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## مجلس حقوق الإنسان

الدورة التاسعة عشرة

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما فيها الحق في التنمية

### تقرير المقرر الخاص المعني بالحق في الغذاء، أوليفيه دي شوتير

إضافة

البعثة إلى جنوب أفريقيا\*\*

موجز

يتضمن هذا التقرير، المقدم عملاً بقرار مجلس حقوق الإنسان ١٣/٤، استنتاجات المقرر الخاص المعني بالحق في الغذاء وتوصياته بشأن زيارته القطرية إلى جنوب أفريقيا في الفترة من ٧ إلى ١٥ تموز/ يوليه ٢٠١١. ويتناول التقرير أولاً حالة الأمن الغذائي في جنوب أفريقيا (الفرع ثانياً) والإطار القانوني والسياسي الموجه لجهود الدولة (الفرع ثالثاً). ثم يوجز مضامين استراتيجية ممكنة للإعمال الكامل للحق في الغذاء، من شأنها أن تكفل توافر الغذاء (الفرع رابعاً) وفرص الجميع في الحصول على الغذاء عن طريق برامج المساعدة الاجتماعية الملائمة وفرص استدرار الدخل (الفرع خامساً). وينبغي أيضاً أن تأخذ تلك الاستراتيجية في الحسبان الحاجة إلى ضمان كفاية نظم الحماية الغذائية (الفرع سادساً)، واستدامة السياسات الرامية إلى إعمال الحق في الغذاء في الأجل الطويل (الفرع سابعاً).

\* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه الوارد في مرفق الموجز فيُعَمَّم باللغة التي قَدِّم بها فقط.

\*\* تأخر تقديم هذه الوثيقة.

## Annex

### Report of the Special Rapporteur on the right to food on his mission to South Africa (7–15 July 2011)

#### Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–3	3
II. The situation of food insecurity .....	4–10	3
III. The legal and policy framework.....	11–19	5
A. The legal framework.....	11–12	5
B. The policy framework .....	13–19	6
IV. Food availability: reforming the agricultural sector .....	20–35	8
A. Three worlds of farming .....	20–26	8
B. A rights-based approach to agricultural support schemes .....	27–29	10
C. Making markets more hospitable to small-scale farmers .....	30–35	11
V. Food accessibility: protecting access to food for the poorest.....	36–54	12
A. Social assistance .....	36–46	12
B. Promoting household food gardens and urban agriculture .....	47–49	14
C. The situation of farmworkers, tenant labourers and farm dwellers .....	50–52	15
D. Evictions in the mining sector .....	53–54	17
VI. Food adequacy: managing nutrition transition.....	55–56	17
VII. Sustainability: integrating the long term .....	57–58	18
VIII. Conclusions and recommendations.....	59–60	18

## I. Introduction

1. The Special Rapporteur on the right to food, Olivier De Schutter, conducted a mission to South Africa between 7 and 15 July 2011, at the invitation of the Government of South Africa. During his mission, the Special Rapporteur met with Ebrahim Ebrahim, Deputy Minister for International Relations and Cooperation; Gugile Nkwinti, Minister for Rural Development and Land Reform; Bathabile Dlamini, Minister for Social Development; Tina Joemat-Pettersson, Minister for Agriculture, Forestry and Fisheries; Lulama Xingwana, Minister for Women, Children and Persons with Disabilities; and Collins Chabane, Minister for Performance Monitoring, Evaluation and Administration. He also held meetings with the Departments for Trade and Industry, for Economic Development, and for Labour. He met with the then-Chief Justice of the Constitutional Court, the Honourable Justice Sandile Ngcobo; with the South African Human Rights Commission (SAHRC); with the Municipality of Johannesburg; and, in Durban, with the Municipality of eThekweni as well as with the authorities of the province of KwaZulu-Natal. The Special Rapporteur would like to express his appreciation for the high level of cooperation extended to him by the Government and the various authorities he met.

2. Civil society organizations were consulted in Johannesburg, Pretoria and Durban. The Special Rapporteur also met with the United Nations agencies present in South Africa, as well as with academic experts. The mission included field visits to the informal settlement of Diepsloot in the Gauteng province and to the province of KwaZulu-Natal, where the Special Rapporteur visited a number of sites, including resettled communities around the area of Greytown. The Special Rapporteur is grateful for those who made possible these visits and consultations, which served to inform his views about the situation of the right to food in the country.

3. Since the abolition of apartheid in 1992–1994, South Africa has sought to move from an economic system that exclusively served the interests of the white minority, representing one tenth of the population, to a much more inclusive system that could reverse the injustices of the past and close the gap between the various groups composing society. This requires a broad-based development strategy that includes efforts towards the full realization of the right to food. The present report provides the building blocks for such a strategy.

## II. The situation of food insecurity

4. South Africa still faces serious challenges in ensuring an adequate standard of living for its population. While overall economic growth has benefited many, others have been left behind, and inequality has increased since the end of apartheid. A rapid migration from rural areas into the cities in the context of high unemployment has resulted in the growth of informal peri-urban settlements where people live in situations of extreme poverty, such as Diepsloot on the outskirts of Johannesburg, where the Special Rapporteur met with residents during his mission. The situations of some of those who have remained in the rural areas remain equally desperate.

5. The proportion of people living in poverty declined during the first part of the decade, but this was reversed in 2008 when the poverty rate started deteriorating again against the backdrop of the national and international economic downturn.<sup>1</sup> An estimated 60 per cent of the population now live in income poverty, a very high level compared to other middle

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<sup>1</sup> Statistics South Africa, *Social Profile of South Africa, 2002–2009* (Pretoria, 2010), p. 15.

income countries. A total of 64 per cent of all children (11.9 million) live in families in income poverty (defined in 2008 as an income of less than R570), with significant disparities among regions, ranging from 36.7 per cent in Western Cape to 83.3 per cent in Limpopo.<sup>2</sup> Moreover, the poorest families have the largest number of children: an estimated 7 million children live in the poorest 20 per cent of households, compared to 1.7 million in the richest 20 per cent.<sup>3</sup>

6. Inequality has deepened over the past decade, making South Africa today one of the most unequal societies in the world, with a Gini coefficient of 0.73 in 2006.<sup>4</sup> Stark disparities in income remain between the South African white and black populations. In 2006, the black African population constituted 79.4 per cent of the population but earned only 41.2 per cent of the national income, while the white 9.2 per cent of population earned 45.3 per cent of the income.<sup>5</sup> Poverty is also highly gendered, as female-headed households are generally much poorer than men.<sup>6</sup>

7. Certain segments of the population remain highly vulnerable to food insecurity. In 2008, an estimated 20 per cent of South African households had inadequate or severely inadequate food access.<sup>7</sup> A total of 32 per cent of children are hungry or are at risk of hunger in South Africa, although there are significant disparities among regions, ranging from 11.9 per cent in Limpopo and 14.5 per cent in Western Cape to 33.5 per cent in Free State.<sup>8</sup> Women are also significantly more at risk than men,<sup>9</sup> in part because of discrimination within households. Finally, a specific challenge facing the country is the impact of the spread of HIV/AIDS. South Africa, where one in eight children infected with AIDS worldwide lives, has the world's highest incidence of HIV/AIDS, with a prevalence rate of 10.5 per cent (and 17 per cent for adults aged 15–49 years).<sup>10</sup> This has a significant effect on a person's ability to access adequate food, since HIV/AIDS negatively affects access to employment and income. In addition, according to the World Health Organization, individuals living with HIV who are asymptomatic need to increase their energy intake by 10 per cent and symptomatic individuals need to increase their intake by 20 to 30 per cent.<sup>11</sup> Moreover, malnourished individuals starting antiretroviral therapy are significantly more likely to die in a given period than well-nourished individuals.<sup>12</sup> Therefore, HIV/AIDS contributes to food insecurity, and food insecurity in turn makes AIDS/HIV more deadly.

8. A large number of children experience chronic undernutrition in early childhood, seriously impairing their cognitive and physical development. One in five children are stunted as a result of chronic nutritional deprivation, while 1 in 10 children between 1 and 9

<sup>2</sup> South African Human Rights Commission/UNICEF, *South Africa's Children – A Review of Equity and Child Rights* (2011), p. 21.

<sup>3</sup> *Ibid.*, p. 11.

<sup>4</sup> *Millennium Development Goals Country Report 2010* (South Africa/United Nations Development Programme, 2010), p. 24 ff. Available from [www.statssa.gov.za/news\\_archive/Docs/MDGR\\_2010.pdf](http://www.statssa.gov.za/news_archive/Docs/MDGR_2010.pdf).

<sup>5</sup> *Ibid.*, p. 29, table 1.2, line 10.

<sup>6</sup> *Ibid.*, pp. 28-29.

<sup>7</sup> South Africa, Department of Agriculture, Forestry and Fisheries, "Food security", March 2011, p. 7 (figures from the 2008 General Household Survey).

<sup>8</sup> *Ibid.*, p. 7.

<sup>9</sup> Statistics South Africa, *Social Profile*, p. 60.

<sup>10</sup> SAHRC/UNICEF, *South Africa's Children*, p. 36; and Statistics South Africa, "Mid-year population estimates 2010", Statistical release P0302, July 2011, p. 3. Available from [www.statssa.gov.za/publications/P0302/P03022010.pdf](http://www.statssa.gov.za/publications/P0302/P03022010.pdf).

<sup>11</sup> Dr. M. Chopra, C. Whitten and S. Drimmie, "Combating malnutrition in South Africa", GAIN Working Paper Series, No. 1 (Global Alliance for Improved Nutrition, August 2009), p. 19.

<sup>12</sup> N.I. Paton and others, "The impact of malnutrition on survival and the CD4 count response in HIV-infected patients starting antiretroviral therapy", *HIV Medicine*, vol. 7, No. 5 (July 2006), pp. 323-30.

years old are underweight,<sup>13</sup> with the highest incidences of severe malnutrition in KwaZulu-Natal (13.3 per cent), and the lowest in Limpopo (4.4 per cent).<sup>14</sup> The two most recent national nutrition surveys carried out in South Africa (the 1999 and 2005 National Food Consumption Surveys) do not indicate any significant progress.

9. The province with the lowest level of children living in food insecurity (Limpopo) is also the province with the highest rate of children living in income poverty (83 per cent).<sup>15</sup> While this may be counter-intuitive, it illustrates the role of subsistence farming as a basic safety net: in Limpopo, with a population of about 5.4 million people (10.6 per cent of the total population), according to the 2007 Labour Force Survey, just under a million black Africans, 69 per cent of them women, are estimated to be involved in agriculture mainly for subsistence purposes.<sup>16</sup>

10. Methodologies, as well as definitions of hunger and food insecurity, differ among national surveys that monitor food insecurity, such as the General Household Survey (GHS) and the National Food Consumption Survey,<sup>17</sup> and also within surveys over time. For example, the question used in the questionnaire to measure hunger in the GHS was changed considerably in 2009.<sup>18</sup> Also, the GHS (2004 and 2005), the results of which were used in poverty estimations, reportedly substantially over- and underestimated the number of children in various categories. And there were contradictions between the various statistics compiled by the Government, non-governmental organizations and United Nations agencies.<sup>19</sup> The mapping of food insecurity in the country therefore could be improved.

### III. The legal and policy framework

#### A. The legal framework

11. The Constitution of the Republic of South Africa guarantees the right of everyone to have access to sufficient food<sup>20</sup> and to social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.<sup>21</sup> The Constitution further obliges the State to take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of these rights.

12. However, while it has ratified a number of international human rights instruments that protect the right to food, South Africa has not ratified the International Covenant on Economic, Social and Cultural Rights. This is especially surprising since the Constitutional Court has developed an interpretation of the economic, social and cultural rights contained in the Constitution that is particularly progressive, and that is aligned with the standards of international human rights law in recognizing the justiciability of economic and social

<sup>13</sup> SAHRC/UNICEF, *South Africa's Children*, p. 33.

<sup>14</sup> *Millennium Development Goals Country Report 2010*, p. 32.

<sup>15</sup> SAHRC/UNICEF, *South Africa's Children*, p. 23.

<sup>16</sup> M. Aliber and T.G.B. Hart, "Should subsistence agriculture be supported as a strategy to address rural food insecurity?" *Agrekon*, vol 48, No. 4 (December 2009), p. 445.

<sup>17</sup> P.T. Jacobs, "The status of household food security targets in South Africa", *Agrekon*, vol. 48, No. 4 (December 2009), p. 411; South Africa, "Food security", p. 9.

<sup>18</sup> Statistics South Africa, *Social Profile*, p. 15.

<sup>19</sup> SAHRC, *7th Report on Economic and Social Rights, 2006–2009* (Johannesburg, 2009), footnote 204.

<sup>20</sup> Sect. 27(1)(b).

<sup>21</sup> Sect. 27(1)(c).

rights.<sup>22</sup> The ratification of the Covenant would not impose on South Africa a burden it could not meet, since the interpretation of the Covenant takes into account the resource constraints faced by States. But it would allow the Committee on Economic, Social and Cultural Rights to address recommendations to the Government, based on good practices developed elsewhere, and thus help improve its progress towards the full realization of economic, social and cultural rights.

## B. The policy framework

13. South Africa has various strategies and policies for realizing the right to food. The Integrated Food Security Strategy 2002 (IFSS) is intended “to attain universal physical, social and economic access to sufficient, safe and nutritious food by all South Africans at all times to meet their dietary and food preferences for an active and healthy life” (p. 6). The Strategy focuses on household food security in the rural areas, but also considers urban and peri-urban areas. It is aimed at: (a) increasing household production and trading; (b) improving income generation and job creation opportunities; (c) improving nutrition and food safety; and (d) increasing safety nets and food emergency management systems.

14. The Zero Hunger programme (2009) addresses the first pillar of the IFSS, which is to increase food production and trade. It is aimed at improving collaboration among national, provincial and non-governmental organizations as well as coordination of their inputs and resources to increase household food security and rural development; ensuring the establishment of effective support structures for farmers through capacity-building and the institutional strengthening for their improved participation; and encouraging the diversification of incomes through the production of vegetables, small stock and small-scale aquaculture. A positive component of the Zero Hunger programme is the proactive posture it has adopted to send public civil servants to communities to identify households vulnerable to food insecurity.

15. The most recent document related to the right to food produced by the Government is the medium-term strategic framework for 2009–2014, entitled *Together Doing More and Better*. The document elaborates five strategic objectives, including to halve poverty and unemployment by 2014 (para. 10). Priority areas were identified to give effect to the above strategic objectives: (a) more inclusive economic growth, decent work and sustainable livelihoods; (b) economic and social infrastructure; (c) rural development, food security and land reform; (d) access to quality education; (e) improved health care; (f) the fight against crime and corruption; (g) cohesive and sustainable communities; (h) the creation of a better Africa and a better world; (i) sustainable resource management and use; and (j) a developmental State, including improvement of public services (para. 11). The Government has adopted 12 outcomes that collectively address the priority areas. Each outcome has a number of outputs and targets for measuring performance. The outcomes do not impose legal obligations, but they enable the President to direct ministerial work and coordinate interdepartmental action in the key priority areas of Government.<sup>23</sup> In April 2010, the President signed performance agreements with all Cabinet Ministers, requiring that

<sup>22</sup> *Government of the Republic of South Africa v. Grootboom and others* 2001 (1) SA 46 (CC), ruling on the failure of the Government’s housing policy to take account of the circumstances of the most disadvantaged; *Minister of Health v. Treatment Action Campaign (No. 2)* 2002 (5) SA 721 (CC), ruling on the Government’s failure to provide drugs to prevent the mother-to-child transmission of HIV/AIDS.

<sup>23</sup> South Africa, “Guide to the outcomes approach”, 27 May 2010, p. 14

implementation forums and delivery agreements be set for each of the 12 outcomes, involving all departments, agencies and spheres of Government in implementation.<sup>24</sup>

16. Outcome 7 is defined as “vibrant, equitable and sustainable rural communities and food security for all”.<sup>25</sup> The outcome 7 delivery agreement frames food security policy by addressing food availability, accessibility, utilization and affordability. It sets out the key work to be completed before 2014 as well as long-term targets for improving food security by identifying the specific activities particular departments must undertake to reach the outlined goals. One strength of this document is its multidimensional and interdepartmental approach to food security; it identifies the coordinating governmental department, core departments and key stakeholders for each output, thereby clearly delineating responsibility for the implementation of each activity.

17. The outcome 7 delivery agreement, however, has not yet specified or confirmed all targets.<sup>26</sup> It also focuses predominantly on food security for rural populations, despite recognizing the universal rise in food prices and acknowledging that “the risks of increased food security may be more pronounced in urban and peri-urban areas, where people rely exclusively on purchasing their food”.<sup>27</sup> Almost two-thirds of South Africans live in cities and an average of 70 per cent of the poor in Cape Town, Msunduzi and Johannesburg experience food insecurity.<sup>28</sup> Nevertheless, it should be recognized that the majority of black South Africans have binding ties with the rural areas, and that rural areas suffered marginalization during the apartheid era along with the attendant social ills.

18. The Government has committed to ensuring the achievement of the outcomes through the establishment of the Department of Performance Monitoring and Evaluation (DPME) within the Presidency.<sup>29</sup> DPME collaborates with other departments and spheres of government to ensure that progress against the targets is monitored on the basis of measuring the indicators. Where progress is unsatisfactory, the Department identifies improvements to be made. While DPME ensures monitoring and evaluation across all spheres of government, it is not independent from the Government. Rather it is responsible for assisting Government to focus and perform better in relation to the 12 outcomes; for identifying problems in a timely manner; and for assisting departments to overcome them.

19. These various strategies and policies demonstrate the commitment of the Government towards improving food security. However, commitments should translate into concrete action. Tremendous disparities in food security persist, linked strongly to inequality in terms of geography, gender and race. In order to overcome these disparities, the various strategies and policies, in particular the Outcomes Approach, should be strengthened by adopting a rights-based approach, as elaborated in the recommendations section of the present report.

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<sup>24</sup> For more information, see [www.poa.gov.za](http://www.poa.gov.za).

<sup>25</sup> South Africa, “Delivery agreement, outcome 7: vibrant, equitable and sustainable rural communities and food security for all,” 10 May 2010.

<sup>26</sup> *Ibid.*, pp. 46-47.

<sup>27</sup> *Ibid.*, p. 11.

<sup>28</sup> Bruce Frayne and others, “Urban food security in South Africa: case study of Cape Town, Msunduzi and Johannesburg”, Development Bank of Southern Africa, Development Planning Division Working Paper Series, No. 15 (2009), p. 6.

<sup>29</sup> The DPME mandate is derived from section 85, paragraph (2) (c), of the Constitution of the Republic of South Africa, which the President and Cabinet decisions have further elaborated.

## IV. Food availability: reforming the agricultural sector

### A. Three worlds of farming

20. The agriculture of South Africa is best described today as a three-tiered sector. First, an estimated 35,000 large-scale commercial farmers, predominantly of white origin, own farms with an average size of 2,500 hectares, according to Agri South Africa (Agri SA).<sup>30</sup> These farmers produce 95 per cent of all marketed outputs. They collectively occupied 87 per cent of the agricultural land in 2003,<sup>31</sup> and there is no indication that this figure has significantly changed since then. Since 1994 a second category of farmers has materialized, composed of approximately 200,000 black “emerging” farmers. These black entrepreneurs have benefited from post-1994 opportunities and public support such as agrarian reform and Black Economic Empowerment policies. The third category is composed of over 2.5 million households, most in the former homelands, which practice small-scale subsistence farming, predominantly as an activity complementing other types of income sources, such as temporary work-related migration, social grants, off-farm employment, remittances from relatives living in urban areas, and other subsidiary livelihoods strategies such as, in certain regions, hunting and collecting edible plants.<sup>32</sup> While subsistence farming is restricted to very small gardens providing only 5 per cent of the household income, it can provide poor households in some villages with savings equivalent to up to 3 months of income.<sup>33</sup> In addition to these three categories, 652,000 farmworkers, and a much wider number of labour tenants and farm dwellers, also rely partly or completely on agriculture for their livelihoods. All in all, it is estimated that 6 million people depend on agriculture for their livelihoods.<sup>34</sup> Agriculture accounts for only 10 per cent of total reported employment,<sup>35</sup> although 41 per cent of the total population lives in rural areas.

21. The main challenge facing South Africa is how to bridge the gap between these different worlds of farming. Land reform was seen as key in this regard, since a very unequal distribution of land was one of the most important legacies of apartheid: in 1994, 87 per cent of the farmland was in the hands of 65,000 large white commercial farmers. Land reform has three components, including restitution of land to communities evicted during and prior to the apartheid era. Under the Restitution of Land Rights Act (Act No. 22 of 1994), communities dispossessed of their land after 1913 can file a claim with the Land Claims Commission; the Government then pays the current occupier the market price for the land, which is given back to the communities concerned. A number of the communities have chosen financial compensation instead of taking possession of the land. The land reform programme also includes a land redistribution scheme, through which the Government buys land from large commercial farmers in order to provide land to

<sup>30</sup> J. Koch, *The Food Security Policy Context in South Africa*, Country Study No. 21 (International Policy Centre for Inclusive Growth, 2011), p. 26.

<sup>31</sup> N. Vink and J. Kirsten, “Agriculture in the National Economy”, in *The Challenge of Change: Agriculture, Land and the South African Economy*, L. Nieuwoudt and J. Groenewald, eds., (Durban, University of KwaZulu-Natal Press, 2003), pp. 3-20.

<sup>32</sup> M. Aliber and T.G.B. Hart, “Should subsistence agriculture be supported as a strategy to address rural food insecurity?” *Agrekon*, vol. 48, No. 4 (December 2009), pp. 437 and 446.

<sup>33</sup> See, for example, *ibid.*, p. 450.

<sup>34</sup> S. Greenberg, “Contesting the food system in South Africa: issues and opportunities”, Research Report No. 42 (Cape Town, Institute for Poverty, Land and Agrarian Studies (PLAAS), School of Government, University of Western Cape, 2010), p. 2.

<sup>35</sup> Organization for Economic Cooperation and Development, “Agriculture policy reform in South Africa,” Policy Brief (Paris, 2006), p. 1.



disadvantaged individuals. Finally, it includes a grants programme, which allows disadvantaged individuals to acquire land. These programmes are based on the “willing seller, willing buyer” principle that follows from the constitutional protection of the right to property; this has contributed, to a certain extent, to inflated prices for farmland, particularly during the past decade.

22. The stated policy aim of the Government is still to redistribute, by 2014, 30 per cent of the land held by white commercial farmers. However, this objective will not be achieved: it is estimated that 6.8 per cent of the land held by white commercial farmers has been transferred to black farmers or communities since 1994 (including 3.7 per cent through restitution), and of this land, almost 2 per cent has been returned to the former owners or to other white commercial farmers. Redistribution of land is thus proceeding at a very slow pace and, in fact, as a number of white commercial farmers have left farming since 1994 without being replaced, land concentration has increased since that period: while the total area controlled by white commercial farmers has remained almost unchanged, the number of white commercial farmers has almost halved. Even more striking, the Government has failed to provide adequate post-settlement support for the beneficiaries of land reform. The result has been that the vast majority of these beneficiaries have not been able to use the land productively. Many have been relegated to subsistence agriculture. Some have resold the land they received, or have leased it back to large landowners.

23. This failure illustrates what the Special Rapporteur emphasized in a report to the General Assembly on access to land: in agrarian reform schemes, a significant portion of the resources should go to supporting the beneficiaries in order to allow them to use the land productively, or else the reform will fail to improve livelihoods sustainably (A/65/281, para. 38). South Africa must make a clear choice: either it wishes to pursue land reform, and it must then accept the responsibility of providing effective support to its beneficiaries; or it must redefine its priorities, and provide the disadvantaged and landless blacks with alternative livelihood options. The current stated Proactive Land Acquisition Strategy of the Department of Rural Development and Land Reform is to buy land on the market and to lease it out to candidate black farmers for a limited period, at the end of which the ability for the lessee to use the land productively is to be assessed. While certainly a step in the right direction, this new strategy is not as such an answer to the question of capacity-building. Individuals without or with only little experience require many years to become productive farmers. And they need what the State has to a large extent not delivered: adequate support, and access to hospitable markets.

24. The first substantial increase to post-settlement support occurred in 2003 with the launch of the Comprehensive Agricultural Support Programme (CASP), aimed at providing post-settlement support to beneficiaries of the land reform programme; the Programme had a budget of US\$ 119 million for 2010/2011. Improving the livelihoods of millions of rural households will require improved access to credit, skills, infrastructure and markets. But lack of human capacity, even more so than budget constraints, is an important obstacle. Coordination between the Department of Rural Development and Land Reform and the Department of Agriculture, Forestry and Fisheries is still weak. For a viable small-scale farming sector to emerge, strong political will is required, and there will be a need to provide this sector with specific support, as current policies and the structure of the agricultural markets are shaped for the benefit, essentially, of the large-scale commercial sector.

25. While efforts are being made in this direction, the current policies are, for the most part, not targeting—or are failing to reach—those who have the greatest need for support. For instance, there is no cap on the amount one beneficiary can obtain from CASP, and provincial administration officers apparently tend to focus on a few large entrepreneurial projects (such as large broiler units) because of the difficulties involved in trying to reach a

large number of small producers, often located in remote areas.<sup>36</sup> The benefits of the programme are unevenly distributed: the number of beneficiaries has constantly decreased since 2006/7, and while 50–200 households receive R500,000 or more, 35,000 receive R17,000, and 2.3 million are almost entirely left out.<sup>37</sup> This mismatch is also illustrated by the fact that the most widespread product of the Micro-Agricultural Financial Institutions of South Africa is a “production loan” of US\$ 13,500 at an interest rate of 8 per cent, which has mostly been used to develop broiler poultry, pig or ostrich production units—projects that tend to be operated by entrepreneur farmers, and not small-scale farmers. While CASP represents only an estimated 15 per cent of total agricultural support,<sup>38</sup> and while other programmes, such as the Household Food Production Programme—implementing the “one home, one garden” principle of the Zero Hunger programme—have a more equitable distribution, one cannot but be struck by the mismatch between CASP and the primary IFSS objective of overcoming rural food insecurity by improving the participation of vulnerable households in “food production, trade and distribution”.

26. It is therefore unsurprising that the vast majority of the beneficiaries of land reform programmes remain trapped in a situation of dependency on social grants, remittances from relatives and temporary work-related migration. The support they receive is insufficient to enable the beginning of a dynamic of rural development that would improve their livelihoods, including household food security. Improving access to markets for small-scale farmers must be a priority. Efforts are being devoted to improve rural infrastructures, especially rural roads through the Expanded Public Works Programme. In addition, extension services should enhance the agricultural and marketing skills of small-scale farmers. Their access to credit and to information on prices, as well as their ability to cope with sanitary and phytosanitary barriers and quality standards, should all be improved.<sup>39</sup> However, while extension services have a key role in this regard, South Africa had only 2,152 agricultural extension officers in 2008, which means that each officer is supposed to provide advice to 878 farmers.<sup>40</sup> Current efforts to improve extension services, including through the Extension Recovery Plan of the Department of Agriculture, Forestry and Fisheries, should slightly increase the ratio of extension officers to farmers, and at the same time improve the quality of the advice given to farmers, thanks to a genuine commitment to train extension officers.

## **B. A rights-based approach to agricultural support schemes**

27. The efforts of the Government to improve the quality of the support given to farmers could benefit from two important shifts. First, there is a need to adopt a more rights-based approach to the agricultural programmes in place. This means favouring the participation of the most vulnerable groups in the design of such policies; focusing policies on the needs of the most vulnerable groups; defining the beneficiaries as rights holders who can claim certain services from the Government, which in turn incurs obligations towards such rights holders. This improves the responsiveness of the policies to the real needs of the

<sup>36</sup> R. Hall, “Agrarian change and agroecology,” in *Agroecology and Agrarian Change: Towards a Democratic Participatory Agroecology*, report on the workshop of 24–26 May 2011 in Cape Town, held by the Surplus People Project, African Centre for Biosafety, and the Right to Agrarian Reform for Food Sovereignty Campaign, p. 15.

<sup>37</sup> *Ibid.*, p. 16.

<sup>38</sup> Koch, *Food Security* (footnote 30 above), p. 26.

<sup>39</sup> T. Ramashala, “Agroecology and government policy in South Africa”, in *Agroecology and Agrarian Change* (footnote 36 above), p. 25.

<sup>40</sup> S. Greenberg, “Status report on land and agricultural policy in South Africa”, Research Report No. 40, (Cape Town, PLAAS, School of Government, University of Western Cape, 2010), p. ix.

beneficiaries—moving towards a more bottom-up approach to agricultural support—as well as their ability to deliver results.

28. A rights-based approach requires that the gender dimension be adequately integrated in agricultural policies. Female-headed households are more likely to grow food for home consumption than are male-headed households.<sup>41</sup> Yet, rural women appear to face particular obstacles, and it cannot be presumed that programmes intended to benefit all farmers will benefit women as much as others. For instance, women face cultural obstacles in their interactions with predominantly male extension-service officers who, moreover, may not belong to the same community as theirs, and they face even greater obstacles than men in access to credit, because of their difficulty to prove their ownership of land. Therefore, a gender-sensitive approach should be adopted in all agricultural programmes.

29. A rights-based approach also means prioritizing vulnerable groups in governmental programmes and policies, and thus in public spending. While the Special Rapporteur acknowledges the fact that, as underlined by the Department of Agriculture, Forestry and Fisheries, an adequate distribution of resources towards the targeted beneficiaries creates a serious administrative challenge, political will and adequate monitoring should support this effort. Public resources could for instance better focus on the 12 districts that have relatively high concentrations of black farmers and of land reform beneficiaries, as suggested in the Decentralized Small-Scale Farmer Strategy which has been proposed as part of the Programme to Support Pro-Poor Policy Development.<sup>42</sup>

### C. Making markets more hospitable to small-scale farmers

30. The newly established black farmers are small-scale farmers, with poor access to markets, a lack of marketing skills, and a weaker bargaining position in the food chains. The food systems could and should be made to work better for this group of farmers. Three directions could be explored.

31. First, the Competition Act (No. 89 of 1998 as amended by Act No. 35 of 1999) provides that Competition Law should aim “(c) to provide employment and advance the social and economic welfare of South Africans... (e) to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the economy; and (f) to promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons” (sect. 2). The Competition Commission could be encouraged to contribute further to addressing the imbalances in the food chain, not only by ensuring that the levels of concentration remain within acceptable limits, but also by protecting small food producers from the abuse of buyer power. It may be recalled in this regard that excessive buyer power can result not only from excessive concentration at certain segments of the food chain and in certain markets, but also from the concrete obstacles that small farmers may face in reaching markets, when they are in remote areas with poor communication routes to the urban centres and face buyers that are in a quasi-monopsonistic position—in effect, the gatekeepers through which farmers must pass in order to reach consumers. The Competition Commission could also play a role in ensuring that high degrees of concentration, or the acquisition of dominant positions, be paired with an obligation to source from local and small-scale producers, as was discussed during the 2011 takeover of Massmart by Wal-Mart.

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<sup>41</sup> Statistics South Africa, *Social Profile* (footnote 1 above), p. 62.

<sup>42</sup> M. Aliber and R. Hall, “Development of evidence-based policy around small-scale farming” (Pretoria, South Africa, Programme to Support Pro-Poor Policy Development, 2010), pp. 7-10.

32. Second, incentives could be developed to encourage the large commercial farmers to support emerging farmers—for instance by providing them with technical advice or by allowing them to benefit from their access to markets and relationships with buyers. The 2008 Transformation Charter for Agriculture<sup>43</sup> partly fulfils this function, as it encourages the establishment of a mentorship programme to accelerate the transferring of skills to new black entrants.<sup>44</sup> But the AgriBEE Charter seems to have had limited impacts in that respect. Incentives, including fiscal incentives, could be strengthened to further support this process. The Special Rapporteur would also welcome the establishment of a permanent forum to encourage chain-wide learning of good practices in order to move towards food chains that are more inclusive. One encouraging development in this regard is that, at the time of the mission, SAHRC expressed its intention to set up an advisory committee<sup>45</sup> that could deepen the work launched through the Southern Africa Food Security Change Lab, linking the various actors of the chain in the search for innovative solutions that could improve the sustainability of the food chains. This initiative could be further supported, and the further institutionalization of this dialogue could form part of a new framework law on the right to food.

33. Third, sourcing policies could serve to improve the access to markets for the benefit of small-scale farmers. The Preferential Procurement Policy Framework Act (No. 5 of 2000) already provides that public bodies may include among the specific goals of their procurement policies “contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability” (sect. 2 (d) (i)). The Act could be further improved to allow for preferential treatment in favour of small-scale farmers, for instance for school-feeding or food relief programmes. Similarly, the private sector could be given incentives to source from local, small-scale farmers. This could be done gradually, with the proportion of sourcing from small-scale farmers rising over a number of years, in order to allow the sector to build up its capacity to meet demand.

34. Fourth, the State could stimulate the creation of food chains benefitting small-scale farmers by establishing cooperatives of small-scale farmers and by supporting the establishment of locally owned industries that transform agricultural products. The support programme for micro-mills is an example in this regard, as it is aimed at creating employment in rural areas and reducing concentration in the milling sector. It is also estimated that the project could achieve a 10 to 20 per cent reduction in costs, including through a decentralization of the storage capacity, which will reduce transport costs.

35. These various tools could be seen as part of a broader process of rebuilding the local food markets, which are generally more accessible to small-scale farmers than the larger export markets and improve access to fresh and nutritious food for urban consumers.

## **V. Food accessibility: protecting access to food for the poorest**

### **A. Social assistance**

36. The right to food requires that food be accessible—both physically and economically. Physical accessibility means that food should be accessible to all people, including the physically vulnerable, such as children, older persons or persons with disabilities.

<sup>43</sup> Broad-Based Black Economic Empowerment in Agriculture (AgriBEE) sector charter, adopted under section 12 of the Broad-Based Black Economic Empowerment Act (No. 53 of 2003).

<sup>44</sup> Transformation Charter for Agriculture, para. 5.6.3.

<sup>45</sup> Under section 5 of the Human Rights Commission Act (No. 54 of 1994).

Economic accessibility means that food must be affordable without compromising other basic needs, such as education fees, medical care or housing.

37. Social assistance grants are one way in which the Government ensures the constitutional guarantee to social security and to the right to food, particularly for those who need to purchase their food. The IFSS addresses food accessibility, in particular through pillar 4 on enhancing safety nets and food-emergency management systems. The main initiative is a national comprehensive social assistance programme grounded in the Social Assistance Act (No. 13 of 2004) and its various amendments.

38. The Social Assistance Act provides a national legislative framework for the provision of different types of social assistance grants, crisis intervention in the form of social relief of distress and the establishment of an inspectorate for social assistance. The South African Social Security Agency Act (No. 9 of 2004) provides for the effective management, administration and payment of social security and services through the establishment of the South African Social Security Agency (SASSA). SASSA is responsible for the administration of the social assistance programme. Additionally, it is charged with providing assistance to all grant applicants to help them understand and exercise their rights to social security; to provide beneficiaries and potential beneficiaries with information about grants; and to investigate any irregularities relating to grants.

39. Social security includes both social insurance (contributory schemes) and social assistance (non-contributory schemes). The Unemployment Insurance Fund and Workmen's Compensation Fund comprise the contributory schemes and fall within the remit of the Department of Labour. The non-contributory schemes include the child support grant (currently for children up to 6 years of age, after 2012 for all children under 18), the foster-child grant, the care-dependency grant, the older persons grant, the disability grant, grant-in-aid and social relief of distress. An income-based means test is used to determine eligibility for each grant. The budget for the 2010–2011 social assistance programme is US\$ 12 billion, with an additional US\$ 69 million for the social relief from distress.<sup>46</sup> The funds allocated to the social relief of distress increased from US\$ 1.9 million in November 2008 to US\$ 8 million in January 2009 and to US\$ 69 million by 2011,<sup>47</sup> underscoring the impact of the global economic and financial crises on South African households.

40. In 2010, approximately 15 million people benefited from the cash-transfer programme, representing 30 per cent of the total population. Of the 15 million beneficiaries, 10 million received the child support grant, 3 million people benefited from the older persons grant, 1 million received the disability grant and 500,000 people received the foster-care grant. The reach of the cash-transfer programme highlights the profound poverty affecting South Africa today, although the country has successfully achieved millennium development goal 1 on halving the number of people living in extreme poverty.<sup>48</sup>

41. The social assistance programme is the Government's main initiative for tackling poverty and inequality-related issues. It is aimed at: (a) immediately reducing poverty among groups that are not expected to fully participate in the labour market and thus are vulnerable to low income (older persons, children, and persons with disabilities); and (b) increasing investment in health, education and nutrition.

42. The Department of Social Development runs the National Food Relief Programme, which covers the provision of food parcels to the most vulnerable people to alleviate poverty. The national budget for this programme was R160 million in 2011. The target beneficiaries are poor households spending less than R300 per month for food; vulnerable

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<sup>46</sup> Koch, *Food Security* (footnote 30 above), p. 8.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Millennium Development Goals* (footnote 4 above), p. 24.

children and child-headed households; orphaned children; persons with disabilities; female-headed households with insufficient/no income; and people living with HIV/AIDS and affected households. The food parcels distributed under this programme vary, but include fortified staple foods. Although the National Food Relief Programme is aimed at increasing food security, the scope and number of beneficiaries is unknown. This is in part due to the decentralized nature of the programme, which is administered through the provinces. Moreover, vulnerable groups are already covered by the various cash-transfer grants, and in general people cannot benefit from multiple grants.

43. The success of the South African social assistance scheme is a point of reference for many other countries. However, although the social assistance programme has been expanded to reach more people, protection gaps remain.<sup>49</sup>

44. A first gap is that lower than average levels of take-up rates in poorer and more rural areas have been documented despite eligibility, particularly in the provinces of KwaZulu-Natal and Eastern Cape. While as many as 90 per cent of the people would be eligible for support in some rural areas, the take-up rates are much lower.<sup>50</sup> Additionally, the younger the children in these rural areas, the greater the risk that they will not access the child support grants. A national study commissioned by the Department of Social Development in 2008 found widespread evidence of caregivers, especially in rural areas, not accessing the child support grant for their children until the fourth quarter of their first year. In 2009, at the national level, only 38 per cent of children under the age of one were receiving the child support grant, although about 60 per cent of children in this age group qualified for the grant.<sup>51</sup> This points to the lack of information available to potential beneficiaries. The Department of Social Development is working to address this problem by establishing more SASSA offices throughout the country, deploying mobile trucks to reach more rural areas, and convening public meetings to provide information.

45. Second, individuals between the ages of 18 to 59 who are ineligible for one of the existing cash transfer grants are not covered by any social assistance scheme.

46. Third, the Expanded Public Works Programme could be developed into an entitlements-based scheme. With a budget of US\$ 54 million for 2010/2011, the Programme proposes jobs in the areas of, inter alia, infrastructure building, environmental or social services, and community works that allow workers to reach out to the poorest communities and to identify the barriers that they face in having access to social services and in benefiting from social programmes. Five years after its inauguration in 2004, the Programme had led to the initiation of 16,869 projects and created about 600,000 work opportunities at an average daily wage of US\$ 8.90, essentially in the rural provinces of Limpopo, KwaZulu-Natal and the Free State. In conformity with the stated objectives of the Programme, the main beneficiaries were women (53 per cent), young people (51 per cent) and people with disabilities (1.7 per cent).

## **B. Promoting household food gardens and urban agriculture**

47. An original part of the Zero Hunger programme is the Household Food Production Programme, better known as the One Home, One Garden programme. This has had proven effects on reducing food insecurity by ensuring the direct provision of nutritious food products, thus cushioning the poorest households against economic shocks. By May 2008,

<sup>49</sup> See SAHRC, *7th Report* (footnote 19 above).

<sup>50</sup> P. Martin, *Government-funded Programmes and Services for Vulnerable Children in South Africa* (Cape Town, HSRC Press, 2010), p. 65.

<sup>51</sup> *Ibid.*, p. 66.

15,765 food-production packages had already been distributed and 6,390 vegetable gardens established.<sup>52</sup> However, at this stage of the strategy's implementation, the question arises as to how the scarce public resources and human capacity can be used to maximize its effectiveness. There are indications that collective solutions such as communal (rather than individual) gardens are more cost-effective and easier to support; a review of the existing Household Food Production Programme could take into account the need to make optimal use of resources available.

48. The Special Rapporteur has been particularly impressed by the strategy and programmes put in place by the City of Durban/eThekweni Municipality, which launched in 2009 a peri-urban agroecology strategy. The City of Durban's strategy—the Agroecology Delivery Model—aligns with the eThekweni policies to focus on poverty and unemployment, and it provides an excellent illustration of a set of policies recommended by the Special Rapporteur in a report on agroecology presented to the Human Rights Council (A/HRC/16/49). The City of Durban surveyed 800 gardens and their needs, then mapped approximately 3,000 gardens through reviews of aerial photos. If adequately supported by public authorities, these gardens could progressively create 60,000 job opportunities.<sup>53</sup> The area, which is home to 3.5 million people, has been divided into four agricultural zones, taking into account road access and farmer-association areas. Six agricultural support hubs have been established or are under development, including demonstration sites showcasing agroecology techniques, a research and development centre on agroecology, training sites, a packing and marketing hub, and a future seed bank.

49. The potential of under-used urban and peri-urban land for subsistence-level gardening, community-based market gardening and small-scale livestock farming in the former homeland towns of South Africa is well known.<sup>54</sup> These community-based developments face obstacles, however, mainly related to security of land tenure.<sup>55</sup> Indeed, even if poor black residents have the financial means, Government programmes, development planning and environmental regulations, and the current land and housing markets are major obstacles to the implementation of their ventures. Resistance from municipalities and prospective neighbours to low-income settlements is probably one of the first obstacles to overcome.

### C. The situation of farmworkers, tenant labourers and farm dwellers

50. Farmworkers (totalling 652,000 individuals) are particularly vulnerable, because of the low rate of unionization (estimated at perhaps 2 per cent) and increased casualization of labour on farms, and because of the high degree of dependency of these workers on the farmer who employs them. The Labour Relations Act (No. 66 of 1995) and the Basic Conditions of Employment Act (No. 75 of 1997) both apply to farmworkers, a minimum wage exists (set in this sector at R1,300 by the relevant employment conditions commission), and sectoral determinations define elements such as standards for accommodation and the allowable level of deduction from salaries for the payment of

<sup>52</sup> Koch, *Food Security* (footnote 30 above), p. 25.

<sup>53</sup> City of Durban, Agricultural Management Section, presentation made to the Special Rapporteur, 11 July 2011.

<sup>54</sup> A. Thornton, "Pastures of plenty?: Land rights and community-based agriculture", *Applied Geography*, vol. 29, No. 1 (2009), p. 19.

<sup>55</sup> See World Bank, "In search of land and housing in the new South Africa: the case of Ethembaletu" (2007).

services provided by the employer or the repayment of debts to the employer. But there are serious problems of enforcement, attributable not only to the lack of organization of these workers, but also to the limited capacity of the labour inspectorates (approximately 1,000 labour inspectors cover the whole territory, for all sectors), and to the difficulty of performing unannounced inspections on farms located in remote areas.<sup>56</sup> In addition, whereas hired migrant workers are especially vulnerable to abuse, these workers have few incentives to report abuses, since they fear being expelled from the territory and since it is difficult for them to find employment outside the informal sector. It is therefore welcome that the Department of Agriculture, Forestry and Fisheries organized a summit on this issue in July 2010 and that a ministerial delivery forum was established as a result. These efforts should be pursued.

51. One major problem faced by South Africa concerns the lack of security of tenure for farm dwellers and labour tenants. While the Extension of Security of Tenure Act (No. 62 of 1997) was intended to protect tenant labourers from the risk of being evicted, an unintended consequence of this legislation resulted in employers reducing the quality of the facilities on the farm, including housing, and switching to employment contracts, leading to what SAHRC has called “pre-emptive evictions”. SAHRC also noted that the claims of tenant labourers against the evictions they had been subjected to had not been handled with the required diligence, and that the almost exclusive focus of the legislation on the question of tenure security has led to a neglect of the need to protect tenant labourers with regards to their access to basic health, housing and education services on the farm.<sup>57</sup>

52. In part in order to address these concerns, the land tenure security bill was proposed in November 2010. At the time of the mission, a public consultation had been completed on the bill, and this new draft legislation was to be discussed in Parliament. It would replace both the Extension of Security of Tenure Act and the Land Reform (Labour Tenants) Act (No. 3 of 1996). Because the current bill still is subject to amendments, it would be premature to provide a detailed comment. However, the Special Rapporteur observes that the version of the bill issued by the Department of Rural Development and Land Reform on 23 December 2010 does not provide the security of tenure that is its object to strengthen. When asked to grant an order of eviction at the request of the owner, courts are directed to “have regard to (a) the reason for the proposed eviction; and (b) the fairness of the terms of any agreement between the parties” (art. 24, para. 3). This is too vague to provide the requisite security of tenure to the farm dwellers, and because it makes no reference to length of the time during which a particular farm dweller has been residing on the farm, it is inequitable for those who have no other livelihood options outside the farm. The Special Rapporteur is also concerned that the definition of persons “associated with persons residing or working on farms” in article 9 of the bill refers to the children of these persons only until they have reached the age of 18, which implies in theory that once they reach that age, these relatives could be forced to leave the farm, although they may have no other place to reside.

<sup>56</sup> See also Human Rights Watch, *Ripe with Abuse. Human Rights Conditions in South Africa's Fruit and Wine Industries* (2011).

<sup>57</sup> See most recently SAHRC, *Progress Made in Terms of Land Tenure Security, Safety and Labour Relations in Farming Communities since 2003* (2008), p. 43.



## D. Evictions in the mining sector

53. The Special Rapporteur has been informed that mining projects have often led communities to be displaced from their land, in conditions that may not always comply with the standards of international human rights law.<sup>58</sup>

54. The Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) and the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I) define the standards applicable to evictions. In assessing whether or not displacement can be justified, States must adequately assess the impact on affected communities, and be able to justify any negative impacts in terms of compelling and overriding public interests and adequately explore alternatives that could minimize such negative impacts. States must also ensure that all potentially affected persons are fully consulted and, in cases of resettlement, are provided with fair compensation and not deprived of their sources of livelihood. Thus, persons who are resettled should be compensated with land commensurate in quality, size and value, or better.

## VI. Food adequacy: managing nutrition transition

55. South Africa, like many other middle-income countries today, is experiencing what is referred to as a “nutrition transition”, characterized by a shift to more processed foods, generally higher in saturated fats, sugars and salt, and to diets low in fruits and vegetables.<sup>59</sup> The supermarketization of the food system in South Africa played a role in this evolution, as well as advertising by agrifood companies: 9.5 per cent of all money spent on advertising in South Africa in 2007 was for food and beverages, and Unilever, the food and household goods manufacturer, is the top advertising spender in the country.<sup>60</sup> In addition, changes in lifestyle and urbanization result in less physical activity and less time spent cooking in homes. This results in high levels of overweight and obesity in the population, combined with increasing incidence of micronutrient deficiencies. According to the 2005 National Food Consumption survey, a total of 51.5 per cent of women (15–49 years) were overweight or obese. The overall prevalence of overweight (BMI >25) and obesity (BMI >30) in South Africa is very high today according to regional standards, with more than 29 per cent of men and 56 per cent of women being classified as overweight or obese.

56. South Africa already has very progressive laws on labelling of foods that should improve the ability for the consumer to make informed choices. In addition, in line with the World Health Organization’s 2004 Global Strategy on Diet, Physical Activity and Health, South Africa was preparing at the time of the mission a new implementation framework on obesity, physical activity and health. The Special Rapporteur welcomes this development. In his view, this strategy is fully complementary with the rebuilding of local food systems and the strengthening of links between local small-scale producers and urban consumers.

<sup>58</sup> A recent study found that thousands of poor people in rural areas had lost agricultural land—their main means of livelihood—due to platinum mining activities and were generally offered little compensation and insufficient ways of making an alternative living. See Action Aid, *Precious Metal: The Impact of Anglo Platinum on Poor Communities in Limpopo, South Africa* (Johannesburg, 2008).

<sup>59</sup> Zingoni et al., “Studying a population undergoing nutrition transition: a practical case study of dietary assessment in urban South African adolescents”, *Ecology of Food and Nutrition*, vol. 48, No. 3 (2009), pp. 178–198.

<sup>60</sup> S.B. Cassim, “Food and beverage marketing to children in South Africa: mapping the terrain,” *South African Journal of Clinical Nutrition*, vol. 23, No. 4 (2010), p. 183. On advertising towards children, see also G. du Toit and M.-T. van der Merwe, “The Epidemic of Childhood Obesity,” *South African Medical Journal*, vol. 93, No. 1 (2003), p. 49.

Indeed, in a holistic perspective—focusing not only on informing consumers’ choices but also on transforming the obesogenic environment—the Government could consider as part of the strategy educational campaigns to encourage continued reliance on traditional diets, combined with appropriate levels of physical activity. While traditional diets (particularly the maize porridge pap) are not necessarily balanced and should include a wide variety of foods, the commercially available maize meal that is fortified in South Africa, combined with traditional vegetables such as sweet potato, pumpkin, butternut, squash, onion, tomato, cabbage and imifino (a wild leafy green vegetable), present many advantages over the Western diet.

## VII. Sustainability: integrating the long term

57. Because it is on the frontline of climate change, South Africa should support the ability of its emerging small-scale farmers to cope with the combined effects of climate change and resource scarcity. As shown elsewhere by the Special Rapporteur (A/HRC/16/49), the Green Revolution model (based on a technology package consisting of improved seeds and chemical fertilizers) may not be the best suited to the poorest farmers working in the most difficult environments. The provincial government of Eastern Cape reached the same conclusion when assessing its Siyakhula/Massive Food Production Programme: public action, they concluded, should focus on agricultural models that do not use costly inputs and should not require beneficiaries of land reform programmes to implement business plans replicating the model of large-scale farming (the less the farmers respected the business plan and the more they relied on indigenous practices, including water harvesting techniques, the more likely they were to avoid failure).<sup>61</sup>

58. The Special Rapporteur welcomes the Extension Recovery Plan, which should not only increase the number of extension personnel by 50 per cent, but also train the current personnel, as only 19.8 per cent of the 2,210 personnel are qualified to operate as agricultural advisors. He further notes that South Africa has an advantage, in that it is home to a number of civil society organizations that, and academics who, are well-experienced in agroecology. Indeed, several South African organizations, such as the Surplus People Project, the Association for Rural Advancement or farmer support groups established by universities, have already launched pilot projects and established contacts with pioneer countries in this area.<sup>62</sup> Insights from these organizations and experiences could be very useful for accelerating the transition towards sustainable and productive agricultural systems, as well as for improving the efficiency of extension services. Researchers and well-trained agricultural advisors could support farmer-led processes, which could seek inspiration from well-known examples such as the Campesino a Campesino movement in Latin America. The potential to leverage the Expanded Public Works Programme to stimulate this transition towards sustainable agricultural systems is also significant: by April 2009, there were only 134 agriculture-related projects under the Programme out of a total of 16,869 projects.<sup>63</sup>

## VIII. Conclusions and recommendations

59. **The Special Rapporteur commends South Africa for its efforts at building an adequate institutional and policy framework to move towards the full realization of**

<sup>61</sup> Aliber and Hall, “Development of evidence-based policy” (footnote 42 above).

<sup>62</sup> *Agroecology and Agrarian Change*, (footnote 36 above).

<sup>63</sup> Koch, *Food Security* (footnote 30 above), p. 7.

the right to adequate food. He makes the following recommendations to the authorities.

60. The Special Rapporteur recommends that the Government of South Africa:

(a) Ratify the International Covenant on Economic, Social and Cultural Rights;

(b) Improve and streamline the collection of data on food security, to monitor progress over time and inform policymaking;

(c) Strengthen existing strategies and policies that relate to food security, in particular the Outcomes Approach, by adopting a rights-based approach. This means that the setting of targets and the identification of the concrete measures to be adopted should be the result of meaningful public participation; that the authorities responsible for implementation should be held accountable for results; that the beneficiaries of all policies and programmes related to food security should be defined as rights holders, and that the indicators allowing the measurement of progress should be based on the normative components of the right to food, including non-discrimination. To ensure accountability, independent monitoring is required of the Government plans. This could be entrusted to the South African Human Rights Commission. Additionally, ring fencing of resources is required to ensure sustainable funding of these plans. Until these different conditions are met, the various strategies adopted by the Government may remain ineffective, since there will be no sanction associated with a failure to deliver;

(d) Pursue and accelerate the creation of comprehensive rural development policies, including agricultural policies, which would progressively improve the right to food of vulnerable groups. Priority should go to long-term structural changes supportive of poor households, rather than only to the satisfaction of immediate, short-term needs. In particular:

(i) Beneficiaries of land reform should receive adequate post-settlement support for 5 to 10 years, including access to funding, credit and training;

(ii) The Department of Agriculture, Forestry and Fisheries could better target beneficiaries of its programmes and prioritize vulnerable groups identified by the Integrated Food Security Strategy, focusing initially on the 12 districts that have relatively high concentrations of black farmers and of land reform beneficiaries;

(iii) Access to markets should be improved for small-scale farmers who aim to produce and sell surpluses, and the food chains should be made more inclusive, while abuse of buyer power should be addressed by the Competition Commission;

(iv) The establishment of cooperatives should be supported, as such cooperatives reduce transaction costs and facilitate access to markets for small-scale farmers;

(v) Rural development policies should empower rural women involved in subsistence farming, including through an increased percentage of women extension officers, and an improvement in women's access to public services and credit;

(e) Improve social assistance schemes by addressing existing protection gaps. The integration of cash transfer programmes within social assistance systems and their grounding in solid legal and institutional frameworks framed by human rights norms and standards should be considered. Coverage could be significantly

strengthened by defining the beneficiaries as rights holders and by allowing rights holders to file claims in cases of exclusion, thus creating a sense of entitlement among the members of the intended target group.<sup>64</sup> Efforts to improve the information available to potential beneficiaries—such as the expansion of South African Social Security Agency offices throughout the country, the deployment of mobile trucks to reach more rural areas and the convening of public meetings to provide information—should be continued and better funded. A basic income grant should be established to provide support to individuals between the ages of 18 to 59 who are ineligible for one of the existing cash transfer grants. Until such a basic income grant is created, the Government may consider developing the Expanded Public Works Programme into a more rights-based programme guaranteeing a minimum number of days of employment to all those who have no other source of income, following the model of the National Rural Employment Guarantee Act in India;<sup>65</sup>

(f) Improve programmes, such as the One Home, One Garden programme, to improve household food production, and consider prioritizing support for collective projects such as communal urban and peri-urban subsistence-level or community-based market gardening, which maximize impacts;

(g) Strengthen the protection of farmworkers by having labour inspectors team with law enforcement officials, both in order to reduce the risk of bribery and to ensure that labour inspectors are better supported in their attempts to have access to farms, and by strengthening collaboration with union representatives who, following appropriate training, could be certified to conduct inspections on farms and report to the Department of Labour any refusal by the farmer to have his/her farm inspected for compliance with labour legislation;<sup>66</sup>

(h) Review the legislation applicable to evictions in order to ensure compliance with international human rights standards, which establish safeguards that protect persons against being arbitrarily displaced from their home, especially in relation to mining activities;

(i) Prioritize the rebuilding of local food systems and the strengthening of links between local small-scale producers and urban consumers, in complement to the new implementation framework on obesity, physical activity and health, in order to transform the obesogenic environment many poor urban consumers face;<sup>67</sup>

(j) Stimulate a transition towards sustainable agricultural systems by supporting agroecological practices such as agroforestry, organic agriculture by small-scale farmers, water-harvesting techniques, biological control, intercropping, and use of biological fertilizers, and by integrating agroecological practices into agricultural extension services that should rely more on farmer-to-farmer methods of disseminating knowledge (see A/HRC/16/49).

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<sup>64</sup> See the report of the independent expert on the question of human rights and extreme poverty (A/HRC/11/9).

<sup>65</sup> See the report of the Special Rapporteur on the right to food (A/HRC/12/31), para. 30.

<sup>66</sup> See the report of the Special Rapporteur on the right to food (A/HRC/13/33).

<sup>67</sup> See the report of the Special Rapporteur on the right to food (A/HRC/19/59).