



**The Reform of the Committee on World Food Security:  
The Quest for Coherence in Global Governance**

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# The Reform of the Committee on World Food Security: The Quest for Coherence in Global Governance

Olivier De Schutter

## ABSTRACT

*The global surge in prices of food commodities in 2007-2008 led governments to identify gaps in the global governance of food security as a major obstacle to the realization of the right to food. The reform of the Committee on World Food Security, completed at the end of 2009, was to remedy that: its objectives were to introduce more consistency across policy areas, and to serve as an inclusive platform for a modest form of monitoring by peer review, and for collective learning. The reform is an ambitious one. But it is most remarkable for its recognition that unless food security policies are informed by the views of the victims of hunger and permanently tested and revised, they shall fail: participation and experimentalism are therefore key components of the new mechanism that has been established. Combating hunger and malnutrition is a complex task, and it can only be achieved through multiyear strategies and coordinated efforts at different levels and in different sectors: this chapter explores whether the reform, that has now entered its implementation phase, can meet the challenge it has set for itself.*

## I. Introduction

The reform of the Committee on World Food Security (CFS) is perhaps the single most significant development in the area of global food security in recent years. Initially established in 1974 following the first World Food Conference as an intergovernmental committee within the United Nations Food and Agriculture Organization (FAO), the CFS was reformed in 2009 with an aim to become “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.”<sup>1</sup> This reformation was grounded in the recognition that governments will only manage to make true progress towards food security if they accept to work in a bottom-up fashion, by learning not only from one another's experiences, but also from the experience of those who are on the frontline of combating hunger – the international agencies and the non-governmental organizations – and the victims of hunger themselves.

The CFS acknowledged the status of food security as a global public good,<sup>2</sup> requiring that countries work with one another more closely in order to remove the structural causes of hunger, and overcome the current sectorialization of the various trade, development, and agricultural policies that, directly or indirectly, have an impact on access to food, but that are often dealt with in separate fora.. The CFS reform, in this sense, addresses what lawyers call

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<sup>1</sup> Comm. on World Food Sec. [CFS], Reform of the Committee on World Food Security ¶ 4, U.N. Doc. CFS:2009/2Rev. 2 (Oct. 2009), available at <ftp://ftp.fao.org/docrep/fao/meeting/018/k7197e.pdf>.

<sup>2</sup> The notion of global public goods emerged a decade ago in the work of the United Nations Development Programme (UNDP) to highlight the need for greater cooperation across States in a context of increased interdependencies. See PROVIDING GLOBAL PUBLIC GOODS: MANAGING GLOBALIZATION (I. Kaul, P. Conceição, K. Le Goulven & R. U. Mendoza eds., 2003). The developments discussed in this chapter to a certain extent reflect the recognition that food security has acquired such a status in international discourse: the global food price crisis of 2008 was a major turning point in this regard.

the “fragmentation of international law”, which leads to inconsistencies in global governance between policies in areas such as trade, development cooperation, agriculture and climate change mitigation.

The reform of the CFS was a reaction to global events. Indeed, the realization that governments should join efforts and improve consistency across different policy areas came as a result not of a theoretical reflection, but of a sudden shock that took many observers by surprise. The "shock" was, of course, the sudden surge in the prices of agricultural commodities on international markets that began in late 2007, reaching its peak in June 2008.<sup>3</sup> This “shock” and its aftermath made clear that the current path of management in the global food system was not working.

This paper explores the model of global governance espoused by the CFS, how it came about and how it could provide an innovative way to overcome the challenge of fragmentation in international law. This chapter begins in Part II by examining the numerous factors that underpinned the global food prices crisis, and the reasons why the crisis was interpreted as requiring greater and better coordinated international action in order to achieve global food security. In Part III, this chapter discusses the fragmentation of global governance and its impact on the right to food. It addresses the historical and ongoing failure of governments to overcome policy incoherence for the realization of the right to adequate food as a symptom, or an illustration, of the broader problem of the misalignment between various international regimes and human rights.

The need for more consistency has now been widely recognized, and Part IV of this chapter discusses a range of proposals that have been made to overcome this fragmentation and that constitute alternatives to the “Washington consensus”. It argues however, that these proposals remain insufficient. Indeed, they limit themselves to seeking to ensure a harmonious functioning of the international economic order as it is, rather than exploring ways in which transformative policies could be put in place to reform the existing order to support the poorest countries' efforts to diversify their economies and to make progress towards human development.

Finally, Part V puts forward the various elements – substantive, institutional, governance – of the model of governance espoused by the CFS. In addition to describing the recent experience of the CFS and what I call the “Rome model”, this Part discusses how the CFS could make a decisive contribution to the global governance of food security, if it manages to combine monitoring with learning, and succeeds in becoming a tool for convergence of policies as well as a learning platform for governments.

## **II. The Significance of the Global Food Prices Crisis of 2007-2008**

The global food prices crisis of 2007-08 provoked a sober re-examination of the approaches to hunger and malnutrition that had prevailed in the past. It led many governments to acknowledge that underlying the immediate causes of the agricultural commodity price increases were a number of structural factors, that could only be addressed through improved

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<sup>3</sup> These evolutions are reflected in the real value of the FAO's extended Food Price Index, which the FAO has updated since 1990 (base 100) based on the weighted average of a total of 55 commodity price quotations falling into six groups (meat, dairy, cereals, oils and fats, and sugar). Between 2000 and 2005, the Food Price Index increased moderately at a rate of 1.3 percent per year. The rate of increase then reached 15 percent in 2006, and continued to climb in 2007 and 2008, resulting in a peak in June 2008 (224); the average price level in 2008 was 200. For the latest food price indexes, see U.N. Food & Agric. Org. [FAO], *FAO Food Price Index*, available at <http://www.fao.org/worldfoodsituation/wfs-home/foodpricesindex/en/>.

international cooperation. The global food price crisis was, ultimately, a failure of global governance.

There are numerous factors that underpinned the global food prices crisis. The first factor was a history of nearly forty years of inadequate investment in small-scale agriculture in developing countries. In Latin America and several countries in South Asia, a "Green Revolution" was launched in the 1960s and 1970s, which relied on a technological approach to increasing yields and on a highly capitalized form of agriculture involving massive irrigation, mechanization of agricultural production, a reliance on external inputs – chemical fertilizers and pesticides – and the distribution of high-yielding seeds developed in public agricultural research centres. Yet, despite their impressive success in increasing yields and in improving food availability, Green Revolution policies failed to reduce rural poverty and inequality. These policies generally favoured producers with the most land and capital, and access to the best transport infrastructure, rather than the poorest farmers living on the most marginal land and practicing small-scale types of farming.<sup>4</sup> In a context dominated by a fear of shortages along with rapid population growth, the insistence on enhancing agricultural production efficiency, and on increasing protein-calorie availability per capita, was perhaps understandable. But it has been forty years since the Green Revolution was launched in India and Pakistan and we now have learned that it was a mistake not to give the same degree of consideration to issues of access and distributive justice, and to the specific needs of small-scale farming households.

The second factor was State-led agricultural development in the service of industrialization. A number of developing countries put in place import substitution policies in the 1960s and 1970s, in order to speed up industrialization and reduce the dependency on imports of foreign technologies. These policies typically included high tariffs and quotas against imports of manufactured products as well as subsidies for domestic industrial producers. But for agricultural producers these policies often meant having to sell agricultural goods at low prices (as a form of subsidy to the urban populations), or having to export (often raw commodities) in order for the government to have access to foreign currencies, while at the same time, having to buy imported inputs (machinery and fertilizers in particular) at higher costs.<sup>5</sup> Farmers were drafted into this massive catching up effort. They were grouped into state-led cooperatives; they were often told what to grow, and how to do it, and they were obliged, or strongly encouraged, to sell at prices set by the State. In exchange, they were supported by extension services (of variable quality and reliability), and the luckiest were provided with certain basic inputs, including sometimes high-yielding varieties of seeds.<sup>6</sup> But they were also often the captives of a predatory state that used them for its own purposes. In order to buy political support from cities and to build their nascent industries – what Lipton famously described as the “urban bias”<sup>7</sup> – governments typically paid very low prices for the crops produced. This resulted in massive rural poverty and accelerated rural migration.<sup>8</sup>

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<sup>4</sup> For a sample of these critical views of the "Green Revolution", see ELENITA DANO, UNMASKING THE NEW GREEN REVOLUTION IN AFRICA: MOTIVES, PLAYERS AND DYNAMICS (2007); ERIC HOLT-GIMENEZ & RAJ PATEL, FOOD REBELLIONS! CRISIS AND THE HUNGER OF JUSTICE (2009); or VANDANA SHIVA, THE VIOLENCE OF THE GREEN REVOLUTION: THIRD WORLD AGRICULTURE, ECOLOGY, AND POLITICS (1991).

<sup>5</sup> See, e.g., HA-JOON CHANG, BAD SAMARITANS: RICH NATIONS, POOR POLICIES, AND THE THREAT TO THE DEVELOPING WORLD SECRETS 22-23 (2007).

<sup>6</sup> See Johan F.M. Swinnen, Anneleen Vandeplass & Miet Maertens, *Liberalization, Endogenous Institutions, and Growth: A Comparative Analysis of Agricultural Reforms in Africa, Asia and Europe*, 24 THE WORLD BANK ECON. REV. 412, 418-19 (2010). On seeds specifically, see e.g., Jagtar S. Dhiman et al., *Improved Seeds and Green Revolution*, 11 J. OF NEW SEEDS 65, 65 (2010) (describing the role of the Punjab Agricultural University in the development of improved varieties/hybrids of crops, and in the supply of these varieties to farmers).

<sup>7</sup> MICHAEL LIPTON, WHY POOR PEOPLE STAY POOR: A STUDY OF URBAN BIAS IN WORLD DEVELOPMENT (1977).

<sup>8</sup> See, e.g., MARTIN MEREDITH, THE STATE OF AFRICA: A HISTORY OF FIFTY YEARS OF INDEPENDENCE 279-80 (2005).

While agricultural development was led by the State, many State institutions were characterized by corruption, political clientelism, and mismanagement.<sup>9</sup>

The third major factor was "structural adjustment". Implemented in the 1980s, structural adjustment policies aimed at improving the macro-economic conditions of a number of low income developing countries and to achieve a better balance of public budgets, in order for these heavily indebted countries to continue to have access to international financial markets. But the impacts on the agricultural sector were often devastating.<sup>10</sup> The removal of subsidies to agricultural producers and the dismantling of extension services were shocks many smaller farmers were unable to bare.<sup>11</sup> And the lowering of import tariffs (dictated by trade liberalization as part of the package of adjustment reforms) exposed the less competitive food producers of developing countries to the dumping of agricultural products from rich countries, at often highly subsidized prices, on their own domestic markets.<sup>12</sup> The net result of the policies of the 1980s was that inequality and poverty in the rural areas further increased.<sup>13</sup> Indeed, at the same time that the downsizing of the State under structural adjustment made it almost irrelevant to the rural poor by the 1990s, both official development assistance ("ODA") and private investment moved away from agriculture. Donors did not see the agricultural sector as offering a strong potential for development: the share of ODA resources devoted to agriculture declined from 18 percent in 1979 to 3.5 percent in 2004, and it declined in absolute terms from \$8 billion (in 2004 dollars) in 1984 to \$3.4 billion in 2004.<sup>14</sup> And the private investors were unwilling to fill in the gaps. Despite the entry into force in 1995 of the Agreement on Agriculture as part of the agreements establishing the World Trade Organization, producers in many developing countries still faced high barriers impeding access to the high-value markets of Organisation for Economic Co-operation and

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<sup>9</sup> For a strong indictment of these policies, see ROBERT H. BATES, *MARKETS AND STATES IN TROPICAL AFRICA* (1981); see also ANNE O. KRUEGER, MAURICE SCHIFF & ALBERTO VALDÉS, *THE POLITICAL ECONOMY OF AGRICULTURAL PRICING POLICY* (1991); WORLD BANK, *WORLD DEVELOPMENT REPORT 1983* (1983); Anne O. Krueger, Maurice Schiff & Alberto Valdés, *Agricultural Incentives in Developing Countries: Measuring the Effect of Sectoral and Economywide Policies*, 2 *WORLD BANK ECON. REV.* 255 (1988); Anne O. Krueger, *Government Failures in Development*, 4 *J. ECON. PERSP.* 9 (1990) (denouncing the naïveté of the often idealized view of the State among development economists). The comparative studies coordinated by Krueger, Schiff, and Valdés review the distortions in agricultural subsidies that, in many developing countries, negatively impacted farmers in the 1960s and 1970s, until into the mid-1980s.

<sup>10</sup> For assessments, see *BEYOND ECONOMIC LIBERALIZATION IN AFRICA: STRUCTURAL ADJUSTMENTS AND THE ALTERNATIVES* (Kidane Mengisteab & B. Ikubolajeh Logan eds., 1995); *THE IMPACT OF STRUCTURAL ADJUSTMENT ON THE POPULATION OF AFRICA* (Aderanti Adepoju ed., 1989); *STRUCTURAL ADJUSTMENT & AGRICULTURE: THEORY & PRACTICE IN AFRICA & LATIN AMERICA* (Simon Commander ed., 1989); Jane Harrigan & Paul Mosley, *Evaluating the Impact of World Bank Structural Adjustment Lending: 1980-1987*, 27 *J. DEV. STUD.* 63 (1991).

<sup>11</sup> See Howard Stein, *World Bank Agricultural Policies, Poverty and Income Inequality in Sub-Saharan Africa*, *CAMBRIDGE J. REGIONS ECON. & SOC'Y* 1, 1 & 9 (2010). Stein concludes that:

The market approach to agriculture has exacerbated poverty in rural areas and likely contributed to worsening income equality. ... Richer farmers have access to credit, storage, and transportation. In contrast, poor farmers were penalized in the new system due to the removal of fertilizer subsidy, a lack of infrastructural support and access to extension and few marketing and storage options. Poor farmers are also less able to bargain effectively with private traders or use transportation or storage capacities to improve the timing and location of their sales.

*Id.* Other assessments have been more positive: see, e.g., Lawrence H. Summers & Lant H. Pritchett, *The Structural-Adjustment Debate*, 83 *AM. ECON. REV.* 383, 385 (1993) (citing MAURICE SCHIFF & ALBERTO VALDES, *THE PLUNDERING OF AGRICULTURE IN DEVELOPING COUNTRIES* (1992)). In this well-known paper, Summers and Pritchett summarize and debate the findings of the World Bank Review of Adjustment Lending. See WORLD BANK, *COUNTRY ECON. DEP'T, POLICY AND RESEARCH SERIES NO. 22, ADJUSTMENT LENDING AND MOBILIZATION OF PRIVATE AND PUBLIC RESOURCES FOR GROWTH* (1992).

<sup>12</sup> See DAVID HALLAM, *FOOD AND AGRICULTURAL ORGANIZATION, THE STATE OF AGRICULTURAL COMMODITY MARKETS: 2009* (2009).

<sup>13</sup> Comparing the data available for nineteen Sub-Saharan African countries for the period 1980-2000, Stein concludes that "nearly 75 % of all countries witnessed a worsening of income distribution with an overall mean decline for the total sample of 14% to around 50." Stein, *supra* note 11, at 2. He notes that the increase in inequality particularly affected the rural poor – small-scale farmers who suffer structural disadvantages in the agricultural markets. *Id.*

<sup>14</sup> WORLD BANK, *WORLD DEVELOPMENT REPORT 2008: AGRICULTURE FOR DEVELOPMENT* 41 (2008).

Development (“OECD”) countries.<sup>15</sup> Why would private-sector businesses invest in agriculture in developing countries, where they would face highly unequal competition from producers located elsewhere, and where access to markets was so limited?<sup>16</sup>

It is this catalogue of structural failures that policymakers were suddenly faced with, when the global food prices crisis awoke them in the spring of 2008. Neither investment and trade policies, nor development cooperation and food aid policies, had been geared towards achieving food security in the developing world. What these policies had created instead was a huge dependency trap – low-income, food-deficit countries producing raw materials for the West, and addicted to buying heavily subsidized food on international markets in order to feed their growing populations, worsening as a result the situation of their own food producers. This had to change.

### III. The Fragmentation of Global Governance and its Impact on the Right to Food

The global food prices crisis initiated a global debate on how to improve global governance in order to strengthen food security. Many observers came to realize that the fragmentation of global governance in food and agriculture – its separation into different and sometimes conflicting regimes – was a major obstacle, that needed to be overcome urgently. It became clear to many, in particular, that the trade regime – as institutionalized since 1994 under the umbrella of the World Trade Organisation (WTO) – was ill-suited to what was required to achieve real food security, creating the wrong set of incentives for many developing, net-food-importing countries. In the international economic order inherited from the Bretton Woods Agreements of 1944 and perpetuated by the establishment of the WTO half a century later, the reduction or elimination of trade barriers was supposed to enhance the redistributive capabilities of each State vis-à-vis its own citizens, leading the regulatory State at the domestic level to complement trade liberalization at the international level. That is the essence of “embedded liberalism”<sup>17</sup>: the idea that through the expansion of trade and the deepening of the international division of labour, economic growth will be fueled and countries will be able to finance social protection and create employment at home.

This idealized view presents a number of major weaknesses, however, that are particularly visible in the area of food and agriculture. A major problem is that this view grossly underestimates the tension between the short term and the long term considerations that guide States in the commitments they make to remove barriers to trade. For the deepening of the international division of labor, though it may bring about certain immediate benefits, may not work in favor of the long-term development of poor countries, and their ability to promote the full realization of human rights. In the 1950s, working under the leadership of Raúl Prebisch, the United Nations Economic Commission for Latin America already expressed the concern that countries that export raw commodities may have to export increasing volumes in order to import the manufactured products, with a higher added technological value, that they are

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<sup>15</sup> For a review of these obstacles and what would be required to overcome them, see REFORMING AGRICULTURAL TRADE FOR DEVELOPING COUNTRIES, KEY ISSUES FOR A PRO-DEVELOPMENT OUTCOME OF THE DOHA ROUND (Alex F. McCalla & John Nash eds., 2007); see also Special Rapporteur on the Right to Food, *Mission to the World Trade Organisation*, U.N. Doc. A/HRC/10/005/Add.2 (Dec. 22, 2008) (prepared by Olivier de Schutter).

<sup>16</sup> As Hafez Ghanem notes:

Because global production levels are technically sufficient and because world food prices have long been low and stable, investment in agriculture has been steadily declining since the 1970s. As a result, the rate of growth of agricultural capital stock (ACS) in the world fell from 1.1 percent in 1975-1990 to 0.50 percent in 1991-2007.

Hafez Ghanem, *World Food Security and Investment in Agriculture*, INT’L ECON. BULL. (2009), available at <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=23850>.

<sup>17</sup> John G. Ruggie, *International Regimes, Transactions, and Change: Embedded Liberalism and the Postwar Economic Order*, 36 INT. ORG. 379 (1982).

unable to produce themselves. Thus, *in the long term*, the removal of barriers to trade, which accelerates the specialization of each country into the kind of production in which it has a comparative advantage, will not benefit the least industrialized countries. That, in essence, is what later came to be known as the Prebisch-Singer thesis of deteriorating terms of trade. It leads to the idea that international trade, replicating the patterns of colonialism, may in fact accentuate the dependency of developing countries on the former colonial powers, and make it impossible for these countries to overcome the obstacles to development. These views were recently revived, with some variations, by economists such as Ha-Joon Chang and Erik Reinert, who note that rich countries have become rich thanks to the protection of their nascent industries, and that they now preach free trade to developing nations because, having climbed up the ladder of development, free trade has become in their interest.<sup>18</sup> Globalization, these economists remark, has benefited the countries – such as Brazil, China, South Korea or India – which carefully sequenced trade liberalization, and which built an industry and a services sector behind trade barriers before opening up to trade.

The point is *not* that raw commodities shall always sell cheap, and higher-added-value products dear: as the boom in commodities over the past ten years has shown, such an evolution of the terms of trade is by no means inevitable. The problem is the risk that specialization entails. For developing countries that did not diversify their economies and whose industrial sector was still too weak at the time when their economies opened up to global trade, it has often meant the relegation to a permanent status of underclass nations.<sup>19</sup> The process was accelerated during the 1980s and 1990s, during which, as we have seen, they were forced to pursue macro-economic policies that would reduce the size of the public sector and integrate their economies to global trade, under what came to be known as the "Washington consensus".<sup>20</sup>

The search for an alternative to the "Washington consensus" has now begun. We have come to realize that countries cannot effectively pursue progressive welfare policies at home, if the international environment is not reshaped in accordance with their needs – and the infinite postponement of that objective is increasingly seen as one key reason why social progress and the realization of human rights at the domestic level are so slow. The Outcome Document on the implementation of the Millennium Development Goals that the General Assembly adopted by consensus on 22 September 2010 notes in this regard:

We recognize that the increasing interdependence of national economies in a globalizing world and the emergence of rules-based regimes for international economic relations have meant that the space for national economic policy, that is, the scope for domestic policies, especially in the areas of trade, investment and international development, is now often framed by international disciplines, commitments and global market considerations. It is for each Government to evaluate the trade-off between the benefits of accepting international rules and commitments and the constraints posed by the loss of policy space.<sup>21</sup>

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<sup>18</sup> See HA-JOON CHANG, *KICKING AWAY THE LADDER: DEVELOPMENT STRATEGY IN HISTORICAL PERSPECTIVE* (2002); HA-JOON CHANG, *BAD SAMARITAN: THE GUILTY SECRETS OF RICH NATIONS & THE THREAT TO GLOBAL PROSPERITY* (2007); ERIK S. REINERT, *HOW RICH COUNTRIES GOT RICH AND WHY POOR COUNTRIES STAY POOR* (2007).

<sup>19</sup> See JOSEPH E. STIGLITZ & ANDREW CHARLTON, *FAIR TRADE FOR ALL: HOW TRADE CAN PROMOTE DEVELOPMENT* 17 (rev. ed., 2007) ("To date, not one successful developing country has pursued a purely free market approach to development. In this context it is inappropriate for the world trading system to be implementing rules which circumscribe the ability of developing countries to use both trade and industry policies to promote industrialization").

<sup>20</sup> The expression was coined by the economist John Williamson, who has since repudiated it. John Williamson, *The Washington Consensus Revisited* (Development Thinking and Practice Conference, Sept. 3-5, 1996).

<sup>21</sup> Keeping the Promise: United to Achieve the Millennium Development Goals, G.A. Res. 65/1, ¶ 37, U.N. Doc. A/RES/65/L.1 (Sept. 22, 2010).

This constitutes an acknowledgment of a "double-bind" problem: while countries are bound to comply with their human rights commitments at home, they are discouraged from doing so in practice (even though they may not be prohibited from doing so in theory) because the international environment has not been transformed to favor this.

The food prices crisis of 2008 shed light on the impacts of the international division of labour on the ability for low-income countries to move towards the full realization of the right to food: indeed, that was probably the main lesson drawn from the crisis. In order for States to successfully implement national right to food strategies, it has now become clear, two conditions should be fulfilled. First, agricultural policies should achieve a balance between the support going to export-led agriculture and the support to small-scale food producers producing for themselves, their families and their communities. Supporting the local production of food crops is not only a way to reduce the dependency of the country on food imports, and thus the vulnerability of the country to price shocks on international markets; it is also a means to raise incomes in rural areas, where the majority of the extremely poor still often reside.<sup>22</sup> Second, jobs must be created in the industry and services sectors, in order to absorb the excess workforce migrating from the rural areas. Ideally thus, what is required is a complementarity between these different sectors (agriculture, industry and services): small-scale, family agriculture should be supported in order to reduce rural poverty; but in addition, in what Irma Adelman famously called "agriculture-led industrialization", it may both ensure a market for the local producers of manufactured goods and service-providers, and should allow the growth of a food processing industry, and associated services, that contribute to the strengthening of local food systems.<sup>23</sup>

How could such national strategies for the realization of the right to food be encouraged? Which kind of global governance in food and agriculture would be required for such strategies to be successful? Part IV of this chapter examines the various alternatives to the "Washington consensus" that have been put forward in an attempt to deal with the current fragmentation of global governance – itself both the result and the cause of the fragmentation of international law.<sup>24</sup>

## **IV. Overcoming Fragmentation**

### **1. Fragmentation Organized: The "Geneva consensus"**

One alternative to the current state of fragmentation has been proposed by Pascal Lamy, the Director general of the WTO, who refers to it as the "Geneva consensus". The notion was inaugurated in a speech delivered by Lamy in Santiago de Chile, on 30 January 2006. He stated:

We cannot ignore the costs of adjustment, particularly for the developing countries, and the problems that can arise with the opening up of markets. These adjustments must not be relegated to the future: they must be an integral part of the opening-up agenda. We must

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<sup>22</sup> If we take into account not only its own growth performance but also its indirect impact on growth in other sectors, agriculture is 3.2 times more effective at reducing the number of very poor people (defined as those living below a USD one-per-day PPP poverty line) in low-income and resource-rich countries, at least in the absence of strong inequality. See Luc Christiaensen, Lionel Demery & Jesper Kuhl, *The (Evolving) Role of Agriculture in Poverty Reduction – An Empirical Perspective* (United Nations University, World Institute for Development Economics Research, Working Paper No. 2010/36, 2010).

<sup>23</sup> Irma Adelman, *Beyond Export-Led Growth*, 12 *WORLD DEV.* 937 (1984).

<sup>24</sup> Report of the Study Group of the International Law Commission, *Fragmentation of International Law: Difficulties Arising From the Diversification and Expansion of International Law*, ¶ 8, U.N. doc.A/CN.4/L.702, (July 18, 2006); B. Simma, *Self-Contained Regimes*, 16 *NETHERLANDS YEARBOOK INT'L LAW* 111 (1985).

create a new “Geneva consensus”: a new basis for the opening up of trade that takes into account the resultant cost of adjustment. Trade opening is necessary, but it is not sufficient in itself. It also implies assistance: to help the least-developed countries to build up their stocks and therefore adequate productive and logistical capacity; to increase their capacity to negotiate and to implement the commitments undertaken in the international trading system; and to deal with the imbalances created between winners and losers from trade opening – imbalances that are the more dangerous to the more fragile economies, societies or countries. Building the capacity they need to take advantage of open markets or helping developing countries to adjust is now part of our common global agenda. Part of this challenge falls under the WTO; but the WTO's core role is trade opening, we lack the institutional capacity to formulate and lead development strategies. The challenge to humanise globalization necessarily involves other actors in the international scene: IMF/WB and the United Nations family.”<sup>25</sup>

The Geneva consensus is an understanding of international governance in which a division of labour is encouraged between various international agencies: the WTO should focus on trade, the International Labour Organisation should promote international labour standards, the World Health Organisation should support public health and the Office of the High Commissioner for Human Rights and other human rights bodies should push for compliance with human rights. This view is popular among many governments and international agencies alike because, rather than providing an impetus of change, it offers an elegant justification for the status quo. Indeed, the “Geneva consensus” does not take into account the very different leverage that each of these various agencies can exercise on their member States, although they differ widely among themselves both in their ability to adopt rules and to enforce them. In addition, the “Geneva consensus” underestimates the risk of conflicts between regimes, because of the strong overlaps that exist between the different issues that are of international concern. What we need is not more separation, but instead more consistency across policy areas that cannot be considered in isolation.

The failure of the current trade regime to contribute to food security illustrates the risks of thinking about these policy areas in isolation. There is general agreement that the current regime of international trade has not worked for the benefit of smallholders in developing countries, which form the majority of those who are hungry in the world today. It is largely as a result of the very unfair regime imposed on agriculture in developing countries that the domestic agricultural sector in these countries has been unable to attract investment over the past thirty years. This results in a vicious cycle in which the agricultural sector, because it faces unfair competition, further loses competitiveness, leading many poor countries to increased dependency on food imports. One could argue, as Lamy does, that this tendency towards greater dependency on food imports, and the failure to invest in domestic food production, are the result of trade policies that countries have deliberately chosen to adopt in the interest of providing low-priced food to their population. It is true that the lowering of import tariffs by low-income countries is generally not required under the schedule of commitments of these countries under the Agreement on Agriculture. But this misalignment between policies nevertheless is attributable to an international economic environment in which, instead of supporting poor countries to feed themselves and invest in domestic food production to combat rural poverty, rich countries choose instead to feed poor countries – actively contributing to a dependency for which the recipient countries now pay such a high

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<sup>25</sup> Pascal Lamy, World Trade Organization [WTO], *Humanising Globalization* (Jan. 30, 2006), *available at* [http://www.wto.org/english/news\\_e/sppl\\_e/sppl16\\_e.htm](http://www.wto.org/english/news_e/sppl_e/sppl16_e.htm). See also the speech of Pascal Lamy upon being conferred the doctorate honoris causa by the University of Geneva at its 450th anniversary on June 5, 2009: Pascal Lamy, World Trade Organization [WTO], *Globalization and Trade Opening Can Promote Human Rights* (June 5, 2009), *available at* [http://www.wto.org/english/news\\_e/sppl\\_e/sppl128\\_e.htm](http://www.wto.org/english/news_e/sppl_e/sppl128_e.htm).

price. And there are other measures that States adopt in order to comply with the Agreement on Agriculture that may conflict with the requirements of the right to food. For example, in some instances low-income countries renounce stabilizing prices through the establishment of food reserves because that would go beyond the flexibilities allowed under the forms of support that fall under the "Green Box".<sup>26</sup> More generally, WTO disciplines may restrict the policy space, particularly for countries seeking to pursue active industrial policies, thus making it more difficult for them to pursue a development path that will allow them to achieve the progressive realization of human rights.<sup>27</sup>

## **2. Fragmentation Overcome: Building Bridges Across Regimes**

So, the solution cannot be a division of labor between institutions, because the different policy areas cannot be artificially isolated from one another. Might the solution to the problem of the "double-bind" then reside in mechanisms aimed at building bridges between otherwise self-contained regimes, each with their own norms and dispute-settlement mechanisms, and relatively autonomous both vis-à-vis each other and vis-à-vis general international law? For instance, commitments under the WTO framework may be interpreted, to the fullest extent possible, so as to be compatible with general international law, as well as with the rules of any treaty applicable in the relationships between the parties to the dispute.<sup>28</sup> Is this a satisfactory safeguard against the risks entailed by fragmentation?

Unfortunately, these stop-gaps do not provide a satisfactory answer to situations of real conflict which no conform interpretation could avoid. Nor do they address the "chilling effect" that the stipulations of trade agreements may cause, when States do not know whether or not any particular measure they take, in order to comply with their human rights obligations, will be considered acceptable by the other Parties or instead expose them to retaliation, particularly when they seek to adopt measures which, although not strictly required by human rights treaties, nevertheless would contribute to the progressive realisation of human rights.

But there is a further, and deeper, reason why this approach – overcoming fragmentation by building bridges – fails. It is one thing to avoid the risk of conflicts between regimes; but it is quite another to reshape international law to enable States to achieve objectives, such as human development or the realization of human rights, that we deem paramount. Eliminating or even reducing the risk of conflicts is not enough: what we must achieve is changing the incentives structures that States face. The next section explores how we can reshape international regimes to converge towards the full realization of human rights: if the ability for States to fulfill the right to food depends on an enabling international environment, then how can this task be conceived?

## **V. The Role of Human Rights in Shaping International Regimes: the Rome Model**

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<sup>26</sup> See, on these difficulties, Olivier De Schutter, *International Trade in Agriculture and the Right to Food*, in ACCOUNTING FOR HUNGER: THE RIGHT TO FOOD IN THE ERA OF GLOBALISATION 137 (Olivier De Schutter & Kaitlin Cordes eds., 2011); OLIVIER DE SCHUTTER, U.N. SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD, BRIEFING NOTE 4, WORLD TRADE ORGANISATION AND THE POST-GLOBAL FOOD CRISIS AGENDA (Nov. 2011), available at <http://www.srfood.org/index.php/en/areas-of-work/chains-trade-and-aid/trade>.

<sup>27</sup> See Alisa DiCaprio & Kevin P. Gallagher, *The WTO and the Shrinking of Development Space: How Big is the Bite?*, 7 J. WORLD INVESTMENT & TRADE 781 (Oct. 2006). For a general assessment of the compatibility between WTO disciplines and human rights, see SARAH JOSEPH, BLAME IT ON THE WTO? A HUMAN RIGHTS CRITIQUE (2011); JAMES HARRISON, THE HUMAN RIGHTS IMPACT OF THE WORLD TRADE ORGANISATION (2007).

<sup>28</sup> The Appellate Body of the WTO takes the view that commitments under the WTO framework cannot be treated "in clinical isolation" from general international law. Appellate Body Report, *United States – Standards for Reformulated and Conventional Gasoline (United States v. Brazil and Venezuela)*, WT/DS2/AB/R (May 20, 1996).

We may take as departure point the promise of the right to development, under the banner of which a first attempt to reshape international regimes in accordance with the requirements of human rights was launched. The idea of a right to development was first expressed by Kéba M'Baye in his 1972 inaugural lesson to the International Institute for Human Rights<sup>29</sup> and then explored by Philip Alston for the UN Secretary-General in 1978, in a study prepared at the request of the Commission on Human Rights.<sup>30</sup> The study emphasized both that measures adopted at domestic and international levels should be mutually supportive and that the realization of the right to development should be based on participation at all levels.<sup>31</sup> In 1986, after five years of discussions within a Working Group established by the Commission on Human Rights,<sup>32</sup> the UN General Assembly adopted the Declaration on the Right to Development, defining it as "an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized".<sup>33</sup> Since then, various working groups, task forces and independent experts have been trying to identify ways to overcome obstacles to the realization of the right to development, and to define criteria that would measure progress in its fulfilment.<sup>34</sup> However, all potential advances stumbled on the apparently insurmountable oppositions between rich and poor countries, concerning issues such as the need for a new international instrument or the use of indicators. The stalemate is now almost complete. While we need not abandon the vision of the right to development, we may need to redefine how to get there.

The way forward, I suggest, has three components. First, there is a substantive component to this project: it involves the reference to human rights and the use of indicators based on human rights to measure progress done both at national and at international levels. Second, there is an institutional component: it consists in the establishment of fora where all relevant actors could strengthen coordination in order to ensure that the policies they adopt converge towards the full realization of human rights. Third, there is a governance component: it involves the adoption of action plans that ensure that we make progress, at reasonable speed, towards that objective. To a large extent, it is these tools that the Committee on World Food Security, following its reform, seeks to rely upon, to ensure that the international environment can better enable the efforts developed at domestic level to realize the right to food<sup>35</sup>: it is in that attempt that the true significance of the CFS reform lies.

## 1. The substantive component

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<sup>29</sup> Kéba M'Baye, *Le Droit au Développement Comme un Droit de l'Homme, Leçon Inaugurale de la Troisième Session d'Enseignement de l'Institut International des Droits de l'Homme*, (July 3, 1972), reproduced in 5 *REVUE DES DROITS DE L'HOMME* 503(1972).

<sup>30</sup> United Nations Commission on Human Rights, Res. 4 (XXXIII) (Feb. 4, 1977).

<sup>31</sup> The Secretary-General, *Report of the Secretary-General: The International Dimensions of the Right to Development as a Human Right in Relation with Other Human Rights Based on International Co-Operation, including the Right to Peace, Taking into Account the Requirements of the New International Economic Order and the Fundamental Human Needs*, U.N. Doc. E/CN.4/1334 (Jan. 2, 1979).

<sup>32</sup> United Nations Commission on Human Rights, Res. 36 (XXXVII) (March 11, 1981).

<sup>33</sup> Declaration on the Right to Development, G.A. Res. 41/128, U.N. Doc. A/RES/41/128 (Dec. 4, 1986) (adopted with only one negative vote from the United States and eight abstentions).

<sup>34</sup> For an excellent and well-informed account of the history, by one key actor in this process, see Stephen P. Marks, *The Politics of the Possible. The Way Ahead for the Right to Development* (Dialogue on Globalization, Friedrich Ebert Stiftung, June 2011).

<sup>35</sup> The Reform Document of the Committee on World Food Security states that "The CFS will 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" (Comm. on World Food Sec. [CFS], Reform of the Committee on World Food Security, cited above n. 1, at ¶ 4).

First, human rights should be re-established as the reference through which progress is measured at national and international levels. This means relying on human rights indicators rather than, for instance, on macro-economic indicators or on development indicators alone. To a large extent, this is already the task performed by various human rights bodies and experts.<sup>36</sup> Building on what exists should therefore be achievable. Where more needs to be done, however, is in effectuating the position shift referred to above, from human rights imposing duties on States to human rights reshaping the international regimes. This means identifying which human rights duties can be imposed on international organisations, both within and outside the United Nations system, and developing mechanisms that can hold them accountable.<sup>37</sup> It means developing tools to ensure that transnational corporations are aware of their human rights responsibilities.<sup>38</sup> And it means ensuring that States comply not only with their human rights obligations towards individuals and groups on their national territory, but also with their so-called “extraterritorial” human rights obligations.

Over the past ten years, significant progress has been made on all these fronts. International organisations are increasingly developing mechanisms to ensure their accountability towards human rights, and the special procedures of the Human Rights Council have occasionally contributed to ensuring that international organisations take human rights into account.<sup>39</sup> Transnational corporations are aware that they are now expected to respect human rights, and to ensure that they have a positive impact on their realization.<sup>40</sup> Most recently, on 28 September 2011, a group of experts adopted the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights.<sup>41</sup> These Principles contribute to the progressive development of the international law of human rights by clarifying the human rights obligations of States both as they relate to their conduct that produces effects on the enjoyment of human rights outside of the States’ territories, and as they relate to “obligations of a global character that are set out in the Charter of the United Nations and human rights instruments to take action, separately, and jointly through international cooperation, to realize human rights universally”.<sup>42</sup> It is also to this enterprise that the Guiding Principles on Human Rights Impact Assessments of Trade and Investment

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<sup>36</sup> On the use of indicators to measure compliance with human rights, see Maria Green, “What We Talk About When We Talk About Indicators: Current Approaches to Human Rights Measurement”, *Human Rights Quarterly*, 23(4) (2001), 1062-1097; Todd Landman, “Measuring Human Rights, Practice and Policy”, *Human Rights Quarterly*, vol. 26 (2004) 906-931; or, more recently, Gauthier de Beco, “Measuring Human Rights: Underlying Approach”, *E.H.R.L.R.*, Issue 3(2007), 266-278; Bronwyn Anne Judith Welling, “International Indicators and Economic, Social, and Cultural Rights”, *Human Rights Quarterly*, vol. 30(4) (2008), 933-958; AnnJanette Rosga and Margaret Satterthwaite, “The Trust in Indicators: Measuring Human Rights”, *Berkeley Journal of International Law*, vol. 27, Number 2 (2009), 253-315. A synthesis is provided by T. Landman & E. Carvalho, *Measuring human rights*, Milton Park, Abingdon, Oxon: Routledge, 2010.

<sup>37</sup> See, for a review of the challenges and tools available, ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS BY INTERNATIONAL ORGANISATIONS (Jan Wouters et al. eds., 2010).

<sup>38</sup> See TRANSNATIONAL CORPORATIONS AND HUMAN RIGHTS (Olivier De Schutter ed., 2006).

<sup>39</sup> See e.g., United Nations Special Rapporteur on the Right to Health, Paul Hunt, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, Addendum: Missions to the World Bank and the International Monetary Fund in Washington, D.C. (20 October 2006) and Uganda (4-7 February 2007)*, U.N. Doc. A/HRC/7/11/Add.2 (March 5, 2008); United Nations Special Rapporteur on the Right to Food, Olivier De Schutter, *Report of the Special Rapporteur on the Right to Food, Addendum: Mission to the World Trade Organization, (25 June 2008)*, U.N. Doc. A/HRC/10/5/Add.2 (Feb. 4, 2009)

<sup>40</sup> See especially United Nations Special Representative of the Secretary-General, John Ruggie, *Report of the Special Representative of the Secretary-General on the Issue of Transnational Corporations and Other Business Enterprises and Human Rights, Protect, Respect and Remedy: A Framework for Business and Human Rights*, U.N. Doc. A/HRC/8/5 (April 7, 2008); United Nations Special Representative of the Secretary-General, John Ruggie, *Report of the Special Representative of the Secretary-General on the Issue of Transnational Corporations and Other Business Enterprises and Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, U.N. Doc. A/HRC/17/31 (March 21, 2011). Referring to this framework, the OECD Guidelines on Multinational Enterprises were revised in 2011, strengthening their human rights component.

<sup>41</sup> See Olivier De Schutter, et al., *Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights*, 34 HUMAN RIGHTS Q. 1084 (2012) (including the full text of the Principles).

<sup>42</sup> See Principle 8, b), of the Maastricht Principles..

Agreements, developed by this author in his official capacity as the United Nations Special Rapporteur on the right to food, seek to contribute when States are negotiating or ratifying such agreements.<sup>43</sup>

As these norms and procedures develop, human rights gradually can turn into what Buchanan and Keohane call a "global public standard" to assess the normative legitimacy of global governance institutions – i.e., the "right to rule" of these institutions, which cannot ensure compliance with their decisions unless they are perceived as legitimate by those, including States, to whom such decisions are addressed.<sup>44</sup>

Even apart from the preeminent position that they occupy in the original project of the United Nations, human rights possess three features that make them particularly suited to this goal. First, they are *relatively incomplete*. They are sufficiently precise to provide a focal point<sup>45</sup> for deliberations as to how to build international regimes – how to regulate trade, how much to protect foreign investors, or how to allocate responsibilities in combating climate change; yet they are vague enough not to preempt the result of these deliberations. They thus allow true ownership by the actors, primarily States, who contribute to the establishment of international regimes. As Buchanan and Keohane note, any standard of legitimacy should allow for a "principled, informed deliberation about moral issues into the standard of legitimacy itself"<sup>46</sup>: that is precisely what human rights allow, at least as adequately as other potential candidates such as, "sustainable development", "green growth", or "development goals".

A second advantage of human rights is that they are both *legal rules*, binding upon States and, in some respects, on non-State actors, and *ideals*. The legitimacy that human rights confer therefore includes the element of legality, without being reducible to that element. Human rights are violated or they are complied with, but that simple dichotomy, which is the language of lawyers, never exhausts their significance: for human rights can always be improved upon. Our quest for the full realization of human rights is one in which we permanently learn and test the means we use against the ends that human rights are supposed to define.

A third advantage of human rights is that they effectively correspond to the requirements of moral cosmopolitanism, the idea that citizens in rich countries owe duties to those living in poor countries. Human rights are not simply norms that regulate the relationships between States, built on States' interests. Rather, they are the legal embodiment of the idea that, as Thomas Pogge writes, "every human being has a global stature as the ultimate unit of moral concern".<sup>47</sup> Human rights are held by each individual, wherever he or she finds him- or

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<sup>43</sup> United Nations Special Rapporteur on the Right to Food, *Report of the Special Rapporteur on the Right to Food, Addendum: Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements* U.N. Doc. A/HRC/19/59/Add.5 (Dec. 19, 2011).

<sup>44</sup> Allen Buchanan & Robert Keohane, *The Legitimacy of Global Governance Institutions*, 20 *ETHICS & INT'L AFF.* 405 (2006). In their contribution, Buchanan and Keohane refer to human rights as one of the substantive criteria that are relevant in assessing the legitimacy of global institutions: such institutions, they write, "must not persist in committing serious injustices. If they do so, they are not entitled to our support. On our view, the primary instance of a serious injustice is the violation of human rights". *Id.* at p. 419. That refers to what they call the "minimal moral acceptability" of global institutions. My position places the bar higher: it is that global governance institutions should be assessed primarily by the contribution they make to the realization of human rights.

<sup>45</sup> On the idea of a focal point that allow actors to negotiate based on certain baseline expectations, see THOMAS C. SCHELLING, *THE STRATEGY OF CONFLICT* chap. 3 (1960).

<sup>46</sup> Buchanan & Keohane, *supra* note 44, at p. 421. *See also id.* at p. 427 ("Because what constitutes appropriate accountability is itself subject to reasonable dispute, the legitimacy of global governance institutions depends in part upon whether they operate in such a way as to facilitate principled, factually informed deliberation about the terms of accountability").

<sup>47</sup> THOMAS POGGE, *WORLD POVERTY AND HUMAN RIGHTS* p. 169 (2002).

herself to be, and all States are duty-bound to refrain from conduct that might lead to a violation of the rights of that individual. Because they can ground an obligation to support each individuals' access to certain basic needs, a condition for the effective enjoyment of human rights, human rights provide a foundation for a duty of States to work collaboratively towards the fulfillment of these basic needs.

## 2. The institutional component

A second component of this strategy consists in creating fora where different international actors – governments of course, but also international agencies and transnational networks of civil society organisations – can work together to ensure that their policies converge, rather than undermining each others' efforts. It is precisely into this kind of forum that the CFS was transformed, through the 2009 reform.<sup>48</sup> The CFS includes as members all governments, who are encouraged to participate at Ministerial level, "insofar as possible representing a common, inter-ministerial governmental position".<sup>49</sup> Participants in the mechanism – which have the same rights as members except with respect to voting and decision taking – include the representatives of UN agencies and bodies with a specific mandate in the field of food security and nutrition and representatives of other relevant UN System bodies whose overall work is related to attaining food security, nutrition, and the right to food such as the Special Rapporteur on the Right to Food, the Office of the High Commissioner on Human Rights, the World Health Organization, United Nations Children's Fund, United Nations Development Programme, and the Standing Committee on Nutrition; civil society and non-governmental organizations; international agricultural research systems; the World Bank, the International Monetary Fund, regional development banks and the WTO; and the private sector and philanthropic foundations active in the area of food security.<sup>50</sup>

The structuring of civil society at global level was a key success factor during the discussions that led to the reform of the CFS, as well as in the implementation phase. In 1993, the Via Campesina was established as a transnational network of farmers' organizations, explicitly as a counterweight to the dominance of the agricultural policies agenda intent on pushing for globalization as a solution, at the expense of the least competitive food producers, particularly from the global South.<sup>51</sup> The alternative paradigm of food sovereignty, which emerged from the global peasants' movement,<sup>52</sup> was put forward at the World Food Summits in 1996 and 2002, leading to the establishment of the International Planning Committee on Food Sovereignty, a large platform of some 45 peoples' networks and NGOs linked to at least 800 organizations in the world.<sup>53</sup> Therefore, when the proposal of reforming the CFS was put forward, it was supported not only by many developing countries hoping to avoid the global response to the food price crisis being set by the G8, but also by a well-organized, structured movement within civil society, which for the first time came to be officially included in discussions concerning global food security.<sup>54</sup> Following the CFS reform, civil society

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<sup>48</sup> See above, text corresponding to note 1.

<sup>49</sup> CFS, *supra* note 1, at ¶ 9.

<sup>50</sup> *Id.* at ¶ 11.

<sup>51</sup> See Annette Aurélie Desmarais, *The Power of Peasants: Reflections on the Meanings of La Via Campesina*, 24 J. RURAL STUD. 38 (2008); TRANSNATIONAL AGRARIAN MOVEMENTS CONFRONTING GLOBALIZATION (Saturnino Borrás et al. eds., 2008).

<sup>52</sup> Steven Suppan, *Food Sovereignty in an Era of Trade Liberalisation: Are Multilateral Means Towards Food Sovereignty Feasible?*, GLOBAL SECURITY & COOPERATION Q. 9 (2003).

<sup>53</sup> On these developments, see NORA MCKEON & CAROL KALAFATIC, STRENGTHENING DIALOGUE: UN EXPERIENCE WITH SMALL FARMER ORGANISATIONS AND INDIGENOUS PEOPLES 17 (UN, Non-Governmental Liaison Service, 2009); NORA MCKEON ET AL., PEASANT ASSOCIATIONS IN THEORY AND PRACTICE (United Nations Research Institute for Social Development, 2004).

<sup>54</sup> See Jessica Duncan & David Barling, *Renewal Through Participation in Global Food Security Governance: Implementing the International Food Security and Nutrition Civil Society Mechanism to the Committee on World Food Security*, 19 INT'L J.

movements and organizations created an International Food Security and Nutrition Civil Society Mechanism to facilitate involvement of civil society organizations in the CFS, while preserving the principle of autonomy, i.e., the self-organization of civil society.<sup>55</sup> This not only strengthened civil society's ability to influence discussions within the CFS. It also ensures that commitments made within the CFS will be tracked, thanks to the monitoring by the organizations involved. It encourages national-level civil society organizations to hold their governments accountable in the shaping of agricultural policies at home. And it significantly enhances the legitimacy of the outcomes of the discussions held within the CFS.

The CFS is expected to provide a platform for discussion and coordination to strengthen collaborative action among its members and participants, including to "promote greater policy convergence and coordination ... through the development of international strategies and voluntary guidelines on food security and nutrition on the basis of best practices, lessons learned from local experience, inputs received from the national and regional levels, and expert advice and opinions from different stakeholders", and to provide support and advice to countries and regions.<sup>56</sup> In a second phase of its work, it should, in particular, promote accountability by "developing an innovative mechanism, including the definition of common indicators, to monitor progress towards these agreed upon objectives and actions"; and implement a *Global Strategic Framework for Food Security and Nutrition*, conceived as a flexible, "rolling" document that can be regularly updated on the basis of new information and new priorities, "in order to improve coordination and guide synchronized action by a wide range of stakeholders".<sup>57</sup>

Collective learning and monitoring for results are two key components of the work of the CFS.<sup>58</sup> Collective learning should be promoted by the sharing of experiences across countries and regions, a process for which the CFS can serve as a platform. In addition, in order to ensure that it would make decisions based on the best scientific evidence available and in order to facilitate the move towards a consensus, the CFS established a High-Level Panel of Experts (HLPE). Like the Intergovernmental Panel on Climate Change, the role of the HLPE is not to produce new scientific evidence, but to assess the existing evidence available in order to guide policy-makers. The reports of the HLPE should allow the members and participants of the CFS to shift their understanding of the causes of food insecurity and of the remedies it calls for.

Gradually, the CFS should thus enter into what the organisational learning theories refer to as "double loop learning" – not only improving policies in the light of whether existing policies succeed or fail, but also revising the objectives pursued, and the definition of success and failure itself, on the basis of the evidence provided and of the alternative framings of the question of food security present within the Committee.<sup>59</sup> The various actors involved in the CFS each have their own views, shaped by diverse historical experiences and ideologies,

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SOC. AGRIC. & FOOD 143, 144 ("By including civil society actors as official participants on the Committee, the CFS is championing a model of enhanced participation at the level of international policy-making, finding new ways to engage those civil society actors who have been located, previously, at the margins of official food security debates").

<sup>55</sup> See Comm. on World Food Sec. [CFS], *Proposal for an International Food Security and Nutrition Civil Society Mechanism for Relations with CFS*, CFS:2010/9 (2010).

<sup>56</sup> CFS, *supra* note 1, at ¶ 5.

<sup>57</sup> *Id.* at ¶ 6.

<sup>58</sup> For initial proposals made in this regard during the reform process of the CFS, see UNITED NATIONS SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD, OLIVIER DE SCHUTTER, COORDINATING, LEARNING, MONITORING: A NEW ROLE FOR THE COMMITTEE ON WORLD FOOD SECURITY (2009), available at <http://www.srfood.org/index.php/en/areas-of-work/policy-making/global-governance>.

<sup>59</sup> On "double-loop learning", see especially Chris Argyris, *Single-Loop and Double-Loop Models in Research on Decision Making*, 21 ADMIN. SCI. Q. 363 (1976); CH. ARGYRIS, REASONING, LEARNING AND ACTION: INDIVIDUAL AND ORGANISATIONAL (1982); CHRIS ARGYRIS, KNOWLEDGE FOR ACTION: A GUIDE TO OVERCOMING BARRIERS TO ORGANIZATIONAL CHANGE (1993).

about where hunger and malnutrition stem from, and what should be done about them. Only by agreeing to question these presuppositions, and by accepting that the framing by each of the questions to be addressed may not be the only framing possible, can true collective learning take place.

### 3. The governance component

A third component of a comprehensive strategy to overcome the current fragmentation of global governance in order to ensure convergence towards the objective of realizing the right to food, consists in the adoption of action plans defining a calendar of actions to be taken, allocating responsibilities across actors, and defining indicators allowing progress to be measured and increasing accountability. This is what, in the context of the realization of the right to food at a global level, the *Global Strategic Framework for Food Security and Nutrition* could achieve.<sup>60</sup> The reason why this matters, is because what is needed is more than the *ad hoc* reaction to discrete violations of rights by specific measures: what is needed is a sustained and multi-year effort towards a transition, that can channel existing international regimes towards a direction that is better conducive to the full realization of human rights. Action plans are a way to overcome the gap between the "what" and the "how": they are important, not just for the end vision they propose, but for the identification of the pathways towards that vision. They bridge the gap between relatively small changes to the system that, in isolation, are unable to make a significant difference, and changes so broad that they seem impossible to achieve.

For such action plans to succeed, they should include appropriate indicators and benchmarks and a monitoring of the choices made by policy-makers. This can constitute a powerful incentive to integrate long-term considerations into decision-making, and to effectively implement the roadmap that has been agreed upon. It is always tempting for the proponents of business-as-usual to dismiss as utopian proposals that are so far-reaching that they seem to be revolutionary in nature, and to dismiss other proposals as so minor and insignificant that they will not really make a difference. We must move beyond this false opposition. What matters is not each of the policy proposals considered in isolation, whether reformist or more revolutionary. It is the pathway that matters: the sequence of measures that, step by step, may lead to gradually moving beyond the existing fragmentation of international law and of global governance.

Such action plans should not be seen simply as a new form of rule-making, prescribing objectives and how to get there. They are also a learning device. They should be permanently revised in the light of the implementation problems faced by governments. In this iterative process, in which implementation feeds back into the formulation of guidelines set at global level, the tools that are recommended should be gradually improved in order to achieve effective results; the definitions of the objectives themselves may have to be revisited and the paradigms under which actors operate may, in time, need to be challenged and revised. Learning and monitoring become indistinguishable in a process that is both top-down and bottom-up, and in which any recommendations addressed to States or other actors are provisional, subject to the reservation that other ways of making progress towards agreed upon objectives may in fact be more appropriate in certain settings, and that the objectives are amenable to change.<sup>61</sup>

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<sup>60</sup> The first version of the *Global Strategic Framework for Food Security and Nutrition* was adopted at the 39th session of the CFS, held in Rome between 15 and 20 October 2012.

<sup>61</sup> There is an ample literature on learning in organizations on which this paragraph draws, and to which my contribution to the reform process of the CFS was heavily indebted. See in particular for a discussion of various learning-based theories of governance, REFLEXIVE GOVERNANCE: REDEFINING THE PUBLIC INTEREST IN A PLURALISTIC WORLD (Olivier De Schutter & J.

## VI. Conclusion

The reform of the Committee on World Food Security is, in many ways, characterized by a high level of ambition. In order to align trade and investment, development cooperation and food aid, with the realization of the right to adequate food, it seeks to bring together not only governments, but a wide range of international agencies who should agree on a common agenda of action: the objective is, ultimately, to avoid repeating the failures of the past, where a lack of convergence across these different policy areas frustrated the achievement of outcomes. In order to improve monitoring and accountability, the reform encourages a modest form of peer review, by the exchange of regional and country experiences, and by the adoption of guidelines brought together in the *Global Strategic Framework for Food Security and Nutrition*. In order to build legitimacy and improve the quality of the information on the basis of which decisions are made, the reform involves civil society organizations. This also ensures that the positions adopted by governments shall be known, and their conduct assessed according to the standards they profess publicly to set for themselves. A new breed of international governance is emerging, in which civil society, the private sector, international agencies, are co-authors with governments of international law.

But for all its ambitions, the reform of the CFS is still most remarkable for its modesty: its procedures make it into a searching mechanism, seeking to learn from both successes and failures, and involving those most affected by food insecurity, in order to identify true solutions. While overcoming the current fragmentation of international law and global governance is a necessary condition for supporting the realization of the right to food at domestic level, it shall not be sufficient: it must be complemented by a constant search for experiments that work. If, combining monitoring with learning, the CFS can become a tool for convergence of policies as well as a learning platform for governments, it shall have succeeded.

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Lenoble eds., 2010). For an illustration of the how such an approach can shed light on the approach of an international organisation, see EXPERIMENTALIST GOVERNANCE IN THE EUROPEAN UNION: TOWARDS A NEW ARCHITECTURE (Ch. F. Sabel & J. Zeitlin eds., 2010). While learning can consist in one actor simply improving the instruments he uses to pursue certain objectives, "double-loop" learning consists, as already noted, in the objectives themselves being re-examined (see above, text corresponding to note 60); "triple-loop" learning would consist in an actor rethinking the core values by which he defines his identity and project. On "triple-loop" learning, see JOOP SWIERINGA & ANDRÉ F.M. WIERDSMA, BECOMING A LEARNING ORGANIZATION (1992).