



MANDATE OF THE SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD

Mission to the People's Republic of China from 15 to 23 December 2010

Beijing, 23 December 2010

PRELIMINARY OBSERVATIONS AND CONCLUSIONS

Introduction

The Special Rapporteur on the right to food, Mr Olivier De Schutter, conducted an official mission to the People's Republic of China, at the invitation of the Government, from 15 to 23 December 2010. The mission included meetings in Beijing, as well as field trips to the districts of Tongzhou and Changping, and to the areas of Jinan and Laiwu in the province of Shandong.

This is the first mission of the UN Special Rapporteur on the right to food to China and he is therefore particularly honoured by the invitation received. The Special Rapporteur expresses his sincere appreciation for the high level of cooperation he benefited from and thanks, in particular, Ms. Qi Xiaoxia, Special Representative for Human Rights, and her team at the Ministry of Foreign Affairs for their professionalism and dedication in organizing the programme. He also thanks the UN Resident Coordinator for facilitating the visit and the Government experts and high-level representatives, including Assistant Minister for Foreign Affairs, Mr. Wu Hailong, and Vice-Minister of Agriculture, Mr. Chen Xiaohua; the representatives of international agencies; researchers and other stakeholders with whom he met.

This mission takes place while the 12th Five-Year Plan to be adopted in March 2011 is under discussion, and while the drafting of the 2011-2020 National Poverty Alleviation Plan is underway. It is the hope of the Special Rapporteur that these preliminary observations and conclusions can feed into these processes.

Remarkable progress in realizing food security

The right to food has four complementary components. It first requires that food security be achieved at national level, in order to ensure food *availability*. But food *accessibility* also needs to be addressed through policies aimed at the areas and populations that are still vulnerable to food insecurity. *Adequacy* requires that appropriate attention be paid to the nutritional dimensions of the right to food. And the food systems must be *sustainable*: satisfying current needs should not be at the expense of the country's ability to meet future needs.

The People's Republic of China has made remarkable economic and social progress over the past three decades, lifting several hundred millions out of poverty. The absolute number of poor fell from 652 million to 135 million between 1981 and 2004. Using the current international measure of poverty of \$1.25 per day in 2005 PPP dollars, the number of poor was 254 million in 2005, the latest year for which direct survey-based estimates are available. This important reduction of poverty was made possible through a series of economic reforms resulting in impressive levels of economic growth. Among the most important economic reforms are the introduction of the Household Responsibility System in agriculture after 1978, the development of Township and Village Enterprises in rural areas, and, especially after 1987, an export-led type of growth stimulated by the opening up of the economy to global trade and investment.

Food security benefited significantly from this overall progress. With a population of 1.3 billion and a surface of arable land of 121.7 million hectares, China has 21 per cent of the world's population, 8.5 per cent of the world's total arable land and 6.5 per cent of the world's water reserves. Yet, thanks to the impressive progress of

agricultural production by 200 million small-scale farmers with an average holding of 0.65 hectares, it has moved since 2005 from being a beneficiary of food aid to being a food aid donor. Following a series of bumper harvests in recent years (530.8 million tonnes of grain were produced in 2009 – an increase of approximately 13.1 per cent compared to that in 2004 – and 546 million tonnes in 2010), China has achieved a grain self-sufficiency rate of at least 95 per cent, and its grain reserves are estimated to be more than the double of the 17 per cent safety level recommended by the FAO.

At the same time, the massive transition of the Chinese economy and society over the past generation, as well as the threats represented by land degradation and climate change, have brought about their own challenges. Industrialization and urbanization increase pressure on farmland. Since 1997, China has lost 8.2 million hectares of arable land due to urbanization and forest and grassland replanting programmes, as well as damage caused by natural disasters, and the country's per capita available land is now at 0.092 hectare, 40 per cent of the world average. This shrinking of arable land represents a major threat to the ability of China to maintain its current self-sufficiency in grain. China has adopted the principle according to which any cultivated land lost for other purposes should be reclaimed elsewhere, and it has set a 'red line' at 1.8 billion *mu* (120 million hectares) beyond which arable land will not be allowed to shrink further. But China is already dangerously close to this limit.

Another source of concern is that inequality has risen rapidly and in large proportions. The Gini measure of inequality increased from 0.329 in 1990 to 0.443 in 2005, even adjusting for rural-urban cost of living differentials, and could be over 0.5 today. The urban-rural income gap widened from 2.79 to 1 in 2000 to 3.33 to 1 in 2007, and if distribution of spending on public services is taken into account, the urban-rural ratio reaches 5-6 to 1. Because of such increases in inequality, overall progress in food availability coexists with the persistence of food insecurity in certain areas for some groups. In the eastern region, the food output per capita is low but the income level is high and food access is good. In the central region, food supply is relatively sufficient but the income level is lower. The western regions face poorer conditions in all these aspects, and there is a wide gap between urban and rural residents in terms of food consumption structure and nutritional status. Although precise figures are unavailable, a November 2009 report commissioned by IFAD, FAO and WPF notes that there may be food insecurity in poor counties in 9 provinces and autonomous regions. Five main challenges remain.

Challenge 1. Bridging the gap between the urban and the rural areas

An important pillar of efforts to improve living standards, including access to adequate food, consists of efforts to put in place an effective social security scheme, so that those whose living standards fall below a certain threshold are entitled to various forms of State assistance. The Special Rapporteur commends the Chinese Government for its efforts and stated policy objective to establish a social protection system covering all urban and rural residents, including basic old-age pension, basic medical care and the minimum living standard guarantee (*di bao*) scheme. Progress has been faster, however, for the urban residents, and important gaps subsist between them and the rural populations. For instance, the *di bao*, introduced in 1999 for urban areas, has since 2007 gradually been expanded to rural areas. However, rural residents receive on average less than half the amount a month compared to urban residents. While this is explained in part by the fact that rural residents have access to land under the Household Responsibility System, differences also exist in access to basic health care and to old-age pension.

One major reason for the widening of the rural-urban gap resides in the fact that local governments have insufficient revenues to fulfil all the tasks assigned to them. A large number of essential services, including education, healthcare and old-age pensions, are provided at the local level, and it is estimated that local governments finance 80 per cent or more of basic health and education expenditures. While levels of subsidies from the central government are significant – fiscal transfers (excluding tax rebates) from the center to local governments increased from Rmb 435 billion in 2002 to Rmb 2.4 trillion in 2009 – there remains a high inequality in the distribution of medical and health resources. In 2005, only 25 per cent of public health resources were devoted to rural residents, although they make up close to 60 per cent of the total population.

Although necessary, further transfers may not be the most efficient way to address this problem, because of the difficulties in monitoring the use made of earmarked funds by the local-level authorities. Rather, consideration could be given to recentralizing the provision of certain public services, for instance the payment of old-age

pensions and of the salaries of teachers, or basic health care costs, to ensure that the local governments will not be obliged to compensate for the gap between their revenues and their expenditures by relying on user fees.

Rural migrant workers occupy a specific position in this debate concerning the gap between the rural and the urban levels of public services. Over the past decades, some 144 million people have migrated from rural areas all over China to work in urban areas, particularly in the Eastern provinces. Since an estimated 20 per cent of all rural migrant workers move with their family, the total number of rural-urban migrants is estimated to around 170 million. These migrants are often excluded from social services and social security benefits, including the *di bao* guaranteed to urban residents. In part, this stems from the fact that the vast majority of rural migrants (probably around 85 per cent) work in the informal sector, which increases their vulnerability to abusive labour conditions, including non-payment of wages. Another source of exclusion is the household registration system (*hukou*), the result of which is that, depending on their place of registration, individuals have different entitlements to basic services in the areas of health, education, and basic income guarantees.

A key challenge is to integrate the fast-growing population of rural migrants into the urban social security schemes through programmes which are tailored to the specific situation and needs of this population group. A number of provinces or municipalities, most recently Shanghai as regards health care, have taken steps in this direction by launching pilot programmes to abolish or limit the impact of the *hukou* system and to include migrant rural workers in the basic public service system. This often only benefits rural migrant workers engaged in formal employment, however, which are a minority among the migrants. In addition, for this to be fiscally sustainable – for the public services of the concerned cities to be able to cope with the increased demands imposed on them – it should be ensured that the revenues at their disposal will be sufficient. This again illustrates the importance of fiscal reform.

Challenge 2. Ensuring security of tenure and access to land

Threats resulting from land takings

Approximately 750 million people in China still reside in rural areas and rely significantly on agricultural land for their livelihood. For this large population of smallholders, which are at the heart of the success of China's ability to achieve food security, security of tenure and the ability to do land-related investments are vital. The current land tenure regime seeks to achieve a delicate balance between guaranteeing security of tenure to the individual household, whose use rights have been strengthened over the years, while at the same time allowing for the development of a market for land rental rights and ensuring that ownership remains in the hands of the collective.

Two difficulties remain. First, despite the almost complete prohibition of 'readjustments' in the 2002 Rural Land Contracting Law (confirmed in the 2007 Property [Real Rights] Law), which only allows readjustments in exceptional cases and under strict procedural conditions, this possibility appears routinely abused in practice. Second, farmers face an increase in the number of land takings, facilitated by the absence of a strict legal definition of the 'public interest' that the authorities may invoke in order to justify evictions, and in a number of regions, cultivated land has been ceded to developers in violation of existing legal procedures. Although the number of violations is declining (from 48.5 per cent of new developments in 2006 to 11.7 per cent of new developments in 2009), it remains significant. This threatens the ability of the country to maintain current levels of agricultural production and thus the desired level of food self-sufficiency. It also threatens the rights of land users, when they are obliged to cede their use rights under pressure from the local authorities, who in some cases transfer these rights to developers in exchange for bribes. Even when the procedural requirements have been respected, local cadres routinely capture a large portion of the compensation paid to the collective, despite the requirement in the 2007 Property Law that the compensation be returned in full to the individual farmer losing his/her land.

Ensuring the issuance of land certificates and improving the quality of the information available to land users about their rights as well as their access to legal aid would already go a long way towards improving their protection against such practices. But the strengthening of the rights of land users could also require changes in the existing legal framework. Contracted land use rights could be automatically extended beyond the current 30-year term, unless no member of the household to whom the land has been contracted still lives on the land. The

possibility for the collective of imposing readjustments, as well as the possibility for the State to evict land users in the public interest, could be better circumscribed, in order to allow courts to exercise a much stricter scrutiny on the authorities' reliance on these exceptions to the security of tenure of the land user. Finally, since surveys show that the vast majority of land certificates do not refer to the name of the woman and are instead in the name of the husband (or in the name of her father or father-in-law), it could be provided that, as additional land certificates are issued, the name of both the husband and the wife are recorded systematically.

Improved security of tenure and the resulting development of a market for land rental rights should be seen not as ends in themselves, but as part of a broader programme of rural development. They should be combined with support to small-scale farming, in order to ensure that farmers do not cede their use rights over land in conditions that amount to distress sales. For the large number of small-scale farmers in the Chinese countryside, access to land still represents a basic social safety net. Unless their levels of education improve and they are given real employment opportunities in the urban areas in decent conditions, an acceleration of land concentration through market mechanisms could result in more food insecurity, because of the increased poverty that would follow.

Finally, because the amount of land attributed to each household is very small (generally less than 0.5 hectares), contract farming is rapidly expanding in certain provinces in rural China. Contract farming can help raise small-farm income, and it may be particularly well suited to the characteristics of the Chinese organisation of small-scale farmers into collectives, since this communal mode of organisation may strengthen their bargaining position vis-à-vis the buyer. During his mission, the Special Rapporteur could witness first hand the advantages of contract farming for farming families in the province of Shandong. At the same time, the lessons from this province are not necessarily transposable elsewhere. In Western China, which is poorer, has a less well-developed agricultural sector, has arable land which is drier and less suitable for high-value commodities such as fruits and vegetables, and which is more distant from potential markets, this option may be less attractive, and it certainly should not be seen as a substitute for policies that support the production of food crops to meet local consumption needs. However, where contract farming is an attractive option, the Government could support this, for instance by mediating conflicts between buyers and farmers, by providing extension services in coordination with the technical support provided by buyers, and by ensuring that the legal framework protects farmers from any abuse by the buyer. It could also encourage that a certain percentage of the total cultivated area of each collective be reserved for the production of food crops, in order to ensure that the population will not be excessively dependent from the evolution of the prices paid for the crops they cultivate for the buyer, and to limit the risks from occasional bad harvests. Finally, it could encourage farming families joining contract farming schemes to form cooperatives in order to move up in the value chain.

Threats to nomadic herders

Nomadic herders in Western Provinces and Autonomous Regions, especially in the Tibet (Xizang) and Inner Mongolian Autonomous Regions, are another vulnerable group. The Grassland Law adopted in 1985 both in order to protect grassland and in order to modernize the animal husbandry industry towards commodification has now been complemented by a range of policies and programmes, including *tuimu huancao* ("removing animals to grow grass") and *tuigeng huanlin* ("Returning Farmland to Forest"). These programmes, part of the 1999 Western Development Strategy (*xibu da kaifa*), seek to address the degradation of pasture lands and control disasters in the low lands of China. They include measures such as grazing bans, grazing land non-use periods, rotational grazing and accommodation of carrying capacity, limitations on pastures distribution, compulsory fencing, slaughter of animal livestock, and the planting of eucalyptus trees on marginal farmland to reduce the threat of soil erosion. While there is little doubt about the extent of the land degradation problem, the Special Rapporteur would note that herders should not, as a result of the measures adopted under the *tuimu huancao* policy, be put in a situation where they have no other options than to sell their herd and resettle.

The International Covenant on Economic, Social and Cultural Rights prohibits depriving any people from its means of subsistence, and the 1992 Convention on Biodiversity acknowledges the importance of indigenous communities as guarantors and protectors of biodiversity (Art. 8 j). China has ratified both of these instruments. The Special Rapporteur encourages the Chinese authorities to engage in meaningful consultations with herding communities, including in order to assess the results of past and current policies, and examine all available options, including recent strategies of sustainable management of marginal pastures such as the New Rangeland Management (NRM) in order to combine the knowledge of the nomadic herders of their territories with the

information that can be drawn from modern science. The Special Rapporteur also encourages the Chinese authorities to invest in rehabilitating pasture, and to support remaining nomads with rural extension. The potential of livestock insurance programmes should also be explored, as tested successfully in Mongolia. Such programs, which pay nomads to restock and recover after a major disaster, encourage nomads to keep herds at much smaller scale as they would not fear losing their herding activity after such disasters if covered by such insurances.

Challenge 3. Feeding China in 2030

As illustrated by a 2008 Chinese Academy of Sciences report, calculating that the cost of exploitation of natural resources, ecological degradation and environmental pollution in 2005 was 13.9 per cent of GDP, while growth in that year was 11.3 per cent. China faces considerable ecological threats and challenges, with deep potential consequences for both food security at the national level and the realization of the right to food of vulnerable groups. 37 per cent of China's total territory suffers from land degradation. Soil erosion has become a large problem in northwest China, raising concerns about China's future grain security. Water scarcity is a huge problem: per capita water availability is less than one third the world average. In a report commissioned by UNDP, Renmin University estimated that climate change may cause agricultural productivity to drop by 5 to 10 per cent by 2030 in the absence of mitigation actions, affecting principally wheat, rice and maize. Indeed, already today, droughts affect between 200 and 600 million *mu* of farmland in China every year. The modernization of agriculture has also relied on important use of inputs, the production of which is based on fossil fuels such as oil and natural gas, which China increasingly imports.

The Chinese authorities are keeping this issue under close scrutiny and they should be commended for a number of initiatives they have taken to mitigate and adapt to ecological damage, including climate change. But more could be done. The social impacts of certain policies, such as *tuigeng huanlin* ("Returning Farmland to Forest"), which covers more than 32 million farmers' households in 25 provinces, may have been underestimated. In addition, the authorities could further explore the potential of sustainable modes of agricultural production based on the principles of agroecology in order to increase agricultural productivity in a sustainable manner. Encouraging smallholders to use less inputs, particularly synthetic fertilizers, would reduce their costs of production and improve overall profitability, while preventing further increases in food prices and reducing China's import bills and CO₂ emissions at the same time. China's experience with agroecology has proven that this approach is viable and leads to very significant successes. In the Yunnan Province for instance, after disease-susceptible rice varieties were planted in mixtures with varieties resistant to rice blast disease on 3,000 hectares of rice fields, yields improved by 89 per cent and rice blast was 94 per cent less severe than when the varieties were grown in monoculture, leading farmers to abandon the use of fungicidal sprays. The Government could also improve the accountability of both local administrative authorities and private stakeholders. Local authorities and officials could be evaluated according to their environmental performance in addition to their purely economic performance (GDP), and incentivized to control respect of environmental laws and regulations by private companies. Moreover, the role of courts in environmental matters could be further strengthened, for instance by allowing public interest litigation.

Challenge 4. Improving nutrition

China's achievements in combating malnutrition are remarkable. The number of undernourished people went down from one in three thirty years ago to one in ten, and the prevalence of underweight among children under-five years old decreased from 19,1 per cent in 1990 to 6,9 per cent in 2005 (stunting rates went from 33,4 per cent to 10,5 per cent in the same period). However, important challenges remain concerning nutrition and the adequacy of diets of both the rural and urban population. The prevalence of anemia among children under-five years old was 21,9 per cent in 2006 but up to 80 per cent in the poorest counties, and 35 per cent of children aged 12 months in the poorest counties are stunted. Despite great increases in fruit and vegetables consumption for most households, a significant proportion of households in poor counties eat vegetables only one or two days per week. At the same time, obesity is appearing: in 2002, 9,2 per cent of Chinese children were overweight for their age, a figure only slightly under the percentage of Chinese underweight (11 per cent). WHO surveys also found overconsumption of salt, leading to hypertension and related diseases, a threat for an ageing population. China thus is meeting the same challenges that other countries undergoing nutrition transition.

A comprehensive approach to address these problems could be based upon four complementary strategies. First, the promotion of diverse and balanced diets, including by agricultural policies or other adequate schemes aiming at cheaper vegetable prices for poor urban and rural consumers, could decrease both malnutrition and certainly prevent a further aggravation of obesity levels. Secondly, the promotion of exclusive breastfeeding during the first six months after birth and complementary feeding after 6 months are the most effective strategies to avoid malnutrition during the first 22 months and to strengthen the immunity system of children. The opportunity for improvements in this area is relatively large: only 27 per cent of Chinese children under six months are currently exclusively breastfed according to data at national level, and surveys in rural areas indicate a lower percentage (10 per cent). Thirdly, the promotion of mandatory biofortification of staple foods, including wheat flour – as done today in 56 countries across the world – could complement the first two preventive strategies. Finally, a stronger regulation of the marketing efforts of the food industry to sell unbalanced processed products and ready-to-serve meals too rich in fat and sugars is certainly needed to curb obesity levels.

Challenge 5. Food safety – and the contribution of basic freedoms to the right to food

Following the 2008 Sanlu infant milk powder incident, a series of important measures to strengthen food safety supervision have been taken, and a Food Safety Law was adopted in March 2009. The authorities should be commended for their efforts in this domain, despite the difficulties they face in a fast-developing agrifood processing and retailing industry. Against this background, the Special Rapporteur however is concerned that in some instances, individuals alerting the public about food safety risks have reportedly been prosecuted and convicted in relation to their advocacy efforts. This not only creates a chilling effect on all those who would like to rely on Article 10 of the Food Safety Law in order to report about violations of the requirements set by this legislation, it also seems to underestimate the contribution that the exercise of freedoms of expression and association can make to the right to adequate food.

The Special Rapporteur is convinced that transparency and access to information are essential to the effective realisation of the right to food. It is through the exercise of basic freedoms that authorities can be held accountable and policies improved in the light of their impacts; that corruption and misuse of power by public officials, particularly at local level, can be combated; and that the laws that are adopted in order to protect various aspects of the right to food are complied with.

In conclusion, the Special Rapporteur is encouraged by the impressive progress made in China in the achievement of food security. However, serious challenges remain. These challenges include improving the situation of people living in rural areas and the situation of rural migrant workers, improving security of land tenure and access to land, making a transition towards more sustainable agriculture, and addressing the areas of nutrition and food safety. The Government is well aware of these challenges. The Special Rapporteur expresses his willingness to cooperate with the Chinese authorities to identify how to overcome the remaining obstacles, on the basis of the best international practices.

Olivier De Schutter was appointed the UN Special Rapporteur on the right to food in March 2008 by the United Nations Human Rights Council. He is independent from any government or organization, and he reports to the Human Rights Council and to the UN General Assembly. For more on the work of the Special Rapporteur on the right to food, visit www2.ohchr.org/english/issues/food/index.htm or www.srfood.org.