



UNITED STATES MISSION
TO THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS
IN GENEVA
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OHCHR REGISTRY

Mr. Olivier de Schutter
Special Rapporteur on the Right to Food
OHCHR-UNOG
8-14 Avenue de la Paix
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14 JUL 2013

Recipients: SPD
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Dear Mr. de Schutter:

The Government of the United States of America welcomes the opportunity to respond to your request for input to your report to the 68th General Assembly, which focuses on trends and challenges faced in establishing legal, institutional and policy frameworks for the progressive realization on the right to adequate food. In the spirit of cooperation and without prejudice to our position with regard to the right to food, we are pleased to provide information with respect to U.S. policy regarding food and nutrition security. We first take this opportunity to reiterate that the United States is not a party to the International Covenant on Economic, Social and Cultural Rights. Overall, we view the right to food as a desirable policy goal; it is our objective to achieve a world where everyone has adequate access to food. We do not treat the right to food as an enforceable obligation; it is not justiciable in U.S. courts.

However, combating hunger and promoting food and nutrition security is a key policy objective for President Obama not only domestically, but also internationally, through commitments such as the global hunger and food security initiative, Feed the Future, and the New Alliance for Food Security and Nutrition launched during the U.S. presidency of the G8 in 2012. The following is a brief overview of our legal framework and national strategies on the issue of food and nutrition security:

Legal framework (cf. Right to Food Guidelines, Guideline 7)

1. Please indicate whether provisions in the national constitution and/or other domestic law, such as food and nutrition security framework laws, provide specific protection for the right to food and its progressive realization.

The United States Constitution does not feature a right to food, nor do U.S. laws provide such a right. However, as a matter of domestic law and policy, U.S. federal law authorizes a number of domestic feeding programs that provide assistance to low-income individuals and families. Two of the three largest programs – the Supplemental Nutrition Assistance Program and the school meals programs – are available to all those who meet program eligibility requirements, as long as funding is available. Funding is appropriated for these programs based on projected demand for services, rather than being capped or limited to a fixed amount. Furthermore, these programs

provide equal and timely access to nutrition assistance programs for all customers regardless of race, color, national origin, gender, religion, age, disability, sexual orientation and other bases.

2. If so, please indicate whether such legal provisions have been invoked before administrative, quasi-judicial and judicial mechanisms, and with which results.

As the right to food is not justiciable in U.S. courts, this question is not applicable.

3. Please clarify whether consideration is currently being given to the inclusion of such provisions in domestic law.

As noted, the United States is not a party to the International Covenant on Economic, Social and Cultural Rights, and we do not treat the right to food as an enforceable obligation. As a matter of domestic law and policy, U.S. federal law authorizes a number of domestic feeding programs that provide assistance to low-income individuals and families. The U.S. Department of Agriculture (USDA) receives funding in its annual appropriations for the implementation of these programs.

National strategies (cf. Right to Food Guidelines, Guideline 3)

4. Please indicate whether a national human-rights based strategy (or policy/program) for the progressive realization of the right to adequate food has been adopted.

As noted, the United States is not a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), and we do not treat the right to food as an enforceable obligation. While, as a matter of domestic law and policy, U.S. federal law authorizes a number of domestic feeding programs that provide assistance to low-income individuals and families, this does not constitute a human rights-based strategy.

5. If such national strategy (policy/programme) is in place, please provide information on:

(a) The process through which objectives, targets, benchmarks and time frames are set, including the role of civil society actors;

(b) Mechanisms to ensure adequate funding for the implementation of the strategy (cf. Right to Food Guidelines, Guideline 12);

(c) Mechanisms to ensure adequate targeting to improve the situation of the groups most affected by food insecurity, such as women, children, and small-holder farmers (cf. Right to Food Guidelines, Guideline 13).

(d) Mechanisms to ensure monitoring of the implementation of the strategy concerned, and whether such monitoring mechanisms are independent from the Executive (cf. Right to Food Guidelines, Guideline 17).

No such national human rights-based strategy is in place, and the United States is not party to the ICESCR and does not have enforceable obligations in this regard. However, the United States treats the issue of food and nutrition security seriously, and has a number of programs in place as a matter of domestic law and policy. The mission of the USDA's Food and Nutrition Service (FNS) is to increase food and nutrition security and reduce hunger in partnership with

cooperating organizations by providing children and low-income people access to food, a healthful diet and nutrition education in a manner that supports American agriculture and inspires public confidence. FNS's ongoing responsibilities are to fulfill one of the USDA's strategic goals: ensuring that All of America's Children Have Access to Safe, Nutritious and Balanced Meals, with two supporting objectives: Increase Access to Nutritious Food and Promote Healthy Diet and Physical Activity Behaviors.

At the core of the FNS mission is its responsibility to provide access to the major nutrition assistance programs to every eligible person who needs and seeks assistance. The major programs include the Supplemental Nutrition Assistance Program (SNAP), the Child Nutrition Programs, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

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FNS works with State agencies, nutrition educators, non-governmental organizations, neighborhood and faith-based organizations to help those eligible for nutrition assistance make informed decisions about applying for the program and can access benefits. FNS also works with State partners and the retail community to improve program administration and ensure program integrity.

Institutional mechanisms (cf. Right to Food Guidelines, Guideline 5)

6. Please indicate whether inclusive, intersectoral coordination mechanisms been set up to:

(a) Coordinate the efforts of relevant Government ministries and agencies and ensure the concerted implementation, monitoring and evaluation of policies, plans and programmes;

(b) Improve accountability, including through the allocation of specific responsibilities to different actors and the setting of precise timeframes for the realization of the dimensions of the right to food which require progressive implementation (cf. Right to Food Guidelines, Guideline 17);

(c) Enable full and transparent participation of the private sector and of civil society, in particular representatives of the groups most affected by food insecurity (cf. Right to Food Guidelines, Guideline 6).

As a matter of domestic law, State governments are given the responsibility for implementing these programs, and the federal government is responsible for establishing program rules, conducting oversight and allocating the money for their implementation.

A range of other program partners, including community institutions such as schools, food pantries and local health departments, are also involved in delivering services. FNS partners may include non-profits, such as civic society and faith-based organizations; private sector corporations; and governmental organizations that are dedicated to ending hunger.

FNS promotes program access through outreach and information sharing to program partners and potential recipients to help eligible people make an informed choice for themselves and their families. FNS conducts research and analysis to identify reasons for and potential solutions to participation gaps; works with States and Native American tribes to streamline applications, uses integrated technology to improve business processes and adjusts operational changes to policies and program requirements.

FNS provides equal and timely access to nutrition assistance programs for all customers regardless of race, color, national origin, gender, religion, age, disability, sexual orientation and other bases.

FNS leads the development and execution of evidence-based analysis and rigorous evaluation to promote effective policies and strong management of the federal nutrition assistance programs.

7. Do national human rights institutions or ombudspersons, which are independent and autonomous from the Government, have a mandate to monitor the implementation of the right to adequate food (cf. Right to Food Guidelines, Guideline 18).

The United States is not party to the ICESCR and does not have an enforceable obligations in this regard. Therefore, while private non-profit organizations monitor publicly available data and advocate for policy and program changes as they judge necessary to promote access to program benefits for eligible people, these groups do so on a voluntary basis.

Lessons learned

8. What are the main challenges encountered and lessons learned from national efforts to strengthen the legal, policy and institutional framework for the realization of the right to adequate food?

The United States is not party to the ICESCR and does not have any enforceable obligations in this regard. However, as food and nutrition security is an important domestic policy, the United States notes that one of the ongoing challenges in operating and managing the Federal nutrition assistance programs is the need to balance access to program benefits for eligible people in need with careful stewardship of the funds provided for this purpose through operating the programs as efficiently and with as little waste as possible. Simplification of program eligibility rules can reduce the administrative cost per case, but making more people eligible, or entitling those already eligible to increased benefits, can result in high overall costs and reduce the program's ability to target limited benefit resources to the greatest needs.

Sincerely,



Peter F. Mulrean
Deputy Permanent Representative