



# RIGHT TO FOOD AND NUTRITION WATCH

2014

Ten Years of the Right  
to Food Guidelines:  
Gains, Concerns and  
Struggles

# IMPRESSUM

## PUBLISHED BY



Bread for the World – Protestant Development Service  
Caroline-Michaelis-Str. 1  
10115 Berlin, Germany  
[www.brot-fuer-die-welt.de](http://www.brot-fuer-die-welt.de)



FIAN International  
Willy-Brandt-Platz 5  
69115 Heidelberg, Germany  
[www.fian.org](http://www.fian.org)



Interchurch Organisation for Development  
Cooperation (ICCO Cooperation)  
Joseph Haydnlaan 2a  
3533 AE Utrecht, The Netherlands  
[www.icco-cooperation.org](http://www.icco-cooperation.org)

## MEMBERS OF THE RIGHT TO FOOD AND NUTRITION WATCH CONSORTIUM 2014



African Network on the Right to Food (ANoRF/RAPDA)  
Rue Soneb Aidjedo C/881 Maison Degla  
Cotonou, Benin  
[www.rapda.org](http://www.rapda.org)



Centro Internazionale Crocevia  
Via Tuscolana n. 1111  
00173 Rome, Italy  
[www.croceviaterra.it](http://www.croceviaterra.it)



DanChurchAid (DCA)  
Nørregade 15  
DK-1165 Copenhagen K, Denmark  
[www.danchurchaid.org](http://www.danchurchaid.org)



Ecumenical Advocacy Alliance (EAA)  
150 Route de Ferney, PO Box 2100  
CH-1211 Geneva 2, Switzerland  
[www.e-alliance.ch](http://www.e-alliance.ch)



Habitat International Coalition (HIC)  
Housing and Land Rights Network (HLRN)  
12 Tiba Street, 2<sup>nd</sup> Floor  
Muhandisin, Cairo, Egypt  
[www.hlrn.org](http://www.hlrn.org)



International Baby Food Action Network (IBFAN)  
IBFAN Liaison Office, IBFAN-GIFA  
Av. de la Paix 11  
CH-1202 Geneva, Switzerland  
[www.gifa.org](http://www.gifa.org)  
[www.ibfan.org](http://www.ibfan.org)



International Indian Treaty Council (IITC)  
The Redstone Building, 2940 16<sup>th</sup> Street, Suite 305  
San Francisco, CA 94103-3664, USA  
[www.treatycouncil.org](http://www.treatycouncil.org)



Observatory of ESCR  
(Economic, Social and Cultural Rights)  
Carrer Casp 43 Baixos  
08010 Barcelona, Spain  
[www.observatoridesc.org](http://www.observatoridesc.org)



Pakistan Fisherfolk Forum (PFF)  
75-G, Block 6, PECHS  
Karachi 75400, Sindh, Pakistan  
[www.pff.org.pk](http://www.pff.org.pk)



People's Health Movement (PHM)  
Global Secretariat  
PO Box 13698 St. Peter's Square  
Mowbray 7705, Cape Town, South Africa  
[www.phmovement.org](http://www.phmovement.org)



Plataforma Interamericana de Derechos Humanos,  
Democracia y Desarrollo (PIDHDD)  
La Niña E4-438 y Av. Amazonas  
Edif. Pradera, Piso 3, Of. 302-B  
Quito, Ecuador  
[www.pidhdd.org](http://www.pidhdd.org)



REDSAN-CPLP  
c/o ACTUAR  
INOPOL, Escola Superior Agrária de Coimbra  
Bencanta, 3045-601 Coimbra, Portugal  
[www.redsan-cplp.org](http://www.redsan-cplp.org)



Terra Nuova  
Viale Liegi 10  
00198 Rome, Italy  
[www.terranuova.org](http://www.terranuova.org)



US Food Sovereignty Alliance (USFSA)  
c/o WhyHunger, 505 8<sup>th</sup> Avenue, Suite 2100  
New York, NY 10018, USA  
[www.usfoodsovereigntyalliance.org](http://www.usfoodsovereigntyalliance.org)



World Alliance for Breastfeeding Action (WABA)  
Secretariat, PO Box 1200  
10850 Penang, Malaysia  
[www.waba.org.my](http://www.waba.org.my)  
[www.worldbreastfeedingweek.org](http://www.worldbreastfeedingweek.org)



World Alliance of Mobile and Indigenous Peoples (WAMIP)  
Secretariat (MARAG), 2B Milind Park  
Opp St. Xavier's School, Memnagar Road  
Ahmedabad, India



World Organisation Against Torture (OMCT)  
International Secretariat, PO Box 21  
8 Rue du Vieux-Billard  
CH-1211 Geneva 8, Switzerland  
[www.omct.org](http://www.omct.org)

OCTOBER 2014

**Editorial Board:**

Anne C. Bellows, University of Syracuse  
Antonio Onorati, Centro Internazionale Crocevia  
Biraj Patnaik, Right to Food Campaign India  
Carolin Callenius, Bread for the World – Protestant Development Service  
Christine Campeau, EAA  
Francisco Sarmiento, University of Coimbra (Center of Social Studies)  
Maarten Immink, Consultant  
Manigueueigdinapi Jorge Stanley Icaza, IITC  
Marcos Arana Cedeño, WABA  
Martin Wolpold-Bosien, FIAN International  
Monika Agarwal, WAMIP  
Nora McKeon, Terra Nuova  
Pablo de la Vega, PIDHDD  
Stineke Oenema, ICCO Cooperation

**Project Coordination:**

M. Alejandra Morena, FIAN International  
[morena@fian.org](mailto:morena@fian.org)

**Copy-editing and Proofreading:**

Refiloe Joala and M. Alejandra Morena

**Translation from French into English:**

Nathalie Margi

**Translation from Spanish into English:**

Joseph de la Torre Dwyer

**Cover photo:**

© Daniel Alfonso León (Human Rights Fact-Finding Mission to Colombia)

**Design:**

KontextKommunikation, Germany, Heidelberg/Berlin  
[www.kontext-kom.de](http://www.kontext-kom.de)

**Print:**

LokayDRUCK, Germany, on FSC-certified paper

**Financed by:**

Bread for the World – Protestant Development Service  
[www.brot-fuer-die-welt.de](http://www.brot-fuer-die-welt.de)

FIAN International

[www.fian.org](http://www.fian.org)

ICCO Cooperation

[www.icco-cooperation.org](http://www.icco-cooperation.org)



International Food Security Network (IFSN)—IFSN is co-funded by EC

[www.ifsnet.info](http://www.ifsnet.info)



Swiss Agency for Development and Cooperation (SDC)

[www.sdc.admin.ch](http://www.sdc.admin.ch)

This publication has been produced with the financial assistance of the European Union. The contents of this publication are the sole responsibility of the authors and can in no way be taken to reflect the views of the European Union or of the other publishers.

Contents of this publication may be quoted or reproduced, provided that the source of information is acknowledged. The publishers would like to receive a copy of the document in which this publication is used or quoted.

All internet links in this publication were last accessed in August 2014.

**ISBN:**

978-3-943202-21-2

**More information on the *Right to Food and Nutrition Watch* website:**

[www.rtfn-watch.org](http://www.rtfn-watch.org)

# TABLE OF CONTENTS

Acronyms and Abbreviations	6
Preface	8
Introduction	10
<b>LOOKING BACK TO MOVE FORWARD: AN ASSESSMENT OF THE RIGHT TO FOOD GUIDELINES</b>	<b>12–25</b>
<b>01</b> The “Rights” Time: Civil Society Reflections on the Right to Adequate Food <i>Abby Carrigan</i>	13
<b>02</b> The Right to Food Guidelines, Food Systems Democratization and Food Sovereignty: Reflections by Olivier De Schutter <i>Interview</i>	17
<b>03</b> Rethinking the Voluntary vs. Binding Divide: A Reflection after 10 Years of the Voluntary Guidelines on the Right to Food <i>Sofía Monsalve Suárez and Fabienne Aubry</i>	22
<b>KEY ISSUES AND DEVELOPMENTS ON THE RIGHT TO FOOD AND NUTRITION</b>	<b>26–49</b>
<b>04</b> Agricultural Investments—Who Makes the Decisions? Why the Committee on World Food Security Makes a Difference for Social Movements <i>Nora McKeon</i>	27
<b>05</b> Interdependent and Indivisible: The Right to Adequate Food and Nutrition and Women’s Sexual and Reproductive Rights <i>R. Denisse Córdova Montes and Flavio Luiz Schieck Valente</i>	32
<b>CASE STUDY</b> Explaining India’s Paradox through Women’s Voices	
<b>06</b> Is There Still a Future for the New European Seed Regulation? <i>Philippe Catinaud and Guy Kastler</i>	34
<b>07</b> Restoring Self-reliance through Local Knowledge after Disasters: Lessons for Maternal, Infant and Young Child Feeding and from Small-holder Farmer Solidarity <i>Marcos Arana Cedeño, M. Innes Av. Fernandez and R. Denisse Córdova Montes</i>	38
<b>CASE STUDY 1</b> Women’s Responses to Typhoon Haiyan in the Philippines <b>CASE STUDY 2</b> “Without Corn, There Is No Country”: Smallholder Farmers Campaign after Hurricanes in Mexico	
<b>08</b> From ICN1 to ICN2: The Need for Strong Partnerships with Civil Society <i>Stineke Oenema</i>	41
<b>09</b> Responses to Climate Change Challenges on Food Production: Strengthening Resilience or Increasing Dependence <i>Marcos Arana Cedeño</i>	46

NATIONAL AND REGIONAL REPORTS:	50–83
Monitoring and Advancing the Right to Food and Nutrition	
<b>AFRICA</b>	<b>51–56</b>
10 Land Grabbing and Popular Resistance in Mali <i>Chantal Jacovetti and Philip Seufert</i>	51
11 Facilitating Right to Food Actions through an Enabling Policy and Legislative Environment: The Zanzibar Experience <i>Maarten Immink, Mansura Kassim and Ali Haji Ramadhan</i>	54
<b>THE AMERICAS</b>	<b>57–65</b>
12 A Hungry Colombia: A Negligent State and Communities in Resistance <i>Juan Carlos Morales González</i>	57
13 The Struggle for Right to Food Justiciability in Guatemala: A Follow up on the Child Malnutrition Litigation Case in Camotán Municipality <i>Ricardo Zepeda</i>	60
14 Defense of Arctic Ocean Critical to Indigenous Livelihood in Alaska <i>Faith Gemmill</i>	63
<b>ASIA</b>	<b>66–73</b>
15 The Right to Land in India: The Key to Food Security <i>Marie Bohner</i>	66
16 Laying the Ground for the Food Framework Law in the Philippines <i>Aurea G. Miclat-Teves</i>	68
17 Food Insecurity in Protracted Crises: Examining the Gaza Strip <i>Mariam Al Jaajaa and Emily Mattheisen</i>	71
<b>EUROPE</b>	<b>74–82</b>
18 The Law on the Right to Adequate Food: A Necessary Step in the Fight against Food Insecurity and Malnutrition in Belgium <i>Manuel Eggen</i>	74
19 Not Just a Global South Issue: Land Grabbing and Mining in Sweden <i>Gustaf Jillker, Eva Jonsson, Leif Gustavsson and Torgny Östling</i>	77
20 Sovereign Wealth Funds in Norway and Sweden— The Case for States’ Extraterritorial Human Rights Obligations <i>Morten Aulund, Rebecka Jalvemyr and Kristin Kjæret</i>	80
Summary and Conclusion	84
World Map—Geographic Coverage of the <i>Watch 2014</i>	88



# ACRONYMS AND ABBREVIATIONS

CERD	UN Committee on the Elimination of Racial Discrimination
CESCR	UN Committee on Economic, Social and Cultural Rights
CFS	Committee on World Food Security
CSA	Climate Smart Agriculture
CSO	civil society organization
EC	European Commission
ESCR	economic, social and cultural rights
ETO	extraterritorial obligation
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FNS	food and nutrition security
GHG	greenhouse gas
GMO	genetically modified organism
GNRFN	Global Network for the Right to Food and Nutrition
GSF	Global Strategic Framework for Food Security and Nutrition
HRC	UN Human Rights Council
IACHR	Inter-American Commission on Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICN1	First International Conference on Nutrition (1992)
ICN2	Second International Conference on Nutrition (2014)
IFAD	International Fund for Agricultural Development
IMF	International Monetary Fund
MEP	Member of European Parliament
NCD	non-communicable disease
NGO	non-governmental organization
OECD	Organisation for Economic Co-operation and Development
PPP	public-private partnership
PRSP	Poverty Reduction Strategy Paper
RtAF	right to adequate food and nutrition
SAPs	Structural Adjustment Programs
SCN	UN System Standing Committee on Nutrition
SUN	Scaling Up Nutrition (Initiative)
TNC	transnational corporation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCTAD	UN Conference on Trade and Development
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNFCCC	UN Framework Convention on Climate Change
UNICEF	UN Children's Fund
WB	World Bank
WFP	World Food Programme
WFS	World Food Summit
WHO	World Health Organization
WTO	World Trade Organization



# PREFACE

The past year has been a dense and significant one for us. The first 12 months of activity of the Global Network for the Right to Food and Nutrition, founded in June 2013,<sup>1</sup> have seen its members engaged in action and discussion on a range of issues and processes that are key to the global fight for the right to food and food sovereignty. These issues have included the future of food systems, the upcoming Second International Conference on Nutrition (ICN2), regulations for seed markets, impacts of climate change on food and nutrition security and—in the Committee on World Food Security (CFS)—negotiating principles for responsible agriculture investment (rai) and elaborating an agenda for action for food security in protracted crises.

The right to adequate food and nutrition is a red thread that links all of these issues and other emerging challenges—not just conceptually but also on the ground, in peoples' struggles. Civil society organizations (CSOs) and social movements representing various constituencies of rights-holders—peasants, fisherfolks, pastoralists, indigenous peoples, rural women, food and agricultural workers, urban workers, and others—are increasingly joining forces to advance their common goals, with human rights as unifying factor. As highlighted by Lalji Desai from the World Alliance of Mobile and Indigenous Peoples (WAMIP), the right to adequate food and nutrition has served to connect seemingly disparate struggles and peoples in different parts of the world, turning what might otherwise be local issues into an interconnected global fight for human rights: by uniting fisherfolk in Uganda with pastoralists in India and “raising our voices for one another, we can put pressure on governments” and other actors to respect, protect and fulfill human rights.<sup>2</sup>

Ten years ago, in November 2004, the FAO Council adopted the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security* (hereinafter Right to Food Guidelines). This anniversary has been seized by the Global Network and other civil society organizations (CSOs) and social movements as an opportunity for stocktaking and, more importantly, to call for renewed commitment by governments, UN agencies, civil society and other stakeholders, for the full realization of the right to adequate food and nutrition.

The anniversary of the Right to Food Guidelines comes at a critical moment for our struggle. The corporate private sector is showing increased interest and gaining greater influence in food systems and policy spaces worldwide. Agribusiness and financial investors are taking control of natural resources and undermining the sovereignty of food producers, while multinational food and beverage corporations gain increasing decision-making power over what ends up on the plate of the consumers. The notion that social mobilization for human rights can have an impact even where such powerful actors are concerned is exemplified by the adoption of a resolution by the Human Rights Council in June 2014 to move towards the elaboration of a binding treaty to prevent human rights violations by transnational corporations.<sup>3</sup>

As a contribution to the anniversary, the *Right to Food and Nutrition Watch 2014* is dedicated to celebrating and assessing *Ten Years of the Right to Food Guidelines: Gains, Concerns and Struggles*. The goal of the Watch is to monitor and advance the progressive realization of the right to adequate food and nutrition at global, regional, national and local levels and give visibility to peoples' struggles and resistance on the ground. This year's edition turns the spotlight on the Guidelines and presents civil society's views and experiences on this important instrument. Additionally, a civil society consultation on this topic was held in Rome in July 2014 and it is expected that a CSO synthesis paper will be presented at an event aimed at reviewing the Guidelines during the 41<sup>st</sup> session of the CFS in October 2014.

- 1 See: “Global Network for the Right to Food and Nutrition-A Call for Action”. FIAN International. June 2013. [http://www.rtfn-watch.org/uploads/media/GNRtFN\\_-\\_Formatted\\_Network\\_Call\\_to\\_Action.pdf](http://www.rtfn-watch.org/uploads/media/GNRtFN_-_Formatted_Network_Call_to_Action.pdf)
- 2 Interview with Lalji Desai. See article, “The “Rights” Time: Civil Society Reflections on the Right to Adequate Food” in this edition of the *Right to Food and Nutrition Watch*.
- 3 Over 500 CSOs formed an alliance to demand the adoption of this resolution. For more information, see: [www.treatymovement.com/blog/2014/7/1/stop-corporate-impunity-press-release](http://www.treatymovement.com/blog/2014/7/1/stop-corporate-impunity-press-release)



The *Watch* Consortium and the Global Network for the Right to Food and Nutrition are closely linked, since the majority of their members participate in both. This synergy ensures that the *Watch* is the most prominent monitoring tool of the Global Network. Members of both platforms hope that the initiatives and issues presented in this 2014 edition of the *Watch* will enrich our readers' understanding of the progress, limitations and challenges that lie ahead with regard to the progressive realization of the RtAF. Together we will continue to fight for sustainable and human rights-based alternatives for improved systems where all people will enjoy all human rights—including the right to adequate food and nutrition.

The *Watch* Consortium and the Global Network members would like to thank everyone who has contributed to this issue of the *Watch*. First of all, the insights and commitment of the authors and reviewers are greatly appreciated—without them this publication would not be possible. Similarly, we would like to thank the 2014 Editorial Board members for their invaluable support in this collective effort, namely Anne C. Bellows, Antonio Onorati, Biraj Patnaik, Carolin Callenius, Christine Campeau, Francisco Sarmiento, Maarten Immink, Manigueueigdinapi Jorge Stanley Icaza, Marcos Arana Cedeño, Martin Wolpold-Bosien, Monika Agarwal, Nora McKeon, Pablo de la Vega and Stineke Oenema. Special thanks go to the 2014 *Watch* Coordinator, M. Alejandra Morena, for her excellent work, dedication and patience. We also send our whole-hearted gratitude to Léa Winter, who served as *Watch* Coordinator from 2011 to 2013. Furthermore, we would like to highlight the great work of Refiloe Joala, who served as an intern, as well as that of the translators and proofreaders. Finally, we are grateful to the other members of the *Watch* Consortium and the Global Network for their valuable support in the development and dissemination of this publication.

Yours sincerely,

Carolin Callenius, Bread for the World – Protestant Development Service  
Stineke Oenema, ICCO Cooperation  
Flavio Valente, FIAN International

# INTRODUCTION

The *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security* (hereinafter Right to Food Guidelines), adopted by the FAO Council in 2004, were intended to provide guidance to governments on how to turn the progressive realization of the right to adequate food (RtAF) into a reality. Ten years down the line, how effective have they proved to be?

Civil society organizations and social movements, as well as the *Watch* 2014 contributors, have taken advantage of the occasion of this anniversary to reread the Guidelines, to revisit the history of the struggle that led up to their adoption, and to assess not only their implementation by states, but also the overall progress, limitations and challenges ahead of us with regard to the right to food and food sovereignty. Are the Right to Food Guidelines, a soft-law instrument, still relevant ten years after their adoption? Have they been used by governments in shaping their policies and programs? Where do we stand in our struggle for the right to food and nutrition?

The 2014 issue of the *Right to Food and Nutrition Watch—“Ten Years of the Right to Food Guidelines: Gains, Concerns and Struggles”*—explores these questions. The assessment of the Right to Food Guidelines and the right to food overall paints a mixed picture. Although there have been important achievements, inadequate application, implementation and lack of accountability and policy coherence still remain major challenges. Not enough governments have followed the recipe for accountability of Olivier De Schutter, former UN Special Rapporteur on the Right to Food: “What must be done is to adopt an action plan with clear timelines for the implementation of each action to be taken, clear indicators to measure progress, and a clear allocation of responsibilities. In this way, no single part of government can avoid having to account for failing to take the measures it is expected to take.”<sup>1</sup> The need for action to reform and democratize food systems is more urgent than ever.

As in previous editions, the *Watch* 2014 is divided into two main sections. The thematic section comprises two subsections: the first is largely dedicated to a reflection on the past ten years of the Right to Food Guidelines, while the second focuses on key developments related to the right to adequate food and nutrition struggle. The second section of the *Right to Food and Nutrition Watch*, organized by regions, features articles on relevant right to food related developments at national and local levels, and discussed how peoples’ movements are addressing the challenges they face.

In the first sub-section of the thematic part, article 1 presents excerpts from interviews with civil society actors who have been instrumental in the promotion of the right to food and the development of the Guidelines, gathering their reflections on how the right to food framework came to be and where it has taken us. In the interview contained in article 2, Olivier De Schutter shares his assessment of the Guidelines, food systems and food sovereignty, at the end of his term as UN Special Rapporteur on the Right to Food. Article 3 discusses the value of soft-law instruments based on a comparative analysis of the Right to Food Guidelines with the FATF Recommendations, an instrument aimed at combating money laundering and terrorist financing adopted by an intergovernmental body established by the G7.

In the second sub-section of the thematic part, article 4 analyzes civil society’s demands and contributions to the negotiations taking place in the Committee on World Food Security (CFS) for the development of principles to promote responsible agricultural investment (rai). Article 5 provides insights into underlying links between the right to adequate food and nutrition and women’s sexual and reproductive rights. Article 6 raises awareness about a proposal for new seed regulation in the European Union that threatens biodiversity and may allow for the encroachment of

1 Interview with Olivier De Schutter. See article “The Right to Food Guidelines, Food Systems Democratization and Food Sovereignty: Reflections by Olivier De Schutter” in this edition of the *Right to Food and Nutrition Watch*.

transnational corporations in the agricultural sector. Article 7 stresses the importance of promoting self-reliance through local knowledge following disasters, by examining lessons for maternal, infant and young child feeding in the Philippines and from small-holder farmer solidarity in Mexico. Article 8 follows up on key developments and discussions on nutrition in the lead-up to the Second International Conference on Nutrition (ICN2) and calls for strong government partnerships with civil society. The final article of the thematic section, article 9, discusses responses to climate change challenges on food production and warns against the risks of promoting strategies that deepen the dependence of local communities on external support instead of strengthening their resilience.

The national and regional section opens with Africa. Article 10 exposes the impact of government-facilitated land grabbing on peasants in Mali and demonstrates the growing popular resistance to this development and some of its achievements. Article 11 describes how an enabling policy and legislative environment at national level, coupled with capacity strengthening at local level, is facilitating the planning and implementation of food and nutrition security actions by food insecure and vulnerable population groups in Zanzibar.

Moving on to the Americas, Article 12 assesses the right to adequate food and nutrition situation in Colombia. It highlights continuous violations of the RtAF as a result of inadequate State policies, while also illustrating the versatility of rural and urban organizations in their efforts to ensure the realization of their rights. The following two articles look at how indigenous communities are fighting for their RtAF and other human rights through judicial processes in Guatemala and the United States: article 13 presents a landmark case of strategic litigation against child malnutrition in the municipality of Camotán, while Article 14 focuses on the proposed Arctic offshore oil and gas development and its potential impact on the subsistence rights of indigenous peoples in Alaska.

In the Asian region, article 15 looks at the struggle for food sovereignty by assessing land rights in India and shows the effort of social movements for generating tangible reform favoring the country's poor and landless. Article 16 describes the ongoing process for the adoption of a framework bill on the right to adequate food in the Philippines and civil society's key role in this initiative. Article 17 raises awareness about food insecurity in protracted crises by describing the precarious situation in the Gaza Strip.

Lastly, in the European region, article 18 covers the ongoing process for the adoption of a proposed bill on the right to food and nutrition in Belgium, which would be a first in Europe. This example illustrates the increasing understanding that the RtAF is relevant for the entire world, not only the Global South. Article 19 follows in the same line by discussing the emerging trend of land grabs in Sweden. Finally, article 20 calls upon Norway and Sweden to fulfill their extraterritorial human rights obligations (ETOs) by conducting human rights impact assessments with regard to investments of their sovereign pension funds.

It is our hope that the information presented in the *Watch 2014* will provide readers with insight and awareness of the achievements, setbacks and challenges that lie ahead, and strengthen our global movement for the realization of the right to adequate food and nutrition for all.

The *Watch 2014* Editorial Board

# LOOKING BACK TO MOVE FORWARD: AN ASSESSMENT OF THE RIGHT TO FOOD GUIDELINES

## THE “RIGHTS” TIME: CIVIL SOCIETY REFLECTIONS ON THE RIGHT TO ADEQUATE FOOD

Abby Carrigan<sup>1</sup>

In his initial report to the United Nations Commission on Human Rights,<sup>2</sup> in his capacity as the first Special Rapporteur on the Right to Food, Jean Ziegler discusses the contemporary acceptance of the right to adequate food concept in terms of its “truth and its timing”:<sup>3</sup>

*There is an unexplained mystery in the history of ideas: an idea may be right and true ... sometimes for centuries ... without impinging on the public debate ... or collective consciousness. The idea remains unacceptable until that mysterious moment the Greeks call kairós—“the right time”.*<sup>4</sup>

He notes that the “right time” came in the form of the 1996 World Food Summit (WFS), in which the attendees agreed to implement and monitor the right to food, in accordance with the World Food Summit Plan of Action. Twenty years later, the occasion of the 10<sup>th</sup> anniversary of the adoption of the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security* (hereinafter the Guidelines) provides an opportunity for stocktaking in this regard.

This article highlights excerpts from interviews with civil society actors who have worked towards the progressive achievement of the right to adequate food (RtAF), in order to reflect upon how the *kairós* for this right came to be, where it has taken us, and where it may lead.<sup>5</sup>

### A NEW WAY OF THINKING

Despite its codification in the UN Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the RtAF concept remained vague and obscure, even to human rights pioneers, as late as the 1970s.

*I can assure you that at the time we just had question marks over our heads. We didn't know very much about human rights, but little by little we discovered that this was a whole new way of thinking.* (Wenche Eide, University of Oslo)

At about this time, the Norwegian Ministry of Foreign Affairs commissioned a study to describe the development of the international protection of human rights. In connection with this work, nutrition and development experts were mobilized to begin reflecting on the possible content for the right to adequate food. This triggered various early interdisciplinary brainstorming sessions and conferences, and the eventual parallel release of the first two books on the topic in 1984: *Food as a Human Right*<sup>6</sup> and *The Right to Food*.<sup>7</sup>

A major conceptual breakthrough then followed in a study prepared for the United Nations on the legal content of the right to food, which included the elaboration of the three levels of state obligations: to respect, protect, and fulfill human rights, a concept now regularly used in human rights work.

1 Abby Carrigan is a visiting student at FIAN International from Maastricht University. Special thanks to Maarten Immink, Carolin Callenius, Rolf Künemann and Martin Wolpold-Bosien for their support in reviewing this article.

2 Predecessor to the UN Human Rights Council created in 2006.

3 Ziegler, Jean. “The Right to Food” (E/CN.4/2001/53). Geneva: United Nations Commission on Human Rights. 2001. [www.righttofood.org/wp-content/uploads/2012/09/ECN.4200153.pdf](http://www.righttofood.org/wp-content/uploads/2012/09/ECN.4200153.pdf)

4 *Ibid.*

5 For a more comprehensive version of this article, see: [www.fian.org](http://www.fian.org)

6 Eide, A., et al., *Food as a Human Right*. Geneva: United Nations University Press. 1984.

7 Alston, P., and Tomaševski, K. eds. *The Right to Food*. Dordrecht: Martinus Nijhoff Publishers, 1984.

*By pointing out that the state obligations were much more composite, and that they needed to be divided into these three levels, I think we made a great stride forward in overcoming the ideological polarization that had emerged during the Cold War between adherents of civil and political rights on the one hand and economic, social and cultural rights (ESCR) on the other. These levels of obligations were then combined with normative elements of a framework for food security, to derive ideas about policies and action.* (Asbjørn Eide, University of Oslo)

These strides forward in the academic understanding of the RtAF coincided with rumblings within civil society. In March 1983, civil society representatives from various countries set up an international action network on the right to food—FIAN.

*In those days the FIAN network was a test case for how civil society organizations [CSO] could work internationally with the RtAF framework. A lot of work on the RtAF was done at this time, including a meeting of 150 civil society participants during the World Food Assembly for a stocktaking exercise ten years after the 1974 World Food Conference. It was the first global CSO gathering where the right to food figured prominently in the final declaration. On the basis of this positive work experience, as well as urgent actions and rights-based campaigns, we found that we were on the right track—and FIAN was newly founded as an international human rights organization in 1986. The right to food in the 1980s and early 1990s was a pioneering right for all other ESCR.* (Rolf Künemann, FIAN International)

## LEADING THE WAY

This new way of thinking about hunger pushed civil society actors to campaign for the right to adequate food as an essential demand at the 1996 World Food Summit (WFS) in Rome. The civil society forum claimed: “We affirm first and foremost the basic human Right to Food. Everyone has the right to secure access at all times to safe and nutritious food and water adequate to sustain an active and healthy life with dignity.”<sup>8</sup> Important progress was made in the form of the Rome Declaration on World Food Security, which reaffirmed “the right of everyone to have access to safe and nutritious food consistent with the right to adequate food and the fundamental right of everyone to be free from hunger.”<sup>9</sup> “The Declaration gave us, as activists, a way forward. It showed us how to fight, with a focus on rights. No one had really said that before”. (Antonio Onorati, Centro Internazionale Crocevia)

The 1996 Rome Declaration not only elaborated on the food security concept, but it also provided the context for mobilization of a counter-movement proposed by La Via Campesina (LVC): food sovereignty.

*At the time it was a question of concept. We saw ourselves as being against this idea of food security proposed by the FAO. La Via [Campesina] proposed that each community had the right to determine how and what to produce. We would now say that the ideas of food security are within the concept of food sovereignty.* (Deolina Carrizo, La Via Campesina—LVC)

8 “Profit for Few or Food for All? Food Sovereignty and Security to Eliminate the Globalisation of Hunger”. NGO Statement to the World Food Summit. Rome, 1996. [www.converge.org.nz/pirm/food-sum.htm#ngo](http://www.converge.org.nz/pirm/food-sum.htm#ngo)

9 “Rome Declaration on World Food Security.” Food and Agricultural Organization of the United Nations. Rome. 1996. [www.fao.org/docrep/003/w3613e/w3613e00.HTM](http://www.fao.org/docrep/003/w3613e/w3613e00.HTM)



The work of LVC, and its connection to right to food organizations like FIAN International, had the effect of mutually shaping the concepts and development of food sovereignty and the right to food:

*Through joint campaigning and their interactions with one another, the human rights discourse became more prominent in LVC and the broader food sovereignty movement. The collaboration of social movements, right to food activists and academic experts—this strategic alliance—has enormously strengthened the right to food. This is one major achievement of the RtAF as compared to the developments of other ESCR. (Sofía Monsalve Suárez, FIAN International)*

## THE GUIDELINES: SHIFTING THE PARADIGM

The momentum from the achievements in 1996 led to the adoption of General Comment 12 by the UN Committee on Economic, Social and Cultural Rights (CESCR) in 1999,<sup>10</sup> which provided clarification on the normative content and the related obligations of states with respect to the RtAF. Thereafter, “the idea emerged inside civil society to draft guidance for states on the implementation of the RtAF. We lobbied for the development of a code of conduct, which would have outlined state’s responsibilities, as well as that of other actors”. (Michael Windfuhr, German Institute of Human Rights)

In the end, governments and civil society agreed to draft the Right to Food Guidelines, the strength of which is twofold:

*First, they reiterated the interpretation of the RtAF as outlined in General Comment 12, and second, they were adopted unanimously by FAO members. The unanimous adoption was a very big success. Now you have an interpretation that no state can claim to be unaware of, or not to adhere to. That makes it stronger than many other standards. (Michael Windfuhr, German Institute of Human Rights)*

One of the major achievements of the Guidelines has been their contribution to a paradigm shift; they have “set the stage for a global discourse on the RtAF. They created an environment where the RtAF can form a central part of the discourse on ESCR globally. That’s the biggest achievement”. (Biraj Patnaik, Right to Food Campaign, India)

This paradigm shift contributed to success for the RtAF at all levels. At the global level, the RtAF was essential to the reform of the Committee on World Food Security (CFS), and in the elaboration of documents such as the Global Strategic Framework for Food Security and Nutrition (GSF), and the Comprehensive Framework for Action (CFA). On the national level, the RtAF has been institutionalized in the form of constitutional amendments and framework laws in many countries, including Mexico, South Africa and Brazil.<sup>11</sup>

Locally, rights-based approaches have contributed to reducing the marginalization of vulnerable populations such as small-scale farmers, pastoralists and fisherfolk.

10 “General Comment No. 12: The Right to Adequate Food (Art. 11).” (E/C.12/1999/5). Adopted at the Twentieth Session of the Committee on Economic, Social and Cultural Rights. Office of the High Commissioner for Human Rights. 12 May, 1999. [www.refworld.org/docid/4538838c11.html](http://www.refworld.org/docid/4538838c11.html)

11 See: De Schutter, Olivier. “Interim Report by the Special Rapporteur on the Right to Adequate Food”. (A/68/288\*) New York: UN General Assembly. August, 2013. [www.srfood.org/images/stories/pdf/officialreports/20131025\\_rtf\\_en.pdf](http://www.srfood.org/images/stories/pdf/officialreports/20131025_rtf_en.pdf)

*The increased confidence in collectively demanding our rights without fear of violence has resulted in mobilization and organization for a stronger voice. The greater visibility of our struggles has resulted in reducing further injustice.*  
(Mohammad Ali Shah, Pakistan Fisherfolk Forum—PFF)

The RtAF has served to connect seemingly disparate struggles and peoples in different parts of the world, turning what might otherwise be local issues with little international appeal, into an interconnected global fight for human rights. By uniting fisherfolk in Uganda with pastoralists in India and “raising our voices for one another, we can put pressure on governments not to act against any human rights activist. If you act against one, you act against us all”. (Lalji Desai, World Alliance of Mobile and Indigenous Peoples—WAMIP)

## FUTURE CHALLENGES

For all of the important achievements made in the history of the fight for the RtAF, the future of the struggle must contend with ongoing challenges such as the lack of accountability and widespread impunity for violations of the right to food, limited implementation, the danger to and criminalization of human rights defenders and the “likelihood that upcoming negotiations, such as the Post-2015 Development Agenda, will again only pay lip-service to human rights monitoring and accountability”. (Claudio Schuftan, People’s Health Movement—PHM)

The increasing problem of corporate capture and private sector involvement in policy development continues to pose a threat, and we must work harder to ensure that “human rights are not bought” by the powerful. (Huguette Akplogan-Dossa, African Network on the Right to Food—ANoRF/RAPDA)

*There is a continuous risk in the international community of reducing the RtAF to the right to be free from hunger. Hegemonic powers and international agencies under their influence promote programs such as food assistance and cash transfers that deal with human rights as minimums. These powers want to bypass the commitments they don’t like to recognize that they have made. They want to limit rights to minimums and leave aside all obligations to respect, protect and fulfill.* (Flavio Valente, FIAN International)

The duty to promote the RtAF and protect it from being co-opted by the private sector, watered-down in international fora, or ignored by national governments lies with civil society. The 2013 launch of the Global Network for the Right to Food and Nutrition (GNRFN) aims to provide a space for actors to do exactly that, by better synergizing their work through joint action.<sup>12</sup> “The right to food is universal, and the Network will allow us to do more work, better quality work, and to be more aligned through outreach and advocacy”. (Stineke Oenema, ICCO)

Much has been attained over the course of the struggle for the achievement of the RtAF for all. It is clear that these achievements, whether in the form of international agreements, national legislation, or a redefining of discourse, all required the dedicated participation of a strong civil society working together to move forward. “Human rights are too important to leave to governments alone” (Anita Klum, FIAN International Executive Committee) and there is still much to be done.

12 “Global Network for the Right to Food and Nutrition—Charter and Call to Action”. June, 2013. Network Call to Action. See: [www.fian.org/library/publication/detail/global\\_network\\_for\\_the\\_right\\_to\\_food\\_and\\_nutrition\\_charter\\_and\\_call\\_to\\_action/](http://www.fian.org/library/publication/detail/global_network_for_the_right_to_food_and_nutrition_charter_and_call_to_action/)

## THE RIGHT TO FOOD GUIDELINES, FOOD SYSTEMS DEMOCRATIZATION AND FOOD SOVEREIGNTY: REFLECTIONS BY OLIVIER DE SCHUTTER<sup>1</sup>

### Interview

This article outlines the key issues highlighted by Mr. Olivier De Schutter, UN Special Rapporteur on the Right to Food between May 2008 and May 2014, during an interview conducted on 25 March 2014. The interview focused on the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security* (hereinafter Right to Food Guidelines),<sup>2</sup> which were adopted ten years ago by the FAO Council. Mr. De Schutter frequently urged States to consider and implement this important instrument.

During his tenure, Mr. De Schutter contributed greatly to the understanding and implementation of the right to adequate food and nutrition (RtAF) as a holistic human right. His work on the intersection between this right and other legal and policy areas—including nutrition, international governance, trade and development, business, and women’s rights—has shown the importance of guaranteeing human rights primacy and creating strong frameworks to close the existing gaps in protection and accountability.<sup>3</sup>

### KEY ACHIEVEMENTS, LIMITATIONS AND CHALLENGES AHEAD FOR THE RIGHT TO FOOD GUIDELINES

**Question:** How have the Right to Food Guidelines contributed to the promotion and protection of the right to adequate food over the last ten years? What were the key achievements and the main limitations of the Guidelines and their implementation?

**Answer:** It is usually independent experts with extensive experience who clarify the normative content of economic, social and cultural rights. In contrast, the legitimacy of the Right to Food Guidelines is very unique because they were negotiated by governments. Consequently, they are potentially at least as powerful a tool as the General Comments adopted by the UN Committee on Economic, Social and Cultural Rights (CESCR) and other human rights treaty bodies: governments should not be allowed to ignore a text they themselves have negotiated, and approved by consensus within the FAO Council.

In my experience, however, the Guidelines are less frequently invoked by certain actors than the General Comments. The fact that they are quite extensive and detailed can be seen as an asset, but perhaps that also makes them somewhat difficult to use for many policy makers, who may find them over-prescriptive. They were also the first document of this nature to be developed at the Committee on World Food Security (CFS), an intergovernmental body of the FAO, so people in some circles, particularly those who do not specialize in the right to adequate food, may not be used to referring to such sources, and be more likely to turn to the work of the treaty bodies or the Special Procedures of the Human Rights Council (HRC).

- 1 This interview was conducted by [Martin Wolpold-Bosien, Abby Carrigan and M. Alejandra Morena](#) on 25 March 2014. Special thanks to Abby Carrigan, M. Alejandra Morena and Carolin Callenius for their support in drafting and reviewing this article.
- 2 “Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security”. Adopted by the 127<sup>th</sup> Session of the FAO Council in November 2004. Food and Agriculture Organization of the United Nations, Rome, 2005. <http://www.fao.org/docrep/009/y7937e/y7937e00.htm>
- 3 To learn more about his work and access his reports, please visit: <http://www.srfao.org/en> and <http://www.ohchr.org/EN/issues/food/Pages/FoodIndex.aspx>

It is therefore a somewhat paradoxical fate: on the one hand, the Guidelines are a remarkable instrument, extremely detailed and highly legitimate. At the same time, they do not seem to be used very frequently by policy makers to shape their decisions. There is much more we could do with them than has been until now.

**Q: What do you regard as the main achievements of the Guidelines in terms of shaping national legislation and public policies?**

**A:** There are three dimensions of the Guidelines in this regard. The first dimension is that domestic sectoral policies may take into account ways to enhance the right to food, concerning for instance economic development (Guideline 2) or the organization of markets (Guideline 4). The second dimension relates to institutions and procedures, for example, the development of a national strategy (in line with Guideline 3), the establishment of institutions for intersectoral coordination (Guideline 5) or the establishment of participatory mechanisms to effectively ensure the right to participation and consultation, etc. The third is the international dimension, which is dealt with in a separate part of the Guidelines, as a sort of add-on, due to the opposition expressed by some delegations to include this in the Guidelines as such.

The most prominent achievements have probably been reached in the second block, the institutional block. The report I presented to the sixty-eighth session of the UN General Assembly summarizes some of the key developments that took place around the world in this regard.<sup>4</sup> There are wide differences between various regions. Progress has been most significant in Latin America. This is the result of combined efforts by various actors, including a network of parliamentarians that has been quite effective in supporting these developments and civil society organizations (CSOs) that are significantly better organized on these issues than they have been in Africa or Asia. The important work conducted by the FAO Regional Office in Santiago de Chile, and the support of the Spanish Agency for International Development Corporation (AECID) to the Hunger-Free Latin America and the Caribbean Initiative, have also played a key role.<sup>5</sup>

**Q: How do you assess the achievements of the Guidelines regarding right to food accountability?**

**A:** Accountability is making progress. There are more and more courts using the right to food in adjudication. The key idea of national strategies that aim to realize the right to food was derived from the recognition that we needed to build accountability, also for the dimensions of human rights subject to 'progressive realization'. When the CESCR developed this idea in the late 1990s, which was influential in shaping the Guidelines adopted in 2004, the goal was to send the message that simply because a right is subject to progressive realization in some dimensions, it does not mean it is acceptable for a state to remain passive. What must be done is to adopt an action plan with clear timelines for the implementation of each action to be taken, clear indicators to measure progress, and a clear allocation of responsibilities. In this way, no single part of government can avoid having to account for failing to take the measures it is expected to take.

That idea is a very powerful one. And in countries that have adopted such national strategies, it has acquired some degree of impact. Again however, the implementation of this idea is very uneven from region to region. Even in Latin America, where many countries have adopted a framework law on the RtAF, and have for the most part adopted national strategies, it is not clear whether there is always

4 De Schutter, Olivier. "Final report on the transformative potential of the right to food" (A/HRC/25/5). 25<sup>th</sup> Session of the UN Human Rights Council. 10 March, 2014. [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A\\_HRC\\_25\\_57\\_ENG.DOC](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A_HRC_25_57_ENG.DOC)

5 *Ibid.*, pp. 14–15.

independent monitoring of the implementation of these strategies. It is also unclear whether there are any sanctions associated with non-compliance for the timelines that are set. So there is certainly still work to be done.

**Q: How do you assess the shortcomings of the Guidelines, particularly with regard to Guideline 19 on the international dimension?**

A: Guideline 19 was probably less effective than the gradual invocation of the extra-territorial dimension of human rights. It seems to me that the CESCR has not referred to this Guideline when addressing extraterritorial obligations (ETOs) in Concluding Observations on states' reports. Instead, it has argued that it would be inconsistent to allow a state to ignore the human rights impacts of its policies or decisions outside of its jurisdiction while insisting that it pays attention to this within its jurisdiction. The International Covenant on Economic, Social and Cultural Rights (ICESCR), it should be recalled, does not include a reference to "jurisdiction" or territory: it imposes duties on States parties across all their actions or omissions.

Significant progress has been made on understanding the implications of extra-territorial human rights obligations. As far as I am aware, nonetheless, this development was largely separate from the invocation of Guideline 19, as there was no such explicit use of this guideline by human rights courts or treaty bodies. As you know, I am very committed to ETOs based on general international human rights law. We are on the right track, with the superb work done by the ETO Consortium<sup>6</sup> that Rolf Künemann has been instrumental in setting up and energizing. The manner in which this has been carried out to push the idea forward is exemplary.

**Q: Would you like to reflect further on the Guidelines?**

A: I would like to highlight one striking fact: I was at the Belgian Senate on 25 March, where a proposed right to food framework law is under discussion.<sup>7</sup> It is interesting to note that in the past, including to a large extent during the negotiations of the Right to Food Guidelines in 2002–2004, this issue was seen as something of interest only to developing countries where there was, and still is, widespread hunger and malnutrition. Today, the problems that stem from the lack of a food policy, from the environmental impact of agro-industrial food production, from impoverished populations being unable to eat healthily, are problems that are increasingly recognized as relevant to countries in the affluent part of the world, including the OECD countries. We have agricultural policies of course, and we have health policies and environmental policies. But we do not have the integrated "systems" approach that food policies require.

This is something to reflect upon. How can we gradually convince governments and policy makers that right to food strategies, food councils and the integration of the right to food in the different sectoral policies that affect its enjoyment can be as equally relevant for the North, as for the South? It would be interesting to read again through the Guidelines and identify whether the bias towards addressing issues in the Global South is too strong. But I believe that the Guidelines are largely also applicable to the North, where the problems are significantly more similar than we previously thought. There is certainly a new interest in food issues in the North due to the public health impacts attributed to the way food systems have developed and their effects on the environment, the inadequate attention given to nutrition, and the disappearance of small-scale and family farms in the region.

<sup>6</sup> The ETO Consortium is a network of around 80 human rights related CSOs and academics, which has been established to address the gaps in human rights protection that have opened up through the neglect of ETOs. For more information, visit: [www.etoconsortium.org](http://www.etoconsortium.org)

<sup>7</sup> For more information, see article "The Law on the Right to Adequate Food: A Necessary Step in the Fight against Food Insecurity and Malnutrition in Belgium" in this year's edition of the *Right to Food and Nutrition Watch*.

## WORLD FOOD SYSTEMS AND FOOD SOVEREIGNTY

**Q: In your last report, there is a call for the “world’s food systems to be radically and democratically redesigned.” What would be the main elements of such a redesign, in order to ensure the right to adequate food and nutrition?**

**A:** Reforms are very difficult to achieve without the food system being more accountable and democratic in the way it operates. There are many limitations in mainstream food systems. First, investments are rewarding large agribusiness corporations and not supporting local food systems. Second, economic incentives are rewarding the most efficient producers, rather than those who contribute to preserving the ecosystems. Third, our tastes and eating habits have changed to processed foods—more convenient, easy to prepare, and suited to our rushed lifestyles, even though they may be less healthy. Finally, there are major actors who are able to block change as a result of the dominant position they have acquired in the food and political systems. That is why food democracy is really the key to achieving more sustainable food systems. The democratization of the food systems is a necessary condition for effecting change.

**Q: Your final report also makes reference to food sovereignty as being a condition for the full realization of the right to food. Can you please expand on this connection between food sovereignty and the right to adequate food?**

**A:** The concept of food sovereignty seems to have changed significantly over the past fifteen years—or even less than that. Originally, it was used as a sort of counter-slogan to trade liberalization and the idea that food producers from all over the world should compete against one another, so that the most competitive would emerge and the most efficient regions would produce for the others, who would then depend on trade and aid to support their needs. The original claim of food sovereignty, as envisioned by La Vía Campesina in the Mons Declaration of 1993 for instance, was initially a reaction to this, arguing that we should not allow food and agricultural policies to be shaped by the demands of international trade, but instead design them taking into account the priorities that each country or region sets for itself.

Now food sovereignty is increasingly invoked by larger constituencies than those who first coined the concept—small-scale farmers under the umbrella of La Vía Campesina—including NGOs and urban populations. It is seen more and more as influencing micro-politics at the local level, rather than being simply opposed to global trade and trade liberalization at a global level. Food sovereignty today seems to be a movement deployed on new frontlines: school canteens, company canteens, farmers’ markets, the way poor communities can access fresh food through mobile markets circulating in poor neighborhoods, etc. The concept is used in a sufficiently ambiguous way to encapsulate both meanings in my final report.

It is imperative that we rebuild local food systems. There is now a consensus that there has been a very strong imbalance in the way that food systems have developed in the past, with an overemphasis on large-scale global food chains and international trade. But as I stressed above, people need to own the food systems on which they depend, to exercise democracy in the food systems. These new ways in which food sovereignty is invoked are quite recent, yet both meanings are indispensable to the realization of the right to food.



**Q: If you had a ‘wish’ for the implementation of the Right to Food Guidelines, what would it be?**

**A:** The Right to Food Guidelines were developed in 2002–2004, at a time when many specialists were aware of the impasse of dominant approaches to food security (based on increased production, trade and aid), but the broader community lacked a sense of urgency on the matter. The global food price crises of 2008 and 2010, the increasingly severe impacts of climate change on price volatility and the pressure on resources, now make them more relevant than ever: we now understand, much better than a few years ago, the importance of a “whole-of-government” approach to the realization of the right to food (cutting across distinct sectoral policies), as well as the importance of legal, institutional and policy frameworks that improve participation and accountability. The review of ten years of implementation is an opportunity. In my view, the Guidelines are still entirely valid and relevant, and they should play an even greater role in the years to come.

## RETHINKING THE VOLUNTARY VS. BINDING DIVIDE: A REFLECTION AFTER 10 YEARS OF THE VOLUNTARY GUIDELINES ON THE RIGHT TO FOOD

Sofía Monsalve Suárez and Fabienne Aubry<sup>1</sup>

### INTRODUCTION

Over the last two decades voluntary instruments addressing issues at the international level have proliferated. They are referred to as soft-law instruments, as opposed to hard-law instruments that are compulsory and binding for those they concern. The voluntary nature of these instruments has sparked a great deal of criticism in civil society. Given the formidable challenges in ensuring the accountability of states and powerful international actors increasingly involved in human rights violations and abuses, many civil society organizations (CSOs) consider such non-binding instruments useless vis-à-vis hard national laws and international regimes, such as the investment and trade regimes that both impact greatly on the progressive realization of the right to adequate food. Moreover, they are often perceived as instruments that help states evade obligations, while creating the illusion that some basic rules and accountability mechanisms are in place.

This article reflects on this criticism by looking at the experience of the *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security*<sup>2</sup> (hereinafter the Guidelines). Building on the assessment of the Guidelines presented in the first section of this year's Watch, it tries to deepen our understanding of soft-law instruments and the context in which they operate, and discusses their contribution to improving human rights enforcement and accountability at the international level. The authors hope that this article will be useful, particularly in the context of the Committee on World Food Security (CFS) where social movements and other CSOs are increasingly participating in the development of international norms in the field of food and agriculture.

### WHAT ARE SOFT-LAW INSTRUMENTS AND HOW SOFT ARE THEY?

In addition to states, international organizations and other actors are playing an increasingly significant role in decision-making and policy implementation at the international level. The concept of global governance describes this development as a consequence of the absence of a government at the global level. One could say that “[g]lobal governance is doing internationally what states do at home” with the notable exception, however, that there exists no enforcement authority.<sup>3</sup> Furthermore, those exercising global governance operate in many cases outside of a clear framework of substantive and procedural standards and without recourse to formal legislation. Since many actors find the process of developing, negotiating, ratifying and domesticating international treaties cumbersome and time consuming, the simpler and quicker route of adopting soft-law instruments has proliferated in the last several decades across many policy fields. They are considered to be more flexible and easily adaptable to a

1 Sofía Monsalve Suárez is FIAN International's Access to Natural Resources Program Coordinator; Fabienne Aubry is a jurist specialized in international law and human rights law, currently assisting FIAN International with its Geneva-based work. Special thanks to Christophe Golay, Francisco Sarmiento, Claudio Schuftan and Thierry Kesteloot for their support in reviewing this article.

2 “Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security”. Adopted by the 127<sup>th</sup> Session of the FAO Council November 2004. Food and Agriculture Organization of the United Nations. Rome, 2005. [www.fao.org/docrep/009/y7937e/y7937e00.htm](http://www.fao.org/docrep/009/y7937e/y7937e00.htm)

3 Finkelstein, Lawrence S. “What is Global Governance?”. *Global Governance*. Vol. 1 No. 3 (September–December 1995): 367–372. [www.jstor.org/stable/27800120](http://www.jstor.org/stable/27800120)

variety of circumstances and thus present a pragmatic way of fostering cooperation and shared understanding between different actors—not only states. The pick-and-choose-approach that soft-law instruments imply makes them highly palatable to all actors who are not ready to accept compulsory regulation.

The wide spectrum of soft-law instruments ranges from international standards guiding the implementation of specific human rights, such as the Right to Food Guidelines, to standards for all types of activities, such as banking, insurance and finance. The Recommendations issued by the Financial Action Task Force (FATF) on Combating Money Laundering and Financing of Terrorism and Proliferation (hereinafter the FATF Recommendations) are an example of the latter.<sup>4</sup> Although this article cannot review all the policy fields covered by soft-law instruments, it is evident that these instruments are being more commonly used at the international level than most of us may realize.

At first sight, it is clear that soft-law instruments substantially differ from one another in many respects. Drawing from the work of Matthias Goldmann,<sup>5</sup> parameters may be used to systematically grasp these differences and get a more nuanced and critical understanding of the different types of soft-law instruments. Accounting for the process of adoption of the instrument are the *genetic parameters*, which include authorship, procedure and publication, and which indicate the level of authority and legitimacy of the instrument. The *textual parameters* account for the content of the instrument and look at, among other things, the addressees, the language used and the normative chain (if any) the instrument inserts itself into. The *follow-up parameters* account for the mechanisms provided for the enforcement of the instrument, from hard (sanctions) to soft mechanisms (such as monitoring, reporting and reputational risk).

Where, then, do the Guidelines stand, in comparison to, for example, the FATF Recommendations which, as we will see, are strikingly different in subject, origin and impact?

The Guidelines rank high in terms of inclusiveness and legitimacy (*genetic parameters*), as they were adopted through consensus by the intergovernmental decision-making body of the FAO (a specialized UN agency with near universal membership) following extensive negotiations involving states, CSOs and UN agencies. In contrast, the FATF Recommendations are considerably less inclusive and legitimate, as they were adopted by the FATF, an intergovernmental body established by the G7 and whose membership does not exceed 36 states, after an exclusively technical consultation between private actors and international financial institutions.<sup>6</sup>

Regarding content (*textual parameters*), the Guidelines are meant to provide practical guidance to states in their domestic implementation of the right to adequate food in the context of national food security, in accordance with core human rights principles. They expressly refer to international human rights law<sup>7</sup> and, as such, are subordinate in the international normative chain. Likewise, the FATF Recommendations build on pre-existing international norms and standards<sup>8</sup> adopted with a view to combat money laundering and terrorist financing. Both instruments use strongly deontic language, which calls for states to adopt a certain behavior and specific regulations.

4 See: [www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf)

5 Matthias Goldmann is a German legal scholar conducting research on how to develop a legal framework of governance for activities of international institutions. See: Goldmann, Matthias. "Inside Relative Normativity: From Sources to Standard Instruments for the Exercise of International Public Authority—Part I/II". *German Law Journal*. Vol 9 No.11 (2008): 1865–1908. [www.germanlawjournal.com/index.php?pageID=11&artID=1046](http://www.germanlawjournal.com/index.php?pageID=11&artID=1046)

6 For more information see the FATF website: [www.fatf-gafi.org/](http://www.fatf-gafi.org/)

7 See: Article 25 of the Universal Declaration of Human Rights, Articles 2 and 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Articles 55 and 56 of the UN Charter.

8 UN Security Council resolutions relating to the prevention and suppression of terrorism and terrorist financing, the UN Convention against Illicit Traffic in Narcotic Drugs, the UN Convention against Transnational Organized Crime, the UN Convention against Corruption, and the Terrorist Financing Convention.

As for *follow-up parameters*, the Guidelines employ the weakest mechanism, i.e. voluntary reporting, to the CFS.<sup>9</sup> The FATF Recommendations in contrast benefit from a strong follow-up system, as implementation is reviewed through a peer mechanism and through the International Monetary Fund (IMF) and the World Bank's assessment processes using the FATF's common assessment methodology.<sup>10</sup>

The difference between the limited amount of resources made available for the implementation of the Guidelines and their high degree of legitimacy is striking, especially in comparison to that of the FATF Recommendations. Unlike the latter and certain other soft-law instruments developed by and for powerful states, the Guidelines were both developed vis-à-vis powerful states and negotiated with conservative ones. This explains the opposition of powerful states to the establishment of effective monitoring mechanisms of the Guidelines within FAO, as well as the lack of comprehensive support for this task from implementing UN agencies—such as FAO, the International Fund for Agricultural Development (IFAD) and the World Food Programme (WFP)—and influential donors. The follow-up mechanisms of the FATF Recommendations in turn almost close the conceptual (and factual) gap which differentiates hard-law from soft-law, i.e. its binding or non-binding effect.

## THE CHALLENGE OF IMPROVING HUMAN RIGHTS ENFORCEMENT: WHAT ROLE FOR SOFT-LAW INSTRUMENTS?

The widespread use of soft-law in global governance has clouded the sharp distinction between binding and non-binding instruments. Not all soft-law instruments have weak governing tools, and some hard-law instruments are not effectively implemented.<sup>11</sup> The FATF Recommendations truly influence the national level, and in particular, pose serious consequences for individuals' civil rights, as in the cases of CSOs suspected of funding terrorism.<sup>12</sup> How do we make sense of this? While this contribution raises more questions than it gives answers, we believe it is useful to deepen our critical understanding of the challenges ahead.

Global governance is a relatively recent development and a highly fluid and contested game that is determined more by power politics than by law. This explains the existence of soft-law instruments that are powerful mainly because powerful actors impose them, while some hard-law instruments tend to be weak because the powerful refuse to abide by them. So the question is not so much about hard- and soft-law per se, but rather about the dynamics of power and law in developing effective ways to control the powerful.

A further question is if hard-law is always the answer to the need for international regulatory and policy frameworks. Let's assume FAO, the World Health Organization (WHO) and other UN agencies were as powerful as the World Trade Organization (WTO) so as to demand compliance with their normative instruments. Would this not limit national sovereignty further? What of democratic control and legitimacy? Wouldn't such a global government at the present time benefit transnational companies? Transferring too many regulatory powers to the international level would undoubtedly entail trade-offs for people's self-determination.

When demanding mandatory regulation at the international level, a better understanding is needed of when this is necessary and of the national/local decision-making spaces we want to preserve. The development of a rule, equivalent to the principle of subsidiarity for domestic implementation of international human rights treaties, could clarify the interplay/relationship between hard-law and soft-law. A

9 So far this voluntary reporting has not been carried out. Besides this, some human rights monitoring bodies such as the UN Committee on Economic, Social and Cultural Rights (CESCR) and the UN Special Rapporteur on the Right to Food have occasionally used the Guidelines in their work.

10 On the possible sanctions that FATF can impose to demand compliance, see the case of Turkey and its legislation on financing terrorism. Hayes, Ben. "How international rules on countering the financing of terrorism impact civil society". Transnational Institute. 8 May, 2013. [www.tni.org/briefing/how-international-rules-countering-financing-terrorism-impact-civil-society?context=603](http://www.tni.org/briefing/how-international-rules-countering-financing-terrorism-impact-civil-society?context=603)

11 As in the case of the ICESCR for example.

12 *Supra* note 11.

clearer differentiation between these categories as well as within the soft-law category would also help identify, amongst soft-law instruments, which can be conducive to the implementation of mandatory standards.

Developing alternative norms and standards on food and agriculture in the context of the reformed CFS therefore requires a deeper understanding of the challenges of decision-making processes beyond the national level. From a democratic point of view, global governance offers a messy and fragmented picture. As such, there is still some lack of clarity when an international institution or actor is exercising public authority and what substantive and procedural standards need to be observed in order for it to be legitimate. Moreover, the development of specialized international systems, such as the trade and financial systems, has given rise to various autonomous legal regimes, often with conflicting interests.<sup>13</sup> There exists no hierarchy ordering these regimes and the clash between the powerful international trade regime and the weak human rights regime is unfortunately well known. It is not surprising then that many instruments used to govern globally are profoundly illegitimate and controlled by a few powerful states and actors. Individual rights, democracy, collective self-determination and global justice are threatened.<sup>14</sup> Therefore, it is important to always critically examine what kind of binding or non-binding instrument we are talking about. In other words, who drafted it and how, who uses it, how and to what end. Ultimately, the challenge is to democratize global governance and put human rights at the center of the international order.

Indeed, human rights treaties must be at the core of mandatory regulation at the international level. Looking ahead, our major challenge is thus the important task of making them truly enforceable at all levels. Locally, it is crucial to continue increasing human rights accountability through mechanisms such as social auditing and people's tribunals. So far, people's mobilization remains the paramount form of human rights accountability. At the national level, the right to food is not fully justiciable everywhere yet and mandatory regulation on all relevant policy fields—as those included in the Guidelines—is still lacking. Finally, at the international level, it is necessary to complete the architecture of the international human rights system with a world court for human rights.

The Guidelines can continue contributing to this agenda, for instance if their follow-up mechanism is improved; FAO should shift from only assessing the state of food insecurity in the world to assessing the progressive realization of the right to adequate food using the Guidelines as a baseline.<sup>15</sup> Additionally, the Guidelines can be effectively hardened when social movements claim, monitor and implement them themselves. Used this way, soft-law instruments can become powerful tools to spread dissent and resistance to more powerful regimes, and to support the enforcement of international human rights treaties.

- 13 Koskenniemi, Martti. "Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law". Report of the Study Group of the International Law Commission, UN Document A/CN.4/L.682. 13 April, 2006. [legal.un.org/ilc/documentation/english/a\\_cn4\\_l682.pdf](http://legal.un.org/ilc/documentation/english/a_cn4_l682.pdf)
- 14 von Bogdandy, Armin, Dann, Philipp and Matthias Goldmann. "Developing the Publicness of Public International Law: Towards a Legal Framework for Global Governance Activities". German Law Journal. Vol. 09 No. 11 (2008):1375–1400. [www.germanlawjournal.com/article.php?id=1025](http://www.germanlawjournal.com/article.php?id=1025)
- 15 "Declaration of the Civil Society Organizations at the 29<sup>th</sup> FAO Regional Conference for Europe". Report of the twenty-ninth FAO Regional Conference for Europe Bucharest, Romania 2–4 April. [www.fao.org/docrep/meeting/030/mk194e.pdf](http://www.fao.org/docrep/meeting/030/mk194e.pdf)

# KEY ISSUES AND DEVELOPMENTS ON THE RIGHT TO FOOD AND NUTRITION



## AGRICULTURAL INVESTMENTS— WHO MAKES THE DECISIONS? WHY THE COMMITTEE ON WORLD FOOD SECURITY MAKES A DIFFERENCE FOR SOCIAL MOVEMENTS<sup>1</sup>

Nora McKeon<sup>2</sup>

Land grabbing—the object of universal denunciation—is only the most visible aspect of a more complex trend. The broader threat is the current effort to consolidate the global corporate-led food system, shaken by the multiple crises of these past years, and open it up to the markets that have escaped its penetration thus far. Integrating small-scale producers into global value chains can be a more profitable strategy for corporations than land grabbing, since it asserts corporate control over the producers' resource basis and production choices while leaving them on their land to shoulder all the multiple risks that agriculture entails.<sup>3</sup>

Issues of investment in agriculture are on the table in many forums where corporations, capital and their governmental allies have the biggest (or only) voice. The Committee on World Food Security (CFS) is the only global space where they are addressed with a view to ensuring the right to food for all—not profits for elites—and where civil society, especially small-scale food producers' organizations themselves, are full participants. This is why the negotiations on agricultural investment in the CFS are so important.

### CHANGING THE TERMS OF THE DEBATE

In a hotly contested late-night debate during the first session of the reformed CFS in October 2010, the assembly declined to rubber stamp the Principles for Responsible Agricultural Investment (PRAI) launched by the World Bank, FAO, the International Fund for Agricultural Development (IFAD), and the UN Conference on Trade and Development (UNCTAD). The PRAI were promoted by G8 members who held that large-scale foreign investment in agriculture in developing countries was a welcome contribution to solving the food crisis. All that was needed was to “discipline” it with a code of conduct—formulated in closed-door discussions by the four multilateral institutions—which investors could voluntarily apply to their operations. Conscious of the lack of any kind of consultative process behind the PRAI, their supporters sought to obtain a no-questions-asked investiture of legitimacy from the CFS. On the other side of the fence, social movements and civil society organizations (CSOs), academics, and public figures like the UN Special Rapporteur on the Right to Food denounced the PRAI as a “move to legitimize the long-term corporate (foreign and domestic) takeover of rural people's farmlands.”<sup>4</sup> A number of G77 and European Union member states joined the front of the “nos” since it was clear that the PRAI did not have a seamless fit with the CFS's food security mandate or an appropriate consultative process behind it. In the end the PRAI were not endorsed. It was decided instead that the CFS would undertake its own inclusive consultation to formulate principles which could help ensure that agricultural investment promotes food security and the right to food.<sup>5</sup>

- 1 A more detailed account of debate on agricultural investment in the reformed Committee on World Food Security (CFS) will be available in a book to be published by Routledge in January 2015: *Food Security Governance: empowering communities, regulating corporations*.
- 2 Nora McKeon works at Terra Nuova. She is a writer, lecturer, and activist on food issues, and was formerly responsible for FAO's relations with civil society. Special thanks to Nico Verhagen and Biraj Patnaik for their support in reviewing this article.
- 3 McMichael, P. “Value-chain Agriculture and Debt Relations: Contradictory Outcomes,” *Third World Quarterly*. Vol 34, Issue 4, (2013): 671–690. [www.tandfonline.com/doi/full/10.1080/01436597.2013.786290#U7Kzr77wDcs](http://www.tandfonline.com/doi/full/10.1080/01436597.2013.786290#U7Kzr77wDcs)
- 4 “Why We Oppose the Principles for Responsible Agricultural Investment (RAI)”. The Global Campaign for Agrarian Reform Land Research Action Network. October 2010. [www.fian.org/fileadmin/media/publications/2010\\_09\\_Oppose\\_RAI.pdf](http://www.fian.org/fileadmin/media/publications/2010_09_Oppose_RAI.pdf)
- 5 Paragraph 26 (ii) states: “taking note of the ongoing process of developing Principles for Responsible Agricultural Investments that Respect Rights, Livelihoods and Resources (rai), and, in line with its role [the Committee] decided to start an inclusive process of consideration of the principles within the CFS”. See: “Committee on World Food Security Thirty-sixth Session Rome, 11–14 and 16 October 2010”. (CFS: 2010/ Final Report). Food and Agriculture Organization of the United Nations. 2010. [www.fao.org/fileadmin/templates/cfs/Docs0910/CFS36Docs/K9352E\\_CFS\\_36\\_Final\\_Report\\_Without\\_Appendices.pdf](http://www.fao.org/fileadmin/templates/cfs/Docs0910/CFS36Docs/K9352E_CFS_36_Final_Report_Without_Appendices.pdf)

To participate in the debate the autonomous Civil Society Mechanism (CSM) that interfaces with the CFS set up an “agricultural working group” in May 2011, and opened participation to CSOs around the world. Two objectives were defined, one proactive and the other one defensive:

1. to achieve more support for small-scale food producers and their models of production through enabling public policies, programs and research; remunerative prices; access to domestic markets and value addition, etc.
2. to protect small-scale food producers from corporate take-over by resisting land grabbing, value chain/contract farming approaches for linking producers to markets, initiatives to stimulate adoption of genetically modified organisms (GMOs), etc. and public-private partnerships (PPP) promoting these corporate strategies.

The CSM began to shift the terms of the debate during a first policy discussion on “smallholder-sensitive” investment in agriculture held at the annual CFS plenary session in October 2011. In its report the CFS recognized that small-scale producers are responsible for most of the food consumed and for the bulk of the investment in agriculture. It urged governments to direct agricultural policies and public investment towards food production and increasing the resilience of local and traditional food systems and biodiversity.<sup>6</sup> These positions have become what is called “accepted language” in intergovernmental negotiation parlance and cannot be watered down or ignored.

During the same session the CFS requested its High Level Panel of Experts (HLPE)<sup>7</sup> to prepare a study of constraints to smallholder investment in agriculture and policy options for addressing them. The resulting report<sup>8</sup> provided an excellent basis for discussion at the October 2013 CFS Plenary Session. Most of the governments who spoke underlined the importance of the smallholder sector. Discordant voices came from the Private Sector Mechanism<sup>9</sup>, which stressed the backward nature of smallholders and the need to help them “break the subsistence cycle” and become small entrepreneurs, and the US, which claimed that the G8 New Alliance was helping to do just that by increasing smallholders’ access to new technologies and seed varieties. The CSM politely, but firmly replied that “we don’t want to become small entrepreneurs—we have our own technologies and market systems for which we want to have public sector support.” The African governments made the most explicit and sweeping statement: “Smallholders are the basis of our food security. The emphasis should be not on encouraging outside investment but on facilitating those who are already producing”. In the end some important points were won, including the following:

The adopted text (CFS 40-Final Report, paras. 29–51):

- Smallholders are key food security actors and investors in agriculture, and provide a range of other benefits as well.
- Governments and national stakeholders—small-scale producers above all—are invited to develop a country-owned vision for smallholder agriculture and bring it to bear on relevant policies and budgets.
- Rights of smallholder farmers should be recognized and respected and their organizations strengthened.

6 Paragraph 24–29 of the CSF 37<sup>th</sup> Session Final Report. See: Committee on World Food Security Thirty-seventh Session Rome, 17–21 October 2011. (CFS:2011/Final Report). Food and Agriculture Organization of the United Nations. 2011. [www.fao.org/fileadmin/templates/cfs/Docs1011/CFS37/documents/CFS\\_37\\_Final\\_Report\\_FINAL.pdf](http://www.fao.org/fileadmin/templates/cfs/Docs1011/CFS37/documents/CFS_37_Final_Report_FINAL.pdf)

7 The CFS High Level Panel of Experts (HLPE) was established in the context of the reform of the CFS in order to provide it with an autonomous, high quality source of expert input to its policy deliberations. Thanks to producer organization/civil society insistence, the HLPE recognizes that expertise resides not only in academics and researchers but also in practitioners and producers themselves.

8 “Investing in Smallholder Agriculture for Food Security: A report by the High Level Panel of Experts on Food Security and Nutrition”. Food and Agriculture Organization of the United Nations. 26 June, 2013. [www.fao.org/fileadmin/user\\_upload/hlpe/hlpe\\_documents/HLPE\\_Reports/HLPE-Report-6\\_Investing\\_in\\_smallholder\\_agriculture.pdf](http://www.fao.org/fileadmin/user_upload/hlpe/hlpe_documents/HLPE_Reports/HLPE-Report-6_Investing_in_smallholder_agriculture.pdf)

9 The mechanism autonomously established by the private sector to interface with the CFS, which represents essentially the corporate agrifood sector.

- Smallholders' ability to access, breed, produce, conserve, exchange, sell and use the seeds<sup>10</sup> they need should be supported along with conservation and development of agricultural biodiversity including through agro-ecological approaches.
- Responsible governance of land and natural resources has to be strongly promoted, with emphasis on securing access and tenure for smallholders, in accordance with the Tenure Guidelines adopted by the CFS in 2012.<sup>11</sup>
- Priority should go to public investment in support of smallholders own investments, which are recognized to be multiform and not just monetary.
- Participatory research combining traditional knowledge with the findings of scientific research should be strengthened.
- Support should be given to the development of and access to markets that are remunerative for smallholders and rural economies; the importance of non-monetary exchanges and of local food systems is recognized.
- The HLPE report and the CFS recommendations should be taken into account in the consultation on rai principles.

## RESPONSIBLE AGRICULTURAL INVESTMENT PRINCIPLES (RAI)

The official process of developing and negotiating “rai” principles in the CFS got underway in June 2012. The CSM decided to produce its own version of what social movements felt strong principles regulating agricultural investment should look like. This autonomous process would be separate from, but communicate with, the official one, in which all concerned actors—including the private sector—are involved in the negotiations and governments take the final decisions. The movements' struggles and demands should be taken as the starting point. The civil society rai process would clarify the vision to be defended in the official negotiations and contribute to building a broad front against destructive agricultural investments.

Civil society discussions, held in all regions, insisted that the rai should provide guidance on how to apply the principles and entrench the principle of monitoring in order to hold governments and investors accountable. The agricultural “modernization” paradigm had to be questioned and the concept of investment broadened to cover not just financial but also natural, human, social, cultural resources. Food sovereignty and the right to adequate food should be the overarching framework. Strong condemnation of land and resource grabbing was essential, along with legally binding regulatory systems to discipline large-scale investors. Bilateral and multilateral trade and investment agreements deserved special attention.<sup>12</sup>

In parallel, the CSM was interacting with the official rai consultation. A Zero Draft of the principles<sup>13</sup> was discussed in CFS multi-stakeholder regional consultations in which producers' organizations and CSOs were active participants. The revised Draft One was unveiled on 1 April 2014 and the actual negotiations got underway in Rome from 17–24 May 2014. As the negotiations opened the CSM was prepared to defend detailed alternative language proposals backed up by a clear definition of social movements' “red lines”:

1. “The rights-based framework needs to be stated clearly at the outset and recognized in concrete terms in all of the principles.

10 For example, see: Kastler, G., Onorati, A., and Brac, B., “Seeds and Peasant Autonomy”. Right to Food and Nutrition Watch 2013: Alternatives and Resistance to Policies that Generate Hunger. October, 2013. [http://www.rfn-watch.org/fileadmin/media/rfn-watch.org/ENGLISH/pdf/Watch\\_2013/Watch\\_2013\\_PDFs/Watch\\_2013\\_eng\\_WEB\\_final.pdf](http://www.rfn-watch.org/fileadmin/media/rfn-watch.org/ENGLISH/pdf/Watch_2013/Watch_2013_PDFs/Watch_2013_eng_WEB_final.pdf)

11 “Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security”. Adopted by the 127<sup>th</sup> Session of the FAO Council November 2004. Food and Agriculture Organization of the United Nations, Rome. 2005. [www.fao.org/docrep/009/y7937e/y7937e00.htm](http://www.fao.org/docrep/009/y7937e/y7937e00.htm)

12 For further reading on the civil society discussions on agriculture investment, see: [www.csm4cfs.org/policy\\_issues-6/agricultural\\_investment-7/](http://www.csm4cfs.org/policy_issues-6/agricultural_investment-7/)

13 See: [www.fao.org/fileadmin/templates/cfs/Docs1314/rai/CFS\\_rai\\_Zero\\_Draft\\_01\\_August\\_2013\\_EN.pdf](http://www.fao.org/fileadmin/templates/cfs/Docs1314/rai/CFS_rai_Zero_Draft_01_August_2013_EN.pdf)

2. There must be clear recognition of small-scale producers and workers as the main investors in agriculture and the main producers of food, and of the fact that investment is not only financial.
3. There must be a commitment to create decent work and respect workers' rights and overcome discrimination against women.
4. There must be support for peasant-based agro-ecological production systems and local food systems and markets; defense of peoples' access to and control over land, forests, water, peasants' seeds, fisheries; and investment in people-centered research.
5. The rai must prioritize effective public policies and investment that support and defend small-scale producers and local food systems. These should include agricultural and rural policies, and also trade and investment.
6. There has to be a strong statement of the responsibility of states for implementing and monitoring the principles in an inclusive way, with particular emphasis on participation by the most vulnerable.<sup>14</sup>

The negotiations were just as complex and contentious as civil society had expected. A week did not suffice and another negotiation session had to be planned. As this issue of the *Right to Food and Nutrition Watch* was being finalized the final outcome was not yet known, but the CSM was prepared to negotiate strongly and to react forcefully if the final document adopted by governments was not acceptable.

## CONCLUSION

By mid-2014 civil society had made considerable progress both in reframing the terms of the debate on agricultural investment in the CFS and in identifying the hard core issues on which further effort is required. The homogenizing tendencies of the global food regime have to be fought. An incontrovertible distinction must be made between the different logics and interests of small-scale producers and local food systems and those of agri-business-promoted vertical value chains. More work is needed to demonstrate that the agri-business value chain vision is not an avenue to food security and to convince as many governments as possible that it is not in their political interest to embrace it. More effort is required to analyze the nature of markets that are congenial to smallholders, rural economies, and sustainable production models.

The reformed CFS has taken a giant's step by adopting the right to food as its lens for reading contentious issues like investment in agriculture. It has taken another by bringing the concerned actors into the room, particularly those most affected. Nonetheless it is laboring under the dilemma that the national governments who are its decision-makers most often engage in global food negotiations with a view to defending narrow, short-term national interests defined in terms of a paradigm of productivism and globalized trade. Yet they are the only actors who could potentially defend their citizens against the impacts of investment agreements that violate their right to food. Urging governments to implement their global commitments and calling them to account if they fail to do so is a hallmark of international human rights monitoring and appeals machinery, which civil society and allies like the UN Special Rapporteur on the Right to Food are seeking to bring to the CFS.

14 "Civil Society Position on the first draft of the CFS rai Principles". International Food Security & Nutrition Civil Society Mechanism (CSM), May 2014. [www.csm4cfs.org/files/SottoPagine/118/csm\\_position\\_rai\\_first\\_draft\\_12\\_may\\_2014\\_en.pdf](http://www.csm4cfs.org/files/SottoPagine/118/csm_position_rai_first_draft_12_may_2014_en.pdf)

Whether or not they succeed is of vital importance. In the end, what will make the difference for social movements—and for the CFS itself—is building links between the global policy space and local realities by “bringing home” the outcomes of CFS negotiations.<sup>15</sup> It is not a question of choosing between a top-down or a bottom-up approach. The two must be mutually reinforcing, with local and national mobilization providing the popular energy for global policy work that otherwise would be reduced in its legitimacy and its urgency and, in return, accessing outside support for local struggles. National accountability backed by political mobilization is the indispensable complement for globally negotiated guidance on agricultural investments to become a powerful tool for food sovereignty.

15 De Schutter, Olivier. “Governing World Food Security: A New Role for the Committee on World Food Security”. Right to Food and Nutrition Watch 2009: Who Controls the Governance of the World Food System? October, 2009.  
[www.rfn-watch.org/fileadmin/media/rfn-watch.org/ENGLISH/pdf/Watch\\_2009/WATCH\\_2009\\_English.pdf](http://www.rfn-watch.org/fileadmin/media/rfn-watch.org/ENGLISH/pdf/Watch_2009/WATCH_2009_English.pdf)

## INTERDEPENDENT AND INDIVISIBLE: THE RIGHT TO ADEQUATE FOOD AND NUTRITION AND WOMEN'S SEXUAL AND REPRODUCTIVE RIGHTS<sup>1</sup>

R. Denisse Córdova Montes and Flavio Luiz Schieck Valente<sup>2</sup>

The realization of the right to adequate food and nutrition for all is intrinsically linked to the recognition of women's and girls' human dignity and the full realization of all other rights, especially of self-determination, autonomy and bodily integrity.

The Global Network for the Right to Food and Nutrition (GNRFN) is an initiative that mobilizes civil society organizations and international social movements, including peasants, fisherfolk, pastoralists, indigenous peoples, and food and agricultural workers, to hold states accountable for their obligation to realize the right to food and nutrition.<sup>3</sup> It recognizes the invisible structural violence by the states and corporations that impedes the realization of women and girls' human rights. This ethos is enshrined in the Network Charter, which states that

*[s]tructural violence and discrimination against women are often invisible or ignored, magnifying the violations of women's rights and hindering their capacity to participate actively in the realization of the right to adequate food and nutrition. Network members support women in their struggle for equal rights with men, for their right to self-determination, for their sexual and reproductive rights, including the right to choose their partners and whether or not they want to procreate.<sup>4</sup>*

An understanding of, and addressing the links between women's, girls' and children's rights, including their sexual and reproductive rights (SRR), and the human right to adequate food and nutrition is fundamental to the eradication of hunger and malnutrition. These links can clearly be shown by looking at two outcomes of human rights violations—child marriage and adolescent pregnancies, which are still prevalent across Asia-Pacific, particularly in South Asia.<sup>5</sup>

Early and child marriage, and adolescent pregnancies deprive young girls of education and employment opportunities, leaving them in poor bargaining positions and excluding them from critical decision making. These incidences deny them the right to play, to education and to social interaction by imposing on them the burden of having to provide child care, limit their access to adequate food and nutrition, increase their exposure to sexual violence, and leave them with less power for negotiating on sexual and reproductive matters. These in turn increase their chances for a risky pregnancy and childbirth, which also increase the risks of infant and maternal morbidity and mortality. Additionally, pregnant young women have to compete with the nutritional demands of bearing a child—a double burden on their own development, as well as the development of the child growing in them. They are often stunted as a result of under-nutrition, and in turn bear undernourished children.<sup>6</sup> Deaths and

1 The original version of this article first appeared in the "Linking Poverty, Food Sovereignty and Security, and Sexual and Reproductive Health and Rights" issue of ARROW for Change. Vol. 20 no. 1, 2014. [www.arrow.org.my/uploads/20140616121147\\_v20n1.pdf](http://www.arrow.org.my/uploads/20140616121147_v20n1.pdf)  
Some minor modifications have been made in this version.

2 R. Denisse Córdova Montes is Gender Coordinator at FIAN International. Flavio Luiz Schieck Valente is Secretary General of FIAN International.  
Special thanks to Maria Melinda Ando and Ambika Varma (ARROW) for their support in reviewing this article.

3 For more information about the network and its members, see: [www.fian.org/news/article/detail/launch\\_of\\_global\\_network\\_for\\_the\\_right\\_to\\_food\\_and\\_nutrition/](http://www.fian.org/news/article/detail/launch_of_global_network_for_the_right_to_food_and_nutrition/)

4 Access the Global Network for the Right to Food and Nutrition Charter at [www.fian-nederland.nl/pdf/GNRtFN\\_-\\_Formatted\\_Charter.pdf](http://www.fian-nederland.nl/pdf/GNRtFN_-_Formatted_Charter.pdf).

5 Child and early marriage prevalence in South Asia is highlighted in the ICRW publication: Khanna T., Verma R. and Weiss, E. "Child Marriage in South Asia: Realities, responses and the way forward". International Center for Research on Women (ICRW). 2013. [www.icrw.org/files/publications/Child\\_marriage\\_paper%20in%20South%20Asia.2013.pdf](http://www.icrw.org/files/publications/Child_marriage_paper%20in%20South%20Asia.2013.pdf)

6 See: FIAN's submission on Child, Early and Forced Marriage to the Office of the High Commissioner for Human Rights for the preparation of its Report to the Human Rights Council at its 26<sup>th</sup> Session in June 2014 at: [www.ohchr.org/Documents/Issues/Women/WRGS/ForcedMarriage/NGO/FIAN.pdf](http://www.ohchr.org/Documents/Issues/Women/WRGS/ForcedMarriage/NGO/FIAN.pdf)



disabilities from unsafe abortions are also particularly higher among unmarried adolescents, due to several socio-political and structural barriers to access to safe abortion services.<sup>7</sup>

Sexual and reproductive rights violations not only affect individuals', but their families' and community's overall health and well-being. Moreover, as has been mentioned earlier, these have intergenerational consequences on health, perpetuate poverty, keep women from participating in public life, and prevent them from making informed sexual and reproductive health (SRH) decisions.<sup>8</sup> In order to bridge the gaps in inequalities and to facilitate achieving the right to adequate food and nutrition, women and marginalized groups should be guaranteed all other human rights. Fulfilling the rights in one area has spill-over effects in others. This has been illustrated in a recent study, which shows how women's right to land can help tackle child malnutrition in India.<sup>9</sup>

The members of the Network are committed to supporting the struggles of social movements, communities and groups, fighting against violations of the right to adequate food and nutrition and related human rights, including sexual and reproductive health and rights.

### CASE STUDY

#### Explaining India's Paradox through Women's Voices

In spite of remarkable economic growth over the last decade, in India, 42% of children under five are malnourished—a percentage that is similar to that found in sub-Saharan Africa.<sup>10</sup> A recent large-scale national nutritional survey<sup>11</sup> that covered 73,670 households across 112 districts spanning nine states in India sought to explain this paradox by providing a view into the perspectives of mothers confronting malnutrition. The survey results revealed the dire status of the rights of women and girls in India—the low percentage of mothers who have an education, the large number of women who have low birth weight babies, women's lack of decision-making power within the household, and mothers' lack of knowledge regarding the needs and rights of her children, among others. The survey provided an insight into the potential impact of the situation of women's rights on the ground on the high rates of children malnutrition in India, calling into question some of the current assumptions about addressing malnutrition and bringing to light the fundamental importance of the realization of women's rights throughout their life spans.

- 7 "Young and Vulnerable: The Reality of Unsafe Abortion among Adolescent and Young Women," ARROW for Change, Vol 12, No. 3. (2006). [www.arrow.org.my/publications/AFC/v12n3.pdf](http://www.arrow.org.my/publications/AFC/v12n3.pdf)
- 8 For more information on the links between women's rights and the right to adequate food and nutrition, see: De Schutter, Olivier. "Report submitted by the Special Rapporteur on the Right to Food: Women's Rights and the Right to Food at the 22<sup>nd</sup> Session of the United Nations Human Rights Council". (A/HRC/22/50). Human Rights Council Twenty-second Session. 24 December, 2012. [www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHRC2250\\_English.PDF](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHRC2250_English.PDF)
- Bellows, Anne C., Valente, Flavio L.S. and Lemke, Stefanie. eds., "Gender, nutrition and the human right to adequate food: Towards an inclusive framework", New York: Taylor & Francis/Routledge. (2013). [www.fian.org/library/publication/detail/gender\\_nutrition\\_and\\_the\\_human\\_right\\_to\\_adequate\\_food\\_towards\\_an\\_inclusive\\_framework/](http://www.fian.org/library/publication/detail/gender_nutrition_and_the_human_right_to_adequate_food_towards_an_inclusive_framework/)
- For information on the intergenerational cycle of growth failure, see: Shrimpton, R. "Maternal Nutrition and the Intergeneration Cycle of Growth Failure". United Nations System Standing Committee on Nutrition 6<sup>th</sup> Annual Report on World Nutrition Situation. 2010. [www.unscn.org/files/Publications/RWNS6/report/SCN\\_report.pdf](http://www.unscn.org/files/Publications/RWNS6/report/SCN_report.pdf)
- 9 For an example of a discussion on this topic, see: The Guardian, "Land Rights for Women Can Help Ease India's Child Malnutrition Crisis", 20 January, 2012, [www.theguardian.com/global-development/poverty-matters/2012/jan/20/land-rights-india-women-ease-malnutrition](http://www.theguardian.com/global-development/poverty-matters/2012/jan/20/land-rights-india-women-ease-malnutrition)
- 10 *Ibid.*
- 11 "HUNGaMA Fighting Hunger & Malnutrition: The HUNGaMA Survey Report 2011". Naandi Foundation. 2011. [www.hungamaforchange.org/HungamaBK-Dec11LR.pdf](http://www.hungamaforchange.org/HungamaBK-Dec11LR.pdf)

## IS THERE STILL A FUTURE FOR THE NEW EUROPEAN SEED REGULATION?

Philippe Catinaud and Guy Kastler<sup>1</sup>

What will happen following the European Parliament's 11 March rejection of the European Commission's proposal for a new regulation on the commercialization of seeds, better known as the PRM (Plant Reproductive Material) regulation?<sup>2</sup> To answer this question, one must consider the political context of this vote, which is dominated by two factors: first, the negotiation of bilateral free trade agreements with Canada<sup>3</sup> and the United States,<sup>4</sup> and regional agreements between the European Union and North American<sup>5</sup> countries; and second, until May 2014, the electoral campaign for the European Parliament.

### NEGOTIATIONS ON THE NEW SEED REGULATION GO BEYOND EUROPE

Current European directives reserve access to the seed market for professional agriculture solely to varieties registered in the catalogue according to the standards of the Plant Variety Certificate (COV).<sup>6</sup> These standards ensure the monopoly of industrial seeds by including requirements that, by design, exclude peasant seed varieties. They also require phenotypic branding that distinguishes each seed variety from those of their competitors, a process that can take up to ten years of breeding work for breeders to standardize and stabilize all phenotypic traits. However, these burdensome identification standards can now be bypassed through the use of genetic technologies to create patented molecular or biochemical markers. These markers are deemed sufficient to identify a firm's property throughout the food chain, from the seeds to the consumer's plate, without the need to standardize and stabilize other phenotypic traits of genetically modified plants.

In the proposed PRM regulation that was rejected by the Parliament and referred back to the Council, the European Commission (EC) had sought to challenge the COV monopoly by expanding the exemptions in the catalogue currently reserved for amateur gardeners and farmers. Contrary to the Commission's claims, the defense of agricultural biodiversity is not the primary reason for this proposed change, as it would also bring the European regulations more in line with those of Canada, which has considerably relaxed the standards of its catalogue, and with those of the United States, which considers the current standards as a non-tariff barrier to international trade.<sup>7</sup>

The roadmap that was entrusted to TAFTA negotiators, however, only accepts one restriction on freedom of trade, "standards based on science".<sup>8</sup> Whether they are sanitary, phytosanitary, environmental, related to biosecurity or other issues, these standards all define patentable characteristics. Given that only the monopoly granted by patents can absorb the cost of marketing authorization, this constitutes an 'elegant' way of invoking free trade in order to restrict market access solely to patented products. Conflicts of interest, which plague the European and U.S. agencies responsible for food safety (the European Food Safety Authority, EFSA, and the Food and Drug Administration, FDA) in their management of GMO and pesticide authorization, coupled with patented seeds' total domination of the markets for major U.S.

1 Philippe Catinaud is a producer of organic farmers' seeds in the southwest of France and co-chair of the Peasant Seed Network (*Réseau Semences Paysannes*). Guy Kastler is a farmer in the south of France, General Delegate of the Peasant Seed Network and Head of the Seeds and GMO Commission of the Peasant Confederation (*Confédération Paysanne*).

Special thanks to Antonio Onorati, Bob Brac and Christine Campeau for their support in reviewing this article.

This article was originally drafted in French.

- 2 "Production and making available on the market of plant reproductive material (plant reproductive material law)." European Parliament Strasbourg. 11 March, 2014. [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0185+0+DOC+XML+V0//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2014-0185+0+DOC+XML+V0//EN)
- 3 The European Union and Canada reached a political agreement on 18 October 2013 on the key elements of a trade agreement, the Canada-European Union Comprehensive Economic and Trade Agreement (CETA). For further reading, see: [ec.europa.eu/trade/policy/countries-and-regions/countries/canada/](http://ec.europa.eu/trade/policy/countries-and-regions/countries/canada/)
- 4 The Transatlantic Trade and Investment Partnership (TTIP) is a trade agreement that is currently under negotiation between the European Union and the United States. For further reading, see: [ec.europa.eu/trade/policy/in-focus/ttip/about-ttip/](http://ec.europa.eu/trade/policy/in-focus/ttip/about-ttip/)
- 5 Trans-Atlantic Free Trade Agreement (TAFTA) bringing together North American Free Trade Agreement and European Free Trade Association (EFTA).
- 6 "COMMISSION DIRECTIVE 2009/97/EC of 3 August 2009 amending Directives 2003/90/EC and 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directives 2002/53/EC and 2002/55/EC respectively, as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species." See: [Document 32009L0097, EU law and publications. eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009L0097](http://Document 32009L0097, EU law and publications. eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009L0097)

crops (corn, soybeans, cotton, rapeseed, etc.), reveal the real purpose of such “standards based on science,” namely to promote patent ownership over the food chain.

On 15 April 2014, one month after rejecting the proposed PRM regulation,<sup>9</sup> Members of the European Parliament (MEPs) had to rule on several other proposed regulations on the health of plants and animals that were included in the same legislative package (*Better Regulation package*) as the PRM Regulation. They did not reject them. They simply removed any reference to the PRM regulation and eliminated a few measures that allowed for obvious conflicts of interest. However, these three other regulations extended the regulatory scope of “self-checking under official control” to the entire food chain, an extension designed to enable large companies to further determine the standards and procedures to which they and other producers must adhere to. Yet these standards and procedures, tailored by and for multinationals, are inapplicable to small businesses, smallholder farmers and practitioners of peasant agroecology, who will thereby be locked in the current ‘niches’ that prohibit them from stepping on the multinationals’ turf. The European Coordination *Via Campesina* and the French Peasant Seed Network (*Réseau Semences Paysannes*) were the only civil society organizations (CSOs) to demand the rejection of these regulations and the restoration of food chain oversight as a public service based on the collective participation of operators as well as transparency, rather than the privatization of market control and secrecy of industrial confidentiality. These organizations also warn against the serious threats to the right to adequate, healthy, nutritious and culturally appropriate food, since the legislative package grants multinational corporations the capacity to set their own standards for market access and ‘control’.

## EC AND COUNCIL YET TO MAKE THEIR LAST CALL

If the Council also rejects the PRM regulation proposal, the Commission will be forced to withdraw it. The market will thereby continue to be regulated by the current guidelines that further restrict biodiversity’s access to the market and farmers’ rights to share their seeds. The survival of these guidelines will thus depend on the future of TAFTA, whose roadmap serves the interests of multinational corporations and is already included in the other three regulations that were passed in April.<sup>10</sup>

However, the Council may also amend the proposed PRM regulation, which it had already begun to do in the many working meetings that have been held since its publication on 6 May 2013. The Commission, which retains its right of initiative, has already announced that in that case, it would consider requests of the Council and the Parliament to amend its initial proposal. This new text would then be discussed by the newly elected Parliament.<sup>11</sup> But, in its second reading, it would have only three months to review the text, which would give it less time to amend than in the first reading. The Parliament could of course reject the proposed regulation a second time, but this seems quite unlikely. Indeed, whatever the Parliament’s new composition, the context that fostered its vote on 11 March will have changed.<sup>12</sup>

- 7 In the United States, recording a variety in the catalogue is not required to commercialize seeds. Therefore, under Food and Drug Administration (FDA) regulations, the only restrictions in commercializing acceptable seeds are health or environmental standards.
- 8 The World Trade Organization (WTO) only accepts health or environmental risks for justifying a country’s refusal to import goods if they are based on scientific studies.
- 9 Draft legislative resolution of the European Parliament on the proposal for a regulation of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material, plant protection products and amending Regulations (EC) No 999/2001, 1829/2003, 1831/2003, 1/2005, 396/2005, 834/2007, 1099/2009, 1069/2009, 1107/2009, Regulations (EU) No 1151/2012, [...]2013 and Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC, 2008/120/EC and 2009/128/EC (Official Controls Regulation) See: [www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0162+0+DOC+XML+V0//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0162+0+DOC+XML+V0//EN); and “Food safety: MEPs will strengthen measures to tackle animal diseases and pests,” Newsletter, 14–17 April 2014, Plenary Session. Strasbourg. 10 April, 2014. [www.europarl.europa.eu/news/en/news-room/plenary/2014-04-14/10](http://www.europarl.europa.eu/news/en/news-room/plenary/2014-04-14/10)
- 10 Two of these regulations define the health standards applicable to agricultural production, while the third defines the details of the delegation to industry of the control of all sanitary, environmental or biosecurity norms aiming to replace all other tariffs or non-tariff barriers to production and trade of products intended for or coming from the food chain.
- 11 Statement by the representative of DG Sanco to the Seeds Advisory Group of the European Commission (*Advisory Group on “Seeds”*) Thursday, March 13, 2014.
- 12 At the beginning of their term, parliamentarians will no longer be under the pressure of election bids and will no longer be able to claim that they do not have enough time to review this proposal.

## CIVIL SOCIETY DEMANDS CAUGHT UP IN ELECTION ISSUES

The first reason for rejecting the proposed PRM regulation can be linked to the pressures of the election campaign season, which encouraged all political parties to avoid a public debate on a risky and deeply divisive issue:

- Some MEPs expressed the concerns of civil society regarding the disappearance of agricultural biodiversity. A rumor circulated on social media that all seed exchanges between farmers or gardeners would be prohibited. This rumor was spread to legitimize the complete refusal of the PRM despite the fact that in reality this is the first European legal text to explicitly recognize this right to trade as early as in its first articles. The European Coordination *Via Campesina* and the French Peasant Seed Network asked the Parliament to amend and improve the PRM in order to expand and consolidate the new opportunities it offers to relax the constraints of the catalogue. At the same time, they sought to ensure that these constraints did not further benefit the growing monopoly of patented seeds. Biological associations grouped within IFOAM-EU also proposed amendments aiming to open up the market to organic seeds. But the power of the false rumor overrode their voices.
- Others expressed the demands of industry. Despite industry's fine statements, concern for the defense of biodiversity is not shared by industry or by the majority of the European Parliament. Moreover, the defense of biodiversity alone cannot explain the absence of any efforts to negotiate amendments that preceded the rejection of the PRM regulation on 11 March. Indeed, on the same day, the same Parliament adopted a resolution on horticulture defending the increased use of pesticides and patented technologies of genetic modification of seeds, both of which destroy agricultural biodiversity. In addition, on 25 February, it had already adopted another resolution calling for research on new "plant breeding technologies" and further restrictions on consumers' access to information about the genetic modification of seeds and foods. MEPs who voted for these industry-friendly resolutions at the expense of their constituents' health found themselves caught between two conflicting sets of demands when deciding on the PRM regulation: the demands of the traditional seed industry in support of the requirements of the catalogue that ensures the protection of its COV and the demands of biotechnology multinationals seeking to expand market share for their new patented seeds by using "standards based on science" as the new requirements.

Any negotiation of amendments to the PRM regulation would have revealed these multiple contradictions. Rejecting it has on the contrary allowed all MEPs to tell 'their' constituents or donors that they refused whatever those constituents or donors did not want. This rejection also demonstrates that Members of Parliament were seeking to elicit respect from a Commission that currently tends to show little regard for Parliament, a message frequently used during campaign season. However, this rejection does not meet any of the conflicting demands of civil society and industry. It seems likely that the combined pressure induced by the CETA, TTIP and

TAFTA negotiations as well as multinationals, the Commission and the Council capitulating on GMO approvals, will burst the facade of pre-election unanimity as soon as the elections are over.

#### WHAT TO DO NOW? SEND A CLEAR MESSAGE AND MOBILIZE

- We demand: farmers' rights to use and exchange seeds and access agricultural biodiversity free of industrial property rights; the relocation of seed production; regulation and public control of the market to ensure food sovereignty and the protection of farmers' seeds against genetic and health contamination and bio-piracy; and adapted standards.
- We oppose: opening the market to patented seeds and to GMOs; a deregulated global seed market; the privatization of control of market placement; industry standards; and the uncontrolled movement of plant pathogens.

Popular mobilization will be the only means to reach our goals in the battle for new seed regulations and the protection of our rights.

## RESTORING SELF-RELIANCE THROUGH LOCAL KNOWLEDGE AFTER DISASTERS: LESSONS FOR MATERNAL, INFANT AND YOUNG CHILD FEEDING AND FROM SMALL-HOLDER FARMER SOLIDARITY

Marcos Arana Cedeño, M. Innes Av. Fernandez and R. Denisse Córdova Montes<sup>1</sup>

Countless responses to disasters have profoundly and irreversibly affected local food culture and the capacity of communities to feed themselves. Infants, children under five and women, as the ones who are most responsible for the feeding of their children and families, are particularly affected during the follow-up to crises with dire implication for the realization of the right to adequate food and nutrition (RtAF) of all in these communities. Smallholder farmers, whose lands, crops, and replacement seed are damaged and lost in disaster need to recover their autonomy, not develop dependencies.

Disasters are not exceptional situations in which states are exempt from their responsibilities with regard to the RtAF. On the contrary, their responsibilities to respect, protect and fulfil this right have to be more strictly observed, both when addressing the urgent and immediate needs of the affected populations as well as when foreseeing the long-term impact of disasters. This means that protection, mitigation and reconstruction actions undertaken by states should be aimed at not only saving lives, but also providing safety and re-establishing the capacity of communities to feed themselves with the least possible disruption to the conditions prior to the emergency. Nevertheless, repeatedly, the challenges faced by communities, and particularly by women and their families are a result of the way in which relief operations, more specifically nutrition and feeding interventions, have been developed and implemented. Poor technical or political decisions, which are in some cases contaminated by corruption, have contributed to the creation of long chains of dependency and several other unintended effects,<sup>2</sup> thus eroding the productive capacity as well as social mechanisms of solidarity and exchange.

During emergencies, support for exclusive and continued breastfeeding is absolutely critical for the health and lives of infants and young children. Exclusive breastfeeding during the first six months accompanied by continued lactation and adequate complementary feeding is crucial for preventing infant deaths and malnutrition. Failure to breastfeed significantly increases the risk of diseases because the lack of clean water and infrastructure make it difficult to ensure safe and efficient preparation of baby food without adequate refrigeration and clean boiled water, which compound the already unstable access to infant formula in times of crises.<sup>3</sup> Also during emergencies, it is critical to support and invest immediately in smallholder farmer recovery to re-build a base for local and national self-determination, and food and nutrition sovereignty.

<sup>1</sup> Marcos Arana Cedeño is member of IBFAN and WABA; Director of CCESC (Training and Education Centre of Ecology and Health for Peasants) in Chiapas, Mexico; researcher at INNS (Mexico National Institute of Nutrition Salvador Zubirán), OBSCIUDES and Espacio DESC; and co-founder of aliMente project. M. Innes Av. Fernandez is founder of Arugaan and member of IBFAN Philippines. R. Denisse Córdova Montes is Gender Coordinator at FIAN International in Germany. Special thanks to Christine Campeau, Anne C. Belows and Eike Zaumseil for their support in drafting and reviewing this article.

<sup>2</sup> Barret, C. B. "Food Aid's Intended and Unintended Consequences". FAO, Agricultural and Development Economics Division (ESA) Working Papers. May 2006. <http://ftp.fao.org/docrep/fao/009/ag301e/ag301e00.pdf>

<sup>3</sup> Nevertheless, the use of substitutes in states of emergency has become widespread, and the process to eradicate this practice has taken more than a decade.



The tendency to handover the implementation of relief operations to private corporations has been justified by some governments that argue for reducing the cost of relief operations and the promise of higher efficiency and technical effectiveness. Corporate control of aid programs has however facilitated the indiscriminate distribution of breast-milk substitutes by corporations and other actors, including governments and non-governmental organizations (NGOs). Donations and untargeted distribution of breast-milk substitutes and ready-to-use foods (RUFs), together with the distribution of globally marketed seed varieties, create dependence, discourage breastfeeding by interfering with women's options to decide the best manner in which to feed their children, erode local food culture, and undermine food sovereignty. Thus, inappropriate practices in emergencies may have negative effects that may persist for generations to come. As a result, outsourcing of relief operations has not contributed to strengthening the capacities of states to respond to emergencies, but has instead evoked their retraction and opened spaces for business-oriented activities, frequently lacking transparency and accountability, thus causing the state to fail to protect communities' right to adequate food and nutrition, especially as it concerns breastfeeding women, children, and smallholder farm families.

Food resilience is understood as the ability to recover the capacity of communities to feed themselves after a disaster or a serious perturbation. From this perspective, it encompasses both the new and traditional, organizational, economic, logistical, cultural and technical capacities to participate in the design, implementation and evaluation of the adaption and mitigation interventions before, during and after the disaster. This reflects a participatory human rights-based approach that transforms "victims" into "actors", resulting in the promotion of self-determination instead of dependency. In the process towards the restoration of self-reliance following crisis situations, women's knowledge concerning infant and young child feeding must be at the center as it is precisely this local knowledge that is passed on from generation to generation enabling communities to feed themselves and supporting women's independence and empowerment. The protection of breastfeeding does not only engage women and men in community activities, but has also helped to strengthen solidarity and exchange, which in turn reinforces many other activities that contribute to resilience. Group cooking, organizing mobile crèches, and exchanging seeds and family farm products are several among many other forms of such activities.<sup>4</sup> Additionally, the knowledge of local and regional farmers, herders, fisher-folks and other food producers is critical to protect and promote sustainable agro-ecological approaches to food production. In short, community engagements that protect local knowledge in relation to sustainable food systems must be protected; these activities can and do trigger a multitude of activities that have mobilized women, men and children to solve common post-crisis challenges, thus further contributing to the restoration of communities' self-reliance.

### CASE STUDY 1

#### Women's Responses to Typhoon Haiyan in the Philippines

Typhoon Haiyan (locally named as Yolanda), one of the strongest typhoons ever known, hit the Visayas region in the Philippines in November 2013. It led to the disappearance of 20,000 persons with a confirmed death toll of only 6,000 people. Overall, the typhoon destroyed the homes and livelihoods of 16 million and displaced 4 million more.<sup>5</sup> Although the Visaya islands and other nearby provinces have long

4 Fernandez, M.I. "Emergency Response: Breastfeeding and Relactation Intervention". World Breastfeeding Conference 2012. 6–9 December, 2012.

[www.worldbreastfeedingconference.org](http://www.worldbreastfeedingconference.org)

5 Fernandez, M.I. "Lessons learnt from Typhoon Haiyan with local name Yolanda, Arugaan". IBFAN Asia. 2014; and "Guiding Principles for Feeding Infants and Young Children during Emergencies". World Health Organization. 2004. [www.who.int/nutrition/publications/emergencies/9241546069/en/](http://www.who.int/nutrition/publications/emergencies/9241546069/en/)

suffered from long-standing problems of coordination and lack of transparency, this region is experiencing the emergence of numerous and creative ways of solidarity and resilience as these communities try to rebuild it.

Local communities, led by women's groups, have adapted and implemented the Guidelines for Infant and Young Child Feeding in Emergencies.<sup>6</sup> This demonstrates how resilience is expressed, reinvented and strengthened by combining traditional knowledge with scientific and technical contributions supported by a number of national and international bodies. These guidelines were developed to ensure appropriate infant and young child feeding in states of emergencies and to halt the unnecessary and harmful distribution of breast-milk substitutes.

The World Health Organization (WHO) and the United Nations Children's Fund (UNICEF),<sup>7</sup> along with several international NGOs, have decisively supported local organizations like Arugaan, a Filipino organization that had been working in the region long before the disaster happened. Arugaan promotes breastfeeding and native foods for complementary feeding as a strategy of resilience and empowerment of women.

Although the Constitution of the Philippines does not explicitly recognize the right to food,<sup>8</sup> it states the obligation of the government to "establish and maintain an effective food and drug regulatory system". Specific legislation protects breastfeeding and prohibits donations of breast-milk substitutes, feeding bottles, artificial nipples and teats.<sup>9</sup> This has favoured the implementation of the abovementioned Guidelines and the collaboration among organizations. Nevertheless, NGOs working to promote sound infant feeding have actively opposed proposals for changes in the current legislation that would allow milk donations in disaster areas.<sup>10</sup>

The coordinated efforts to protect breastfeeding have also stimulated the production of indigenous foods for babies older than six months, which has in turn encouraged the reconstruction of family farming. The magnitude, complexity and diversity of the responses to Typhoon Haiyan disaster will mark a new way of tackling future disasters. Hopefully, the experiences are systematized, including the perception and assessment of the affected population. It will be crucial to replicate the experiences that contribute to build resilience and self-reliance, and halt practices that create dependence.

## CASE STUDY 2

### "Without Corn, There Is No Country": Smallholder Farmers Campaign after Hurricanes in Mexico

In 2013, almost at the same time when Typhoon Haiyan hit the Philippines, the southern coast of Mexico was suffering the fury of two simultaneous hurricanes, one in the Gulf of Mexico and the other in the Pacific. As a result, more than 30,000 smallholder farmers lost crops and the seeds designated for replanting corn in the next season. The Mexican government started to distribute imported corn to the affected populations. Hundreds of farmers not affected by the disaster soon learned of the government's plan and, aware of contemporary risks to local maize biodiversity and of the input and intellectual property costs of imported corn, these farmers organized a solidarity campaign to provide native seeds both directly to hurricane affected farmers and to the government for further distribution or food aid. This farmer solidarity campaign was supported by the Human Rights Centre Tlachinollan<sup>11</sup> and by the national alliance to protect native corn "Without corn, there is no country" (*Sin maíz no hay país*); it shows clearly how solidarity among farmers can be a valuable form of resilience.

- 6 "Breastfeeding is Life-Saving for Babies in Philippines Typhoon Emergency", Joint Press Release by United Nations Children's Fund and World Health Organization. 28 November, 2013. [www.unicef.org/media/media\\_71181.html](http://www.unicef.org/media/media_71181.html). See also: [www.humanitarianresponse.info/operations/philippines](http://www.humanitarianresponse.info/operations/philippines) and IFE Core Group. "Infant and Young Child Feeding in Emergencies: Operational Guidance for Emergency Relief Staff and Programme Managers". Emergency Nutrition Network. February 2007. <http://files.enonline.net/attachments/1001/ops-guidance-2-1-english-010307-with-addendum.pdf>
- 7 "Breastfeeding is Life-Saving for Babies in Philippines Typhoon Emergency", Joint Press Release by United Nations Children's Fund and World Health Organization. 28 November, 2013. [www.unicef.org/media/media\\_71181.html](http://www.unicef.org/media/media_71181.html).
- 8 A right to food framework bill is currently under discussion, see article: "Laying the Ground for the Food Framework Law in the Philippines" in this year's edition of the *Right to Food and Nutrition Watch*.
- 9 Abad-Santos C. *et al.*, "The Filipino's Right to Food: An Assessment of the Philippine Legal Framework Governing the Right to Food". Food and Agriculture Organization of the United Nations. 2010. [www.fao.org/docrep/016/ap598e/ap598e.pdf](http://www.fao.org/docrep/016/ap598e/ap598e.pdf)
- 10 "Letter to Philippines Secretary of Health from Three Philippines Breastfeeding Support Groups", December, 2005. [www.infaccanada.ca/letter-philippines-secretary-health.html](http://www.infaccanada.ca/letter-philippines-secretary-health.html)
- 11 For more information, see: [www.tlachinollan.org](http://www.tlachinollan.org)

## FROM ICN1 TO ICN2: THE NEED FOR STRONG PARTNERSHIPS WITH CIVIL SOCIETY

Stineke Oenema<sup>1</sup>

Worldwide attention for nutrition has increased sharply over the past years. The need for a renewed focus on nutrition is evident, given the rising levels of malnutrition (especially obesity). What happened after the first International Conference on Nutrition (ICN1) in 1992? Why was there a lack of follow up on the recommendations and plans that were made at the conference? Were the opportunities presented by the adoption of the Voluntary Guidelines on the Right to Food<sup>2</sup> (hereinafter the Guidelines) actually used to improve nutrition? Twenty-two years after ICN1, preparations for the Second International Conference on Nutrition (ICN2), set to take place in November 2014, are underway. If the ICN2 is to contribute meaningfully towards the implementation of rights-based nutrition solutions that are people-centered, comprehensive and inclusive, and ensure effective follow up and promote accountability, it is crucial that governments ensure strong partnerships with civil society.

### 1992 INTERNATIONAL CONFERENCE ON NUTRITION (ICN1)

Governments that participated in ICN1 in 1992 declared: “We recognize that access to nutritionally adequate and safe food is a right of each individual” and affirmed this with the following statement: “Bearing in mind the right to an adequate standard of living, including food, contained in the Universal Declaration of Human Rights (UDHR), we pledge to act in solidarity to ensure that freedom from hunger becomes a reality.”<sup>3</sup>

Although the Declaration mentions the right to adequate food (RtAF), it does not account for basic human rights principles: universality and inalienability, indivisibility, interdependence and interrelatedness, equality and non-discrimination, participation and inclusion, accountability and the rule of law. Still, the Declaration and Plan of Action make a strong statement about the need for participation as well as coordinated multi-sector approaches and actions:

*People-focused policies for nutritional improvement must acknowledge the fact that people’s own knowledge, practices and creativity are important driving forces for social change. Local community involvement, including that of families and households, is a prerequisite for improving food production and sustaining access to food and for instituting adequate nutrition improvement programmes and projects. The importance of the informal sector in the processing and distribution of food should be recognized. Special efforts must be made to ensure the genuine participation of all people, particularly the poor and the marginalized, in the decisions and actions that are of concern to them in order to improve self-reliance and assure positive results. All relevant sectors of government should act in concert with communities and, as appropriate, with NGOs. Community involvement should lie not only in their indicating their perceived priorities but also in planning, managing and evaluating community based interventions.<sup>4</sup>*

- 1 [Stineke Oenema is Program Coordinator for Food and Nutrition Security for ICCO Cooperation. More information available at: \[www.icco.nl\]\(http://www.icco.nl\)](#)  
Special thanks to Maarten Immink, Lida Lhotska and Ted Greiner for their support in reviewing this article.
- 2 “Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security”. Adopted by the 127<sup>th</sup> Session of the FAO Council November 2004. Food and Agriculture Organization of the United Nations, Rome, 2005. <http://www.fao.org/docrep/009/y7937e/y7937e00.htm>
- 3 “International Conference on Nutrition: World Declaration on Nutrition and Plan of Action”. Food and Agriculture Organization of the United Nations and World Health Organization. Rome. December, 1992. [whqlibdoc.who.int/hq/1992/a34303.pdf](http://whqlibdoc.who.int/hq/1992/a34303.pdf)
- 4 *Ibid.*, para. 15.

The analysis in the global nutrition assessment written in preparation for the ICN1 points to power imbalances as one of the fundamental determinants of malnutrition.<sup>5</sup> However, this was not included in the final Declaration, thereby weakening its rights-based character. In short, although the Declaration gives some perspectives for rights-based policies and programs to tackle malnutrition, the minimal direct references to the rights principles above, combined with the lack of follow up, makes one doubt the commitment of governments to respect, protect and promote the realization of the RtAF.

## FOLLOW UP TO ICN1

In accordance with the pledges made at the ICN1 many states did indeed develop national plans of action for nutrition (NAPs), with the technical support of both the FAO (Food and Agriculture Organization of the United Nations) and the WHO (World Health Organization). During the same period, in the 1990s, the UN System Standing Committee on Nutrition (SCN) proved to be an effective forum for the harmonization of programs and policies, advocacy and catalyzing action. For example, the SCN working groups on breastfeeding and nutrition in emergencies initiated the development of what is now known as the Operational Guidance on Infant Feeding in Emergencies, which was adopted in 2010 by the World Health Assembly.<sup>6</sup> The recommendations of the SCN working groups in conjunction with the NAPs could have guided much of the nutrition work at both international and national level. Unfortunately, the actual implementation of the NAPs often stagnated for various reasons. For instance, the plans lacked clear policy directions, the technical options were not well defined, funding and political commitment were lacking, or a combination of all of these. Moreover, the SCN has not been able to hold any global meetings since 2008. This marks a major setback, given the wide international recognition and support that it had garnered over the years.

Public attention for nutrition quietly disappeared from the global agenda, just as agriculture did. During this period, the World Bank (WB) and the International Monetary Fund (IMF) supported the implementation of Structural Adjustment Programs (SAPs). The SAPs led to economic restructuring that required developing countries to reduce investment in health, agriculture, nutrition, education, etc. The SAPs were justified by the dictum that by implementing national macroeconomic and institutional reforms, countries could achieve economic growth, and thus, anticipated improvements in welfare, including nutrition, would automatically take place. However, the opposite effect materialized. The SAPs led to a diminished level of national investments in agriculture and national food systems with governments increasingly relying on global trade for food. This has had an enormous impact on dietary patterns and pushed general consumption more and more towards ultra-processed foods with high levels of sugar, salt and unhealthy fats. As a result, malnutrition did not decline and levels of under-nutrition only decreased marginally, while levels of obesity and hypertension, and of associated non-communicable diseases (NCD), increased.

5 “International Conference on Nutrition: Nutrition and Development—A Global Assessment”. Food and Agriculture Organization of the United Nations and World Health Organization. Rome. December, 1992.  
[www.fao.org/docrep/017/z9550e/z9550e.pdf](http://www.fao.org/docrep/017/z9550e/z9550e.pdf)

6 Resolution WHA63.23, Infant and young child nutrition was adopted at the Eighth plenary meeting of the Sixty-third World Health Assembly on 21 May 2010. See: “Sixty-third World Health Assembly—Resolutions and Decisions Annexes (WHA63/2010/REC/1). World Health Organization. Geneva. 17–21 May, 2010.  
[www.who.int/nutrition/topics/WHA63.23\\_iycn\\_en.pdf?ua=1](http://www.who.int/nutrition/topics/WHA63.23_iycn_en.pdf?ua=1)

## VOLUNTARY GUIDELINES FOR THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD

During the World Food Summit (WFS) organized by FAO in 1996, nutrition was addressed only indirectly as part of food security and (rural) economic development. The right to adequate food was acknowledged again at this summit and countries agreed to develop voluntary guidelines in order to guide the progressive realization of the right to adequate food (objective 7.4e).<sup>7</sup>

The resulting *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security* were formally adopted by the FAO Council in November 2004.<sup>8</sup> Guideline 10 deals specifically with the improvement of nutrition. The Guidelines emphasize that improving nutrition requires attention to the overall dietary patterns in the population. In addition, the need for parallel action in the areas of health, sanitary infrastructure and inter-sectoral collaboration is emphasized (Guideline 10.7), as well as the involvement of relevant actors, especially communities (Guideline 10.3). Moreover, the Guidelines are more specific than ICN1 with regards to the role of states in the promotion of dietary diversity and the prevention of negative impacts on dietary composition due to changes in food availability and access (Guideline 10.1). Whereas in ICN1 the individual nature of consumer choices is merely mentioned, the Guidelines make a strong reference to the cultural values of diets. In this context states should establish methods for promoting food safety and protect nutritional intakes (Guideline 10.10). This calls for active involvement and participation of people in the development of nutrition policies and programs.

Furthermore, the Guidelines provide clear guidance for governments on how to deal with nutrition. It is the duty of governments to follow the guidelines in order to respect, protect and promote the RtAF. Civil society organizations (CSOs), especially social movements, have extensive knowledge about local contexts and first-hand experience of how implemented programs and policies impact those people that suffer from violations of the RtAF. Engaging and working with them is essential in order to realize the RtAF. This interaction is more effective when governments include and keep nutrition on the agenda.

## FOOD PRICES CRISIS 2007/2008 AND RENEWED ATTENTION FOR NUTRITION

In 2007 food prices increased sharply and caused millions of people to fall back into hunger and poverty.<sup>9</sup> In many countries citizens took to the streets, calling for their governments to fulfill their obligations and take measures to protect their food security. It was this food price crisis that brought food insecurity and malnutrition back onto the international and national agenda, triggering several changes in food and nutrition governance, such as the reform of the Committee on World Food Security (CFS) that has been very well described in earlier editions of the *Right to Food and Nutrition Watch*.

In 2008 and in 2013, *The Lancet* published a two-part series<sup>10</sup> about nutrition listing ten interventions (both direct and indirect) that would produce improved nutrition. While *The Lancet* is a technical journal that does not necessarily operate from a human rights-based approach, still it is important to draw attention to the lack of attention for inclusion and participation of target groups in its 2008 series.<sup>11</sup>

7 The Voluntary Guidelines adopted in 2004 were referred to in the last sentence of Objective 7.4(e) of the 1996 World Food Summit, but the negotiating process was formerly mandated by the 2002 World Food Summit. See: [www.fao.org/docrep/003/w3613e/w3613e00.HTM](http://www.fao.org/docrep/003/w3613e/w3613e00.HTM)

Also see the first section of this issue of the *Right to Food and Nutrition Watch*.

8 *Supra* note 2.

9 Mousseau, Fredrick. "The High Food Price Challenge: A Review of Responses to Combat Hunger". The Oakland Institute. 2010. [www.oaklandinstitute.org/sites/oaklandinstitute.org/files/high\\_food\\_prices\\_web\\_final.pdf](http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/high_food_prices_web_final.pdf)

10 See: "The Lancet Global Health Series: Maternal and Child Undernutrition". The Lancet. Vol 371, Issue 9608. (2008). [www.thelancet.com/series/maternal-and-child-undernutrition](http://www.thelancet.com/series/maternal-and-child-undernutrition); and "The Lancet Global Health Series: Maternal and Child Undernutrition". The Lancet. Vol 382, Issue 9890. (2013). [www.thelancet.com/series/maternal-and-child-nutrition](http://www.thelancet.com/series/maternal-and-child-nutrition)

11 In the 2013 series this has been partly addressed by emphasizing the need for community delivery platforms, however still lacking is the badly needed participation of people in the actual design of policies that affect their lives.



Nonetheless, the public awareness generated by *The Lancet* series furthered the revival of international attention on nutrition. Owing to this, the World Bank, the governments of Canada and Japan, as well as the United States Agency for International Development (USAID), joined forces to initiate the Scaling Up Nutrition (SUN) Initiative.

SUN, as a global initiative that seeks to tackle malnutrition sustainably, has been widely covered in earlier issues of the Watch.<sup>12</sup> Although the SUN Initiative does emphasize the need for a combination of both direct and indirect interventions, thus broadening the scope of intervention, it does not appear to adequately account for the basic causes of malnutrition, as assessed by WHO and FAO in 1992.<sup>13</sup> Case in point, imbalances in (economic) power need to be redressed in order to realize the RtAF. Therefore, until any envisaged reform of the global food and nutrition system adequately acknowledges and addresses the fundamental causes of malnutrition, no political declarations and plans for action can bring about sweeping reforms.

In a 2011 report, former UN Special Rapporteur on the Right to Food, Olivier De Schutter, highlighted the need to ensure and promote local participation in the agriculture and nutrition sector (Guideline 3). In order to promote participation as stated in the Guidelines, solutions should be demand-driven and local partners should be identified.<sup>14</sup> Furthermore, participation requires that beneficiaries take part in the process of evaluation, and co-design the solutions that will ensure sustainable and maximum gains.<sup>15</sup> SUN started off as a top-down initiative that still needs to be grounded at national and local level with full participation of the final beneficiaries, target groups or better, rights-holders. As such, participation must be promoted not just in the implementation of programs but also in the design, monitoring and evaluation of the activities. In this sense, SUN still needs improvement.<sup>16</sup>

## RECENT DEVELOPMENTS

Participation and inclusiveness have become central elements in the reform of the CFS in 2009 but unfortunately nutrition has not yet been firmly put on its agenda. Currently nutrition is being debated in many other fora that are not as inclusive, transparent and participatory as the CFS. The inclusion of nutrition on the CFS agenda would ensure more political commitment, as policies there are agreed upon by all CFS member states, with the involvement of civil society. Member states also active in other fora, such as the G7, could and should draw from nutrition policies that have been debated in the CFS and ensure better coherency with the broad food and nutrition security agenda.

ICN2 provides a good opportunity not only to develop a joint agenda between the health and agricultural sector, but also to put people at the center of the food systems and therefore at the center of nutrition policies and programs. However, at present meaningful and effective civil society participation has not yet been guaranteed, despite several joint attempts by a number of civil CSOs. Civil society comments about the need for an ICN2 outcome document that is rights-based, built with the participation of people so that it becomes people centered, have hardly been taken into account so far.<sup>17</sup>

12 See e.g. Schuftan, Claudio and Greiner, Ted. "The Scaling Up Nutrition (SUN) Initiative". Right to Food and Nutrition Watch 2013: Alternatives and Resistance to Policies that Generate Hunger. <http://www.rtfn-watch.org/>

13 *Supra* note 4.

14 "Report of the Special Rapporteur on the Right to Food to the Human Rights Council (A/HRC/19/59)". United Nations General Assembly: Human Rights Council Nineteenth session. 26 December, 2011. [www.srfood.org/images/stories/pdf/officialreports/20120506\\_nutrition\\_en.pdf](http://www.srfood.org/images/stories/pdf/officialreports/20120506_nutrition_en.pdf)

15 *Ibid.*

16 See: "SUN Movement Monitoring & Evaluation Framework Final Draft". Scaling Up Nutrition Movement. 10 April, 2013. [scalingupnutrition.org/wp-content/uploads/2013/07/20130701-SUN-ME-Framework-Final.pdf](http://scalingupnutrition.org/wp-content/uploads/2013/07/20130701-SUN-ME-Framework-Final.pdf)

17 This request has been expressed in civil society submissions to the FSN Forum consultation on the ICN2 draft political outcome document as well as letters sent to the ICN2 Secretariat and Intergovernmental Joint Working Group.



## CONCLUSION: PARTNERSHIP WITH CIVIL SOCIETY IS NEEDED

Technical reviews have provided clear solutions for technical problems; however, these need to be carried out in a conducive policy environment and driven by the people they intend to reach. Solutions need to be people-centered, participatory and inclusive. Programs and policies must be designed in a way that allows ownership by the people and ensures accountability. This article highlights the lack of efforts towards identifying and addressing fundamental determinants of malnutrition and calls for the inclusion of those who suffer from or are affected by malnutrition in the search for adequate solutions.

This leads us to question: who actually ‘owns’ the nutrition agenda and who is in control of implementing it? Social movements and organizations of people who suffer from malnutrition, along with programs by other civil society organizations, have already achieved deep-reaching changes in communities of high burden countries. Engaging with these movements and organizations is critical for the formulation of policies and achievement of nutrition targets as well as for the realization of the right to adequate food.<sup>18</sup>

18 *Supra* note 2.

## RESPONSES TO CLIMATE CHANGE CHALLENGES ON FOOD PRODUCTION: STRENGTHENING RESILIENCE OR INCREASING DEPENDENCE

Marcos Arana Cedeño<sup>1</sup>

Climate change threatens global food security and more severely, those communities that have been successful in protecting their traditional livelihoods and food systems, which serve as the fundamental basis of their resilience and sovereignty. Recognizing that small-holder farmers manage over 80% of the world's estimated 500 million small farms and provide over 80% of the food consumed in a large part of the developing world,<sup>2</sup> the FAO has declared 2014 the International Year of Family Farming (IYFF). During the 29<sup>th</sup> European Regional Conference (ERC) in Bucharest, FAO Director-General, José Graziano Da Silva, stressed the necessity of shifting toward sustainable farming as key to coping with climate change.<sup>3</sup>

Climate change deepens social inequality and affects human rights in various forms. The rights to life, health, adequate food, water, and housing are especially affected. In order to ensure the right to food, states must respect traditional agriculture systems and livelihoods and protect them from potential threats, such as land grabbing and the encroachment of industrial farming with the heavy use of agrochemicals. National policies should also support farmer based seed breeding, as well as the free and unconstrained exchange and distribution of seeds to ensure that small-scale farmers have access to seeds with a broad range of genetic diversity. Seed diversity plays an intrinsic role in providing small-scale farmers with wider options and enhancing their climate change resilience. The right to food provides a holistic vision of food production, distribution and consumption, as opposed to simply increasing yields, and therefore calls for climate solutions that are compatible with that vision. States must ensure the development of effective forms of adaptation to climate change that respect the right to self-determination and common but differentiated responsibilities.

### THE CHALLENGE

According to the FAO, animal rearing for human consumption accounts for 18% of greenhouse gas (GHG) emissions without accounting for additional emissions from land-use change and deforestation. Furthermore, about 70% of all agricultural land and 30% of the land surface of the entire planet are used for livestock production. When one considers the additional agricultural lands that are being used for biofuel production and that an estimated 30–50% of all food produced globally is wasted due to losses along the food supply chain, the problematic impact of the commercial global food system on the environment cannot be overlooked.<sup>4</sup>

While biotechnology corporations claim that genetically modified crops help to decrease greenhouse gas emissions and mitigate climate change, they tend to downplay the importance of vegetal diversity, reproductive health and marine life. What is more, there are biotech crops that are bred to be drought-resistant, salinity-

1 Marcos Arana Cedeño is a member of IBFAN and WABA; Director of CCEC (Training and Education Centre of Ecology and Health for Peasants) in Chiapas, Mexico; researcher at INNS (Mexico National Institute of Nutrition Salvador Zubirán), OBSCIUDES and Espacio DESC; and co-founder of allMente project.

Special thanks to Christine Campeau, Anne C. Bellows and Eike Zaumseil for their support in drafting and reviewing this article.

2 See, for example: Nwanze, Kanayo F. "Small Farmers can Feed the World". International Fund for Agricultural Development. February, 2011. [www.ifad.org/pub/viewpoint/smallholder.pdf](http://www.ifad.org/pub/viewpoint/smallholder.pdf); and "Smallholders, Food Security and the Environment". United Nations Environmental Programme. 2013. [www.unep.org/pdf/SmallholderReport\\_WEB.pdf](http://www.unep.org/pdf/SmallholderReport_WEB.pdf)

3 "FAO: A Focus on Climate Change, Family Farming and Agri-food Trade Global Law Initiatives for Sustainable Development". Global Law Initiatives for Sustainable Development. 2 April, 2014. [www.glawcal.org.uk/index.php/partners/9-news/144-fao-a-focus-on-climate-change-family-farming-and-agri-food-trade.html](http://www.glawcal.org.uk/index.php/partners/9-news/144-fao-a-focus-on-climate-change-family-farming-and-agri-food-trade.html)

4 "Global Food: Waste Not, Want Not". Institution of Mechanical Engineers. January, 2013. [www.imeche.org/docs/default-source/reports/Global\\_Food\\_Report.pdf?sfvrsn=0](http://www.imeche.org/docs/default-source/reports/Global_Food_Report.pdf?sfvrsn=0) For further reading on estimates, see: "Global Food Losses and Food Waste: Extent, Causes and Prevention". Food and Agriculture Organisation of the United Nations. Rome. 2011. [www.fao.org/docrep/014/mb060e/mb060e.pdf](http://www.fao.org/docrep/014/mb060e/mb060e.pdf); and Lundqvist, J., de Fraiture, C. and Molden, D., "Saving Water: From Field to Fork: Curbing Losses and Waste in the Food Chain". Stockholm International Water Institute Policy Brief. 2008. [www.siiwi.org/documents/Resources/Papers/Paper\\_13\\_Field\\_to\\_Fork.pdf](http://www.siiwi.org/documents/Resources/Papers/Paper_13_Field_to_Fork.pdf)

resistant, and even flood-resistant, which are being released into the market and our fields most likely without adequate proof of their safety and insufficient knowledge about their long-term effects. In less than two decades, since the market introduction of biotech crops in 1995, these crops now cover more than 190 million hectares worldwide. The high speed by which these crops have multiplied is being artificially fuelled by promoting fear among both governments and farmers in the sense that any delay in adopting “modern” measures of climate change mitigation could have disastrous consequences. Thus, the panicked tempo of incorporating new biotech crops discourages the quest for other forms of adaptation against the effects of climate change and inhibits the adoption of the precautionary principle<sup>5</sup> against potential health and environmental hazards.

Revolving doors between governments and biotech companies have been profusely denounced.<sup>6</sup> Some energy companies have been lobbying for the adoption of emission controls, as they already positioned themselves to compete in a carbon-constrained environment.<sup>7</sup> The frequent occurrence of conflicts of interest inhibits the adoption of more sustainable solutions for agriculture. Part of the problem here is that agriculture incentives tend to favor the interests of larger farms and landholders, creating wide inequality in rural areas, and forcing small-scale, subsistence farmers and the landless into the cities in search of employment. These migration patterns further encourage the prioritization of industrial models of agriculture that rely heavily on external inputs such as fertilizers, water, pesticides and genetically engineered seeds. As a result, food production is estimated to account for between 17% (direct emissions) and 32% (including indirect emissions from land use changes, synthetic fertilizers, etc.) of global GHG emissions. Policies that promote industrial livestock production, genetically modified organisms (GMOs), land degradation caused by deforestation, overgrazing and repetitive tillage inevitably exacerbate socio-economic inequality, undermine the capacity of governments to protect their population and result in wide-ranging right to food abuses and violations. In order to be effective, interventions to mitigate global warming must be accompanied by decisive action to reduce inequality and take human rights principles into account.

## RELEVANCE AND TIMELINESS WITHIN THE UNFCCC

Although the significance of agriculture vis-à-vis climate change was mentioned in the original draft of the UN Framework Convention on Climate Change (UNFCCC), which came into force in 1994, it was not until 2009 that a technical document on the opportunities and mitigation in the agricultural sector was prepared by the UNFCCC Secretariat.<sup>8</sup> This is a temporary working body that aims to discuss how the Conference of the Parties (COP)—the supreme decision-making body of the UNFCCC—can develop long-term strategies to address climate change. Since then, none of the COPs have been able to establish a specific work program on agriculture neither under the COP nor the Ad hoc Working Group on Long-term Cooperative Action (AWG-LCA). As such, current debates are housed in the Subsidiary Body for Scientific and Technological Advice (SBSTA). Issues that impact agriculture are being addressed in several other work streams of the UNFCCC, such as adaptation, mitigation and approaches to loss and damages.

More recently, at the COP19 in Warsaw in 2013, the G-77 decided to postpone the agriculture work under the SBSTA and simply hold an official UNFCCC workshop on agriculture and climate change (on 6 December 2013) for this session. The SBSTA

- 5 Comstock, G. “Are the Policy implications of the precautionary principle coherent?” Center for International Development at Harvard University, 23 September, 2000. [www4.ncsu.edu/unity/users/g/comsto/www/Center%20for%20International%20Development.htm](http://www4.ncsu.edu/unity/users/g/comsto/www/Center%20for%20International%20Development.htm)
- 6 See: “The Revolving Door between Monsanto, the FDA, and the EPA: Your Safety in Peril”. [hubpages.com/hub/The-Revolving-Door-Between-Monsanto-the-FDA-and-the-EPA-Your-Safety-in-Peril](http://hubpages.com/hub/The-Revolving-Door-Between-Monsanto-the-FDA-and-the-EPA-Your-Safety-in-Peril)
- 7 Levy, L. D., and Egan D. “A Neo-Gramscian Approach to Corporate Political Strategy: Conflict and Accommodation in the Climate Change Negotiations”, *Journal of Management Studies* 40, no.4 (2003): 804–826. [www.glerl.noaa.gov/seagrant/ClimateChangeWhiteboard/Resources/Uncertainty/climatech/levy03PR.pdf](http://www.glerl.noaa.gov/seagrant/ClimateChangeWhiteboard/Resources/Uncertainty/climatech/levy03PR.pdf)
- 8 “Technical Paper: Challenges and Opportunities for Mitigation in the Agricultural Sector”. UNFCCC Secretariat, 4 April, 2009. [unfccc.int/files/meetings/ad\\_hoc\\_working\\_groups/lca/application/pdf/1\\_unfccc.pdf](http://unfccc.int/files/meetings/ad_hoc_working_groups/lca/application/pdf/1_unfccc.pdf)

40 held in Bonn in June 2014 included the review of the summary report from the official Climate and Agriculture workshop and the formation of a contact group to assess the country submissions that were postponed at the COP19 discussions.

Considering the lack of progress on agriculture within the UNFCCC, various alliances are taking shape, such as the Global Alliance for Climate Smart Agriculture, which is expected to be launched by the UN Secretary-General Ban Ki-moon during the UN General Leaders' Summit in New York on 23 September 2014. This raises serious concerns because actions taken outside the auspices of the UN could undermine legally binding commitments that were previously agreed upon through the UNFCCC and other processes. The concept of "Climate Smart Agriculture" (CSA) itself may not necessarily be problematic, but how it is used and the political context within which it is developed matter a great deal. CSA has been criticized and resisted by many social and farming movements around the world, as it could potentially entail the use of highly contentious technologies such as GMOs or other technologies that have controversial social, environmental and nutritional impacts. It is also linked to carbon credit generation, which does not work for small-scale farmers and for which there is an enormous upfront transaction cost and questionable climate benefits. A FAO report demonstrates the ambiguity of the CSA concept by describing it as an approach that results in lower emissions and that will also help farmers adapt to climate change.<sup>9</sup> But by conflating these terms, the concept ignores all the other aspects of adaptation that are not covered under this notion.

Many of the CSA techniques can be effective in adapting to climate change, nevertheless the resources allocated for this purpose have been, by far, lower than those previously offered or committed. This puts sustainable agriculture strategies at a great disadvantage in comparison to the fast growing economy of large-scale agribusiness. The Global Alliance for Climate Smart Agriculture will face the challenge not only of sourcing adequate funding and securing the participation of farmers as stakeholders, but also of establishing a human rights-based approach that will facilitate consultation with stakeholders at the local, national and global level in the decision-making processes that affect their lives.

## THE WAY FORWARD

States must develop and implement sound strategies for adaptation to climate change, incorporating the protection of the right to adequate food as a key component. To increase community resilience in the face of climate change, it is crucial to strengthen local food systems using an ecosystem-based model of agriculture. Agroecological methods of food production take into account various aspects such as soil health and crop varieties, and combine traditional knowledge with modern technologies that are well adapted to the needs of small-holder farmers and respect the local context. Agroecology works in a circular system of production—enhancing the recycling of biomass with a view of optimizing organic decomposition and increasing nutrients over time. Scaling-up these practices requires actions to ensure that farmers have access to and control over the natural resources that they need (land, water and seeds), in order to replenish the soil with nitrogen and organic matter and thereby sustainably produce nutritious food.

At the core of such action must be strategies to revive the diversity of seeds, and to support the knowledge and diversity that remains. These strategies are critical for us all today, as well as for the generations to come after us. Protecting and

9 "Climate-Smart Agriculture Policies, Practices and Financing for Food Security, Adaptation and Mitigation". Food and Agriculture Organization of the United Nations. Rome. 2010. [www.fao.org/docrep/013/i1881e/i1881e00.htm](http://www.fao.org/docrep/013/i1881e/i1881e00.htm)

strengthening traditional agriculture does not depend solely on the reproduction and adaption of proven sustainable technologies, but also on a decisive and comprehensive public investment on improving farmer's livelihoods, transport, and fair commercial exchange. As such, it is only through such efforts that current trends pushing traditional peasants out of the countryside, leaving more space for industrial monocultures, can be reversed.

Ten years ago, when the Right to Food Guidelines were adopted, the gravity of climate change had not yet been fully acknowledged. It is safe to say that the adoption of more legally binding instruments and more effective mechanisms of monitoring and implementation could have contributed to alleviating the impact of climate change, which we are already experiencing.

Future policy decisions to cope effectively with the causes of global warming must put forward human rights before any technical measures. Global warming is after all, a problem of climate justice.

NATIONAL AND  
REGIONAL  
REPORTS:  
Monitoring and  
Advancing the Right to  
Food and Nutrition



## 10

LAND GRABBING AND  
POPULAR RESISTANCE IN MALI<sup>1</sup>Chantal Jacovetti and Philip Seufert<sup>2</sup>

Mali is a perfect example of an agro-silvo-pastoral country. Its economy is mainly based on agriculture, livestock and fisheries, which occupy 80% of the workforce and contribute to over 40% of the gross domestic product (GDP). Family farms are the backbone of agriculture, the economy and Malian society. They produce over 60% of basic grains and 75% of food in general, and cover about 90% of the 7 million hectares of rainfed crops. Peasant family farms are also the custodians of a rich biodiversity, including food crops such as millet and sorghum, which are the foundation of the Malian diet.<sup>3</sup>

However, Mali has become an important target for land grabbing, especially since the crises of 2008. One of the most affected regions is the *Office du Niger*, a vast area in the Upper Delta of the Niger River that has been developed for irrigation. In recent years, an estimated 350,000 to 820,000 hectares have been appropriated in this region. At the national level, more than one million hectares have been appropriated throughout urban, peri-urban and rural areas.<sup>4</sup> The acquisition of land by individuals, public investors and national or foreign companies is actively encouraged by the Malian government, which has taken steps to facilitate land transactions at the invitation of the World Bank and other donors.

## THREE EMBLEMATIC CASES: SANAMADOUGOU-SAHOU, SANSANDING AND SAN

In 2010, the peasant communities of Sanamadougou-Sahou lost their land because of the activities of the agribusiness company Moulin Moderne du Mali, which signed an investment agreement covering 20,000 hectares and a lease of 7,400 hectares with the government of Mali. In Sansanding, people in 35 villages face the risk of losing their homes and fields to facilitate the development of the Markala Sugar Project, a public-private partnership (PPP) that aims to create plantations of sugarcane on 20,245 hectares, of which 140 have already been developed.<sup>5</sup> Seven San villages have been dispossessed of 300 hectares of land that had long been cultivated by inhabitants, as a result of the abusive reallocation of these lands to other villages. This dispossession was authorized in 2011 by the prefect when the lands became irrigable following the construction of a dam.

These evictions and expropriations are the root causes of the human rights violations against these populations, including their right to adequate food and nutrition (RtAF). As a result, these communities are deprived of their livelihoods, thus forced into a situation of food insecurity in a region that has never experienced hunger before.<sup>6</sup>

1 This article, originally drafted in French, provides a summary of the research mission conducted by FIAN and CMAT from 25 November to 5 December 2013 entitled “Land Grabbing and Human Rights in Mali.” The full report was published in mid-2014. See: [www.fian.org](http://www.fian.org)

2 [Chantal Jacovetti](#) is responsible for the land, land grabbing and agro-ecology portfolio at the National Coordination of Peasant Organizations of Mali (*CNOP Mali—Coordination nationale des organisations paysannes du Mali*) and serves as the secretariat of the Malian Alliance against Land Grabbing (*CMAT—Coordination nationale des organisations paysannes du Mali*). [Philip Seufert](#) was, until April 2014, the Coordinator of the Access to Natural Resources Program at FIAN International. Special thanks to Denisse Córdova, Valentin Hategekimana and Antonio Onorati for their support in reviewing this article.

3 In rural areas, dry cereals (millet, sorghum, maize, fonio), legumes (cowpeas) and oilseeds (groundnut) dominate the diet, while in urban areas it tends to change and incorporate imports of rice and bread.

4 The significant difference between these figures is due to the absence of official data.

5 “This project is currently suspended following the withdrawal of the South African company Illovo as the main shareholder.

6 The Sana area is known to produce food surpluses and the local population is proud to have regularly helped communities in other regions facing food shortages.

The vast majority of communities enjoy collective and individual customary land rights. Although explicitly recognized in Article 43 of the Land Code,<sup>7</sup> they are in fact inapplicable because there is no inventory of these oral rights and therefore they have no value within the scope of positive, written, modern law. Thus, in reality, customary and collective land rights are neither respected nor protected by the State. What is more, the cases of Sanamadougou-Sahou and Sansanding illustrate how the Malian government's promotion of an agro-industrial model at the expense of the population exacerbates land insecurity. This could further aggravate poverty and food insecurity, especially as the agricultural production planned under the framework of these projects is intended for export or agro-fuels. Faced with this threat, land security for family farms is of fundamental importance, as emphasized by the Framework and Guidelines on Land Policy in Africa,<sup>8</sup> as well as the *Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*.<sup>9</sup>

## POPULAR RESISTANCE TO LAND GRABBING

New projects on collective lands are met with resistance from local communities. However, faced with imprisonment, daily harassment, the destruction of their homes and their property, and beatings that can result in death or the loss of a child for pregnant women, a new impetus is needed to allow their fight to continue. Stressing the urgency of opening up this debate, peasants' and civil society organizations working in the field have organized several events. Some of the most important mobilizations include the Peasant Forum, organized by the National Coordination of Peasant Organizations (CNOP Mali),<sup>10</sup> the Association of Professional Peasant Organizations (AOPP)<sup>11</sup> and other farmers' umbrella organizations in Kolongotomo in November 2010; the Peoples' Forum, convened by the Coalition of African Debt and Development Alternatives (CAD Mali)<sup>12</sup> in Niono in October and November 2011; the Landless Forum, organized by the Union of Associations and Networks for Development and the Defense of the Rights of the Poor (UACDDDD/No Vox)<sup>13</sup> in Bamako in November 2011; the International Peasant Conference, organized by CNOP Mali and La Via Campesina in Nyéléni (Sélingué) from 17 to 20 November 2011; and a peasant march organized by UACDDDD in Bamako on 13 March 2012.

One of the strong recommendations that emerged from these actions was the creation of an alliance to unify the efforts of the diverse struggles. AOPP, CNOP Mali, CAD, UACDDDD and the League for Justice, Development and Human Rights (LJDH)<sup>14</sup> met to reflect on common strategies in January 2012 and thus created the Malian Alliance against Land Grabbing (CMAT).<sup>15</sup> The main objectives of the CMAT are to provide physical, moral and financial support to people and their struggles, while maintaining social cohesion and sharing strategies. The CMAT also intends to address authorities at the local and national levels, inform and train communities about their rights and influence public opinion at the national and international levels.

The march organized in March 2012 was decisive in sparking a governmental response to Mali's many land disputes. Indeed, in its wake, an interdepartmental committee was set up to resolve more than 150 cases of conflicts presented in a joint memorandum. In July 2013, a new government came to power in Mali, but has still not provided a concrete response to these conflicts. Faced with this situation, CMAT decided to organize a Village of the Landless (*Village des Sans Terre*) in Bamako from 31 March to 2 April 2014, bringing together more than 3,000 peasants from across

7 Government of the Republic of Mali, Land Code, Ordinance No. 00-27/P-RM. Bamako. 22 March, 2000. [www.droit-afrique.com/images/textes/Mali/Mali%20-%20Code%20domanial%20et%20foncier](http://www.droit-afrique.com/images/textes/Mali/Mali%20-%20Code%20domanial%20et%20foncier) (available only in French).

8 "Framework and Guidelines on Land Policy in Africa". African Development Bank, Economic Commission for Africa and African Union Consortium. September 2010. [rea.au.int/fr/sites/default/files/Framework%20and%20Guidelines%20on%20Land%20Policy%20in%20Africa.pdf](http://rea.au.int/fr/sites/default/files/Framework%20and%20Guidelines%20on%20Land%20Policy%20in%20Africa.pdf)

9 "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security". Food and Agriculture Organization of the United Nations. Rome. 2012. <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>

10 *Coordination nationale des organisations paysannes*.

11 *Association des organisations professionnelles paysannes*.

12 *Coalition des alternatives africaines dettes et développement*.

13 *Union des associations et de coordination d'associations pour le développement et la défense des droits des démunies*.

14 *Ligue pour la justice, le développement et les droits de l'homme*.

15 The CMAT (*Convergence malienne contre les accaparements de terres*) is now officially recognized by receipt No. 202 MAT / DGAT of 14 October 2013.

the country with ten priority conflicts to deal with as immediate grievances. Thanks to this action, a group of representatives was received by the Prime Minister, and later, a government delegation finally made a field visit to listen to people's concerns, with the support of the CMAT. As a further consequence of this strong mobilization, concrete actions were undertaken to resolve the cases of the Sanamadougou-Sahou and San as well as other cases concerning urban and peri-urban areas. In addition, the CMAT has now become a credible high-level interlocutor and has managed to establish a balance of power in the contest over control of Mali's lands.

Still, other disputes remain, and additional ones emerge every day. A Land Law is being developed and the CMAT is working to ensure that grassroots demands are heard and, more specifically, that customary rights are respected, particularly those relating to collective lands, living spaces, villages and lands. While remaining true to its slogan "Hands off my land, my home, my activists!" CMAT continues the fight!

## FACILITATING RIGHT TO FOOD ACTIONS THROUGH AN ENABLING POLICY AND LEGISLATIVE ENVIRONMENT: THE ZANZIBAR EXPERIENCE

Maarten Immink, Mansura Kassim and Ali Haji Ramadhan<sup>1</sup>

This article summarizes a process of providing policy assistance to the Revolutionary Government of Zanzibar to strengthen the right to food underpinnings of a key policy and a legislative act, and thus facilitate the implementation of right to food actions, particularly at grass-roots level. It focuses on how the approval of the food and nutrition security policy and legislative act triggered actions for and by the most food insecure and vulnerable population.

### FOOD AND NUTRITION SECURITY CHALLENGES IN ZANZIBAR

Zanzibar has a population of approximately 1.3 million people, two-thirds of whom live on Unguja Island and one-third on Pemba Island.<sup>2</sup> About half of the population lives below the poverty line, and an estimated 13% are food poor.<sup>3</sup> Dependence on imported food is high, making domestic food prices volatile. Productivity in domestic food crop production (largely rain fed) and fish production (artisanal fishing) is low, and post-harvest food losses are significant. Domestic food production is constrained by decreasing availability of agricultural land due to expanding tourism infrastructure, high population growth and environmental degradation, including that of marine resources. Approximately three out of ten under-five children are stunted, while one out of five are underweight. Micronutrient deficiencies are highly prevalent: 75% of under-five children are iron deficient, and 40% suffer from vitamin A deficiency. Over 60% of adult women are iron-deficient.<sup>4</sup>

### POLICY ASSISTANCE AND STRENGTHENING CAPACITIES: 2006–2013

Between 2006 and early 2013, FAO assisted the Revolutionary Government of Zanzibar with the integration of food and nutrition security (FNS) into the Poverty Reduction Strategy Paper (PRSP), and with the formulation of a FNS policy and accompanying plan of action.<sup>5</sup> The policy provides the overall framework for attaining food security and improved nutrition, and for contributing to the realization of the right to adequate food for all. Its goals and objectives refer to equitable food access at all times and to special protection for resource-poor and vulnerable groups. Policy implementation principles point to a commitment to the realization of the right to food, which is linked to international law obligations. These principles include: (i) full respect for human dignity and the rule of law, (ii) accountability of public institutions for performance and use of public resources, (iii) non-discrimination, (iv) transparency in decision making, (v) equitable outcomes of policy actions, and (vi) effective and equal participation and empowerment of all.

1 [Maarten Immink](#) is currently an independent consultant; he has worked at the FAO for several years. [Mansura Kassim](#) is the Director of the Food Security and Nutrition Department at the Ministry of Agriculture and Natural Resources of Zanzibar. [Ali Haji Ramadhan](#) works as FAO Liaison Officer at the Zanzibar Office.

Special thanks to Carolin Callenius and Frank Mischler for their support in reviewing this article.

2 "Zanzibar Population Census 2012". Revolutionary Government of Zanzibar.

3 "Household Budget Survey 2010". Revolutionary Government of Zanzibar.

4 "Demographic and Health Survey 2010". Revolutionary Government of Zanzibar.

5 "Zanzibar Food and Nutrition Security Policy". Revolutionary Government of Zanzibar. 2008. [extranet.who.int/nutrition/gina/sites/default/files/TZA%202008%20Zanzibar%20Food%20security%20and%20nutrition%20policy.pdf](http://extranet.who.int/nutrition/gina/sites/default/files/TZA%202008%20Zanzibar%20Food%20security%20and%20nutrition%20policy.pdf); and "Zanzibar Food and Nutrition Security Programme". Revolutionary Government of Zanzibar. 2008.

In an effort to provide a legal basis for the implementation of the policy, the Government approved a FNS Act in 2011.<sup>6</sup> The provisions of the Act that directly relate to the realization of the right to adequate food in Zanzibar are the following:

- Government's obligations to ensure the enjoyment of the right to food for each citizen are recognized.
- Equity in assigning resources by prioritizing food insecure and marginalized people is mandated.
- Discrimination or exclusion on any ground is prohibited.
- The National Food Security and Nutrition Council is established; one of its responsibilities is to monitor the realization of the right to food.
- The responsibilities of district management teams and sub-district food security and nutrition committees are specified.
- Relevant sector ministries are instructed to prepare and implement FNS work plans and to include adequate resources in their budgets.
- Sanctions are imposed on heads of household who do not provide adequate food for the household, despite having adequate resources.

#### WHAT HAS HAPPENED SINCE THEN AT NATIONAL, DISTRICT AND COMMUNITY LEVELS?

The real challenge is to transform policy statements into actions. Evidence demonstrating that more people are permanently enjoying their right to food is not available, but there are some encouraging developments partly as a result of intensive capacity strengthening in planning and management at different levels, including the following:

- The institutional framework as mandated by the Act is in place and operational, including at district and sub-district levels.
- Several districts developed FNS action plans that now serve as a reference point for all stakeholders.
- FNS related institutions established at grass-roots level provide a forum for representatives from different population groups to meet and make their own decisions with respect to community actions; special efforts are made to ensure that marginalized groups are represented.
- Partnerships with civil society organizations and development partners are growing for the purpose of formulating and implementing community-based FNS actions. Such partnerships coupled with participatory planning represent new developments in Zanzibar.
- Several community and group-based FNS projects have been implemented,<sup>7</sup> which also serve to raise awareness about the right to food in practical terms. Significant change in the attitudes of community members has been observed through the implementation of these projects. Community members work voluntarily without requesting allowances as was the case previously and members of the sub-district FNS committees also work as volunteers.

6 An Act to repeal the implementation of the National Programme for Food Self Sufficiency Act No. 3 of 1988 and to enact the New Zanzibar Food Security and Nutrition Act, 2011. The term: "food security and nutrition" is used in the three instruments.

7 These projects cover, among other things, tree planting, beekeeping, vegetable production, nutrition education and school feeding programs supplied by home grown foods, and are organized, implemented and managed by community groups with external technical support.

## SUSTAINABILITY OF THE PROCESS AND REMAINING CHALLENGES

The follow-up process has been dynamic and the growing partnerships with civil society, private sector and development partners provide a basis for its sustainability. The inter-sectoral coordination mechanisms, including at ministers' level, provide greater political visibility to FNS issues. A grass-roots movement is gradually being created around food and nutrition security issues through a focus on community projects and capacity strengthening in areas such as participatory planning, monitoring and evaluation, advocacy, resource mobilization and social communication. The FNS technical secretariat is financed through the national budget and provides technical services at national, district and community levels.

Yet, challenges remain. It is not easy to maintain momentum when there are other competing policy issues that require urgent attention. Part of the FNS-related actions on the ground are donor dependent, while an adequate FNS early warning monitoring framework is yet to be implemented. The absence of legislation on decentralization has partly curtailed funding flows from central to sub-national levels. Such funding would permit district and sub-district FNS committees to assume their responsibilities as defined in the 2011 Act. But in Zanzibar it is fair to say: "the right to food is happening".



## 12

### A HUNGRY COLOMBIA: A NEGLIGENT STATE AND COMMUNITIES IN RESISTANCE

Juan Carlos Morales González<sup>1</sup>

In 2013, FIAN Colombia, along with other human rights advocacy, community and grassroots organizations, published *A Hungry Colombia: A Negligent State and Communities in Resistance, 3<sup>rd</sup> Report on the Situation of the Right to Food in Colombia/2013*.<sup>2</sup> The report describes the situation of the right to adequate food and nutrition (RtAF), the advances and retrogressions of the State in relation to its obligations to that right, and how various communities and civil society organizations (CSOs) have resisted a breach of the right to adequate food in their territories.

This is the third report of its kind produced in Colombia with the participation and/or leadership of FIAN. The previous two, published in 2008 and 2010,<sup>3</sup> proved to be useful international and national advocacy tools and, similar to this third report, were methodologically structured to take advantage of a monitoring tool developed by FIAN International and Welthungerhilfe.<sup>4</sup> This tool was designed to facilitate the monitoring of states' compliance with their legal obligations in connection with the RtAF on the basis of the *Voluntary Guidelines on the Right to Adequate Food and Nutrition*.<sup>5</sup> For this third report, the analyses of State compliance were accompanied by detailed accounts of Colombian CSOs' concerns, achievements, and challenges around the defense of the right to adequate food.

#### FINDINGS OF THE REPORT

After many delays in the formulation of a public policy, the Colombian government recently enacted the National Policy on Food and Nutrition Security (2008) and the corresponding National Plan for Food and Nutrition Security (2012). In our view, both are far from adequate from a human rights perspective, particularly the RtAF. Utilizing a primarily paternalistic, welfare-oriented food aid approach, the Policy and Plan have serious gaps in terms of the participation of rights holders and the generation of processes to monitor their implementation and ensure accountability. Furthermore, the Policy and Plan fail to articulate any other State proposals directed toward the protection of rural populations and national food production and contain no proposed actions targeting rural exodus in the context of free trade agreements. Likewise, they restrict the analysis of the food problem in Colombia to a question of "food security" rather than a question of the right to adequate food and nutrition.

1 [Juan Carlos Morales González](#) is Executive Director of FIAN Colombia and expert on the right to adequate food and nutrition, the geopolitics of nutrition and hunger, and the development of hunger monitoring indicators, among other topics.

Special thanks to Pablo de la Vega and Juana Camacho for their support in reviewing this article. This article was originally drafted in Spanish.

2 "Colombia con hambre: Estado indolente y Comunidades resistentes. 3<sup>er</sup> Informe sobre la situación del Derecho a la Alimentación en Colombia/2013". FIAN Colombia. June, 2013. [www.fiancolombia.org/colombia-con-hambre-estado-indolente-y-comunidades-resistentes-3er-informe-sobre-la-situacion-del-derecho-la-alimentacion-en-colombia2013/](http://www.fiancolombia.org/colombia-con-hambre-estado-indolente-y-comunidades-resistentes-3er-informe-sobre-la-situacion-del-derecho-la-alimentacion-en-colombia2013/) (available only in Spanish).

3 "El Derecho a la Alimentación en Colombia: Situación, Contextos y Vacíos: Una Aproximación al Compromiso del Estado Colombiano a la Luz de las Directrices Voluntarias Sobre el Derecho a la Alimentación". Bogotá: Sticker Publicidad, 2008. (available only in Spanish); and "Hambre y vulneración del derecho a la alimentación en Colombia". Segundo informe sobre la situación del derecho a la alimentación en Colombia. 2010. (available only in Spanish).

4 Ratjen, S., Suárez Franco, A. M., and Schneider, R., "Vigilando la acción estatal contra el hambre: Manual para cómo usar las Directrices Voluntarias sobre el derecho a la alimentación para monitorear las políticas públicas". FIAN International and Welthungerhilfe. November, 2007. [www.fian.org/es/library/publicacione/detail/vigilando\\_la\\_accion\\_estatal\\_contra\\_el\\_hambre-1/](http://www.fian.org/es/library/publicacione/detail/vigilando_la_accion_estatal_contra_el_hambre-1/) (available only in Spanish).

In addition to these fundamental shortcomings, gaps in policies also occur within a context of worsening structural determinants of both hunger and violations of the RtAF. In highly rural municipalities, for example, 74.6% of people report unsatisfied basic needs while, at the same time, only 14% of rural workers are women.<sup>6</sup> In other words, threats to the RtAF in Colombia are currently exacerbated by a situation that reflects an economic model with high rural poverty and restricted employment opportunities for women.

In parallel, rural populations' loss of autonomous control and governance over their territories is accelerated and further extended by the preeminence that the State has given to extractive industries as well as the absorption of rural labor into agro-export production chains. This situation of diminishing territorial rights occurs within an already extreme context of land concentration as Colombia exhibits one of the highest indices of land concentration in the world (Gini index of land concentration: 0.86).<sup>7</sup> As a result of its mining and energy policy, for example, in mid-2012 the government had given away 4.4% of the country's mainland territory in land concessions. Furthermore, the government has received requests for land concessions equivalent to an additional 15.6% of the national territory from private enterprises.<sup>8</sup>

In market terms, the dominant economic model "has left the State with a minor role in the regulation of domestic food markets, scaling back its role as guarantor of the right to food." Within this same model,

*rural policy is aimed at strengthening large-scale, export-oriented production and possibilities are limited for access to resources in order to revitalize small family farms and supply the domestic food market with the potential for food sovereignty and autonomy.*<sup>9</sup>

The multiple facets of the policy situation described above, which are not the only causal elements of violations of the right to adequate food and nutrition in Colombia, contribute to significant negative nutritional impacts across the life span of Colombians. About 42.7% of households are food insecure, 27.5% of children under five suffer from anemia, 51.5% of the adult population is overweight, and the average period of exclusive breastfeeding barely lasts 1.8 months.

The determinants and consequences of the violation of the RtAF in Colombia, while seemingly unchangeable, have nonetheless led to a deepening of the struggles of rural communities and some urban movements who unequivocally declare the defense of the right to adequate food and nutrition as a core principle of their efforts. The report offers several detailed accounts of these struggles which include: legal challenges for land allocation among areas of monoculture sugarcane and palm oil, the creation of regional monitoring centers focused on the RtAF in order to influence and inform public policy, the generation of production and consumer chains operating independently of the market, and the recovery of food production traditions within the urban periphery.<sup>10</sup>

## CONCLUSION

While the report reveals significant violations of the RtAF in Colombia and the State's failure to fulfill its obligations with respect to this right, it also shows the versatility of rural and urban organizations in their efforts to ensure the realization of this right through the principles of food sovereignty and autonomy. In this respect,

5 The Guidelines evaluated in the report were: Economic Development Policies; Market Systems, Institutions; Access to Resources and Assets; Food Safety and Consumer Protection; and Nutrition. See: "Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security". Adopted by the 127<sup>th</sup> Session of the FAO Council in November 2004. Food and Agriculture Organization of the United Nations. Rome. 2005. <http://www.fao.org/docrep/009/y7957e/y7957e00.htm>

6 Data corresponds to 2011 and 2010, respectively, see: "Colombia Rural. Razones para la Esperanza". United Nations Development Programme in Colombia 2011 Human Development Report. 2011. [www.undp.org/content/dam/undp/documents/projects/COL/00056950/2Anexo%20sobre%20proceso%20de%20difusi%C3%B3n%20INDH%20-%20Informe%20a%20Embajada%20de%20Suecia%20\(2\).pdf](http://www.undp.org/content/dam/undp/documents/projects/COL/00056950/2Anexo%20sobre%20proceso%20de%20difusi%C3%B3n%20INDH%20-%20Informe%20a%20Embajada%20de%20Suecia%20(2).pdf) (available only in Spanish).

7 *Supra* note 2, p. 124.

8 *Ibid.*, p. 84.

9 *Ibid.*, p. 248.

10 These accounts were provided by the following co-authors of the report: Community Farmers' Council Palenque Monte Oscuro (Consejo Comunitario Campesino Palenque Monte Oscuro); Agricultural and Animal Husbandry Association for the Submunicipality of Puerto Carreño—San Alberto (Asociación de Productores Agropecuarios y Agrícolas del Corregimiento de Puerto Carreño—San Alberto), Women's Popular Organization (Organización Femenina Popular), Farmers' Movement of Cajibío (Movimiento Campesino de Cajibío), and Ladera Community Members for the Promotion of Life and Health (Equipo Comunitario de Ladera por la Promoción de la Vida y la Salud).

the main challenge facing Colombia is to effectively implement these two principles through the development and implementation of appropriate policies from the perspective of the right to adequate food and nutrition. These policies must, therefore, respond to the constitutive elements of this right as well as the framework of state obligations. Similarly, another challenge is to influence policy in the interests of the adoption of effective mechanisms of justiciability and accountability with respect to the right to adequate food and nutrition. We invite readers to consult the report.

# 13

## THE STRUGGLE FOR RIGHT TO FOOD JUSTICIABILITY IN GUATEMALA: A FOLLOW UP ON THE CHILD MALNUTRITION LITIGATION CASE IN CAMOTÁN MUNICIPALITY

Ricardo Zepeda<sup>1</sup>

### GUATEMALA'S POLICY FRAMEWORK IN THE FIGHT AGAINST HUNGER AND THE STRENGTH OF CIVIL SOCIETY CAMPAIGNS

Fighting hunger in Guatemala, the country with the most severe chronic malnutrition in the Americas, is a multifaceted struggle. Through various campaigns over the course of the last decade, civil society organizations (CSOs) have promoted the creation of a policy and institutional framework to coordinate the multiple actions against hunger and malnutrition. A law establishing the National System of Food and Nutrition Security (SINASAN) was enacted in 2005 as a compensatory policy in response to the economic impacts of the ratification of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR).<sup>2</sup> The responsibility of the State of Guatemala in relation to food, however, had already been recognized in the Constitution of 1985,<sup>3</sup> preceding even the ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1988.

The enactment of the SINASAN law in 2005 raised expectations by establishing a more appropriate institutional and policy framework, but quickly encountered political obstacles and failed to generate sustainable changes. Although it is generally understood that hunger in Guatemala has structural causes, State interventions tend to refrain from going beyond the existing paternalistic, welfare-oriented food aid approach, which has failed to reach the structural roots of the perennial cycle of hunger. Throughout the past three administrations, the arguments most frequently heard from policymakers for this narrow approach were those of “institutional weakness” and a “lack of resources,” which led Guatemala to a very marked dependence upon international humanitarian funds.<sup>4</sup>

Thus, CSOs have focused their advocacy efforts on ensuring that institutions in fact ‘work,’ especially those connected to agriculture, labor, health, and access to resources. Additionally, they have focused on ensuring that the State protects its people against the threats of external third parties, particularly in the economic realm and against agricultural and mining companies seeking to dispossess the peasant and indigenous communities of their resources. It is within this context that CSOs identified the judiciary as a strategic objective on the path to the full recognition of the Guatemalan State’s legal obligations in relation to the right to adequate food. More specifically, they sought a Guatemalan court’s determination of justiciability in a case where the facts demonstrated a clear violation of the human right to adequate food and nutrition.

<sup>1</sup> Ricardo Zepeda conducts social research on human rights issues and public food policies. He supports the Social Collective for the Right to Adequate Food in Guatemala (*Colectivo Social por el Derecho a la Alimentación de Guatemala*) in the elaboration of an alternative report and advocacy activities for the adequate implementation of food policies in the country. The Social Collective for the Right to Adequate Food in Guatemala is a coalition of civil society organizations and specialists with food expertise that advocate for monitoring the State’s obligations with respect to the realization of the right to adequate food and nutrition. It is currently composed of the Council of Development Institutions (*COINDE—Consejo de Instituciones de Desarrollo*), the Hunger-Free Guatemala Campaign (*Campaña Guatemala Sin Hambre*), the Ixim Collective of Rural Studies (*Colectivo de Estudios Rurales Ixim*), the Social Pastoral Organization of San Marcos (*Pastoral Social de San Marcos*), the Our Land Foundation (*Fundación Tierra Nuestra*), the National Food Roundtable (*Mesa Nacional Alimentaria*), and the National Network for the Defense of Food Sovereignty in Guatemala (*REDSAG—Red Nacional por la Defensa de la Soberanía Alimentaria en Guatemala*).

Special thanks to Marcos Arana Cedeño and Manigüeigdinapi Jorge Stanley Icaza for their support in reviewing this article.

This article was originally drafted in Spanish.

## THE PERSISTENT HUNGER OF THE CHORTÍ PEOPLE

In Guatemala, hunger has a peasant and indigenous face. Although the western region of the country is home to most of Guatemala's indigenous people as well as the majority of cases of chronic malnutrition, most cases of acute malnutrition are found in the east among the Chortí people, who annually battle a recurrent cycle of acute food shortages that leads to the deaths of dozens of infants. The Chortí people's history is marked by the steady dispossession of their land, a loss of natural resources, and the degradation of their livelihoods. They have been isolated in a region of Guatemala that is the least fertile and most affected by droughts, the so-called Dry Corridor (*Corredor Seco*), making the Chortí people the most vulnerable indigenous population to food insecurity.<sup>5</sup>

While the Chiquimula department, home to the Chortí, is not among the poorest departments in the country, it is the most unequal with a Theil index of 0.3538 (mean: 0.2645). Its overall poverty rate stands at 56.5% while 13.3% of the people of Chiquimula live in extreme poverty. In Camotán, one of the poorest municipalities within the Chiquimula department and one of the principal geographical concentrations of the Chortí, four out of ten people are extremely poor and 55.7% of children under five are malnourished.<sup>6</sup> For several decades, this area has undergone a series of important changes in the environment caused by the destruction of people's livelihoods, land degradation due to erosion, water scarcity, and water pollution. All this has led to a collapse in local agricultural production and simultaneous increases in rates of mortality and morbidity.

Chronic malnutrition is a result of families' extreme poverty which generates a permanent situation of insufficient food, poorly paid jobs, limited access to land, and substandard basic services such as water, shelter, and latrines. Every year, the number of cases of acute malnutrition peak during the drought season, when local crops are lost, leaving thousands of families dependent upon external aid.

## STRATEGIC LITIGATION FOR THE REALIZATION OF THE HUMAN RIGHT TO ADEQUATE FOOD AND NUTRITION

Litigation fulfilled the CSOs' goal of binding the Guatemalan State to go beyond policy statements and question the effectiveness of governmental action with respect to food and nutrition security. It was during the Hunger-Free Guatemala Campaign that the peasant families of Camotán began receiving support as their region revealed the limited scope of interventions that failed to holistically address the multiple dimensions of the problem of hunger in Guatemala. Within that context, the cases of three girls and two boys suffering from chronic and acute malnutrition were identified as strong test cases given that they were residents of a region which has been considered "prioritized" for food security efforts for over a decade now. This priority status should have merited the creation of appropriate programs targeting the multiple dimensions of Guatemala's persistent problem of hunger. Nevertheless, frequent setbacks and famine alerts gave evidence of policy shortcomings and decisions that to this day are still not politically recognized.

To accompany and support this strategic litigation, medical, psychological, nutritional, socioeconomic, and anthropological studies were undertaken in order to gain a clear understanding of the particular situation, social environment, and specific and individual needs of the cases. On 17 November 2011, five lawsuits were

2 The CAFTA-DR was ratified on 10 March 2005, according to Decree 31–2005, while the National System of Food and Nutritional Security (SINASAN) was approved on 6 April 2005, according to Decree 32–2005.

3 "Constitución Política de la República de Guatemala". Section II: Human Rights, Chapter I: Individual Rights, Articles 3–46 and Chapter II: Social Rights, Articles 47–134. (available only in Spanish)

4 Zepeda, Ricardo. "Sembrando semillas. Oportunidades y desafíos de la ayuda estadounidense a la seguridad alimentaria en Guatemala". Campaña CRECE and OXFAM. May, 2012. [www.lahojita.org/attachments/article/184/Oxfam%20Sembrando%20semillas%202012.pdf](http://www.lahojita.org/attachments/article/184/Oxfam%20Sembrando%20semillas%202012.pdf) (available only in Spanish)

5 The Index of Vulnerability to Food and Nutritional Insecurity (IVISAN—*Índice de Vulnerabilidad a la Inseguridad Alimentaria y Nutricional*) is constructed by linking the Nutritional and Food Security Index, environmental risks, and the capacity to respond. Its absolute values range from 0 to 1, where 1 indicates total vulnerability. The municipality of Camotán's IVISAN is currently 0.909485, the highest in the department of Chiquimula, see: "Priorización de municipios a través del índice de vulnerabilidad a la inseguridad alimentaria y nutricional de la población de Guatemala". Ministry of Agriculture, Animal Husbandry and Food of Guatemala. 2011. (available only in Spanish)

6 "Mapas de pobreza y desigualdad de Guatemala". Secretariat of Planning and Programming of the Presidency (SEGEPLAN), National Institute of Statistics (INE), and Rafael Landívar University. April, 2005. [www.segeplan.gob.gt/2.0/index.php?option=com\\_remository&Itemid=274&func=startdown&id=87](http://www.segeplan.gob.gt/2.0/index.php?option=com_remository&Itemid=274&func=startdown&id=87) (available only in Spanish)

filed against the State of Guatemala for the violation of the right to adequate food and nutrition. In May 2013, a historic step was taken in this struggle when the judiciary declared the State “responsible by omission for the violation of the human right to adequate food, life, health, education, housing and work” by not having considered programs, policies, actions and effective measures to prevent health problems resulting from chronic and acute malnutrition due to a lack of adequate food. Therefore, acting in the children’s best interests, the court made an order of restitution to remedy the violation of human rights.<sup>7</sup>

During monitoring conducted in December 2013 to assess the State’s compliance with the judgment, it was found that the living conditions of the families had not substantially improved and that the measures taken by the State had not led to the restitution of rights as ordered by the court. The great and painful irony of this case is the fact that upon notification of the court’s orders, several institutions of the State, including the Ministry of Food and Nutritional Security (SESAN), sought an injunction against those orders. Although the government has announced that it will withdraw this motion, at the current time, it has still not done so.

The case of the five children of Camotán constitutes a landmark decision and represents a milestone in Guatemalan human rights jurisprudence. More organizations and individuals now see in the judicial process the possibility of challenging further shortcomings and deficiencies within Guatemala’s food policy. Diverse social coalitions will continue to fight to ensure that the Guatemalan State meets the objectives for which it was created. For a Guatemala without hunger, we continue to demand the realization of the human right to adequate food and nutrition.

7 Zacapa Department Court for Youth, Adolescence, and Adolescents in Conflict with Criminal Law. Judicial Cases No. 19003-2011-0637 Oficial 3° (Mayra Amador Raymundo); No. 19003-2011-00638 Oficial 1° (Dina Marilú y Mavelita Lucila Interiano Amador); No. 19003-2011-0639 Oficial 3° (Brayan René Espino Ramírez) y No. 19003-2011-0641 Oficial 3° (Leonel Amador García). See: <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2013/09/Resumen-casos-de-los-nin%CC%83os-y-nin%CC%83as-de-Camota%CC%81n.pdf> (available only in Spanish)



# 14

## DEFENSE OF ARCTIC OCEAN CRITICAL TO INDIGENOUS LIVELIHOOD IN ALASKA

Faith Gemmill<sup>1</sup>

*“Subsistence to us is not just physical nourishment but a manifestation of the very social fabric of our communities interlaced with spiritual and cultural teachings of our peoples.”<sup>2</sup>*

There is a new global trend toward the extraction of new forms of extreme energy resources within indigenous territories, such as exploitation of tar sands oil, fracking, mountain top removal for coal, and offshore oil development, all of which threaten air, water, human and ecological health and food security. This article focuses on the proposed Arctic offshore oil and gas development and its impact on the subsistence rights of indigenous peoples in Alaska.

Alaska’s indigenous peoples are deeply rooted in their ancestral territories; our lineage and ties run deep here. This relationship is one of spirit. So deep is our connection that it goes all the way back to the time of creation when the Creator bestowed on us our Natural Laws. These sacred laws are ingrained in the traditional way of life of Alaska’s diverse indigenous peoples, which is referred to as “subsistence” by the outside world. Generation after generation, we have continued to live in our customary and traditional ways unbroken. Our hunting, fishing and gathering traditions are suffused with the cultural and spiritual values of respect, sharing and integral relations among humans, animals, and the environment. As such, subsistence for us means more than just food security.

The inherent right of Alaska’s indigenous peoples to live as our ancestors have since time began was bestowed upon us by the Creator. These rights afford us our necessary physical, cultural, spiritual, social and economic means of existence. Indigenous peoples have viewed human rights and a healthy environment as fundamentally linked. The careful management and protection of the Arctic environment is a requirement for the enjoyment of Alaska Native human rights, particularly as they relate to the subsistence way of life. Indigenous peoples of Alaska have long fought for recognition of subsistence rights as a fundamental human right. The Inupiat of the North Slope of Alaska continue to live their ancestral subsistence whaling way of life, which is dependent on a healthy ocean ecosystem.

### INDIGENOUS SUBSISTENCE AND HUMAN RIGHTS

Subsistence rights are recognized and affirmed by civilized nations in the international covenants on human rights. Article 1(2) of both the International Covenant on Civil and Political Rights (ICCPR)<sup>3</sup> and the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>4</sup> reads in part as follows: “In no case may a people be deprived of its own means of subsistence.”

1 Faith Gemmill (Gwich'in, Pit River/Wintu) is the Executive Director of Resisting Environmental Destruction on Indigenous Lands (REDOIL). REDOIL is a movement of Alaska Natives of the Inupiat, Yupik, Aleut, Tlingit, Eyak, Gwich'in and Denaiana Athabaskan Tribes who came together in June 2002 in Cordova, Alaska to form a powerful entity to challenge the fossil fuel and mining industries and demand our rights to a safe and healthy environment conducive to subsistence. Special thanks to Andy Mager and Anne C. Bellows for their support in reviewing this article.

2 Quote by the author.

3 “International Covenant on Civil and Political Rights”. Adopted by General Assembly resolution 2200A (XXI) of 16 December, 1966. Office of the United Nations High Commissioner for Human Rights. [www.ohchr.org/en/professionalinterest/pages/ccpr.aspx](http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx)

4 “International Covenant on Economic, Social and Cultural Rights”. Adopted by General Assembly Resolution 2200A (XXI) of 16 December, 1966. Office of the United Nations High Commissioner for Human Rights. [www.ohchr.org/EN/ProfessionalInterest/Pages/ICESCR.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/ICESCR.aspx)

The 2007 UN Declaration on the Rights of Indigenous Peoples calls for indigenous peoples' secure "enjoyment of their own means of subsistence" (Article 20.1) and asserts that those "deprived of their means of subsistence" are entitled to "just and fair redress" (Article 20.2).<sup>5</sup> Furthermore, the 2012 FAO *Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*<sup>6</sup> address legal recognition and allocation of tenure rights for indigenous peoples and other communities with customary tenure systems.

## OFFSHORE OIL AND GAS LEASES IN THE CHUKCHI SEA

In January 2014 the Ninth Circuit Court of Appeals in the United States ruled that the U.S. Department of the Interior had violated the law when it sold offshore oil and gas leases in the Chukchi Sea off the coast of Alaska.<sup>7</sup> The decision stems from a lawsuit filed by a coalition of Alaska Native and conservation groups. Indigenous plaintiffs included the Native Village of Point Hope, Inupiat Community of the Arctic Slope, and Resisting Environmental Destruction on Indigenous Lands (REDOIL). Earthjustice, a nonprofit environmental law organization, represented our groups. It is the second time a court has denied the lease sale because of unlawful environmental analysis.

REDOIL joined the lawsuit in defense of Alaska Natives' right to adequate food. REDOIL and the other plaintiffs maintain that offshore oil development will have devastating consequences to the Chukchi Sea of the Arctic Ocean, which is home to several important Inupiat subsistence species, such as polar bears, walrus, beluga whales, bowhead whales, and seals. These resources are at risk of pollution, noise disturbance, and spills. A major oil spill in the Arctic Ocean would be impossible to clean up and would have irreversible consequences for the region's ecosystem and communities. We are critically aware that the Arctic is warming at an alarming rate, and oil development offshore within the Chukchi Sea, as well as the Beaufort Sea, would compound dangers from climate change with unsustainable and dirty resource extraction, further compromising this critical ecosystem.<sup>8</sup>

The court ruling produced a victory in our favor, by stating that the U.S. Department of the Interior failed to adequately analyze the potentially dramatic environmental effects of the sale before offering the leases, including the risks of oil spills and other disturbance from drilling. It determined that the agency had analyzed "only the best case scenario for environmental harm, assuming oil development," and that this analysis "skews the data toward fewer environmental impacts, and thus impedes a full and fair discussion of the potential effects of the project."<sup>9</sup> The agency will have to redo its environmental impact statement for the lease sale once again and must reconsider whether to offer drilling its leases in the Chukchi Sea at all. In light of this, we believe that the lease sale should be cancelled.

Currently, Royal Dutch Shell plc (Shell)<sup>10</sup> is the largest oil corporation that has purchased leases in the Arctic Ocean's Chukchi Sea. Following the court ruling, the multi-national corporation decided to suspend its 2014 drilling season. What is more, the company has proven that they are not prepared for the harsh, volatile and extreme Arctic conditions. In 2012, the only year the company drilled its leases, it suffered severe setbacks and mishaps—including running one of its rigs aground, almost running a second rig aground, and incurring pollution and safety violations exceeding a million dollars, with investigations still ongoing.<sup>11</sup> These disastrous events must be taken into consideration when considering future policy on offshore drilling in the Chukchi Sea.

5 "United Nations Declaration on the Rights of Indigenous Peoples". (A/61/L.67 and Add.1). Resolution Adopted by the General Assembly, Sixty-first Session. 13 September, 2007. [www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

6 "Voluntary Guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security". Food and Agriculture Organization of the United Nations. Rome. 2012. [www.fao.org/docrep/016/i2801e/i2801e.pdf](http://www.fao.org/docrep/016/i2801e/i2801e.pdf)

7 Native Village of Point Hope, Inupiat Community of the Arctic Slope v. Sally Jewell, Secretary of the Interior, Bureau of Ocean Energy Management. D.C. No. 1:08-cv-00004-RRB. No. 12-35287. U.S. Court of Appeals. (9<sup>th</sup> circuit ). 22 February, 2014. [earthjustice.org/sites/default/files/files/Chukchi.Decision44Opinion.pdf](http://earthjustice.org/sites/default/files/files/Chukchi.Decision44Opinion.pdf)

8 "UNEP Year Book 2013: Emerging Issues in our Global Environment". United Nations Environmental Programme. February, 2013. [www.unep.org/pdf/uyb\\_2013.pdf](http://www.unep.org/pdf/uyb_2013.pdf)

9 *Supra* note 7.

10 Royal Dutch Shell was contacted with a request for a reaction on the information included in this article on 23 July 2014.

11 For example, see: Anderson, Ben, "Swift Reaction as Shell Suspends 2013 Arctic Alaska Offshore Drilling", Alaska Dispatch, 27 February, 2013, accessed 4 June, 2014. [www.alaskadispatch.com/article/swift-reaction-shell-suspends-2013-arctic-alaska-offshore-drilling](http://www.alaskadispatch.com/article/swift-reaction-shell-suspends-2013-arctic-alaska-offshore-drilling)

"Report of the Secretary of the Interior: Review of Shell's 2012 Alaska Offshore Oil and Gas Exploration Program". U.S. Department of the Interior. 8 March, 2013, accessed 4 June, 2014. [www.doi.gov/news/pressreleases/upload/Shell-report-3-8-13-Final.pdf](http://www.doi.gov/news/pressreleases/upload/Shell-report-3-8-13-Final.pdf), p27-31.

## CONCLUSION

We strongly believe that the right to food is a human right that should be protected for all peoples to provide for their own basic subsistence needs with dignity. Several oil and gas companies have a proven record of negligence and a legacy of pollution in Alaska. Shell already has an appalling record of Indigenous rights violations, human rights abuses and broken promises in Nigeria, and elsewhere.<sup>12</sup> Should Inupiat and other coastal tribes trust Shell with their food security? The reality is that the ecosystem, when left intact, is the greatest assurance that subsistence rights will remain protected. It's time to ensure indigenous food security by defending what is left of natural ecosystems that sustain indigenous livelihoods against threats, be they from multi-national oil and mining companies or catastrophic impacts from climate change.

12 For example, see: "Factsheet: The Case against Shell". Centre for Constitutional Rights. 16 June, 2009, accessed 4 June, 2014. [ccrjustice.org/learn-more/faqs/factsheet%3A-a-case-against-shell-0](http://ccrjustice.org/learn-more/faqs/factsheet%3A-a-case-against-shell-0); Amunwa, Ben et al., "Risking Ruin: Shell's Dangerous Developments in the Tar Sands, Arctic and Nigeria". Indigenous Environmental Network and Athabasca Chipewyan First Nation. May 2012, accessed 4 June, 2014. [www.no-tar-sands.org/wp-content/uploads/2012/05/Shell-Risking-Ruin.pdf](http://www.no-tar-sands.org/wp-content/uploads/2012/05/Shell-Risking-Ruin.pdf); Vidal, J., "Shell faces payouts in Nigerian oil spill case", The Guardian, 20 June, 2014, accessed 23 July, 2014, [www.theguardian.com/environment/2014/jun/20/shell-faces-payouts-nigerian-oil-spill-case](http://www.theguardian.com/environment/2014/jun/20/shell-faces-payouts-nigerian-oil-spill-case); and "Senior English judge delivers ruling in preliminary Bodo trial". Royal Dutch Shell, 20 June 2014, accessed 23 July, 2014, [www.shell.com.ng/aboutshell/media-centre/news-and-media-releases/2014-releases/Senior-english-judge-delivers-ruling-bodo-trial.html](http://www.shell.com.ng/aboutshell/media-centre/news-and-media-releases/2014-releases/Senior-english-judge-delivers-ruling-bodo-trial.html)

## 15

THE RIGHT TO LAND IN INDIA:  
THE KEY TO FOOD SECURITYMarie Bohner<sup>1</sup>

Despite having been classified as a fast growing economy by the World Bank in 2012, India still ranks very poorly in the 2013 UNDP Human Development Index<sup>2</sup> and even more so in the Global Hunger Index.<sup>3</sup> In response to significant political pressure from civil society movements—such as the Right to Food Campaign India—that took place in the run up to the 2014 general elections, a National Food Security Bill (NFSB) was passed in July 2013. In addition, a National Land Reform Policy (NLRP) has also been drafted, which could help address some of the shortcomings of the NFSB.

1 Marie Bohner works as an independent consultant for Ekta Parishad and Ekta Europe, in the capacity of European Communication and Advocacy Coordinator. Ekta Parishad is a non-violent Gandhi-inspired social movement in India working on land and forest rights. For more information, visit [www.ektaparishad.com](http://www.ektaparishad.com). Special thanks to Priscilla Claeys and Monika Agarwal for their support in reviewing this article.

2 India ranked 136<sup>th</sup> out of 186 countries in the 2013 HDI. See: “The Rise of the South: Human Progress in a Diverse World”. Human Development Report 2013. 14 March, 2013. United Nations Development Programme. [hdr.undp.org/sites/default/files/reports/14/hdr2013\\_en\\_complete.pdf](http://hdr.undp.org/sites/default/files/reports/14/hdr2013_en_complete.pdf)

3 India ranked 63<sup>rd</sup> out of 78 countries in the Global Hunger Report 2013. See: “The Challenge of Hunger: Building Resilience to Achieve Food and Nutrition Security”. The 2013 Global Hunger Index. International Food Policy Research Institute. 14 October, 2013. [www.ifpri.org/publication/2013-global-hunger-index-0](http://www.ifpri.org/publication/2013-global-hunger-index-0)

4 “Pet ke liye Roti, Roti ke liye zameen” is one of the key slogans of Ekta Parishad.

5 Rowden, Rick. “India’s Role in the New Global Farmland Grab: An Examination of the Role of the Indian Government and Indian Companies Engaged in Overseas Agricultural Land Acquisitions in Developing Countries”. Produced in collaboration with Grain and the Economic Research Foundation. August 2011. [www.grain.org/bulletin\\_board/entries/4342-india-s-role-in-the-new-global-farmland-grab.pdf](http://www.grain.org/bulletin_board/entries/4342-india-s-role-in-the-new-global-farmland-grab.pdf)

6 “Census of India 2011”. Government of India Ministry of Home Affairs, Office of the Registrar and Census Commissioner. April 2011. [censusindia.gov.in/](http://censusindia.gov.in/)

“BREAD FOR LIFE AND LAND FOR BREAD”<sup>4</sup>: WHY THE NFSB MISSES THE POINT

The NFSB gives an entitlement to India’s malnourished, which is a step in the fight against hunger in India. Nevertheless, it has several worrying weaknesses: firstly, there is a lack of clarity in terms of distribution, processing and monitoring of food distribution; secondly, the NFSB might favor massive food imports instead of local food production<sup>5</sup> without ensuring the nutritional quality of the food; thirdly, it could create confusing identification processes for the people to be subsidized; and, finally, it could lead to more leakages of goods to middlepersons.

Moreover, the NFSB does not tackle the real root cause of hunger in India—the lack of secure access to land and natural resources for the rural poor. Almost 70% of India’s population lives in rural areas,<sup>6</sup> and up to half of rural households are estimated to be absolutely or nearly landless.<sup>7</sup> In such a context, the NFSB makes India’s landless citizens appear as mere beneficiaries of benevolent government policies. However, these marginalized populations are made largely dependent on the NFSB and other government schemes to access food, while at the same time face being evicted from their lands. The fragile situation of land and tenure rights threatens the food security of rural households, especially farmers, thereby disempowering them and infringing upon their right to a dignified life.

In response to this situation, Ekta Parishad, a grass-roots movement that has been advocating for the rights of the landless and the poorest in India for almost 25 years, has called for a structural change that prioritizes the right to land and access to natural resources for marginalized small-scale farmers. Ekta Parishad understands the right to land as a minimum of 10 decimals of land (approx. 405 m<sup>2</sup>) for each shelterless rural poor and a minimum of one hectare of agricultural land for each rural landless poor. There is increasing consensus on the principle of interdependence between food and land among right to food activists as well. As Biraj

Patnaik from the Right to Food Campaign India rightly put it, “[a] right to food legislation that does not factor in production issues directly, has no relief for farmers, especially small holders, in a country where more than a quarter of a million farmers have committed suicide since 1996, is completely unacceptable”.<sup>8</sup>

## ENCOURAGING DEVELOPMENTS: A NATIONAL LAND REFORM POLICY

In October 2012, around 50,000 landless, deprived and marginalized people demanded their right to land by assembling with Ekta Parishad in the city of Gwalior, for the one-month March for Justice “Jan Satyagraha” to Delhi. The march was concluded when the Minister for Rural Development met with the marchers on 11 October in Agra to sign a 10-point agreement,<sup>10</sup> including a National Land Reform Policy (NLRP).

The draft of the NLRP was elaborated in consultation with civil society, and takes a holistic approach to land. It defines land as “the most valuable, imperishable possession from which people derive their economic independence, social status and a modest and permanent means of livelihood”, as well as a means to assure “them of identity and dignity”. It also recognizes land governance at “gram sabha”<sup>11</sup> level, in order to make consultation and participation of concerned populations effective.

To ensure that the draft would turn into a bill after the general elections in April–May 2014, Ekta Parishad and other land rights movements wrote a “Manifesto for Land Rights”,<sup>12</sup> and successfully lobbied for it to be included in most parties’ manifestos before the elections. This manifesto includes the adoption and the implementation of the NLRP, as well as specific recommendations to ensure that women, Dalits and Adivasi will be central to every governance decision on land and natural resources.

However, the elections have brought in a new (right-wing) political formation into power with an absolute majority in Parliament, which is a setback for the struggle since it will involve a fresh round of negotiations with the government. Ekta Parishad is planning a major struggle starting in October 2014 to campaign for the adoption of the NLRP by the Parliament and its implementation. Foot marches, “Padyatras”, have already been planned in six major states covering a large part of India, including Madhya Pradesh, Bihar, Odisha and Uttar Pradesh.

## CONCLUSION

There is no question that India is concerned about the amount of food it has to produce to feed its own population. However, food and land issues should not be considered separately. For instance, the NFSB cannot ensure food security in a sustainable way (especially within the context of increasing land grabs and declining natural resources), if it continues to tackle the issue of food without any consideration for local food producers. It is therefore the responsibility of social movements to hold policymakers accountable for the protection and promotion of human rights in the development strategies they adopt.

7 According to the National Land Reform Policy (NLRP), landlessness is steadily on the rise. The data also shows that while one-third of the households are landless, those near to landlessness add up to one third more. A majority of the remaining third have less than 1 hectare. Around 60% of the country’s population has rights over only 5% of the country’s land, whereas 10% of the population controls over 55% of the land. See: “Draft National Land Reforms Policy”. Government of India Department of Land Resources, Ministry of Rural Development. 24 July, 2013. [rural.nic.in/sites/downloads/latest/Draft\\_National\\_Land\\_Reforms\\_Policy\\_July\\_2013.pdf](http://rural.nic.in/sites/downloads/latest/Draft_National_Land_Reforms_Policy_July_2013.pdf)

8 Patnaik, Biraj. “India’s National Food Security Bill: Hope or Hype?”. Right to Food and Nutrition Watch 2013: Alternatives and Resistance to Policies that Generate Hunger. 8 October, 2013. [www.rfn-watch.org/fileadmin/media/rfn-watch.org/ENGLISH/pdf/Watch\\_2013/Watch\\_2013\\_PDFs/Watch\\_2013\\_eng\\_WEB\\_final.pdf](http://www.rfn-watch.org/fileadmin/media/rfn-watch.org/ENGLISH/pdf/Watch_2013/Watch_2013_PDFs/Watch_2013_eng_WEB_final.pdf)

9 “Search for Truth”.

10 Ekta Parishad. “About Jansatyagraha 2012 March”. [ektaparishad.com/en-us/campaigns/jansatyagraha2012/aboutjs2012march.aspx](http://ektaparishad.com/en-us/campaigns/jansatyagraha2012/aboutjs2012march.aspx)

11 “Gram sabha” is the village council. The local governance for forest dwellers has been guaranteed by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, but poorly implemented until now.

12 See the manifesto on [ektaparishad.com/en-us/campaigns/jansatyagraha2012/manifesto-for-landrights.aspx](http://ektaparishad.com/en-us/campaigns/jansatyagraha2012/manifesto-for-landrights.aspx)

# 16

## LAYING THE GROUND FOR THE FOOD FRAMEWORK LAW IN THE PHILIPPINES

Aurea G. Miclat-Teves<sup>1</sup>

### BACKGROUND

Clear and comprehensive policies that promote the right to adequate food (RtAF) in the Philippines are urgently needed. It is against this backdrop that the National Food Coalition (NFC) was formed. It has issued an urgent call to President Benigno Aquino III and Congress for the immediate adoption of a RtAF framework law.<sup>2</sup>

The NFC established a working group that has drafted a food framework bill. The proposed law adopts a rights-based approach and provides for a comprehensive framework that will harmonize provisions of different laws related to food or the RtAF. More specifically, it will clarify the scope and content of the right to adequate food, establish standards for compliance, cite principles that will guide the process of realizing the right, and penalize RtAF violations. The bill is founded upon the principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law—the PANTHER principles.<sup>3</sup>

### THE RIGHT TO ADEQUATE FOOD FRAMEWORK BILL

There are several salient provisions of the bill. Section 3 defines the RtAF while Section 10 targets achieving Zero Hunger in ten years and increasing the area devoted to food production to 50% of all prime agricultural lands in every region. Section 4 stipulates that the RtAF shall be realized progressively and Section 6 provides for freedom from hunger, whereby every person suffering from hunger or malnutrition, or at risk of suffering from these, would be entitled to a minimum amount of food. There should also be regular, reliable and timely delivery of the minimum amount of food as stipulated in Section 15. All proposed government actions, plans and projects, including any development plan, will take into account the RtAF and will undergo objective impact assessments prior to their adoption and implementation in accordance with Section 11. Section 26 directs the harmonization of existing policies concerning food. The proposed law will create a Commission on the RtAF with an Inter-Agency Council (Sections 13–14). An Integrated Monitoring System in all government agencies at all levels will be established (Section 10). Criminal, civil and administrative penalties will be imposed on violators of the RtAF law (Sections 22–23). The proper implementation of the proposed Food Framework Law will make a major impact on poverty reduction by directly addressing hunger and extreme poverty in the country.

### THE LEGISLATIVE PROCESS

The RtAF framework bill as drafted by the NFC was filed separately as House Bill No. 3795 at the House of Representatives and as Senate Bill No. 2137 at the Senate—with the strong support of NFC members, particularly representatives of the sectors

<sup>1</sup> Aurea Miclat-Teves is the Convenor of the NFC and President of FIAN Philippines. She was formerly Vice President of FIAN International and now sits as a member of the COMELEC in the International Executive Committee of FIAN International. She also serves as the Executive Director of the Peoples Development Institute.

Special thanks to Maarten Immink and Martin Remppis for their support in reviewing this article.

<sup>2</sup> “Advocates pitch 5 essential elements to achieve rice self-sufficiency—National Food Coalition”. 18 October, 2012. Philippine Alliance of Human Rights Advocates. [www.philippinehumanrights.org/news/press-releases/235-advocates-pitch-5-essential-elements-to-achieve-rice-self-sufficiency](http://www.philippinehumanrights.org/news/press-releases/235-advocates-pitch-5-essential-elements-to-achieve-rice-self-sufficiency)

<sup>3</sup> “A Human Right Obligations and Responsibilities PANTHER”. Food and Agriculture Organization of the United Nations. Rome. 2009. [www.fao.org/docs/up/easypol/772/rtf\\_panther\\_233en.pdf](http://www.fao.org/docs/up/easypol/772/rtf_panther_233en.pdf)



that suffer most.<sup>4</sup> The House and Senate bills were referred to the House Committee on Human Rights (CHR) and the Senate Committee on Agriculture, respectively.

The first House Committee hearing on the bill was held on 27 May 2014. The seven members of Congress present endorsed the bill. The representatives of government line agencies also indicated support of the bill, but not without expressing some reservations about several sections of the bill; they will submit their position papers to the CHR. As this issue of the *Right to Food and Nutrition Watch* was being finalized, the next committee hearing was still to be set, and the Senate committee in charge of the bill was yet to schedule a hearing.

The bill still has a long way to go and it is too early to tell when it may be approved by Congress. Under the Philippine legislative system, any proposed law will have to first pass through the relevant committees. If the committee members are satisfied with the contents following debates and discussions, the bill is put out for debate on the floor before it is finally approved or rejected by the House or the Senate. If the House and the Senate versions of the same bill are passed, a conference committee composed of representatives of the Congress and Senators will work on a final version which will then be sent back to the respective chambers for final approval or rejection. If passed, the bill goes to the president for signing into law. The president, however, can still veto the bill.<sup>5</sup>

## CAMPAIGNING FOR THE ADOPTION OF THE BILL

Learning from the Brazil experience,<sup>6</sup> the NFC has taken crucial steps in creating a nationwide constituency to push for the adoption of a national food policy with the full and active participation of all stakeholders, particularly those who are most vulnerable to hunger. While NFC builds a pro-RtAF mass movement, it is fully aware that there are individuals and/or groups in both the public and the private sector who want to maintain their monopoly over land and other natural resources that are critical to food production, and will therefore at the very least attempt to block or resist the proposed law.

The NFC is preparing the ground for a broad campaign to support the RtAF. It has found “champions” in Congress who will push for the passing of the RtAF bill. There is also ongoing research on RtAF. A broad public information campaign has been launched through press events and a website will be created to promote studies and encourage public interest and discussions on RtAF. The NFC will establish a “speakers bureau” composed of experts and leaders of people’s organizations (POs) who can competently and adequately discuss food security, hunger, poverty, development and human rights. This “speakers bureau” will also attend Congressional hearings, appear in television programs, and participate in press conferences, public forums and debates on the RtAF. The rights holders, particularly farmers, indigenous groups and the urban poor, are at the forefront of the campaign. To empower them, training on the human rights-based approach to food issues and workshops on lobbying methods and negotiations are being conducted. The research base of the campaign is being established to back the “speakers’ bureau” and the bill’s supporters and “champions” in Congress in order to ramp up information that will allow them to discuss RtAF more authoritatively. Plans for creative activities to spark the interest of legislators and stakeholders (e.g. photo exhibits in Congress, poster-making in schools and communities) and to popularize the RtAF campaign are underway.

4 See: [www.congress.gov.ph/download/basic\\_16/HB03795.pdf](http://www.congress.gov.ph/download/basic_16/HB03795.pdf)

5 See: “Legislative Process”. The Republic of the Philippines House of Representatives 16<sup>th</sup> Congress. [www.congress.gov.ph/legisinfo/index.php?!=process#FIRST](http://www.congress.gov.ph/legisinfo/index.php?!=process#FIRST)

6 In 2014, a delegation of NFC members visited Brazil to learn how the RtAF is implemented in Brazil through policy reform and legislation with the participation of civil society through the Zero Hunger Strategy and its different components.

Other advocacy measures include establishing strong communication lines with the secretariats of the two Congressional committees handling the bills. Lobby work with members of the House and Senate committees is being strengthened while committee hearings are ongoing. The NFC is networking with supporters from civil society organizations and also identifying allies within local governments.

The NFC and its supporters inside and outside Congress have to ensure that the RtAF bill advances through the legislative mill. Moreover, the NFC must be conscious of the various obstacles that could potentially derail its efforts. Among them are the internal constraints within the Philippine legislature, especially given the tradeoffs made in the inherent bargaining and negotiations system between the Senate and the House, and between the executive and the legislative branches on what bills should be given priority. The NFC must make an effort on multiple fronts to make legislators accept it as a national priority that is also in their interest.

## FOOD INSECURITY IN PROTRACTED CRISES: EXAMINING THE GAZA STRIP<sup>1</sup>

Mariam Al Jaajaa and Emily Mattheisen<sup>2</sup>

Food insecurity in protracted crises remains a global challenge. Whether crises arise from natural or human-made factors, it is clear that governments, international agencies and CSOs are still struggling to find long-term solutions for chronic food insecurity.

No single definition applies to all “protracted crises”.<sup>3</sup> Often shared characteristics can include multiple underlying causes, such as recurrent human-made and/or natural disasters, duration or longevity, conflict and/or insecurity, weak governance, and unsustainable and vulnerable livelihood systems, among others. Food insecurity is a common manifestation of these varied crises.

### PROTRACTED CRISIS AND THE COMMITTEE ON WORLD FOOD SECURITY

The Committee on World Food Security (CFS) took up this priority issue in 2011. Civil society has contributed to safeguarding key values in the CFS Agenda for Action (A4A).<sup>4</sup> These include integrating human rights norms and corresponding obligations in practice, addressing root causes of food insecurity and crises, and questioning “resilience” as the overarching framework without prevention, accountability and resolution as paramount.<sup>5</sup> Civil society also has pushed to direct the A4A at all countries, not only those already in crises.<sup>6</sup> The methodological focus on causes widens the circle of implicated states and other responsible parties.

In conflicts, food insecurity is not merely a bi-product. Denying access to food and its productive resources is prohibited as a weapon of collective punishment.<sup>7</sup> Palestine and Gaza, specifically, represent an emblematic example of how food insecurity has been used as a means to control and impoverish a population, and where the right to food, among other congruent rights, is consistently violated in a protracted crisis.

### THE GAZA STRIP

Since the State of Israel’s proclamation in 1948, Palestinians have been pushed from their homes and land, millions driven to refugee camps, or in the limited land that has yet to be annexed by the Israeli government. Gaza forms a particular case.

Gaza became one of the most densely populated areas in the world with a population approaching 1,800,000 in an area of 363 km<sup>2</sup>.<sup>8</sup> This overcrowding is rooted in the population transfer of Palestinians that tripled Gaza’s population in 1948,<sup>9</sup> as well as the Israeli occupation’s enforcement of vast no-access zones, foreclosing 30% of Gaza’s arable lands.

### The Blockade and Restricting Access to Resources

Shortly after the Hamas electoral control of the Palestinian Legislative Council, Israel’s restrictions on Gaza’s air, land and sea transformed into an unprecedented blockade, triggering “a protracted human dignity crisis”.<sup>10</sup> The blockade precludes exports and

1 This article was drafted in May-June 2014. The air and ground operation by Israeli forces in Gaza, which started in the month of July, has aggravated tremendously the situation and issues described in the article. There have been great human and material losses, and access to food, water and medical supplies is restricted.

2 [Mariam Al Jaajaa](#) is the General Manager of the Arab Group for the Protection of Nature and the Co-facilitator of the CSM Protracted Crises Working Group. [Emily Mattheisen](#) is the Global Program Officer for Habitat International Coalition’s Housing and Land Rights Network (HIC-HLRN), based in Cairo, Egypt. Special thanks to Joseph Schechla and Monika Agarwal for their support in reviewing this article.

3 See: “Draft Agenda for Action for Addressing Food Insecurity in Protracted Crises (A4A)”. Food and Agriculture Organization of the United Nations. February 2014, p. 58.

4 “Evaluation of the Protracted Crises Working Group & its Impact on the CFS Protracted Crises Process”. Civil Society Mechanism. 7 April, 2014. [www.csm4cfs.org/files/2/protracted\\_crisis\\_wg\\_impact\\_april\\_7th.pdf](http://www.csm4cfs.org/files/2/protracted_crisis_wg_impact_april_7th.pdf)

5 See the A4A glossary, *supra* note 2, p. 61.

6 The “State of Food Insecurity in the World” published a list of 22 countries considered to be in crisis; however, the CSM Protracted Crises Working Group, which has been working parallel to the CFS processes, does not find this list to be inclusive of all protracted crises globally.

7 “Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security”. Adopted by the 127<sup>th</sup> session of the FAO Council, November 2004. Rome. Food and Agricultural Organization of the United Nations. 2005. [www.fao.org/docrep/009/y7937e/y7937e00.htm](http://www.fao.org/docrep/009/y7937e/y7937e00.htm). Specifically 16.2 and 16.3. The Voluntary Guidelines address the Geneva Conventions’ Additional Protocol I (1977), Article 54.

8 In some areas population density goes up to 16,000 people/km<sup>2</sup>, “Demographia World Urban Areas,” 8<sup>th</sup> ed., Version 2. [www.demographia.com/db-worldua.pdf](http://www.demographia.com/db-worldua.pdf)

- 9 73.3% of Gaza's population is registered as refugees. "UNRWA in Figures: Gaza". See: United Nations Relief and Works Agency for Palestine Refugees in the Near East Public Information Office. 2009. [www.unrwa.org/resources/about-unrwa/unrwa-figures-0](http://www.unrwa.org/resources/about-unrwa/unrwa-figures-0)
- 10 "Locked in: The Humanitarian Impact of two Years of Blockade on the Gaza Strip". UN OCHA. August, 2009. [www.ochaopt.org/documents/Ocha\\_opt\\_Gaza\\_impact\\_of\\_two\\_years\\_of\\_blockade\\_August\\_2009\\_english.pdf](http://www.ochaopt.org/documents/Ocha_opt_Gaza_impact_of_two_years_of_blockade_August_2009_english.pdf)
- 11 85% of fishermen's daily income has been lost. See: [www.guardian.co.uk/world/2011/jul/24/gaza-fishermen-gunboats-israel-navy](http://www.guardian.co.uk/world/2011/jul/24/gaza-fishermen-gunboats-israel-navy)
- 12 *Supra* note 7; also Article 11 of the International Covenant on Economic, Social and Cultural Rights (1966).
- 13 Urquhart, Conal. "Gaza on brink of implosion as aid cut-off starts to bite". The Guardian. 16 April, 2006. [www.theguardian.com/world/2006/apr/16/israel](http://www.theguardian.com/world/2006/apr/16/israel)
- 14 Zurayk, Rami *et al.*, "Food Security Challenges and Innovation: The Case of Gaza". The CFS High Level Expert Forum on Food Insecurity in Protracted Crises. Rome. September, 2012. [http://apnature.org/sites/default/files/food\\_security\\_challenges\\_and\\_innovation\\_the\\_case\\_of\\_gaza\\_final\\_0.pdf](http://apnature.org/sites/default/files/food_security_challenges_and_innovation_the_case_of_gaza_final_0.pdf)
- 15 Some Gazan households are surviving on 20 liters of water per person per day, while Israeli consumption is about 300 liters per person per day, *Ibid.*, p. 8.
- 16 "Report of the United Nations Fact-finding Mission on the Gaza Conflict". (A/HRC/12/48). UN Human Rights Council. 25 September, 2009. [www.unhcr.org/refworld/docid/4ac1dd252.html](http://www.unhcr.org/refworld/docid/4ac1dd252.html)
- 17 "Socio-economic and Food Security Survey: West Bank and Gaza Strip, Palestine 2012". Palestinian Central Bureau of Statistics, Food and Agriculture Organization of the United Nations, United Nations Relief and Work Agency for Palestine Refugees in the Near East and World Food Programme. 2012. p. 27. <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp259657.pdf>
- 18 "UNRWA, Labor Market Briefing: Gaza Strip-Second Half of 2010". United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) April, 2011. [www.unrwa.org/userfiles/201106083557.pdf](http://www.unrwa.org/userfiles/201106083557.pdf)
- 19 "On the Eve of the International Population Day". Palestine Central Bureau of Statistics. 11 July, 2012. [www.pCBS.gov.ps/Portals/\\_pCBS/PressRelease/PeopleDay\\_2010E.pdf](http://www.pCBS.gov.ps/Portals/_pCBS/PressRelease/PeopleDay_2010E.pdf)
- 20 "Five Years of Blockade: the Humanitarian Situation in the Gaza Strip". UN OCHA. June. 2012. [www.ochaopt.org/documents/ocha\\_opt\\_gaza\\_blockade\\_factsheet\\_june\\_2012\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_gaza_blockade_factsheet_june_2012_english.pdf)
- 21 Rami Zurayk and Anne Gough. "Control Food, Control People: The Struggle for Food Security in Gaza". Institute for Palestine Studies. Forthcoming 2014, p. 56.
- 22 "In 2011 less than one truckload of goods per day exited Gaza, less than 3% the average amount of exports during the first half of 2007". UNOCHA. June 2012. *op. cit.*, p. 1.
- 23 *Supra* note 7.
- 24 *Supra* note 13 p. 17.

imports, including food and agricultural products, border crossing and access to land and fishing waters.<sup>11</sup> Prolonged and recurrent cuts in fuels and electricity affect the operation of water facilities. The blockade violates the human rights to food and water.<sup>12</sup> In 2006, Dov Weisglass, the advisor to former Israeli Prime Minister Ehud Olmert, stated that "the idea [of the blockade] is to put the Palestinians on a diet, but not to make them die of hunger."<sup>13</sup>

### Operation Cast Lead

In late 2008, Israel launched the 22-day Operation Cast Lead on Gaza, which caused enormous economic and human losses. Around 1,700 households lost their breadwinners as a result of death or injury. Israeli attacks damaged or destroyed over 15,000 homes and 10,000 smallholder farms, and decimated about 17% of agricultural land, killing a minimum of 36,000 cattle and 1,000,000 birds.<sup>14</sup> Moreover, 90% of the Gaza coastal aquifer was polluted due to sewage leaking from Israeli-damaged infrastructure.<sup>15</sup> A UN fact-finding mission found there was "a deliberate and systemic policy to target industrial infrastructure, food production facilities, and water installations."<sup>16</sup>

This destruction further exacerbated the already fragile situation in Gaza. In 2012, 71% of households were either food insecure (57%) or vulnerable to food insecurity (14%).<sup>17</sup> The loss of land and water, high rates of unemployment (45.2%),<sup>18</sup> poverty (38.8%)<sup>19</sup> and the erosion of livelihoods have deepened and prolonged the reliance on external assistance, with 80% of the population receiving aid.<sup>20</sup>

### International Aid: Further Erosion of Food Sovereignty

The international shift in aid has pushed for the integration of Palestinian industries into the Israeli economy, where they compete with the heavily subsidized Israeli sector, as well as export goods that can only pass through Israeli exporting companies.<sup>21</sup> Since the start of the blockade, the Gaza produce for export is often not transported and left to rot.<sup>22</sup>

Three interlinked forces cripple Gaza's food and farming systems. The first and most obvious force is the Israeli occupation, usurpation and destruction of resources, amid flagrant disregard for international human rights norms.<sup>23</sup> A second force is the international funding infrastructure that has commodified Gaza's agricultural production, exacerbating food insecurity.<sup>24</sup> Lastly, Israel has preemptively siphoned Gaza's ground water resources, which naturally descend from Jabal al-Khalil (West Bank).<sup>25</sup> As a result, Gazans are left with no other alternative, but to over-pump the existing ground water, causing further salinization of both water table and soil.

### Local Innovations

Local innovations include enhancing urban agriculture,<sup>26</sup> procuring locally produced food for humanitarian aid, rebuilding with mud bricks, and recycling rubble into infrastructure. These measures have helped to reduce food insecurity. However, they cannot replace access to land and fishing grounds or foreclosed natural markets, nor do they compensate for the number of livelihoods that have been destroyed since the Israeli occupation.

## MOVING FORWARD

The Gaza Strip is a sterling example of challenges facing communities in protracted crises: forces of war, conflict and occupation, extraterritorial and internal actors in the effective internment of a captive people within a confined territory. The case of Gaza epitomizes the international community's failure to align relief, development and human rights objectives with interventions that culminate in long-term remedies in meaningful cooperation with the affected population, as well as the refusal of the Israeli State to uphold international obligations. Supporting such communities to realize their right to food in a meaningful, self-determined way requires addressing the root causes of their crisis and pushing for the operationalization of the international obligations that governments were demonstrably willing to sign, but apparently unwilling to implement.

25 "World Environment Day, Gaza". Sustainable Management of the West Bank and Gaza Aquifers (SUSMAQ), funded by DFID and in collaboration with University of Newcastle upon Tyne and the British Geological Survey, 2001–2004 in Land Times, no. 3 (July 2012). <http://landtimes.landpedia.org/newsdes.php?id=qWw=&catid=ow==&edition=pQ>

26 Husam al-Najer, "Urban Agriculture and Eco-sanitation: the strategic potential toward poverty alleviation in the Gaza Strip." RICS Research Paper Series, University of Palestine. Vol. 7, No. 7 (2007). <http://site.iugaza.edu.ps/halnajar/files/2010/03/Urban-agriculture-and-ecosanitation-the-strategic-potential-toward-poverty-alleviation.pdf>

## 18

## THE LAW ON THE RIGHT TO ADEQUATE FOOD: A NECESSARY STEP IN THE FIGHT AGAINST FOOD INSECURITY AND MALNUTRITION IN BELGIUM

Manuel Eggen<sup>1</sup>

In January 2014, parliamentarians from the opposition group, the Green Party (*Ecolo—Groen*), submitted a bill “establishing the Belgian State’s legal obligation to implement the right to adequate food.” The framework law aims to enshrine the right to adequate food (RtAF) in the domestic legal order and define the government’s responsibilities. It is based on the Voluntary Guidelines on the Right to Adequate Food, which recommend *inter alia* that states adopt “a national human-rights based strategy for the progressive realization of the right to adequate food” (Guideline 3.1).<sup>2</sup>

The explanatory memorandum of the act states its main objectives, which are defined as follows:<sup>3</sup>

- develop a national food strategy based on broad social consultations;
- specify obligations in terms of food aid;
- support sustainable food systems;
- prevent food waste;
- enhance the nutritional quality of food and consumers’ right to information; and,
- ensure that the practices of Belgian actors do not negatively impact the RtAF in developing countries.

The adoption of this framework law would represent a major step forward in the fight against food insecurity and malnutrition in Belgium and would be a first in Europe. The main added value of the proposed framework law is its participatory dimension—which includes the creation of a National Food Policy Council—as well as its holistic approach across the entire food chain. This holistic approach is fundamental given the complexity of the agri-food system and the interdependence of the various issues that have an impact on the RtAF (e.g. poverty, sustainable methods of production and maintenance of peasant agriculture, malnutrition and excess consumption).

1 [Manuel Eggen](#) is Research and Advocacy Manager at FIAN Belgium since 2011. Special thanks to Antonio Onorati and Priscilla Claeys for their support in reviewing this article. This article was originally drafted in French.

2 “Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security”. Adopted at the 127<sup>th</sup> Session of the FAO Council in November 2004. Rome. 2005. [www.fao.org/docrep/009/y7937e/y7937e00.htm](http://www.fao.org/docrep/009/y7937e/y7937e00.htm)

3 Cf. Proposition de Loi-Cadre: Instaurant L’obligation D’une Mise en Oeuvre Effective du Droit à L’alimentation par la Belgique. Bill, explanatory memorandum, Doc 53-3517/001, p. 12–13. (available only in French)



## POVERTY AND FOOD AID

According to European statistics, 21.6% of the Belgian population was at risk of poverty or social exclusion in 2012, which amounts to more than 2.3 million people.<sup>4</sup> These people have too few resources to meet their basic needs, including housing, energy, health care and food. Furthermore, the Federation of Social Services estimates that over 200,000 people rely on food aid to get by on a day to day basis.<sup>5</sup>

At the level of direct service provision, food aid organizations try to meet these needs as best they can, but they lack both adequate human and financial resources. Through their representation within the Federation of Social Services, they have denounced this situation and demanded the establishment of a rights-based system of aid to the poorest.<sup>6</sup> In addition, former UN Special Rapporteur on the Right to Food, Olivier De Schutter, has stressed that food aid should be integrated into support for the emergence of “sustainable diets.”<sup>7</sup>

## CONSUMPTION AND MALNUTRITION

The realization of the RtAF means more than simply ensuring access to sufficient food. This food must also constitute a healthy diet and provide the micronutrients necessary for proper human physical and mental development. Currently, excess consumption and unhealthy diets (high in fat, sugar and salt) are causing an alarming increase in non-communicable diseases (NCDs).

In 2005, in an attempt to reverse this trend, Belgium established a National Health and Nutrition Plan (NHNP) with the aim of launching concrete and coordinated actions to improve the eating habits of the Belgian population. So far, the NHNP has not contributed to a significant change in eating habits and health outcomes. According to the latest survey on health published in 2008, the percentage of the population that is overweight has increased from 41% to 47% between 1997 and 2008, while obesity rates reached 14% in 2008 compared to 11% in 1997.<sup>8</sup> The NHNP has been beset by some operational difficulties; its first evaluation points to, in particular, the lack of coherence and an overall vision: “While international recommendations emphasize a comprehensive approach, the NHNP faces a fragmented institutional field ... [and] does not seem integrated into a broader societal project.”<sup>9</sup>

## DISAPPEARANCE OF PEASANT AGRICULTURE

Since 1980, Belgium has lost 63% of its farms.<sup>10</sup> These figures reflect the concentration of land ownership in the hands of large agricultural holdings and the disappearance of small-holder farmers. Additionally, Belgian farmers contend with financial pressures and unjust social exclusion, all of this has led to alarming suicide rates, especially among smallholder farmers. This not only violates the human rights of peasants, but also poses a growing threat to the food sovereignty of all the Belgian people. Indeed, the RtAF cannot be separated from aspects of agricultural production and growers’ rights. These concerning findings were the subject of specific recommendations by the UN Committee on Economic, Social and Cultural Rights (CESCR) at the last review of Belgium’s periodic report in November 2013.

4 “People at risk of poverty or social exclusion”. 2012. Eurostat. [epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=t2020\\_50&plugin=0](http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=t2020_50&plugin=0)

5 “L’aide alimentaire en Belgique”. Federation of Social Services. [www.fds.be/index.php?page=concertation-aide-alimentaire-2](http://www.fds.be/index.php?page=concertation-aide-alimentaire-2) (available only in French)

6 “Droit et accès à l’alimentation: quelle stratégie d’aide alimentaire pour l’Europe de demain?” Brussels, 18–19 December, 2012. (available only in French)

7 De Schutter, Olivier. “Droit et accès à l’alimentation: quelle stratégie d’aide alimentaire pour l’Europe de demain?” Filmed December 2012. Fédération des Services Sociaux. [www.fds.be/index.php?page=video-Olivier-De-Schutter](http://www.fds.be/index.php?page=video-Olivier-De-Schutter) (available only in French)

8 Drieskens, S. “Enquête de santé par interview, Belgique 2008: Etata nutritionnel”. La Institut Scientifique de Santé Publique. 2008. [his.wiv-isp.be/fr/Documents%20partages/NS\\_FR\\_2008.pdf](http://his.wiv-isp.be/fr/Documents%20partages/NS_FR_2008.pdf) (available only in French)

9 Absil, G. *et al.*, “Evaluation du premier Plan National Nutrition Santé Belge (PNNS-B1)”. University of Liège, School of Public Health, June 2011. [orbi.ulg.ac.be/bitstream/2268/104351/1/ELE%20THE-ALI%20R-10306.pdf](http://orbi.ulg.ac.be/bitstream/2268/104351/1/ELE%20THE-ALI%20R-10306.pdf) (available only in French)

10 “Chiffres clés de l’agriculture 2012: L’agriculture en Belgique en chiffres 2<sup>nd</sup> édition”. Directorate General Statistics and Economic Information. 2012. [statbel.fgov.be/fr/binaries/FR\\_A5\\_WEB\\_Landbouw\\_2012\\_tcm326-192178.pdf](http://statbel.fgov.be/fr/binaries/FR_A5_WEB_Landbouw_2012_tcm326-192178.pdf) (available only in French)

*Concluding Observations of the Committee on Economic, Social and Cultural Rights to Belgium (E/C.12/BEL/CO/4)*<sup>11</sup>

*“The Committee is concerned by reports of difficulties encountered by small farmers, especially young farmers, in Belgium.” It recommends that Belgium “take into account the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food<sup>12</sup> ... and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests<sup>13</sup> ... promoting the adoption of specific support measures for small farmers.”*

## CONCLUSION

Many obstacles stand in the way of implementing the RtAF in Belgium.<sup>14</sup> Sectoral approaches have proven insufficient to overcome these obstacles. It is therefore necessary to develop intersectoral and holistic policies based on human rights that can enable citizens to regain control of the food system. With respect to this goal, the proposed framework law on the RtAF is a critical opportunity. Unfortunately, it is not (yet) a political priority for the government and the balance of power in the Federal Parliament does not seem favorable, particularly since the defeat of the Green Party (*Ecolo—Groen*) in the recent elections of June 2014. In this context, civil society must pressure political leaders to pass this law.

11 “Concluding Observations Concerning the Fourth Periodic Report of Belgium”. UN Committee on Economic, Social and Cultural Rights (CESCR). (E/C.12/BEL/CO/4). 29 November, 2013. [www.refworld.org/docid/52d3e33b4.html](http://www.refworld.org/docid/52d3e33b4.html)

12 *Supra* note 2.

13 “Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security”. Committee on World Food Security (CFS). 2012. [www.fao.org/docrep/016/i2801e/i2801e.pdf](http://www.fao.org/docrep/016/i2801e/i2801e.pdf)

14 In addition to the examples provided, we could have also tackled other themes such as food waste, food scandals, the impact of our methods of production on the environment, etc.

# 19

## NOT JUST A GLOBAL SOUTH ISSUE: LAND GRABBING AND MINING IN SWEDEN

Gustaf Jillker, Eva Jonsson, Leif Gustavsson and Torgny Östling<sup>1</sup>

Land grabbing in Sweden is more than just a mere issue of agricultural land. Due to the extreme liberalization of economic and land acquisition laws since the 1990s, as a result of deregulation demands from the outside world, we the people of Sweden have lost access to and control over our natural resources. Mining and land grabbing have had a negative and tangible impact on the lives and rights of peasants, the indigenous Saami people and Swedish society at large.

### ECONOMIC LIBERALIZATION, DIMINISHING SELF-SUFFICIENCY AND LAND GRABBING

In the early 1990s, Sweden was largely self-sufficient in terms of food and fodder production. After entering the World Trade Organization (WTO) system and the Common Agriculture Policy (CAP) agreement, however, the degree of food and fodder self-sufficiency has declined steadily and is now down to 25%. In order to ensure sufficient food supply for the country's population of 9.4 million people, and adequately support its livestock, Swedish interests started claiming large areas of agricultural land in developing countries.<sup>2</sup>

Deregulation has also led to land grabbing within Sweden's own territory. Between 1990 and 1999, the government adopted new economic and natural resources legislation—covering areas such as mining, land ownership and forest protection—which primarily serves the interests of transnational corporations (TNCs). Large tracts of forests have been sold to investors and individuals, with no other connection to them than the desire to make profits and encourage market speculation. Moreover, when forests are sold, the farms in their entirety are also generally included in the same deal.

In addition to growing crops in agricultural land, farmers in Sweden have traditionally used forest areas for livestock grazing, hunting and fishing, with berry picking as a secondary source of income. The impact of land grabbing has thus been enormous. Small-scale producers and rural populations are struggling to survive on their traditional means of income. This has spawned massive fleeing from the countryside as farmers have lost nearly all control of quality, pricing and harvest methods in agricultural production. As a result, an entire profession is under threat and whole villages are being abandoned.

Large scale exploitations in forest and mountain areas are also taking place in the energy sector. Instead of the profits benefitting those affected and those living in the countryside where the energy sources are located, more and more of the income and ownership has been transferred from agricultural and forestry districts to urban areas. Over the past decades, domestic land grabbing has reduced private land ownership from over 50% in 1990 to an average of 25% today in the northern part of Sweden.

1 All authors work on a voluntary basis with small farmers' organization NOrdBruk in Sweden, member of the European Coordination Via Campesina (ECVC). Gustaf Jillker, a Saami journalist, Eva Jonsson, a farmer and engineer, and Leif Gustavsson, a former farmer, are Board members. Torgny Östling is a farmer and President of NOrdBruk and its Board.

Special thanks to Anita Klum and Martin-Wolpold Bosien for their support in reviewing this article, and to Eddie Olsson (Friends of the Earth Sweden) for his support in translating it from Swedish into English.

2 See for example, Seufert, Philip. 2013. "Tree Plantations and Land Grabbing in Niassa, Mozambique". Right to Food and Nutrition Watch 2013: Alternatives and Resistance to Policies that Generate Hunger. [http://www.rfn-watch.org/fileadmin/media/rfn-watch.org/ENGLISH/pdf/Watch\\_2013/Watch\\_2013\\_PDFs/Watch\\_2013\\_eng\\_WEB\\_final.pdf](http://www.rfn-watch.org/fileadmin/media/rfn-watch.org/ENGLISH/pdf/Watch_2013/Watch_2013_PDFs/Watch_2013_eng_WEB_final.pdf)

## AT ODDS: MINING AND SAAMI'S RIGHTS AND TRADITIONAL WAY OF LIFE

As a result of mining laws adopted in 1991–1993 that are exclusively beneficial for companies, and of weak land ownership rights, the Swedish government has granted companies mining concessions and exploration permits affecting tens of thousands of hectares (12,452 ha for mining concessions and 1,467,689 ha for exploration permits).<sup>3</sup> Swedish taxpayers will also have to pay for the costs of infrastructure and future environmental damages caused by mining.

Sweden has obligations under international human rights law, and has also committed itself explicitly to respect the ancient claims of the indigenous Saami people, who traditionally conduct reindeer herding in the Northern parts of the country. Despite its commitments and strong protests from the people, in mid-2013 the Swedish government granted permission for a large-scale nickel mining project in Tärnaby, Rönnbäck (in the northern region of Sweden), set to stretch to the upstream Ume River. The government claims that the mine will bring local communities greater economic benefits than reindeer herding. Nonetheless, this project is likely to have a major impact on the environment, tourism, fishing, hunting, local food supplies, reindeer migration—and the Saami community as a whole.

Complaints lodged by local Saami and other organizations have been rejected by the government so far. The Saami Council and Vapsten Saami village have also presented this case to the United Nations Committee on the Elimination of Racial Discrimination (CERD).<sup>4</sup> The 2007 UN Declaration on the Rights of Indigenous Peoples states that “[i]ndigenous peoples have the right to the lands, territories and resources [including waters and coastal seas] which they have traditionally owned, occupied or otherwise used or acquired”, to “maintain and strengthen their distinctive spiritual relationship” with these territories and resources, and “to uphold their responsibilities to future generations in this regard.”<sup>5</sup>

Speaking on the sheer injustice of the situation, Marie Persson, protest leader in Tärnaby and member of the Saami Parliament, has described the fight as a David and Goliath battle: “against us we have the mining lobby that has enormous resources and contacts all the way to the government”. Furthermore, Persson asserted that “as the leading mining nation in Europe, Sweden has the responsibility to stand up to the extractive industries and to protect human rights, indigenous peoples’ rights and water and food supplies. If we in Scandinavia cannot—then who will?”

During test-blasting in an area where the government has issued a license for an iron mine in Gállok, Jokkmokk, the Saami people from the village were prevented from moving their reindeers as Swedish police acted in the interest of the mining company. Locals in the area have been staging protests with the support of environmental movements since 2011. Henrik Blind, a Saami who has been part of the protest action against the mine says that it will “affect Saami people’s ability to maintain their traditional way of life in a much larger area than just the actual mining area.”<sup>6</sup> Moreover, the areas where Saami live have already been subjected to the adverse effects of water power exploitations that date back to seventy years ago; there have also been talks of wind power exploitation in the near future.

3 See: Sweden Government Bergsstaten. [www.bergsstaten.se](http://www.bergsstaten.se)

4 “Alternative Report to Sweden’s 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> Periodical Reports to the Committee on the Elimination of Racial Discrimination”. United Nations Association of Sweden. July 2013. [www.fn.se/global/Pdfer/CERD%202013.pdf](http://www.fn.se/global/Pdfer/CERD%202013.pdf)

5 “United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)”. Articles 26.1 and 25. United Nations. [www.un.org/esa/socdev/unpfi/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf)

6 See: Salo, Anja Kristine, “The Swedish government is abandoning us”, Barents Observer, 22 August, 2013. <http://barentsobserver.com/en/society/2013/08/swedish-government-abandoning-us-22-08>

## CONCLUSION

As in the Global South, external demands for deregulation and the adoption of a domestic framework that benefits large food, mining and energy TNCs instead of protecting and ensuring people's access to and control over natural resources, can be identified as the key cause of land grabbing in Sweden. This phenomenon is threatening traditional sources of income and the way of life of farmers and indigenous Saami peoples.

Experiences in the Nordic countries and from other parts of the world clearly show that extreme deregulation and neglect of human rights principles, such as participation in decision-making, can leave land and other natural resources—which have been traditionally protected by peasants and other traditional groups such as reindeer keepers—open to unscrupulous exploitation and destruction.

NOrdBruk and other civil society groups in Sweden and all over the world therefore strongly advocate against large-scale industrial farming and mining, and call for responsible, agroecological and small-scale agriculture. Food sovereignty and the responsible management of land, fishing and forests stand as the only sustainable alternatives to pervasive market liberalization.

## SOVEREIGN WEALTH FUNDS IN NORWAY AND SWEDEN—THE CASE FOR STATES' EXTRATERRITORIAL HUMAN RIGHTS OBLIGATIONS

Morten Aulund, Rebecka Jalvemyr and Kristin Kjæret<sup>1</sup>

**There is a misconception that human rights obligations are limited to a State's own territory. This article aims to highlight the extraterritorial obligations (ETOs) of Sweden and Norway, with a focus on sovereign pension funds.**

- 1 [Morten Aulund](#) drafted FIAN Norway's report to the Committee on Economic, Social and Cultural Rights on ETOs in 2013; [Rebecka Jalvemyr](#) is Office Coordinator at FIAN Sweden; and [Kristin Kjæret](#) is former Executive Director of FIAN Norway. Special thanks to Stineke Oenema and Rens van Tilburg for their support in reviewing this article.
- 2 For further reading on the Maastricht Principles, see: [www.etoconsortium.org/en/library/maastricht-principles/](http://www.etoconsortium.org/en/library/maastricht-principles/)
- 3 "The Right to Adequate Food and the Compliance of Norway with its Extraterritorial Obligations (ETOs) ESCR: Parallel Report in Response to the 5<sup>th</sup> Periodic Report of Norway on the Implementation of the International Covenant on Economic, Social and Cultural Rights". FIAN International and FIAN Norway Submission to the UN Committee on Economic, Social and Cultural Rights 51<sup>st</sup> Session. [http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/NOR/INT\\_CESCR\\_NGO\\_NOR\\_15162\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/NOR/INT_CESCR_NGO_NOR_15162_E.pdf)
- 4 For further reading about the fund, see: Norges Bank Investment Management. [www.nbim.no/en/the-fund/](http://www.nbim.no/en/the-fund/)
- 5 "Fund Ranking: Sovereign Wealth Fund Ranking". Sovereign Wealth Fund Institute. 2014. [www.swfinstitute.org/fund-rankings/](http://www.swfinstitute.org/fund-rankings/)
- 6 NBIM website: [www.nbim.no/en/the-fund/about-the-fund/](http://www.nbim.no/en/the-fund/about-the-fund/)
- 7 "Government Pension Fund Act (As of January 2011)". Norges Bank Investment Management. [www.nbim.no/en/the-fund/governance-model/government-pension-fund-act/](http://www.nbim.no/en/the-fund/governance-model/government-pension-fund-act/)
- 8 The Council on Ethics for the Norwegian Government Pension Fund Global was established by a Royal Decree on 19 November 2004. For further reading, see: [www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics\\_council.html?id=434879](http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council.html?id=434879)
- 9 The Ethical Guidelines were adopted by the Ministry of Finance on 1 March 2010 pursuant to Act no. 123 of 21 December 2005 relating to the Government Pension Fund, section 7. See: "Guidelines for the observation and exclusion of companies from the Government Pension Fund Global's investment universe". Government of Norway Council of Ethics. 13 November, 2013. [www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics\\_council/ethical-guidelines.html?id=425277](http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/ethical-guidelines.html?id=425277)

The Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights were developed in 2011 by leading international experts in international law and human rights.<sup>2</sup> These Principles do not purport to establish new elements of human rights law, but rather seek to clarify extraterritorial obligations of states based on the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Following these Principles, in 2013 FIAN Norway submitted a report to the UN Committee on Economic, Social and Cultural Rights (CESCR).<sup>3</sup> FIAN argues that the Norwegian government is contributing to violations of human rights in Guatemala, due to its sovereign wealth fund's investment in Goldcorp Inc. Likewise, similar allegations are made against Swedish public pension funds, which are also a minority investor in this company.

### NORWEGIAN AND SWEDISH SOVEREIGN WEALTH FUNDS

The Norwegian Government Pension Fund Global (GPFG) is valued at approximately NOK 5400 billion (€ 645 billion)<sup>4</sup> and invests in more than 8,000 companies worldwide. GPFG is ranked the world's largest sovereign fund.<sup>5</sup>

The Norwegian Ministry of Finance regularly transfers petroleum revenue to GPFG. Created in 1990 to avoid the Norwegian economy overheating, the GPFG shields the economy from the effects of oil price fluctuations while managing the financial challenges of an ageing population and an expected future drop in petroleum revenue.<sup>6</sup> The Norwegian Parliament has mandated Norges Bank Investment Management (NBIM) to manage the fund.<sup>7</sup>

After several years of campaigns by Norwegian NGOs, in 2004 the Government established Ethical Guidelines for the management of the fund, and the Council on Ethics<sup>8</sup> to monitor their implementation. The Council's mandate includes recommending exclusion of companies from the GPFG's investment universe if "there is an unacceptable risk that the company contributes to or is responsible for [...] serious or systematic human rights violations"<sup>9</sup>. Based on this specific criterion alone, three companies have been excluded (a total of 63 companies are excluded from GPFG's investment universe on the basis of various criteria).

As of 1999, the Swedish public pension system consists of six public pension funds (AP1, AP2, AP3, AP4, AP6 and AP7), managing a total of € 130 billion. Since 2007, AP1-AP4 have had a joint Ethical Council responsible for influencing companies to improve their efforts regarding environmental and social issues. However,



the legal framework guiding the investment regulations adopted by the Swedish parliament states that “the funds should take into account ethical and environmental issues without compromising the overall objective of high revenue”.<sup>10</sup> Clearly, making human rights obligations secondary to the objective of high revenue is not compatible with Sweden’s international human rights obligations.

## UN CESCR CALLS FOR SYSTEMATIC HUMAN RIGHTS IMPACT ASSESSMENTS

In November 2013, in its Concluding Observations, the CESCR addressed Norway’s extraterritorial obligations as a signatory party to the ICESCR:

*The Committee is concerned that the various steps taken by the State party in the context of the social responsibility of the Government Pension Fund Global have not included the institutionalization of systematic human rights impact assessments of its investments.*<sup>11</sup>

The Norwegian response to CESCR’s concern is found in the Government’s recent white paper on the GPFG:

*However, it is the assessment of the Ministry [of Finance] that there is no basis for determining that the ICESCR obligates states an extraterritorial obligation in order to comply with its provisions.*<sup>12</sup>

The CESCR highlights that states and private investors can be held accountable for investments contributing to human rights violations abroad, and recommended Norway to:

*[...] ensure that investments by the Norges Bank Investment Management in foreign companies operating in third countries are subject to a comprehensive human rights impact assessment (prior to and during the investment).*<sup>13</sup>

## HUMAN RIGHTS VIOLATIONS IN GUATEMALA

Both the Norwegian GPFG and the Swedish AP1-AP4 are minority investors in the Canadian company Goldcorp Inc,<sup>14</sup> which owns the Marlin mine in San Miguel and Sipacapa, Guatemala.<sup>15</sup> In 2011, Goldcorp earned over US \$ 600m from the Marlin mine, with about 5% benefitting the local communities.<sup>16</sup>

In 2008, the Swedish AP Funds visited Guatemala to investigate allegations of human rights abuse.<sup>17</sup> On behalf of Goldcorp, On Common Ground Consultants (an international consulting firm) was recruited to pursue an independent human rights impact assessment of the Marlin Mine.<sup>18</sup> Their report identifies human rights violations such as lack of transparent consultation processes with local indigenous communities, serious health issues<sup>19</sup> and claims of land grabbing.<sup>20</sup>

The Guatemalan government is predominantly responsible for these systematic human rights violations. However, through their sovereign wealth funds, the Norwegian and Swedish governments are also responsible. In light of the situation, civil society organizations (CSOs) in Guatemala, Canada and Europe are advocating for the Marlin mine to close down. The Inter-American Commission on Human Rights (IACHR) had called for the Government of Guatemala to stop the mine’s activities, as an interim

10 Regeringens proposition 1999/2000:46, AP-fonden i det reformerade pensionssystemet. <http://www.regeringen.se/content/1/c4/35/03/d2813990.pdf> p.76 (available only in Swedish)

11 "Concluding observations on the fifth periodic report of Norway". (E/C.12/NOR/CO/5). UN Committee on Economic, Social and Cultural Rights. 2013. [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symboln=O-E%2FC.12%2FNOR%2FCO%2F5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symboln=O-E%2FC.12%2FNOR%2FCO%2F5&Lang=en)

12 "Det kongelige finansdepartement. 2014. Stortingsmelding 19 Forvaltningen av Statens pensjonsfond i 2013", page 91. This is a white paper by Norwegian Ministry of Finance on the Government Pension Fund Global.

13 *Supra* note 11.

14 For more information, see: "Guatemala—Marlin Mine". FIAN International. 28 November, 2012. [www.fian.org/what-we-do/case-work/guatemala-marlin-mine](http://www.fian.org/what-we-do/case-work/guatemala-marlin-mine)

15 See: Goldcorp. [www.goldcorp.com/English/About-Us/default.aspx](http://www.goldcorp.com/English/About-Us/default.aspx)

16 "Time to monitor Guatemala’s mining sector?". Aljazeera, 24 November, 2012. [www.aljazeera.com/programmes/insidestoryamericas/2012/11/201211247373432351.html](http://www.aljazeera.com/programmes/insidestoryamericas/2012/11/201211247373432351.html)

17 See report from Swedish Pension Fund: [www.ap4.se/etikradet/Etikradet.aspx?id=671](http://www.ap4.se/etikradet/Etikradet.aspx?id=671)

18 "Human Rights Assessment of Goldcorp’s Marlin Mine". HRIA—Guatemala.com. May 2010. [www.hria-guatemala.com/en/MarlinHumanRights.htm](http://www.hria-guatemala.com/en/MarlinHumanRights.htm)

19 Basu, N. & Hu, H. "Toxic Metals and Indigenous Peoples near the Marlin Mine in Western Guatemala: Potential Exposures and Impacts on Health". Physicians for Human Rights. May 2010. [https://s3.amazonaws.com/PHR\\_Reports/guatemala-toxic-metals.pdf](https://s3.amazonaws.com/PHR_Reports/guatemala-toxic-metals.pdf)

20 *Supra* note 18, p. 21.

measure.<sup>21</sup> Furthermore, the UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, has criticized the lack of consultations with the indigenous people affected by the mine.<sup>22</sup>

## CONCLUSION AND RECOMMENDATIONS

Norway must reconsider its interpretation of the extraterritorial dimension of the ICESCR. Furthermore, considering the CESCR's recommendations, there is a need to modify the legal frameworks of the sovereign wealth funds in Norway and Sweden and make human rights impact assessments mandatory. Both sovereign wealth funds should immediately exclude Goldcorp Inc from their investment universe, and both the Norwegian Council on Ethics and the Swedish Ethical Council should be allocated adequate resources to effectively fulfil their mandates.

It is time for all states to recognize and respect their extraterritorial human rights obligations!

21 "On May 20 2010 the Inter-American Commission on Human Rights granted precautionary measures for the members of 18 communities in Guatemala. The Inter-American Commission asked the State of Guatemala to suspend mining of the Marlin I project and other activities related to the concession granted to the company Goldcorp/Montana Exploradora de Guatemala S.A., and to implement effective measures to prevent environmental contamination, until such time as the Inter-American Commission on Human Rights adopts a decision on the merits of the petition associated with this request for precautionary measures. In December 2011, the IACHR requested an amendment to the precautionary measures and the request to suspend operations at Marlin was lifted." For further reading, see: [www.oas.org/en/iachr/decisions/precautionary.asp](http://www.oas.org/en/iachr/decisions/precautionary.asp)

22 "Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya". (A/HRC/18/35/Add.3). Human Rights Council Eighteenth Session. 7 June, 2011. [http://unsr.jamesanaya.org/docs/special/2011-special-guatemala-a-hrc-18-35-add3\\_en.pdf](http://unsr.jamesanaya.org/docs/special/2011-special-guatemala-a-hrc-18-35-add3_en.pdf)



# SUMMARY AND CONCLUSION

## TEN YEARS OF THE RIGHT TO FOOD GUIDELINES—A SHIFT IN PARADIGM

This year's issue of the *Right to Food and Nutrition Watch* takes a step back to move forward by taking the opportunity of the 10th anniversary of the adoption of the Right to Food Guidelines for a thorough assessment of the progress made in our fight for the right to adequate food and nutrition (RtAF). Key achievements, turning points and challenges ahead have been identified, as well as poignant views on a number of processes linked to the RtAF at international, regional, national and local level.

Through this assessment, an emerging shift in paradigm is observed regarding policies that directly or indirectly affect food security and nutrition, as a continuously growing number of actors, global consensus documents, and policies and action plans recognize that the right to adequate food and nutrition comes first. The specific contribution of the Right to Food Guidelines was that they set the stage for a global discourse on economic, social and cultural rights (ESCR), moving countries from a charity to a human rights-based paradigm.

Nonetheless, the path towards the full realization of the right to adequate food is also filled with a number of obstacles, which are becoming more evident and pronounced. As a result, the paradigm shift is not only far from being fully implemented, but is also at risk, as economic and corporate interests systematically oppose efforts to advance human rights coherence and accountability in policies at the national, regional and global level.

The *Watch* 2014 presents the perspectives of a diversity of authors and contributors, who come from all regions of the world and comprise social movements, including indigenous peoples, smallholder farmers, pastoralists and rural women, as well as human rights defenders, policy advisors and academics.

### A LOOK BACKWARDS

Following the 1996 World Food Summit and its Plan of Action, substantial progress for the understanding and implementation of the right to adequate food was achieved through two major new instruments: General Comment 12 of the UN Committee on Economic, Social and Cultural Rights (CESCR), adopted in May 1999, and the Right to Food Guidelines, adopted by the FAO Council in November 2004 after two years of negotiations.

Since then, the realization of the right to adequate food and nutrition has made substantial progress in some aspects, yet it arguably remains the most violated human right in the world. Impunity is the consequence of failed accountability systems, and still applies to almost all violations of the right to adequate food.

Upon request of the former UN Special Rapporteur on the Right to Food, Olivier De Schutter, in October 2014 the Committee on World Food Security (CFS) will hold a special session on the occasion of the tenth anniversary of the adoption of the Right to Food Guidelines. As mentioned above, this anniversary marks an opportune point in time to take stock of progress made as well as of challenges ahead.

### ELEMENTS OF PROGRESS

The Right to Food Guidelines, adopted in 2004 as a consensus document of governments on the implementation of RtAF on the national level, was the first intergovernmental agreement on how to implement economic, social and cultural human rights at the national level.

The Guidelines helped to increase the visibility and the understanding of food as a human right on the global level, of the obligations it places on states, the role rights-holders have, and the need for a holistic view of food systems, based on the indivisibility of human rights. Considering that about 20–30 years ago only few people were aware of the right to adequate food, the situation today is drastically different. The contributions of the UN Special Rapporteurs on the Right to Food, the FAO Right to Food Team and an increasing number of civil society organizations and social movements have certainly been instrumental in this development.

A global process to introduce the right to adequate food into national legal and policy frameworks was initiated with the adoption of the RtAF Guidelines and has been ongoing since. In this issue of the *Watch*, the current initiatives in Zanzibar, the Philippines and Belgium are highlighted. Successful efforts to claim the right to adequate food as a justiciable right have been undertaken in many countries, as exemplified by the articles on Guatemala and Alaska.

Almost five years have passed since the historical reform of the CFS. It is important to recall that the implementation of the Right to Food Guidelines was included into the vision statement of the CFS and further strengthened in the Global Strategic Framework for Food Security and Nutrition (GSF), which will be adopted in its third version in October 2014. Even more importantly, the RtAF and other ESCR have become the cornerstone of social struggles and of the political agenda of social movements and civil society organizations in their fights for land, territory, water, living wages, social protection, healthy nutrition, gender equality, social justice, participative democracy, food sovereignty, and agro-ecology and sustainable food systems. The articles on India, Colombia and Sweden illustrate this trend as do the thematic articles on civil society articulations in current global negotiations on responsible agricultural investment or food security in protracted crisis.

In this context, it has been a particular achievement that the RtAF and food sovereignty movements go hand-in-hand. This is not surprising. As the article on Alaska points out, the self-determination of people and the prohibition of depriving people of their means of subsistence are an integral part of Article 1 of both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). The RtAF has become an essential element of local, national and global alternatives where the people are at the centre of decisions on food and nutrition.

The fundamental role of small-scale food producers, such as smallholder farmers, agricultural and food workers, artisanal fisherfolk, pastoralists, indigenous people, the landless, and women and youth, has been reaffirmed in many global consensus documents. They must be at the center of policy making, both as the most relevant contributors to food and nutrition security, and as the rights holders most affected by violations of their right to adequate food and nutrition.

## THE CHALLENGES AHEAD

### The Implementation and Accountability Challenge

The Right to Food Guidelines are a practical tool for national implementation of the RtAF. A number of countries have embarked on implementing the Guidelines, albeit some of these countries only in part. However, the majority has not taken the necessary steps to this end. This is due to a lack of political will, or more precisely, to the accumulation of political will that opposes implementation. It is extremely difficult to advance implementation without considering power relations and the prevalence of social exclusion and discrimination on all levels of the most affected by RtAF violations. Therefore, reforms towards inclusive governance are fundamental for the implementation process.

Civil society resistance and mobilization capacity are major contributors to the success of the national implementation and accountability, as the articles on Mali and India in this issue of the *Watch* describe. Therefore, one of the challenges ahead is strengthening the autonomous self-organization of the right-holders, in particular peasant farmers, pastoralists, fisherfolks, landless, agricultural workers, indigenous peoples, urban poor, consumers, women and youth, and supporting them in defending their rights and calling for accountability, self-determination and food sovereignty.

The need to effectively act on the indivisibility and interdependence of all human rights can hardly be overestimated. A full understanding of, and effectively addressing the links between on the one hand women's, girls' and children's rights, including their sexual and reproductive rights, and on the other the human right to adequate food and nutrition, is fundamental to the eradication of hunger and malnutrition. These links can clearly be shown by looking at two outcomes of human rights violations—child marriage and adolescent pregnancies—which are still prevalent across Asia-Pacific, particularly in South Asia, but also in other parts of the world.

On the issue of binding vs. voluntary international instruments, it is important to always critically examine what kind of binding or non-binding instrument we are dealing with. In other words, who drafted it and how, who uses it, how and to what end. Soft law can become extremely influential and even binding on the national level, if sufficient political will and power is behind it. In contrast, negotiations of international binding agreements can be extremely problematic. Trade and investment regimes, for example, can force state parties to amend national legislation accordingly, often undermining basic democratic principles.

Therefore, human rights treaties must be at the core of mandatory regulation at the national and international level. Looking ahead, our major challenge is thus the important task of making them truly enforceable at all levels. The current initiatives for right to food framework legislation in the Philippines and Belgium go in this direction: fostering implementation, and strengthening accountability, of international human rights standards and RtAF-based frameworks translated into legal, policy and institutional frameworks on the national level, both in the Global South and North.

Furthermore, the Right to Food Guidelines have served in many countries as a monitoring tool for assessing public policies. Dozens of civil society reports have been produced, and have partly been published in the *Watch* in past years. The article on Colombia shows the relevance and substantial findings of such human rights-based monitoring efforts for the purpose of assessing and strengthening implementation and accountability.

### The Coherence Challenge

The Right to Food Guidelines as well as other global consensus documents such as the Global Strategic Framework for Food Security and Nutrition (GSF) have recognized the principle to ensure coherence with the right to adequate food of all policies on the national, regional and global level that directly or indirectly impact on food security and nutrition, including trade, agriculture, health, environment, natural resources, economic and investment policies.

Nevertheless, there is overwhelming evidence of policy incoherence in many areas. In addition to the classical contradiction between powerful trade regimes and the relatively weak human rights regime, the adverse effects of land grabbing and land concentration, mining and other extractive industries have been documented, as illustrated in the articles on Mali, Alaska and Sweden included in this issue of the *Watch*. Breaches of extraterritorial human rights obligations (ETOs) are particularly concerning in the context of extractive industries and investments of pension schemes, as the UN Committee on Economic, Social and Cultural Rights (CESCR) stated in its concluding observations on Norway.



Current disputes on human rights coherence are ongoing within the CFS negotiations on the principles for responsible agricultural investments and the Agenda for Action (A4A) for food security in protracted crisis. Other hotspots in the debate about policy coherence are described in the articles on the EU regulation on seeds and the preparatory process for the Second International Conference on Nutrition (ICN2), which will take place in November 2014.

The actual question is then: coherence in whose interest; coherence with human rights and public interest, or coherence with economic and private interests? These questions are highly pertinent at a time when the corporate sector is entering into almost all spheres of public policy related to the areas of human rights, health, food, nutrition and agriculture. The right to adequate food is put at genuine risk and human rights coherence and accountability are likely to be further weakened by actors who aggressively impose their economic and financial interests, and increasingly capture public spaces in search of new markets and to solve their public acceptance problems by seeking to gain legitimacy through the UN.

### The Challenge towards Holistic, Democratic, Human Rights Compliant, Sustainable Food Systems

In his last report to the Human Rights Council in March 2014, the outgoing UN Special Rapporteur on the Right to Food called for the “world’s food systems to be radically and democratically redesigned.”<sup>1</sup> In the interview conceded to the *Watch* 2014, he explains the main elements of such a redesign, in order to ensure the right to adequate food and nutrition:

*Reforms are very difficult to achieve without the food system being more accountable and democratic in the way it operates. There are many limitations in mainstream food systems. First, investments are rewarding large agribusiness corporations and not supporting local food systems. Second, economic incentives are rewarding the most efficient producers, rather than those who contribute to preserving the ecosystems. Third, our tastes and eating habits have changed to processed foods—more convenient, easy to prepare, and suited to our rushed lifestyles, even though they may be less healthy. Finally, there are major actors who are able to block change as a result of the dominant position they have acquired in the food and political systems. That is why food democracy is really the key to achieving more sustainable food systems. The democratization of the food systems is a necessary condition for effecting change.*

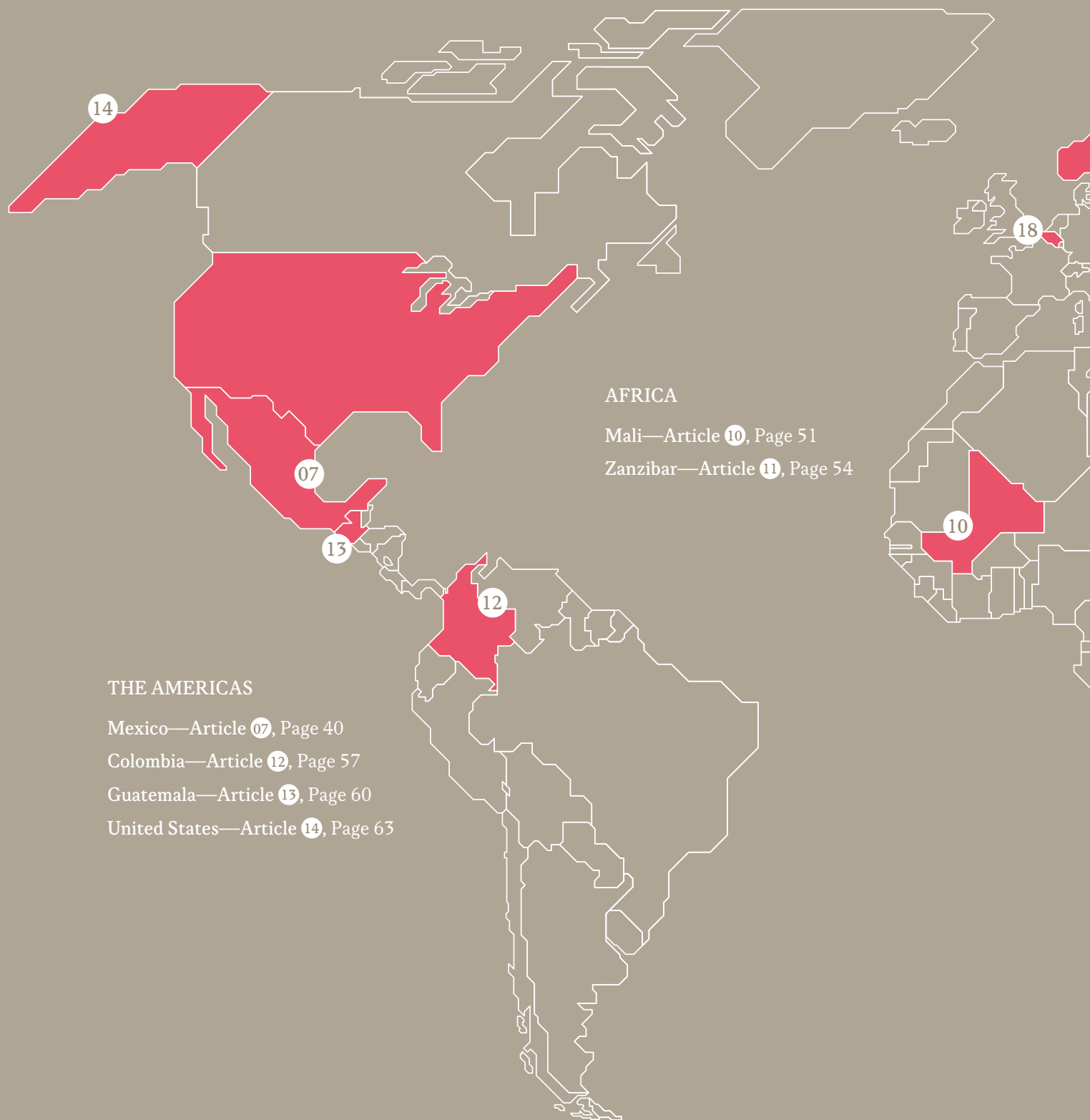
The democratization process of global governance of food and nutrition took an important step forward with the reform of the CFS. The context of the CFS reform was provided by the 2008 food price crisis and the acknowledgment that food systems failed to respond to people’s rights, and instead complied with the requirements of global markets and the growing interest from financial actors in food, nutrition and food producing resources.

The democratic challenge is to ensure the participation of peasant farmers, pastoralists, fisherfolks, agricultural workers, women, youth and indigenous peoples in all decision making processes that directly or indirectly affect their lives and food resources: nothing without their prior, informed and free consent, or in civil society language at the CFS: “nothing about us without us.”

And finally, there is the challenge of adopting a holistic approach: the right to adequate food, even with greater attention to access to, and control over, food producing resources, needs to be directly linked with those who struggle for workers’ rights, urban poor, nutritional well-being, and the rights of future generations, within the food sovereignty framework. Only with a more comprehensive and holistic understanding, and a far broader and stronger cooperation between social movements and civil society groups, will the shift in paradigm become reality.

1 See: “Democracy and diversity can mend broken food systems - final diagnosis from UN right to food expert”. United Nations Office of the High Commissioner for Human Rights. 10 March, 2014. [www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=14336&LangID=E](http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=14336&LangID=E)

# WORLD MAP—GEOGRAPHIC COVERAGE OF THE *WATCH* 2014

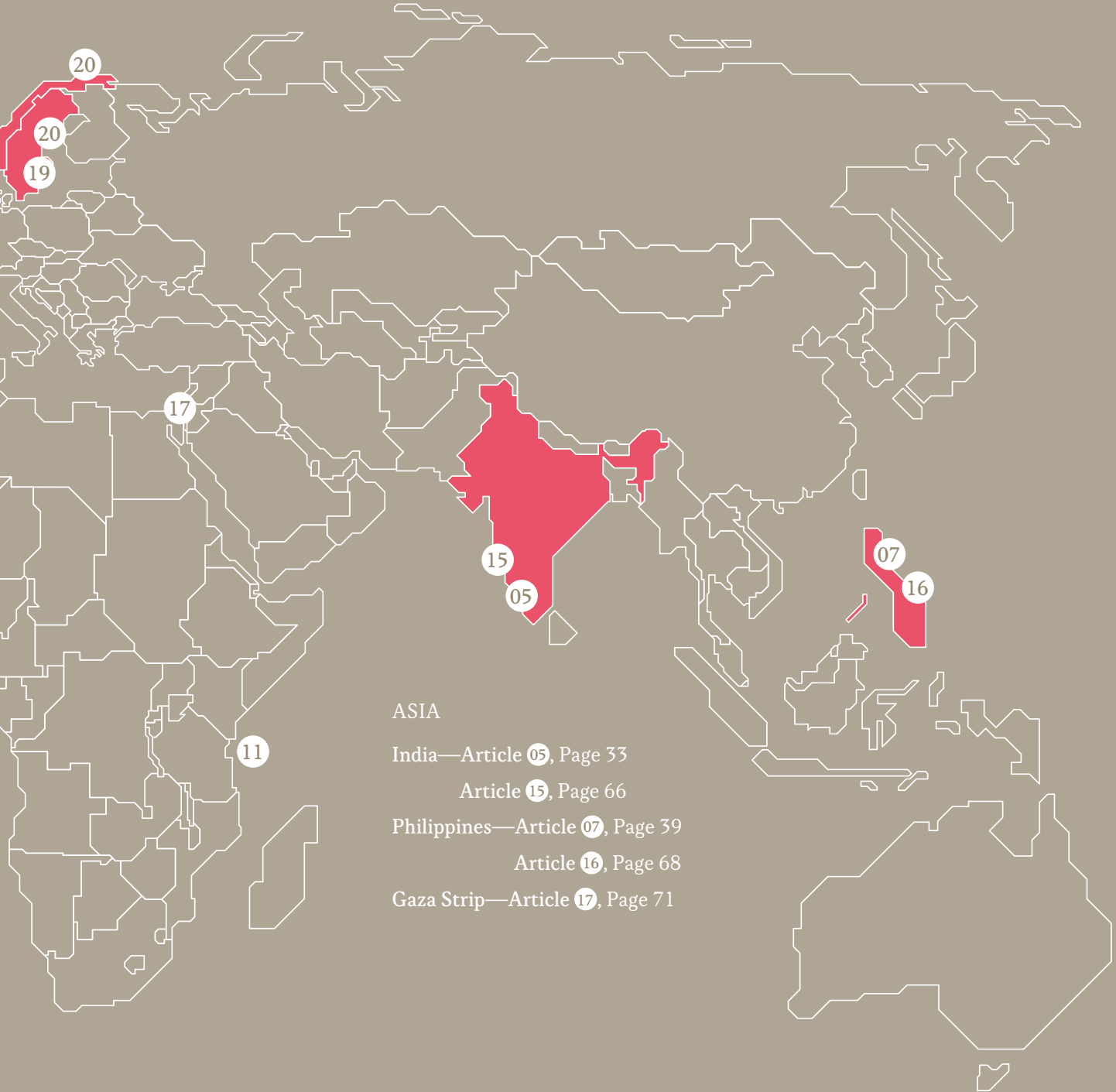


## EUROPE

Belgium—Article 18, Page 74

Sweden—Article 19, Page 77; Article 20, Page 80

Norway—Article 20, Page 80



## ASIA

India—Article 05, Page 33

Article 15, Page 66

Philippines—Article 07, Page 39

Article 16, Page 68

Gaza Strip—Article 17, Page 71

*“The annual Right to Food and Nutrition Watch publication has established itself as a highly influential contribution to debates that connect the different constituencies working on the right to food and on the transition to healthy diets. While focusing on emerging issues such as food democracy, the role of the private sector in food security initiatives, or the implementation of the Right to Food Guidelines, it always manages to provide in-depth analyses by some of the most highly respected actors on the international scene. This edition is no exception.”*

Olivier De Schutter, former UN Special Rapporteur on the Right to Food (May 2008–May 2014)

*“We have reached a turning point for global food policy makers, human rights defenders, and people who care about creating a world free from hunger. Given its wide spectrum of representation, the Right to Food and Nutrition Watch has a high degree of legitimacy and competence to evaluate the situation of the right to adequate food and nutrition around the world. As we celebrate the progress made over the past decade, it is important to keep in mind that we will have to work even harder to realize the right to food in order that hunger and malnutrition no longer afflict humanity.”*

Hilal Elver, current UN Special Rapporteur on the Right to Food

Arguably the single most violated human right in the world, the right to adequate food and nutrition is contending with the emergence of growing threats posed by corporate and economic interests that are increasingly gaining influence in policy spaces and taking control of food systems and natural resources worldwide. In view of this alarming trend, social mobilization and resistance are more critical now than ever before.

At the heart of the efforts of civil society organizations and social movements engaged in the fight for the right to adequate food and nutrition is the quest for more democratic food systems and greater human rights coherence and accountability in policies at the national, regional and global level. This requires the participation of peasant farmers, pastoralists, fisherfolks, agricultural and urban workers, women, youth, and indigenous peoples, in all decision making processes that affect their lives and resources.

The *Right to Food and Nutrition Watch 2014* discusses key policy processes—including the negotiation of the principles for responsible agricultural investment and the upcoming Second International Conference on Nutrition (ICN2)—and echoes the perspectives and experiences of civil society, academics, and social movements in the global struggle for the right to adequate food and nutrition. To mark the tenth anniversary of the Right to Food Guidelines, this year’s edition of the Watch turns the spotlight to this important instrument, reflecting on some of the major successes and obstacles in the path toward the realization of the right to adequate food and nutrition for all.

Please visit [www.rtfn-watch.org](http://www.rtfn-watch.org)