

# THIRD WORLD *Economics*

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## WTO urged to remove restraints on public food stockholdings

Ahead of the WTO's Ministerial Conference in Bali this December, an expert report has called on the trade body to remove constraints on developing-country governments' ability to acquire food stocks for food security purposes. Drawn from discussions among a group of eminent trade experts from developing countries, the report points out that existing WTO rules on agriculture trade unduly narrow the scope for implementing such public stockholding programmes, which are an important means of achieving food security and supporting poor farmers.

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# Experts stress importance of public stockholding for food security

Developing-country governments should be allowed to acquire food stocks for food security purposes without being restrained by inequitable WTO farm trade rules, an expert report advocates.

by Kanaga Raja

GENEVA: A group of eminent trade experts from developing countries has highlighted the importance of public stockholding for food security, and the need to correct some of the imbalances in the present rules on agricultural subsidies in the World Trade Organization (WTO).

The views of these eminent experts are reflected in a report titled "The WTO's Bali Ministerial and Food Security for Developing Countries: Need for Equity and Justice in the Rules on Agricultural Subsidies", drawn from discussions at two expert group meetings organized by the Geneva-based South Centre.

The eminent experts included Rubens Ricupero [former Secretary-General of the United Nations Conference on Trade and Development (UNCTAD)], S. Narayanan (former Ambassador of India to the WTO), Ali Mchumo (former Managing Director of the Common Fund for Commodities and former Ambassador of Tanzania to the WTO), Li Enheng (Vice Chairman, China Society for WTO Studies), Carlos Correa (Professor, University of Buenos Aires), Deepak Nayyar (Vice Chair, Board of South Centre, former Vice Chancellor of Delhi University and former Chief Economic Advisor to Government of India), Yilmaz Akyuz (Chief Economist, South Centre, former Director of UNCTAD's Globalization and Development Strategies Division) and Chakravarthi Raghavan (Editor Emeritus of the *South-North Development Monitor*).

### Constraining condition

According to the report, released by the South Centre on 14 November, an important issue for the WTO's upcoming ninth Ministerial Conference in Bali relates to one significant aspect of food security for developing countries, brought up in a proposal by the Group of 33 (G33) developing countries within

the framework of the Doha Round multilateral trade negotiations.

The report noted that under the WTO Agreement on Agriculture, public stockholding for food security purposes is included as one of the items under the Green Box, but with certain conditions. The Green Box (described in Annex 2 of the Agreement on Agriculture) sets out domestic support measures that are considered minimally or non-trade-distorting, and WTO member states are allowed to take recourse to these measures without limitations. In fact, government spending under these measures can be increased to any extent.

However, said the report, in the case of public stockholding, a significant condition has been attached, causing enormous problems to developing countries.

The South Centre report explained that one condition is that food purchases by the government shall be made at current market prices and sale from public stockholding shall be made at prices not lower than current domestic market price. It is also stipulated in this context that the difference between the procurement price and the external reference price should be accounted for in the calculation of the Aggregate Measurement of Support (AMS), or so-called "trade-distorting domestic support."

According to the report, this stipulation negates the objective of including "public stockholding for food security purposes" in the Green Box, since effectively the difference between the procurement price and the external reference price is treated as a subsidy to the farmer and included in the AMS. This negation of the objectives of the Green Box in respect of public stockholding is especially so because the external reference price has been defined as the international price prevalent on average in 1986-88. Noting that food prices internationally, as well as domestically, have increased very significantly since then, the report says: "Thus, this stipulation

limits the ability of developing countries to implement schemes to assist their small farmers."

The main element of the G33 proposal is that acquisition of stocks of food-stuff by developing countries with the objective of supporting low-income or resource-poor producers should not be included in the calculation of the AMS, the report underlined.

"The G33 proposal, if adopted, would thus enable developing countries to formulate or implement such schemes to help their poor producers or families without the present restraints placed by the WTO agriculture rules. It would advance the cause of national food security, promotion of small farmers' livelihoods as well as fulfilling the Millennium Development Goals of reducing hunger and poverty."

The eminent experts thus consider this proposal "to be worthy of support and of great importance in contributing to the success of the WTO's 9th Ministerial Conference and to the reputation of the WTO as an organization that is concerned with development and poverty reduction."

### Important policy tool

Highlighting the importance of public stockholding programmes in developing countries, the report stressed that the acquisition of food stocks has always been an important instrument for development and was also used by many developed countries during their development process.

According to the report, it remains an important policy tool for developing countries for the following reasons:

(1) In the face of volatility of food stocks on the global market today and fluctuations in global food prices, building national reserves has been widely acknowledged to be a critical part of developing countries' food security strategy. Today's global food market is structurally different from the market when the Uruguay Round trade negotiations were completed. In the 1990s and early 2000s, food on the global market was cheap and stocks were plentiful. It is no longer so.

(2) Acquiring surpluses from some regions of the country and sending these supplies to other regions of the country that are in food deficit has been and remains an important food security instrument for developing countries.

(3) Many developing countries con-

tinue to struggle with widespread rural poverty. At least 1.5 billion individuals depend on small-scale farming for their livelihoods. This remains a major issue especially when the share of the population engaged in agriculture continues to be significant and the industrial or services sectors cannot provide sufficient employment. For broad-based development to take place, countries must ensure that the living standards and purchasing power of the majority can be increased. Governments' programmes acquiring foodstuffs at administered prices are therefore an important avenue whereby resource-poor farmers' incomes can be stabilized and even guaranteed.

(4) Article 11 of the International Covenant on Economic, Social and Cultural Rights imposes on states three levels of obligations in the realization of such right (to food): to respect existing access to adequate food, to protect and to fulfil the right to food; they "must facilitate it by proactively strengthening people's access to and utilization of resources and means to ensure their livelihood, including food security". The adoption of the G33 proposal will be instrumental to the realization of the human right to food. Preserving the current situation under the Agreement on Agriculture might in fact force WTO members to violate their human rights obligations.

### Discriminatory treatment

On the G33 proposal to correct the present treatment of public stockholding, the report noted that at present, "public stockholding for food security purposes" is included in the Green Box. There are many other items also in the Green Box, including measures to protect the environment and subsidies to farmers that are not directly tied to production, most of which are used by the developed countries, which provide very large amounts of subsidies under this Box.

WTO member countries are allowed to provide all these other Green Box subsidies without limit. Only in the case of public stockholding for food security purposes does the Agriculture Agreement place the condition that the difference between the acquisition price and the external reference price should be accounted for in the AMS.

The report said: "This treatment of the developing countries' support for public stockholding is discriminatory and there is thus much logic in the G33

proposal not to count this expenditure as part of the trade distorting subsidy which goes into the calculation of AMS. Just like the treatment for other Green Box measures such as decoupled supports, insurance, environmental protection and other support instruments provided by developed countries under the Green Box, Public Stockholding for Food Security Purposes should all the more be treated as a Green Box measure without any conditions attached to it."

It is important and pertinent to note that the G33's proposal (WTO document JOB AG/22 of 13 November 2012) is not a new proposal only recently formulated by the group. In fact, the proposal reproduces a part of the last version of the WTO's Doha agriculture modalities text of 6 December 2008 (TN/AG/W/4/Rev.4, Annex B). The text on this issue had been included by the chair of the agriculture negotiations in this modalities draft, without square brackets, denoting that it enjoyed consensus and that the text on this issue was already "stabilized".

"The G33 proposal therefore is being put forward as a text that had already been agreed to by the membership, and that should be part of an 'early harvest' of the Doha work programme," said the report.

The South Centre report added that the G33 proposal would also provide a solution for the discrimination in the way the Agreement on Agriculture rules stipulate how the AMS is to be calculated when developing countries undertake public stockholding programmes.

The present formula in the Agreement leads to an artificial and inflated figure, making it very difficult for developing countries to provide for or to implement these programmes in an adequate manner or to an adequate extent. The reason for this problem is that prices of agricultural commodities, especially staple foods, and including vegetables and meats, have increased manifold, in some cases by three or four or more times, compared to the period when the Uruguay Round was negotiated. Yet the benchmark used to calculate the AMS supports as stipulated by the Agreement is still the prices of 1986-88.

Thus, said the report, there would be a very significant difference between the prices at which the government presently purchases food items from the farmers or the traders, and the reference prices which are based on 1986-88 levels.

“Such large price differences would be used to count the amount of subsidies. With this type of calculation, which is clearly unfair, the government schemes could easily exceed the maximum level of AMS or any *de minimis* that the developing countries could have.”

This is especially because most developing countries declared zero or low amounts of AMS in their Uruguay Round schedules, as they were too poor to provide subsidies in the past periods and their negative support was not reflected in their AMS schedules. Thus, many of them have to rely on the *de minimis* subsidies (which are limited only to 10% of the production value for the majority of developing countries, and 8% in the case of China).

According to the report, the G33 proposal sidesteps these problems by making developing countries' public stockholding programmes a Green Box measure without any conditions, thereby bringing this Green Box measure in line with other Green Box measures largely used by developed countries. This implies that the developing countries will not have to restrict their public stockholding programmes fearing that they may breach their 10% *de minimis*.

“At a systemic level, the proposal in its original form, if accepted, would have injected a small dose of ‘equity’ in the Agreement on Agriculture,” said the report.

### “Triple jeopardy”

It noted that the Green Box is a major and glaring loophole created in the Agreement on Agriculture to the benefit of the developed countries. The Green Box allows countries to provide a range of support programmes in agriculture, and these supports can be provided without limits. However, the programmes elaborated upon under the Green Box are those provided by developed countries. They include direct payments to producers, decoupled income support (supports given to landowners whether or not they produce as these subsidies are not tied to production); insurance payments of various forms and structural adjustment assistance to retiring producers or resource retirement programmes.

The programmes that developing countries provide – government purchases from producers at administered prices – though included in the Green Box, have to be “counted” under a country's AMS, if the administered price is more than the external reference price, determined on the basis of 1986-88

prices.

“Thus, the current Agreement on Agriculture imposes a triple jeopardy on developing countries.” First, a subsidy is alleged when foodstuffs are procured from low-income or resource-poor producers at an administered price by artificially comparing this price with 1986-88 prices. “This is most inappropriate.”

Second, in some cases, the subsidy is calculated on the total production and not on the quantity actually procured, which also inappropriately magnifies the amount of the alleged subsidy.

Third, this alleged subsidy is required to be counted as a trade-distorting subsidy, whereas huge and real subsidies given by developed countries to their farmers under similar or equivalent programmes are not to be counted as a trade-distorting subsidy.

This inequity in the rules is further compounded by the fact that most developing countries bound themselves at zero AMS in the Uruguay Round (this was the case for 61 out of 71 developing countries when the WTO came into effect), said the report.

Since then, it added, most acceding developing countries have also had to bind their AMS at zero. Those developing countries which have declared providing some AMS in fact only provided very small amounts due to their fiscal limitations. As a result, developing countries effectively bound themselves to not being able to provide “trade-distorting” (AMS) domestic supports aside from the *de minimis* amount.

In stark contrast, developed countries in the Uruguay Round declared high levels of AMS. Their Uruguay Round commitment was a reduction of AMS supports by only 20% over the implementation period of six years (1995-2001). Since 2001, there is no commitment for them to reduce their AMS. After reductions, at the end of its Uruguay Round implementation, the US has a bound AMS ceiling of \$19 billion. The EU (27) has a bound AMS ceiling of 72 billion euros.

Since the understanding in the Uruguay Round is that the developed countries would have to progressively reduce their AMS, “there has been a move by the major developed economies to shift more of the supports to the Green Box, while maintaining very high levels of their overall subsidies”, said the report.

WTO data show that the total domestic support of the United States grew from \$61 billion in 1995 (of which \$46 billion was in the Green Box) to \$130 billion in 2010 (\$120 billion in the Green Box).

The European Union's domestic support went down from 90 billion euros in 1995 (19 billion euros in the Green Box) to 75 billion euros in 2002 and then went up again to 90 billion euros in 2006 and 79 billion euros in 2009 (of which 64 billion euros was in the Green Box).

A broader measure of farm protection, known as total support estimate, which is used by the rich-country OECD grouping in its reports on agricultural subsidies, shows the OECD countries' agriculture subsidies soared from \$350 billion in 1996 to \$406 billion in 2011.

“In sum, while those developing countries declaring zero trade distorting domestic supports were locked into providing zero amounts of supports apart from the 10% *de minimis* product-specific AMS, developed countries providing large amounts of AMS could still continue doing so with a 20% reduction, while also moving large parts of the subsidies to the Green Box.”

### Peace clause

The South Centre report noted that during the negotiations at the WTO, several WTO members, mostly developed countries, have argued against the G33 proposal, with some stating that it might lead to a distortion of trade. They have sought to drastically narrow the scope of the proposal and to attach many conditions. One of the suggestions is to provide an interim measure, in particular a peace clause (i.e., that there be no dispute settlement cases taken against a country undertaking public stockholding) for a limited period, e.g., two or three years.

“The prevention of a permanent solution along the lines of the G33's original proposal would lead to a lost opportunity to [attain] some small amount of re-balancing to an iniquitous Agreement,” said the report.

If such an interim peace clause solution is accepted, it should only expire upon the conclusion of the agricultural negotiations mandated under Article 20 of the Agreement on Agriculture in accordance with paragraph 13 of the Doha Ministerial Declaration and a permanent solution along the lines of the original G33 proposal has been found.

It should also not be accompanied by cumbersome conditions that would reduce its usefulness when it is put into operation. In addition, the peace clause should cover any dispute arising from the Agreement on Agriculture as well as the Agreement on Subsidies and Countervailing Measures, the report concluded. (SUNS7697) □

# Rights expert charts progress on right to food

Recognition of the right to food is key to combating hunger and food insecurity, says a UN rights expert.

by Kanaga Raja

GENEVA: In his final report to the UN General Assembly, the UN Special Rapporteur on the Right to Food, Olivier De Schutter, has highlighted an "emerging global right to food movement", focused over the past 10 years on the practical aspects of realizing the right to adequate food through appropriate legal, policy and institutional frameworks.

In his report, the Special Rapporteur stressed that the emergence of such a global right to food movement is an opportunity to be seized.

"Together with the adoption of framework laws on the right to food and of rights-based national food strategies, it represents a chance to move towards policies that are designed in a more participatory fashion and therefore better informed and reach all intended beneficiaries; that guarantee legal entitlements and are therefore monitored by the beneficiaries themselves; that ensure the appropriate coordination and synergies – between the short-term aim of eradicating hunger and the long-term objective of removing its causes, between different sectors of government, and between the local and the national levels."

After serving six years as Special Rapporteur, De Schutter's final report takes stock of important progress made since the 1996 World Food Summit, highlighting emerging best practices and the role of key actors: governments, parliaments, courts, national human rights institutions, civil society organizations and social movements.

"The right to food has come to the fore as Governments realize that their efforts to combat food insecurity and hunger have been failing and realize the urgent need to strengthen national legal, institutional and policy frameworks," he said.

The report was based on expert meetings convened by the Special Rapporteur to assess progress made in Latin America and the Caribbean, Eastern and Central Africa, and West Africa, as well as 11 country visits that he undertook since the beginning of his mandate.

The Special Rapporteur said he further benefited from replies to a question-

naire sent on 5 February 2013 to all United Nations member states.

## Operational tool

In his report, De Schutter noted that at the time of the adoption of the International Covenant on Economic, Social and Cultural Rights, the right to food was more than a symbol, but hardly more than an aspiration.

"It has now become an operational tool and widely recognized as a key to the success of food security strategies."

According to the Special Rapporteur, the right to food has more to do with modes of production and issues of distribution than with levels of food production alone.

"It primarily aims to guarantee to each person, individually or as part of a group, permanent and secure access to diets that are adequate from the nutritional point of view, sustainably produced and culturally acceptable. Such access can be ensured through three channels that often operate in combination: (a) self-production; (b) access to income-generating activities; and (c) social protection, whether informally through community support or through State-administered redistributive mechanisms."

As such, De Schutter added, depending on the population concerned, the right to food is closely related to the right of access to resources such as land, water, forests and seeds, that are essential to those who produce food for their own consumption; the right to work, guaranteed under Article 6 of the International Covenant on Economic, Social and Cultural Rights; and the right to social security, protected under Article 9 of the Covenant.

The contribution of the right to adequate food to the eradication of hunger and malnutrition operates at three levels, said De Schutter.

First, as a self-standing right recognized in international law and in a range of domestic constitutions, it imposes on states obligations to respect, protect and fulfil the right to adequate food.

Second, the right to food encourages the transformation into legal entitlements of social welfare benefits that individuals or households receive under governmental food security schemes.

Third, the right to food requires that states adopt national strategies to progressively realize the components of the right to food that cannot be immediately guaranteed.

"The significant progress achieved at each of these levels in recent years has been brought about by the interplay of different actors, including courts, parliaments, governments, national human rights institutions, civil society and social movements."

The report underlined that the right to food is increasingly stipulated in domestic constitutions, as recommended by Guideline 7 of the Right to Food Guidelines.

For example, in 1994, South Africa included the right to food in Article 27 of the post-apartheid Constitution. Other countries have followed suit. The new Constitution of Kenya, approved by a popular referendum in 2010, states the right of every person "to be free from hunger and to have adequate food of acceptable quality"; like that of South Africa, the Constitution imposes on the state a duty to respect, protect, promote and fulfil that right.

A 2011 study identified 24 states in which the right to food was explicitly recognized, although in about half of them, it was recognized for the benefit of a particular segment of the population only, such as children, and sometimes through another human right such as the right to life.

Since that study was completed, Articles 4 and 27 of the Constitution of Mexico were amended in order to insert the right to food. In El Salvador, Nigeria and Zambia, processes of constitutional revision are under way that may lead to insertion of the right to food in the respective Constitutions.

In other countries, such as Uganda and Malawi, ensuring access to adequate food and nutrition is defined as a principle of state policy.

These are not symbolic advances, De Schutter stressed, noting that victims of violations are entitled to "adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition".

"The recognition of the right to food in domestic law empowers courts or other independent monitoring bodies to impose compliance with the obligations of the State to respect, to protect and to fulfil the right to food. Significant

progress has been made in this regard in recent years."

### State obligations

According to the report, the obligation to respect requires that the state refrain from interfering with the existing levels of enjoyment of the right to food and that it guarantee existing entitlements, for instance, by ensuring that those who produce their own food be secure in their access to the resources, including land and water, on which they depend, or by ensuring that those who could have access to income-generating activities allowing them to purchase food are not denied such access.

Courts are generally well-equipped to enforce this obligation, said De Schutter, citing several rulings in this regard. For example, he noted that the High Court of South Africa ordered a revision of the Marine Living Resources Act, requiring the development of a new framework taking into account "international and national legal obligations and policy directives to accommodate the socioeconomic rights of [small-scale] fishers and to ensure equitable access to marine resources for those fishers". This resulted in the adoption of a new Small-Scale Fisheries Policy in May 2012, which recognizes the importance of small-scale fisheries in contributing to food security and as serving as a critical safety net against poverty.

In Honduras, the Sectional Court of Appeal in San Pedro Sula granted a constitutional remedy in the *Brisas del Bejuco* case in order to prevent the eviction of a group of small-scale farmers, referring to the obligation of the state to protect the right to food under the International Covenant on Economic, Social and Cultural Rights.

The African Commission on Human and Peoples' Rights has protected the resources on which the Ogoni people depend for their livelihoods against the damage caused by oil companies operating on their territories, a position reaffirmed in 2012 by the Court of Justice of the Economic Community of West African States.

"In all these cases, courts or quasi-judicial bodies have protected the right to food by prohibiting actions that would undermine the ability of individuals and communities to produce their own food," said the Special Rapporteur.

According to the report, the obliga-

tion to protect requires that the state protect individuals' enjoyment of the right to food against violations by third parties (namely, by other individuals or groups or private enterprises), including by establishing an adequate regulatory framework.

Courts too may play a role by intervening where private actors violate the right to food. For instance, in a case on which the Special Rapporteur said he wrote a letter of allegation, the High Court of Uganda at Kampala ordered on 28 March 2013 that compensation be paid to 2,041 individuals who had been evicted from their land in August 2001, when the government of Uganda gave the land to a German company to establish a coffee plantation.

On the question of the obligation to fulfil, De Schutter noted that it is sometimes believed that, owing to the fact that certain dimensions of the right to adequate food can be realized only progressively, courts have no role to play in adjudicating claims concerning the alleged insufficiency of measures adopted by the state to discharge this third-level obligation.

"This betrays a fundamental misunderstanding about the notion of progressive realization. Progressive realization is the opposite of passivity. It requires immediate steps that are deliberate, concrete and targeted and that aim to 'move as expeditiously and effectively as possible' towards the full realization of economic, social and cultural rights," he said.

The Special Rapporteur pointed out that in situations of natural disaster or conflict, or "whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly".

This component of the right to food has been invoked successfully before courts in recent years. In Nepal, the Supreme Court issued an interim order in 2008 for the immediate provision of food in a number of districts that food distribution programmes were not reaching, confirming and extending its initial order on 19 May 2010.

In May 2013, a juvenile court in Guatemala ordered 10 government institutions to adopt a set of 26 specific measures to compensate damages caused to five children in two villages of Camotan, who were left malnourished as a result

of the state's failure to provide support. The order was based on the 2005 Food and Nutrition Security Law and Guatemala's obligations under the International Covenant on Economic, Social and Cultural Rights.

"Where the situation of individuals or communities is so desperate as to condemn them to hunger unless they are given support, courts routinely have relied on the right to life to impose such obligations to provide," said the report.

Despite the significant progress made in recent years, some dimensions of the right to food remain underdeveloped.

This is especially the case as regards its extraterritorial dimensions, said De Schutter, adding that "the mechanisms allowing victims of violations of the right to food in extraterritorial situations are often non-existent or hardly accessible in practice".

### Legal entitlements

According to the report, policies aimed at eradicating hunger and malnutrition that are grounded in the right to food shall redefine as legal entitlements benefits that have traditionally been seen as voluntary handouts from states.

The right to food requires that schemes providing benefits, whether guaranteeing access to food or promoting agricultural and rural development and national social protection floors, be consolidated into legal entitlements, clearly identifying the beneficiaries and providing them with access to redress mechanisms if they are excluded.

Courts may contribute to strengthening benefits into legal entitlements, said De Schutter, citing, for example, that following the filing of a public interest litigation petition, the Supreme Court of India derived from the right to life mentioned in Article 21 of the Constitution a series of requirements articulating how various social programmes should be expanded and implemented in order to ensure that the population is guaranteed a basic nutritional floor.

"This is to this date the most spectacular case of a court protecting the right to food," said the Special Rapporteur.

He noted that the Court prohibited the withdrawal of the benefits provided under existing schemes, including feeding programmes for infants, pregnant and nursing mothers and adolescent girls; midday school meal programmes;

pensions for the aged; and a cash-for-work programme for the able-bodied, thus converting such benefits into legal entitlements.

Moreover, the Court expanded on and strengthened existing schemes, to ensure that they provide effective protection against hunger. For instance, it ordered that school meals be locally produced and be cooked and hot, whereas in the past children were fed with dry snacks or grain, and that preference be given, in the hiring of cooks, to Dalit women; it raised the level of old-age pensions; and, consistent with the idea that the schemes implement a constitutional right, it ordered their universalization, significantly expanding the number of beneficiaries.

To supervise the implementation of its orders, the Court also established two independent Commissioners to monitor the implementation of programmes fulfilling the right to food throughout the country.

Providing a legal framework to public programmes that aim to ensure food security may strengthen these programmes and ensure that they are maintained across time. The recent developments following the "right to food case" in India provide an example, said the rights expert.

On 5 July 2013, he noted, the government adopted the National Food Security Ordinance, based on a legislative bill initially tabled in 2011. This new legislation is aimed at ensuring access to food throughout the life cycle for two-thirds of the population of India through a combination of a variety of programmes that will henceforth be considered legal entitlements, making their removal unlikely even if political winds change.

Further noting that the National Food Security Ordinance could be further improved, De Schutter said: "The Ordinance nevertheless provides an example of a food security law that defines as legal entitlements a large range of benefits that are aimed at ensuring that people are not denied access to food simply because they are poor, and establishes a set of accountability mechanisms at different levels."

Although "remarkable", the example is of course not isolated, he said, adding that in fact, in most countries, social protection schemes and support to food producers are provided for in the law, and lack of implementation can be remedied by courts.

"Latin America has been leading the movement towards the adoption of

framework laws in support of the realization of the right to food. Food and nutrition security laws grounded in the right to food have been adopted in rapid succession in Argentina (2003), Guatemala (2005), Ecuador (2006 and 2009), Brazil (2006), Venezuela (2008), Colombia (2009), Nicaragua (2009) and Honduras (2011)."

Similar laws are currently being considered in Bolivia, Costa Rica, the Dominican Republic, El Salvador, Haiti, Panama, Paraguay and Peru.

"The remarkable progress achieved over the past decade in Latin America is the result of the combined efforts of civil society, social movements, parliamentarians and national human rights institutions," said De Schutter, adding that the dedication of parliamentarians is particularly noteworthy.

Progress is being made on this front in other regions as well. In Malawi, for example, a proposal was made by civil society organizations in 2010 for a national food security bill. In Mozambique, the Technical Secretariat for Food and Nutritional Security, an inter-ministerial coordination body, led an inclusive process to the same effect.

In Uganda, the Nutrition Action Plan 2011-2016 mentions the need to fast-track the adoption of the Food and Nutrition Bill, which should lead to the adoption of a Food and Nutrition Council. Senegal and Mali, in 2004 and 2006 respectively, adopted framework laws that are centred on the establishment of agricultural policies, allowing farmers' organizations to contribute to the design of such policies.

In Indonesia, a Food Law (18/2012) was passed in November 2012 where the right to food, food sovereignty and food self-sufficiency are important pillars; a national food security agency should be established before 2015.

### Ingredients of success

"The increasing recognition of the importance of a legal and policy framework grounded in the right to food reflects a growing understanding that hunger is not simply a problem of supply and demand, but primarily a problem of a lack of access to productive resources such as land and water for small-scale food producers; limited economic opportunities for the poor, including through employment in the formal sector; a failure to guarantee living wages to all those who rely on waged employment to buy their food; and gaps in social protection."

De Schutter said that the remarkable success of Brazil in reducing child malnutrition rates over the past 15 years bears witness to the power of strategies such as "Zero Hunger" and participatory approaches.

Beyond that example, the report said that recent research shows that countries that have made significant progress in reducing malnutrition present a number of common characteristics:

(1) they sought to adopt a multi-sectoral approach to combating hunger and malnutrition;

(2) in almost all cases, the political impetus at the highest level of government was a key factor;

(3) civil society participation and empowerment were essential, contributing to the sustainability of policies across time and improving their acceptance and impact among affected populations;

(4) multi-phased approaches were the most effective, as allowed by multi-year national strategies combining both short-term interventions and long-term approaches to nutrition;

(5) the establishment of institutions monitoring progress ensured that the political pressure remained present throughout the implementation phase of the strategy and that the resources were committed;

(6) the continuity of financial investment from national resources, supplemented with external matching funds, was vital: one-time efforts, over short periods, failed to achieve significant impact.

These are the ingredients of success that approaches grounded in the right to food provide, said the rights expert, adding that all branches of government – legislative, executive and judiciary – have a responsibility to contribute to this implementation.

As illustrated by the range of examples, he said, the protection of the right to food requires a legislative framework, policies implementing food security strategies, and enforcement through judicial means.

Yet, even that may not suffice. Various veto points may make it difficult for political systems to create the requisite conditions for accountability. The poor are often a constituency that matters less to politicians. The poor may experience considerable difficulties in accessing judicial redress mechanisms, which is why social audits matter.

The role of other actors, national human rights institutions and civil society, is therefore essential, De Schutter concluded. (SUNS7690) □

## Sustainability standards on right to water bear meaning for finance

A UN report on sustainability in the realization of the rights to water and sanitation raises issues relating to, among other areas, finance, investment and fiscal policy.

by Aldo Caliari

WASHINGTON: The latest report by the UN Special Rapporteur on the Right to Water and Sanitation, Catarina de Albuquerque, focuses on the theme sustainability and non-retrogression in the realization of the rights to water and sanitation.

The report offers useful and welcome guidance for those seeking to draw meaning from the human right to water on the areas of finance, investment and other related economic ones. Some of its developments will arguably be useful beyond the right to water, charting a path for how to draw such meaning in the case of other rights.

The Rapporteur connects the notion of sustainability to both the obligations of progressive realization and non-retrogression in the realization of human rights.

According to the Rapporteur, financing challenges pose a significant threat to sustainability: "Underfunding is a present-day issue and a major restriction on the ability to provide sustainable water and sanitation, one that is exacerbated during times of crisis."

### Retrogressive austerity measures

About non-retrogression, the report considers that measures that directly or indirectly lead to backward steps in the enjoyment of human rights are most frequently imposed in times of financial or economic crisis.

This is probably why the UN Committee on Economic, Social and Cultural Rights addressed retrogression mainly in the context of decisions by states to adopt austerity measures that may have a negative impact on the realization of human rights.

Those are deliberately retrogressive measures but the report calls attention to measures that, even if not deliberately regressive, may have a retrogressive effect.

This is the case, for instance, "where States fail to ensure adequate operation and maintenance, where they fail to implement adequate mechanisms for regulation, monitoring and sector over-

sight, or where they fail to build and strengthen their capacity in the long term."

Where States reduce spending on water and sanitation, this can have negative consequences for sustainability, in both growth and crisis periods.

The report underscores that the poorest are the ones that suffer the most from cuts in public spending. This is because they are the ones "who tend to receive a higher proportion of their income from social security benefits, rely heavily on public services, and spend a higher proportion of their income on basic services".

Against this backdrop, the report mentions that since 2010, cuts in public expenditure have been the most common reaction to the crisis in Europe, giving the examples of Ireland, Greece, Portugal and Spain, with decreased public expenditure programmes introduced at the request of the European Central Bank, the European Commission and the International Monetary Fund.

Insufficient budgeting is another area where the sustainability dimension is relevant to apply. The Rapporteur finds that lack of national budgeting that incorporates a long-term perspective and in particular operation and maintenance costs, jeopardizes sustainable provision.

Crisis might affect sustainability through another channel: official development assistance. The Rapporteur refers to OECD figures showing that aid in the last year dropped for the first time since 1997. While water and sanitation sectors have not been as affected by decreasing aid commitments as other sectors, commitments to sanitation and water were already lower than those for most social sectors.

In a section discussing non-state service provision models, she raises some issues regarding provision by the private sector. One of them is lack of investment by the private sector.

As mentioned in a submission by RightingFinance (<http://www.rightingfinance.org/wp-content/uploads/2013/05/Read-full-document.pdf>), "growing financialization of the world

economy witnessed in the last decades, while accompanied by a lower share of participation of wages in GDP, was also accompanied by a lower share of participation of investment in GDP. This confirms the finding that profit growth does not necessarily translate into increases in investment."

The Rapporteur asserts: "Often profits made by private operators are almost fully distributed among shareholders, rather than being partially reinvested in maintaining and extending service provision, the result being increased prices for consumers, continued need for public investment, and potentially unsustainable services."

Another issue concerns the lack of participation and accountability.

"Once the decision to privatize has been made, and especially in the context of economic crisis, the process of selling the assets often does not include sufficient opportunities for meaningful public participation," she says.

Indeed, participation deficits tend to be exacerbated in times of crisis, where "the State seeks to avoid the financial costs of participation and is under time pressure to adopt austerity-related measures."

The Rapporteur reminds states that they are never exempted from their human rights obligations, including the duty to give people the opportunity to pronounce themselves on issues that concern them.

Concrete consequences that the lack of respect for this principle may carry are that the state misunderstands the barriers to access, and fails to pinpoint how these barriers might be overcome, or that resulting policy choices might simply be unacceptable to the people they aim to serve.

### Maximum available resources

In a section on recommendations, the Rapporteur draws implications of the principle of maximum available resources for both good and bad times.

"Human rights standards demand that States invest the 'maximum available resources' in the sectors," she says.

"In times of prosperity, spending on water and sanitation has to include planning, independent monitoring, establishment of accountability mechanisms, and operation and maintenance, so as to enable the progressive realization of the rights even during times of crisis, hence preventing slippages and retrogression."

Incorporating teachings from the

Committee on Economic, Social and Cultural Rights' interpretation of this principle, she also draws the conclusion that "it is important to assess whether maximum available resources are truly being devoted to the sectors by examining the national allocation of funds to areas such as the military, bailouts for banks, and the construction of infrastructure for the hosting of mega-events, as well as the amount of funds lost due to the toleration of corruption."

This is an important aspect also raised by Righting Finance members in their submission, where they called for the assessment of state responsibility for measures taken in times of crisis to not "cease at the point of the crisis response measure(s) in question but [to] extend into and inquire about how the State reached such situation. States may face a budget crisis due to their failure to appropriately set in place mechanisms that could have reasonably been in place to avoid the use of budgetary resources for large bailout of private financial institutions or private creditors. In this regard, the maxim that 'no one can be heard to invoke his own turpitude' becomes relevant."

The report emphasizes also the fis-

cal policy implications: "[T]imes of crisis per se do not inevitably lead to regressions in implementing the rights to water and sanitation. Fiscal austerity can be achieved not only by cutting government spending, but also by increasing government revenue. From a human rights perspective, a crucial question is how such revenue is raised."

The Rapporteur adds that mobilizing tax revenue, in an appropriately targeted manner, is the responsibility of governments, and a way of implementing their human rights obligations.

This is also a premise of the Special Rapporteur on Human Rights and Extreme Poverty's decision to focus her report of next year on fiscal and tax policy and human rights.

Albuquerque further proposes methods such as assessing the effective tax rate (or tax to gross domestic product ratio) to provide indicators for reviewing and benchmarking states, identifying failures in their efforts to mobilize resources to meet the need for a water and sanitation sector that is sustainable for all, forever. (SUNS7691) □

*Aldo Caliari is Director, Rethinking Bretton Woods Project, Center of Concern, Washington DC.*

## Poverty and racism inextricably linked, says UN expert

Another UN rights report examines the vicious cycle between poverty and racial discrimination. *Kanaga Raja* highlights its main findings.

GENEVA: Racial or ethnic minorities are disproportionately affected by poverty, and the lack of education, adequate housing and healthcare transmits poverty from generation to generation, a United Nations rights expert has said.

In his report to the UN General Assembly, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, was of the opinion that the issues of poverty and racism are inextricably linked.

As has been emphasized in the Durban Declaration, he said, "poverty ... [is] closely associated with racism ... and contribute[s] to the persistence of racist attitudes and practices which in turn generate more poverty".

Ruteere said that as the previous Special Rapporteur on racism underlined in his report to the General Assembly in 2009, "racial or ethnic minorities

are disproportionately affected by poverty, and the lack of education, adequate housing and health care transmits poverty from generation to generation and perpetuates racial prejudices and stereotypes in their regard."

In his report, the Special Rapporteur welcomed the efforts and initiatives undertaken by various states to prohibit discrimination and segregation and to ensure full enjoyment of civil, cultural, economic, political and social rights for all individuals and groups.

He noted that certain groups and individuals, including people of African descent, indigenous peoples, minorities, Roma, Dalits and migrants, are still confronted with poverty and discrimination, especially in the enjoyment of their economic and social rights.

"The persistence of discrimination against those groups and individuals remains a challenge to the construction of

a tolerant and inclusive society, and only the guarantee of equality and non-discrimination policies can redress that imbalance and prevent those groups that are discriminated against from falling into or being trapped in poverty," Ruteere emphasized.

### Discrimination and poverty

In his report, the Special Rapporteur discusses the manifestations of poverty and racism in the areas of economic and social rights such as education, adequate housing and healthcare, and other rights affected in the link between racism and poverty, including the right to work in just conditions, social security, food and water.

According to Ruteere, poverty does not result only from an unequal sharing of resources. "Discrimination against groups and persons based on their ethnicity, race, religion or other characteristics or factors has been known to encourage exclusion and impoverish certain groups of the population who suffer from unequal access to basic needs and services."

Groups that are discriminated against, such as Afro-descendants, minorities, indigenous peoples, migrants and refugees, are disproportionately affected by poverty in all regions of the world.

"The complex relationship between racism and discrimination suggests that only the guarantee of equality and non-discrimination can redress that imbalance and protect such groups from falling into or being trapped in poverty," the Special Rapporteur stressed.

According to the report, a history of discrimination has left a large number of racial and ethnic groups in various parts of the world trapped in conditions of "chronic deprivation of resources" with limited choices and vulnerable to multiple violations of their rights.

In many parts of the world, race and ethnicity continue to be persistent predictors of poverty. The multi-generational nature of poverty, with successive generations inheriting the disadvantages of their predecessors, means that over the years poverty and deprivation have become part of the characterization of particular racial and ethnic groups trapped in poverty. This in turn fuels prejudice against those members of poor racial and ethnic groups, exacerbating the problems of racial discrimination.

For most racial and ethnic groups

living in poverty, said the rights expert, the formal provisions for non-discrimination are not sufficient to address the challenges they confront in the realization of those rights that would lift them out of their conditions of poverty.

"Their situation is that of multidimensional discrimination – as they are discriminated against for being poor and also on account of their race and ethnicity. The nature of this challenge requires much more than formal protections and calls for special measures."

Discrimination based on racial, religious, ethnic, linguistic and also socio-economic factors exacerbates the vulnerability of those persons and groups. This situation and furthermore the lack of participation of groups that are discriminated against in decision-making processes is often the result of historical legacies rooted in traditions.

The report said: "Their situation is primarily the consequence of historical systems of inherited status, and of the formalized exclusion of certain traditional populations in modern societies, sometimes encouraged by authorities. Thus, even in countries where resources are sufficient to ensure to the whole population adequate standards of living, those groups and individuals do not fully benefit from those resources."

#### "Perpetual marginalization"

The Special Rapporteur believes that it is the obligation of governments to prevent marginalization and to ensure protection as well as to guarantee the enjoyment of human rights for all, including the right to education, the right to adequate housing, the right to health or the right to food and safe water.

He noted that one of the reasons why groups that are discriminated against remain trapped in poverty is "the perpetual marginalization they suffer in terms of access to education", despite the obligation of states to realize this right for all without discrimination.

"Realizing the right to education for all children should be the cornerstone of strategies directed at reducing poverty and discouraging discrimination," he underlined.

He cited Minority Rights Group International as noting in 2009 that, of the 101 million children out of school and the 776 million illiterate adults, the majority are part of racial, ethnic, religious or linguistic minorities.

In many countries, the low enrolment rate of minority children is the re-

sult of official policies that fail to recognize the existence of minorities as part of the whole population and to take measures to ensure that they enjoy the rights guaranteed to every citizen.

The Special Rapporteur noted that, as a result of such discrimination, there is a lack of trust in the national educational system and some children tend to remain within their community rather than attend school and acquire skills that could eventually enable them to break the cycle of poverty.

He was also of the view that if discrimination in education reinforces poverty, poverty also fosters discrimination. Poverty is one of the causes of the low enrolment rates in schools of children from groups that are discriminated against.

The Special Rapporteur is convinced that the full enjoyment of the right to education is the prerequisite for the full enjoyment of other rights, such as the right to work, freedom of expression, or even the right to health.

"For groups that are discriminated against, education is crucial for preparing and equipping them with the skills to achieve economic and social mobility and consequently to break the cycles of multidimensional poverty and discrimination."

Ruteere noted that poverty and discrimination are often reflected in poor health status. Vulnerable and marginalized groups disproportionately face obstacles in accessing healthcare. Many inequalities in accessing adequate healthcare are related to social disparities and exclusion, themselves often the result of racism, xenophobia and other forms of intolerance.

First, from a geographical point of view, access to healthcare is often limited for those living in rural or economically remote areas and disparities sometimes result from laws, policies or programmes which intentionally or not concentrate services in urban areas. This can lead to decreased life expectancy and poor health conditions for minorities living in marginalized areas.

There is also a risk of mistrust in the official health services, due to stereotyping, but also due to the health service providers' lack of cultural knowledge of a particular cultural minority.

"Owing to their economic and social conditions, groups that are discriminated against are more exposed to health risks and diseases. They are more likely than others to live in polluted and environmentally degraded areas where the

risk of exposure to substance abuse, violence and infectious diseases is higher."

The Special Rapporteur also noted that racism and discrimination negatively affect the realization of the right to adequate housing for the marginalized groups.

"Legal insecurity of tenure for poor and marginalized ethnic and racial minorities in some cases forces some of the members of those communities to move to urban areas, where the only affordable housing is in informal and slum settlements with substandard housing conditions and the daily risks of eviction."

Adequate housing is also linked to safe drinking water and adequate sanitation, he said, adding that poor sanitation and unhygienic practices are the indirect results of discrimination and the marginalization suffered by racial minorities.

"Groups that are discriminated against, especially those living in rural or remote areas, experience disparities in terms of access to sanitation and drinking water. These further contribute to poor health outcomes for the poor racial and ethnic minorities."

#### Affected groups

The Special Rapporteur observed that the problem of disproportionate poverty among some racial and ethnic groups is prevalent in all regions of the world, and highlighted the situation of just some of those groups.

Highlighting that more than 200 million persons identify themselves as being of African descent, the Special Rapporteur noted that many of them "continue to face pernicious discrimination as part of the legacy of slavery and colonialism that still hinders them from fully participating in the decision-making process."

In North and South America, two regions characterized by great disparities, a disproportionate number of persons of African descent are affected by a lack of income, health services, quality of education and opportunities to attain well-being.

In the United States, in 2009, 25.8% of persons of African descent were living in poverty, whereas only 9.4% of non-Hispanic whites were living in poverty. In a similar trend, in Brazil, in 2006, 47% of people of African descent were living below the poverty line, as opposed to 22% of those classified as white.

Ruteere also noted that people of

African descent continue to suffer from discriminatory and consequently inadequate access to housing at various stages of the rental or sale process. In the United States, one in five individuals of an ethnic or racial minority experiences discrimination during a preliminary search for housing. Moreover, 46% of African Americans were owners in 2011, against 74% of whites.

For many persons of African descent, because of their low-income situation, the issue of food insecurity remains a significant challenge. In many countries, the situation is the result of unequal treatment but also of the economic situation. It is the case in Latin American countries where disparities of income and resources are high.

### Indigenous peoples

The Special Rapporteur further noted that, "as a result of historical and contemporary factors", indigenous peoples are part of a worldwide disadvantaged minority as they continue to face discriminatory practices deeply rooted in cultural structures and reinforced by industrial development.

While they constitute approximately 5% of the world's population – 370 million – indigenous peoples represent around one-third of the world's 900 million extremely poor rural people.

"This situation of marginalization is prevalent in all types of countries regardless of their level of development, as indigenous people consistently lag behind the non-indigenous population in terms of standards of living and development."

In this regard, he highlighted, for instance, that, as a result of geographical isolation and marginalization, indigenous children are less likely to access education in comparison to non-indigenous populations. For instance, in small indigenous communities in Southern Arnhem Land (Australia), up to 93% of the population is illiterate. In Ecuador, the illiteracy rate of indigenous peoples was 28% in 2001, compared to the national rate of 13%, while in Venezuela, the indigenous illiteracy rate (32%) was five times higher than the non-indigenous illiteracy rate (6.4%).

He asserted that the increasing expropriation of indigenous peoples' lands for economic purposes also reinforces their vulnerability in terms of their right

to adequate housing by affecting their ancestral culture, which is based on communal land and resources.

The Special Rapporteur cited the Department of Economic and Social Affairs as noting that there has been an upsurge in infrastructure development, particularly of large hydroelectric dams, oil and gas pipelines, and roads in indigenous territories; there has been a constant failure to consult the populations concerned first.

As a result of those development-driven displacements, many indigenous persons migrate to urban areas where they frequently live in poverty and face discrimination.

Ruteere also said that many indigenous people have inadequate food access and are exposed to high levels of malnutrition. For instance, in Latin America, malnutrition among indigenous children is twice as high as among non-indigenous children. In Ecuador, chronic malnutrition is more than twice as high in indigenous as compared to non-indigenous communities. In El Salvador, an estimated 40% of indigenous children under 5 are malnourished, compared to the national average of 23%.

Poor nutrition, discrimination and limited access to quality healthcare, and contamination of resources, also contribute to poor health conditions among indigenous peoples. Overall, the life expectancy of indigenous people is up to 20 years lower than that of non-indigenous people, and they also experience higher levels of maternal and infant mortality.

Turning to the Roma, the Special Rapporteur said that with an estimated population of 10 to 12 million, they represent one of the most important minority groups in Europe.

He observed that, in spite of efforts at both regional and national levels to improve the situation of the Roma, an unacceptably large percentage continue to live in poverty and suffer discrimination in virtually all aspects of life, including employment, healthcare, education and adequate housing.

On average, in 2011 in Europe, only one out of two Roma children attended pre-school or kindergarten and only 15% of young adults surveyed completed upper-secondary general or vocational education.

With regard to health, the Roma may be one of the most vulnerable

groups in Europe and their life expectancy is shorter than the rest of the European population. In 2011, one-third of Roma respondents aged 35 to 54 reported health problems limiting their daily activities and about 20% of respondents had no medical coverage.

The caste system continues to be the source of discrimination against the Dalits, who have a low hierarchical status according to tradition and beliefs, said the rights expert, adding that a disproportionate percentage of the Dalits live in abject poverty and face discrimination and exclusion at social, economic and political levels.

Most of the Dalits live in rural areas, and are often excluded from services only available in urban areas. It is estimated that less than 10% of Dalit households can afford safe drinking water, electricity and toilets, and approximately 75% are engaged in agricultural work, although many do not have their own land.

The Special Rapporteur also observed that the situation of migrants remains precarious and called for closer attention, particularly as many host countries continue to experience economic difficulties.

"In spite of measures taken by some States to integrate migrants and provide them with the opportunities to live a dignified life, many migrants continue to live in poverty and to experience discrimination in many areas of everyday life."

### Good practices

The Special Rapporteur however noted that states around the world have developed and implemented many good practices which can alleviate problems associated with the intersecting problems of racism and poverty.

These include collection of disaggregated data, programmes aimed at increasing education and educational opportunities, laws which protect disadvantaged groups generally and in labour markets, poverty alleviation initiatives, and special measures aimed at enhancing equality between all groups.

Amongst his recommendations, the Special Rapporteur invited member states to adopt comprehensive approaches for tackling the intersection of

*(continued on page 16)*

# Gamani Corea, dedicated servant of the development effort

*Chakravarthi Raghavan* remembers the “visionary and developmentalist” that was Gamani Corea, former head of the UN Conference on Trade and Development (UNCTAD).

GENEVA: Gamani Corea, world-renowned Sri Lankan economist, Secretary-General of the UN Conference on Trade and Development (1974-84), and former chairman of the Board of the South Centre, passed away after a brief illness in Colombo on 3 November, a day before his 88th birthday.

This writer came to know Corea well from about 1978. At that time, when the Geneva-based UNCTAD was at the centre of various negotiations, with long group meetings and negotiating sessions running into the early hours of the morning, Corea would be at his desk in the secretariat or in the lounge around the meeting room, and spent time with the writer, not only discussing UNCTAD matters but also touching on his own life and background, and discussing a range of wider issues of international political economy.

Early on, he took on hand the task of guiding this writer in some detailed reading of economics literature – classical, neo-classical and development economics, and trade, money and finance – an almost one-to-one economics crash course (without having to do term papers!).

Corea was closely associated with the International Foundation for Development Alternatives (IFDA) based in Nyon, Switzerland, and encouraged the founding and publication by IFDA in 1980 of the *Special United Nations Service – SUNS* (subsequently *South-North Development Monitor – SUNS*).

## An interest in politics and development

Deshamanya Gamani Corea (“Deshamanya” was the title, one of the highest civilian honours of the country, conferred on him by the Sri Lankan government), as he himself narrated to this writer, was born into a well-renowned and affluent political family of Sri Lanka. His mother’s brother, Sir John Kotlewala, was a Prime Minister of Ceylon, while

his grandfather, Victor Corea, was a freedom fighter.

Gamani once told this writer that he was an only child and the family on his mother’s side was so affluent that no one in the family thought of guiding him into any particular educational discipline or a professional career, and he was thought too shy and reserved for political life.

However, by himself, he began taking an interest in the national politics of Ceylon (but not to plunge into politics), and was very much influenced by the national movement and freedom struggle under Gandhi and Nehru in neighbouring colonial India.

“I would get hold as a young man of every writing of Jawaharlal Nehru and read him avidly,” he once said to the writer in 1979 (at a time ironically when India was going through a phase of denigration of Nehru by his successors).

“It gave me a perspective and impelled me to take interest in politics and development, that carried over into my post-university career in the Central Bank, and then the United Nations and the development aspects there,” Corea said to the writer, explaining his journey from being a conservative economist and central banker to the UN Committee on Development Planning, involvement in the panel of experts preparing for the UNCTAD-I conference under Raul Prebisch, and the work of UNCTAD itself where during the Prebisch era, he chaired a commodity conference on cocoa.

After an educational career in Colombo and then Oxford and Cambridge (1945-52) for a doctorate, he came back to Colombo to enter government service in the economic departments of planning, as research director in the Central Bank, and in the government as Secretary of the Department of Planning, Governor of the Central Bank, and then in diplomatic service, as Ceylon’s ambassador to the European Economic Community in Brussels, and several UN po-

sitions, including as member of the UN Committee on Development Planning.

## UNCTAD tenure

He was appointed in 1973 as Secretary-General of UNCTAD for an initial three-year term, when the second SG, Manuel Perez-Guerrero, resigned to become a minister in Venezuela.

Corea assumed the post in April 1974, and was reappointed thrice, his last term ending in December 1984. He continued in the post at the request of then UN Secretary-General Javier Perez de Cuellar, and then was told (indirectly) that he would not be continued (the writer was with him at his house when the call came from the SG’s office in New York to give him the information, not by the SG himself but by one of his senior staff).

The rich OECD countries were by then dead set against Corea for his role in giving intellectual support for the developing-country Group of 77 efforts at restructuring the world economy and international economic system (monetary, finance and trade) for a more equitable and just order. He relinquished his post at the end of February 1985.

Sometime later, when he was on the South Commission, he told another friend, Branislav Gosovic in the Commission secretariat, that the main reason for annulling his third term in UNCTAD and giving him only one year was the fear among the US and the OECD group of countries that Corea “would spoil” their attempts to launch a new round of multilateral trade negotiations with new issues at the General Agreement on Tariffs and Trade (GATT) forum.

In 1985 and in early 1986, the developing countries were united under the leadership of Brazil and India, and the informal group was insisting that the unfinished business of the previous negotiating round, the Tokyo Round, should first be taken up and accords reached at the GATT, before any new issues like intellectual property, services or investment could be considered as issues for negotiation.

After Corea was sent home, UNCTAD was left headless, with a senior official, Alistair McIntyre, acting as officer-in-charge. The situation was used to break up the unity of developing countries, with then GATT Director-General

Arthur Dunkel acting from behind the scenes to create a group – the “café olé group” as it was dubbed, led by Colombia and Switzerland – to support the launch of a new round with new issues.

The new trade round, the Uruguay Round, was ultimately launched at Punta del Este in Uruguay in September 1986.

Prebisch, as head of UNCTAD, had shaped international thinking on development economics and raised awareness within the UN system of the problems of development in the newly independent ex-colonies, and the special needs and problems of developing countries for development, and their need for special treatment and assistance such as official development aid, trade preferences and the like.

Corea carried forward the Prebisch outlook, providing intellectual weight and economic arguments to the UNCTAD secretariat documents and proposals, with calls for restructuring the global economy and international economic relations and governance, and addressing problems of development and money, finance and trade in an interdependent manner.

Having an inner conviction and strength, he was a visionary and developmentalist, egalitarian despite his affluent personal background. Within UNCTAD he developed several programmes to help development, and remained firm in his view that UNCTAD should remain a part of the UN, an organ of the UN General Assembly devoted to Trade and Development.

While not confrontational or using harsh language, he stood up throughout his tenure to pressures and bullying tactics of the United States or European Communities and their attempts to influence senior staff appointments by planting their own men.

He also stood up to the International Monetary Fund (IMF) and World Bank, whose leadership attempted sometimes, as an observer at UNCTAD board meetings, to scoff at UNCTAD views and any alternative thinking differing from the IMF/World Bank ideology and rulebook.

From the South Commission  
to the South Centre

After retirement from UNCTAD,

Corea continued in international public life, especially in the economic arena, and was a member of the South Commission.

After the Commission wound up and the South Centre was set up in 1991, he played an important role in its work. He had the trust of South Centre Chair Julius Nyerere, and Corea acted as the final authority and filter approving policies, documents and publications of the Centre.

According to then officials of the Centre, he was consulted on a daily basis, both while he was in Geneva (a lot of the time) and when he was in Colombo, and was one of the key persons to help put the Centre on its feet.

He became chairman of the Board of the South Centre, assuming the post about three years after Nyerere died.

He resigned his chairmanship after a mild stroke which impacted on his writing abilities.

Living almost in seclusion in Colombo from the late 1990s, caught up in legal tangles created by some relatives with an eye on his property, he found himself physically unable to travel, and mentally and socially isolated, for a while even prevented from meeting any visitors and friends.

As he had indicated to several of his friends (including the writer) while he was in Geneva at the South Centre, he had in Colombo created a foundation to which he willed his properties, a testament he had executed when in full possession of his abilities, a disposition that would now need to be sorted out in Colombo.

As an important member of the South Centre, he participated in some of the civil society meetings in the run-up to the 1992 Earth Summit in Rio de

Janeiro. At the time of the 1991 second preparatory committee meeting in Geneva for the Summit, it was fashionable for officials of the secretariat, including the Secretary-General of the Summit, Maurice Strong, to advise developing countries not to adopt or follow a consumerist Northern style of development.

Speaking at the civil society meeting at that time, Corea scoffed at such efforts of the North to constrain the development of the South to maintain the North's own consumption and lifestyles.

He told the NGO forum and the Group of 77 that if such an effort was made, and even if governments of the South accepted at Rio such instruments to curb their development, “long before global warming, the world will be engulfed in global disorder” – an assessment that perhaps governments of the North and South now engaged in UN climate change negotiations might usefully bear in mind.

Corea was also present at Rio, as a member of the Sri Lankan delegation. At that time, he told Gosovic (who was there as a staff member of the South Centre with a Centre delegation led by Nyerere) that the Sri Lankan delegation had been told by the US “not to rock the boat” and to bear in mind that Sri Lanka's loan rescheduling application was before the IMF (where the US could block it).

At the end of that Rio Earth Summit, in an interview with Thalif Deen for the conference newspaper *Terra Viva*, Corea famously summed up the outcome as: “We negotiated the size of the zero.” (SUNS7689) □

*Chakravarthi Raghavan is Editor Emeritus of the South-North Development Monitor (SUNS).*

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# Key global agencies fall short on poverty reduction

The internal governance of institutions overseeing global finance and their impact on the world's poor have been described as "very disappointing" by a watchdog coalition of anti-poverty groups.

by Jim Lobe

WASHINGTON: Key multilateral institutions charged with improving regulation of the international financial system are failing to democratize their governance and adequately consider the impact of their actions on the world's poor, says a new report by anti-poverty groups.

The 68-page study, entitled "Global Financial Governance & Impact Report", gave higher marks on both counts to the International Monetary Fund (IMF) and the World Bank than to other institutions, notably various rule-making bodies on international taxation, the Group of 20 (G20) and the Basel-based Financial Stability Board (FSB).

Overall, however, the study, which was released by the 10-year-old Washington-based New Rules for Global Finance Coalition, found all agencies' governance and impact on poor countries "very disappointing".

"Too much of the governance of global finance remains ad hoc, with non-transparent, non-inclusive, largely unaccountable and un-responsible institutions wielding great power," according to the coalition, which includes ActionAid, the South African Institute of International Affairs and the Jubilee USA Network.

Despite increased integration of poverty reduction into the work of the IMF and the Bank, in particular, "there are huge gaps between declarations and actions", according to New Rules, which also includes the Institute for Agriculture and Trade Policy, the Tax Justice Network, the South African Institute of International Affairs, the Germany-based World Economy, Ecology & Development (WEED) and the Heinrich Boell Foundation of North America.

"All have a very long way to go before they can confidently declare that they are having a strong positive impact on equitable and sustainable development," the report said.

"The problem is that all of the wealthy countries have a seat at the table

in these institutions, while those who are often most affected by the rules aren't there when these rules are being made," New Rules executive director Jo Marie Griesgraber told Inter Press Service (IPS).

"What we're trying to do is make room at the decision-making table for excluded peoples and thereby ensure that their decisions and processes benefit everyone," she added.

"This is an initial attempt to assess how these institutions are performing in that regard."

## Taking stock

Most experts believe that the 2008 financial meltdown was caused primarily by key national and international institutions' failure to adequately regulate increasingly sophisticated transactions in an ever-more globalized financial marketplace – a product of the neoliberal orthodoxy that guided many of the world's economic policymakers, including in the IMF and the World Bank, in the 1980s.

In the wake of the crisis, however, world leaders decided that greater regulation was required to keep the global economy from falling into a 1930s-like depression and to impose greater discipline on financial markets.

So they replaced the G8 with the G20 as the key forum for global financial policymaking; boosted lending resources and modified strategies of the IMF and the Bank; and created the Financial Stability Board to develop and coordinate global financial regulatory policies to promote stability.

The new report marks the first effort to assess how well these rule-making agencies have performed with respect to their own internal governance, including their "transparency" in internal processes; accountability to all governments and to civil society; involvement of the poor in decision-making; and responsibility to promote "more just and economically sustainable global devel-

opment, especially for people in low income countries."

The institutions were given scores ranging from 1 (poor) to 4 (excellent) on each of the four criteria, as well as an overall score.

For the aggregate scores, the IMF, the World Bank and the FSB all rated a 2 (moderate), while the G20 and the new tax authorities were given 1.5.

On transparency, the IMF and the World Bank scored highest at close to 3 (good), while the G20 was the lowest at 1.5.

The IMF also scored highest (2.5) on inclusiveness, higher than the World Bank (2), despite the latter's longstanding commitments to consult closely with civil society.

But with respect to responsibility, the IMF and tax-related agencies received the lowest possible score.

Regarding the impact of these institutions on the world's poorest, New Rules said it was not possible to use a common framework such as the one it applied in assessing governance. Instead, it used independent specialists and experts from within the coalition's member organizations to evaluate each institution.

The IMF gained the highest score on impact at 2.6, followed closely by the World Bank (2.4) and the G20 (2.1), which was praised for its coordinated stimulus package devised at its 2009 London Summit, its establishment of the FSB, and its efforts at reducing transfer costs of remittances by migrants from poor countries.

The FSB received a 1.4 score, while the tax authorities received the lowest possible score in large part because none addressed the problem of offshore tax havens, or secrecy jurisdictions that are estimated to hold \$21-32 trillion of the world's private wealth.

That failure, according to the report, is due primarily to the fact that the status quo powers continue to control the OECD and the IMF and have deliberately weakened the UN Tax Committee.

The World Bank strongly criticized the study.

"This report is deeply flawed, and it misses the mark on the World Bank's increased push for results, our huge strides in openness, and our strong focus on accountability," David Theis, a Bank spokesman, told IPS by email.

He noted that the "2012 Aid Trans-

parency Index: Publish What You Fund" rated the Bank, along with the British aid agency DFID, first among all donors at the country level on transparency.

Requests to the IMF for reaction to the report went unanswered.

Griesgraber said the new report was "an initial attempt, and we know there's a lot of room for improvement ... Our report is a challenge to the institutions. If you don't like our data and conclusions, show us where we're wrong."

But, she suggested, the report's fo-

cus on the inclusion of the poor in the governance of institutions that oversee the global financial system and the poverty-reduction impact of these same institutions offered important insights that call for greater study.

"The fact that the voices of low-income countries and the world's poor citizens are rarely heard in the forums governing global finance almost certainly explains why they have disappointingly low impact on improving their lives," said the report. (IPS) □

## US a favourite roost of vulture funds

Identified as a "preferred jurisdiction" for vulture funds, the US is being urged to curb the activities of these investors which stymie efforts to restructure the debt of poor countries.

by Carey L. Biron

WASHINGTON: Aggressive creditors and investors are seriously undermining the ability of poor countries to deal sustainably with debt issues, academics and anti-poverty campaigners told a briefing at the US Capitol on 6 November.

Further, many of these investors are now based in the United States, after other important financial centres have moved to curtail such practices. As such, national lawmakers and international experts are stepping up calls for Washington both to follow suit domestically and to lead a related international effort.

"We need to acknowledge that aspects of the financial crisis could have been prevented if we had basic, common-sense principles on responsible lending and borrowing within the international financial system," said Eric LeCompte, executive director of Jubilee USA, a network of anti-debt campaigners and a co-host of the 6 November briefing.

"In fact, both Northern and Southern countries that have gone through severe external debt crisis may have been saved the severe shocks to their economies and austerity restructuring if these reasonable principles were in place."

(Jubilee released a full report on these proposed principles last year.)

Maxine Waters, a member of the US House of Representatives, agreed, saying in a statement, "The time has come for the world to design a formal, more efficient system for managing the re-

structuring of sovereign debt."

At issue is a strategy adopted by a small number of hedge funds to purchase reduced-rate debt from poor countries with little hope of repayment. These firms then file lawsuits against those governments for failure to repay, looking to scoop up government revenues and international aid monies when they eventually start to flow.

Perniciously, these firms maintain the lawsuits even as other investors typically agree to reduce some debts, accepting lower-than-expected returns that allow the indebted government to begin to recover.

Even a single such "holdout creditor" (also known as a "vulture fund", for having purposefully sought out governments in fiscal distress) can gum up the entire debt-restructuring process.

"One of the most obvious remedies being discussed is that of collective action clauses, which allow a super-majority of creditors to force holdouts to accept a restructuring," Waters noted on 6 November.

"Yet it would be wrong to rely solely on such clauses ... This is why I favour the establishment of a formal, institutionalized, and politically recognized mechanism for restructuring the debt of bankrupt sovereigns, which would address all forms of debt."

Other countries, most notably the United Kingdom, have already put in place restrictions aimed at undercutting the motivation to engage in such "vul-

ture" speculation. Yet the United States is yet to do so.

On 6 November, Cephias Lumina, the United Nations independent expert on the effects of foreign debt, noted that the US is today a "preferred jurisdiction" for holdout creditors. He called on Washington to take "robust legislative measures ... to limit the ability of vulture funds to pursue immoral profits at the expense of the poor."

### Landmark case

In the aftermath of the 2008-09 financial crisis, government debt has become an increasingly important topic for all countries. And as austerity measures increasingly impact on poor communities, some advocates suggest that stronger international principles on sustainable lending practices could mitigate some of these ongoing ramifications.

Perhaps improbably, the issue of holdout creditors has heated up considerably here in Washington in recent months.

Much of this is due to a landmark legal fight taking place between the government of Argentina and two New York-based hedge funds – NML Capital and Aurelius – that own some of the bonds Buenos Aires, then facing bankruptcy, defaulted on in 2001.

In a widely watched decision, in August a judge ordered the Argentine government to pay the two funds nearly \$1.5 billion.

But Buenos Aires rejected the decision, saying that it would continue to repay its debts on its own terms (indeed, it is barred from paying the hedge funds, due to a law passed by the Argentine legislature in 2005).

It also warned that agreeing to pay off NML and Aurelius would embolden the 93% of Argentina's other creditors – each of which has agreed to accept lower repayment – to demand their full share. Doing so, Argentina noted, would put the government back in the situation it faced in 2001.

The case has now been appealed to the US Supreme Court. Although the justices refused to take on the issue in October, following a new appeal, many observers now see a high probability the court will review the case.

Jubilee's LeCompte says the stakes are high. Most countries facing holdout creditors, it should be noted, are far

poorer than Argentina.

"The outcome could have some of the most far-reaching consequences for global poverty in our lifetimes," he says.

"If the hedge funds win, they will have a precedent that will allow them to dismantle 15 years of core US debt restructuring policy. With this precedent, the hedge funds will hurt some of the most fragile economies in the world."

In June, even the International Monetary Fund (IMF) was planning to file a brief on behalf of Argentina with the US Supreme Court, its first ever such move. That decision was scuttled, however, reportedly due to lack of support from the US government.

Some see the issue's sudden, high visibility as encouraging for potential legislative action.

"It would certainly be good timing right now, so we'll probably see something rolling out," Nathan Coplin, coordinator of the New Rules for Global Finance Coalition, a Washington-based international network of activists and researchers, told Inter Press Service (IPS).

"This will have a major precedent for sovereign debt for middle-income and low-income countries. But there could also be an impact for the United States – given that one holdout creditor can stall the entire [restructuring] process, countries may consider issuing their bonds outside the US."

It is currently unclear how much appetite there is in the US Congress to tighten regulations on holdout creditors.

Representative Waters has repeatedly introduced legislation to do so in past years, but none of these proposals was even brought up for a full vote.

Still, despite the significant lobbying power of the US financial services industry, most investors don't want to have anything to do with vulture funds.

"Certainly legitimate investors are in support of having a streamlined process, in which they can restructure the debt and move on," Coplin says. "Where exactly the push-back is coming from is an interesting question – it's hard to see how a small group of investors and hedge funds could influence or obstruct any kind of legislation." (IPS) □

(continued from page 11)

poverty and discrimination which is prevalent around the world.

In particular, he recommended that member states review and redesign policies and programmes which may have a disproportionate effect on racial or ethnic minorities in view of their socioeconomic vulnerability and implement effective measures to improve the access of such groups to civil, cultural, economic, political and social rights.

The Special Rapporteur further encouraged the stakeholders of the post-2015 agenda to continue focusing on reducing socioeconomic inequalities while taking into account issues surrounding discrimination.

While the Millennium Development Goals have addressed the reduction of extreme poverty, he suggested that in the post-2015 agenda specific goals and targets be developed to ensure that everyone, regardless of socioeconomic status or ethnicity, has universal access to healthcare, education, water, food and security. (SUNS7692) □

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