



**Mandate of the Special Rapporteur on the right to food**

Téléfax: (41-22)-917 90 06  
Télégrammes: UNATIONS, GENEVE  
Téléc: 41 29 62  
Téléphone: (41-22)-917 94 96  
Internet [www.ohchr.org](http://www.ohchr.org)  
E-mail: [sfood@ohchr.org](mailto:sfood@ohchr.org)

Address:  
Palais des Nations  
CH-1211 GENEVE 10



**REFERENCE:**

**THE HIGH-LEVEL MEETING ON FOOD SECURITY FOR ALL**

**Madrid, 26-27 January 2009**

**TAKING THE RIGHT TO FOOD SERIOUSLY**

**ANALYSIS BY THE SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD,**  
**OLIVIER DE SCHUTTER**

The High-Level Meeting on Food Security for All was convened by Prime Minister Zapatero and the United Nations Secretary-General Mr. Ban Ki-Moon, in order to follow upon the commitments made at the High-Level Conference on World Food Security held in Rome on 3-5 June 2008.

The purpose of the Madrid meeting was to take stock of the achievements so far and to provide a forum for discussing a new Global Partnership for Agriculture, Food Security and Nutrition, which may further improve coordination of all relevant actors. The UN executive agencies, the international financial institutions, and the World Trade Organisation are already coordinating their responses within the High-Level Task Force (HLTF) on Food Security, chaired by the UN Secretary-General and coordinated by UN Under-Secretary-General Mr. David Nabarro. The purpose of the Global Partnership would be to widen and improve this coordination, by creating a platform in which governments, international agencies, civil society and the private sector could join their efforts; to strengthen and support existing initiatives ; and to improve the ability for policy makers to rely on all available expertise.

The HLTF is to be commended for having managed to set up a plan of action, as presented in the Comprehensive Framework for Action (CFA), representing the consensus view of agencies and organisations approaching the global food crisis from very different perspectives. This is a particularly remarkable achievement, taking into consideration the fact that the current situation is very much the result of structural factors for which the international community, including the international financial institutions, bears a significant responsibility. The CFA contains an implicit, but unmistakable, recognition of these past failures.

While welcoming this important effort to replace agricultural development at the centre of the agenda of the international community and to improve coordination among UN agencies and international organizations at country level, the UN Special Rapporteur on the right to food has consistently insisted on the need to strengthen this global response by relying on tools specifically based on the recognition of the right to food as a human right, recognized in international law.

In his concluding remarks to the High-Level Meeting on Food Security for All, the UN Secretary-General Mr. Ban Ki-Moon stated: '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'. In this spirit, the final

statement of the Madrid meeting also refers to the primary responsibility of States to respect, ensure, fulfil and promote the right to food.

We are moving towards a clear recognition that feeding the hungry and improving the productivity of agriculture, important though as these objectives are, is not enough: we also have to ground these efforts on the right to food as a human right. This constitutes an important encouragement for all the defenders of the right to adequate food in the world. It now needs to be built upon and carried forward.

Grounding our efforts on the right to food means that our efforts must be guided by the need to support the most vulnerable, the poorest and most marginalized, who are often left out by support schemes, and who today may be unable to capture the benefits from this renewed interest in agriculture. It also means that, to the fullest extent possible, policies which aim to provide support to them should be designed and implemented with the active participation of the beneficiaries. Human rights-based approaches to development lead to a better prioritization and targeting of activities; they increase state accountability ; and ultimately, they contribute to reducing poverty. The Food and Nutrition Policy in Uganda – the first Ugandan socio-economic policy to stipulate a rights-based approach to its implementation – illustrates that this can work.

The right to food also means that accountability mechanisms must be established, providing the victims of the violations of the right to food with a forum where they should be able to voice their concerns. Mutual accountability of donor governments and their partners is one of the principles of the Paris Declaration on Aid Effectiveness. Adopting a human rights approach to development requires that we move beyond this, towards a triangular form of accountability, by involving more closely national parliaments and civil society organizations in monitoring the efforts which are deployed to improve food production and raise the incomes of the poor.<sup>1</sup>

Framing the current efforts in a right to food perspective has four concrete, operational consequences. If we fail to recognize this, it will remain a mere slogan, devoid of any real impact on the current efforts of the international community.

**1. National strategies for the realization of the right to food.** First, States should work towards the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles that define the objectives, and the formulation of policies and corresponding benchmarks. 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 ; and (iv) ensure the adequate participation, particularly, of the most food-insecure segments of the population.

As part of such a national strategy, States should adopt a framework legislation ensuring that the right to food is justiciable before national courts or that other forms of redress are available, so that in situations such as the current one when the prices of food undergo a sudden increase, the other branches of government will not be allowed to remain passive. Such accountability mechanisms may contribute to ensure that, where macro-economic or social policies are misguided or are not well targeted (for instance because they underestimate the needs of certain segments of the population or of certain regions), this will be identified at an early stage and corrected. A number of States have moved in this direction in recent years. In both South Africa and Uganda, the development of a legislative framework for the right to food is currently under way. In April 2005, with the passing of a Food Security and Nutrition Law, Guatemala became the first country in Latin America to include such a law in its domestic legal system. The law, designed jointly by the Government, civil society and the UN, defines food security as a right of all citizens. The law also established a national secretariat of food and nutritional security. In Brazil, the Federal Law on Food and Nutritional Security, which establishes a right to food monitoring system, has been passed by the National Congress. In Indonesia, the Food Law (7/1996) recognizes the right to adequate food for all, covers food security and food safety, and allocates institutional responsibility. With the food law and the ensuing regulations, the building blocks of the legal framework for food security have been put in place. These are encouraging developments. The reactions at national level to the challenge of the global food crisis should seek inspiration from such examples in order to improve the resilience to price shocks of the most vulnerable communities.

**2. Transforming trade into a tool against hunger.** By taking the realization of the right to food as the benchmark for current efforts towards achieving food security, we can put the role of trade in the right perspective – as an instrument of development, rather than as an end to be pursued for its own sake. The current path of trade liberalization in agriculture has led many States to focus on some limited export sectors at the expense of their much wider small-holder farming sector. This has been a mistake for which they are now paying a heavy price. Trade can work for development. But it can do so only under specific circumstances that are different from those of the current trade regime. The role of trade should be determined in reference to human rights and development objectives. States should consider the integration of their small-holder farming sector in the regional and global economy as a part of their national strategy for the realization of the right to food, and they should avoid excessive reliance on international trade to achieve food security. The use of the right to food framework would allow them to ensure that policies and strategies are systematically focused on the most vulnerable. It would also strengthen their position in trade negotiations, particularly if they assess the impact of trade agreements on the situation of the right to food in their countries prior to the conclusion of trade agreements.

Yet, if trade is to contribute to the realization of the right to food for all, domestic policies will not be sufficient. The recognition of the specificity of agricultural products in the multilateral trading regime is a prerequisite of utmost importance. The idea of a ‘level playing field’, even after the removal of trade-distorting measures, is meaningless given the huge differences of productivity levels between least-developed countries and developed countries. These differences are the result of more than 150 years of planned protection in industrialized countries, followed by subsidized liberalization. Such differences must be recognized in trade agreements. Developing countries should be allowed to preserve the flexibilities needed to shield their smallholder farming sectors from the competition of industrialized countries’ farmers. Furthermore, new tools and agreements must be developed at an international level. The global food crisis of 2007-2008 has demonstrated the dramatic impacts of increased price volatility on the international markets of agricultural commodities: this can and must be addressed by appropriate stabilization measures. States should consider in this regard building food reserves, and mutualizing their efforts at achieving more stability on the markets, if necessary by commodity stabilization agreements. Moreover, the decades-long liberalization of agricultural trade has led to the strengthening of globalized food system where prices are fixed by dominant players with excessive market power, a situation which is detrimental to the majority of farmers and countries. Framing the plans of the international community in a right to food perspective means that new regulations must be urgently debated, adopted and implemented to re-orient this course and make it work for the majority. Any trade regime which increases the volumes traded but does not benefit the hungry, particularly smallholders land landless laborers, will not contribute to achieving the Millennium Development Goal n°1, and it could in fact bring us even further from achieving that goal.

**3. Addressing violations of labour rights in the agricultural sector.** As part of a response to the global food crisis grounded in the right to food, governments should also better monitor compliance with fundamental labour rights, including the right to a living wage, in the agricultural sector. Among the most vulnerable, and forming approximately 20 percent of the almost one billion people who are hungry in the world today, are the nearly half a billion women and men who help produce the food we all depend on : waged agricultural workers. Ensuring an adequate protection of this category, as governments should do under the ILO conventions, would constitute a major contribution to the alleviation of hunger.

**4. Protection of the rights of landusers.** The rights of landusers must be better protected. Half of those who are food insecure live in smallhold farming households: security of land tenure and access to land as a productive resource are essential for the protection of the right to food of this group. This is particularly the case in the current context.<sup>2</sup> The tendency towards trade liberalization in agriculture results in pressure to concentrate land in the hands of large agricultural producers who are better connected to the global markets and who can more easily meet the volume and standards requirements for export, thus creating new threats to the security of land tenure for smallhold farmers. And the recent increase in the price of primary agricultural commodities on international markets has led investors to buy land suitable for cultivation while speculating on further increases in the price of land in the future, which may result in poor land users being priced out of land markets. The *Voluntary Guidelines for the progressive realization of the right to adequate food in the context of national food security* adopted in 2004 by the General Council of the FAO emphasize the need to promote and protect the security of land tenure, especially with respect to women and poor and disadvantaged segments of society, through legislation that protects the full and equal right to own land and other property, including the right to inherit; and they recommend advancing land reform to enhance access for the poor and for women. Building on this guideline, at the 2006 FAO International Conference on Agrarian Reform and Rural Development member

States emphasized the essential role of agrarian reform in the realization of basic human rights and food security. Rights related to the use of land also make economic sense: providing landowners or land users with security against eviction enhances their competitiveness by encouraging land-related investment, and lowers the cost of credit by increasing the use of land as collateral. In addition, rights related to the use of land make sense for nutrition, human health and the environment. The protection of land rights are indeed a prerequisite for increased planting of fruit and non-fruit trees by smallholders. This has great advantages for improved nutrition and health: fruit trees are sources of vitamins and proteins, medicine trees of health remedies. It improves biodiversity. It facilitates adaptation to climate change, as farming systems including trees are more resilient to climate extremes. The questions of rights on the land and of responsible governance of land resources should therefore be central to the efforts of the international community to provide sustainable answers to the current challenges.

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Framing current efforts aimed at tackling the food crisis according to the recognition of the right to food as a human right can significantly improve the effectiveness of such efforts – in terms of targeting, improving legitimacy, and accountability. It also ensures that these efforts will be more sustainable and that they will not be abandoned simply when the world’s attention will focus on other issues. It can protect smallholders from being left out from decision-making processes which affect their livelihoods. The Madrid High-Level Meeting may, therefore, be remembered for its important contribution to the full realization of the human right to adequate food. Ultimately, however, what matters is the concrete follow-up which will be given to the momentum created by Madrid. The UN agencies should encourage the adoption by States of measures which seek to realize the right to food, and such measures should be seen as equally important as measures adopted to feed the hungry and to improve agricultural productivity. The next high-level conference on World Food Security should provide an opportunity to compare the national strategies States have put in place in order to realize the right to food. By learning from both successes and failures in this regard, we can make true progress towards improving the lives of the poor.

31 January 2009