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**Summary of the
Report of the Special Rapporteur on the right to food,
prof. Olivier De Schutter,
presented at the 12th session of the Human Rights Council**

Crisis into opportunity: reinforcing multilateralism



NOTE. This document is a summary of the official report (A/HRC/12/31) submitted to the Human Rights Council at its 12th session (September 2009).

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Since the global food crisis put hunger at the top of the political agenda, important efforts were made, at both international and national levels, into increasing the supply of food. But producing more food will not reduce hunger and malnutrition if we neglect to think about the political economy of the food systems and if we do not produce and consume in ways which are both more equitable and more sustainable. Nor will increased production suffice if we do not ground our policies on the right to food – as a means to ensure adequate targeting, monitoring and accountability, and participation, all of which can improve the effectiveness of the strategies put in place. This report, which is my second report on the global food crisis submitted to the UN Human Rights Council, seeks to explain why, and what responses the right to food has to offer at the operational level to address this crisis.

Even if the world's attention has shifted to the economic crisis, the food crisis is not over. It continues to have devastating consequences, and is further aggravated by the financial, economic, and ecological crises we have been witnessing lately. In the face of growing uncertainty about future prices on the markets of agricultural commodities, we should have worked to increase the resilience of food systems. Instead, it is the crisis that has proven resilient.

The crisis has shown that we have failed, until now, to tackle decisively hunger and acute malnutrition and to advance the realization of the right to food. There are five reasons for this failure. These reasons are not new. They are an indication of the structural character of such failure: an almost exclusive focus on increasing agricultural production, instead of the adoption of a more holistic view about the causes of food insecurity; a failure of global governance to overcome existing fragmentation of efforts; a still incomplete understanding of how to work in certain areas which have an impact on our ability to achieve food security for all; a failure to follow upon commitments, itself a result of a lack of accountability; and the insufficiency of national strategies for the realization of the right to food at domestic level. This report examines for each of these issues what we can learn from the responses to the global food crisis, and what to do next with the understanding gained from these lessons.

In the face of a crisis of such magnitude, it is tempting to see the right to adequate food as a long-term objective, clearly beyond reach for the moment, and thus of little immediate relevance. This betrays a fundamental misunderstanding about what the right to food is about. The role of the right to food is more central, not less, in times of crisis. It is not simply an objective: it also shows the way towards fulfilling it.

An approach grounded in the right to food requires that we address the root causes of hunger and malnutrition. The right to food should also serve as a benchmark in order to achieve increased consistency across the different sectors which are relevant to the realization of the right to food, including not only food aid and agricultural and rural development, but also social protection, the protection of agricultural workers, land policies, health and education, or trade and investment.

¹ This report will be part of the official documentation of the 12th session of the UN Human Rights Council (September 2009). The reference of the official report will be A/HRC/12/31.

1. Right to food frameworks at the national level

At the national level, the implementation of the right to food first requires targeting the most vulnerable, identified through systems mapping food vulnerability and insecurity. A number of countries have regular mapping systems in place or have launched specific mapping exercises during the crisis period². Although a few tools for mapping vulnerability exist, vulnerability still appears not to be fully identified due to the selective nature of coverage which may exclude zones with good food production. Only a few countries seem to include urban areas in such mapping³. Some countries have used national maps of extreme poverty for food security purposes⁴. Despite these welcomed efforts, some vulnerable groups continue to be reportedly excluded from the mapping results. In order to be as well informed as possible, States should develop mapping systems that are participatory.

Secondly, the right to food requires that accountability mechanisms be put in place, ensuring that victims of violations of the right to food have access to independent bodies empowered to control choices made by decision-makers. The right to food means that victims must have a right to recourse mechanisms; that governments must be held accountable if they adopt policies which violate that right; and that courts are empowered to protect this right. As in Guatemala and India, an increasing number of countries are moving in this direction⁵.

Thirdly, the right to food requires prioritization: trade and investment policies and choices in modes of agricultural production, for instance, should be subordinated to the overarching objective of realizing the right to food.

To this effect, States should put in place national strategies for the realization of the right to food. Such strategies serve a number of purposes: they encourage participation, since their adoption and implementation should involve all stakeholders; they can require governments to make clear, time-bound commitments; and they can ensure that choices in other policy areas fit into a broader strategy aimed at realizing the right to food. Several countries have set up mechanisms for coordinating the various actions taken in the field of food security.⁶ In many others, however, there appears to exist no specific body for the participation, consultation and coordination of all actors on issues related to the right to food.

2. Reinvesting in agriculture: for whom?

One of the beneficial impacts of the global food crisis is that Governments and international agencies have acknowledged that there is an urgent need to replace agriculture at the centre of their development agendas, after it has been neglected for the past 25 years. However, while raising public spending on agriculture is much required, changing the allocation of existing spending may be equally important. It is crucial that investments benefit the poorest and most marginalized farmers, often located in the least favorable environments. When taking steps to invest more into agriculture and rural development, governments should therefore be mindful of the need to ensure that investments truly contribute to the right to food.⁷

The right to food should guide governments' choices between in choosing models of agricultural production. While different models of agricultural development, like the 'Green Revolution' model, the agro-ecological farming approaches (ecologically-friendly farming

² Iraq, Panama, Côte d'Ivoire, Indonesia, Guinea Bissau, for example.

³ Kenya, Burkina Faso, for example.

⁴ El Salvador, Yemen, for example.

⁵ Such as Argentina, Bolivia, or Ecuador.

⁶ Such as in Bolivia, Costa Rica, Togo, Indonesia; national and lower levels Councils on Food Security exist, for example, in Angola, Senegal, the Dominican Republic, the Kyrgyz Republic.

⁷ This issue was discussed in depth in a multistakeholder consultation on the challenges of the Green Revolution in Africa I convened on 15-16 December 2008, with the support of the Grand-duchy of Luxembourg.

systems), and a genetic engineering-based model, may be complementary at the crop field level,⁸ at the level of public policy, the right to food approach requires that the very existence of several models be acknowledged. In a context of fierce competition for scarce resources such as land, water, investment, human resources, the implications of supporting one paradigm over the others deserve serious consideration by decision-makers as well as producers.

The development of more sustainable farming approaches is directly linked to the right to food. Agricultural productivity depends on the services rendered by the ecosystems. As a result more sustainable forms of agriculture may better meet the needs of smallscale farmers. Low external input agriculture, polycropping and the use of green technologies limit the dependency of these farmers on the prices of external inputs, thus improving the stability of incomes and avoiding the risk of debt spirals following a poor harvest. Agro-ecological forms of production rely essentially on increasing the sharing of knowledge among farmers, through processes which are participatory, involving the affected vulnerable groups in order to identify the solutions best suited to their specific circumstances and to the complex environments they are confronted with. Such approaches are therefore empowering and mobilizing.

3. Transnational large-scale land acquisitions or leases

Transnational large-scale land investments are one of new trends that emerged out of the 2008 global food crisis. This development has not yet been properly addressed by the international community. Large-scale land investments can be opportunities for development, given their potential for creating infrastructures and employment, increasing public revenues and improving farmers' access to technologies and credit. Yet they could have negative effects on the right to food as well as other human rights. Potential impacts include eviction of land users which have no formal security of tenure over the land they have been cultivating for decades, loss of access to land for indigenous peoples and pastoral populations, increased competition for water resources, and decreased food security if local populations are deprived of access to productive resources or if, as a result of this development, a country increases further its dependency on food aid or imports for its national food security.

I proposed that countries and investors consider as a minimum a set of principles and measures based on human rights in the elaboration of large-scale transnational land acquisitions and leases.⁹ These principles and measures are intended to assist both investors and host governments in the negotiation and implementation of large-scale land leases and acquisitions. They are put forward in order to ensure that such investments work for the benefit of the population including the most vulnerable groups in the host country, and are conducive to sustainable development, with the progressive realisation of the human right to food as the ultimate horizon. The measures are grounded in principles of international human rights law, including the right to food, the right to self-determination of peoples and the right to development; as well as in international labour legislation.

The human-rights-based measures I proposed to guide negotiations and finalisations of large-scale land acquisitions or leases also aim at contributing to a consensus on the establishment of a multilateral approach. Such measures could avoid beggar-thy-neighbour policies, with countries competing against each other for the arrival of foreign direct investment and thus lowering the requirements imposed on foreign investors. They could provide increased legal

⁸ A very careful combination of fertilizers and agro-forestry, for instance, is successfully promoted in some regions.

⁹ For further information, see: "Large-scale land acquisitions and leases: A set of core principles and measures to address the human rights challenge" 11 June 2009 at <http://www2.ohchr.org/english/issues/food/index.htm> and <http://www.srfood.org/images/stories/pdf/otherdocuments/22-srftflarge-scalelandacquisitions-hrprinciples-9.6.09-2.pdf>

certainty for the investors and shield them from the risk of reputational losses if they comply with the principles.

One of the reasons why large-scale acquisitions or leases of land have accelerated so spectacularly is because of the incentives put in place for the production and use of liquid agrofuels in the transport sector. I reiterated that the international community should work towards achieving a consensus on international guidelines guiding the production and consumption of agrofuels. Such guidelines should include environmental standards, since the expansion of the production and consumption of agrofuels results in direct and indirect shifts in land use and often has negative environmental impact, taking into account the full life cycle of the product. They should also incorporate the requirements of human rights standards, particularly as regards the rights to adequate food, to adequate housing, the rights of workers, indigenous peoples, and women's rights.

4. Social protection

The global food crisis is primarily the result not of too little food being available, but of food prices too high in relation to the incomes of individuals. The recent sharp increase in food prices came about, in a context in which affected persons' incomes have not increased commensurately. In circumstances such as these, where food can be procured provided the purchasing power is sufficient, implementing the right to social security, as required under Article 9 of the International Covenant on Economic, Social and Cultural Rights,¹⁰ may be the most effective means of ensuring food security in the presence of real income volatility. The provision of social assistance in the form of food vouchers, cash transfers, employment guarantees or other mechanisms may contribute to this.¹¹ A significant number of countries reacted to the global food crisis by establishing or strengthening safety net programmes (in particular, by raising their levels of support in order to help cope with the rising food prices¹²). Others have relied on existing programmes.¹³

Implementing social assistance programmes by using human rights principles can significantly enhance their effectiveness. First, with respect to programmes which are targeted towards the most vulnerable rather than universal in scope, the definition of the beneficiaries on the basis of a prior mapping of food insecurity can significantly improve targeting, and thus the contribution of social assistance schemes to improving food security and poverty reduction. Second, 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 it can improve accountability of the administration responsible for implementation, particularly if courts are empowered to monitor this implementation. Third, the definition of the program benefit as deriving from a right possessed by all citizens (even where the program is targeted) can reduce the element of stigma attaching to participating in a program, which can otherwise significantly reduce participation of eligible persons. Fourth, the participation of the beneficiaries in the design and implementation of the programmes can improve its efficacy.

5. The role of global governance: towards multilateralism

¹⁰ See General Comment No. 19 of the Committee on Economic, Social and Cultural Rights, E/C.12/GC/19 (4 February 2008).

¹¹ High-Level Task Force on the Global Food Crisis, *Comprehensive Framework for Action*, July 2008, para. 1.1.

¹² This was observed in a number of Latin American countries: in Panama the Red de Oportunidades cash transfer programme was re-evaluated from US\$ 35 per household to US\$ 50, in Ecuador the Bono de Desarrollo was reevaluated from 15 to 30 US monthly per household.

¹³ *Doubled-Edged Prices: Lessons from the food price crisis: 10 actions developing countries should take*, Oxfam International, October 2008.

At the international level, responding to the food crisis and preventing its re-occurrence could be facilitated by creating an environment conducive to the realization of the right to food. This means strengthening multilateralism in order to effectively address the structural causes of hunger and introducing actions and initiatives on a number of fronts, including agrofuels, large-scale land acquisitions or leases, trade and financial speculation. The reform of the global governance of our food system needs, therefore, to be achieved without delay and the revitalization of the Committee on World Food Security (CFS) represents in this respect a real opportunity.

The need for improved global governance and multilateralism is not only visibly in highly publicized areas such as agrofuels production and large-scale land acquisitions. It also should address the urgent need for more stable international markets of agricultural commodities. The impacts of high food prices on international markets were larger in countries with fewer domestic alternatives to internationally traded grains, whose prices rose the most (maize, wheat, and rice).¹⁴ This is one of reasons why, in the report on my mission to the WTO (A/HRC/10/005/Add.2), I emphasized the need for countries to avoid an excessive dependence on food imports, and to avoid sacrificing their long-term interest in strengthening their agricultural sector for the production of food crops against their short-term interest in purchasing food at often artificially depressed prices on international markets. At the same time, since the pursuit of self-sufficiency in food is illusory for most countries, risks associated with international trade should be better managed.

Many observers of the global food crisis have agreed that speculation by commodity index funds on the futures markets of agricultural commodities was one significant factor in the prices peak of 2007/2008. In 2006/2008, the abundance of international liquidity coupled with a slowdown on financial markets drew a large amount of investment capital into agricultural commodities exchanges. A number of measures, either of a purely regulatory or institutional nature, are therefore necessary to limit the risks entailed by financial speculation.

6. Conclusions

Because the focus of world public opinion is now on the question of hunger, and because the past year has witnessed an unprecedented degree of mobilization of the international community into reinvesting in agriculture and rural development, we can transform this crisis into an opportunity. But this will only happen if we work, immediately, on four areas.

First, governments need to consider the choices they have to make in terms of agricultural development, taking into account the impact of these choices on the full realization of the right to food. There is no single way to move towards developing agriculture. In order to move towards socially and environmentally sustainable forms of agricultural production, States should ground their agricultural policies into broader strategies for the realization of the right to food, developed through participatory processes. This will ensure that agricultural development will effectively contribute to combating hunger and severe malnutrition. On at least two issues – the production and use of agrofuels and transnational large-scale land acquisitions or leases –, international guidelines using a human rights framework should be adopted, in order to provide guidance to States and in order to avoid the dangers associated with unilateralist approaches and beggar-thy-neighbour policies.

Second, governments should guarantee the right to social security, particularly in order to shield the urban poor or other net food buyers from the impact of high food prices.

¹⁴ World Bank, *Global Economic Prospects. Commodities at the Crossroads*, 2009 (based on evidence available until 30 November 2008), p. 96.

Consistent with a human rights-based approach, social protection should be granted to all without discrimination, and the targeting of the beneficiaries should take into consideration the specific constraints faced by groups particularly vulnerable to discrimination and rely on criteria that are fair, effective and transparent, and are a safeguard against discrimination. The establishment of standing social protection schemes is far more preferable than the adoption of schemes only for the duration of a crisis. In order to alleviate the fiscal constraints faced by developing countries in establishing such schemes, these countries should be able to rely on a reinsurance mechanism, improving their resilience against internal or external shocks.

Third, net-food-importing countries must be better protected from the volatility of prices on the international markets. The implementation of the Marrakech Decision within the WTO, the establishment of food reserves at local, national or regional levels, long-term supply arrangements between countries, or contingent option contracts, all could shield countries from the impact of volatile prices. But volatility itself may be combated more effectively, particularly by addressing the specific source of volatility that results from the activities of commodity index funds. This is a further area in which international cooperation is needed.

Fourth, States should improve global governance of food security. The reform of the CFS is an opportunity to fundamentally change the incentives structure for both States and international agencies, and to ensure that they will agree to bind themselves to specific targets, to be achieved within clear timeframes, for which they will be held accountable to their public opinion and to their partners within the CFS. Most importantly, a revised and strengthened CFS could provide a forum in which, where the need for international cooperation is identified, a dialogue can take place between governments, international agencies, and civil society. As a global common good, the right to food requires no less.