation is to take steps to achieve progressively the full realisation of the right to adequate food. Every state is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger." There are three types of obligations for State Parties in order for them to implement the Right to Food: the obligation to respect, to protect and to fulfil the Right to Food without any discrimination.

Part of the obligations of the State of Guatemala is to identify vulnerable groups who suffer violations of their Right to Food and to develop strategies and appropriate measures to assure, that these vulnerable groups can realise and enjoy their Right to Food through their own means, in the short, medium and long term.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the instrument within the United Nations Human Rights system to protect the rights of women. The Convention does not explicitly mention the Right to Food, but does mention the nutrition part of this right and refers to the protection of women in their equal access to land, credit, income, and social security. Articles 12 and 14 are more relevant to the subject of food. In Article 14.2 CEDAW indicates: "State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: To participate in the elaboration and implementation of development planning at all levels; to have access to adequate health care facilities, including information, counselling and services in family planning; to obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency; to organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment; to participate in all community activities; to have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes; to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication."

2. The Voluntary Guidelines of the FAO and their importance for the fulfilment of the Right to Food for women

In 2004 all member states of the FAO (Food and Agricultural Organization) adopted the Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security. These voluntary guidelines can be used as a tool for monitoring the fulfilment of the economic, social and cultural rights, and of the realisation of public policies of a country with regard to the progressive realisation of the right to food.

The Guidelines particularly encourage the use of the principle of non-discrimination of any kind, including gender, and make reference to the provisions of CEDAW. The Voluntary Guidelines repeat in different focal contexts the requirement of paying special attention to the situation of women. With regard to the Right to Food of peasant and indigenous women and their access to productive resources as a means to be able to fulfil this right, Guideline 8 of the FAO stipulates a series of demands upon the State parties to provide, promote and fulfil not only access to productive resources, but also to include these women into a broad participation in the economy, agricultural investigation and development, and in the entire legislation, including that part which refers to their right to inherit and own land and other properties.

Guideline 10 refers to the nutrition problem and requires that states must adopt any necessary measure to eliminate all types of discriminatory practices, especially those regarding gender, in order to achieve an adequate food and nutrition level in each household. Furthermore, states must consider culturally determined eating and dietary habits and should establish methods to promote a healthy and safe nutrition. These methods include an equal distribution of food in communities and households, with a special focus on the need and rights of girls and boys, and of pregnant and lactating women in all cultures.

Without sufficient regard to what has been said above, it will be difficult to achieve important changes concerning the perception of the economic, social and cultural rights of a population. Therefore, the member states should offer, reinforce and extend opportunities in education, especially for girls and women, and for other neglected segments of the population (Guideline 11).³

3. The situation of peasant and indigenous women in Guatemala

In the following , FIAN would like to briefly highlight the situation of violation of the Right to Food of a particularly vulnerable section of the population in Guatemala which are the peasant women, specifically indigenous peasant women, focusing on the subject of access to productive resources of these women in order to be able to exercise their Right to Food. According to published reports during past years and more recent information, the situation of peasant and indigenous women in Guatemala has not improved, even though some Government programmes have been introduced to improve the situation in rural areas. The most widely known, discussed and criticised of these programmes is the FONTIERRA with its three components of access, regularisation and leasing of land. ⁴

This programme, since its start in 1997 until 2005, had given credits for the purchase of 221 farms, benefiting 18,049 families, of which only 1,957 were women recognised as "household heads". With regard to the programmes to regularise and lease land there is no data available. In all registered cases women are co-proprietors as the land was registered in collective ownership (cooperatives, enterprises, etc.). This

³ Véase en más detalle: Vigilando la Acción Estatal contra el Hambre. Como usar las Directrices Voluntarias sobre el derecho a la alimentación para monitorear las políticas públicas. FIAN y Welthungerhilfe, 2007.

And: TheT Voluntary Guidelines on the Right to Food as a Human Rights based Monitoring Tool, FIAN 2007.

⁴ Véase: Misión Guatemala...combatir el hambre.. . Informe de seguimiento a las Recomendaciones del Relator Especial sobre el Derecho a la Alimentación para Guatemala, Jean Ziegler. CIIDH, 2007

means that the women mentioned are either single mothers or widows, whereas the women who are wives or living in partnerships with "household heads" do not appear in the property register, even though they are a prerequisite so that men can have access to land.⁵ In general, FONTIERRA is not considered a success. It was poorly executed, and the budget for this fund was decreased. The budget was also never supplied with the sufficient financial means that were originally stipulated.⁶

At present there are no other instruments to promote the access to the resource land. On the contrary there is an alarming tendency back to land concentration in the hands of big landholders and companies, as governmental regularisation and administrative land policies have created incentives to incorporate land into the land market. Due to the grave economic situation, in general, and the poverty situation especially of the peasant and indigenous population, many had to sell their land or lost their land because they could not pay back the credit to FONTIERRA.

What has been described above only depicts a small part of the whole problem. What is missing is a political strategy to fulfil the Right to Food and to guarantee a Food and Nutritional Sovereignty. The Government should promote a strategy in conjunction with civil society organisations, composed of peasants, women and indigenous people, in order to achieve the fulfilment of this right.

It remains to be mentioned that it is not sufficient to regulate the co-property of women in order to promote the empowerment of peasant and indigenous women. It is absolutely necessary that women participate during all stages of decision making, which means in cooperative councils, committees, representations, official institutions and non-governmental organisations, in order to guarantee their inclusion. Furthermore, their capacity building is necessary regarding information and education about not only their political, but also their economical, social and cultural rights.⁷

Many peasant and indigenous women cannot make a living any more from their land, because it does not sufficiently produce or because they have had to sell it and therefore are forced to work as agricultural workers on other people's land. That is why we draw attention to Art. 139 of the Labour Law of Guatemala which has been subject to discussion and demands by women's organisations.¹ In many cases, traditionally, the whole Guatemalan family works as agricultural labourers on other farms. In this context Art. 139, due to the way it has been written, has been used in an abusive or misinterpreted way. Depending on the interpretation of the article, families or women working with their husband or partner have been affected in different, detrimental ways, even though Art. 139 had originally been written to protect the women and children of a working family group. Therefore, women and other organisations related to labour rights have been demanding that this Article 139 should be modernised and revised in such way that any reference to the civil status of persons working together should be eliminated and that women are all to be considered independent workers in their own rights under the protection of the Labour Law.⁸

⁵ Rosalinde Hernández Alarcón, *Las Campesinas y su derecho a la tierra*, 2006, p.65

⁶ Véase: *El Observador*. La tierra continua mal distribuida. Noviembre 2008

⁷ Véase: *Cultivating Women's Rights for access to Land*. Country analysis and recommendations. Page 41: Guatemala, 2005

⁸ *Misión Guatemala...*, p. 50, CIIDH, 2007. Y: *Las Campesinas y su derecho a la tierra*, p.81

4. Observations and Recommendations

As the situation of peasant and indigenous women in Guatemala does not diverge from the situation of the majority of rural women worldwide, FIAN would like to recommend that CEDAW should adopt a general recommendation with regard to the Right to Food in an integrated way, including the different dimensions of this Right which should consider the diversity of women and also the differences in their food and nutritional necessities. Such recommendations could also help that member states might introduce monitoring methods with regard to the Right to Food with special focus on women, applying the FAO Voluntary Guidelines as a tool to monitor state actions against hunger.

As far as Guatemala is concerned, we would like to present our recommendations as specific questions with special regard to the fulfilment of the Right to Food of rural and indigenous women:

1. Law of Rural Development⁹

There is a new proposal for a Law to promote rural development in Guatemala.

This new proposed law includes, in all aspects, the rights of rural women in a clear, participative and affirmative way and uses a gender sensitive vocabulary?

The Law applies in an equitable way the subject of land property of women and their independence as actors to have access to resources so that they can feed themselves (that means not only land, but also credits, formation, education, etc.)?

2. Access to the resource land for rural women

The Government of Guatemala has planned to strengthen and/or reform existing programmes to facilitate the access to the resource land for rural women.? How will their recognition as food producers be acknowledged?

The Government is planning an integrated and agreed upon strategy to fulfil and guarantee the Right to Food and food and nutritional sovereignty of rural women?

Does there already exist or is there a plan for a strategy to empower peasant and indigenous women through their taking part in all instances which might influence their ability to exercise their economic, cultural and social rights?

The concept of "household head" (in its female and male expression) still plays a certain role in official regulations, for example in the context of FONTIERRA. This concept completely excludes, for example, women who are not married and do not have children.

The Government is planning to abolish this hierarchical category (household head) and to replace it with a concept, which might represent persons living in a household or family group in a way which reflects their individual rights as rights holders?

⁹ Ley del Sistema Nacional de Desarrollo Rural Integral (Versión Final), sin fecha.

3. Labour Law Art. 139

How could this article be reformed or rewritten in such a way, that the civil status of women will be completely independent from their work as agricultural labourers? The Government of Guatemala has thought about this or is planning such reform? How is the remunerated work of those peasant and indigenous women being evaluated who are working as agricultural and livestock labourers?

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