MANDATE OF THE SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD

INTEGRATING THE RIGHT TO ADEQUATE FOOD IN DEVELOPMENT CO-OPERATION

This note is prepared as a contribution of Mr Olivier De Schutter, the UN Special Rapporteur on the Right to Food, to the meeting of the Global Donor Platform for Rural Development held in Geneva on November 18th, 2008, on ‘The global food challenge – our coordinated response’.

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The right to adequate food is firmly recognized in international law. Yet, it has been too often ignored in the design and implementation of development policies, even where these policies aim at realizing the First Millenium Development Goal, and explicitly seek to contribute to halving the proportion of the population which is hungry. The integration of the human right to adequate food in development cooperation would present a number of advantages. It would improve the effectiveness and the legitimacy of development cooperation. It would also improve the accountability of both donor States and international agencies and their partners, particularly to the extent that human rights bodies would be involved in monitoring – in addition to peer review mechanisms and internal evaluations – the implementation of development policies. The adoption of a human rights framework can therefore considerably strengthen the current efforts for improving the effectiveness of aid, based on the five principles of national ownership, alignment, harmonisation, managing for results, and mutual accountability.

Four concrete steps could be taken to ensure the integration of human rights, particularly the right to adequate food, in development policies:

1. In order to ensure that development policies will not lead to violations of human rights – particularly the right to food –, ex ante impact assessments should be prepared, following a methodology (particularly in the choice of indicators and in the setting up of participatory processes for the design of development policies) that are explicitly based on a human rights framework. Such impact assessments should ideally be prepared collaboratively by donor States and international agencies, with their partner countries. Victims of human rights violations resulting from the implementation of development projects should have access to effective remedies, preferably of a judicial nature, in order to ensure that their rights are adequately protected.

2. The national development strategies adopted by developing countries, with which the contributions of international donors should be aligned, should include – as an explicit component of such strategies – strategies aimed at the realization of the right to food. Consistent with the Voluntary
Guidelines to support the progressive realization of the right to adequate food, such national strategies 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. The alignment of international aid with such strategies as defined in partner countries would enhance national ownership, and ensure that aid effectively contributes to the realization of the right to adequate food.

3. In the current context, after years of declining investments in agriculture, the need to prioritize agricultural development follows from the obligation to devise development strategies which are conducive of the realization of the right to food. National development strategies should seek to remedy the neglect of agriculture in national budgets over the last 25 years. In order to support these national efforts, official development assistance should allocate more resources to agricultural development, although this should come in addition to – and not at the expense of – other posts corresponding to the fulfilment of human rights, such as health and education.

4. In order to improve the effectiveness of aid, its impacts must be evaluated on a regular basis. Such evaluations should rely explicitly on a human rights framework: thus, the evaluation of the impact of development policies on the right to food should be based on the normative components of this right; it should use indicators reflecting these components, disaggregated as appropriate in order to monitor compliance with the requirement of non-discrimination; and it should rely on participatory methodologies, in order to increase transparency and quality of the evaluation process. Human rights impact assessments improve the objectivity and the legitimacy of development policies, and they serve to strengthen the accountability of both donors and their partner governments, particularly if civil society and national parliaments are involved in designing such impact assessments and are informed of their results. In addition to these efforts, human rights bodies – particularly the UN Committee on Economic, Social and Cultural Rights – should play a more active role in monitoring the impact of development policies on the enjoyment of human right to adequate food, and the contribution of international aid to its progressive realization.

I. INTRODUCTION

The first Millenium Development Goal agreed to in 2000 is to eradicate extreme poverty and hunger. One of the targets is to reduce by half the proportion of people who suffer from hunger. The indicators for this target are the prevalence of underweight children under five years of age (to be monitored by UNICEF) and the proportion of the population below minimum level of dietary energy consumption (to be monitored by FAO). However, in order to contribute to the realization of the human right to adequate food, a development co-operation policy must move beyond simply seeking to fulfil this objective, defined as the satisfaction of a basic need. Reducing hunger is not simply a development goal – it is also a human right.

The right to adequate food is recognized under Article 25 of the Universal Declaration on Human Rights and under Article 11 of the International Covenant on Economic, Social and Cultural Rights. This right cannot be equated with the provision of a minimum package of calories, proteins and other specific nutrients. Instead, the right to adequate food is realized ‘when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or
means for its procurement’. Not only does this definition refer to the right to *adequate* food, referring to a nutritional requirement which is absent from definitions of hunger which limit themselves to calories intake; it also includes the idea that each individual must be granted access to adequate food, either by being able to produce it or by having the means to purchase food, *as a matter of right*. Satisfying a basic need is one thing; recognizing a human right is another.

It is thus important not only that development cooperation contributes to the reduction of hunger, defined as a policy objective, but also that it is designed and implemented taking into account that this objective contributes to the realization of a human right: international assistance and cooperation is a means, among others, to realize the right to adequate food. A number of consequences follow, both for the partner (recipient) State, and for the donor State. These consequences concern both the definition of the objectives of development co-operation (and, thus, the outcomes which are to be monitored in evaluation processes), and the means through which these objectives are to be pursued (the instruments of development co-operation policies). Development co-operation must respect human rights, including the right to adequate food. But it must also be conceived and implemented in accordance with the requirements of a human rights framework, and its results must be evaluated according to its ability to facilitate the realisation of human rights. In other terms, human rights impose a framework to development co-operation; they must influence its instruments; and they must serve to guide the evaluation of outcomes.

**Fig. 1. The implications of a human rights framework to development co-operation**

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<td>States and international agencies must comply with human rights in their development co-operation policies</td>
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Explicitly grounding the reform of development co-operation policies in a human rights framework, in accordance with the definition of the right to development endorsed by the UN General Assembly (Box 1), presents a number of advantages. By endorsing such a framework and seeking to define their policies in accordance with what such a framework prescribes, donor governments and international agencies and their partners would be provided a reference point, based on their existing international obligations, for coordination efforts. This would facilitate the search for a consensus between them. It would also give concrete meaning to policy guidelines which are already agreed to, such as those which emphasize national ownership, management for results, and accountability of both donors and partners for development results. A human rights framework also requires the participation, as a matter of right, in the design and implementation of development policies, of the ultimate beneficiaries of development. Such participation in turn is facilitated by the invocation of internationally agreed human rights as benchmarks, by which the effectiveness of development efforts could be judged. A reference to the realization of human rights as the ultimate aim of development strategies not only provides us with an objective evaluation tool of these strategies; it also improves the effectiveness of these strategies, by obliging donors and partners alike to pay greater attention to the impacts of their policy choices, both intended and unintended, direct and indirect, particularly on the most vulnerable sectors of society.

**Box 1. The right to development as proclaimed by the UN General Assembly**

Resolution 41/128 adopted by the UN General Assembly on 4 December 1986 defines the right to development as an ‘inalienable human right by virtue of which every human person an all peoples are entitled to participate in,

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1 UN Committee on Economic, Social and Cultural Rights, General Comment No. 12 (1999): The right to adequate food, E/C.12/1999/5, para. 6.
contribute to, and enjoy economic, social, cultural and political development, in which all human rights can be fully realized’ (Art. 1). Article 2 of the resolution states that ‘the human person is the central subject of development and should be the active participant and beneficiary of the right to development’. National development policies should therefore be guided by the need to realize human rights: ‘States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom’ (Art. 2(3)). The right to development should be seen as enabling States to implement policies which allow them to pursue a form of development which is not limited to economic growth but includes the full realization of all human rights. States have both a right to development, to which corresponding duties are attached for the international community, and a duty towards their population, to pursue a form of development leading to an expansion of human freedoms.

In sum, the transformative potential of a human rights framework on development co-operation is considerable. At its core, the introduction of this framework leads to a shift from a bilateral relationship between donors and partner States, to a triangular relationship actively involving the ultimate beneficiaries and their representatives (national parliaments and civil society organisations) in the design and implementation of development policies. This represents a gain in effectiveness (since these policies will be more evidence-based), but also in legitimacy (since they will be grounded on human rights as universally recognized values), and in accountability (since we move from the realm of charity and discretion in relations between donors and recipients to relations defined as those between duty-bearers and rights-holders). While the current efforts in reforming aid with a view to improving its effectiveness are moving in the same direction, explicit reliance on a human rights could strengthen those efforts and help guide them.

This note explains further what this shift may consist in, with a particular focus on the right to adequate food. The UN agencies agreed on a set of principles which should encourage a human rights-based programming of development (Box 2). These principles usefully complement the principles guiding the reform of aid with a view to improving its effectiveness. But they do more: they help to ensure that development policies will truly serve the ends of development, as defined in the UN General Assembly’s definition of the right to development; and, by providing an objective grid of analysis on the basis of which aid may be evaluated and its providers and recipients be held accountable, they help de-politicize aid by democratizing it, and making it more transparent.

Box 2. The Human Rights Based Approach to Development Cooperation - Towards a Common Understanding Among UN Agencies (2003) (excerpt)

Implications of A Human Rights Based Approach to Development Programming of UN Agencies
Experience has shown that the use of a human rights-based approach requires the use of good programming practices. However, the application of “good programming practices” does not by itself constitute a human rights-based approach, and requires additional elements. The following elements are necessary, specific, and unique to a human rights-based approach:

a) Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.

b) Programmes assess the capacity of rights-holders to claim their rights, and of duty-bearers to fulfill their obligations. They then develop strategies to build these capacities.

c) Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.

d) Programming is informed by the recommendations of international human rights bodies and mechanisms.

Other elements of good programming practices that are also essential under a HRBA, include:
1. People are recognized as key actors in their own development, rather than passive recipients of commodities and services.
2. Participation is both a means and a goal.
3. Strategies are empowering, not disempowering.
4. Both outcomes and processes are monitored and evaluated.
5. Analysis includes all stakeholders.
6. Programmes focus on marginalized, disadvantaged, and excluded groups.
II. THE CONTRIBUTION OF HUMAN RIGHTS TO DEVELOPMENT CO-OPERATION POLICIES

1. The compliance of development co-operation with human rights

Donor States and international agencies must respect the right to food in the partner country. This includes the obligation not to impose economic sanctions, by suspending development cooperation programmes, which might result in violations of the right to food in the State which is targeted by such sanctions. States imposing economic sanctions which would jeopardize the economic, social and cultural rights of the population in the targeted State, would be violating their obligations under the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration on Human Rights as summarized by the Voluntary Guidelines on the Right to Food adopted by the FAO Member States in 2004, ‘food should not be used as a tool of economic and political pressure’. Donor States should also refrain from contributing to violations of the right to food, for instance by funding programmes which lead to such violations. Similarly, the recipient State should ensure that the aid it is provided is not diverted to projects which risk undermining the enjoyment of the right to adequate food, for instance by the construction of infrastructures which destroy the livelihoods of farming or fishing communities, unless adequate compensation is provided and resettlement is ensured in full compliance with the the Basic Principles and Guidelines on Development-based Evictions and Displacement presented by the Special Rapporteur on adequate housing. Procedures should be put in place in order to ensure that this does not occur. Such procedures should include ex ante human rights impact assessments. Ideally, such procedures should be set up jointly by donor countries and international aid agencies with their partners, the governments of developing States. In addition, since effective remedies should be available to all victims of human rights violations whichever their origin, States should ensure that individuals or communities whose human rights are threatened by the implementation of development projects have access to an independent body competent to adjudicate such claims.

2. The definition of the instruments of development co-operation in accordance with a human rights framework

2.1. The principles guiding the reform of international aid

The current reform process of international aid is based on five principles, which are made explicit in the Paris Declaration on Aid Effectiveness, endorsed on 2 March 2005. These are:

- national ownership: countries exercise effective ownership over their development policies and strategies, and coordinate development actions;

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4 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 the General Council of the FAO, available online: http://www.fao.org/docrep/meeting/009/y9825e/y9825e00.htm.
5 FAO Voluntary Guidelines on the right to food, chapter III, para. 2.
7 More is said below on impact assessments, and this is therefore not expanded upon here.
• alignment: donors base their overall support on partner countries’ national development strategies, institutions and procedures;

• harmonisation: donors’ actions are more harmonized, transparent and collectively effective;

• managing for results: resources and improvements to decision-making must be managed for results;

• mutual accountability: donors and partners are accountable for development results.

An explicit endorsement of a human rights framework for the implementation of these principles could serve to make them more concrete and operational. The human right to adequate food in particular should be guiding countries’ choices of development strategies, and provide an objective benchmark to evaluate the effectiveness of development efforts, thus improving the accountability of both donors and partners.

2.2. National strategies for the realization of the right to food as part of national development strategies

The recipient State should also seek to define its national priorities, for instance in poverty-reduction strategy papers (PRSPs), on the basis of an adequate mapping of food vulnerability and insecurity on its national territory, as recommended by the Voluntary Guidelines on the Right to Food. In accordance with the Paris Declaration on Aid Effectiveness, aid provided under international co-operation programmes should be aligned with the partner country’s priorities, systems and procedures, and the capacities of that country should be strengthened. Yet, in setting those priorities, the recipient States should take into account their obligations under international law, particularly their obligation to respect, protect and fulfil the right to food under their jurisdiction. The Committee on Economic, Social and Cultural Rights, in providing authoritative guidance to the States parties to the International Covenant on Economic, Social and Cultural Rights about their obligations under the Covenant towards the right to adequate food, has insisted on the need for States to 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’.8

A first step towards complying with this obligation is to take account of Guideline 3 of the FAO Voluntary Guidelines, which provides indications about how States could adopt a national human rights-based strategy for the realization of the right to adequate food ‘as part of an overarching national development strategy, including poverty reduction strategies, where they exist’. Such a strategy should present, inter alia, the following characteristics:

They should be based on a careful assessment of existing obstacles to the realization of the right to adequate food and of the measures necessary to overcome such obstacles (VG 3.2.);

They should include objectives, targets, benchmarks and time frames, and they should allocate responsibilities across all actors, as well as coordination between them (VG 3.3.);

They should establish monitoring mechanisms to ensure that the actors involved comply with their obligations under the national strategy adopted by the State (VG 3.3.);

Specific attention should be paid 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 (VG, 3.9.), 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 (VG, 3.4. and 3.5.).

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8 General Comment No. 12, para. 21.
Such national strategies should be developed through participatory processes (VG, 3.8.).

One of the commitments of the States adhering to the Paris Declaration on Aid Effectiveness is to enhance partner countries’ accountability to their citizens and parliaments for their development policies, strategies and performance (para. 3, iii, and para. 14). This objective has been further reaffirmed by the Accra Summit on Aid Effectiveness of 2-4 September 2008 (para. 13, a, of the Accra Agenda for Action). A reference to the FAO Voluntary Guidelines on the right to food would provide a concrete means to improve such accountability, while at the same time ensuring that development strategies effectively contribute to the realization of the right to food. This is entirely consistent with the principle of national ownership, on which official development assistance should be based: the adoption by the partner States of national strategies for the realization of the right to food constitutes a means to ensure genuine national ownership, by strengthening the accountability of national governments and their responsiveness to the needs of their populations. The Accra Agenda for Action provides that developing countries and donors will ‘ensure that their respective development policies and programmes are designed and implemented in ways consistent with their agreed international commitments on gender equality, human rights, disability and environmental sustainability’ (para. 13, d). Grounding development assistance on the human right to food would contribute to this agenda.

2.3. Prioritizing agricultural development

The global food crisis of 2007-8 has brought to light the neglect of agriculture since the 1980s. Investments in agriculture have been widely insufficient over the last 25 years, both in official development assistance and in the national budgets of agriculture-based countries. In its World Development Report 2008 – Agriculture for Development, the World Bank notes that ‘the agriculture-based countries have very low public spending in agriculture as a share of their agricultural GDP’, at an average of 4% in 2004.

In such a context, the need to prioritize agricultural development also would seem to follow from the obligation to devise development strategies which are conducive of the realization of the right to food. Indeed, on a number of occasions, the need to afford priority to agricultural development in Africa has been affirmed by the governments concerned. This is the case, in particular, in sub-Saharan African countries. The Comprehensive Africa Agriculture Development Programme (CAADP) of the New Partnership for Africa’s Development (NEPAD) provides a framework for restoring agricultural growth, rural development and food security in the African region. The programme was first endorsed at ministerial level by African Ministers assembled under a special session of the FAO Regional Conference for Africa in Rome on 9 June 2002; it has since then been officially adopted by NEPAD organs as the framework for the sector’s development in Africa. At their Second Ordinary Session, held on 10 - 12 July 2003 in Maputo, the Heads of State and Government of the African Union (AU) resolved to implement the CAADP as a matter of urgency; they agreed to adopt ‘sound policies for agricultural and rural development’; and they pledged to allocate ‘at least 10% of national budgetary resources for their implementation within five years’. At their 4th Summit held in Maputo on 23-24 June 2004, the Heads of State and Government of the ACP countries adopted a declaration in which they ‘fully recognize the fundamental importance of agricultural development to economic growth’. They explained: ‘Since agriculture is the main source of livelihood for the populations in ACP countries, poverty eradication and the elimination of hunger hinged upon agriculture development’. They therefore expressed their commitment to ‘strengthen the development of agriculture and related value added activities, rural development and food security at national and regional levels’, an

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9 See A/HRC/7/L.6/Rev.1 (26 March 2008), para. 9 (where the Human Rights Council notes that ‘improving access to productive resources and public investment in rural development is essential for eradicating hunger and poverty, in particular in developing countries, including through the promotion of investments in appropriate, small-scale irrigation and water management technologies in order to reduce vulnerability to droughts.’).

objective to which, they stated, international assistance may contribute.\footnote{11}{ACP/28/010/04 (final), Maputo, 24 June 2004, para. 25.}

### 2.4. Mutual accountability through monitoring and evaluation

Under the principle of mutual accountability agreed to in the Paris Declaration on Aid Effectiveness, partner countries and donors should "enhance mutual accountability and transparency in the use of development resources", a process which should help "strengthen public support for national policies and development assistance" (para. 47). The commitment of the partner countries is to involve more closely national parliaments and civil society in the design and implementation of national development strategies and/or budgets (para. 48). In turn, donors commit to "provide timely, transparent and comprehensive information on aid flows so as to enable partner authorities to present comprehensive budget reports to their legislatures and citizens" (para. 49). And both partner countries and donors commit to "jointly assess through existing and increasingly objective country level mechanisms mutual progress in implementing agreed commitments on aid effectiveness, including the Partnership Commitments" (para. 50). How success is to be measured remains unspecified under the Declaration. A reference to the normative components of the right to adequate food would be particularly useful to guide such assessments. Ideally, monitoring of the effectiveness of aid should take the form of human rights impact assessments based on the normative components of human rights as recognized in international law; and it should be performed jointly by donors and partner countries, as well as by independent bodies. Since accountability is closely linked to the definition of the outcomes, it is discussed further in the next section.

### 3. Evaluating the outcomes of development policies in a human rights framework

In its July 2008 report on Aid Effectiveness, the United Kingdom House of Commons’ International Development Committee took the view that: ‘The credibility of these assessments [of the impact of development aid] stems in part from their independence. Self-assessment and donors assessing other donors, as happens under the Development Assistance Committee’s Peer Review system, have a role to play but should be complemented by other initiatives. […] The credibility of impact evaluations is also drawn in part from their methodology’. They recommended therefore that the UK Department for International Development (DFID) support initiatives for the assessment of development assistance led by developing countries, and that they fund ‘more robust impact assessments, such as counterfactual ones carried out by independent development economists’.\footnote{12}{House of Commons, International Development Committee, Working Together to Make Aid More Effective, Ninth Report of Session 20078, HC 520-1, 17 July 2008, paras. 73-74.} Both objectives could be achieved by basing evaluations on human rights impact assessments, and by encouraging independent human rights expert bodies to perform such assessments, in addition to evaluations made by the countries involved or by independent consultants trained in other disciplines.

#### a) Human rights impact assessments

Considerable progress has been achieved in recent years in devising adequate methodologies for human rights impact assessments. By basing impact assessments on human rights, we provide them with a sound, and universally agreed, analytical framework (see for instance, in fig. 2, the list of illustrative indicators on the right to adequate food prepared by the Office of the High Commissioner for Human Rights).\footnote{13}{See also Emilie Film-Wilson, An Introduction to the Use of Human Rights Indicators for Development Programmes, 24 (1) \textit{Netherlands Quarterly of Human Rights} 156-157 (2006).} For instance, all four dimensions of food security should be included in such impact assessments (availability, accessibility, utilization, and stability of supply), and the indicators measuring the impacts of development policies across these different dimensions should allow to disaggregate the impacts according to gender, ethnic origin, level of education or professional qualification, or sector of activity. It is because they are based on the normative components of human rights and because they prescribe disaggregation that human rights based impact assessments go
beyond the standard practice of examining whether the situation in a State as a whole, considered in an aggregate perspective, benefits from development cooperation.

In addition to requirements about the fairness of outcomes, procedural requirements would be examined through adequately prepared human rights impact assessments. Indeed, apart from indicators related to the outcome — i.e., the impact on human rights of the development policies in place —, indicators as used in human rights impact assessments should focus on the structural and the process dimensions. They should therefore address, not only the question of how human rights might be affected (or promoted) by development policies, but also which institutional structures exist to ensure that human rights are not violated (ratification of international human rights instruments by the state concerned; transparency in the use of development aid; accountability of the Executive, responsible for designing development policies and for identifying priorities, before Parliament; existence of consultations with civil society organizations), and which measures are being adopted by the State concerned to maximize the positive impacts of development aid on the enjoyment of human rights for all.

Third, the use of human rights indicators may be empowering for individuals and communities who, on the basis of the results of HRIAs, will be able to formulate claims where their human rights are threatened by certain development policies, or where they are left out from development programmes. As noted by the Office of the High Commissioner for Human Rights, ‘the demand for appropriate indicators is not only for monitoring the implementation of the human rights instruments by States parties, but indicators are also seen as useful tools in reinforcing accountability, in articulating and advancing claims on the duty-bearers and in formulating requisite public policies and programmes for facilitating the realization of human rights. In this attempt to make the reporting, implementation and monitoring of human rights treaties more effective and efficient, there is an understanding that one needs to move away from using general statistics, the relevance of which to such tasks is often indirect and lacks clarity, to using specific indicators that, while embedded in the relevant human rights normative framework, can be easily applied and interpreted by the potential users’.14

The methodology adopted for the preparation of HRIAs should be country-specific, in order to take into account local conditions. Such methodology should be defined in a participatory setting, with the active involvement of human rights and development NGOs, and ideally, as regards the choice of indicators and the adoption of a methodology, in close cooperation with the Office of the High Commissioner for Human Rights as well as, as regards the right to food, the Right to Food Unit of the FAO. The HRIAs themselves should be performed in conditions which guarantee the full independence of the assessments provided, and ideally, they should involve human rights experts, which should consult broadly within the civil society of the countries concerned, and use a participatory methodology alongside other methodologies such as modelling, cause-chain analysis, empirical studies, etc.

**Fig. 2. List of illustrative indicators on the right to adequate food prepared by the Office of the High Commissioner for Human Rights**15

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b) The role of human rights bodies in monitoring development aid

In the future, the mechanisms which have been established to monitor human rights compliance by States should be more active in evaluating the compliance with their human rights objectives of development policies. The UN Committee on Economic, Social and Cultural Rights, is particularly well positioned for this purpose. Indeed, by providing international assistance and cooperation, donor States are acting in accordance with their obligations under the International Covenant on Economic, Social and Cultural Rights. Article 2(1) of the International Covenant on Economic, Social and Cultural Rights provides that the States parties to the Covenant undertake to ‘take steps, individually and through international assistance and co-operation, especially economic and technical’, to the maximum of their available resources, ‘with a view to achieving progressively the full realization of the rights’ recognized in the Covenant. The notion of international co-operation is also mentioned specifically in relation to the right to an adequate standard of living, including the right to food, in Article 11(1) of the Covenant, according to which ‘States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent’. Under Part IV of the Covenant, which relates to the measures of implementation, two provisions relate to international assistance and co-operation. Article 22 states that the Economic and Social Council may bring to the attention of other UN bodies and agencies concerned with furnishing technical assistance any information arising out of the reports submitted by States under the Covenant which ‘may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant’. Article 23 specifies the different forms international action for the achievement of the rights recognized in the Covenant may take : such international action ‘includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned’.

The preparatory works show that, in adopting these provisions relating to international assistance and co-operation, the drafters of the International Covenant on Economic, Social and Cultural Rights did not wish to impose an obligation on any State to provide such assistance or co-operation at any
specified level. However, this is not to say that no other obligations may be derived from the reference made in Article 2(1) of the Covenant to international assistance and co-operation. Article 56 of the UN Charter imposes on all the Members of the United Nations to ‘take joint and separate action in co-operation with the Organization’, inter alia, in order to achieve universal respect for, and observance of, human rights and fundamental freedoms for all. Paragraph 34 of the Vienna Declaration and Programme of Action adopted at the Vienna World Conference on Human Rights of 14-25 June 1993 reiterates the importance of international assistance and cooperation in this context.

As regards the right to adequate food, the UN Committee on Economic, Social and Cultural Rights takes the view that:

States have a joint and individual responsibility, in accordance with the Charter of the United Nations, to cooperate in providing disaster relief and humanitarian assistance in times of emergency, including assistance to refugees and internally displaced persons. Each State should contribute to this task in accordance with its ability. The role of the World Food Programme (WFP) and the Office of the United Nations High Commissioner for Refugees (UNHCR), and increasingly that of UNICEF and FAO is of particular importance in this respect and should be strengthened. Priority in food aid should be given to the most vulnerable populations.

In the General Comment it devoted in 2000 to the right to the highest attainable standard of health, the Committee similarly noted that ‘Depending on the availability of resources, States [in particular States in a position to assist developing countries in fulfilling their core and other obligations under the Covenant] should facilitate access to essential health facilities, goods and services in other countries, wherever possible and provide the necessary aid when required’.

If, by providing international assistance and cooperation, donor States are in effect implementing their obligations under the Covenant on Economic, Social and Cultural Rights, the implication is that their efforts should be monitored and, through such a monitoring, encouraged to go further. In the future, the Committee on Economic, Social and Cultural Rights could pay greater attention to this dimension of States’ policies. It would therefore be contributing to the need for development policies to be guided by the objective of fulfilling human rights, and for an independent evaluation of these policies enhancing the accountability both of donors and of partner states.

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16 Ph. Alston and G. Quinn, ‘The Nature and Scope of States Parties’ Obligations under the International Covenant on Economic, Social and Cultural Rights’, Human Rights Quarterly, 9 (1987), pp. 156-229, at pp. 186-192 (see in particular p. 191: ‘on the basis of the preparatory work it is difficult, if not impossible, to sustain the argument that the commitment to international cooperation contained in the Covenant can accurately be characterized as a legally binding obligation upon any particular state to provide any particular form of assistance’).

17 This states: ‘Increased efforts should be made to assist countries which so request to create the conditions whereby each individual can enjoy universal human rights and fundamental freedoms. Governments, the United Nations system as well as other multilateral organizations are urged to increase considerably the resources allocated to programmes aiming at the establishment and strengthening of national legislation, national institutions and related infrastructures which uphold the rule of law and democracy, electoral assistance, human rights awareness through training, teaching and education, popular participation and civil society’ (UN Doc. A/CONF.157/23, 12 July 1993).


20 Indeed, it has been suggested that similar obligations follow from other human rights treaties referring to international assistance and cooperation as a means to realize human rights: see, e.g., Committee on the Rights of the Child, General Comment No. 5 (2003): General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) (CRC/GC/2003/5, 27 November 2003), para. 61 (noting that ‘the Convention should form the framework for international development assistance related directly or indirectly to children and that programmes of donor States should be rights-based. The Committee urges States to meet internationally agreed targets, including the United Nations target for international development assistance of 0.7 per cent of gross domestic product. This goal was reiterated along with other targets in the Monterrey Consensus, arising from the 2002 International Conference on Financing for Development’).
III. CONCLUSION

In recent years, development cooperation has been criticized from two different angles. Some have dismissed it as excessively donor-driven and top-down, and therefore as insufficiently informed by the views of the ultimate beneficiaries. Others have denounced the mismanagement of aid by recipient governments, noting that poor governance often resulted in aid not being used effectively. The principles of ownership, of alignment, and of mutual accountability, were responses to both these critiques: these principles mark a shift from donor-driven to needs-driven aid strategies, and emphasize the need for evaluation of the performance of both donors, particularly as regards harmonization and predictability of aid, and of their partners.

Because they provide a framework which is grounded in the international obligations of both donors and recipient States, and because they emphasize the values of participation and accountability, human rights can help complement these principles of aid effectiveness, and help make them more operational. As donors and their partners seek to clarify how to implement these principles, a reference to human rights may provide a focal point on which those discussions can be based. Realizing the first Millenium Development Goal to halve the proportion of people suffering from hunger by 2015 without grounding the policies we develop in order to fulfil this objective on the human right to adequate food would be a mistake: it would lead to policies which are less well informed, less sustainable in the long term, and whose legitimacy will be more easily contested. The recommendations presented in this report are based, not only on the idea that governments must respect their obligations under international law, but also on the idea that relying on the right to adequate food is useful and operational, and truly adds value to development policies. We can only ignore the potential of the right to food at our own peril.

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