



**PRELIMINARY CONCLUSIONS OF THE UN SPECIAL RAPPORTEUR
ON THE RIGHT TO FOOD:
MISSION TO GUATEMALA, 3-5 SEPTEMBER 2009**

(GENEVA and GUATEMALA, 5 SEPTEMBER 2009.) – The UN Special Rapporteur on the right to food, Mr Olivier De Schutter, visited Guatemala on an official mission between 3 and 5 September. The purpose of the mission was to follow up on the mission of the former Special Rapporteur, Mr Jean Ziegler, who was in the country in January 2005. The mission shall lead to the presentation of a report to the Human Rights Council in March 2010.

The preliminary conclusions are the following :

- The Special Rapporteur was generally impressed by the level of commitment of the government towards the realization of the right to food. Since 2005, with the adoption of the Law on the national system for food and nutritional security (SINASAN), Guatemala stands out as one of the first countries to have adopted a framework legislation on the right to food, leading a movement that now reaches almost twenty countries worldwide, including a number of countries in Latin America. A large number of initiatives were taken since the current administration took office in order to improve the situation of the poorest segments of the population, and to combat in particular child nutrition and extreme poverty within the indigenous part of the population. Among these initiatives, are a number of programmes coordinated by the Consejo de Cohesión Social, the most important of which is the cash transfer programme Mi Familia Progresiva, currently reaching 136 municipalities identified as the poorest in the country. These programmes, and the Mi Familia Progresiva cash transfer programme in particular, could be improved by the integration of human rights principles, in particular : 1° by being based on more adequate mapping of food vulnerability and insecurity, ensuring an improved targeting until universal coverage can be achieved ; 2° by identifying clearly the beneficiaries, to ensure that the intended beneficiaries may claim benefits if left out of the schemes ; 3° by improving the information of beneficiaries about their rights under the programme ; and 4° by developing mechanisms through which the beneficiaries can take part in their design, implementation and evaluation of the programme. The Special Rapporteur welcomes the invitation of the First Lady to study further how these principles could be implemented in the programmes coordinated through the Consejo de Cohesión Social. He also expresses the hope that, in time, these programmes will be institutionalized, that they will be codified into legislation in order to improve their sustainability and transparency, thus limiting the risk of corruption and diversion of resources, and that they will be placed under the responsibility of the Ministry for Social Development.

- The Special Rapporteur is concerned that the current efforts are not enough. Inequalities in Guatemala remain at intolerably high levels, and the number of poor is unacceptable. 50.9 % of the population lives under the level of poverty, and 15.2 % are extremely poor. This results in very high levels of undernutrition, estimated at 16 % of the population. The poverty is concentrated in rural areas, where 72 % of the poor live, and among the indigenous part of the population, which are 75.5 % of the poor although they represent, according to the best estimates available, 61 % of the population. Social spendings must therefore be significantly increased. The promotion of rural development and agricultural services, and financing the access to land for landless rural laborers, also require that the State has the required budgets at its disposal. But while Guatemala is a rich

country, it is a poor and even weak State. In 2009, taxes represented 9.9 % of the total GDP. This is not only much below the 12.5 % stipulated in the 1996 Peace Agreements. It is also one of the lowest levels of taxation in Latin America. And it is very insufficient for the government to be able to fulfill its obligations towards the Guatemalan people. This constitutes a violation of the obligation of Guatemala to progressively realize the right to food, by taking the necessary steps "to the maximum of its available resources", as required under Article 2(1) of the International Covenant on Economic, Social and Cultural Rights. As an organ of the State, Congress must accept its responsibility in this situation.

- The agreement reached in May 2009 on a Policy for Integral Rural Development is an encouraging development. The Special Rapporteur hopes that what is now a policy instrument shall, in time, be codified into legislation. Considering the stark inequalities in access to land that exist currently and the further pressures towards concentration that result from the boom in agrofuels, the elements of the policy that seek to limit excessive concentration of land ownership – including the redistribution of fallow land and the development of alternative modes of resolution of conflicts over land – are particularly important; so should be the protection of indigenous communities against evictions from the land on which they depend for their livelihoods. The Policy for Integral Rural Development also seeks to encourage agro-ecological forms of production, which may both reduce the dependency of farmers on expensive external inputs and improve their resilience against weather-related events resulting from climate change, while preserving the environment. The Policy further favors the promotion of food crops to meet the needs of the population, away from an excessively export-led model of agricultural development. Such a reorientation would limit the vulnerability of Guatemala to external price shocks. Because it would to a reorganization and relocalization of supply chains, it could represent an opportunity to increase the incomes of smallholders, who currently receive a farmgate price for their produce which most often represents a small fraction of the final price paid by the consumer, given the degree of concentration existing in the food production and distribution chain. As part of the ongoing efforts towards agricultural and rural development, the Special Rapporteur would also favor the reconstitution of food reserves at local level, in order both to ensure that remunerative prices are paid to smallholders as they sell their crops during the harvest season, and to allow the stocks to be released during the lean season, thus reducing the volatility of prices for food commodities and ensuring that all have access to affordable food at all times. It has been calculated that the cost of building the silos required and of maintaining them would, in fact, be relatively low in comparison to the benefits to food security. In general, the provision of public goods, such as rainfall reservoirs for irrigation, communication infrastructures, or farmers' schools to provide training in low-external-input agriculture, may have a greater impact for the long-term increase and stability of incomes of the most marginalized farmers living in difficult environments, than the direct provision of inputs.

- The Special Rapporteur has serious concerns about the protection of labor rights in rural areas. The Labour Inspectorate, with a staff of 238 for the whole territory, is significantly underresourced, and it is unable to monitor compliance with the existing labour legislation. The 1996 Agreement on Socio-Economic Aspects and the Land Situation, as part of the Peace Agreements, should be implemented in this respect. The Labour Code itself is insufficiently protective of the rights of workers, particularly as regards the conditions imposed for claiming the wages due. While this situation is not new, it is now more urgent than ever, both because of the gradual transition from the *mozos colonos* system towards a system of waged employment on large plantations, and because of the increased speculation on land, that makes land often inaccessible to landless rural laborers, or results in a situation where the small farmers (*campesinos*) are systematically priced out by large estate-owners in market-led land reform. The Special Rapporteur

is also particularly concerned that disproportionate force continues to be used against landless workers who resort to forms of protest against unpaid wages or other abuses that include the occupation of *fincas*. Resort to force cannot constitute a substitute for mediation and dialogue. And it cannot be a substitute for the adequate protection of the rights of workers, which currently still faces a number of important obstacles.

- The legal protection of the right to food remains insufficient. Despite the fact that the tools exist both in the Constitution and in the SINASAN law, neither the Constitutional Court nor ordinary courts have, at yet, protected the right to food against violations. Courts in Guatemala should and could do more, as courts in other countries have done, when presented with cases of violations of the right to food, particularly under the *amparo* procedure. The active role of the Procurador de Derechos Humanos in this context should be welcomed, and the Special Rapporteur is encouraged by the fact that the Office of the Procurador de Derechos Humanos has been significantly stepping up its efforts to contribute to the realization of the right to food, not least by developing the use of indicators as a means to improve monitoring and accountability. Improved accountability of public authorities towards the right to food by empowering courts to monitor compliance may be a particular effective means to combat the risks of corruption in the implementation of programmes aimed at combating hunger and poverty, as illustrated by a number of national experiences.

- The international community should accept that it has a responsibility not only to provide support to the efforts underway in Guatemala to improve food security, but also to promote a form of development that is more inclusive and sustainable. This means, for example, supporting projects in agriculture that respect the environment and labour rights ; not imposing conditions in trade agreements that further reduce the resources of the State, and may result in unfair competition for local producers ; and not encouraging or supporting the development of agrofuels, which is currently occurring in conditions that are not sustainable.

For more on the work of the Special Rapporteur, please visit: www.srfood.org or www2.ohchr.org/english/issues/food/index.htm

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Olivier De Schutter was appointed the UN Special Rapporteur on the right to food in 2008 by the United Nations Human Rights Council. He is independent from any government or organization. He teaches International Human Rights Law at the Catholic University of Louvain (Belgium).

The right to food. Under Article 11 of the International Covenant on Economic, Social and Cultural Rights, every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger. The obligations of the State are threefold: to respect, protect and fulfil the human right to food. The State is obliged to refrain from infringing on individuals' and groups' ability to feed themselves where such an ability exists (respect), and to prevent others - in particular private actors such as firms - from encroaching on that ability (protect). Finally, the state is called upon to actively strengthen individuals' ability to feed themselves (fulfil).