

Legislative Framework on the right to adequate food and nutrition for school children, XXXI FOPREL Meeting.



Forum of Presidents of Legislative Bodies of Central America and the Caribbean Basin (FOPREL)

Legislative Framework for School Feeding

CHAPTER I

GENERAL PROVISIONS

Article 1. Purpose of the Act:

To establish a legal framework that would allow each Member State to implement policies and strategies to ensure on a permanent basis and as a national priority the right to food, food and nutrition security of children and adolescents, geared towards a healthy and active life.

Article 2. Duties and obligations of States:

- a) It is the duty of the State to respect, fulfill, protect and promote that the children and adolescent population can exercise their right to food. These obligations continue to exist during armed conflicts, emergencies and disasters.
- b) Duty to guarantee. The States should ensure timely access to the amount of food that may be necessary for the healthy development of the child and adolescent population who live in adverse socio-economic and environmental conditions.
- c) The State shall inform, monitor, supervise and evaluate the implementation of this law and ensure mechanisms for their enforcement.
- d) The exercise of the human right to adequate food by the child and adolescent population is assumed as a state policy with an integrated approach within the framework of national, sectoral and regional policies.

Article 3. Purpose of Law:

- a) To achieve the full realization of the human right to adequate food.
- b) To protect the health of children and adolescents attending public and private institutions, at the infant, primary and secondary education level, through the promotion of healthy eating habits in the school environment, so as to contribute, - and acting on this risk factor - in the prevention of chronic under nutrition, overweight and obesity, hypertension and in this manner on related chronic non-communicable diseases.
- c) To implement actions to improve the nutritional status of children and adolescents attending public and private schools.
- d) To promote healthy eating habits throughout the population.
- e) To ensure that students attending these establishments have the possibility of adopting nutritious food and beverages into their food habits, and ensuring that these are available within the school premises.
- f) To incorporate into the eating habits food and beverage suitable for coeliacs and diabetics as a way to promote equity.

- g) To promote that the supply of food and beverages offered at schools fit the list established in subsection d) of Article 6, hereof.

Article 4. The Aim of this Act is:

- a) To declare as national priority policies and strategies of the right to adequate food for children and adolescents.
- b) to establish strategies for overcoming malnutrition, hunger, overweight and obesity and ensure the health of children and adolescents of State Parties,
- c) To strengthen the public institutional capacity so as for each State to be able to guarantee the right to food, with particular emphasis on children and adolescents, in accordance with the principles of cultural diversity and productivity of the communes, communities, peoples and nationalities.

Article 5. Scope:

The obligations under the right to adequate food are binding on all branches of government and other authorities of public education (at all levels: national, regional or local) and private.

Holders of the right to food are individuals.

The State shall promote international cooperation and provide the necessary assistance to ensure the realization of the right to food of children and adolescents in other countries should they be able to do so.

Article 6. Guidelines for school feeding:

a. Using healthy and adequate food entails varied and safe food from the nutritional and sanitary perspective, and that respecting the culture, traditions and healthy eating habits, contribute to the growth and development of students and school performance in accordance with their age group, especially those that need specific attention and / or are in a state of social vulnerability.

b. It shall ensure a sustained delivery of the school feeding supply, especially encouraging the acquisition of diversified food produced locally and preferably by family farming and rural farmers, giving priority - when possible- to traditional indigenous communities. In any case, it is the responsibility of the State to ensure the health and safety of food for public and private schools as well as the observance of hygiene measures in its processing and distribution.

c. The Ministry of Health shall prepare a list of nutritionally adequate foods and drinks that will have information for the population groups linked to schools (students, teachers, non-teaching staff and parents), establishing recommendations for healthy eating at different stages of life, as a form of promotion of healthy food to the community.

d. Ban advertising in educational establishments of groups of foods and drinks that are not included in the list referred to in the preceding paragraph.

e. The Ministry of Education and Culture will include in education programs the topic of healthy eating habits and encourage safe water consumption and physical activities.

Article 7. Guiding principles:

a. Participation: The community can participate through social control, of the actions taken by States to ensure the supply of healthy and adequate school food. Such participation should be active, free and meaningful, regardless of it being exerted directly or through intermediary organizations that represent specific interests.

b. Accountability: The states shall ensure that interventions are based on objective information and methods, have mechanisms for ongoing monitoring and evaluation, promoting transparency in public action, social audit and take into account the real needs of the population.

c. Equality. All human beings are born free and equal in dignity and rights. The State shall promote the conditions necessary to achieve real equality adopting measures and policies of affirmative action that considers diversity, with the goal of achieving equity and social justice, ensuring equitable conditions specific to the enjoyment and exercise of their rights to adequate food.

d. Non-discrimination: the State shall respect, protect and guarantee the right to adequate food without discrimination and especially protect vulnerable children and adolescents in their right to adequate food. Any distinction, exclusion or restriction based on race, color, sex, age, language, religion, political or of another other opinion, of national or social origin, property, birth or other status which has the effect or purpose to hinder or restrict the children in exercising their right to food will be considered an illegal act and will be subject to penalties as provided by law.

e. Empowerment: People must have the knowledge, responsibilities, skills, capabilities and access needed.

CHAPTER II

DEFINITIONS.

For the purposes of this Act, the following definitions are adopted

a. **Health:** According to WHO (World Health Organization), health is defined as "a state of complete physical, mental, emotional and social balance, and not merely the absence of disease or infirmity". Health is closely related to food, as mentioned above; so it is very important that family and actors linked to feeding the children and adolescents know how to eat according to age, sex, height and know what physical activities to perform. So then, health can be obtained by maintaining good nutritional status.

b. **Malnutrition:** Is due to deficiencies, excesses or imbalances in the nutrient intake. Formally speaking, the meaning of "malnutrition" also includes under nutrition and over nutrition.

- c. **Malnutrition** (under nutrition): is nutrient deficiency caused by an inappropriate, low calorie and low protein diet. It can start by taking a very small amount of food for a long period of time, which is classified as primary malnutrition. It occurs mainly among low-income countries and mostly affects the child population.
- d. **Chronic Malnutrition:** Chronic malnutrition in infants, children and adolescents, is the retardation of the expected growth by age and is reflected in the weight and length/height of the child. In this delay in growth in children or adolescents in the growth phase, the body slows its growth in the absence of nutrients causing failures that will affect in the future. This malnutrition can be mild or severe in accordance to the height/length and weight that is registered. This type of malnutrition is closely linked to poverty and in very unequal socioeconomic conditions chronic malnutrition is higher. Chronic malnutrition is also a socioeconomic indicator. According to FAO, Latin America is among the regions mostly affected to a greater or lesser extent by this scourge.
- e. **Overweight and obesity:** are defined as "an abnormal or excessive accumulation of fat that poses a health risk. "
- f. The following are important risk factors for chronic degenerative diseases: hypertension, dyslipidemia, cardiovascular disease, cancer (endometrial, breast and colon), damage to joints (arthritis), insulin resistance and diabetes, kidney damage.
- g. **School Food:** All food offered in education establishments, public and / or private, in any of its three levels: initial, primary and secondary, regardless of its origin.
- h. **Respect:** The member state must recognize that all people have the right to safe food, and therefore have the right to food access. In compliance with this law, the state does not prevent access to food.
- i. **Protection:** the state also has to ensure access to food.
- j. **Realization:** to meet the need for food, the state has to facilitate and provide solutions for short and long term food shortages and malnutrition.
- k. **Stability:** To have food security, a population, household or a person must have access to adequate food at all times. They should not risk losing access to food as a consequence of sudden crisis of any kind, or cyclical events. Thus, the term stability refers to availability and access to food.
- l. **Facilitate.** In the process of facilitating the government implements programs ensuring food security. This includes educating people and access to different foods. The state must reserve the obligation to provide food when the ability to obtain adequate food is hampered among other factors by socioeconomic status.
- m. **Suitability:** Foods are considered adequate in terms of several variables, including safety, nutritional quality, quantity and cultural acceptability of food.

- n. **Vulnerability:** set of factors that determine the susceptibility to suffer from inadequate nutrition or the food supply is interrupted when a failure in the supply system occurs.
- o. **Minimum food** is designed to meet the minimum food requirement that allows the individual to survive.

Article 7. Interpretation of Law.

The interpretation of the contents of this Act and the actions of the authorities will be consistent with applicable international instruments in the field in each State party, the Constitution and national laws.

Article 8º.-Implementation of the most favorable interpretation

When different interpretations arise, the broader standard should be considered or the more extensive interpretation when it relates to recognizing protected rights.

CHAPTER III

SPECIFIC AREAS OF PROTECTION

This bill falls within the scope of the Legislative Framework on the Right and Food Safety, so its application falls within the same areas of protection.

Article 10. Right to Food:

The right to adequate food is a human right, either individually or collectively, to have access at all times to adequate, safe and nutritious food with cultural relevance, in a manner that it be used appropriately to meet their nutritional needs, maintain a healthy life and achieve comprehensive development. This human right comprises the accessibility, availability, use and stability in the provision of adequate food.

Article 11. Conditions for the exercise of the right to food:

Everyone has the right to live in conditions that would allow him/her:

- a. to feed himself/herself through his/her own means from the yield of the land or other natural resources and /or and to have access to distribution systems, and to efficient processing and marketing.
- b. Have the financial ability not only to acquire a sufficient amount of quality food, but also to meet their basic food needs;
- c. Ensuring access to adequate food in cases of unforeseen events or force majeure;

d. Access foods that contribute to an adequate diet, clean water, so as to attain a state of nutritional well-being where all physiological needs are met.

Article 12. Special Provisions

a. Children are entitled to an age-appropriate food and nutrition that would allow them to grow and develop.

b. The State will implement adequate school feeding programs in such a manner as to comply with the provisions of the preceding paragraph.

Article 13.

The competent authorities shall adopt regulations for special measures or submit to the legislature a proposal for legislation to prevent discriminatory practices and to compensate damages caused in the exercise of the right to food of children and adolescents.

CHAPTER IV

ON THE OBLIGATIONS OF STATE

Article 14.

An act that deliberately deprives or obstructs access to food is unlawful.

The State shall ensure that the right to food is exercised and apply penalties and sanctions in accordance with its laws and regulations.

Article 15.

The State will review the administrative and legislative framework for relevance in order to ensure that the activities of private actors within their jurisdiction do not infringe the right to adequate food for all children / and adolescents.

Article 16.

The national state budget will allocate the necessary resources to implement school feeding programs aimed at guaranteeing the fundamental right to food of children and adolescents.

Article 17.

The State, by virtue of international law on human rights, in case there are limited resources, is obliged to give priority to persons with major vulnerability, with special emphasis on children and adolescents.

Article 18.

The State shall establish information and mapping systems on food insecurity and vulnerability to identify groups and households particularly vulnerable to food insecurity and its causes.

Article 19.

To ensure, on the medium and long term, the overcoming of the reasons that force implementing school feeding programs, the public authorities should strengthen production of healthy and nutritious food, organize training programs and education on the benefits and importance of diversifying the diet and provide adequate food to people at highest risk, especially children and adolescents.

Article 20.

The State is required to provide the minimum amount of food to children and adolescents attending public and private schools in the kinder, primary and secondary level, to give full effect to the right of everyone to be protected against hunger especially those who cannot access adequate food, and for that will do the following actions:

- a. It shall designate the competent public authority.
- b. It will establish the legal responsibility of the authority for regular, stable and timeliness of the supply of the "minimum amount of food" to children and adolescents suffering hunger or malnutrition or are at risk.
- c. It shall require from the competent public authority to submit to the legislature within a prescribed period, a proposal for legislation or regulation on School Feeding in regards to the delivery of the minimum amount of food.
- d. The resulting norms or regulations from the legislative framework in regards to the minimum amount of food, will determine the amount of calories, protein and micronutrients corresponding to age, sex, health status, according to the provisions of subsection d) of Article 6 of this bill.

Article 21. - Right to information

- e. The State has an obligation to inform the public of the rights established in this law and in in the resulting regulations, as soon as they take effect, as well as of other measures to facilitate and promote the realization of the right to food among the children and adolescents.
- f. For this purpose it will use the most appropriate forms and methods for disseminating information, including verbal forms (eg, through rural radios) and in the local language or dialect, especially in most remote areas and among the population with higher illiteracy rates.
- g. Establish a simple, fair and accessible procedure that allows people to obtain information relevant to the exercise of the right to food of children and adolescents.

h. It will oblige the relevant public authorities to provide the requested information.

Article 22. The State shall include in the curriculum of primary, secondary and adult education programs education material related to food and nutrition, the right to food and human rights principles.

CHAPTER V

PROVISIONS ON NATIONAL AUTHORITY FOR THE RIGHT TO FOOD

Article 23.

The State shall establish or instruct the creation of a national authority for the implementation of the right to food of children and adolescents, to the effect of fulfilling the function of a central coordinating body for the implementation of the right at the national level.

Article 24 °.

The national authority in the exercise of its functions and powers:

- a. It shall apply the principles of human rights established by law and other international legal instruments to which the country has acceded.
- b. It shall work closely with representatives of civil society and take into account their views.

Article 25.- Powers and Functions.

The powers and functions to be delegated to the national authority for the right to food of children and adolescents through the framework law shall be subject to country-specific circumstances.

The main duties and responsibilities are:

- a. Advise the government and coordinate the various activities and actors involved in the various stages of the Legislative Framework for School Healthy Food and Nutrition for implementing the Right to Food at the national, regional and local levels.
- b. Formulate, adopt and revise national policies on the right to food to ensure they are consistent with the provisions of the Legislative Framework for School Healthy Food and Nutrition and with the "Right to Food, Food Security and Sovereignty" adopted by PARLATINO in December 2012, so as to adequately address the changing needs of the population.
- c. Determine appropriate indicators to measure progress in implementing the Legislative Framework for School Healthy Food and Nutrition and the legislative framework for "Right to

Food, Food Security and Sovereignty" and the exercise of the right to food.

The indicators set should be specific, verifiable and limited in time.

d. Gather information on the consciousness of the right to food and ensure that it is shared and disseminated to all relevant actors in the correct format and content suitable for a variety of users;

e. Submit suggestions to harmonize the relevant sectoral policies to the exercise of the right to food and recommendations for required changes based on the data obtained in the process of technical surveillance and human rights;

f. Establish priorities and coordinating the allocation of resources according to these priorities;

g. Submit to the competent ministry or relevant state bodies proposals for amendments to laws, regulations or policies in force, or to formulate new laws, regulations or policies concerning the right to food or one of its components (accessibility, availability and adequacy of food);

h. Reporting to parliament on the state of implementation of the law "Right to Food, Food Security and Sovereignty" and on the Legislative Framework for School Healthy Food and Nutrition, and the final observations of the surveillance bodies of international treaties that have evaluated the activities of the country on the right to food.

Article 26.- Composition.

Coordination and decision making should reflect the multisectoral nature of the right to food, government, research institutes and statistics, universities, representatives of civil society and the private sector and the Academy, teachers unions.

Government representatives should be officials at the highest level of government in order to ensure that the right to food in children and adolescents receives adequate priority.

The law shall regulate the participation of non-governmental representatives.

CHAPTER VI PROVISIONS ON THE SURVEILLANCE SYSTEM (Monitoring and Evaluation)

Article 27.

An Integrated Surveillance System will be created – that taking into consideration the type of institutions, their powers and capabilities -obliges the authorities and entities at all levels to:

a. Collect data related to food and nutrition security of children and adolescents, using methodologies and monitoring processes that conform to the principles of human rights

established by law.

- b. Disaggregate data collected by age, sex, location and group.
- c. Assess progress in implementing the right to food in the country.
- d. Establish or identify early warning mechanisms.

Article 28.

The surveillance system will be led by a specialized in human rights entity, independent and external to the system.

Article 29.

The State shall ensure that the institution that assumes oversight has the necessary human and financial resources and sufficient credibility to effectively and autonomously monitor and promote the right to food.

CHAPTER VII

PROVISIONS ON REPRESENTATION AND PARTICIPATION OF CIVIL SOCIETY

Article 30.

The State shall ensure that relevant institutions provide for full and transparent participation of the private sector and civil society, in particular representatives of the groups mostly affected.

Article 31.

The views of civil society organizations involved in this theme will be taken into account when designing policies or school feeding programs that could that could have relevance to the exercise of the right to food or some of its components.

Article 32.

To comply with the provisions of the preceding Article, the State shall establish:

- a. Assurances that consultations will be held to examine specific areas of application of the Legislative Framework for School Healthy Food and Nutrition;
- b. Conducting periodic public hearings in which the State is obliged to report on progress made in the implementation of the law and in the progressive implementation of the right to food of children and adolescents.

Article 33^o.- Selection criteria and representation.

To ensure effective representation of representatives of civil society, the selection process must be participatory, transparent, and non-discriminatory.

Article 34.

To ensure fair representation the following will be considered:

- a. The ability of the group to represent the relevant communities.
- b. The size of the group they represent.
- c. The geographical characteristics (urban, rural, forest, etc).
- d. The technical capabilities of the organization in the area of the right to food.
- e. The organizational capacity of the group.
- f. The balance in terms of gender.
- g. The balanced representation of relevant communities and interests within society (farmers, indigenous peoples, fishermen, local communities, forest communities, etc.)

CHAPTER VIII

PROVISIONS ON APPEALS

Article 35.- Administrative appeals.

Decisions or administrative measures in breach of the provisions of the law or its derivatives, such as the omission of performance of an obligation on those rules may be appealed to a higher administrative authority.

Article 36.

The competent higher authority must have the necessary attributions to impose all measures necessary to rectify the violation.

Article 37.

Legislation or implementing regulations will provide efficient administrative procedures and damage control.

The administrative exclusive resources must be complemented with a judicial review before the competent court.