

Supranational regulation and liberalisation: frameworks disadvantageous to African agriculture?

It appears to be widely accepted that the private sector has made positive contributions to agricultural development. But Alhousseini Diabaté and Ibrahim Diori, lecturer/researcher and human-rights activist, respectively, denounce the consequences of the predatory neoliberal framework imposed by international and regional regulatory frameworks.

GDS: Why has the private sector been given a central role in agricultural development?

Alhousseini Diabaté (AD): It dates back to the 1980s, when the World Bank and the International Monetary Fund imposed a neoliberal economic paradigm on developing countries, relegating the state to the sidelines. Private investors were placed at the forefront of development. The objective gradually shifted from food self-sufficiency to market-oriented food security with greater participation from the private sector, particularly foreign actors. Since the private sector has the financial resources and technology needed to develop agricultural potential, it was supposed to be capable of guaranteeing the availability of food in African markets. But the model did not live up to its promise.

Ibrahim Diori (ID): Structural adjustment plans combined with the liberalisation of agricultural trade shattered mechanisms for supervision and rural subsidies, creating a favourable environment for foreign direct investment (FDI). During the first World Food Summit in 1996, civil-society organisations advocated for “food security”. They called for a stop to unfair competition from imports and demanded that states have the right to protect themselves from such competition. With the Maputo Protocol in 2003, member states of the African Union (AU) made a commitment to invest 10% of their annual GDP in the agricultural sector – a small reversal, even though it was only applied in a very limited and disparate manner. But since the 2008 crisis (see GDS no. 76), the Economic Community of West African States (ECOWAS)

MECHANISMS FOR EXERTING PRESSURE AND SETTLING DISPUTES ARE NOT PROPORTIONAL BETWEEN INTERNATIONAL TRADE LAW AND INTERNATIONAL HUMAN RIGHTS

and the AU have once again started to speak favourably of the private sector and FDI. Which is confirmed by the orientation of the second phase of the ECOWAS 2016-2025 agricultural policy.

GDS: What type of agricultural model has been favoured by the shift towards liberalisation in Africa?

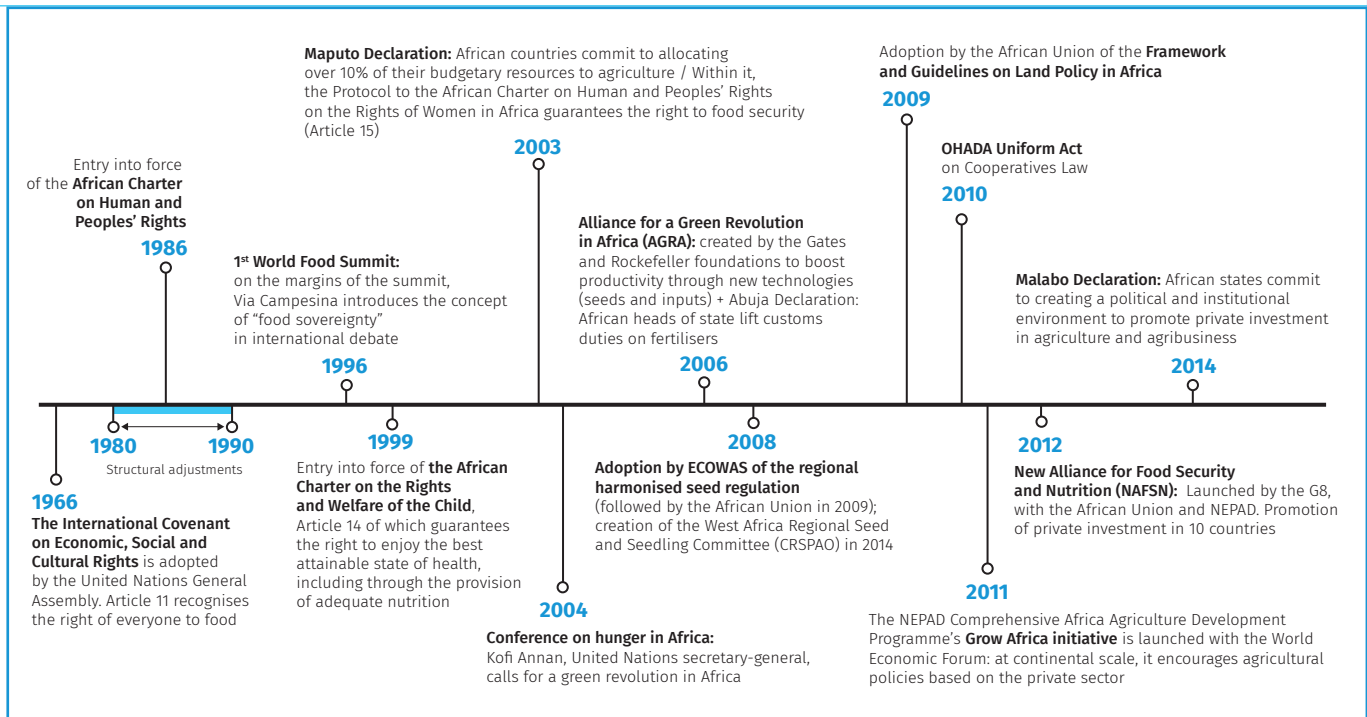
AD: The prevailing trend has been a shift towards a globalised food system based on free trade, increasingly long supply chains, externally dependent agricultural production, and globalised and volatile prices. This model offers no protection against serious food crises. It puts the environment, our health and our collective quality of life in danger. It is therefore necessary to revert to shorter national supply chains, and to an agricultural model that is sustainable and fair for local farmers.

ID: A liberal model is not capable of redistributing food and making it accessible in an equitable manner. The recommendations of the different United Nations rapporteurs on the right to food in recent years have all made this point. Most people in Africa depend on peasant farming, which doesn't have the means to compete with the agro-industrial private sector.

GDS: So in your opinion the current regulatory frameworks are not favourable for sustainable food systems or farmers?

ID: There is no normative framework specifically dedicated to conditions for partnerships between the private sector and farmers. In my view, the farmer is marginalised. Take seeds, for example (pp. 22-23). In 2014, ECOWAS, the Permanent Interstate Committee for Drought Control in the Sahel (CILSS) and the West African Economic and Monetary Union (UEMOA) set up a Regional Seed Committee to help states implement the regional harmonised seed regulation. This involved two legal instruments: a regulation with immediate force of law governing quality control, certification and marketing, and the regional catalogue of varieties. To be included in the catalogue, seeds must be distinct, homogeneous and stable. Those are commercial quality criteria that peasant-farmer seeds cannot meet. They are not certified. In Niger, certain articles of the seed law have been interpreted in a highly questionable and dangerous manner. If taken literally, the law criminalises farmers who exercise their right to produce, exchange or sell their seeds, with penalties including prison and heavy fines. There is a risk of fragmentation, limiting farmers to production only. The law should reflect practices and set guidelines for them, but should not dismantle them.

AD: Farmland has become a source of supply and profitability for FDI driven by multinationals, investment funds, and even the governments of certain developed countries. Local farmers and traders find themselves competing with highly competitive international commercial operators that enjoy favourable administrative and tax treatment. Regulating economic activities linked to agriculture does not help us move towards better protection for farmers or a sustainable food system in Africa. When it comes to ensuring protection, balance between market and non-market values, and sustainability, human rights may be an interesting pathway to explore. Another pathway is that of the Organisation for the Harmonisation of Business Law in Africa (OHADA). Currently made up of 17 African countries, OHADA seeks to set up a stable legal framework to allow for



Progression of international and regional frameworks

There has been a notable increase in the number of initiatives promoting food and nutritional security driven by the private sector, particularly foreign actors. This non-exhaustive timeline shows certain key moments in the progression of international and regional frameworks, including human-rights commitments reminding states that they have a responsibility when it comes to guaranteeing the right to food.

the emergence of the private sector and create a vast integrated market. The Uniform Act, which was adopted in 2010, requires all peasant-farmer and rural organisations to take the form of cooperatives, and emphasises their economic function. There was little dialogue or pedagogy with respect to its implementation, and the representatives of peasant-farmer and rural organisations were included only to a minor extent. Ten years later, did that transition help them gain greater financial and political independence? Did it give them greater influence vis-à-vis the private sector by strengthening their negotiating power?

ID: In my opinion, the transformation linked to the OHADA framework has hurt peasant-farmer and rural organisations because it has forced them to change their nature. They have been pushed to conform to a codified business model instead of being offered a framework that would directly address their needs.

GDS: Can human rights help create fairer partnerships between farmers and the private sector?

ID: In theory, all states recognise the right to food and the role that family farming plays in food sovereignty. The International Covenant on Economic, Social and Cultural Rights (Article 11 of which recognises the right of everyone to food) and the United Nations Declaration on the Rights of Peasants outline the responsibility of states and their duty to support agriculture. Only the former is legally binding. In

practice, states are more committed to the vision of "food security", which legitimises the opening of markets, imports, FDI, etc. There is therefore a conflictual adherence to two sets of standards. What can be done to resolve this conflict? The influence of the actors who oversee the law must be taken into account, as well as mechanisms for exerting pressure and settling disputes. These are not necessarily proportional, if we take international trade law and international human rights. A legal framework that is favourable to family farming has yet to be created.

AD: At regional level, African law is not indifferent to these issues. The African Charter on the Rights and Welfare of the Child, and the African Charter on Human and Peoples' Rights on the Rights of Women contain many instruments that can be used to help improve those rights. Securing land rights and improving productivity and people's living conditions were also addressed in a document serving as a reference framework, adopted by the AU in 2009.

ID: The process for choosing a suitable agricultural model needs to be democratised by giving a voice to peasant farmers, consumers and entrepreneurs from the different sectors. Protecting family farming is absolutely vital for both people and states, including when it comes to peace. These in-depth discussions should not be left to technicians. ■

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