

**DESK STUDY ON EC ACTIVITIES
IN THE RIGHT TO FOOD AREA
AND ON THE RELATIONSHIP BETWEEN
FOOD SOVEREIGNTY AND THE RIGHT TO FOOD**

Final Report

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Expert: Emilia VENETSANO

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Acronyms

| | |
|---------|---|
| AAA | Accra Agenda for Action |
| ACP | African Caribbean Pacific |
| AU | African Union |
| BS | Budget Support |
| CA | Cotonou Agreement |
| CAP | Common Agriculture Policy |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CESCR | Committee on Economic, Social and Cultural Rights |
| COM | European Commission |
| CONSEA | National Council of Food and Nutritional Security (Brazil) |
| CRC | Convention on the Rights of the Child |
| CSP | Country Strategy Paper |
| CSR | Corporate Social Responsibility |
| DEL | EC Delegation |
| DFID | Department for International Development / UK |
| DG-DEV | Directorate General Development |
| ECHO | European Commission's Humanitarian Aid Office |
| ECJ | European Court of Justice |
| EDF | European Development Fund |
| EPA | Economic Partnership Agreement |
| ESAN | Estratégia de Segurança Alimentar e Nutrição (Mozambique) |
| FAFA | Financial and Administrative Framework Agreement |
| FAO | Food and Agriculture Organisation |
| FIVIMS | Food Insecurity and Vulnerability Information and Mapping Systems |
| FLEX | Mechanism for short term Fluctuations in Exports earnings |
| FNS | Food and Nutrition Security |
| FSTP | Food Security Thematic Programme |
| GA | General Assembly UN |
| GBS | General Budget Support |
| GC | General Comment |
| GMO | Genetically Modified Organisms |
| GPAFS | Global Partnership for Agriculture and Food Security |
| HQ | Head Quarters |
| HRC | Human Rights Council |
| HRs | Human Rights |
| IAASTD | International Assessment of Agricultural Science and Technology for Development |
| ICCPRs | International Covenant on Civil and Political Rights |
| ICESCRs | International Covenant on Economic, Social and Cultural Rights |
| ICPD | International Conference on Population and Development |
| IDP | Internally Displaced People |
| ILO | International Labour Organisation |
| ILPW | Intensive Labour Public Works schemes |
| INGOs | International No-Governmental Organisations |
| IQSG | Inter-service Quality Support Group |
| LDC | Least Developed Country |
| LIC | Low Income Country |
| LRRD | Linking Relief, Rehabilitation and Development |
| MDGs | Millennium Development Goals |
| MNCs | Multi-National Corporations |
| MNEs | Multinational Enterprises |

| | |
|---------|--|
| MS | EU Member States |
| NEPAD | New Partnership for Africa's Development |
| NIP | National Indicative Programme |
| NSA | Non State Actors |
| ODA | Official Development Aid |
| OECD | Organisation for Economic Co-operation and Development |
| OHCHR | Office High Commissionaire Human Rights |
| OVC | Orphan and Vulnerable Children |
| PAF | Performance Assessment Framework |
| PAP | Programme Aid Partners |
| PARPA | Action Plan for the Reduction of Absolute Poverty (Mozambique) |
| PCD | Policy Coherence for Development |
| PPP | People Planet Profit |
| PPPC | Provision – Prevention – Promotion - Continuum |
| PRS(P) | Poverty Reduction Strategy (Paper) |
| PRSP | Poverty Reduction Strategy Paper |
| Rhvp | Regional Hunger and Vulnerability Programme (SADC) |
| SBS | Sector Budget Support |
| SD | Sustainable Development |
| SLA | Sustainable livelihoods analysis |
| SSNs | Social Safety Nets |
| SWAp | Sector Wide Approach |
| TA | Technical Assistance |
| TBL | Triple Bottom Line |
| UDHRs | Universal Declaration of Human Rights |
| UN | United Nations |
| UNCHR | United Nations Commission on Human Rights |
| UNCT | UN Country Team |
| UNCTAD | United Nations Conference on Trade and Development |
| UNDP | United Nations Development Fund |
| VG | The Voluntary Guidelines on the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security |
| WB | World Bank |
| WCED | World Commission on Environment and Development |
| WFC | World Food Conference |
| WFP | World Food Programme |
| WFS fyl | World Food Summit five years later |
| WFS | World Food Summit |
| WTO | World Trade Organisation |

Introductory Note and Acknowledgements

The present “*Desk Study on EC activities in the Right to Food area and on the Relationship between Food Sovereignty and the Right to Food*”, in the context of development co-operation, Contract 2009/2246131, has the overall objective “*to investigate whether and how the concept of the right to food could be integrated in a revised EC – and possibly EU – approach to food security and on whether and how to mainstream it in policy areas that could contribute to achieving food security for all*”. Based on the above objective, the final report is expected to:

1. Clarify the concepts of 'right to food' and 'food sovereignty'; provide an understanding of the relationship between the two and of their legal and practical implications;
2. A documentation of existing experiences in the formulation and implementation of national strategies on the right to food, including concrete measures in the area of agricultural support and social safety nets and in the formulation of right to food laws (and related institutional measures taken);
3. An analysis on the possible implications and added value of the concept of right to food in the redefinition of the EC/EU approach to food security in developing countries and brief recommendations on how the adoption of a rights-based approach would affect other EU policies (for instance, in relation to access to natural resources and in the area of corporate social responsibility).

The consultant worked as independent expert in close contact with the Commission, DG-DEV. In addition to the research and consultation of a large documentation, the consultant has also relied on relevant inputs from the kick-off meeting with DG-DEV, Brussels, the meeting with the FAO Right to Food Unit, Rome; the phone-meeting with the Office of the Special Rapporteur on the Right to Food and the phone meeting with the Special Rapporteur Mr Olivier De Schutter.

In compliance with the desk-study objectives, the report is structured in three main, highly interrelated chapters, namely:

1. Chapter A: Introduction to relevant concepts
2. Chapter B: The Right to Adequate Food in Practice
3. Chapter C: How mainstreaming Right to Food into EC Policy Framework to assist Developing Countries addressing Agriculture and Food Security challenges.

The first two chapters comprise two final paragraphs (respectively A.4 “*Broad outline of the EU position*” and B.5 “*Broad outline of the EU response*”) where the EU / EC position and response on the topic are outlined. On this basis, Chapter C explores opportunities and implications of a renewed food security policy fostering the right to food, presents scenarios of operational modalities for promoting the right to food and provides elements on the “EU added value” and the “way forward”. The study contains an Executive Summary and the Bibliography used by the expert for this purpose (always referred to, in the foot-notes).

Acknowledgements

The expert would like to express her gratitude to Ms. Barbara Ekwall, Co-ordinator of the Right to Food Unit / FAO and Ms Luisa Cruz, ESAD/FAO, legal consultant in right to food mainstreaming, for the constructive and fruitful meeting in Rome, the valuable information supplied and the written contribution on the Mozambique case. Ms Beatrice Quadranti, Office of the Special Rapporteur on the Right to Food, Geneva, has kindly supplied the expert with substantive information on the topic. The expert would like to express to Mr Olivier De Schutter, UN Special Rapporteur for the Right to Food, her high appreciation for his encouragement and the extent of his contribution (phone meeting and written answers to a structured interview prepared by the expert, see annex 5). The expert is particularly grateful to Ms Katja Albrecht, DG-DEV, B2, for her coordination efforts, valuable support and relevant inputs all along the mission.

Executive Summary

Desk Study on EC activities in the Right to Food area and on the Relationship between Food Sovereignty and the Right to Food

In a development co-operation context, an EU renewed food security policy envisaging the right to food would provide an action tool and important guidance up to the new challenges at global, national and local level. By envisaging synergies between economic efficiency and social equity and by addressing governance and rights, the renewed EU policy would bring into action the new paradigm of food insecurity as an economic, social and political construct; which, in the context of globalisation, puts forward the pressing need for Global Governance on Food Security.

Food security policies that address availability and access to adequate food through development and social protection measures (the twin-track) have to be coupled with governance and rights provisions (the third track). The Right to Food underpins the claim that people should be able to feed themselves as a matter of right rather than as a matter of policy choice. Poor are voiceless in the political “bargaining” to which policies’ design, interpretation and implementation are subject. Food insecure people, though in great numbers, are powerless in the political arena. The right to food sets benchmarks in the political negotiation and trade-offs between efficiency and equity, defending people’s fundamental rights and freedoms as a non-negotiable bottom line. Actually, human rights-based development brings added value to development policies and action in many ways, including several fundamental principles (Participation; Accountability; Non-discrimination; Transparency; Human Dignity; Empowerment and Rule of Law) that enlarge and strengthen good governance.

Human rights system and the right to food add a legal dimension to food security, whereas food sovereignty is a political claim defending the right of a community, whether at national or sub-national level, to decide how to feed itself and how to combine domestic production and international trade. This democratic requirement usually puts forward the argument that the right to food can only be addressed under “Food Sovereignty”, particularly, but not exclusively, concerning the food entitlements of smallholders in the developing world. The food sovereignty concept is not yet consolidated and positions concerning its contribution to the right to food can even be contrasting. Nevertheless, taking into account the relevance of the arguments as well as their robust expression in the social movements worldwide and in certain Governments, food sovereignty has to be considered both in a case by case level as well as an argument on global food security arrangements.

From a Human Rights perspective, working for MDGs achievement and having people free from hunger is not enough. It is important to have policies, institutions, legal frameworks and field actions embedded in the right to food, creating a conducive environment for people being able to feed themselves. It is equally necessary to make that explicit, make people aware of it and empower rights-holders to be able to defend their assets and entitlements and claim their rights. It is also important that public actors are accountable, their obligations enforceable, and the responsibilities of private actors, who may have an impact on the enjoyment of the right to food, also accepted. Awareness raising can have a dramatic impact on counteracting Human Rights’ violations.

The right to food and the food security are intrinsically interrelated addressing the collective goal and global responsibility of a humanity free from hunger as affirmed under the Universal Declaration of Human Rights / UDHR, legally enforced under the International Covenant on Economic, Social and Cultural Rights / ICESCR and unanimously reaffirmed on the Voluntary Guidelines on the Progressive Realisation of the Right to Adequate Food in the context of National Food Security (2004). The latter, provide internationally agreed practical guidance for governments and civil societies to build an enabling environment for people to feed themselves in dignity and to establish appropriate safety nets for those who are unable to do so. They show what steps can be taken in 19 different policy areas to promote the right to food.

The European Union believes that democracy and human rights / HRs are universal values that should be vigorously promoted around the world and they are integral to effective work on poverty alleviation and conflict prevention and resolution. The EC has made HRs a central aspect of its external relations. From the EC Treaty, to the European Consensus on Development, to several EC Strategies and Council Communications, the EU and EC provisions and statements underpinning the right to food are substantial. Particularly after the recent food, fuel and financial crises, the

EU, MS and Commission work has intensified addressing food governance at various levels and affirming the commitment to food security in realisation of the right to food and its relevance to Policy Coherence.

The EC can already deploy several means & tools as the “Political Dialogue” (including, where applicable, benchmarks and governance profile), the “European Instrument for Democracy and Human Rights / EIDHR” or the “Programming Exercise” and develops activity through the “Intervention Areas” and “Policy Coherence for Development”.

Thus, a renewed policy, explicitly fostering the right to food, is about strengthening the operational platform of the EU vision on sustainable development and not about any discontinuity, breakthrough or change of direction. The progressive realisation of the right to adequate food, as a dimension of food security and as a cross cutting issue, is about continuity, yet it is not “business as usual”. It requires a mindset-shift as “development people” and “human rights people” have to build a common language and a common action-platform, new judgement elements have to be assimilated and right to food-based benchmarks have to be taken on board.

By assuming leadership, the European Union, including MS and civil society, can bring tremendous added value to global food security governance. The renewed EU Policy to assist developing countries on Agriculture and Food Security acknowledging the Right to Food concept will be a relevant *acquis*, a guidance, a clear point of reference for action. However, its implementation by the European Union, Member States and EC institutions cannot be achieved overnight. For the EU giving its specific contribution on the very topic, several steps are needed in the short, medium and long term; inter alia, consistent work on the legal field (jurisdiction and case law), awareness raising and training, piloting exercises with partner countries, including in development of national strategies for the realisation of the right to food, guidelines on the EC role in the progressive realisation of the right to food for all.

Chapter A: Introduction to relevant concepts

1. Food Security

1.1. Evolution of the concept and policy response

To reflect changes in official policy thinking, food security concepts have evolved through three main paradigm shifts: from famines as failure of food availability, to failures of access to food, to failures of governance. The policy response to food (in)security encompasses production growth, market capabilities (trade and labour), social protection (social transfers), emergency assistance, governance and rights strengthening.

Key words: availability, access, food entitlements, entitlement failures, livelihoods, public action, food security policy, political negotiation, efficiency-equity trade-offs, food security global governance.

The link between food security, hunger and crop failure has become a too narrow and outdated approach and the analysis of food insecurity as a social and political construct has emerged (Devereux 2000¹). Consequently, the **human rights** dimension of food security has come into focus. Actually, in the World Food Summit of 1996, the right to food has been reaffirmed “as a means for achieving food security for all”. There have been progressive “paradigm shifts: from famines as failures of food availability, to failures of access to food, to failures of accountability and response”². This newest paradigm, along with food entitlements and access to food, emphasises political factors such as lack of democracy in a country or failure of international response. This paradigm introduces governance issues in the context of globalisation and the pressing need for **Global Governance on Food Security**.

Concepts of food security have evolved in the last thirty years to reflect changes in official policy thinking. The term first originated in the mid-1970s, when the World Food Conference / WFC, 1974, defined **food security** in terms of food supply³: “Availability at all times of adequate world food supplies of basic foodstuffs to sustain a steady expansion of food consumption and to offset fluctuations in production and prices” (WFC, 1974). This is an **availability approach** to food security that highlights the “supply of food compared with the number of people”⁴. The most recent redefinition of food security is the one negotiated at the World Food Summit (WFS) in 1996: “**Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life**”.

The evolution of the concept from the initial “availability approach”, a legacy of Malthus⁵ argument, to the **multidimensional** concept negotiated at the 1996 WFS (encompassing the four main dimensions of availability, access, utilization and stability) has dramatically changed the focus of the problem and of public action and policies. As a matter of fact, since the seminal analysis of A. Sen⁶ in “Poverty and Famine” (1981) that introduced the concept of “**food entitlements**”, the question to be addressed has shifted from “Is there sufficient food for everybody?” to “Does everybody have sufficient food?” This shift helped to bring the problem of food security closer to the root causes of poverty and its dynamics: “Who is starving and Why?” Why are some more likely to get hungry than others and what are the mechanisms triggering a breakdown in the ability of some to access food? Hunger is much less about bad-luck and much more about bad-public action. The causes of food (in)security and famine can be illustrated, according to Sen (1981) and Devereux⁷, as a sequence of “entitlement failures”. For hunger to occur, production-based entitlements, trade & labour based (market) entitlements and transfer-based (social protection) entitlements have to fail.

According to FAO, this comprehensive approach has enabled policy responses focused on the promotion and recovery of **livelihood options**. Initially made popular by academics such as Chambers and Conway (1992), livelihood approaches are now fundamental to international organisations’ development programmes. They are also increasingly applied in emergency contexts and include the concepts of vulnerability, risk coping and risk management. Seen through

¹ Devereux S. contribution to FIVIMS – Food Insecurity and Vulnerability Information and Mapping Systems.

² Devereux, “The new famines. Why famines persist in an era of globalization”, Oxford, 2008

³ FAO; Food Security, Policy brief, June 2006, issue 2

⁴ Ben Crow, “Understanding famine and hunger”; from “Poverty and Development into the 21st century”; edited by Tim Allen and Alan Thomas, Oxford University Press, 2000.

⁵ Reverend Thomas Malthus, “Essay on the Principle of Population”, 1798, largely criticized by Sen in “Poverty and famine”, 1981, Ray D. “Development Economics”, 1998 and Devereux, “Famine in Africa”, 2001.

⁶ Sen AK, “Poverty and Famines. An Essay on Entitlement and Deprivation”, 1981

⁷ Devereux, 2008, idem

the lens of livelihoods, the food security aim is considered into the wider issue of securing household livelihoods against shocks and paving a way out of poverty. (See more on livelihoods approach, point 1.2.3).

This enlarged scope of action calls for a larger array of interventions than that premised on a narrow focus on availability. It is now consensual that any **Food Security Policy** should encompass a comprehensive, action-oriented framework. While in the past food security has been addressed through programmes aiming at increase food availability, mostly by enabling farmers producing more (e.g. rural extension but also land reform), market capabilities have successively been addressed (e.g. cash-crops, farmers organization along the value-chain to meet market demand) and eventually schemes of social transfers / social safety nets – SSNs (e.g. seasonal employment, pensions) have also been introduced. At present, fundamental components of a food security framework addressing rural areas evolve along three main lines⁸; namely: **a) agricultural livelihood development** (e.g. access to land and water, fertilisers and seeds, financial services, extension services); **b) social protection** / SSNs response (e.g. seasonal employment schemes, social pensions, school feeding, price banding & grain reserves); **c) emergency** assistance (surveillance and early alert systems, schemes of food aid distribution either in kind or in cash).

Food Security Policies develop along the dual path of economic **efficiency** and social **equity**. Aims related to equity and goals related to efficiency pose typical trade-offs, depending on the prevailing paradigm. **Policy making** is subject to “political bargaining” / political negotiation⁹. Which policy choices prevail is the outcome of an ideological and political battle involving different societal groups, vying to defend their interests and assert their conception of a desirable society, the place of deprivation within it, and whether and how to address it. Additionally, because certain components of food security policy, as social transfers, involve redistributive measures, it is resisted by opposing interests. As a matter of fact, a food security policy and the necessary **political will** underpinning its implementation are largely subject to constituencies’ capabilities to set-up an agenda, defend it in the political arena and pursue its implementation. This is particularly relevant when considering that the food insecure are in many ways politically weak. Though in great numbers, they usually are voiceless and lack political capabilities.

box 1: The Washington Consensus

The neo-liberal paradigm advocated from the “*Washington Consensus*” provided the background for the primacy of cost-effectiveness and efficiency when designing policies. In terms of food security, this paradigm led to policies envisaging robust economic growth and successive trickle-down effect in detriment of social protection redistributive policies addressing equity. This paradigm has been seriously challenged by the 1997 Asian financial crisis and the global food crisis in 2007-2008. The current state of world food insecurity and widespread hunger is also often seen as the result of having too much and exclusively relied upon market efficiency for producing a balanced development.

Such a policy choice is clearly reflected in budget allocation. The Official Development Aid / ODA devoted to agriculture and rural development, fell from 17% in 1980 down to 8% at the end of the 1990s and to 3% in 2006¹⁰.

1.2. Food (in)security: elements of analysis

When addressing the core issue of “*Who is starving and Why*”, poverty in its many dimensions, vulnerability, risk management and sustainability are essential elements for understanding “who” the food insecure are and “why”, giving insight into the root causes and mechanisms that trigger a breakdown in people’s ability to access food. These are important elements for paving the way out of poverty, in other words, for achieving eradication of trans-generational fundamental rights’ and freedoms’ deprivation. Entitlements and livelihoods frameworks, as prevailing tools for analysis and policy-making, pay attention to governance and rights dimension of food security.

Key words: poverty, exclusion, inequality, livelihoods, vulnerability, risk management (*ex ante*), coping strategies (*ex post*), public action, social protection, sustainability, sustainable development, Triple Bottom Line / TBL, Corporate Social Responsibility / CSR, subsistence farmers.

⁸ See more: Vaitia B, Devereux S, Swan SH, 2009, “Seasonal hunger: a neglected problem with proven solutions”

⁹ Thi Minh-Plung, “Food Security and Social Protection”, Centre for Development, Environment and Policy / CeDEP, School of Oriental and African Studies / SOAS, London University, 2010.

¹⁰ Sources: a) OECD report on “*Aid to Agriculture*” (December 2001) and European Parliament resolution of 13 January 2009 on the Common Agricultural Policy and Global Food Security

1.2.1. Poverty: a multi-dimensional concept

Poverty is a multi-dimensional concept, encompassing material deprivation, vulnerability, inequality and exclusion. Poverty is being deprived of many fundamental rights and freedoms. According to the World Bank, poverty is the pronounced deprivation of well being: *"To be poor is to be hungry, to lack shelter and clothing, to be sick and not cared, to be illiterate, but also to be vulnerable to adverse events, to be often treated badly by the institutions, be excluded from voice and power and having low opportunities for participation to social life and decision-making"*¹¹.

Material deprivation is at the core of poverty, i.e. low income and consumption levels. It leads to poor food and poor nutritional status, inadequate clothing and housing, low command over productive assets, such as land & inputs or/and social assets such as education and health. Poverty is also **vulnerability** and resulting insecurity, i.e. inability to make provision against emergencies such as natural disasters (e.g. droughts, floods), human disasters (e.g. death, illness, war) and economic phenomena such as inflation or market collapses. Killick and Asthana¹² call the foregoing elements *"objective indicators"* of poverty. According to the same authors, poverty has also *"subjective indicators"* such as **dependency**, arising, inter alia, from unequal relationships between landlord and tenant, employer and worker, man and woman. A further relational dimension of poverty is **social exclusion** referring to inferior access e.g. to the labour market, or to low opportunities for participation to social life and decision-making.

Inequality is a key issue in the perception of poverty's causes and solutions. From Human Rights perspective, inequality is also related to discrimination, marginalisation and unequal treatment in the promotion and protection of people's rights. As stressed by World Bank¹³, *"Poor people live without fundamental freedoms of action and choice that the better-off take for granted"*.

A narrow construct of poverty conceptualisation, assuming that economic growth would gradually eliminate poverty through a "trickle down" effect, is constantly challenged. *"Where growth is taking place, 'trickle-down' is often unable to reach the very poor and high levels of inequality in many countries are exacerbating this situation, reducing growth and the impact of growth on poverty"* (DFID)¹⁴. Evidences based on consistent data show that while some enjoy better standards of living, many others remain desperately poor¹⁵. Lack of equity is not only a matter of economic disparity; issues of access, knowledge, decision-making and power come into play. DAC-POVNET /OECD¹⁶ focuses on the multidimensionality of poverty and on the relationships between inequality, economic growth and poverty reduction in developing countries.

According to Lundberg and Milanovic (World Bank)¹⁷, poverty can be linked to inequalities either within nations, between nations, or globally. At national level, it is relevant to distinguish *"between-group"* from *"within-group"* components of inequality. When dealing with food insecurity in rural settings that usually rely on **subsistence agriculture**, we also have to bear in mind that inequality does not stop at **rural communities' gates**. Inequalities taking place within rural communities lead the most vulnerable to starvation because, for instance, the poorest, during the "hunger gap"¹⁸ when the need is extreme, end up selling their labour under cost (literally for a plate of beans) to the "better off". Targeted thorough assessments can *"identify the hungry and poor"* and provide elements for *"elaborating a sound food security strategy"*¹⁹ that also addresses the "worse off", the poorest of the poor, the most vulnerable entrapped in **structural trans-generational destitution**.

Navi Pillay, High Commissioner for Human Rights / UNHCHR, affirms²⁰ that a **human rights** perspective brings tremendous value in developing national and international responses to a crisis, by identifying critical vulnerabilities due

¹¹ World Bank World Development Report 2000-2001 - "Attacking Poverty: Opportunity, Empowerment, Security": www.worldbank.org

¹² Killick, T. and Asthana, R. "Poverty: a Multi-dimensional Concept" In Cox, A. and Healey, J. "European Development Co-operation and the Poor", London, MacMillan Press, 2000, p. 179 - 184

¹³ World Bank, idem

¹⁴ DFID, "Social Transfers and chronic poverty: emerging evidence and the challenge ahead", DFID Practice Paper, October 2005

¹⁵ For instance, in rural Tanzania, average incomes increased substantially between 1983 and 1991—apparently tripling over this period—but inequality increased, especially among the poor. Although the poverty rate fell from 65 percent to 51 percent, the nationwide Gini coefficient for income per adult equivalent increased from 0.52 to 0.72 during this period.

¹⁶ DAC Network on Poverty Reduction (POVNET); http://www.oecd.org/departement/0,2688,en_2649_34621_1_1_1_1_1,00.html

¹⁷ Lundberg & Milanovic, "Globalisation and inequality: Are they linked and how?", Washington, World Bank, 2000, online available at: www.worldbank.org/poverty/inequal/abstracts/milanov.htm.

¹⁸ Usually, periods of recurrent "hunger", also known as the "Hunger Gap", which in many African countries represents a "structural emergency" of 3 to 6 months mostly corresponding to the wet season, when the family has already run out of food stocks and cash and food prices in the markets are high.

¹⁹ According to Right to Food Voluntary Guidelines / FAO. See more in Chapter B.

²⁰ UNHCHR intervention in UN "Conference on the World Financial and Economic Crisis and its Impact on Development", 24-26 June, 2009

to multiple forms of **marginalisation and inequality**, including discrimination based on gender, ethnicity and nationality. The UNHCHR stresses that “*Government responses to economic hardship that do not seek to address such asymmetries of power and status by levelling the playing field are both short-sighted and unjust*”.

box 2: Measuring poverty at country level

A common method used to measure poverty is based on incomes or consumption levels. A person is considered poor if his or her consumption or income falls below the minimum level necessary to meet the basic needs, usually called “poverty line”. Therefore, poverty line may be thought of as the minimum expenditure required by an individual to fulfill his or her basic food and nonfood needs²¹.

Poverty lines vary in time and place, and each country uses lines appropriate to its level of development, societal norms and values. In many situations, *food energy intake method* is used and poverty line is a tout court “**food poverty line**” calculated in Kcal/person/day. In this case, the linkage between poverty and food deprivation is straightforward. In average, in Africa, are considered absolute poor those who cannot access a food basket supplying around 2.200 Kcal/day. Food deprived people (undernourished) are those that do not meet the Minimum Dietary Energy Requirements (MDER); which varies from 1.600 to 1.850 Kcal/person/day²². Today, worldwide, the number of undernourished has overcome one billion people.

1.2.2. Vulnerability and risk management

Vulnerability is relevant to the right to food for several reasons. Vulnerability is a threat to food entitlements, to households’ assets and activities, thus to the right to food progressive realisation. On the other hand, the right to food can be instrumental in addressing food vulnerability, providing legal and ethical basis for public action and policies that promote and protect peoples’ livelihoods and several entitlements: production entitlements (e.g. land law), market entitlements (e.g. labour law, fair-trade regulations), and access entitlements (e.g. social protection / transfers).

Hunger and its distribution among the population are closely related to the extent to which individuals and/or households are exposed to and able to cope with changes that undermine their ability to maintain their food consumption levels²³. According to the World Bank, **insecurity** is an important component of welfare and can be understood as vulnerability to a decline in well-being (See 1.2.1). **Vulnerability** is defined as the probability or risk today of being in poverty or to fall into deeper poverty in the future.

It is argued that, whereas poverty and food deprivation assessments give a static picture defining who is poor or undernourished at a certain point in time and why, vulnerability approach gives a dynamic perspective providing insights on poverty volatility (moving in and out of poverty), inter-temporal costs and trans-generational poverty traps. According to FAO, a vulnerability perspective opens a forward-looking way of analysing causes and, more importantly, options for reducing food insecurity. This approach can help improve policy responses to food insecurity²⁴.

Food Vulnerability refers to the presence of factors that place people at risk of becoming food insecure hence preventing them from fulfilling their right to food. There are **external factors**, such as trends (e.g. environmental degradation or food price inflation); shocks (e.g. natural disasters, war, pandemics); and c) seasonality (e.g. seasonal changes in food production and food prices, seasonal employment, incidence of disease). There also are **internal factors** such as the characteristics of people, the general conditions in which they live and the dynamics of the household that restrict their ability to avoid becoming food insecure in the future²⁵.

People are not passive victims of risks. They are active in **risk management** *ex ante* (active management of risk before that occurs) and **coping strategies** *ex post* (coping with the impact once a risk is realised). A risk of large changes in income may constrain households to lower investments in productive assets to keep some reserves to deal with failure. High risk can also force households to diversify their income sources, perhaps at the cost of lower returns. The fear of

²¹ Source: World Bank, “Measuring and Analyzing Poverty”: The Handbook on Poverty and Inequality, by Jonathan Haughton and Shahidur R. Khand;

²² MDER “refers to the amount of energy considered adequate to meet the energy needs for normative minimum acceptable weight for attained height while performing light physical activity in good health”. Source: FAO. It varies by country and year according to the distribution of the population by sex and age.

²³ Thi Minh-Plung, idem.

²⁴ FAO, ESA Working Paper No. 05-07. “Tomorrow’s Hunger: A Framework for Analysing Vulnerability To Food Insecurity”, Oct 2005
Authors: Christian Romer Løvendal and Marco Knowles

²⁵ See more in: “Committee on World Food Security, Twenty-sixth Session, September 2000, Rome, - Who are the insecure?”

bad weather conditions or of being expelled from the land they cultivate can deter households from investing in more risky but higher productivity crops and affect their capacity to generate income.

Improvement in the risk management capacity and in the coping strategies of vulnerable people is crucial for protecting and promoting the right to food. Certain policies can be conducive to individual and societal efforts of risk management and coping strategies, while others may not. Ensuring peoples' assets (e.g. through an adequate land law) and entitlements (e.g. through fair trade conditions, social protection) can make a difference in people's risk management strategies so that they can make a better use of their capabilities today to pave the way out of poverty tomorrow. **Social protection** and **social transfers** mechanisms are particularly relevant to risk management. Communities have their own traditional mechanisms of social protection, yet they easily can be depleted under the weight of an extended or persistent exposure to shocks like war, natural disasters, rainfall failure, pandemics as HIV/AIDS. It is argued that the private sector and the NGOs could be service providers in the field of risk management and security packages. However, **public action** has an important role to play and still presents comparative advantages in social protection for low-income countries. (See more about it, chapter B point 3).

1.2.3. Identifying the vulnerable

Identifying the vulnerable "*who*" is a crucial aspect of the right to food realisation because it allows orienting public action towards the most in need, combining equity and efficiency concerns. Moreover, it helps understanding the root causes of food insecurity "*why*", hence guiding public action to address structural constraints on the progressive realisation of the right to food.

Therefore, for policy and public action addressing vulnerability, **classification of people in vulnerable groups** is relevant, though definitions and methods are dynamic and reflect the complex multi-dimensional aspects of vulnerability. As elaborated by the Committee on World Food Security²⁶ / CWFS, vulnerability can be perceived in a variety of ways. Examples of different methods of classifying vulnerable groups used by national **FIVIMS**²⁷, may include: Occupational criteria (e.g. artisanal fishers in Vietnam); Spatial criteria (e.g. marginal urban dwellers in Guatemala); Demographical criteria (e.g. children under five years in Benin); Social condition aspects (e.g. refugees from Sierra Leone in Liberia); Physical condition (e.g. handicapped in Chad), etc.

box 3: Livelihood systems as the entry point for classifying vulnerable groups

The use of **livelihood systems**²⁸ as the entry point for classifying vulnerable groups has proven to be effective in a variety of contexts because various dimensions of vulnerability can be integrated into the categories of livelihood systems. Livelihood systems can be identified based on the main source of livelihood. Landless peasants, communal land herders, agro-pastoral farmers on rainfed land, small-scale livestock producers with no land are some examples of broad livelihood systems that have been used for classifying people into vulnerable groups.

A livelihood system is classified as vulnerable when the system is exposed to various factors that create risk for most people belonging to that system. Within any livelihood-based vulnerable group some people will be more vulnerable than others. Those most likely to be food insecure are those who are economically dependent or otherwise socially marginalised. These include:

- At the individual level: the elderly, orphans, invalids, pregnant and lactating women and young children;
- At the household level: female or elderly or children-headed households, households belonging to minority groups, households with an above average number of components (above 6-7).

Vulnerability can be defined on the basis of a specific characteristic (e.g. Internal Displaced People, small farmers, OVCs, etc) that makes a group of people food insecure. The definition is quite arbitrary and based on the concrete needs and priorities in a given context, as the above FIVIMS' examples show. However, for food security, the **livelihood**

²⁶ "Committee on World Food Security / CWFS, Twenty-sixth Session, September 2000, Rome, - Who are the insecure?"

²⁷ Food Insecurity and Vulnerability Information and Mapping Systems, <http://www.fivims.org/>

²⁸ The Food Security and Agricultural Projects Analysis Unit (ESAF) / FAO has undertaken a number of pilot studies to develop a methodology for understanding why certain groups of people are vulnerable to becoming food insecure. The studies use the sustainable livelihoods approach for food security and vulnerability analysis. See also ESA Working Paper No.04-18. Authors: Christian Romer Løvendal, Marco Knowles and Naoko Horii.

system, based on the main activity characterising a household (fisheries, agro-pastoral, rainfed agricultures, etc), provides the most consolidated and effective entry point for classifying vulnerable groups.

The livelihood approach proposes a people-centred and asset-based conceptualisation of poverty with an insistence on identifying the various constraints that poor people face in their efforts to get out of poverty. Simplifying a quite complex approach, livelihood frameworks assume that constraints are mainly due to the context within which livelihood's assets and activities are "translated" into effective outcomes, enabling people to access food. This context comprises institutions, organisations and policies. Policies are relevant because provide the framework that constrains or supports the role played by institutions and organisations. The **livelihood approach** is particularly conducive to **Right to Food** both for analysis purposes (*who the poor are and why*) and for **policy-making** purposes because it provides technical elements underpinning the position that hunger is (mainly) the result of policies that could have been different.

1.2.4. Sustainability: a key concept in Food Security and Rights-based development

Unsustainable development undermines people's right to food by depleting natural resources on which poor people rely for food production and by increasing social and economic exclusion and inequalities, which lead to consecutive food entitlements' failures. Sustainable development makes a strong call for inter-generational rights, for improved life quality, for equitable solutions to social problems and for a transparent economic environment promoting economic opportunities for all. As a matter of fact the key objectives and guiding principles of EU Strategy for Sustainable Development make large reference to Human Rights principles. (See in the following point 4.3).

Since the "historic" first definition of Sustainable Development of the Brundtland Commission in 1987²⁹, "***Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs***", the concept has been thoroughly debated and explored. Sustainable Development is a threefold concept encompassing:

- **Environmental Sustainability:** the capacity to preserve over time the functions of the environment, through the efficient use and the renewal of its natural resources;
- **Economic Viability:** the capacity to generate incomes and employment in the most efficient way;
- **Social Equity:** the ability to guarantee welfare (security, health, education), equitably distributed among social classes and gender.

The above three dimensions of sustainable development (environment, economy, society), in business-oriented actors, are also called the "**Triple Bottom Line**" / **People - Planet - Profit** (TBL or 3BL) where Economic capital, Human capital and Natural capital are considered core business elements. The TPL concept is tightly linked with the **Corporate Social Responsibility / CSR** topic. TBL business, endorsing CSR, would not use child labour, would pay fair wages, would maintain a safe work environment and would not otherwise exploit a community. Similarly a company complying with TBL endeavours not to harm environment. Ecologically destructive practices, such as overfishing or other endangering depletions of resources are avoided by TBL companies. **Human Rights** values and legal framework underpin the initiative of business-oriented actors to adhere in voluntary conduct-codes addressing CSR. Business actors adhering to CSRs, usually impact positively on people's **food entitlements** (e.g. fair salaries that allow access to food, preservation of the natural capital from which small producers make their living) and consequently on the progressive realisation of the right to food. Additionally, a culture of social responsibility is a reliable asset for the promotion of all Human Rights. According to UN **General Comment / GC 12** on the Right to Food (see chapter B 2.1) "*The private business sector – national and international – should pursue its activities with the framework of a code of conduct conducive to respect of the right to adequate food, agreed upon jointly with the Government and civil society*".

Subsistence farmers' sustainability is at the core of food security. In fact, they represent the vast majority of the world food insecure. In the modern world context, sustainability of subsistence agriculture is fragile and subsistence households are vulnerable. By definition, subsistence agriculture produces the strict necessary for the survival of the family. In a schematic way, inputs and outputs are equivalent and structural surpluses are not possible. In such systems, pursuing high increase of outputs leads to overwhelming pressure over the limited production assets; namely labour and natural resources, including land and forest. That impacts negatively on the environment and on the increasing inequality within a rural community (see point 1.2.1.). Pressure over environment and accentuation of inequalities further compromise the already fragile sustainability of households and ecosystems.

²⁹ "Our Common Future", World Commission on Environment and Development (WCED), 1987

Root causes of fragile sustainability of subsistence agriculture have to properly be assessed and addressed by a **food security policy** that, fostering sustainable development, acts on several lines; for instance: **a)** fosters mitigation (e.g. SSNs, provision of social services, supply of inputs); **b)** defines sound and appropriate agriculture development goals effectively addressing subsistence farmers (e.g. agro-forestry); **c)** refrains from goals that impact negatively on subsistence households; **d)** foresees integration of complementary sources of income (e.g. public works based SSNs, food processing, eco-tourism); **e)** where appropriate, contemplates measures addressing transition from the subsistence system to new production forms (e.g. micro-finance, small irrigation, extension and training, farmers associations).

2. The Right to Food

2.1. The Right to Food is a Human Right

The right to have regular and unrestricted access to quantitatively and qualitatively adequate food is a collective goal and responsibility of the humanity as stressed under the Universal Declaration of Human Rights / UDHR. The States that have ratified the International Covenant on Economic, Social and Cultural Rights have legal, binding, obligations to respect, protect and fulfil the Right to Food, which is a fundamental freedom and a Human Right. All Human Rights are universal, indivisible and interrelated.

Key words: Human Rights, UDHR, International Covenant on Economic, Social and Cultural Rights / ICESCR, rights-holders, duty-bearers, State obligations to respect, protect, fulfil.

The Right to Adequate Food, usually called “Right to Food”, is the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free from fear. The right to food is not about being fed. It is about being guaranteed the right to feed oneself, which requires not only that food is available, but also that each household either has the means to produce its own food or has a sufficient purchasing power to buy the food which it needs³⁰.

The Right to Food is a Human Right³¹ and one of the four Fundamental Freedoms - “*freedom from want*”³² as spelt out in the Universal Declaration of Human Rights / UDHR of 1948. The UDHRs is non-binding, soft law, but of the highest guidance value; it sets Human Rights / HRs as a collective goal of humanity and acknowledges HRs as a global responsibility³³. In the Human Rights system based on International Law, the Right to Food is enforced under art. 11 of the International Covenant on Economic, Social and Cultural Rights / ICESCR of 1966, entered into force in 1976 and up to date ratified by 160 State-parties. Unlike UDHR, ICESCR is not soft-law, but a conventional mechanism legally binding the States that have ratified it. Through ratification, Governments undertake to put into place domestic measures and legislation. State-parties have to comply with the monitoring of performance foreseen by ICESCRs, which encompasses a monitoring body and reporting obligations. The Committee on Economic, Social and Cultural Rights (CESCR³⁴) is the body of independent experts that monitors the implementation of the ICESCR by its States parties.

The Right to Food, as any right, is embedded in the idea that if one has a right then another has a corresponding obligation. This fundamental legal notion introduces the relevant principle of “**rights-holders**” and “**duty-bearers**”.

All human beings are holders of fundamental, inalienable rights, the Human Rights / HRs. In HRs system, individuals, not collectivities / groups, are rights-holders even if certain rights can be exercised collectively as in the case of political rights, e.g. elections. According to HRs system, States are the only duty-bearers with legal obligations face to individuals under their jurisdiction. However, all members of society (such as individuals, local communities, NGOs, CSOs, as well as companies and corporations) have responsibilities with respect to the HRs’ realisation.

³⁰ Special Rapporteur on the Right to Food, Policies against hunger VII, Food is a human right, Berlin, 8-10 December 2008. International Conference, Federal Ministry of Food, Agriculture and Consumer Protection. <http://www.policies-against-hunger.de/index.php?id=772>

³¹ Article 25 of UDHR is clearly making reference to the right of standards of living including food.

³² The Universal Declaration of Human Rights / UDHR, which together with the ICESCR and ICCPR form the “International Bill of Human Rights” in its Preamble defines four fundamental freedoms, namely: freedom of speech and belief and freedom from fear and want.

³³ UDHRs identifies a comprehensive range of all rights -civil, political, economic, social and cultural- for all people.

³⁴ The Committee was established under ECOSOC Resolution 1985/17 of 28 May 1985 to carry out the monitoring functions assigned to the United Nations Economic and Social Council (ECOSOC) in Part IV of the Covenant. According to article 16th of ICESCR, States Parties report to the UN Secretary General who transmits to ECOSOC and the “specialised agencies” (UNICEF, FAO, WHO, UNESCO).

International Human Rights law lays down **obligations** which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to **respect**, to **protect** and to **fulfil** human rights. (See Chapter B, 2.1). Human Rights prevail over any other law and rights. As the Special Rapporteur on Right to Food notices “ .. because human rights norms have the status of *peremptory norms*³⁵ of international law, human rights should prevail over any other international commitments”³⁶. On that, it is to be recalled the European Court of Justice / ECJ, Kadi judgement³⁷, which reaffirmed that the respect for HRs is a condition of the lawfulness of Community acts, and measures incompatible with respect for HRs are not acceptable in the Community.

“**All Human Rights for All**” is more than a popular motto. In the Vienna Declaration of Human Rights,³⁸ adopted by the 1993 World Conference of Human Rights, all governments affirmed a holistic approach stating that **all human rights are universal, indivisible, interdependent and interrelated**.

- The universality of human rights means that human rights are the same for everyone, no matter who they are or where, or under what jurisdiction, they live.
- The principle of indivisibility acknowledges that human rights cannot be separated from one another.
- The principles of interdependence and interrelatedness acknowledge, respectively, that rights impact upon each other, they are mutually reinforced, and that a right cannot be fully achieved without the fulfilment of all other rights.

The Vienna Declaration irreversibly overcomes the Cold War legacy of HRs’ division in two main sets of rights as marked by the existence, since 1966, of two Covenants (ICCPR³⁹ and ICESCR⁴⁰). After Vienna it is made clear that one “set” of Human Rights cannot be negotiated against another; i.e. civil and political rights cannot in any circumstances be considered a priority in detriment of economic and social rights and vice versa. All Human Rights are mutually reinforced.

2.2. Right to Food and Food Security

Food Security policies address availability and access to adequate food through development (efficiency) and social protection (equity) measures (the twin-track) that have to be coupled with governance and rights provisions (the third track). The Right to Food underpins the claim that people should be able to feed themselves as a matter of right rather than as a matter of policy choice.

Key words: twin-track, third track, food security policies, political “bargaining”, beneficiaries, rights holders, legal dimension, efficiency – equity, lasting peace – security – development.

Right to Food and Food Security are intrinsically interrelated and address the ultimate goal of a humanity free from hunger. The right to food concept originated in the aftermaths of II World War to contribute to **lasting peace, security and development**. Food security concept came as a response of the World Food Conference of 1974 to the serious world crisis of the ‘70s. The risk of food insecurity degenerating in social insecurity is currently back on the table. In fact, food security has developed along a dual path of **efficiency** and **equity**, addressing food **availability** and food **access** through development measures as well as social transfers and emergency assistance. Both development and social protection policies have to be coupled with **governance** and **rights** provisions.

*“We must continue to meet urgent hunger and humanitarian needs by providing food and nutrition assistance and safety nets, while focusing on improving food production and smallholder agriculture. This is the **twin-track** approach taken in the Comprehensive Framework for Action. We should be ready to add a **third track** – the right to food – as a basis for analysis, action and accountability”.*

UN Secretary-General, Ban Ki-Moon, in his concluding remarks to the High-Level Meeting on Food Security for All, Madrid January 2009.

³⁵ Peremptory principles or norms are those from which no derogation is permitted. These norms are recognised by the whole international community as fundamental to the maintenance of an international legal order.

³⁶ Special Rapporteur on the Right to Food, Policies against hunger VII, Food is a human right, Berlin, 8-10 December 2008.

³⁷ <http://curia.europa.eu/en/actu/communiqués/cp08/aff/cp080060en.pdf>

³⁸ World Conference on Human Rights, Vienna Declaration, 1993, available online at: www.unhcr.ch/html/intlist.htm

³⁹ ICCPR – International Covenant on Civil and Political Rights

⁴⁰ ICESCR – International Covenant on Economic, Social and Cultural rights.

The right to adequate food complements the food security concept and programmes with the **legal** dimension of human rights and the human rights principles. The legal aspects make the individual an agent of change in a way that enables her or him to hold the government accountable for its obligations and to seek redress for violation of their human rights⁴¹.

A narrow food security approach addresses vulnerable groups as the **beneficiaries** to be “targeted” by ad hoc programmes. Instead, the right to food focuses on **individuals as rights holders** and gives priority to the most vulnerable, the hungry. This is not just a matter of terminology, but in fact a change of approach with substantive bearings on legal, institutional and technical aspects of food security policies. Ensuring that people can feed themselves as a matter of right, rather than a matter of policy choice, is especially important when considering the vulnerable, food insecure groups’ (in)capacity to influence decision-makers, as the Special Rapporteur on the Right to Food⁴² stresses.

2.3. Rights-based development approach and its added value

A food security policy and the political will underpinning its design, interpretation and implementation are subject to continue political “bargaining” on which poor are voiceless. Considering the “paradigm shifting” on food security which highlights governance issues at national and global level, the right to food approach appears to be a powerful tool for that purpose. The right to food sets benchmarks on this very political negotiation, defending people’s fundamental rights and freedoms. Actually, the Right to Food sets up a clear bottom line on the typical trade-offs between economic efficiency and social equity, at least offsetting the negative implications of policy paradigms like the Washington Consensus that are almost exclusively based on economic efficiency.

Key words: political will, benchmarks, Human Rights’ fundamental principles (PANTHER), MDGs

box 4: The Human Rights-based Development

Human rights-based development means that:

- All development programmes should further the realisation of Human Rights;
- Human Rights should guide all sectors and phases of development, including policy-making;
- Development cooperation should contribute to the capacity of duty-bearers to meet their obligations and of rights-holders to claim their rights;
- A human rights-based approach to development incorporates several fundamental principles, namely: Participation; Accountability; Non-discrimination; Transparency; Human Dignity; Empowerment and Rule of Law. (called by FAO under the PANTHER mnemonic)

See annex 1: The Human Rights-based Development added value – HRs’ fundamental principles

box 5: Human rights-based approach and MDGs

Human Rights strengthen Millennium Development Goals’ achievement by:

1. Making the goals more legitimate by building upon the human rights obligations that governments have voluntarily undertaken when signing / ratifying various treaties and covenants;
2. Making use of the power and mobilising potential of human rights language – words such as “rights” and “duties” are stronger than words such as “goals” and “targets”;
3. Making the strategies to meet the goals work in long-term and address root causes of poverty and underdevelopment, such as patterns of discrimination and lack of accountability;
4. Building participatory and empowering strategies upon civil and political rights; and
5. Strengthening the transparency and accountability of efforts to meet the goals by involving HRs processes and institutions, such as courts, national HRs institutions as well as informal justice systems and mechanisms at the international level.

⁴¹ FAO Right to Food Unit <http://www.fao.org/righttofood>

⁴² Human Rights Council, 9th Session, 2008, Report on the Special Rapporteur on the Right to Food.

The following box outlines the main additional values of Human Rights-based approach to food deprivation according to FAO.

box 6: What is new about the right to adequate food (Additional values)

A Human Rights-based approach:⁴³

- Recognises access to food as a human right. And adds a legal dimension.
- Puts people at the centre of development.
- Recognises that all individuals are rights holders, not mere beneficiaries.
- Makes the progressive realisation of the right to food a duty, not a matter of choice. According to International law, treaties as the ICESCR bind the State Parties to take action.
- Makes states aware of their obligations and supports them in policy making and programmes' design also through an appropriate monitoring system on the progressive realisation of the right to adequate food.
- Draws attention to other stakeholders, called third parties (like individuals, CSOs, companies, corporate, groups, etc) that according to International law have no obligations but hold responsibilities⁴⁴ to respect and promote Human Rights for all⁴⁵.
- Supports avoiding harmful policies and actions in violation of the obligation to respect and protect the right to food.
- Prioritises the fight against hunger at national levels.
- Applies the human rights principles- RANTHER.
- Introduces complains and redress mechanisms to deal with alleged violations of the right to food

3. Food sovereignty

Food Sovereignty is a political claim defending the right of a community to decide how to feed itself and how to combine domestic production and international trade. It usually puts forward the argument that the right to food can only be addressed under "Food Sovereignty", particularly, but not exclusively, concerning the food entitlements of smallholders in the developing world. The food sovereignty concept is not yet consolidated and positions concerning its contribution to the right to food can even be contrasting. Nevertheless, taking into account the relevance of the arguments as well as their robust expression in the social movements worldwide and in certain Governments, food sovereignty has to be considered both in a case by case level as well as an argument on global food security arrangements.

Key words: international trade, globalisation, State sovereignty, sustainable agriculture systems

Behind the development of the concept of Food Sovereignty lies a global social network of NGOs, CSOs, social movements and many conferences, fora and declarations. Via Campesina⁴⁶, the global farmers' movement, developed the concept in the early 1990s, with the objective of encouraging NGOs and CSOs to discuss and promote alternatives to neo-liberal policies for achieving food security. Food sovereignty is described as an antidote to the food and agricultural policies being dictated by economic globalisation and the pressure of the international markets. It is contested the fact that *"the rules that govern food and agriculture at all levels are designed a priori to facilitate not local, but international trade. This reduces diversity and concentrates the wealth of the world's food economies in the hands of ever fewer multinational corporations, while the majority of the world's*

⁴³ Right to Food Unit, Agricultural and Development Economics Division, Economic and Social Department of FAO. Knowledge Center of the Unit. <http://www.fao.org/righttofood>

⁴⁴ However, third parties may be duty holders under National law. When States enforce International law through domestic legislation they can call upon third parties obligations. For instance, HRs related to adequate food can be enforced by domestic law such as "Codex Alimentarius". Labour law can strengthen individuals' entitlements to food through increased purchase power.

⁴⁵ In UDHR, article 29.1: points out the "duties" that everyone has to the community; 29.2 stresses the fact that *"in exercising rights and freedoms everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society"* and in 29.3 it is clarified that *"rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations"*.

⁴⁶ Via Campesina describes itself as "an international movement which coordinates peasant organisations of small and middle-scale producers, agricultural workers, rural women, and indigenous communities from Asia, Africa, America, and Europe". It is a coalition of over 148 organizations, advocating family-farm-based sustainable agriculture and was the group that first coined the term "food sovereignty".

*small-scale food producers, processors, local traders and consumers including, crucially, the poor and malnourished, are marginalised*⁴⁷.

box 7: Food Sovereignty: the civil society claims on the way forward

Current claims from the movements can be summarised as follows:

- Give the argument a **serious hearing** and the possibility to apply at large the proposed approach, fact which, inter alia, would allow a robust learning by doing process and clearer definition of concepts and implementing arrangements.
- An appeal for **coherent European Policies** that aid the fight against hunger and aid family-based sustainable agriculture in developing countries⁴⁸.
- Increase in quantity and quality the share of **EU** and **MS aid** (ODA⁴⁹) allocated to agriculture, reaching 10% in 2010 and 15% in 2015.

There exist **various definitions of food sovereignty**. One of the most widely accepted is the definition provided in the *Nyéléni Declaration on Food Sovereignty*, adopted by the recent Food Sovereignty Forum (Sélingué, Mali, 27 February 2007). It defines food sovereignty as “*the peoples', Countries' or State Unions' right to define their agricultural and food policy, without any dumping vis-à-vis third countries*” and “*the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable systems*”. The Declaration is not a legal document but a manifesto adopted by the forum of civil society organisations.

According to the *Nyéléni Declaration on Food Sovereignty*, food sovereignty includes⁵⁰:

- Prioritising local agricultural production in order to feed the people, access of peasants and landless people to land, water, seeds, and credit. Hence the need for land reforms, for fighting against GMOs⁵¹, for free access to seeds, and for safeguarding water as a public good to be sustainably distributed.
- The right of farmers, peasants to produce food and the right of consumers to be able to decide what they consume, and how and by whom it is produced.
- The right of Countries to protect themselves from too low priced agricultural and food imports.
- Agricultural prices linked to production costs: they can be achieved if the Countries or Unions of States are entitled to impose taxes on excessively cheap imports, if they commit themselves in favour of a sustainable farm production, and if they control production on the inner market so as to avoid structural surpluses.
- The populations taking part in the agricultural policy choices.
- The recognition of women farmers' rights, who play a major role in agricultural and food production.

Food sovereignty is not only a civil society topic. **National governments** also become more reluctant to see their sovereignty being undermined, including their policies for food production, trade, processing and even food consumption. They see food sovereignty as a crucial part of state sovereignty, currently challenged by globalisation and new powerful actors such as MNCs⁵², INGOs⁵³ and International Organisations as well as by binding global rules of trade and policies. This is of course a strong political statement that comes to play in the international arena and that puts States not only as “duty-bearers” vis à vis their citizens, but also as “claims-holders” and genuine Sovereign parties in Food Security Global Governance (see 1.1).

In September 2008, **Ecuador** became the first country to enshrine food sovereignty in its constitution. As of late 2008, a law is in the draft stages that is expected to expand upon this constitutional provision by banning genetically modified organisms, protecting many areas of the country from extraction of non-renewable resources, and to discourage monoculture. The law will also protect biodiversity as collective intellectual property and recognise the Rights of Nature. **Nicaragua**, in July 2009, adopted a law on “Food sovereignty and food and nutrition security” fostering a multi-sector response system involving several line-Ministries, NGOs, private sector and indigenous people.

⁴⁷ Windfuhr, M & Jonsen, J. 2005. Food sovereignty. Towards democracy in localized food systems, ITDG Publishing
http://www.ukabc.org/foodsovereignty_itdg_fian_print.pdf

⁴⁸ This claim, concerning Coherence of EU Policies is from Campaign Alimenterre, October 2008, CFSI, SOS Faim Belgique et Luxembourg

⁴⁹ Official Development Aid

⁵⁰ In Nyeleni, Sélingué, Mali, in February 2007 gathered to debate on food sovereignty more than 500 representatives of more than 80 countries, from several organisations and grassroots movements, inter alia, peasants, landless people, rural workers, women, environmentalists, urban poor; Source: <http://www.nyeleni.org/spip.php?article290>; See full text of the Declaration of Nyeleni <http://www.nyeleni.org/IMG/pdf/DeclNyeleni-en.pdf>

⁵¹ Genetically Modified Organisms

⁵² MNCs: Multi-National Corporations

⁵³ INGOs: International No-Governmental Organisations -

In April 2008, **IAASTD**⁵⁴ adopted the following definition: "*Food sovereignty is defined as the right of peoples and sovereign states to democratically determine their own agricultural and food policies.*"

box 8: Food Sovereignty and National Governments

The current definition of **Food Sovereignty** envisages food sovereignty as the right of governments to⁵⁵:

- define their own food and agriculture policy;
- protect and regulate domestic agricultural production and trade in order to achieve sustainable development objectives;
- determine the extent to which they want to be self reliant;
- restrict the dumping of products in their markets; and
- give fisheries-based communities the priority in managing the use of and right to aquatic resources.

FAO considers that "*food sovereignty is still an **umbrella statement** that includes right to adequate food concerns but remains contested and unapproved by the international community, unlike the right to adequate food. It is a concept used in **political struggle** which focuses on needs of small food producers and their right to produce*". As exposed above, there are critical voices on current international trade rules, however, according to FAO, food sovereignty does not negate trade, but rather it promotes the formulation of trade policies and practices that serve people's rights to food and to safe, healthy and ecologically sustainable production.

According to the Special Rapporteur, there is simply no other way we can combine the need to produce enough food for all and the need to meet the environmental challenge: only by supporting the vast mass of smallholders in the developing world, and by supporting them to produce for the local communities, can this challenge be met. Therefore, the Special Rapporteur considers that food sovereignty is both important and timely, and it should in the future be supported more explicitly; see annex 5.

It can be concluded that, whereas the Right to Food is a Human Right universally accepted, the Food Sovereignty is a political claim on a large scope of rights and public action issues, including the right to food. It usually puts forward the argument that the right to food can only be addressed under "Food Sovereignty", particularly, but not exclusively, concerning the food entitlements of smallholders in the developing world. Food sovereignty concept is not yet enough consolidated and positions concerning its contribution to the right to food can even be contrasting. Nevertheless, taking into account the relevance of the arguments as well as their robust expression in the social movements worldwide and in certain Governments, food sovereignty has to be considered both in a case by case level as well as an argument on global food security arrangements.

4. Broad outline of the EU position

4.1. The European Consensus on Development

The European Union's position on development challenges, including poverty and vulnerability multiple dimensions, is clearly and concisely spelt out in "**The European Consensus on Development**"⁵⁶. Chapter 7, *Development, a contribution to addressing global challenges*, § 40, stresses that "*Without peace and security development and poverty eradication are not possible, and without development and poverty eradication no sustainable peace will occur*". Chapter 2, *Multi-dimensional aspects of Poverty Eradication*, § 11-12, brings elements relevant to the right to food:

§ 11. **Poverty** includes all the areas in which people of either gender are deprived and perceived as incapacitated in different societies and local contexts. The core dimensions of poverty include economic, human, political, socio-cultural and protective capabilities. Poverty relates to human capabilities such as consumption and food security, health, education, rights, the ability to be heard, human security especially for the poor, dignity and decent work. Therefore combating poverty will only be successful if equal importance is given to investing in **people**, the protection of **natural**

⁵⁴ International Assessment of Agricultural Science and Technology for Development, an intergovernmental panel under the sponsorship of the United Nations and the World Bank.

⁵⁵ FAO, Right to Food Unit

⁵⁶ Joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the Commission on European Union Development Policy: 'The European Consensus', (2006/C 46/01), The European Consensus on Development - The development challenge.

resources to secure rural livelihoods, and investing in **wealth creation**. The empowerment of women is the key to all development and gender equality should be a core part of all policy strategies.

§ 12. The **MDG agenda** and the economic, social and environmental dimensions of poverty eradication in the context of sustainable development include many development activities from democratic governance to political, economic and social reforms, conflict prevention, social justice, promoting human rights and equitable access to public services, education, culture, health, including sexual and reproductive health and rights, as set out in the ICPD⁵⁷ Cairo Agenda, the environment and sustainable management of natural resources, pro-poor economic growth, trade and development, migration and development, food security, children's rights, gender equality and promoting social cohesion and decent work.

4.2. The Thematic Strategy for Food Security

In pursuit of the first Millennium Development Goal “Eradicate extreme poverty and hunger”, the European Union has drawn up a programme - **combating hunger** - specifically aimed at improving Community policy on food security, particularly for the most vulnerable groups, through a set of priorities and measures that complement national programmes and improve their coherence.

According to the **Food Security Strategy**⁵⁸, action on food insecurity is enshrined in the first Millennium Development Goal and, despite progress in reducing hunger at global level, much still needs to be done. Food insecurity is typically exacerbated by environmental degradation, poor productive systems, badly functioning markets and limited human capacity and is compounded by inequalities, with social entitlements to food affected by gender, age and ethnicity. Food insecurity is particularly rife in a number of States which are vulnerable institutionally and where food security goals are difficult to attain because of political instability.

Food security remains a priority in European development policy, as stated in the European Consensus, but Community approach on food security has evolved since its inception. It now consists of support for broad-based food security strategies at the national, regional and global level rather than the mere delivery of food aid. The primary beneficiaries of the programme are the following **vulnerable groups**: children under the age of five; communities with members suffering from HIV/AIDS or other chronic illnesses; war-affected communities and groups and internally displaced people; women; pastoralists, small farmers and fisher folk; landless and farm labourers and the urban ultra-poor.

The central role of nationally developed strategies to achieve long-term food security and the need to target hunger as the first priority in the fight against poverty are the core of the renewed EC approach; which considers that food security can be achieved only by simultaneously addressing the **availability of food**, **access to food**, the **quality of nutrition** and the **prevention of food crises**.

4.3. EU Sustainable Development Strategy

The Renewed EU Sustainable Development Strategy adopted by the European Council on 15/16 June 2006, under “**Our commitment to sustainable development**” puts sustainability, in its many dimensions, as an EU core issue and clearly stresses the linkage with human rights principles, democracy and development.

Sustainable Development / SD means that the needs of the present generation should be met without compromising the ability of future generations to meet their own needs. SD is an overarching objective of the European Union set out in the Treaty governing all the Union's policies and activities. It is about safeguarding the earth's capacity to support life in all its diversity and is based on the principles of democracy, gender equality, solidarity, the rule of law and respect for fundamental rights, including freedom and equal opportunities for all. SD aims at the continuous improvement of the quality of life and well-being on Earth for present and future generations. To that end it promotes a dynamic economy with full employment and a high level of education, health protection, social and territorial cohesion and environmental protection in a peaceful and secure world, respecting cultural diversity.

The Renewed EU Sustainable Development Strategy encompasses Human Rights and related principles both in its “Key Objectives” and “Policy Guiding Principles”. Social Equity and Cohesion; Promotion and Protection of Fundamental Rights; Meeting International Responsibilities; Involvement of Citizens; Policy Coherence and Governance, inter alia, are fundamental elements of the above policy.

⁵⁷ ICPD: International Conference on Population and Development, 1994, Cairo

⁵⁸ Communication from the Commission to the Council and the European Parliament of 25 January 2006 - A thematic strategy for food security: Advancing the food security agenda to achieve the Millennium Development Goals [COM(2006) 21 final - not published in the Official Journal].

Corporate Social Responsibility / CSR is a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis. It is about enterprises deciding to go beyond minimum legal requirements and obligations stemming from collective agreements in order to address societal needs. Through CSR, enterprises of all sizes, in cooperation with their stakeholders, can help to reconcile economic, social and environmental ambitions. As such, CSR has become an increasingly important concept both globally and within the EU, and is part of the debate about globalisation, competitiveness and sustainability. In Europe, the promotion of CSR reflects the need to defend common values and increase the sense of solidarity and cohesion⁵⁹.

⁵⁹ Source: Communication From The Commission To The European Parliament, The Council And The European Economic And Social Committee Implementing The Partnership For Growth And Jobs: Making Europe A Pole Of Excellence On Corporate Social Responsibility

Chapter B: The Right to Adequate Food in Practice

1. Overwhelming challenges: a call for action

The current context of exacerbated poverty and aggravated crisis is putting overwhelming challenges to all development stakeholders. Short term remedies addressing hunger and emergencies, mitigation responses and medium, long term development efforts (the twin-track approach) are in fact implemented with contrasting results. Global governance efforts addressing root causes of inequalities and unfulfilled rights seem to be a coherent response, but a comprehensive action based on broad partnerships is often difficult because of contrasting agendas and vested interests. Notwithstanding these huge challenges, a common "call for action" seems to gain ground, as outlined here below.

The EU Council, October 2009⁶⁰, expressed clear positions, recognising that, due to the high agricultural commodity prices, the financial and economic crisis as well as the climate devastating effects leading to the unacceptable situation of more than one billion hungry, strong coordinated and holistic action from the international community is needed. For this reason, the Council concluded that the EU promotes the **Global Partnership for Agriculture and Food Security** (GPAFS).

The UN Secretary-General Mr. Ban Ki-Moon⁶¹, states the need of the Comprehensive Framework for Action and the **twin-track approach**. He also calls for being prepared to add a **third track – the right to food** – as a basis for analysis, action and accountability. He affirms that a comprehensive approach linking nutrition, food security, agriculture and trade is the answer, thus the way forward lies on inclusive, broad-based partnerships bringing together Governments, civil society, farmers' organizations, businesses and international organisations.

According to High Commissioner for Human Rights, Navi Pillay⁶², the economic crisis and those related to food and fuel are not only crises of development, but of **human rights** as well. For Governments working the way out of economic hardship, they have to address inequalities of power and status.

2. Implementing Food Security based on the Right to Food: legal, institutional and programming tools at global level

box 9: Milestones in the Right to adequate Food progressive realisation

- | |
|---|
| <p>1948: <u>Universal Declaration of Human Rights / UDHRs</u>. The right to food is mentioned in the Preamble as one of the four fundamental freedoms, namely "<i>free from want</i>" and under article 25.</p> <p>1966: <u>International Covenant on Economic, Social and Cultural Rights / ICESCRs</u>; The right to food is covered mainly under art 11. ICESCR entry into force in 1976; up to date is ratified by 160 State-parties.</p> <p>1993: <u>Vienna Declaration of Human Rights</u> adopted unanimously by the World Conference of Human Rights, affirmed that all human rights are universal, indivisible, interdependent and interrelated.</p> <p>1996: <u>World Food Summit (WFS)</u> The food security multidimensional nature is affirmed (food availability, access, food use and stability) as well as the Right to adequate Food.</p> <p>1999: <u>General Comment 12 (GC 12) on the right to adequate food</u> (see following point 2.1)</p> <p>2000: <u>Special Rapporteur on Right to Food</u> is appointed by the Human Rights Council. (See annex 2).</p> <p>2002: <u>WFS</u>: The Inter-Governmental Working Group / IGWG to elaborate a set of VGs was established.</p> <p>2004: <u>The Voluntary Guidelines / VG</u>, a non-binding tool, have unanimously been adopted by the FAO Council. (See point 2.2).</p> |
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⁶⁰ Conclusions of the Council of the European Union Food security and policy coherence – including FAO reform and the World Summit on Food Security, October 2009

⁶¹ High-Level Meeting on Food Security for All, Madrid January 2009

⁶² UN Conference on the World Financial and Economic Crisis and its Impact on Development, 24-26 June, 2009

2.1. The progressive realisation of the Right to Food - General Comment 12

Progressive realisation means that each State makes efforts to progressively achieve the full realisation of the right to food by meeting step by step a minimum of core obligations to the maximum of its available resources through all appropriate means. In compliance with ICESCRs, State Parties have an obligation to move as expeditiously and effectively as possible towards that goal – positive trend. Some minimum core obligations are of immediate effect, including to refrain from any discrimination in access to food and to ensure the minimum essential level required to be free from hunger even in times of humanitarian disasters.

Key words: State obligations (to respect, to protect, to fulfil – facilitate and provide), core obligations, available resources, appropriate means, minimum essential level.

In 1999, the Committee on Economic, Social and Cultural Rights / CESCR agreed on General Comment / GC 12 on “The right to adequate food” as part of its “interpretative” efforts aiming to support Party States in addressing their obligations under ICESCRs.

Under chapter “obligations and violations” § 15 of the GC 12⁶³, the CESCR states that the right to adequate food, like any other human right, imposes three types or levels of obligations on States parties; namely the obligations to respect, to protect and to fulfil. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide.

- The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access;
- The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food;
- The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security;
- Finally, 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 applies for persons who are victims of natural or other disasters.

Under § 14, the concept of “**progressive realisation**” is stated with reference to the full realisation of the right to adequate food and States’ principal obligation to take steps to its full achievement. This approach is based on the ICESCR, article 2 and it is largely explored under GC 3⁶⁴, “The nature of States parties obligations”, 1990. According to GC 12 and GC 3, “progressive realisation” means that each State makes efforts to progressively achieve the full realisation of core rights by meeting step by step a minimum of core obligations to the maximum of its available resources through all appropriate means. The interpretation of the concept is not straightforward and needs to be contextualised. How can the “minimum core obligations” be defined, what are the “available resources” at each state level and how their “maximum” can be quantified and on which basis can measures taken be considered as the most “appropriate means”? Actually, GC 12, § 21, states that “ways and means of implementation will inevitably vary significantly from one State party to another and that every State will have a margin of discretion”. **Appropriate means** include, but are not limited to, administrative, financial, educational and social measures as well as appropriate policies, people-sensitive definition of priorities and appropriate legal, institutional and operational arrangements that enable policies’ effective implementation. Legislative measures and judicial remedies are core part of the required “appropriate means”.

GC 12, with reference to the “progressive realisation” relies on GC 3, which under § 9, interprets the intent of the term affirming that the concept constitutes a recognition of the fact that full realisation of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. Nevertheless, the fact that, under the Covenant, the realisation is foreseen progressively, should not be misinterpreted as depriving the obligation of all meaningful content. Though flexibility is compulsory by the nature of the subject, the concept must be read in the light of the overall objective, indeed the *raison d’être*, of the Covenant which is to establish clear obligations for States parties in respect of the full realisation of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Awareness raising and education of rights holders and duty bearers is among the first steps to be taken without delays.

⁶³ General Comment / GC 12, CESCR Twentieth session, 12/05/1999, Geneva

⁶⁴ General Comment / GC 3, “The nature of States parties obligations”, 14/12/1990

Additionally, States have some minimum core obligations which are of immediate effect. They have the obligation to refrain from any discrimination in access to food as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status. States are further prohibited to take retrogressive measures, i.e. deliberate measures which result in the deterioration of current level of fulfillment of the right to food. Finally, States have to ensure the satisfaction of the minimum essential level required to be free from hunger taking the necessary action to mitigate and alleviate hunger even in times of natural or other disasters.

The above interpretative elements are supposed to guide States' efforts for progressive realisation of the right to adequate food. Parts of the efforts include the fulfilment of reporting-obligations towards the Covenant's monitoring body, CESCR. Progress reports are a vital exercise because they make reference to progress achieved and to measures taken for. Reports should indicate not only the measures, but also the basis on which they are considered to be the most appropriate under the circumstances. Moreover, the State obligation cannot be seen in isolation. The responsibility of the International Community is recognised to the extent that States have obligations about the fulfilment of the fundamental HRs also in other States. However, the definition of responsibilities of both national actors and international community require further specification.

2.2. The Voluntary Guidelines on the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security

According to FAO, these guidelines provide internationally agreed practical guidance for governments and civil societies to build an enabling environment for people to feed themselves in dignity and to establish appropriate safety nets for those who are unable to do so. They show what steps can be taken in 19 different policy areas to promote the right to food. While some steps, such as creating employment and improving rural economies, may not be possible to implement immediately, other actions, such as ending discrimination, require little more than political will.

The Voluntary Guidelines on the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security / VG have unanimously been adopted by the FAO Council in 2004. The Guidelines are voluntary and non-legally binding, although they build on international law and provide guidance on implementation of already existing obligations.

The Right to Food Guidelines are a comprehensive tool structured into three main sections:

| | | |
|---------------------|---|---|
| Section I: | Preface and Introduction | The text of major international legal instruments is recalled and definitions of food security, the right to food and human rights approaches are provided. |
| Section II: | Enabling Environment, Assistance & Accountability | Section II contains 19 provisions through which the Right to Food Guidelines provide practical guidance to States on using human rights for achieving food security. |
| Section III: | International Measures, Actions and Commitments | Reflects agreement on aspects of the international environment to be considered when addressing right to food at national level. The language stems from agreed text in other fora such as the Monterrey consensus on financing for development, the Doha Declaration on a new "development round" (WTO) and resolutions of the UN General Assembly and FAO ⁶⁵ . Donors' community is particularly addressed under this section. |

Section II develops in a quite detailed way the nineteen Voluntary Guidelines, addressing a wide scope of policy and action fields, including, inter alia, democracy, good governance, human rights and the rule of law; economic development policies; national strategies on human rights, encompassing the right to food and related policy, institutional and legal frameworks; functioning market systems promoting economic growth and sustainable development; safety nets and social protection provisions; education and awareness raising on the right to food and food security; multi-stakeholders approach and full participation of the civil society and the private sector.

⁶⁵ It covers the following topics: International cooperation and unilateral measures; Role of the international community; Technical cooperation; International trade; External debt; Official development assistance; International food aid; Partnerships with NGOs/CSOs/private sector; Promotion and protection of the right to adequate food; International reporting.

See in annex 3, a two-page summary of the nineteen Voluntary Guidelines.

The Right to Food Guidelines can be a reference for different users:

- **Governments**, to design appropriate policies, strategies and legislation;
- **civil society**, as a powerful tool to demand and monitor changes in policies; and
- relevant **intergovernmental organizations**, to advise governments in food security policies and programmes.

box 10: The Voluntary Guidelines' twofold added value

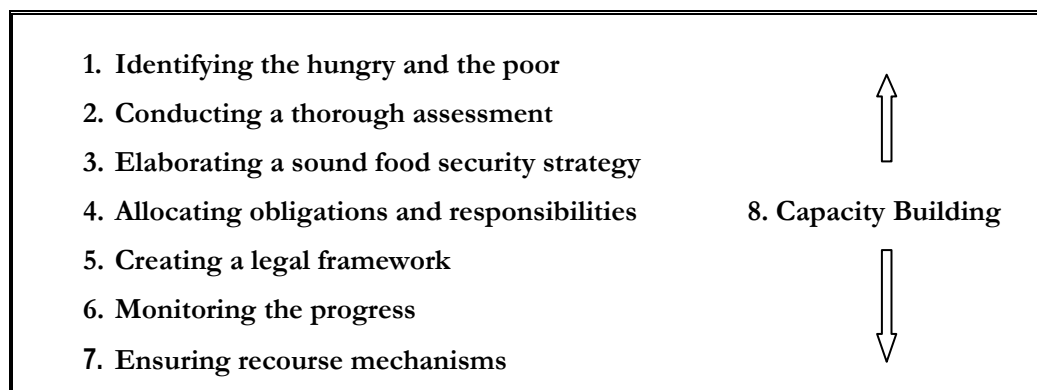
The added value of the Guidelines is twofold, both in terms of **process** and of **outputs**. On the process side, they are the result of an active participation of several stakeholders, discussing the implementation of the right to food at the national level, and States' agreement on the meaning of the right to adequate food. The output is that the Guidelines moved to a **more practical application** of the right to food concept. In fact, they:

- cover all necessary elements of a sound food security strategy and processes;
- promote a framework for cross-sectoral coordination;
- translate human rights principles into concrete recommendations for action; and
- provide a basis for advocating for more equitable policies and programmes.

2.3. Implementing the Right to Food: a seven plus one steps path (pooling efficiency, equity, governance and rights)

Based on the Voluntary Guidelines on the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security / VG, FAO⁶⁶ proposes a practical path (method) to be followed by Governments in their endeavour to comply with their Right to Food commitments taken both through the Voluntary Guidelines as well as through binding mechanisms as the ICESCR. This is an important tool both for Governments and for donors. It is worth noticing that the below key practical tool for policy making, interpretation and implementation, brings together elements of efficiency, equity, governance and rights with a particular attention to the last three elements.

box 11: Implementing the right to food – The seven plus one steps Governments should take



1. IDENTIFYING THE HUNGRY AND POOR

Identifying who and where the individuals are whose right to food is not realized as well as the underlying and root causes of their hunger. Inequality and power dynamics at all levels are root causes of deprivation.

2. CONDUCTING A THOROUGH ASSESSMENT

Assessing existing policies and legislative and institutional frameworks to ascertain their compliance with right to food obligations and principles and to identify problem areas. The causes rather than the symptoms of hunger should be addressed. A thorough assessment addresses the legal framework, policy framework, institutional framework and social inclusion as well as budget analysis.

3. ELABORATING A SOUND FOOD SECURITY STRATEGY

⁶⁶ FAO, Right to Food Unit, Knowledge Centre

Developing policies directed at the four components of food security; namely: availability; access; stability of supplies and of access; and adequacy of utilization.

4. ALLOCATING OBLIGATIONS AND RESPONSIBILITIES

Improve accountability with a clear allocation of responsibilities and the setting of clear timeframes (addressing the progressive implementation aspects of right to food). Review the roles of all the institutions involved in the realization of the right to food, allocating new responsibilities as needed to fill all gaps.

5. CREATING A LEGAL FRAMEWORK

Reviewing, developing and strengthening the national legal framework on the right to food consistent with pertinent provisions of international law, possibly including the elaboration of framework law. It is not enough to have access to food in practice, it should be guaranteed by law for the future. Right to food embedded on appropriate legal framework strengthens law-enforced accountability.

6. MONITORING

Putting into place effective monitoring to assess progress in implementing the right to food. Establish clear benchmarks against which to monitor progress.

7. ENSURING RECOURSE MECHANISMS

Strengthening, or establishing where they do not already exist, recourse procedures to enable victims of violations to claim their rights and to ensure that violations are adequately addressed. At international level, the Special Rapporteur on the right to food set up a mechanism of "individual complains"⁶⁷.

Plus one. CAPACITY BUILDING

Guideline 11.5: States should provide information to individuals to strengthen ability to participate in food-related policy decisions that may affect them, and to challenge decisions that threaten their rights. People must be informed and empowered.

3. Social Transfers: addressing access - equity measures

Public action on food security addresses a) livelihoods development (promotion); b) social transfers / SSNs (prevention from falling into extreme poverty) and c) emergency assistance (provision of means to meet basic needs). This is the Promotion-Prevention-Provision - Continuum / PPPC which in the context of Low-Income Countries should fit into a broader poverty-alleviation and growth-promoting agenda. The PPPC can work in many ways in synergy with the LRRD (Link Relief Rehabilitation Development). Social transfers are instrumental to the right to food enjoyment by ensuring targeted measures addressing food insecure and by bettering risk management, thus enabling people to pave the way out of poverty and food insecurity. Social transfers have to be embedded in Human Rights and the Right to Food, enabling the most vulnerable people having access to social transfers as a matter of right.

Key words: Promotion-Prevention-Provision Continuum / PPPC, risk management - *ex ante*, coping strategies - *ex post*, Social Transfers, Social Safety Nets / SSNs, twin-track, Intensive Labour Public Works/ILPW, transfers-entitlements.

3.1. Social transfers – Social Safety Nets / SSNs – What and Why

Social transfers / SSNs are a powerful tool to enable vulnerable and food insecure people to access food. As previously discussed, the right to food can be fulfilled through social transfers-entitlements when the other forms of entitlements have failed. As a matter of fact, food security approach addresses: **a) agricultural livelihoods development (promotion)** addressing underlying causes of food insecurity; **b) social transfers / SSNs (prevention)** from falling into extreme poverty; risk management *ex ante* and **c) emergency assistance** as last remedy (**provision** of means to meet basic needs; coping strategies *ex post*). Hence, public action on food security evolves along the **Promotion-Prevention-Provision - Continuum / PPPC**⁶⁸.

Social transfers support people's **risk management** - *ex ante* and **coping strategies** - *ex post* efforts. Regarding Low Income Countries / LICs, social protection and social transfers have to be part of a broader framework of poverty-

⁶⁷ To know more about: <http://www2.ohchr.org/english/issues/food/complaints.htm>

⁶⁸ E.C.: "Entitlements and access to food: systems of social transfers to fight extreme poverty", Brussels, May 2008, Position paper. http://www.cc.cec/dgintranet/europeaid/activities/thematic/e6/training_2008/fsaprilaccess_en.htm

alleviation (e.g. PRS / Poverty Reduction Strategies) and growth-promoting agendas (e.g. public reforms, private investments). It is argued that social transfers can also be good for economic growth, as deprivation involves both social and efficiency losses. Nevertheless, it is clear that social transfers have to rely on a strong societal commitment to equity and consequent redistributive policies.

There is the need for an institutional environment and policies supporting people's efforts to address vulnerability and pave a way out of poverty. Thus, public action addressing **governance** is vital. Yet, it is not enough. There is the need to add the **Right to Food** dimension. Social transfers are not about charity. They have to be based on rights and on a national legal system enforcing such rights (e.g. a "social protection law" which includes basic social protection). They can be a good basis for mutual reinforcement of a range of human rights, whatever the vulnerability addressed; e.g. old-age, handicap, unemployment, illness, emergency, lack of assets and power. Country-led process, robust political will and social legislation are prerequisites for good and sustainable SSNs

There is an increased consensus on social transfers promotion. Particularly after the last food crisis of 2008, several **EU MS** have taken favourable positions and effectively promote SSNs in development co-operation. This is clearly the case of DFID⁶⁹ and Gtz. As mentioned before, the UN system response, widely known as the "**twin-track**", lies on economic growth and, on the other hand, on social protection interventions, including social transfers / social safety nets. Civil Society positions also are in line with this approach. The FAO / Right to Food **Voluntary Guidelines** encompass SSNs under guideline 14.

According to Gtz, the poor benefit from growth through some combination of: **a)** greater productivity and higher incomes as farmers or other entrepreneurs, **b)** higher wages and/or more employment as labourers, **c)** lower product prices as consumers, **d)** qualitative improvements in any of these, or **e)** through subsidies and transfers (which are funded via the taxation of productive activity)"⁷⁰.

According to the World Bank, Safety Nets contribute to Development Policy⁷¹. Social Transfers / Social Safety Nets can be productive, stimulate investment and be potentially transformative⁷². They are powerful when addressing those able to engage in productive activity, but who, owing to vulnerability and weak asset status, may engage only sporadically. Actually, SSNs have proved vital to subsistence farmers by ensuring extra-agriculture incomes and have often had immediate positive impact on women's empowerment and children's nutrition and schooling. They also are productive and transformative even when they cover people not able to work. Small cash transfers to elderly make a difference for many children's schooling.

SSNs can work for boosting community economy and break the vicious cycle of poverty-inequality-destitution. There are very positive experiences of SSNs implemented through Intensive Labour Public Works / ILPW that promote people's organisation skills, decision-making capacity, life skills acquisition and small businesses. Saving and loan schemes can be set-up thanks to ILPW wages. SSNs based on public works also contribute to community and country sustainable development when addressing infrastructures (rural roads, warehouses, soil and water conservation, etc). SSNs based on ILPW are mutually reinforcing with decentralisation efforts and ensure "injection" of funds to local economies and the closest to the most in need.

Currently, the terms Social Transfers or Social Safety Nets or Social Protection are used with nearly the same meaning. Different terms do not necessarily mean lack of accuracy or effective difference of views. World Bank, for instance, uses social transfers term, but in its seminal book on social protection⁷³ largely employs the term SSNs. The EC, FSTP⁷⁴, mostly uses the term social transfers.

⁶⁹ DFID; <http://www.dfid.gov.uk/Global-Issues/How-we-fight-Poverty/Human-Rights/Human-rights-and-justice11/>

⁷⁰ Gtz, / BMZ, "Cash transfers in the context of pro-poor growth", Discussion paper for OECD/DAC Povnet, Risk and Vulnerability Task Group, Third International Conference on Conditional Cash Transfers, Istanbul, June 26-30, 2006; by John Farrington, Paul Harvey and Rachel Slater.

⁷¹ World Bank: "For Protection & Promotion – The design and implementation of effective safety nets"; 2008

⁷² Devereux, S. (2002) *Social Protection for the Poor: Lessons from Recent International Experience*, IDS Working Paper 142

⁷³ World Bank: *idem*

⁷⁴ "Social Transfers: an effective approach to fight food insecurity and extreme poverty", concept note, AIDCO E6, not yet an official EC document, more info: EuropeAid-E6-natural-resources@ec.europa.eu

box 12: Social Transfers / Social Safety Nets – SSNs most common types & forms

- Cash transfers (“top-up” payments, “cash for work”, etc) or food stamps (“supply-focused” transfers);
- In-kind transfers, as food via school feeding programs or mother/child supplement programs, but also take-home food rations, school supplies and uniforms, and so on;
- Price subsidies meant to benefit households, often for food or energy;
- Jobs on labour-intensive public works schemes, (“cash for work” or “food for work” or combined forms);
- In-cash or in-kind transfers, subject to compliance to specific conditionalities on education or health;
- Fee waivers⁷⁵ for essential services, health care, schooling, utilities, or transport.

3.2. SSNs – Relief - Development

Humanitarian aid is not a tool for achieving the progressive realisation of the right to adequate food. Actually, the Right to Food is not the right to be fed. It is about being guaranteed the right to feed oneself. Food aid, in kind or in cash, is a last remedy addressing famine or risk of famine. Nevertheless, according to UN GC 12 (see point 2.1 above), food aid is part of the State minimum core obligations which are of immediate effect; namely, States have to ensure the satisfaction of the minimum essential level required to be free from hunger taking the necessary action to mitigate and alleviate hunger in times of natural or other disasters. If their own resources do not suffice, States should facilitate safe and unimpeded access for international assistance.⁷⁶ The provision of international food aid in emergency situations should take particular account of longer-term rehabilitation and development objectives in recipient countries⁷⁷.

There is an emerging consensus among development specialists on the need to pay greater attention to the basic welfare needs of populations living in difficult environments. There might be opportunities both for Social Safety Nets – SSNs to be expanded during periods of crisis to help people to deal with shocks, and for transfers that begin as emergency interventions to be developed into longer term social protection programmes⁷⁸.

For instance, Cape Verde, that before independence had several times experienced famine, has been one of the most successful stories about linking relief and development. That occurred in a two-decade programme of “national reconstruction” based on **intensive labour public works** schemes (“cash for work”) fed by international in-kind food aid converted by the government in a National Development Fund. As a result, under national initiative and leadership, in-kind food aid has been transformed in an economic stimulus, injecting fresh money in the local market, opening jobs, promoting people’s professional and organisational skills, building up vital infrastructures like roads, reforestation and watershed management, among others. A save & loan system, built on intensive work of empowerment and participation and fed by people’s wages has been relevant for the phasing-out stage of the programme, offering conditions for setting-up small businesses and enhancing agriculture activities.

The international community envisages a strong link between emergency and development, the so called “Relief - Development – Continuum”. The EC has adopted the “Link Relief Rehabilitation and Development” / LRRD approach (Commission COM (1996) and COM (2001) 153 final). For low-income countries exposed to “predictable” and “structural” emergencies embedded in persistent and extensive vulnerability, it is particularly important to consider the links between emergency and development management. The **PPPC** approach can be a powerful instrument dealing with **LRRD**. Essentially, social transfers / SSNs are relevant to emergency prevention and response and can be instrumental in the phasing-in and phasing-out stage of an emergency action. As a matter of fact, some EU Member States start considering that the renewed interest in long-term social transfers and social protection may also provide opportunities for *linking relief and development*.

Actually, one important reason for setting up SSN systems in low income countries is related to the need of having in place systems that can play a role in addressing emergencies, too. Their utility can be double, both in terms of early alert and preparedness (good monitoring systems will be closer to the most vulnerable people exposed to possible emergencies) and in terms of delivery systems already in place to be used (with appropriate arrangements) for addressing emergency.

⁷⁵ A voluntary giving-up of a right/claim over fees. There is already a large experience in health and schooling context.

⁷⁶ VG no. 16.6

⁷⁷ VG no. 15.4

⁷⁸ GTZ, / BMZ, “Cash transfers in the context of pro-poor growth”, Discussion paper for OECD/DAC Povnet, Risk and Vulnerability Task Group, Third International Conference on Conditional Cash Transfers, Istanbul, June 26-30, 2006; by John Farrington, Paul Harvey and Rachel Slater.

4. Implementing the Right to Food - How countries make it happen

A few countries have incorporated the Right to Food in their Constitutions and many have adopted legal frameworks addressing the Right to Food. Developed countries, since the second World War have successfully addressed their obligations under Human Rights, including adequate standard of living. A number of countries chronically hit by hunger have undertaken serious efforts and shown positive results on the progressive realisation of the right to food. (See in annex 4, an outline of four examples prepared for the current desk study).

Strong political will, national robust ownership, conducive political environment relying on democracy strengthening, progress on good governance and reforms, and eventually duty-holders' awareness raising and peoples' empowerment are fundamental elements for positive results. Steps taken by Governments for **implementing the Right to Food** should include: a sound food security policy, monitoring systems poor sensitive, legal frameworks fostering the right to food, civil society promotion, a national cross-sectoral and inclusive body with leading role, clear allocation of responsibilities and accountability mechanisms, participatory and inclusive decision-making process. Countries that *"make it happen"* do so by fostering both development conducive policies and redistributive policies, like social transfers, education and health systems accessible to food insecure. For the poorest countries, international commitment and predictable ODA, as per Monterrey Consensus and Voluntary Guidelines, section III, are vital.

box 13: Brazil: Allocating roles and responsibilities – National inclusive bodies / CONSEA

"Half of the Brazilian population doesn't sleep because of hunger; the other half doesn't sleep because they are afraid of the hungry"

Jôsue de Castro, Winner of International Peace Prize

In 2004, 72 million people, 39,8% of the 185 million Brazilians, were affected by food insecurity with devastated effects on human dignity and social peace and security. Today, Brazil is considered a good example of a country that has taken comprehensive action to eradicate hunger. Its **"zero hunger"** programme supported by President Lula in 2002, who elevated food security at the level of the presidential cabinet, is a living example of how things can happen.

Though the National Food and Nutritional Security Council's (CONSEA) first life span was short lived (1993-1994), its ground-breaking discussion of social exclusion turned Brazil's hunger problem into its key political issue. Citizens mobilized in a way that the country had never before witnessed and demanded to participate in changing public policies.

Re-established in 2003, CONSEA's National counsellors – 40 from civil society, 17 from government and 16 non-voting observers – are the President's consultants and advisors on food security and right to food issues. Sector groups (e.g. Production and Supply, Nutrition and Health) and commissions (e.g. Indigenous or Black Populations and Right to Food) contribute to monthly plenary agendas; recommendations are then forwarded to the President. CONSEA Councils have also been formed in nearly every Brazilian state and even in some municipalities.

CONSEA's National Food and Nutritional Security Conference brings together 1300 counsellors from around the country for a national assembly that, by law, must convene at least once every four years. These delegates, together with about 500 non-voting attendees, make up the main body of CONSEA, responsible for monitoring and establishing guidelines for the implementation of the National Policy on Food and Nutritional Security⁷⁹.

⁷⁹ FAO, Right to Food Unit, "Lessons learned in Brazil", Rome, 2009 <http://ftp.fao.org/docrep/fao/010/a1331e/a1331e.pdf>

box 14: Mozambique: A long way to go, yet in the right path

Around 54% (69% in 1997) of the population in Mozambique is under the Absolute Poverty Line (largely a consumption-based assessment referred to 2,150 Kcal/person/day). Around 29% of the population is undernourished, i.e. they do not meet the Minimum Dietary Energy Requirements (MDER) of 1,617 Kcal. However, a positive trend is registered thanks to many efforts, inter alia, on food security public response and promotion of the Right to Food.

In **Mozambique** the main achievements so far on the Right to Food agenda supported by FAO are:

- ✓ Thorough vulnerability decentralised assessment (District level) leading to a livelihoods' classification;
- ✓ Integration of the right to food and the right to food principles into ESAN II (National Food Security Strategy);
- ✓ Institutionalisation and strengthening of SETSAN (Inclusive, National, cross-sector, technical coordinating body on Food Security);
- ✓ Recognition of the multi-sectoral dimension of the Right to Food;
- ✓ Elaboration (on going) of the Right to Food Framework Law.

5. Broad outline of the EU response

The **European Union** and **Member States** are engaged in the right to food through several legal and political commitments, which, on the global food security agenda, have operational value in their own right and are progressively implemented through EC appropriate means and tools. In the aftermath of the world food crisis of 2008, clear intensification of efforts is noticed.

5.1. Commitments, policies, agreements

Concerning International Law:

- All EU MS have ratified, inter alia, the **ICESCR**, the **ICCPR**, the **CEDAW** (on women's rights), the **CRC** (on children's rights), the **CERD** (International Convention on the Elimination of All Forms of Racial Discrimination) and **Labour** related Treaties and Conventions.
- All EU MS have signed the **UDHR**, the **Vienna Declaration** of Human Rights and the **Voluntary Guidelines on the Right to Adequate Food**, the latter also negotiated by the EC.
- EU and MS have ratified the **International Treaty for Plant Genetic Resources for Food and Agriculture**; which entered into force in 2004 when ratified by 47 countries, including the EU and 11 MS. As of August 2008, 119 countries have ratified the Treaty.

Concerning commitments and policies:

- Poverty reduction and MDGs achievement remain the main objectives of EU and MS in their cooperation with partner-countries. EU and MS promote donors harmonisation and alignment in compliance with Paris Declaration and Accra Action Agenda, as stressed in the Communication "*Advancing African Agriculture. Proposal for continental and regional level cooperation on agricultural development in Africa*"⁸⁰. The latter is an important framework for the EU – AU partnership and for the EU contribution to the "*Comprehensive Africa Agriculture Development Programme*" (CAADP).

More specifically, in the aftermath of the last world food crisis of 2008:

- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions; "*Tackling the challenge of rising food prices Directions for EU action*"; Brussels, 20.5.2008;
- "*Council conclusions on Supporting developing countries in coping with the crisis*"; 2943rd EXTERNAL RELATIONS Council meeting; Brussels, 18 May 2009;
- EU and MS have been active in several **Global Governance fora** addressing, inter alia, increased vulnerability and inequality worldwide. In the **G20 Pittsburgh Summit** (June 2009) the EU endorsed Leaders' Statement, including a

⁸⁰ Communication from the Commission to the Council and the European Parliament, 2007

call for “*Strengthening Support for the Most Vulnerable*”. Under § 34 the G20 leaders notice the adverse impact of the global crisis on low income countries’ (LICs) capacity to protect critical core spending in areas such as health, education, safety nets, and infrastructure and they assume the collective responsibility to mitigate the social impact of the crisis. G20 leaders stress the importance of the UN’s new Global Impact Vulnerability Alert System for monitoring the crisis’ impact on the most vulnerable and (§ 39) call upon the World Bank to work with donors and organisations to develop a multilateral trust fund to scale-up agricultural assistance to low-income countries.

- EU and MS endorse the outcome of the Madrid High Level Conference on Food Security, 01/2009.
- The Council adopts the “*Conclusions of the Council of the European Union Food security and policy coherence – including FAO reform and the World Summit on Food Security*”, October 2009, that stress the relevance of the United Nations High-Level Task Force, the Comprehensive Framework for Action and the process for the Global Partnership for Agriculture and Food Security /GPAFS as negotiated in Madrid High Level Conference. The Council highlights the importance of fostering sustainable agriculture in developing countries as key sector for achieving economic growth, poverty reduction and food security in realisation of the right to food; it calls for resources mobilisation for long-term agricultural development, food security, nutrition, social protection and, where necessary, emergency food assistance. The Council invites the Community and its Member States to pursue efforts to ensure a coherent approach of all policies so as to promote poverty reduction and food security and stresses the relevance of global food security to Policy Coherence for Development future work.
- The European Economic and Social Committee adopted on 17 December 2009 the opinion on “Trade and Food Security” which acknowledges Food security as a fundamental human right.⁸¹

5.2. Means and tools

- Under the **10th EDF** the support allocated to Agriculture and Rural Development has been increased from € 650 million under the 9th EDF to an estimated amount of € 1.5 billion, depending on NIPs (out of 22.682 billion of 10th EDF budget). Twenty-five (25) partner countries have chosen agriculture, rural development and/or food security as focal area.
- The **Food Security Thematic Programme (FSTP)**, which complements the geographical programmes under the EDF, addresses the causes rather than the symptoms of hunger. It is designed to improve the livelihoods of the most disadvantaged groups in developing countries and in exceptional situations of fragile and transition states. (total allocation 2007 to 2010: € 925m).
- The € 1 billion “**Food Facility**”, the EU’s rapid response to soaring food prices, makes use of a wide range of tools aimed at improving the production capacity and the access to food of the most vulnerable populations, through local seed production, provision of seeds and tools, irrigation services, extension services, vocational training, safety nets, food for work programmes, livelihood recovery, improvement of market access, among others.

5.3. Agriculture back on the agenda: an urgent need

In addition to Member States’ contributions, the European Commission roughly finances around 10% of worldwide development cooperation. Whereas the EU is the leading global donor of development and humanitarian aid, its share of aid allocated to agriculture has registered negative trend since the 1980s. OECD report on “*Aid to Agriculture*” (December 2001), affirmed that data in constant dollars show that aid to agriculture fell at an annual average rate of 7%. As a result, aid to agriculture fell from a 17% share in the early 1980s to 8% at the end of the 1990s⁸². The decline is partly explained by general cuts in ODA, but it is mostly due to shifting in donors’ sectoral priorities from agriculture and other productive sectors towards social sectors. EU spending fluctuated the most, falling dramatically during the 1980s and, unique among multilaterals, increasing during the 1990s. Nevertheless, the 9th EDF allocated to agriculture and rural development only 7.8% of total commitments and, though the 10th EDF increased considerably the total amount allocated to agriculture in absolute terms, the share for agriculture has further decreased.

The European Parliament resolution of 13 January 2009 on the *Common Agricultural Policy and Global Food Security*,⁸³ in relation to agriculture and food security in the context of development co-operation, §52 – 57, calls on the European

⁸¹ <https://toad.eesc.europa.eu/AgendaDocuments.aspx?pmi=c3vZ7VUXHdM%3d>

⁸² Concerning Geographical Distribution, as a DFID report (2004) on ODA to agriculture shows, the largest proportional reductions in assistance (both bilateral and multilateral) have occurred in Asia. Between 1980 and 2002, ODA to agriculture halved in sub-Saharan Africa and decreased by 83% in South and Central Asia.

⁸³ European Parliament resolution of 13 January 2009 on the Common Agricultural Policy and Global Food Security (2008/2153(INI))
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2009-0006+0+DOC+PDF+V0//EN>

Union to put agriculture back at the centre of the agenda. It calls to base agricultural development in partner countries primarily on the right to food; to recognise developing countries' right to food sovereignty, supporting with targeted measures; regrets the reduction of ODA devoted to agriculture and rural development, from 17% in 1980 to 3% in 2006 and urges the Commission to do all in its power to induce ACP governments to spend the 10% of the national budget on agriculture as by their commitment. In § 54 clearly spells out the links between food security, right to food and sustainable development: “ ... *agricultural development must be based primarily on the right to food and the right to produce food, enabling all people to have the right to safe, nutritious and culturally appropriate food produced using environmentally sound and sustainable methods in an autonomous farming structure*”.

The European Parliament resolution of 26 November 2009 on the FAO Summit and food security⁸⁴ under § 2 stresses the right to food relevance and requires the establishment of comprehensive policies enhancing sustainable livelihoods, it calls on countries to implement the FAO Voluntary Guidelines / VG and supports the practical application of the VG on the basis of the principles of participation, transparency and accountability. It calls on all Member States to redouble their commitment to achieving MDG 1. Under § 10, it stresses the importance of international cooperation and solidarity and the need to refrain from taking unilateral measures not in accordance with international law and the Charter of the United Nations which endanger food security; calls for balanced trade agreements, as they are an essential element of a global food security response.

5.4. Social Transfers /Social Safety Nets: the equity response

Considering Social Transfers, according to **Food Security Thematic Programme / FSTP**⁸⁵, the Commission is already involved in a large number of social safety nets programmes, generally but not exclusively funded by Food Security Budget Line (FSBL) appropriations. After FSBL ending in 2006 the responsibilities for managing the food security and food aid allocations were split between ECHO, the EC Delegations in partner countries, and the Food Security Thematic Programme (FSTP). With ECHO's focus on humanitarian assistance and food aid, and with the Delegations needing to orient their programmes around priority sectors defined by their individual Country Strategy Papers, it will be important for the FSTP to play a coordinating role for food security issues, particularly for vulnerable countries where it has not been possible to include food security as a focal sector.

Social Safety Nets / SSNs are encouraged under several EU strategies and policies, among which:

→The **Thematic Strategy for Food Security**⁸⁶, addressing particularly post-crisis context, considers food aid in a development perspective, too, by also targeting those who need temporary support to graduate from absolute poverty and engage in productive activities. Among the priority groups are: under-five children; HIV/AIDS affected communities; war affected communities; Internally Displaced People / IDP; women; landless and farm labourers, urban ultra-poor. Moreover, the Food Security Strategy underlines the protection and recovery of productive and social assets vital for food security and the relevance of investments crucial to economic integration and longer-term recovery (e.g. rehabilitation of local infrastructure combined with productive and social safety nets, agricultural inputs' availability/access, non-agricultural income generating activities, addressing vulnerability to shocks and strengthening people's resilience through support for crisis prevention and management).

→The **European Consensus on Development**, at § 84, stresses that the Community will continue to work to improve food security at international, regional and national level. It will support strategic approaches in countries affected by chronic vulnerability. Focus will be on prevention, safety nets, improving access to resources, the quality of nutrition and capacity development. Particular attention will be paid to transition situations and to the effectiveness of emergency aid.”

→In the **EC Strategy for Africa**⁸⁷, § 3.1.3, “*Tackle the MDGs directly*”, the SSNs role is stressed and it is stated that the EU should help to make basic social services available for the poorest people in Africa (MDGs 1-6), contributing to the establishment of social safety nets for the most vulnerable: women, elderly, children and disabled people.

⁸⁴ European Parliament resolution of 26 November 2009 on the FAO Summit and food security

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2009-0102+0+DOC+XML+V0//EN>

⁸⁵ Food Security Thematic Programme: “Entitlement and access to food: systems of social transfers to fight extreme poverty”, Brussels 14-18 May 2008, Position Paper, Background

⁸⁶ Communication from the Commission to the Council and the European Parliament of 25 January 2006 - A thematic strategy for food security: Advancing the food security agenda to achieve the Millennium Development Goals; Brussels, 25.1.2006, COM(2006) 21 final

⁸⁷ Communication from the Commission to the Council, The European Parliament and the European Economic and Social Committee EU Strategy for Africa: Towards a Euro-African pact to accelerate Africa's Development; Brussels, 12.10.2005; COM(2005) 489 final

→The “**European Community policy and approach to rural development and sustainable natural resources management in developing countries**”, COM(2002) 429⁸⁸ also addresses the safety nets topic under “*Actions in Support of Rural Poverty Reduction*”. Safety nets are foreseen as “*a cushion against shocks when community coping mechanisms break down*”. To this policy, the EC provides targeted financial assistance (through government budget, if the necessary conditions are in place and food aid / assistance, in certain circumstances, to save lives, protect livelihoods and preserve assets). Additionally, the policy clearly spells out the link between relief, rehabilitation and development and that envisages a SSNs role in the LRRD continuum.

5.5. Other EU policies and action areas contributing to the Right to Food implementation

Several EU policies and action areas strongly contribute to the implementation of the Right to Food. Above all, we mention the EU cooperation in the area of **Governance**, including **Human Rights** strengthening and the promotion and strengthening of **Non State Actors / NSA**. The European Union believes that democracy and human rights are universal values that should be vigorously promoted around the world. They are integral to effective work on poverty alleviation and conflict prevention and resolution. Under **Cotonou Agreement**, the role of NSA in political dialogue is enforced under article 8 (7). Under article 9, “*Essential Elements and Fundamental Elements*”, the human rights indivisibility and the relevance of social rights is clearly spelt out and article 9 (2) clearly calls upon the need of respect of international obligations and commitments concerning respect of human rights. In addition, the European Instrument for Democracy and Human Rights (**EIDHR**) is the concrete expression of the EU's intention to integrate the promotion of democracy and human rights into all of its external policies. The EIDHR can grant aid where no established development cooperation exists, and can intervene without the agreement of the governments of third countries⁸⁹.

Relevant general EU policies have been under scrutiny and have set up a more favourable strategic and institutional framework for the progressive inclusion of the Right to Food agenda in the implementation of EU policies. The last (2009) Commission Report on the **Policy Coherence for Development (PCD)** shows that progress has been achieved in the area of agriculture, trade and the social dimension of the globalisation with a positive bearing on Food Security. The right to food is not explicit in the 2009 report leaving room of improvement in compliance with Council⁹⁰ position that “*welcomes, in particular, the Commission's proposal to consider global food security as a priority area in the future work on policy coherence*” and envisages “*economic growth, poverty reduction and food security in realisation of the right to food*”.

The recent reform of the **Common Agriculture Policy (CAP)** represents a significant step in the right direction, in particular through the decoupling of a greater share of income support to European farmers and the reduction in EU export subsidies in recent years. Similarly, in the full and interim **Economic Partnership Agreements (EPAs)**, which have replaced the trade chapters of the Cotonou Agreement since 2008, a food security safeguard clause has notably been included allowing ACP partners to take appropriate measures where compliance with the EPA leads to problems with the availability or access to foodstuffs.

The European Alliance for **Corporate Social Responsibility / CSR**. According to the Commission⁹¹, CSR practices are not a panacea and they are not a substitute for public policy, but they can contribute to a number of public policy objectives, like: **a)** greater respect for human rights, environmental protection and core labour standards, especially in developing countries; **b)** poverty reduction and progress towards the Millennium Development Goals. For the EU, CSR is of international dimension: “*The Commission will continue to promote CSR globally with a view to maximising the contribution of enterprises to the achievement of the UN Millennium Development Goals. The ILO Tripartite Declaration of Principles concerning MNEs and Social Policy, the OECD Guidelines for MNEs and the UN Global Compact, as well as other reference instruments and initiatives, provide international benchmarks for responsible business conduct. The Commission is committed to promoting awareness and implementation of these instruments and will work together with other governments and stakeholders to enhance their effectiveness*”.

⁸⁸ Communication from the Commission Fighting Rural Poverty; European Community policy and approach to rural development and sustainable natural resources management in developing countries; Brussels, 25.7.2002 COM(2002) 429 final

⁸⁹ Source: http://ec.europa.eu/europeaid/what/human-rights/index_en.htm

⁹⁰ Conclusions of the Council of the European Union Food security and policy coherence – including FAO reform and the World Summit on Food Security, October 2009

⁹¹ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee:

“Implementing the partnership for growth and jobs: Making Europe a pole of excellence on Corporate Social Responsibility”; Brussels, 22.3.2006

Chapter C: How mainstreaming Right to Food into EC Policy Framework to assist Developing Countries addressing Agriculture and Food Security challenges

Hunger is not a fatality. It is a result of policies that could have been different, and that would not have been allowed to stand if their impacts had been monitored more carefully in the past⁹².

1. Introduction

1.1. Towards a renewed EU policy

The renewed EU policy framework⁹³ on agriculture and food security would have as **main objective** to assist developing countries addressing long-term sustainable agriculture and food security challenges by addressing food availability and access; by improving food quality and appropriate utilisation; and by improving crisis prevention, preparedness and management. According to the envisaged renewed policy, this objective will be **attained by** giving primacy to national ownership and by mainstreaming food security policy in the political dialogue. In addition, the policy will be based on the **principles** of equity and participation (in particular women) in policy formulation and decision-making processes; it will be pro-poor, giving priority to the most vulnerable groups, in particular small farmers, women and children; it will promote sustainable development, linking agricultural development and food security with adaptation to climate change and it will ensure coherence between instruments and policies.

It can be stated that the right to food is converging and conducive in many ways to the renewed EU policy framework summarised above. The right to food adds a legal dimension, including appropriate legal framework and institutional arrangements. The Human Rights system is a powerful tool when dealing with, inter alia, issues of access and sustainability. Rights-based approach strengthens all the main **principles** listed above. The Human Rights-based approach is people centred and vulnerable groups by definition are the priority. Moreover, the Human Rights-based approach strengthens development policies and actions through its inherent principles of Human Dignity; Accountability; Empowerment; Non-discrimination; Participation; Transparency and Rule of Law. The Human Rights approach is conducive to **national ownership** and to **political dialogue** and encompasses consolidated mechanisms of global governance.

Eventually, regarding the EC role in promoting the implementation of the right to food, herein, two assumptions are considered:

- The Right to Adequate Food is a dimension of Food Security and
- The Right to Adequate Food is, by definition, a Human Right therefore a cross-cutting issue.

1.2. “ ...cooperation is 'tailor-made' to each partner ”

Considering policy implementation, we recall that “*The external effects of the various policies become visible at the level of third countries. Similarly, the different approaches, policies and co-operation programmes of donors crystallise at country level. Consequently, coherence, co-ordination and complementarity (3 C) are key issues in the relations with our partner countries, which require intensive interaction with all actors*” (DG-Dev⁹⁴). Moreover, according to “The European Consensus on Development”, § 57, “*Implementation of Community development cooperation is necessarily country or region-specific, 'tailor-made' to each partner country or region, based on the country's own needs, strategies, priorities and assets. Differentiation is a necessity, given the diversity of partners and challenges*”. Food Security policies and implementation strategies are partner-countries endeavour. Each country has its specificity properly reflected in the country programming instruments - CSP/NIP - and encompassed on the agenda of EC Delegations / EC Del. Hence, EC HQ and EC Del will choose “how” promoting the right to food on a case by case basis at country and regional level. Nevertheless, certain patterns can be considered regarding EC means & tools and intervention areas.

⁹² The Special Rapporteur on the Right to Food, Dr. O. De Schutter, Statement to the World Summit on Food Security, 18th November 2009, Rome

⁹³ “Issues Paper” – Towards a EU policy framework to assist developing countries addressing agriculture and food security challenges.

⁹⁴ http://ec.europa.eu/development/aboutgen_en.cfm

1.3. Human Rights: an opportunity for inclusive political dialogue and people-centred action

In general terms, fostering a Human Rights-based approach strengthens and facilitates the EC Delegations' endeavour to carry on inclusive political dialogue and people-centred action on several intervention areas. In this sense, the relevance of Human Rights is clear under article 8 (Political dialogue), article 8 (7) (Political dialogue and NSA participation) and 9 (Essential elements and fundamental elements) of Cotonou Agreement. Human Rights are fundamental for MDGs achievement, thus HRs can enlarge the political dialogue platform and instruments. The Human Rights system is enforced through legal and institutional arrangements that correspond to binding obligations for all States Parties. Limiting the Human Rights approach to a sort of generic guidance deprived from any effective *"mise en œuvre"* would be erroneous. The Human Rights system supports countries to comply with their obligations and to progressively reach adequate performance standards. Additionally, the Human Rights system through its monitoring mechanisms supplies all partners with information relevant to accountability and political dialogue promotion. To be noticed that concerning the right to adequate food specific conventional (binding) and extra conventional (non binding) mechanisms are in place, addressing implementation and performance monitoring.

Although each country presents its peculiarities, reflected in the EC cooperation arrangements, attention must be drawn on countries presenting temporary or structural difficulties, usually classified as **fragile States**, or even failing States and **"difficult partnerships"**. A third of the world's poor live in fragile or failing States. The worse off countries, characterised by bad governance performance, will normally present higher food (in)security coupled with weak or opaque assessment systems, including early alert systems and weak or ill-defined policies. The EU deploys innovative schemes for intervention in such a difficult context⁹⁵. The European Instrument for Democracy and Human Rights⁹⁶ (EIDHR) is an instrument that can grant aid where no established development cooperation exists, and can intervene without the agreement of the governments of third countries. The "Food Facility" also can work under difficult partnerships' context.

Concluding, even when the institutional conditions are difficult and a sound national food security policy is not in place, the Right to Food remains a fundamental goal to achieve and by large a valid instrument of political dialogue and of call to action. This is a relevant **added value** that the Right to Food brings to Food Security, keeping in mind that the Voluntary Guidelines have unanimously been accepted by all countries and that the ICESCRs, enforcing the right to food under International Law, has been ratified to date by 160 countries.

1.4. An EU policy at the level of the new challenges

A food security policy for assisting developing countries to address agriculture and food security envisaging the right to food would provide an important guidance and an action tool up to the new challenges at global, national and local level. By envisaging synergies between economic efficiency and social equity and addressing governance and rights strengthening, the renewed EU policy would bring into action the new paradigm of food insecurity as an economic, social and political construct (see Chapter A point 1.1.).

In line with the Paris Declaration, the Accra Action Plan and the Madrid High-Level meeting on Food Security for All (2009), the renewed EU policy addresses the new challenges on food security that along with availability concerns put on the table issues of access, food entitlements and rights as well as issues of governance, including the need for global governance on food security. *"As events in 2008 have demonstrated, national, regional and also global capacities in support of appropriate and effective food security governance are quite weak. Economic, political, institutional, legal and social frameworks for better food security governance and in support of the realisation of the right to food must be strengthened"* has stressed the Committee on Agriculture, twenty-first session, Rome, April 2009.

The challenge of implementing a policy addressing those topics is high. It is about opening new ground, but it also is about continuity and building on several "acquis". In fact, although the renewed EU policy opens new fields of action for which a *"learning by doing"* approach is compulsory, the implementation of the policy relies on a robust field experience and on outstanding existing policies, including the EU Consensus and the Policy Coherence for Development, and on EC strategies and Council commitments clearly underpinning a renewed food security policy *"in realisation of the*

⁹⁵ For instance, EC Del in Zimbabwe (a difficult partnership) manages to carry on sustainable livelihoods and human rights promotion by precisely deploying these instruments: a) *"Strengthening Community Based Organisations for Sustainable Livelihoods and Rights Protection"*, 2009, (through EIDHR) and b) *"EU / FAO: seeds and fertilizers to 176 000 farmers"* (through "food facility").

⁹⁶ http://ec.europa.eu/europeaid/what/human-rights/index_en.htm

*right to food*⁹⁷. The EU Council, October 2009, calls upon the need for “..... a truly coherent and integrated approach where the development, humanitarian and food security consequences of policy decisions, in all policy areas, are duly taken into account. In such an approach, partners from the public and private sector and civil society should work together” and stresses the relevance of food security as a priority area in the work on policy coherence.

Nevertheless, **the implementation of a policy** is a living process subject, inter alia, to constant negotiations between constituencies and stakeholders, including member states, partner countries, civil society, private sector and multilaterals. In this process, the Commission has to deploy and strengthen existing institutional capabilities, including specific EC means & tools and human resources, and to promote awareness raising and advocacy addressing constituencies and stakeholders, like the general public, civil society, business community, member states and partner countries.

2. EU means & tools for promoting the Right to Food

2.1. Political dialogue and Policy dialogue

Bilateral relations with ACP countries also comprise a flexible **political dialogue**, formal or informal, according to the need. Political dialogue encompasses co-operation strategies, conflict prevention, resolution and conflict management. Regional and sub-regional organisations as well as civil society representatives (NSA) shall be associated. Any EU position in the context of the political dialogue requires close consultation and co-ordination with the EU Member States.

Promoting the Right to Food approach requires that the Right to adequate Food is introduced on the Political Dialogue Agenda, both as a dimension of food security strategy and as a topic in its own right. Put the Right to Food on the agenda, at Political Dialogue level, stresses the relevance of the topic and the EU commitment on the Right to Food. MDGs, Human Rights and Governance issues are on the Political Agenda. The Right to Food is fundamental to MDGs, it is a Human Right and one of the four fundamental freedoms, and brings added value on governance issues. At least two main specific Political Dialogue instruments could be upgraded to encompass Right to Food; namely: political dialogue **benchmarks** (where applicable) and **governance profile**.

Policy dialogue is not an EU specific tool, but is largely fostered and promoted by EU and Member States / MS. It is a privileged and advanced cooperation instrument particularly, but not only, when the conditions for general budget support / GBS are in place. Actually, according to donors' community, another key aspect of working with GBS is that it provides an important avenue for **dialogue between government and donors** on development policies and public spending choices. The transfer of financial resources alone does not automatically generate policy, institutional and governance improvements; appropriate technical assistance and policy dialogue are also needed.

The Accra Action Agenda includes the need to develop accountability mechanisms and clear and transparent results frameworks to measure progress. The Human Rights system and the Voluntary Guidelines on the Right to Food contribute to **performance monitoring** and monitoring capacity of all parties strengthening. On the other hand, the HRs' fundamental principles (Human Dignity; Accountability; Empowerment; Non-discrimination; Participation; Transparency; and Rule of Law) and can feed a more constructive policy dialogue.

Additionally, these principles can be constitutive elements of policy dialogue **benchmarks**. In compliance with the Voluntary Guidelines, the right to food has to be on the agenda and the VGs recommendations have to be reflected in the Performance Assessment Framework of programming tools as PRSP (Poverty Reduction Strategy Paper). Policy dialogue is a highly recommended tool for the promotion of a sound food security policy grounded on the right to food addressing **a)** alert on early threats to the right to food; **b)** coordination between sectors (ministries) and government levels (national down to the district and community); **c)** accountability, with clear allocation of responsibilities; **d)** adequate participation of the most food insecure and **e)** putting people at the centre, particularly the most vulnerable.

Political and Policy dialogue would gain added value and effectiveness when encompassing Human Rights. From the Right to Food perspective, it has to be questioned to which extent policies and programmes can have a positive impact on peoples' food entitlements and on their capabilities to feed themselves. Similarly, it has to be questioned to which extent a decision can harm, whom and why, in the short, medium and long term. Such Human Rights-based “scrutiny” during Political and Policy dialogue cannot but enrich all parties and bring about better decisions.

⁹⁷ Conclusions of the Council of the European Union Food security and policy coherence – including FAO reform and the World Summit on Food Security, October 2009

2.2. Programming exercise

The renewed approach on programming as well as the policy coherence work are an essential contribution to the aid effectiveness agenda. The right to food contribution to the programming exercise cycle is twofold:

- As a Human Right, the right to food is a cross-cutting issue and has to be mainstreamed in other focal activities;
- As essential dimension of food security, the right to food should be included in CSP/NIP, where rural development and food security are focal areas and it should be addressed by the work on policy coherence.

In both cases, the right to food is a benchmark for the programming exercise. In policy-making, taking Human Rights as benchmark is coherent with the EU foundations. For decision-making and action purposes, Human Rights, including the Right to Food, draw the bottom line and bring **new judgement elements** including the principle that qualitative criteria prevail over the quantitative ones. For instance, an agricultural policy will always have different effects over different societal groups, probably leaving some better off and others worse off. Decision-making will follow balance criteria between advantages and disadvantages and if, for instance, a policy impacts negatively over a 10% of the population and very positively over the rest of the society, it will probably be judged a good policy to put forward. However, when taking on board the Right to Food, it is compulsory questioning to which extent the policy could harm vital food entitlements of individuals. From HRs' perspective, a policy doing extremely well for the majority but forcing to starvation a group of people, without foreseeing remedies addressing such violation, is an ill policy. The number of people whose rights are seriously violated is not relevant from Human Rights perspective. It is evident that taking Right to Food and HRs generally as benchmarks for policy-making and action purposes is much about a mindset-shift.

Assuming that the right to food in practice sets **policy and action benchmarks**, meaning that it provides a bottom-line of minimum non negotiable standards, a list of relevant questions should be considered along the programming cycle; namely:

1. Does the action harm people by impacting negatively on their food entitlements and rights?
2. To which extent does the action address the right to food? Why yes, why not?
3. If the action addresses the food entitlements and rights, how is it done?
4. Which is the added value that the right to food brings or could bring to the action?

As previously exposed (chapter A & B), food security evolves along the twin-track of efficiency and equity and consequently addresses both economic development and social protection measures. In a CSP/NIP there are intervention areas that can contribute to the food security, in view of the realisation of the right to food, either through economic development support or through social protection measures or even through a combination of both.

We take below some briefly exposed examples.

Health

Health is relevant to food security for several reasons. Only people in good health conditions can enjoy an efficient intake of nutrients. Another argument regards people's good health related to their productive capabilities. In rural communities, bad harvest and bad health are usually linked in a vicious cycle. Health seasonality and hunger seasonality, related to agriculture cycle, are inter-connected in many ways. Another issue regards the new health emergencies with prominence of HIV / AIDS that drastically hits households' productive capacity, in many cases deprives them from extra agriculture incomes and, on the other hand, requires more efforts to access quality food for the infected.

There are indeed many inter-connections between health and food security, but we can stress one in particular, namely the link between food insecurity and country health system in terms of financing systems. How people have access, if any, to health services has a direct impact on food security in many ways, but first of all in terms of the household budget. More than 1.2 billion people are denied any access to health because they cannot afford to pay health care fees. "Who will pay" is a fundamental question both for health systems' and the households' sustainability.

The Bamako Initiative, 1987, introduced the principle of financial participation by users. Consequent fees payments had negative effects on access to health care by poor people, considered too great compared to the positive effects in terms

of availability of medicines and personnel motivation (equity vs. effectiveness⁹⁸). The EU Agenda for Action on MDGs, adopted by the Council in June 2008, recalls the ambitions and commitments of the EU. More specifically regarding Africa, it covers commitments made as part of the **Strategic Partnership between the European Union and the African Union**, adopted in Lisbon in December 2007, in which the priority actions include “*Identify joint actions to strengthen district and national health systems, including [...] the elimination of fees for basic health care...*” (Partnership 4 for achieving the MDGs, Priority Action 3). Additionally, the EC Communication to Council and Parliament on “**Health and Poverty Reduction in Developing Countries**” (EC 2002a) sets four objectives: **1)** to improve the health, AIDS and population outcomes at country level, especially among the poorest; **2)** to maximise health benefits and minimise potential negative health effects of EC support for other sectors; **3)** to protect the most vulnerable from poverty through support for equitable and fair health financing mechanisms; and **4)** to invest in the development of specific global public goods. These objectives have been endorsed by the EU Development Council Resolution on Health and Poverty of 30 May 2002. The country level remains the focus of future investments in health, but the EC is also engaged at the regional and global levels where there is particular potential for added value.

Concluding, health sector strategic choices, policies and programmes are relevant to food security. Mainstreaming the right to food in health policies and programmes means decision-making based on right to food benchmarks. Set up schemes that ensure fees-free access to health services for poor people, at least primary health care packages, reproductive health and infant health, should be on the programming exercise agenda. The right to food and the right to healthy life are highly inter-complementary and the same should be for the respective policies and programmes.

Infrastructures

Infrastructure is one of the intervention areas of high relevance for many partner countries absorbing about one-fifth of overall official development assistance managed by EuropeAid. Investment in infrastructure can contribute to MDGs achievement, as it leads to improved access to services like health and education, generates employment and enhances a country's ability to trade while reducing the costs of goods and services. Good infrastructure also makes it easier for economic actors to do business and helps to improve environmental conditions.

Obviously, the whole sector of infrastructures is relevant to the subject of the current study. Here below, we briefly elaborate on how the “right to food” could be mainstreamed in the sub-sector of roads construction. Roads construction is usually carried on through big scale projects where little room is given to “people-centred” approach. It is well known that efficient network of roads brings benefits to the poor by facilitating market and services access. Nevertheless, during the design and implementation the focus is on financial and contractual procedures addressing big or medium scale companies. The tender dossiers do not usually foresee people's hearing, participation, awareness raising, training and direct employment.

This is a lost opportunity because the positive impact of a road can start with its design and be extended during its construction. In fact, there are in EC partner countries committed people and institutions eager to see some opening for alternative approaches to roads' construction. For instance, District roads can be built largely using local manpower and alternative technologies that strengthen national and local knowhow. Arrangements on tender dossiers, including a “preferential clause” for local entrepreneurs using labour intensive technology, would have a very positive impact on food security. People would have economic opportunities for alternative incomes through seasonal work schemes anchored in social safety nets. Equity and efficiency priorities could converge.

Actually, the benefits of a road are measured by its frequency and use and not by its mere existence. Injection of cash in rural districts through intensive labour public works will have obviously positive consequences in the local market and the boosting of trade and transport demand. On the other hand, intensive labour public works have a strong empowerment character, as people can get organised, participate in decision-making, feel ownership over public goods, build up save loan schemes and acquire relevant professional and life skills. On the opposite, for smaller district roads, there are not few cases where manpower is provided through “mobilisation” of the population supplying its labour as “participation”. This is a practice that has to seriously be questioned. People have to be paid for their work. In the case of roads construction envisaging a “quota” for local entrepreneurs using labour intensive technology, the right to food is mainstreamed through economic activity (efficiency track), although equity criteria have also been taken on board.

⁹⁸ “Social health protection and health-care financing in developing countries: towards a framework for concerted intervention by the EU. – Joint Presidency / Commission Non-paper for presentation and discussion during the informal meeting of Development Ministers, September 2008, Bordeaux.

3. Promoting the Right to Food through the EU intervention areas

Each partner-country will focus on certain intervention areas according to its needs and priorities. Here, some areas, used as examples, are explored.

3.1. Cross-cutting issues

Cross-cutting concerns, comprising the promotion of human rights, the equality between men and women, children's rights and the environmental dimension, are both activities in their own right and issues to mainstream in other focal policy areas and activities. By definition, the Right to Food, as fundamental Human Right and one of the four fundamental freedoms, is part of the cross-cutting issues. Additionally it is strongly related to the promotion of women equality, children's rights, environmental dimension and HIV/AIDS.

The European Commission has a solid experience in promoting and mainstreaming civil and political rights and good governance agenda. Explicitly starting working on the Right to Food provides a remarkable opportunity for further and comprehensive promotion of Human Rights.

The EU fosters the universality and indivisibility of all human rights – civil, political, economic, social and cultural – as stipulated in the Universal Declaration of Human Rights and reaffirmed by the World Conference on Human Rights (Vienna, 1993). The EU has made human rights a central aspect of its external relations:

- ✓ in the **political dialogue** with third countries;
- ✓ through its **development policy** and assistance; or
- ✓ through its action in **multilateral fora** such as the United Nations.

The consolidated version of the *Treaty establishing the European Community*, 2006, (article 177 (2)) provides that the Community development policy shall contribute to the objective of developing and consolidating democracy, rule of law and human rights, and makes a similar provision (article 181a) concerning Community economic, financial and technical cooperation with third countries. The Cotonou Agreement, under article 9, “*Essential Elements and Fundamental Elements*”, spells out the human rights indivisibility and stresses the relevance of social rights. Additionally, article 9 (2) clearly calls upon the need of respect of international obligations and commitments concerning respect of human rights.

In the European Consensus on Development, the human rights approach is stressed as per Vienna Declaration. The human rights relevance to poverty eradication and sustainable development is equally underlined. Under § 86 it affirms that “*Progress in the protection of human rights, good governance and democratisation is fundamental for poverty reduction and sustainable development. All people should enjoy all human rights in line with international agreements. The Community will on this basis promote the respect for human rights of all people in cooperation with both states and non-state actors in partner countries*”. Actually, the primary and overarching objective of EU development policy is the **eradication of poverty** in the context of sustainable development, including the achievement of the Millennium Development Goals (MDGs) because, as the European Consensus on Development⁹⁹ stresses, “*Without peace and security development and poverty eradication are not possible, and without development and poverty eradication no sustainable peace will occur*”. Thus, the progressive realisation of the Right to Food as one of the fundamental Human Rights and Freedoms is evident.

In addition, it has to be stressed that “The European Consensus on Development” has already provided legal foundations to a judgement of the European Court of Justice that in its sentence affirmed that “*there can be no sustainable development and eradication of poverty without peace and security and that the pursuit of the objectives of the Community’s new development policy necessarily proceed via the promotion of democracy and respect for human rights*”¹⁰⁰.

⁹⁹ European Consensus on Development, Chapter 7, *Development, a contribution to addressing global challenges*, § 40

¹⁰⁰ C-403/05 Parliament v Commission, paragraph 57

3.2. Food security

“ agricultural development must be based primarily on the right to food and the right to produce food, enabling all people to have the right to safe, nutritious and culturally appropriate food produced using environmentally sound and sustainable methods in an autonomous farming structure¹⁰¹.”

3.2.1. A systemic approach

As spelt out in “The European Consensus on Development”, § 83, 84, 85, here below, food security is considered as integral part of a broader systemic approach of the “Rural development, territorial planning, agriculture and food security” area of action, working under the following main guidance:

- § 83. Agriculture and rural development are crucial for poverty reduction and growth. To re-launch investment in these areas, the Community will support country-led, participatory, decentralised and environmentally sustainable territorial development, aimed at involving beneficiaries in the identification of investments and the management of resources in order to support the emergence of local development clusters, while respecting the capacity of eco-systems. For results to be sustainable it is essential to promote a coherent and conducive policy environment on all levels.
- § 84. The Community will continue to work to improve food security at international, regional and national level. It will support strategic approaches in countries affected by chronic vulnerability. Focus will be on prevention, safety nets, improving access to resources, the quality of nutrition and capacity development. Particular attention will be paid to transition situations and to the effectiveness of emergency aid.
- § 85. In relation to agriculture, the Community will focus on access to resources (land, water, finance), the sustainable intensification of production (where appropriate and in particular in LDCs), competitiveness on regional and international markets and risk management (in countries dependent on commodities). To ensure that developing countries benefit from technological development, the Community will support global agricultural research.

This foregoing EU approach defines an operational framework conducive to the right to food progressive realisation. It addresses root causes and entitlements issues related to people’s capabilities to feed themselves as well as to produce food. Sustainability concerns are given priority along with governance issues. The framework stresses entitlements issues including access to resources, economic assets, social assets and political assets. Eventually, in terms of priorities, weight is given to vulnerability issues. Thus, a renewed policy, explicitly fostering the right to food is not about any discontinuity, breakthrough or change of direction. It is about strengthening the operational platform of the EU vision on sustainable development as exposed, for instance, in the European Consensus.

The framework for implementation as defined in the *“Advancing African Agriculture: Proposal for continental and regional level cooperation on agricultural development in Africa”¹⁰²* is embedded in the EU-AU Cooperation on Agricultural Development; which in line with the CAADP¹⁰³ demands, will focus on capacity building and institutional strengthening of regional and continental organisations. Cooperation will foster a more strategic and effective role for the State in agriculture, based on the view that the State will primarily: provide an effective policy and regulatory framework, create an enabling environment; intervene in situations of market failure; provide services with a public goods character; create safety nets; and be restrictive in its use of subsidies. However, it has to be noticed that CAADP does not make explicit the Right to adequate Food.

3.2.2. Implementing the Right to Food: a path built on the Voluntary Guidelines

Based on the Voluntary Guidelines and the practical implementation path proposed by FAO, *“the seven plus one steps Governments should take”* (see chapter B, 2.2 & 2.3), here below are briefly exposed some practical tasks to be carried on by partner-countries for the right to food implementation. They can be useful to EC Delegations for programming and monitoring purposes.

¹⁰¹ European Parliament resolution of 13 January 2009 on the Common Agricultural Policy and Global Food Security (2008/2153(INI)) § 54
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2009-0006+0+DOC+PDF+V0//EN>

¹⁰² Communication from the Commission to the Council and the European Parliament; 2007

¹⁰³ Comprehensive Africa Agriculture Development Programme; AU - NEPAD

Identification of the hungry and poor

- Measure the severity and magnitude of non-realisation of the right to food using common food and nutrition indicators (e.g. FIVIMS – Food Insecurity and Vulnerability Information and Mapping System).
- Identify the food-insecure and vulnerable groups, briefly describe them in socio-economic or livelihood terms, and geographically locate them.
- Analyse the causes for non-realisation of the right to food for different food-insecure and vulnerable groups: **a)** Immediate causes (e.g. inadequate dietary intake, diseases); **b)** Underlying causes (e.g. inadequate access to food in a household); **c)** Basic causes (e.g. discriminatory practices against women); **d)** Structural / root causes.

Elaborating a sound food security strategy (policy / action)

- When assessing the soundness of a policy, pro-poor criteria must also be contemplated based on root-causes analysis and on a framework capable to “capture” inequalities. A sound policy cannot turn a blind eye to inequalities and has to foster remedies to address them either by refraining from certain goals or by being pro-active in others.
- When designing an action, it is important to consider people’s right to take part in the conduct of public affairs and to promote people’s empowerment for doing so. People’s empowerment contributes to address inequalities and poverty vicious cycle. A sound food security programme should include empowerment goals and appropriate action.
- A sound food security policy evolves along three main lines of action dealing with: a) agricultural livelihood development (*promotion*, addressing underlying causes of food insecurity); b) social transfers / SSNs (*prevention* from falling into extreme poverty; risk management *ex ante*) and c) emergency assistance as last remedy (*provision* of means to meet basic needs; coping strategies *ex post*).
- A sound policy needs to be translated into action through result-oriented strategies and programmes clearly encompassing the right to food. Budget allocation has to be clear and relevant to the foreseen goals.

box 15: Specific cases: mega-projects and large scale private investments

Poverty reduction and MDGs achievement are at the core of the EU development co-operation. Large scale development projects and private investments, though possibly conducive to MDGs achievement, are not straightforwardly leading to people’s betterment of lives. This is a complex topic going beyond the ambitions of the current paper. Nevertheless, it is necessary to briefly point out certain aspects over which EC Delegations cannot turn a blind eye. From Human Rights perspective and more particularly, implementing the Right to Food, attention can be paid to the following:

- Big (mega) rural projects, including infrastructures, such as roads and dams, mining, game resorts and parks, large-scale land acquisition and leases, deserve particular attention. Several risks are connected to these economic activities, inter alia, “land grabbing”, forced eviction, disrespect of labour law particularly harming the rights of traditional land-users, indigenous people and agricultural workers, including children. On the other hand, through appropriate negotiation several opportunities can be taken, such as the creation of a relevant number of jobs for the poor, revenues investment at local / community level, sustainable practices and training, among others. There is therefore an opportunity for encouraging Corporate Social Responsibility / CSR and ratification of voluntary codes of conduct. State reforms, including effective decentralisation, also create an environment conducive to sound and sustainable business in respect of Human Rights, including the Right to Food.
- Rural workers are among the poorest and more food insecure, usually totally deprived of their rights as well as of traditional safety mechanisms. They are a group particularly hit by social and economic exclusion. ILO Conventions have to be enforced through national labour legislation protecting the entitlements of agricultural workers, including fair wages.
- The above situations if not properly addressed can lead to right to food violations. Under the Human Rights system, such violations can be addressed both through legal claims, where the right to food is legally enforced by National law, and through the individual claims mechanism on the right to food, already in place and normally used with the support of civil society.

Creating a legal framework

An ideal framework law would include the following concepts:

- Definitions of Right to Food concepts, objectives, principles

- Obligations to Respect, Protect, Fulfil
- Revoke Contrary Laws
- Set Agenda Priorities for Further Legislation
- Institutional Responsibilities – role of human rights institutions
- Define Violations
- Access to Recourse & Remedies
- Ensure Participation - Everyone's Right to Food
- Financial Provisions - Budgeting resources
- Defining Food Emergencies & Entitlements
- Monitoring & Benchmarks

Monitoring process and progress

- Consider the different levels of indicators; namely: a) outcome indicators measuring the extent to which the right to food is fulfilled (e.g. % of under-five chronic malnutrition); b) process indicators / outputs regarding actions having a bearing on the progressive implementation of the right to food (e.g. awareness raising campaigns informing the general public on Food Rights; training curricula on the Right to Food for public servants); c) structural indicators assessing the implementation and effectiveness of legal, regulatory and institutional framework in relation to the right to food. (e.g. Constitutional and legal amendments for incorporating the right to food; set up of specific institutions working on the right to food; surveillance systems);
- Monitor changes in food security situation over time;
- Register progress in the implementation of specific programmes of relevance to the right to food;
- Collect baseline data to compare results with and monitor, where appropriate, the roll-out of the national food security strategy;
- Assess the compliance with obligations under ICESCR and constitutional obligations;
- Follow specific aspects of the ICESCR commitment like “using the maximum of available resources”;
- Register instances, nature and frequency of violations of the human right to food;
- A rights-based monitoring measures not only “who” and “how many” have been reached by a certain action, but the extent to which people are being educated about the relevant right and empowered to claim its realisation;
- A rights-based approach to monitoring focuses especially on the most vulnerable; data disaggregation tracks inequalities, not just in terms of income but also in terms of access (production assets, social services as health and education, decision-making, etc.) and entitlements;
- The monitoring process itself must be consistent with human rights principles of participation accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law;
- The executive arm of the State must monitor the status of the right to food, in order to take corrective action and assess the impact of such action;
- In addition, the Right to Food Guidelines recommend that States establish human rights institutions independent of the government to perform rights-based monitoring of policies and programmes;
- Partnerships between government and civil society organisations are also taking on increased importance in monitoring, since these organisations often use methodologies that are more participatory and better adapted to measuring underlying causes of food insecurity at local levels.

The Special Rapporteur in two reports¹⁰⁴ identifies concrete measures that countries should take in order to ensure that their agricultural and food policies are guided by the normative requirements of the right to food; namely:

(a) by ensuring that governmental bodies will be held **accountable** if they do not comply with the obligations that the legal framework imposes on them;

(b) by ensuring that the right to food will be at the centre of national development strategies, which developing countries may then refer to in their **dialogue with donor countries** seeking to provide international aid;

(c) by strengthening the position of countries in **negotiations related to trade** or investment, by referring their partners to the obligations they are imposed vis-à-vis their constituencies at domestic level.

¹⁰⁴ Special Rapporteur on the Right to Food reports to the 7th special session of the Human Rights Council held on the impacts of the global food crisis.

4. The EU added value on the Right to Food promotion and protection

What is the added value that the EU can create by adopting a renewed agriculture and food security policy in realisation of the right to food in the context of development co-operation?

1. The EU can bring tremendous contribution to **global food security governance**. The same, by failing to do so, the EU can leave a huge governance gap;
2. The EU and MS, particularly after the Lisbon Treaty, have a considerable political and institutional weight that could contribute to the food security global agenda. The EU can provide **leadership** in the setting up of global governance schemes.
3. EU and several MS could make good use of their **experience** to support regional policies and strategic frameworks in agriculture, food security and safety nets as well as of their robust experience on development cooperation generally.
4. The **EU civil society** is active and innovative in the subject and brings the value of frontline experience in partner-countries as well as in awareness raising in Europe.
5. In the context of its geographical and thematic instruments and on the basis of its LRRD strategy, the EC has created relevant added value on **comprehensive food security approach**, ranging from sustainable development to safety nets and emergency assistance. The renewed policy in realisation of the right to food can enhance such added value.
6. EU and MS relevant capacity for **comprehensive and innovative research** could bring critical mass to the very subject. A EU food security policy fostering the right to food could further stimulate targeted research much needed in the field of food security, right to food and global governance effectiveness.
7. The EU **Policy Coherence for Development** assumes that development policy in isolation will not bring sufficient results and therefore seeks to build synergies between policies that have a strong impact on developing countries. This approach can boost the progressive fulfilment of the right to food by several ways. It can be relevant to the promotion of the right to food also in trade and business environment and among private sector and civil society.
8. The EU and MS important **presence in partner-countries and in international fora** will make a difference in the promotion of the food security agenda in realisation of the right to food.

5. Continuity yes, business as usual no - The way forward

From a Human Rights perspective, working for MDGs achievement and having people free from hunger is not enough. It is important to formulate policies, institutions, legal frameworks and field actions embedded in the right to food and allowing to realise the right to food sustainably. It is equally necessary to make that explicit and make people aware of it. It is also important that the obligations of public actors are enforceable and the responsibilities of private actors, who may have an impact on the enjoyment of that right, are also accepted. Awareness raising can have a dramatic impact on counteracting Human Rights' violations. Starting effectively implementing the right to food, steps have to be taken for:

1. Explicitly spell out the Right to Food. This is indeed important for awareness raising. The right to food is fostered as integral part of all Human Rights that are indivisible, interdependent and mutually reinforced. The Human Rights legal dimension as a specific added value is explicitly fostered.
2. Foster and use when and where appropriate the Human Rights language. That promotes advocacy and makes all stakeholders aware of rights, obligations and action requested. It has to be recognised that individuals are rights holders and not mere beneficiaries and that has to be reflected, when and where appropriate, in the language used. Equally, the State obligations and its responsibilities as duty-bearer have to become a more familiar framework.
3. Take on the Human Rights, including the Right to Food, as benchmarks in decision-making and action implementation. Human Rights are not negotiable and prevail over any other law and rights. This fundamental principle has to be taken on board and progressively assimilated at mental and action level.
4. The Human Rights are powerful and have to be used with great attention and responsibility. "Parsimonious" use is advisable and effective. The Right to Food has to be used in a knowledgeable way and in coordination with specialised actors like the specific UN institutions.

In order to implement the renewed EU Policy to assist developing countries on Agriculture and Food Security, addressing availability, accessibility and governance concerns in realisation of the right to food, we have to bear in mind that the **poor have none or little voice** and weight in the political arena. Though they are in great numbers they have little claim-capacity and, disempowered as they are, even their agenda still remains an uncompleted endeavour. This is especially important when considering the vulnerable, food insecure groups (in)capacity to influence decision-makers. In

developing countries, subsistence farmers and small-scale farmers have little or no access to resources for political lobbying, and face prohibitive transaction costs in the organisation of collective action. As the Special Rapporteur on the Right to Food stresses, *“with such disparity in access to political influence, a rights-based approach constitutes a necessary insurance against the risk of public policies being biased in favour of the most influential and well organised interest groups, when they should instead address the needs of those at greatest risk, whether in urban or rural populations”*¹⁰⁵. That is why the right to food can make the difference, by ensuring that people can feed themselves and that they can do so as a matter of right rather than as a matter of policy choice.

Although the EU and a number of MS have a consistent experience both at field and policy level in food security, including sustainable rural development, social protection /SSNs and emergency assistance, there is still a long way to go. Although the right to food is assumed through several commitments, such as the FAO Voluntary Guidelines, endorsed through binding treaties’ ratification and, for a number of countries, enforced through national legislation, little has been done in the very field of implementation and consequently little knowledge has been capitalised on.

The renewed EU Policy to assist developing countries on Agriculture and Food Security in realisation of the Right to Food will be a relevant *acquis*, a guidance, a clear point of reference for action. However, its implementation by the European Union, Member States and EC institutions cannot be achieved overnight. For the EU giving its specific contribution on the very topic, several steps are needed in the short, medium and long term; among which:

➤ Medium-long term action

- There is a consistent work to be carried on in the **legal field**, addressing issues related to EU Member States and European Union jurisdiction in relation to Human Rights International law system. Additionally, there is the need to build case-law on the Right to Food. How do obligations of EU MS under article 11 of the ICESCRs apply to the EU in areas which MS have transferred competence to the EU and what that means after the Lisbon Treaty are questions that have to be addressed. Obviously, the Right to Food cannot be considered in isolation, but in the general context of Human Rights legal system. However, its peculiarities bring tremendous opportunities in the law field.
- There is the need to build up a **common language** and a **common action platform** between the “*development people*” and the “*human rights people*”. Putting the Right to Food on the development agenda is about a tremendous opportunity of synergy between law and development fields in international cooperation.

➤ Short-medium term action

- Design **guidelines** for the implementation of the EU Policy to assist developing countries on Agriculture and Food Security, including the right to food topic, better if through a participative process that promotes inclusion, ownership, innovation and creativity;
- Assess the feasibility and opportunity to set up an EC “**task-force on the right to food**” at political and technical level, so that appropriate leadership is provided. **Decentralised coordination** schemes relying on EC Delegations’ leadership at country and regional level are to be promoted.
- Promote “**call for proposals**” related to relevant policy subjects, including the right to food;
- Set up a **learning by doing process** and open **training** opportunities in the right to food topic, starting by EC staff;
- Promote **awareness raising** of the general public in Europe and in partner countries as well as **advocacy** addressing selected stakeholders such as business community, civil society and member states;
- Set up a **piloting exercise**, in a limited number of countries to start with, aiming at learning by doing and capitalising on experience for possible replication in other countries and regions. National policies and strategies for the realisation of the right to food could be a relevant task to address in such exercise. To assess and take any opportunity to contemplate fragile states and difficult partnerships;
- Study action-oriented modalities of enhanced **cooperation with International Institutions** working on the right to food, such as the FAO, ILO, OHCHR and the Special Rapporteur. Cooperation with International Institutions should not be limited to mere implementation of activities, but it should encompass learning opportunities and further institutional capacity strengthening for all;
- Further strengthen the **coherence policy work** addressing global food security, including the right to food.

¹⁰⁵ Human Rights Council, 9th Session, 2008, Report on the Special Rapporteur on the Right to Food.

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Annex 1 The Human Rights-based Development added value – HRs’ fundamental principles

Source: FAO¹⁰⁶

A human rights-based approach to development incorporates the following principles: Participation, Accountability, Non-discrimination, Transparency, Human Dignity, Empowerment, Rule of law. FAO has chosen the mnemonic **PANTHER** for ease of communication.

| | |
|--------------------|---|
| Participation | People should be able to determine their own well-being and participate in the planning, design, monitoring and evaluation of decisions concern their development and the reduction of their poverty. People must be able to contribute to the development of programmes and policies. |
| Accountability | States have legal obligations. States are accountable for their actions to individuals and should be answerable. |
| Non-discrimination | Discrimination in the enjoyment of HRs is prohibited on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Particular attention needs to be given to those groups who cannot enjoy their rights as fully as other groups. |
| Transparency | The right-holders need to have the necessary information about the decision-making process and who is accountable and responsible for what. Policy and programmes information should be available to everyone in accessible formats. |
| Human dignity | This concept is meant to convey an idea of absolute and inherent worth of the human being. The individual is a holder of Human Rights and must be treated with respect |
| Empowerment | People should have the power, capacities, capabilities and access needed to change their own lives, including the power to seek from the state remedial actions for violations of their human rights. Individuals should have the power and capacity to claim their rights. |
| Rule of law | Every member of the society, even a ruler, must follow the law. It envisages a legal system in which rules are clear, well-understood, and fairly enforced. |

¹⁰⁶Source FAO, Analysis on the “Voluntary Guidelines to support the progressive realisation of the right to adequate food in the context of national food security”, also called “Voluntary Guidelines”, Right to Food Unit, Agricultural and Development Economics Division, Economic and Social Department of FAO. Knowledge Center of the Unit. <http://www.fao.org/righttofood>.

Annex 2: The Special Rapporteur on the Right to Food

Overview of the mandate

The HRC / Human Rights Council establishes, inter alia, special procedures, or mechanisms, to address specific country situations or thematic issues. Individuals with expertise in particular areas of human rights are appointed to serve as Special Rapporteurs for a maximum of six years. They are unpaid, independent experts who receive personnel and logistical support from the Office of the High Commissioner for Human Rights for their work. The mandate of the Special Rapporteur on the right to food was originally established by the Commission on Human Rights in April 2000 by resolution 2000/10. Subsequent to the replacement of the Commission by the Human Rights Council in June 2006, the mandate was endorsed and extended by the Human Rights Council by its resolution 6/2 of 27 September 2007.

The Special Rapporteur¹⁰⁷ implements the mandate through different means and activities. As assigned by different resolutions, the Special Rapporteur:

- Presents annual reports to the Human Rights Council and to the General Assembly on the activities and studies undertaken in the view of the implementation of the mandate;
- Monitors the situation of the right to food throughout the world. He/she identifies general trends related to the right to food and undertakes country visits which provide the Special Rapporteur with a firsthand account on the situation concerning the right to food in a specific country;
- Communicates with States and other concerned parties with regard to alleged cases of violations of the right to food (**Individual complaints** mechanisms) and other issues related to his/her mandate;
- Promotes the full realization of the right to food through dialogue with relevant actors by participating in seminars, conferences, expert meetings.

Individual complaints

In the framework of his/her mandate, the Special Rapporteur receives information on alleged violations of the right to food. To the limit of its available resources, he/she may accordingly write to the concerned government, either jointly with other special procedure mandate-holders or independently, inviting comment on the allegation, seeking clarification, reminding the Government of its obligations under international law and requesting information, where relevant, on steps being taken by the authorities to redress the situation in question. The Special Rapporteur urges all Parties to respond promptly to his/her communications and to take all steps necessary to redress situations involving the violation of the right to food.

Communications of the Special Rapporteur can take various forms including:

- a) **Urgent appeals** which are used in cases where the alleged violations are time-sensitive in terms of involving loss of life, life-threatening situations or either imminent or ongoing damage of a very grave nature to victims that cannot be addressed in a timely manner by the procedure of allegation letters.
- b) **Allegation letters** which are used to communicate information about violations that are said to have already occurred or in cases not covered by urgent appeals.

¹⁰⁷ Mr. Olivier De Schutter (Belgium), since May 2008; Mr. Jean Ziegler (Switzerland), 2000-April 2008

Annex 3 A summary of “The Voluntary Guidelines on the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security”

Section II of the Voluntary Guidelines develops the nineteen Voluntary Guidelines as below summarised:

Guideline 1: Democracy, good governance, human rights and the rule of law

Guideline 1 focuses on the elements necessary for a free and democratic society to provide a peaceful, stable and enabling environment in which individuals can feed themselves and their families in freedom and dignity.

Guideline 2: Economic Development Policies

It focuses on promoting sustainable, broad-based economic development in support of food security based on an assessment of the economic and social situation and the degree of food insecurity and its causes. Policies should be sound, inclusive and non-discriminatory. The need to focus on agriculture and rural development is emphasised when poverty is predominantly a rural phenomenon. Due regard is also given to the growing problem of urban poverty.

Guideline 3: Strategies

It encourages states to consider adopting a national human rights- based strategy for the right to food based on a thorough assessment of legal, policy and institutional frameworks. It calls for a human rights perspective to be incorporated into existing strategies, which should be transparent, inclusive and comprehensive and be elaborated in a participatory manner.

Guideline 4: Market Systems

It stresses improvements in the functioning of markets to promote economic growth and sustainable development. Non-discriminatory access to markets should be ensured. The state obligation to protect rights holders is stressed as in the state responsibility, among others, to prevent uncompetitive market practices and to seek the commitment of all market players to realize the right to food through policies that foster food security.

Guideline 5: Institutions

It stresses the importance of public institutions at all levels and suggests entrusting a specific institution to coordinate the application of the Right to Food Guidelines.

Guideline 6: Stakeholders

It encourages a multi-stakeholder approach to national food security with full participation of civil society and the private sector.

Guideline 7: Legal Framework

It focuses on legal measures and instruments to support implementation of the progressive realisation of the right to food and judicial and quasi-judicial remedies when this right is violated.

Guideline 8: Access to Resources and Assets

It discusses the obligation of the state to respect and protect the rights of individuals regarding access to natural resources, and facilitate sustainable, non-discriminatory and secure access to such resources, if need be by undertaking land reform. The guidelines make recommendations on labour, land, water, genetic resources, sustainability and services.

Guideline 9: Food Safety and Consumer Protection

It focuses on both legal and institutional arrangements to ensure food safety and consumer protection, whether through domestic production or imports.

Guideline 10: Nutrition

It promotes strengthening dietary diversity and healthy eating habits and food preparation to prevent malnutrition. Changes in availability and access to food should not negatively affect dietary composition or intake. Cultural values as well as dietary and eating habits should be taken into account when making policy and programme decisions.

Guideline 11: Education and Awareness Raising

It focuses on strengthening education and training opportunities, especially for girls and women, to support sustainable development. Human rights education should be integrated into school curricula and officials and members of civil society trained to participate in the progressive realization of the right to food.

Guideline 12: National Financial resources

It encourages allocation of budgetary resources to anti-hunger and poverty programmes. Basic and social programmes and expenditures should be protected from budget reductions.

Guideline 13: Support for Vulnerable Groups

It emphasizes the need to identify the food insecure, along with reasons for their food insecurity, and to devise measures to immediately and progressively provide access to adequate food. Discrimination against specific groups should be overcome and assistance should be targeted effectively.

Guideline 14: Safety Nets

It recommends that safety nets be established and maintained to provide for the weakest segments of society. Safety nets should be accompanied by complementary measures, such as access to clean water and sanitation, health care and nutrition education, in order to promote sustainable food security in the long run.

Guideline 15: International Food Aid

It stresses that food aid should be safe and take into account dietary and cultural food consumption patterns. Food aid programmes should not disrupt local food production or markets and should avoid creating dependency by having a clear exit strategy. Humanitarian agencies should be guaranteed safe and unimpeded access to needy populations. Emergency food aid should also take into account long-term relief and rehabilitation objectives.

Guideline 16: Natural and human-made disasters

It recalls certain provisions of international humanitarian law with regard to the destruction or withholding of food as a method of warfare. It also emphasizes the importance of comprehensive early warning systems and effective natural disaster response mechanisms.

Guideline 17: Monitoring, Indicators and Benchmarks

It points to the need to establish systems to monitor and evaluate the realization of the right to food, especially with regard to vulnerable groups such as women, children and the elderly.

Guideline 18: National Human Rights Institutions

It suggests that national human rights institutions be independent and autonomous and include the right to food in their mandate. States without such institutions are encouraged to establish them.

Guideline 19: International Dimension

It encourages states to fulfil measures, actions and commitments that have been endorsed at the international level, as listed under Section III of the Right to Food Guidelines.

Annex 4 Implementing the Right to Food – Examples of How countries make it happen

1. Brazil

A comprehensive action on the right to food¹⁰⁸

Brazil is considered a good example of a country that has taken comprehensive action to realise the right to food. Efforts to support the right to food began with the First National Conference on Food and Nutrition in 1986, which was part of the drafting process of the new constitution. Brazil's 1988 constitution and subsequent amendment (2003) incorporates some of the world's most progressive constitutional right to food references.

In January 2002 the Brazilian Government adopted a national food security policy (the Food and Nutritional Policy) and established a national food security programme (the Zero Hunger Programme) recognising the state's responsibility to ensure access to adequate food for the entire Brazilian population.

The creation of the National Council of Food and Nutritional Security (CONSEA) was a major breakthrough. It was created as an advisory body to the presidency. It reports directly to the president and its membership is made up of two-thirds civil society and one-third government, along with multilateral observers. The body advises on policies and guidelines to fulfil the right to food and has set up a surveillance system that tracks hunger and malnutrition. The Human Rights Secretariat has set up a commission that monitors violations of the right to food. The State Prosecutor's Office (Ministério Público), which has the power to propose legally binding actions to remedy human rights violations, has taken specific right to food action.

Since 2002, when the Brazilian government invited international review of its food security strategy revisions, FAO and the Right to Food Unit have been active in the promotion of the right to adequate food and nutrition in the context of food security. The Right to Food Unit has been funding the NGO *Brazilian Action for Nutrition and Human Rights* (ABRANDH) to raise community awareness, work with the government to improve legislation and legal institutions, and support the work of the national Rapporteur on the Right to Food, Water and Rural Lands, an independent, civil society backed human rights defender.

The Ministry of Social Development and the Fight Against Hunger (MDS), together with strong NGO support, created a right to food online course for 3 000 Government officials, CONSEA members and public prosecutors.

The combination of progressive government policy and an unflagging civil society sector has ensured broad acceptance of the legitimacy of the right to food in Brazil.

In 2003, the government initiated its *Fome Zero* (Zero Hunger) programme, which encompasses 31 inter-ministerial, anti-hunger projects, among which the *bolsa família* (family grant), a monthly cash grant that currently benefits 12 million poor families. A school feeding programme provides meals to 37 million children. Increasingly, right to food principles are being applied.

In 2006, Brazil's Food Security Framework Law, initiated by CONSEA, was approved by government. It stipulates that an inter-ministerial coordination chamber be established and ensures that CONSEA and the National Food and Nutrition security conference – the country's main hunger eradication coordination entities - will become permanent parts of Brazil's government structure.

Civil society remains a key partner. *Citizenship Action*, a network that addresses hunger, poverty and social exclusion, has created more than 7.000 local committees that work on projects ranging from urban vegetable gardens to the support of agrarian reform. More than 1 000 civil society groups drafted reports for the 30th session of the Committee on Economic, Social and Cultural Rights in 2003.

¹⁰⁸ The exposed example on Brazil is taken by FAO publication "Right to Food in Action", Examples of how FAO Member Countries Make it Happen. Underlining is from the consultant in order to facilitate the reading.

Briefly elaborating on the case.

Brazil has a clear food security policy based on the right to food and has set-up the legal, institutional, budget and programme framework for its implementation. We try below a reading of the Brazil case using the Voluntary Guidelines as main reference.

The right to food is a Constitutional right. That is in compliance with Guideline 7, “legal framework”, including constitutional or legal review.

As Guideline 5, “Institutions” indicates, CONSEA is a “specific institution” entrusted to coordinate the application of the right to food. CONSEA institutional position is strengthened by direct reporting to the President. Its membership is in line with Guideline 6 (stakeholders).

The set up of a Surveillance system complies with Guideline 13 “support for vulnerable groups” and with the first of the seven steps that Governments should take for “right to food” implementation (see box 6). The programme “Zero Hunger” complies with Basic Social Protection / Social Safety Nets approach (G 14) and support to vulnerable groups (G 13). Brazil gives priority to the vulnerable and makes a work of identification of distinct vulnerabilities. Brazil sets up a consistent monitoring system (step 6) following 26 indicators on the realisation of the right to food along seven dimensions; namely: 1) food production; 2) availability; 3) income; 4) access; 5) health and access to health services; 6) education; 7) public policies that promote food security.

Human Rights Secretariat, a commission monitoring violations of the right to food, and the role of the State Prosecutor’s Office (Ministério Público) are remarkable achievements complying, inter alia, with G 5 and 7.

International review requested by Brazil for its food security policy is a relevant element to consider also from the perspective of Brazil’s openness to new arrangements on Global Governance (partnership). FAO as Specialised Agency (UN Charter) assumes technical and advocacy tasks. FAO did also provide funding in compliance with section III of the Guidelines.

The civil society role is extremely important and largely recognised and its institutional strengthening is also promoted by giving concrete opportunities for action and consequently “learning by doing” great opportunities. People’s awareness raising is an important component in compliance with G 11.

Public servants and decision-makers education is promoted in line with HRs approach requiring increasing State capacity as duty-bearer in order to meet its obligations under HRs law.

An independent National Rapporteur on the right to food water and rural lands, in compliance with several guidelines, addresses institutional, legal and monitoring issues. Additionally, the dossier of the Rapporteur is inter-sectorial addressing vital topics for the food security in Brazil. Important assets and natural resources related with paramount questions of sustainability are under the Special Rapporteur mandate. Its civil society background underlines a clear political will and Government capacity for social and political inclusiveness.

The recognition and priority given on the right to food is of the highest level as indicates, inter alia, the nomination of a Ministry of Social Development and the Fight Against Hunger. Inter-sector, inter-ministerial action reflects a comprehensive agenda on the right to food which is carried on as an effectively “cross-cutting” topic. Of course, such coordination capacity underlines both a sense of urgency as well as a strong political will.

As Brazilians say: “Where there is a will – there is a way”. In the Brazilian case it is evident a setting of strong political will and conducive political environment relying on democracy strengthening, good governance achievements, human rights progress and rule of law. Brazil reached this point through an history of fights for democracy, rule of law, human rights, struggle for land entitlements, environmental assets defence, small farmers and landless movements. The current strong political will on Human Rights, including the Right to Food, is therefore the outcome of a political struggle that led voiceless people to have their saying in the political arena.

2. Mozambique

This example is mainly based on the FAO, Right to Food Unit, contribution to the present desk-study.

The Constitution of Mozambique recognises the Universal Declaration on Human Rights, including its provisions on the right to adequate food. Nevertheless, Mozambique did not yet ratify the ICESCRs, arguing that it has not sufficient financial resources to comply with.

Mozambique is a country with reasonable changes to achieve the MDG-1 hunger goal of halving the number of undernourished people by 2015. Around 10 million people, 54%, live under the Absolute Poverty Line (a positive achievement considering the 69% of 1997¹⁰⁹) The country still faces a huge problem of undernourishment. Chronic malnutrition prevails among children (41 % have low height for age, 24 % low weight for age), more than 6 million are food deprived (undernourished)¹¹⁰, and an average of 450.00 people suffer from extreme food deprivation and need food aid every day.¹¹¹ The high prevalence of HIV/AIDS¹¹² and its impact on food security exacerbates malnutrition and food insecurity of vulnerable children, households and communities. Furthermore, high vulnerability to climatic shocks could undermine progress made towards reducing hunger and poverty.

The fight against hunger and the promotion of the right to food ranks high on the political agenda. Food security was integrated as a cross-cutting issue in the Poverty Reduction Strategy Paper II / PRSP (called PARPA II) approved 2006-2009, recently extended until end 2010. In addition, the right to food is recognized as it follows:

[paragraph 210]. *Everyone has the human right to a standard of living that assures him/her health and well-being. Regular, predictable access to food is a fundamental right of all people and a basic premise for their welfare. Food and nutritional security requires that all people have, at all times, physical and economic access to a sufficient quantity of safe, nutritive foodstuffs that are acceptable within a given cultural context in order to meet their nutritional needs and their food preferences, so that they can lead an active and healthy life. The four components of food and nutritional security are availability, stability of supply, access, and use of the foods.*¹¹³

In 2008, Mozambique launched its Food and Nutrition Security Strategy and Action Plan 2008 – 2015 (ESAN II), which is based on the principles of the right to food: non-discrimination, participation, transparency, accountability, the promotion of human dignity inherent to all human beings, rule of law and empowerment. This Strategy, among others, calls for:

- The elaboration of the Right to Food Framework Law.
- Participation of the rights holders, especially women and small scale farmers, in the decision making and involvement in social control mechanisms.
- Empowerment especially for the vulnerable groups to increase their capacity to produce and access adequate food and strengthening the community's capabilities to contribute in fighting hunger and malnutrition.

During the formulation process of ESAN II, the broad consultation revealed the need to raise awareness among duty bearers and rights holders in relation to the right to food. An informed participation in the legislative process and a better understanding of the implications of the law are critical for parliamentarians who will decide on the law, for government officials who will implement it, and for individuals who will benefit from it.

FAO is supporting the Multisectoral Committee which is in charge of developing the right to food framework law. An assessment undertaken by this Committee identified the need for the development of an advocacy strategy to promote the right to food and to ensure that the right holders and duty bearers are well informed about the right to adequate food. Therefore, the Secretariado Técnico de Segurança Alimentar e Nutricional (SETSAN) of the Ministry of Agriculture requested FAO to support the development and implementation of an advocacy strategy. SETSAN and the Ministry of

¹⁰⁹ See more about in: Pobreza e Bem-Estar em Moçambique: Segunda Avaliação Nacional; Direcção Nacional do Plano e Orçamento, Ministério de Plano e Finanças, Gabinete de Estudos, Ministério de Plano e Finanças, Instituto Internacional de Pesquisa em Políticas Alimentares (IFPRI), Universidade de Purdue, 2004

¹¹⁰ INE (National Statistics Institute), "Food Insecurity assessment based on food consumption", 2003

¹¹¹ ESAN II, Resolution 56/2007, Ministries' Council

¹¹² Estimates indicate that HIV/AIDS may reduce the economic growth per capita by between 0.3 and 1.0 % each/year (GDP/per capita growth: 6% between 95-2005, according to PARPA II, DN Plano e Orçamento /Ministério de Plano e Finanças, (IFPRI). It is believed that AIDS has dramatic impact on vulnerability and food security and overwhelming effects on the next generation. Estimates give 626,000 OVCs due to AIDS in 2010 (in 2006: 380,000 OVC due to AIDS out of the 1.6 million orphans, unicef: Country overview; <http://www.unicef.org/mozambique/overview.html>).

¹¹³ English version of the PRSP: <http://www.imf.org/external/pubs/ft/scr/2007/cr0737.pdf>

Justice lead the process and have created a task force involving the 13 ministries members of SETSAN, other public institutions, civil society organizations and academy to develop the process all over the country. The task force is also consulting public, UN, civil society, and private sector actors on the contents of the law and the formulation process. Capacity building has been provided for all participants and the public in general with the support of FAO HQ. It is expected to involve parliamentarians in the process and capacity building actions before the sending of the draft bill by the government by June 2010.

Main achievements so far

In **Mozambique** the main achievements of the FAO Right to Food projects so far are:

- ✓ Integration of the right to food and the right to food principles into ESAN II
- ✓ Institutionalisation and strengthening of SETSAN
- ✓ Recognition of the multisectoral dimension of right to food
- ✓ Support to the elaboration of the Right to Food Framework Law

Specific Recommendations

- Beyond the significant developments achieved so far, strengthening SETSAN remains a key aspect for the sustainability of the right to food in the country.
- As a cross-sectoral coordination body, we would recommend SETSAN to be placed at a highest level as it has been considered for Brazil. CONSEA is a very good example of an inclusive coordination body that has a meaningful and significant impact on important decisions regarding people's right to food.

3. Rwanda

Nihoza Angelique¹¹⁴ is 28 years old with three children. Like more than 8 million Rwandans, she gets her living from cultivating her land, and, like many, she has less than a quarter of a hectare to farm. She says: "With my small piece of land, it is hard to get enough for my children and me to eat. I am separated from my husband and I am raising my three children alone."

However, thanks to the government of Rwanda's Vision 2020 Umurenge Programme (VUP), a public works-based SSNs system, she has now been working for 6 months, earning 1,000 Rwandan francs (£1) per day, out of which she is saving 400 Rwandan Francs (£0.4) on her newly opened account. "With my first salary I bought school uniforms for my children. With my second and third salaries, I bought a goat." Angelique says with some light in her eyes. "With my savings, the first thing I will do is to construct a decent house for my children."

This SSNs programme is the government of Rwanda's main mechanism for protecting the poor from shocks and building poor households productive capacity in the longer term. Implementation is starting in the poorest area of each District, and the government wants to scale up countrywide. DFID Rwanda is supporting this new national programme with £20 million over the next 4 years, with the aim of reducing the number of people living in extreme poverty.

Public works started in July 2008 and to date have reached over 17,500 households, representing over 70% of households reached. The most vulnerable who cannot work, for example older people and those with disabilities, receive direct assistance through cash transfers. Savings and credit services are also being extended to better reach the poor. Community targeting is organised using a traditional nationwide village-based process called Ubudehe.

DFID is providing support for technical assistance in key areas identified by government: monitoring and evaluation, and financial and programme management. DFID's early support will allow the development of a credible evidence base to inform results monitoring and course correction and policy improvements needed for a sustainable and effective social protection system in Rwanda.

Briefly elaborating on the case.

Intensive labour public works (ILPW) is an experimented form of cash-transfers (e.g. in India, Ethiopia, Cape Verde) that whilst addressing vulnerability is also playing a role as development building block. ILPWs schemes can target those currently in poverty as well as the non-poor at risk of falling into the poverty trap. Labour opportunities that permit at least seasonal incomes can play an extremely relevant role in addressing vulnerability and inter-generational poverty whilst

¹¹⁴ From DFID <http://www.dfid.gov.uk/Media-Room/Case-Studies/2009/Cash-protection-for-Rwandas-poor/> 02 December 2009

promoting economic, market-based development. Public works-based SSNs can ensure equity and social peace as well as people's empowerment.

The national ownership and political will are ensuring SSNs schemes' sustainability. Actually, the programme is encompassed by an engagement on a National Policy. On the other hand, international community (e.g. DFID) assumes its obligations as spelt out in the "Voluntary Guidelines on the Right to Food in the context of National Food Security". In the Rwanda case, DFID explicitly tackles the action under its contribution to Human Rights.

Another worth-mentioning element consists in the "learning by doing" character of the action. This also is much needed in relation to the application of the right to food in a national food security context. As the Special Rapporteur on the Right to Food stresses, we have to start doing for learning how to do it. It is relevant that international community assumes its responsibilities through funding and technical assistance to support this learning process.

4. The Ethiopian case

The Ethiopian case is worth mentioning as it is widely quoted in the bibliography as a success story¹¹⁵.

Ethiopia's experience¹¹⁶ prior to its 2005 reform illustrates some of the problems common to grant aid. The funding was significant, about US\$265 million per year from 1997 to 2002, but it was generated on a system of annual emergency appeals and thus was volatile in amount, varying from US\$152 million in 1998 to US\$449 million in 2000. Based on policy, 80 percent of the aid was dedicated to public works programs, but the programs encountered problems that were exacerbated by the aid arrangements. According to World Bank, food was coming too late, the amount of food distributed was so diluted that each household was receiving too little to materially feel any impact to its welfare. In the case of works programs, their stop-start nature was preventing them having a sustained impact on the incomes of the poor; and the absence of counterpart funds and integration with local capital plans was often inhibiting the creation of lasting, productive assets.

Ethiopia's 2005 **reforms** aspire to overcome several of these problems by establishing a government-driven system for aid to feed into, requesting multiyear pledges, and changing administrative arrangements to pave the way to greater impact. The reform effort required significant political will to begin and will need to be sustained over subsequent years to achieve its full effect.

Ethiopia's **Productive Safety Net Programme** (PSNP), as part of the reform system, addresses people living in food-insecure districts (around 1/3 of country's districts) covering in 2006 around 7.5 million workers and their families (around 20% of economically active population). PSNP finances both a) cash transfers through public works for able-bodied individuals and b) cash transfers as direct support for poor households unable to work (established by norm at 20% of the PSNP total number of beneficiaries). The public works component, in turn, creates community assets to improve the livelihoods of the poor. PSNP design is intended to address recipient households not only through cash transfers via public works or direct support, but eventually through a wider set of initiatives designed to increase food security, including agricultural extension and microcredit though, in practice, social assistance branch and food security branch are not yet tightly co-operating.

In Ethiopia's Productive Safety Net Program, the total benefit package is designed to fill the food gap during the three months of the hungry season and so, the number of days of work allowed is capped at five days per person per month. The cost of the Productive Safety Net Programme is around US\$225 million / year, 2% of the GDP¹¹⁷.

¹¹⁵ Between 1989 and 1995, in Ethiopia, the overall poverty rate declined from 61 to 46 percent of the population; however, the aggregate decrease in poverty masked significant flows in and out of poverty; which became apparent only when further examining the data. The overall decrease in poverty by 15 percentage points was the result of two offsetting tendencies. On the one hand, a large population group amounting to 30 percent of the total population was poor in 1989 but escaped poverty in 1995. On the other hand, another group equal to 15 percent of the population was not poor in 1989 but fell into poverty in 1995. The large flows in and out of poverty are a clear sign of vulnerability to poverty.

¹¹⁶ This case is reported from: World Bank: "For Protection & Promotion – The design and implementation of effective safety nets", 2008

¹¹⁷ Considering the extreme case of Ethiopia, where annual per capita income is about US\$100 (World Bank 2004a), to provide adequate all year food for all the inhabitants whose consumption is below the food poverty line would require an annual expenditure of about US\$810 million—12% of the GDP, competing with other priorities as education, health and clean water.

Annex 5 Semi-structured interview with the UN Special Rapporteur on the Right to Food

Note: The questions have been elaborated by the consultant and the Special Rapporteur, Mr. Olivier De Schutter, did kindly provide written reply as follows.

Question: The expectations possibly raised by the European Commission effort for a Food Security Policy that envisages the Right to Food:

I believe the EU has a unique opportunity to take a leading role in implementing the right to food in its development cooperation policies, and in the area of food security in particular. Within the EU, Germany, Ireland and Spain all three have been at the forefront of the efforts of the international community to clarify the content of the right to food and to translate into practice, for the improvement of the lives of the very poor in developing countries. It is essential that the EU builds on this, and leads by example. It is also important to emphasize that a number of development NGOs, such as Oxfam, ActionAid International, or World Vision, as well as agencies such as UNICEF, the UNDP or FAO, increasingly refer to the right to food in designing and implementing their policies, insofar as these policies relate to food security. The EU cannot afford to remain on the sidelines. Instead, it should make explicit that its efforts are grounded on the right to food and that this is a core dimension of its efforts towards realizing MDG 1. I am ready to assist the EU in exploring how to move in this direction.

Question: How implementing the Right to Food approach to EC renewed Policy Framework. In a more practical way, what are you expecting from the EC to do? With whom and how could the EC Delegations in partner countries promote an effective implementation of a food security policy encompassing the right to food?

Implementing the right to food approach in the EU policy framework means the following :

1° designing policies on the basis of the needs identified through appropriate mapping of food insecurity and vulnerability, in order to make sure that the most vulnerable / food insecure benefit from whichever schemes are put in place ;

2° encouraging the local authorities to adopt national strategies for the realization of the right to food that, based on such a mapping, identify the different groups in need, the obstacles each of these groups face, and the measures to be adopted to ensure that these obstacles will be removed, within specific timeframes and with the adequate mobilisation of resources ; such strategies should be developed in a participatory fashion, involving the representatives of the groups affected and civil society organisations, to ensure that they are not imposed in a top-down fashion but respond to real need — the EU could insist that it will prioritize support for programmes that are developed along such lines, particularly as specified under Guideline 3 of the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted on 23 November 2004 by all the Member States of the Council of the FAO, including all EU Member States.

Guideline 3 of the FAO Voluntary Guidelines provides useful indications about how States could adopt a national human rights-based strategy for the realization of the right to adequate food. Such a national strategy should comprise the establishment of appropriate institutional mechanisms, particularly in order to : (i) identify, at the earliest stage possible, emerging threats to the right to adequate food, by adequate monitoring systems ; (ii) improve coordination between the different relevant ministries and between the national and sub-national levels of government ; (iii) improve accountability, with a clear allocation of responsibilities, and the setting of precise timeframes for the realization of the dimensions of the right to food which require progressive implementation ; (iv) ensure the adequate participation, particularly, of the most food-insecure segments of the population ; finally, they should (v) pay specific attention to the need to improve the situation of the most vulnerable segments of society, including girls and women whose specific situation must be taken into account, to the principle of non-discrimination, as well as to the explicit inclusion of access to adequate food as part of larger poverty reduction strategies.

3° in the implementation of the programmes supported by the EU, the core principles of non-discrimination, accountability, participation, and the rule of law, should be complied with. This means that, at a minimum, mechanisms should be established that no community or family will be excluded from the programme without justification and that, if they are excluded, they have access to a remedy to complain about this exclusion ; that the communities concerned by the programme should be involved in regularly evaluating the programme and identifying where it could be improved ; that the beneficiaries of the programme (and the conditions at which one is a beneficiary) should be clearly identified, in order to ensure that the programme will not be tainted by corruption, by political or family clientelism, or by discrimination on the grounds, for instance, of ethnicity or gender.

Question: In the case that the European Union fosters a food security policy envisaging the right to food, what do you think that could be the specific added value of such an EU policy if any?

I would refer you to my different reports on this issue, perhaps in particular the report presented at the 12th session of the Human Rights Council (attached). The answer depends on which component of the food security policy you refer to. For instance :

1° as regards schemes that seek to support farmers, an approach based on the right to food will seek to define which kind of support they need by consulting with them, ideally through a structure such as a council that includes various interests and that is permanent ; it would ensure that the poorest farmers, living on the most marginal soils or away from communication routes, will benefit and will be adequately supported ; that we will not see a disproportionate amount of support going to the largest producers, that have the easiest access to export markets and global supply chains, but that subsistence farmers and farmers serving the local food needs will also be supported ; and it would ensure that claims mechanisms, including judicial remedies, will be available to farmers unjustifiably excluded from whichever programmes are put in place ;

2° Implementing social assistance programmes by using human rights principles can also enhance their effectiveness significantly. Firstly, with regard to programmes that target the most vulnerable rather than being universal in scope, definition of beneficiaries on the basis of a prior mapping of food insecurity can improve targeting significantly, and thus the contribution of social assistance schemes to improving food security and poverty reduction as well. Secondly, the clear definition of beneficiaries in legislation - making access to social assistance a right for the beneficiaries - may limit the risk of resources being diverted as a result of corruption or clientelism and can improve accountability of the administration responsible for implementation, particularly if courts are empowered to monitor implementation. Thirdly, the definition of the programme benefit as deriving from a right held by all citizens (even where the programme is targeted) can reduce the element of stigma attached to participating in the programme, which could otherwise reduce significantly the participation of eligible persons. Fourthly, the participation of beneficiaries in the design and implementation of programmes can improve their effectiveness. Fifthly, the gender dimension needs to be taken into account in the design of conditional social assistance programmes in particular, since such programmes can have both a positive and a negative influence on gender stereotypes, depending on how well the programmes are framed.

The basic point is that, once policies are defined in a rights-based approach, beneficiaries become rights-holders, and the authorities designing and implementing programmes accept that they may be held accountable to them ; this is empowering and improves effectiveness, particularly if the beneficiaries have access to independent mechanisms that can ensure such accountability and check against any misuse by the authorities of their position.

Question: The EU promotes a food security agenda at several levels (e.g. global governance, field action) and through a variety of instruments as funding mechanisms, political dialogue, rural development programmes, among others. Where do you find EU contribution potentially more relevant?

The EU has a considerable leverage power that it must use responsibly. All these instruments are relevant and I am unwilling to hierarchize them. What is however important to emphasize is consistency, or coherence, of EU policies. The EU is not credible when in political dialogues it insists on partner States adopting reforms that improve governance with a view to improving food security, if at the same time it allows EU-based companies to practice dumping on the local markets of these States, or does not ensure that its own development cooperation programmes comply with certain fundamental rights that derive from the right to food. In addition, since various DGs have policies that can have an impact on the realization of the right to food in developing countries (trade, development cooperation, external relations, agriculture in particular), it is obvious that a standing interdepartmental taskforce should be set up to ensure that the

question of the right to food is taken into account across all relevant DGs. The inclusion of DG Competition and DG Markt should be considered, because of the importance that large retailers have in the global food chains and because of the impact of the private standards set by such retailers (or by food processors based in the EU), and of the concentration in the agrifood sector.

Question: What is your position, if any, on “food sovereignty”? Is that a topic to put on the agenda now? Why? Do you think that the EU has any role to play on that? The Special Rapporteur did follow the Nicaragua and Ecuador case. Is that correct? Do you have some relevant observations? What other cases can we consider?

Food sovereignty is a concept to which different people attach different meanings. It is not self-sufficiency, as some critics insist it is. It is rather a democratic requirement : it is the right for each community, whether at national or at sub-national level, to decide how to feed itself, and how to combine domestic / local production (short food chains), with foreign / imported foods (long chains). In that sense, food sovereignty is an antidote the the food and agricultural policies being dictated by economic globalization and the pressure of the international markets.

Food sovereignty is both important and timely, and it should in the future be supported more explicitly, for three reasons : 1° the dependency of countries on food imports to feed their population has become excessive in many cases, particularly for LDCs who will experience balance of payment problems when prices increase suddenly on the international markets, as was seen in 2007-2008 ; 2° historically, the ruin of small-scale / family agriculture, which led to massive rural flight and a severe impoverishment of the rural areas, has its source in models of agricultural development that have been excessively export-led, requiring now that we rebalance this as a matter of urgency ; 3° peak oil, and the increasingly high and volatile prices of fossil fuels generally, mean that long food chains will not be sustainable in the future, and production must in the future be reconnected to consumption, farmers with local consumers. There is simply no other way we can combine the need to produce enough food for all and the need to meet the environmental challenge : only by supporting the vast mass of smallholders in the developing world, and by supporting them to produce for the local communities, can this challenge be met.

I have not traveled to Ecuador. My recent missions were in Guatemala, Nicaragua, Brazil, and Benin.

Question: Regarding the Right to Food implementation, do you want to refer to some concrete examples either in terms of “lessons learned” or “success stories”?

The most advanced example of a food security strategy that is grounded in the right to food is Brazil. Its success speaks for itself : when a government puts the realization of the right to food at the top of the political agenda and accepts to set up instances that can guide its policies in order to ensure that they will benefit the most vulnerable, spectacular progress can follow. I am attaching my recent report on Brazil to illustrate this.

Sincerely,

Prof. Olivier De Schutter
UN Special Rapporteur on the right to food
Faculty of Law, UCL, and College of Europe
Place Montesquieu 2
B-1348 Louvain-la-Neuve
Belgium

Annex 6 TERMS OF REFERENCE

SPECIFIC TERMS OF REFERENCE

REQUEST FOR SERVICES n° 2009/224-613/1

Desk Study on EC activities in the Right to Food area and on the Relationship between Food Sovereignty and the Right to Food

1. BACKGROUND AND RATIONALE FOR ACTION

1.1. Scene setting: The current food security situation

With the 2008 food price crisis and a continuously high and increasing number of food insecure people¹¹⁸, the need to tackle the underlying causes of food insecurity has been repeatedly addressed in international fora, such as the Conference on World Food Security¹¹⁹, the Commission for Sustainable Development¹²⁰ and the UN Human Rights Council¹²¹. The European Commission is following the discussions in the context of the UN processes closely.

At the Madrid High Level Meeting on Food Security for All, convened by the Government of Spain and the UN in January 2009, participants reaffirmed that "States have a primary responsibility to make their best efforts to respect, ensure, fulfil and promote the right to have regular and permanent access to adequate food, especially of children under-five years old, women and other vulnerable groups."¹²² States are encouraged to seek inspiration from the FAO *Voluntary Guidelines (VG) on the right to food* (see below), to address these problems effectively. In his concluding remarks at the Madrid Conference, the UN Secretary General, Ban-Ki Moon, called to add the right to food as a basis for analysis, action and accountability to the twin-track approach¹²³ of the High Level Task Force on the Food Price Crisis'.

1.2. Developments related to the right to food concept

The Right to Food is laid down in the Universal Declaration of Human Rights (1948)¹²⁴, as well as in Article No. 11 of the Covenant on Economic, Social and Cultural Rights (1966/1976). The General Comment 12 prepared by the Economic, Social and Cultural Rights Committee in 1999 outlines how this right can be realised in more concrete terms. Since September 2000, a Special Rapporteur of the UN Human Rights Council on the right to food is tasked to promote the full realisation of the right to food and to work in close cooperation with all states, intergovernmental and non-governmental organisations to this aim.

At the World Food Summit *Five Years after* in 2002, an Intergovernmental Working Group was set up in order to develop a set of *Voluntary Guidelines for the progressive realisation of the right to*

¹¹⁸ The number of food-insecure people is estimated to exceed one billion people worldwide.

¹¹⁹ http://www.fao.org/fileadmin/user_upload/foodclimate/HLCdocs/declaration-E.pdf

¹²⁰ http://www.un.org/esa/dsd/csd/csd17_burechaimess.shtml

¹²¹ <http://www.un.org/News/Press/docs/2008/gashe3941.doc.htm>

¹²² See Statement of the Madrid High-Level Meeting on Food Security for All:
http://www.ransa2009.org/html/docs/docs/statement_eng_ransa2009.pdf

¹²³ The first two tracks are safety nets and increased agricultural production. See the Comprehensive Framework of Action:
<http://www.un.org/issues/food/taskforce/Documentation/CFA%20Web.pdf>.

¹²⁴ Article 25 (1): "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

food in the context of national food security. The guidelines, which give practical advice to national governments, were adopted in 2004 by the Food and Agricultural Organisation (FAO) Council. The European Commission actively participated together with EU Member States in the elaboration of the VG. Five years after their adoption, the European Commission believes that there is a need for further advocacy of the VG, while emphasising that the implementation is the primary responsibility of the States which are facing food insecurity.

FAO's Right to Food Unit¹²⁵ has been active in supporting the implementation of the human right to adequate food in a number of countries along the recommendations of the *Right to Food Guidelines*.¹²⁶ The Unit develops methods and instruments to assist stakeholders in the implementation of the right to food, as well as information and training materials to raise awareness and understanding by rights holders, duty bearers, civil society and the general public. Moreover, it supports initial implementation of the right to food at the national level.

A number of countries have adopted legislation on the right to food or on food and nutrition security with reference to the right to food. Among these are the following: Argentina, Bolivia, Brazil, Colombia, Guatemala, Indonesia, Mali, Mexico, Nicaragua, Peru and Venezuela. Some of them established framework laws¹²⁷ and strategies to define roles and milestones for the implementation of the right to food.

On 10 December 2008, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights has been adopted. This will allow individual complaints of rights violations vis-à-vis the ESC Committee.

1.3. The present EC response to the current food security situation

Agricultural development and especially support to smallholder farmers is regarded as a crucial means to reduce hunger.¹²⁸ Under the 10th European Development Fund (EDF) support allocated to Agriculture and Rural Development was increased from € 650 million under the 9th EDF to € 1.5 billion. 25 partner countries have chosen agriculture, rural development and/or food security as focal area of their National Indicative Programmes (NIPs).

The thematic programme on food security which complements the geographical programmes under the EDF, addresses the causes rather than the symptoms of hunger. It is designed to improve the livelihoods of the most disadvantaged groups in developing countries and in exceptional situations of fragile and transition states. The activities funded under this programme include: pro-poor and demand driven research, strengthening of food security information systems, disaster risk reduction and dissemination of innovative approaches to food security (total allocation 2007 to 2010: € 925m).

Furthermore, the € 1 billion 'Food Facility', the EU's rapid response to soaring food prices, makes use of a wide range of tools aimed at improving the production capacity and the access to food of the most vulnerable populations, through local seed production, provision of seeds and tools, irrigation services, extension services, vocational training, safety nets, food for work programmes, livelihood recovery, improvement of market access, among others.

¹²⁵ <http://www.fao.org/righttofood/>

¹²⁶ An example is the workshop "Guide on legislating for the Right to Food" held in Nicaragua in January 2008.
http://www.fao.org/righttofood/newsroom_en.htm

¹²⁷ Brazil, Guatemala, Indonesia and Venezuela adopted laws on food security (and food sovereignty) which recognise the right to food. Honduras, Mozambique, South Africa and Uganda are in the process of elaborating legislation on the right to food.

¹²⁸ Communication from the Commission to the Council and the European Parliament: Advancing African Agriculture. Proposal for continental and regional level cooperation on agricultural development in Africa. http://ec.europa.eu/development/icenter/repository/COMM_PDF_COM_2007_0440_F_EN_AFRICAN_AGRICULTURE.pdf

A number of development activities contribute to the implementation of the right to food, such as the support given to social safety nets and cooperation in the area of governance. Furthermore, general EU policies have been under scrutiny. Progress on Policy Coherence for Development (PCD) has been achieved in the area of agriculture and trade. Examples are the reforms of the Common Agricultural Policy (CAP) which are reducing the trade-distorting effects of direct farm payments and the interim Economic Partnership Agreements (EPAs) that contain a food security clause which allows ACP partners to take appropriate measures where compliance with the EPA leads to problems with the availability or access to foodstuffs.

Following the worsening of the food security situation in recent years and the evolution of new food assistance tools, the EC is in the process of reviewing its food security approach. Recent considerations in the area of food security should be integrated in this process. The question of how to integrate the right to food approach and related issues – where feasible - into the revised EU food security policy needs to be investigated in this context.

2. Expected Outcomes and organisation of Work

2.1. Objectives

The overall objective of this desk study is to investigate whether and how the concept of the right to food could be integrated in a revised EC – and possibly EU – approach to food security and on whether and how to mainstream it in policy areas that could contribute to achieving food security for all.

As a starting point, the study should outline and clarify the concepts of right to food and food sovereignty both in theoretical and practical terms, discussing different understandings and controversies around these concepts. The study should also clarify EU Member States' legal obligations arising from international human rights law.

The concept of "food sovereignty" appears to be less clearly defined in theoretical terms and might deserve closer investigation. In the context of the required study, it would be of special importance to provide an assessment of the implications and relevance of "food sovereignty" for the realisation of the right to food.

The study is also expected to clarify and analyse the ways in which right to food and food sovereignty have been used so far in (inter)national law, constitutions, court decisions, national policies and actions and by international organisations. Which are the effects that can be attributed to the integration of right to food references in constitutions, the establishment of framework laws and the establishment of national human rights institutions? Which policies were set up or reviewed as a consequence of the integration of the right to food in framework laws and constitutions? Which additional governance mechanisms and bodies have been established? Did it lead to a better access to recourse mechanisms?

Eventually, the study should identify the potential implications of a rights-based approach in the revision of the existing EC food security policy framework¹²⁹ and the implications for other European policy areas which are potentially relevant in assisting developing countries address food insecurity. These policy areas include: agriculture and rural development, fisheries, environment and protection of natural resources, economic development, social protection, governance and security of land tenure, health, education and others.

The conclusions of the study are expected to provide a deeper understanding of the right to food and food sovereignty concepts and present some recommendations to the European Commission and its

¹²⁹ Focusing on the food insecure and most vulnerable: participation, non-discrimination and empowerment of rights holders and transparency accountability of duty bearers.

Delegations on whether and how to incorporate a human-rights approach in its development policies and programmes.

2.2. Starting period and duration of the assignment

The assignment starts mid-December 2009 and the foreseen duration is 3 months (a total of 37 man-days are requested, to be spent almost entirely during the first 2 months).

2.3. Requested Services and Methodology

The study consists mainly in a literature review and a desk analysis of documents. However, the study should also take into account the findings of interviews with experts based in the following two centres of expertise: 1) The FAO Right to Food Unit in Rome, 2) The Office of the High Commissioner for Human Rights in Geneva which assists the work of the Special Rapporteur on the Right to Food.

Most interviews are expected to be conducted over the phone or via video conferences or email exchanges. However, if necessary, one one-day mission to either Rome or Geneva might be organised.

Based on the objectives of the study described above (paragraph 2.1), the final report I expected to:

- 1) Clarify the concepts of 'right to food' and 'food sovereignty'; provide an understanding of the relationship between the two and of their legal and practical implications;
- 2) A documentation of existing experiences in the formulation and implementation of national strategies on the right to food and in the formulation of right to food laws (and related institutional measures taken);
- 3) An analysis on the possible implications and added value of the concept of right to food in the redefinition of the EC/EU approach to food security in developing countries and brief recommendations on how to promote the realisation of the right to food through concrete activities (for instance, in relation to access to natural resources and in the area of corporate social responsibility).

Detailed work plan and kick-off meeting

No later than two weeks after signing the contract, the contractor shall submit a detailed work plan containing a proposal for organising and accomplishing the study. The work plan and the terms of reference will be discussed and reviewed at the kick-off meeting with the Commission reference group at the mid of December 2009.

Progress report

A progress report, containing an expert analysis of the concepts of right to food and food sovereignty, some clarifications about their relationship as well as their implications in the formulation of policies addressing food insecurity and a preliminary assessment on whether and how to apply right-based approaches in development policies, is to be delivered electronically at the 22 of January 2010.

No meeting to discuss the progress report is foreseen, but the consultant should be available to provide clarifications over the phone or via email if required. The Commission will send consolidated comments on the progress report to the contractor no later than two weeks after the date of the reception.

Draft final report and last meeting

The outcome of discussions with the Commission reference group and findings of the interviews carried out with experts need to be reflected in the draft final report which is to be delivered electronically by 15 February 2010.

Comments, if any, by the Commission shall be delivered to the contractor in early January. The expert is expected to incorporate these within a week's time maximum.

The report should be approved by end of February 2010.

Final report

Once the final report is approved, the contractor shall print five paper copies and send these, as well as an electronic version, to the Commission.

3. Reporting

All reports shall be written in English.

The work plan, the progress report and the final report are to be submitted electronically to the Commission. The work plan and the final report should be submitted at least three working days before the respective meetings (i.e. kick-off and final meeting).

The final report should contain an executive summary and should not exceed 60 pages. Five printed versions are expected to be sent in by the contractor after approval in mid January 2010.

4. Location of assignment

The expert will work from his/her home place. The expert and the Commission will stay in close and regular contact throughout the time of the assignment.

The expert will be available for two meetings in Brussels with the European Commission, which include a kick-off and a final meeting.

If required, the contractor might also conduct one one-day mission to either:

- 1) The FAO Right to Food Unit in Rome or
- 2) The Office of the High Commissioner for Human Rights in Geneva which assists the work of the Special Rapporteur on the right to food.

5. Expert Profile

One expert of category 2 is expected to work a total of 37 man-days. The CV of the proposed expert must include a clear description of the type of work carried out in the requested fields of expertise.

Academic qualification: Advanced degree in human rights law and politics (specialisation in economic, social and cultural rights, with special emphasis on the right to food), other knowledge: agriculture, rural development and food security and social protection.

Professional experience: At least 5 years professional experience in the area of human rights/right to food in an international organisation, public administration, non-governmental organisation or academic institute in the developing country context.¹³⁰ Demonstrated superior track record and in-depth knowledge and experience in operational tasks in the food security/human rights sector and ability to apply knowledge to practice, draw policy conclusions.

¹³⁰ Examples are (non-exhaustive list): UN Food and Agriculture/Right to Food Unit, Committee on Economic, Social and Cultural Rights; Office of the High Commissioner for Human Rights; University of Geneva, Right to Food Research Unit; European Centre for Constitutional and Human Rights; Rapporteurs on the Right to Food; Norwegian Centre for Human Rights; International NGOs (Food First Information and Action Network (FIAN), World Vision, Action Aid, etc.)

Specific experience: At least 3 years field experience/work in/with developing countries. S/he should be familiar with the latest developments and initiatives in the field of food security/right to food, rural development, poverty reduction in general. Furthermore, experience in the implementation and evaluation of policies and programmes in the area of human rights (preferably right to food), food security and social protection is required.

Proven track record of working with multiple partners at country level; additional experience in working in the area of human rights and development policy and good knowledge of EC development cooperation programmes and procedures would be a distinct advantage.

Other skills: S/he must have excellent drafting and oral presentation skills in English and a good working knowledge of French.

6. Administrative Information

The study will be commissioned and managed by the EuropeAid Cooperation Office, on behalf of the European Commission's Directorate-General for Development and Relations with African, Caribbean and Pacific States, Unit for Sustainable Management of Natural Resources (B2).

The Commission reference group will consist of other services dealing with food security (EuropeAid, External Relations and Humanitarian Aid) and/or related services (Agriculture and Rural Development, Environment and Trade).

The maximum budget is € 30,000