Mandate of the Special Rapporteur on the right to food

Comments on the Second Draft of the Global Strategic Framework for Food Security and Nutrition of the Committee on World Food Security

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The Special Rapporteur on the right to food offers the following comments (underlined sentences) for consideration in the Committee on World Food Security's intergovernmental open-ended working group on the Global Strategic Framework for Food Security and Nutrition (GSF).

SECTION I. INTRODUCTION AND BACKGROUND

Paras. 11 and 13 (Nature, purpose, process of elaboration and intended role of the GSF)

Suggestions

11. This GSF is a single, living document to be approved by the CFS Plenary. Its overall purpose is to provide a dynamic instrument to support CFS in realizing its vision and performing its roles. The ultimate goal of the GSF is to offer guidance on the progressive realization of the right to adequate food in the context of national food security. The main added value of the GSF is to provide a single reference to core recommendations for right to food, food security and nutrition strategies, policies and actions that were validated by the wide ownership, participation and consultation afforded by the CFS.

13. The GSF offers guidelines and recommendations for catalyzing coherent action at the global, regional and country levels by the full range of stakeholders, while emphasizing the primary responsibility of governments and the central role of country ownership of programmes to progressively realize the right to adequate food, combat food insecurity and malnutrition. It is not a legally binding instrument.

Commentary
The above suggestions reflect international human rights norms. The GSF could be clearer in stating the progressive realization of the human right to adequate food as an ultimate goal of the GSF. While this overall goal is implied through several references to the right to food throughout the document, as well as by references to the Voluntary Guidelines in support of the progressive realization of the right to adequate food in the context of national food security and to the Rome Declaration on Food Security (Principle of 3 of which refers clearly to the need to ground efforts in the right to food), it would be important to make it more explicit. This would be consistent both with the CSF 2009 Reform Document, which placed the right to food at the centre of the reform,
as recalled in a recent FAO note on the GSF;\(^1\) and with existing international obligations of States to progressively realize the human right to adequate food, as framed in international human rights law. Placing the right to food as the goal of the GSF does not create new legal obligations. It simply reiterates a commitment to implement existing obligations.

Explicitly grounding the GSF in a human rights framework presents a number of advantages. By endorsing such a framework and seeking to define their policies in accordance with what such a framework prescribes, countries are provided a reference point, based on their existing international obligations, for coordination efforts. This facilitates the search for a consensus between them. 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 efforts could be judged. A reference to the realization of the right to adequate food as the ultimate aim of food security strategies thus not only provides us with an objective evaluation tool of these strategies; it also improves the effectiveness of these strategies, by obliging countries, international agencies and donors 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.

Explicitly grounding the GSF in a human rights framework is also a matter of effectiveness in delivering results: the seven recommended steps to implement the VGRtF, combined with the human rights principles of participation, accountability, non-discrimination, equality, transparency and the rule of law, serve to ensure that national, regional and global food security policies are on the right track in effectively fighting hunger.

**SECTION II. THE ROOT CAUSES OF HUNGER AND THE CHALLENGES AHEAD**

**Paragraph. 19 (The causes of hunger and malnutrition)**

*Suggestions*

*(fourth bullet point of (c))* Marginalization and/or discrimination against vulnerable groups such as indigenous peoples, small-scale food producers such as smallholders, nomadic herders, fisherfolk and forest dwellers, people living in poverty (rural and urban) and internally displaced persons or refugees, and social and cultural exclusion experienced by most of the victims of food insecurity and malnutrition.

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\(^1\) Food and Agriculture Organization of the United Nations, The Global Strategic Framework for Food Security and Nutrition: A Right to Food Perspective, Right to Food team, Fact Sheet 1, March 2012, p. 4. During its 35th session held in October 2009, the Committee on World Food Security endorsed its reform, pledging to 'strive for a world free from hunger where countries implement the voluntary guidelines for the progressive realization of the right to adequate food in the context of national food security'.

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Commentary

The above suggestion seeks to take into account the complex realities of hunger and the situation of the groups most affected.

Paragraph 21 (Past experiences and main lessons learned)

Suggestion

Sound management of ecosystems and natural resources as well as agro-ecological practices have proved to be vital in improving agricultural sustainability as well as the incomes of food producers and their resilience in the face of climate change;

Commentary

The consensus on the vital importance of sound management of ecosystems and agro-ecological practices should be reflected by stronger wording. In its resolution 16/27 adopted at its 16th session in March 2011, the Human Rights Council stressed that “improving access to productive resources and investment in rural development is essential for eradicating hunger and poverty,” and that the promotion of investments “in programmes, practices and policies to scale up agroecological approaches” is a means towards achieving that end. The Council “encourages States and donors, both public and private, to examine and consider ways to integrate the recommendations [contained in the report “Agroecology and the right to food” (A/HRC/16/49) submitted by the Special Rapporteur on the right to food] in policies and programmes.”

SECTION III. THE FOUNDATIONS AND EXISTING FRAMEWORKS

Paragraph. 24 (Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security (VGRtF))

Suggestions

24. The VGRtF provide an overall framework for achieving food security and nutrition objectives. They call for the right to adequate food to be the main objective of food security policies, programmes, strategies and legislation; that human rights principles (participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law) should guide activities designed to improve food security; and that policies, programmes, strategies and legislation need to enhance the empowerment of rights-holders and the accountability of duty-bearers, thus reinforcing the notions of rights and obligations as opposed to charity and benevolence. The VGRtF and the General Comment No. 12 (on the right to food) of the Committee on Economic, Social and Cultural Rights clarify the concrete measures States should take to implement the human right to adequate food referred to in the Universal Declaration of Human Rights and further codified in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Based on these norms of international human rights law, all States have the obligation to respect, promote
and protect, and to take appropriate steps to achieve progressively the full realization of the right to adequate food. This includes respecting existing access to adequate food by not taking any measures that result in preventing such access, and protecting the right of everyone to adequate food by taking steps to prevent enterprises and individuals from depriving individuals of their access to adequate food. The General Comment observes that countries should promote policies to contribute to the progressive realization of the right to adequate food by proactively engaging in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security. Countries should also, using the maximum available resources to that effect, establish and maintain safety nets or other assistance to protect those who are unable to provide for themselves”.

Commentary

The reference to the VGRtF in section III “The foundations and overarching framework” is very important and should be retained, but it should be put in the broader context of existing human rights norms and standards that frame States’ duties to progressively realize the right to food, in particular the International Covenant on Economic, Social and Cultural Rights and the authoritative interpretation of this right provided by the Committee on Economic, Social and Cultural Rights in its General Comment No. 12. The Special Rapporteur is aware that these norms are referenced in the definition of the right to food (paras. 14-16), but they should also appear in Section III. The additions to paragraph 24 are almost identical in wording to the former para. 16 of the First Draft, which should be fully reintegrated in this modified form.

Paras. 23-29 (Foundations and overarching frameworks)

Suggestion

(New sub-section “F”). A new sub-section should be added on the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), highlighting that States are responsible for their implementation, monitoring and evaluation.

Commentary

There should be consistency between para. 22, which lists the adequate frameworks, and paras. 23-29, which highlight the importance of each. Currently, the ICESCR and the VGGT do not receive their warranted attention in specific sub-sections, creating an imbalance between the different foundations of the GSF.

SECTION IV. POLICY, PROGRAMME AND OTHER RECOMMENDATIONS

New Sub-Section I.

Suggestion
There are more than 450 million waged agricultural workers globally, comprising 40 per cent of the agricultural workforce. Fundamental rights at work are frequently violated in the agricultural sector, which poses serious threats to the food security of certain groups of agricultural workers. Key steps to be taken to tackle this situation include the importance of ensuring basic workers’ rights, as set out in the core ILO conventions, which should be swiftly implemented, and in the International Covenant on Economic, Social and Cultural Rights. Collective bargaining is crucially important for agricultural workers, both because knowledge and enforcement of the law tend to be weak in rural areas and because labour legislation frequently treats the agricultural sector differently from other sectors with regard to issues such as working time, overtime pay or leave. Collective bargaining should be respected and promoted. States should also ensure that rural workers receive living wages as to enable them to feed themselves and their families.

Commentary

While the CFS has not yet worked on the specific issues related to the food security of agricultural workers, the GSF would not be comprehensive if it fails to address these issues. The above suggestion only reflects key steps to be taken by States to tackle this situation in line with international human rights law and existing international agreements.³

SECTION V. UNITING AND ORGANIZING TO FIGHT HUNGER

SUBSECTION A: Core actions at country level

Paragraph 73 (“Seven steps to implement the VGRtF”)

The Special Rapporteur supports paragraph 73, which summarizes some of the duties of States in implementing the right to food at national level. The important value of this paragraph is that it provides in simple terms adequate guidance to States’ efforts to progressively realize the right to food.

SUB-SECTION E: Monitoring and follow-up (Paras. 88-99)

Suggestions

88. The CFS Reform Document states that CFS will gradually “promote accountability and share best practices at all levels” and “should help countries and regions, as appropriate, address the questions of whether objectives are being achieved and how food insecurity and malnutrition can be reduced more quickly and effectively. This will entail developing an innovative mechanism, including the definition of common indicators, to monitor progress towards these agreed-upon objectives and actions taking into account lessons learned from the CFS process itself and other monitoring attempts.” To this end, the CFS Bureau has established an open-ended working group to develop proposals for effective monitoring, which will be incorporated in subsequent versions of the GSF once approved by CFS.

89. A comprehensive monitoring and accountability strategy for food security and nutrition requires several distinct components, which vary in their object, approach, and preferred level of implementation. Basic descriptions and guidelines for some of the most important ones follow.

91. Well-functioning information, monitoring and accountability systems, with sex- and age-disaggregated data, are important for establishing the current status of agricultural development, food security and nutrition and the enjoyment of the right to adequate food in a country; identifying the magnitude and distribution of needs among different livelihood groups; encouraging greater effectiveness, accountability, transparency and coordination of responses to these needs. Important guidance on monitoring and indicators are provided in Guideline 17 of the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security (VGRtF), which were approved unanimously by the FAO Council in 2004.

96. The five principles that should apply to monitoring and accountability systems are that:

• They should be focused on the progressive realization of the right to food and make it possible for decision-makers to be accountable in particular as regards the implementation of recommendations adopted by the CFS Plenary;
• They should be participatory and include an assessment that involves all stakeholders, including the most vulnerable;
• They should be simple, accurate, timely and understandable to all, using a rights-based monitoring methodology, including a set of illustrative right to food indicators that capture impact, process and expected outcomes;
• They should stimulate collective learning across different regions and lead to an iterative process that informs the agenda of the CFS on a few priorities every year and identifies how the constraints faced by States in implementing CFS recommendations could be alleviated, in particular by action at international level;
• They should not duplicate existing systems, but rather build upon and strengthen them.
98. In line with the CFS mandate, some way should be found to progressively establish the innovative mechanism foreseen in the CFS Reform document (CFS:2009/2 Rev.2), as to monitor the state of implementation of the Committee’s own recommendations, that are directed at States, international organizations, and other stakeholders, so as to allow for the reinforcement of the coordination and policy convergence roles of the CFS. To this end, the CFS Secretariat was tasked with reporting, in collaboration with the CFS Advisory Group, on the state of implementation of the CFS’s numerous recommendations, including the VGGT.

99. The open-ended working group on monitoring, established by the CFS Bureau, will focus its first efforts on this component, and will further debate possible options, modalities and required resources for the follow-up of the state of implementation of the CFS’s recommendations by the Secretariat. Among the options to be explored are those suggested by CFS Advisory Group members, including the proposals to progressively establish a multi-stakeholder peer-review mechanism (taking into account in the process of monitoring inputs from non-State actors, including UN agencies, civil society and independent experts) or an independent monitoring mechanism – an Observatory – that would provide the CFS plenary with independent reports on the implementation of CFS decisions, like the High-Level Panel of Experts (HLPE) provides the CFS plenary with independent expertise. The GSF, by providing a consolidated body of the CFS’s outputs, will, in conjunction with the VGGT and future similar instruments, contribute to the task of knowing what recommendations to monitor.
Commentary

The above suggestions reflect elements previously agreed by the CFS:

- With the 2009 reform of the CFS, it was agreed that accountability would be at the centre of the CFS’s work. As the CSF enters its second phase of reform, it is expected to “promote accountability and share best practices at all levels”, and to establish “an innovative mechanism, including the definition of common indicators, to monitor progress towards these agreed upon objectives and actions.” At its 37th session, the CFS confirmed its intention to proceed into the second phase of reform in due time and underscored the importance of monitoring by requesting “the CFS Secretariat, in collaboration with the Advisory Group, and based on the information made available by the relevant stakeholders, to prepare a general report on the state of implementation" of its recommendations to be presented to CFS. The CFS Bureau has also renewed its attention on monitoring by creating an open-ended working group on the issue.

- Guideline 17 of the VGRtF addresses monitoring, indicators and benchmarks. UN departments and agencies have devoted significant energy to conceptualize and operationalize rights-based monitoring since the adoption of the VGRtF in 2004. Moreover, the Updated Comprehensive Framework of Action (UCFA) of the High-Level Task Force on Global Food Security Crisis (HLTF) also refers to a rights-based monitoring methodology, including the use of a set of illustrative indicators on the right to food, based upon the work of FAO and OHCHR. The GSF could usefully build on this accumulated experience.

It is the conviction of the Special Rapporteur that the CFS cannot meet its ambition – to be “the foremost inclusive international and intergovernmental platform for a broad range of committed stakeholders to work together in a coordinated manner and in support of country-led processes towards the elimination of hunger and ensuring food security and nutrition for all human beings” – without monitoring and accountability mechanisms, including accountability of CFS Member States to discharge their human rights obligations in the context of achieving food and nutrition security.

Explicitly grounding the monitoring mechanism associated with the GSF in a human rights framework provides countries with a reference point based on their existing international obligations. On the contrary, the absence of such a reference would be inconsistent with previous international norms and standards.

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4 CFS:2009/2 Rev.1, para. 6.
7 High-Level Task Force on Global Food Security Crisis, Updated Comprehensive Framework of Action, September 2010, see Topic Box 18, p. 57.
SECTION VI. MAJOR EXISTING GAPS ON POLICY AND COORDINATION ISSUES

Paragraph 102 (Main policy-related gaps)

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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 General Assembly. All reports are available on http://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx. See www.srfood.org for a thematic classification of all reports and statements of the Special Rapporteur. The Special Rapporteur can be contacted at srfood@ohchr.org

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9 “Open and well-functioning local, regional and international markets and trade policies are fundamental to food and nutrition security. They should be characterized by price predictability and transparency, function in a stable, transparent and integrated manner and contribute to the realization of internationally agreed human rights. Interventions which support the functioning of international, regional and local markets should be consistent with the goal of achieving food and nutrition security for all and of encouraging efficient and competitive production by smallholders.” High-Level Task Force on Global Food Security Crisis, Summary of the Updated Comprehensive Framework of Action, September 2010, p. 15.