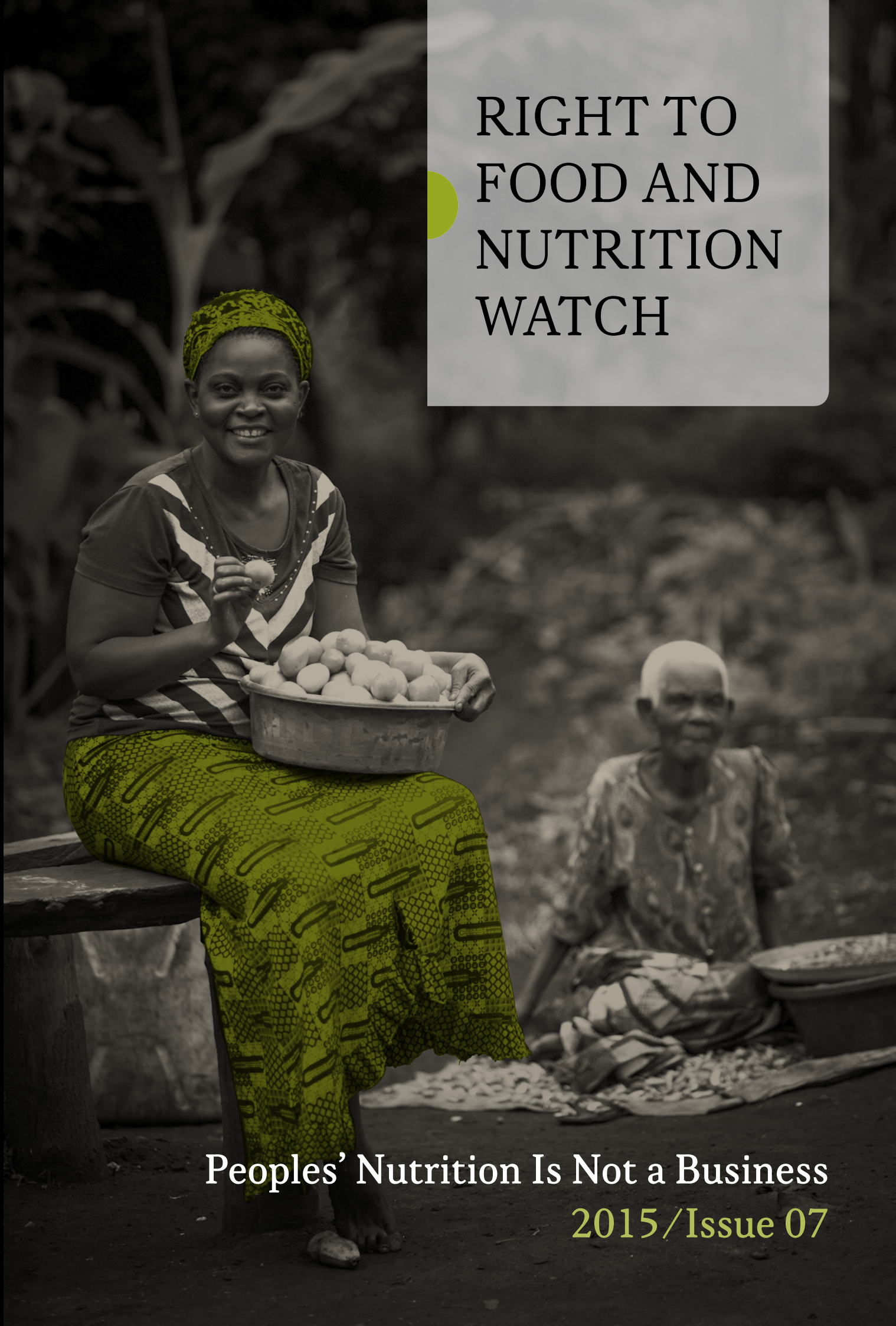

RIGHT TO FOOD AND NUTRITION WATCH

Peoples' Nutrition Is Not a Business

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Janet Katushabe, an HIV/AIDS positive mother, displays her vegetable harvest, which she grows to boost the immunity of her two sickly HIV/AIDS positive daughters and herself.

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ACRONYMS AND ABBREVIATIONS

CEDAW	UN Convention on the Elimination of All Forms of Discrimination against Women
	UN Committee on the Elimination of Discrimination against Women
CESCR	UN Committee on Economic, Social and Cultural Rights
CETA	Comprehensive Economic and Trade Agreement
CFS	Committee on World Food Security
CPLP	Community of Portuguese-Speaking Countries
CSO	civil society organization
CSR	corporate social responsibility
ESCR	economic, social and cultural rights
ETOs	states' extraterritorial human rights obligations
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FNS	food and nutrition security
GMO	genetically modified organism
GNRFN	Global Network for the Right to Food and Nutrition
GRI	Global Redesign Initiative
GSF	Global Strategic Framework for Food Security and Nutrition
HRC	UN Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICN2	Second International Conference on Nutrition
IFAD	International Fund for Agricultural Development
IMF	International Monetary Fund
ISDS	investor-state dispute settlement
LDCs	least developed countries
MDGs	Millennium Development Goals
NCD	non-communicable disease
NGO	non-governmental organization
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
PPP	public-private partnership
RtAFN	right to adequate food and nutrition
SCN	UN Standing Committee on Nutrition
SDGs	Sustainable Development Goals
SUN	Scaling Up Nutrition (Initiative)
TNC	transnational corporation
TTIP	Transatlantic Trade and Investment Partnership
TPP	Trans-Pacific Partnership
UN	United Nations
UPR	Universal Periodic Review
WB	World Bank
WEF	World Economic Forum
WFP	World Food Programme
WFS	World Food Summit
WHO	World Health Organization
WTO	World Trade Organization

PREFACE

Social movements and the wider civil society have been deeply concerned with the increasing control of businesses over food systems and policy spaces, particularly since the food-price volatility crisis that shook the world in 2007/08. Most commonly referred to as 'corporate capture', be it of resources, institutions, policy spaces or governance structures, this reality is putting peoples' sovereignty and human rights at great risk.

As warned in our first edition of the *Watch* in 2008 on "The World Food Crisis and the Right to Food", the present economic model cannot guarantee the conditions for national governments to fulfill their human rights obligations, both at home and abroad, including the right to adequate food and nutrition. This has been clearly demonstrated by the diverse predicaments the world has faced since the world food crisis. Communities worldwide have called on states to reject corporate capture, to reaffirm their sovereignty and the centrality of human rights as the unalienable pillars to address inequity, oppression and discrimination, and to democratize national and global societies.

In this year's *Watch*, we put nutrition under the spotlight and expose the impact of business operations on peoples' livelihoods. Nutrition is primarily acknowledged as the interaction between food and the human body. However, the focus on the resulting health, well-being and capabilities of individuals should not be confined to technical domains. Rather, it should expose and address the critical political and systemic dimensions that can ensure diverse, wholesome, sustainable and culturally adequate diets. Nutrition is, in many respects, a fundamental act of food sovereignty.

In this context, "Peoples' Nutrition Is Not a Business" describes peoples' struggle to retake ownership over their lives and bodies from transnational corporations. It uncovers subtle but appalling corporate abuse and impunity, and lists recommendations for states to prevent and punish initiatives that hamper the enjoyment of human rights.

Considering the specific adversities women and girls face in their everyday lives, the *Watch* also draws attention to the link between the right to adequate food and nutrition and the full realization of the rights of women and girls. Corporate capture affects women and girls' effective participation in political, economic and social life, and impedes their role in the transformation of unequal gender-based power relations.

The *Watch* Consortium publishes this edition amid a strong convergence of the Global Network for the Right to Food and Nutrition. Having recently issued a joint public declaration,[1] the Global Network enters a new phase, whereby civil society the world over has committed to collectively fighting corporate capture. As the *Watch* Consortium and the Global Network are closely linked, with the majority of members participating in both forums, this synergy will ensure the *Watch* performs as the most prominent monitoring tool for the Global Network synergy.

The *Watch* Consortium and the Global Network members would like to thank all those who have contributed to "Peoples' Nutrition Is Not a Business". This publication would simply not be possible without the knowledge and commitment of the authors. We would also like to thank the 2015 Editorial Board members for their invaluable support, namely Anne C. Bellows, Antonio Onorati, Bernhard Walter, Biraj Patnaik, Francisco Sarmento, Manigueuigdinapi Jorge Stanley Icaza, Marcos Arana Cedeño, Maria Melinda Ando, Monika Agarwal, Nora McKeon, Priscilla Claeys, Sibonile Khoza, Stefano Prato, and Stineke Oenema. Special thanks go to the 2015 *Watch* Coordinator, M. Alejandra Morena, for her tireless work, which has played a crucial role in ensuring a groundbreaking and comprehensive edition. Furthermore, we would like to share our appreciation for the excellent and dedicated work of the

1 Global Network for the Right to Food and Nutrition (GNRFN). "Statement of the Members and Friends of the Global Network for the Right to Food and Nutrition." Statement made at the annual meeting of the GNRFN, Kathmandu, Nepal, July 20-22, 2015. Available at: *www.fian.org/fileadmin/media/media_publications2015/Publications_July_2015/GNRTFN_declaration_22_July_2015.pdf*.

Watch Project Assistant, Felipe Bley Folly, as well as that of the editors, translators, proofreaders and reviewers. Thanks also go to Laura Michéle and Alejandra Morales del Rey, who also devoted their time to the production of this publication. Finally, we owe our gratitude to the other members of the *Watch* Consortium and the Global Network for their valuable support in the development and dissemination of this publication.

The *Watch* Team would like to dedicate this publication to all those who devote their lives to defending peoples' sovereignty and human rights, in particular to Tahira Ali Shah, an activist who consecrated her life to strengthening women's and water rights, and co-founded the Pakistan Fisherfolk Forum (PFF). She will be greatly missed and always remembered by human rights defenders in Pakistan and across the world.

Yours sincerely,

Bernhard Walter, Bread for the World—Protestant Development Service
Stineke Oenema, ICCO Cooperation
Flavio Valente, FIAN International

INTRODUCTION

The social struggle for nutrition, as an inherent element of the right to adequate food, gained significant momentum as 2014 drew to a close, with the Second International Conference on Nutrition (ICN2). The negotiations failed to recognize that the current hegemonic food system and agro-industrial production model, heavily dictated by a corporate-led agenda, are among the main causes of the different forms of malnutrition and of a decrease in the diversity and quality of diets. Is nutrition becoming part of a business rather than a human right?

The *Watch* Consortium and the Global Network, comprised of civil society organizations and social movements, aim to dig deeper into this discussion, presenting a broader concept of nutrition from a human rights perspective against the competing visions of wider civil society and the private sector, as well as the way forward in achieving nutritional well-being, and the related capabilities (e.g., immune, cognitive, learning and socialization capacities) as the ultimate objective of the right to adequate food. Around 795 million people will continue to suffer from undernourishment over the next two years, despite commitments made at the 1996 World Food Summit and through the Millennium Development Goals. What went wrong?

The *Right to Food and Nutrition Watch 2015*—"Peoples' Nutrition Is Not a Business"—conducts a human rights review of the status of nutrition and assesses the impact of business operations on communities across the world. In the last few decades nutrition has been reduced to the mere measurement of nutrients in food and human bodies, thereby disregarding the socio-economic and cultural context in which human beings feed themselves. As a result, malnutrition is narrowly defined as a lack of nutrients that can be rectified with external technical interventions, such as industrialized food supplements, nutrient pills and powders. Policy responses to overcome malnutrition have thus ended up mostly revolving around programs run, or heavily influenced by, the corporate sector, leaving aside the promotion of locally produced diversified diets and stripping people—with a particular impact on women—of their capability to protect family nutrition and human rights. There is an urgent need to re-visit approaches to nutrition and promote alternatives that will ensure the right to adequate food and nutrition for all, within the life cycle approach, intimately dependent on sustainable local food systems, healthy adequate living and care conditions, with people at the center.

As in previous editions, the *Watch* 2015 is divided into two main sections. The first, the thematic section, looks at the issue of nutrition from a human rights perspective, bringing the impact of business operations into sharp focus. It also touches upon the future UN treaty on human rights, transnational corporations (TNCs) and other business enterprises; the ongoing negotiations on food security at the WTO; and trade and investment negotiations within the framework of the TTIP, CETA and TPP, 'hot' policy processes this year. The second section of the *Watch*, organized by geographical region, features relevant developments around the right to food and nutrition at local and national levels, and how social movements and civil society are addressing the challenges they face.

The piece that kicks off the thematic section discusses how corporate interests are increasingly capturing national and international food and nutrition policy spaces. The author argues that, in order to stop this dangerous trend, people must hold their governments accountable for the implementation of their national and extraterritorial human rights obligations. Expanding on the analysis of the corporate agenda, the following article looks at how NGOs and governments in developing countries are being lured into partnerships with corporations, creating a 'business of malnutrition'. It

argues that this approach is unlikely to solve the problem of malnutrition, as it will instead give corporations unprecedented access to policy-setting processes in developing countries. This will be used to undermine confidence in bio-diverse, culturally appropriate and affordable foods, and create markets for highly processed foods, supplements and snacks. The two complementary insight boxes clarify the origins of the now widely used term 'multi-stakeholders' and illustrate the advancement of corporate influence in policy-making, especially concerning food issues, in the case of the United States. The third piece analyzes the role of women as active subjects in the construction of food and nutrition, claiming that the artificial separation between food and nutrition is closely related to discrimination against women. "Struggling for Food Sovereignty" follows next, presenting an interview with representatives of social movements from fisherfolk and peasant communities, which discusses the challenges they face in achieving food sovereignty in two countries, Pakistan and Uganda.

As part of the key issues this year, the *Watch* features an interview with experts on the question of TNC abuse and impunity, as well as on the main challenges of introducing an international treaty to hold TNCs accountable. The interviewees also discuss in detail the crucial role of civil society and social movements in demanding that states satisfy their duties in regulating TNC activities. Jumping to another hotspot, the piece "Inequity Unlimited: Food on the WTO Table" delves into the involvement of the WTO in defining the economic terms of international food policy and how it negatively impacts on the right to food and nutrition, especially in developing and least developed countries (LDCs). It looks at how alternatives to this system must be promoted by developing economies and LDCs, and demands that the US, the EU and their key allies protect human rights within the world trade system. The three insight boxes complement the discussion around trade by presenting the case of extraterritorial human rights obligations when it comes to EU trade negotiations, the reaction of European civil society against the TTIP negotiations, and the case of the TPP.

The regional section opens with Africa and a piece on nutrition and urban agriculture in cities across the continent. It argues that the right to adequate food and nutrition must be extended to people living in informal settlements in African cities, most of whom cannot afford adequate food. Urban agriculture makes a significant contribution to health and nutrition by providing fresh produce. Policies are needed that recognize and support urban land access for agriculture and livestock keeping in African cities, prioritizing poverty-stricken and female-headed households. Focusing specifically on the Portuguese-speaking community, the next article emphasizes the centrality given to the institutional recognition and strengthening of family farming by civil society, as part of the struggle for the use of biodiversity in sustainable production systems. The civil society participation mechanism in the Council of Food and Nutrition Security of the Community of Portuguese-Speaking Countries (CPLP) advocates for a new governance of food security and nutrition that highlights the issues surrounding access to natural resources and support for family farmers as key elements for the development of sustainable production models in the fight against malnutrition.

The regional section on Asia commences by highlighting the key role of peasant agriculture in guaranteeing food sovereignty and nutrition for China's population. The authors defend the protection of traditional Chinese farming as a way of resisting against industrialization and land concentration. From China we move to Mongolia, where pastoralism is a traditional way of life and provides a basis for livelihoods and nutrition. However, pastoralism is currently under threat due to the impact of climate change, the expansion of mining, and a lack of adequate public policies. Whilst nomadic food systems can be preserved through partnerships and collaborations, the Government and international organizations must provide the stepping-stones to prevent hunger and malnutrition.

Moving on to the Americas, the first reading draws attention to the United States and argues that frontline alternative approaches must push for comprehensive and integrated food and agriculture policies to advance the right to adequate food and nutrition. The US government must fulfill its obligations concerning the right to food without depending on charity and by fostering local food systems. Returning to the issue of corporate capture, the following piece on Mexico discusses nutrition policies in the country and the influence of TNCs in defining them. It also presents a concrete example of how organized civil society initiatives can promote peoples' right to adequate food and nutrition. The campaign 'Healthier Eating as Mexicans Eat' serves as a successful example of promoting the consumption of natural water and traditional Mexican food and beverages, instead of industrialized food and soft drinks.

Lastly, in the regional section on Europe, the responses of rural communities to land grabbing and large-scale agricultural development in Ukraine are analyzed. Peasants tend to tolerate agribusiness expansion as the most feasible strategy to guarantee their food production. Despite land grabs and neoliberal State policy, peasants persist and produce half of the gross domestic agricultural output, demonstrating their adaptability. The adjoining insight box on Ukraine discusses the liberalization of the land market, which is being promoted without clear consensus for this development among the local population. This liberalization would benefit the national and international elite, together with the agroindustry, through further land concentration, and would thus endanger the right to food principles. The closing piece addresses the negative impact on the right to food of the austerity measures adopted by the Spanish government. The author discusses the alternative report to the Universal Periodic Review of Spain drafted by civil society organizations, denouncing the violation of the right to adequate food and nutrition in the country.

It is our hope that the information presented in the *Watch* 2015 will provide readers with an insight into, and awareness of, the numerous achievements in implementing the right to adequate food and nutrition for all, the unfortunate setbacks along the way and the substantial challenges that still lie ahead. Ultimately, we hope that this increased awareness will strengthen and support our global movement for attaining nutritional well-being, as well as the realization of the right to food for all.

The *Watch* 2015 Editorial Board

NUTRITION FROM A HUMAN RIGHTS PERSPECTIVE— CHALLENGES & APPROACHES

01

THE CORPORATE CAPTURE OF FOOD AND NUTRITION GOVERNANCE: A THREAT TO HUMAN RIGHTS AND PEOPLES' SOVEREIGNTY

Flavio Luiz Schieck Valente [1]

Social movements, civil society organizations and some governments are increasingly becoming aware of the 'corporate capture' of the international and national food and nutrition policy spaces, particularly since the food price volatility crisis of 2007/08.[2] This crisis, in association with other crises (stock market, financial, energy, climate change) clearly demonstrated the inability of the present hegemonic international 'free' trade economic model to guarantee the conditions necessary for national governments to fulfill their territorial and extraterritorial human rights obligations, including the right to adequate food and nutrition (RtAFN).[3] This even remained true for the richest countries in the world. Yet the establishment led by the United States (US), United Kingdom (UK), Canada and other like-minded governments, and supported by high-level United Nations (UN) officials, reacted by becoming increasingly aggressive in proposing more of the same policies that had led to the crisis.

In 2008 the UN Secretary General established a High-Level Task Force on the Global Food Security Crisis (HLTF) to tackle the crisis.[4] The World Bank and the World Trade Organization (WTO), which were clearly part of the problem, were included in this Task Force. Initially excluded, the Office of the High Commissioner for Human Rights (OHCHR) could have helped elaborate a more coherent document than the Comprehensive Framework for Action (CFA).[5] Two months later the G8 launched a parallel public-private partnership (PPP) initiative called Global Partnership for Agriculture and Food Security,[6] with a strong participation by the corporate sector—despite that being part of the problem.

Prior to the above mentioned food crisis there were several attempts by members of the Organisation for Economic Co-operation and Development (OECD) to: 1) reduce the political mandate of the UN Food and Agriculture Organization (FAO) to just providing agricultural technical assistance; 2) dismantle the Committee on World Food Security (CFS); and 3) close the UN Standing Committee on Nutrition (SCN),[7] the UN harmonizing body of global nutrition. The push to close the latter was particularly due to its resistance to creating a private sector constituency. The OECD members believed that only the liberalization of international trade would guarantee food and nutrition security (FNS), with no need for global governance.[8] The food crisis derailed some of these initiatives and reaffirmed the need for these intergovernmental bodies, leading to more FNS policy spaces. The CFS, for instance, was reformed and its mandate strengthened.[9] The FAO's reform highlighted the need to strengthen the links between agriculture, food and nutrition.[10]

However, the SCN's functioning as the UN harmonizing body of global nutrition programming was severely constrained from 2008 onwards under the chairpersonship of Ann Veneman. She was also Executive Director of UNICEF at the time.[11] In FIAN's view, this appointment was part of a broader strategy to replace the

1 Flavio Luiz Schieck Valente is Secretary General of FIAN International. FIAN International is an international human rights organization that has advocated for the realization of the right to adequate food and nutrition for nearly thirty years. For more information, please visit: www.fian.org.
Special thanks to Roger Shrimpton (Tulane University), Ted Greiner (Seoul University), Laura Michéle (FIAN International) and Biraj Patnaik (Office of the Commissioners to the Supreme Court of India) for their support in reviewing this article. This article was originally written in English.

2 For more information on the food crisis, please see the first edition of the *Right to Food and Nutrition Watch*, "The World Food Crisis and the Human Right to Food", from 2008. Available at: www.rtfn-watch.org/en/home/watch-2008/the-right-to-food-and-nutrition-watch-2008/.

3 Valente Schieck, Flavio Luiz and Ana María Suárez Franco. "Human Rights and the Struggle against Hunger: Laws, Institutions, and Instruments in the Fight to Realize the Right to Adequate Food." *Yale Human Rights & Development Law Journal* 13:2 (2010): 37–64.

4 For more information on the HLTF, please see: www.un-foodsecurity.org/structure. For a critical view, please see: FIAN International. *Time for a Human Right to Food Framework of Action.* Heidelberg: FIAN, 2008. Available at: www.fian.org/fileadmin/media/publications/Time-for-a-Human-Right-to-Food-Framework-of-Action-2008.pdf.

normative, transparent, and broadly representative institutions with those easily controlled by the private sector. Veneman was at the right place at the right time to move things in this direction. Prior to being selected by George W. Bush to lead UNICEF as its Executive Director, Veneman was one of the negotiators of the North American Free Trade Agreement (NAFTA).[12] She also worked for Calgene, the first company to register a genetically modified seed, and was secretary of the US Department of Agriculture (USDA) under George W. Bush. Veneman presently is a member of Nestlé's Board of Directors.[13] She also had the full support of the World Bank and the World Food Programme (WFP)—both of which have their governance, as UNICEF, defined by the US—to severely curtail SCN's working methods.

From 2008 onwards the inclusive annual SCN sessions have been cancelled and the technical working groups have been dormant. In 2010 the Steering Committee, in which civil society representatives were active, was eradicated. Instead the only 'members' of the SCN are now high-level staff from four UN organizations who were to meet quarterly. However, such meetings ended after taking place only twice. In the meantime the Secretariat serves only the needs of the Scaling Up Nutrition (SUN) initiative, as discussed below.

In 2009 the corporate capture process gained impetus from the World Economic Forum's (WEF) decision to invest in the Global Redesign Initiative (GRI).[14] This built on the Global Compact[15] and the experience with PPPs since 1997.[16] The 600-page GRI report, launched in 2010, clearly establishes guidelines for the corporate takeover of numerous policy areas at international and national levels. This takeover is justified by the alleged lack of capacity and competence of national states and the UN to govern and solve the existing challenges facing humankind. Nothing is mentioned in the report about the impact of structural adjustment, the totally unfair international trade conditions imposed by the US and the European Union (EU), and the active campaign by the US to reduce or avoid its core contributions to the UN.

Undoubtedly, the most advanced pilot experiment in implementing the GRI principles can be found in the area of food and nutrition with the establishment of the Global Food, Agriculture and Nutrition Redesign Initiative (GFANRI).[17] According to the GRI report "the goal of the GFANRI is to guide the development of food and agriculture policy and supportive multi-stakeholder institutional arrangements that will address current and future food and nutrition requirements within the realm of environmentally sustainable development."[18] The initiative appears to combine several initiatives including the Global Alliance for Improved Nutrition (GAIN),[19] the African Green Revolution Association (AGRA),[20] the G7 New Alliance for Food Security and Nutrition for Africa, the aforementioned UN HLTF, and the SUN initiative.[21] The latter is the most developed of these, having 123 businesses as members.[22] It emerged from a World Bank idea,[23] which was based on several initiatives by the Bill & Melinda Gates Foundation, and intensely promoted by staff of the office of the UN Secretary General. SUN argues that donors will not support nutrition as long as different ideas are publicly debated, and suggests that only issues with global consensus should be focused on. This implies technical issues and not those concerned with political (non-neoliberal) content.

SUN occupied the vacuum created by the 'reforming' and subsequent curtailing of SCN activities. Curiously the international organizations and funds that withdrew support, such as the World Bank, UNICEF and WFP, were the ones that later launched SUN. Apparently, the approval of very strict rules governing SCN's engage-

5 FIAN International. "FIAN challenges Comprehensive Framework of Action (CFA) adopted by the High Level Task Force on Global Food Crisis." *FIAN*, September 23, 2008. Available at: www.fian.org/en/news/article/detail/fian_challenges_comprehensive_framework_of_action_cfa_adopted_by_the_high_level_task_force_on_glob/.

6 G8. *Efforts Towards Global Food Security: G8 Experts Group on Global Food Security.* L'Aquila, Italy: 2009. Available at: www.g8italia2009.it/static/G8_Allegato/G8_Report_Global_Food_Security,2.pdf.

7 The UNSCN was created in 1977 as the Subcommittee on Nutrition, which was then accountable to the Administrative Committee on Coordination of the UN (ACC). As a result of the UN Reform of the ACC (renamed the United Nations System Chief Executives Board, CEB), the Subcommittee continued its functions as the United Nations System Standing Committee on Nutrition (UNSCN). It reported to the CEB. More information is available at: www.unscn.org/en/mandate/.

8 *Supra* note 2.

9 CFS. *Reform of the Committee on World Food Security: Final Version.* Rome: CFS, 2009. Available at: www.fao.org/fileadmin/templates/cfs/Docs0910/ReformDoc/CFS_2009_2_Rev_2_E_K7197.pdf.

10 The FAO reform process ran from 2005 to 2012. For more details, see: FAO. *Final Management Report on Immediate Plan of Action Implementation and the FAO Reform Process.* Rome: FAO, 2013. Available at: www.fao.org/docrep/meeting/027/mq067e.pdf.

11 For excellent critical pieces on the discrediting of the SCN, see: World Public Health Nutrition Association (WPHNA). *United Nations Standing Committee on Nutrition: No flowers please*. WPHNA, 2011. Available at: www.wphna.org/htdocs/2011_july_hp5_sun.htm; "Billanthropy. He's Got the Whole World in his Hands: The Gates Foundation and World Food and Health Governance." *World Nutrition* 6:6 (2015). Available at: wphna.org/worldnutrition/past-issues/.

12 The first of a series of bilateral free trade agreements which negatively impacted the capacity of national governments to promote and protect the food and nutritional security of those inhabiting their territories. See "Tortilla Wars—Cargill and the (Not So Free) Market." *The Mex Files,* April 15, 2007. Available at: mexfiles.net/2007/04/15/tortilla-wars-cargill-and-the-not-so-free-market/.

13 WPHNA. *Ann Veneman. USDA. UNICEF. SCN. Nestlé Public-private partnerships personified*. WPHNA, 2011. Available at: wphna.org/wp-content/uploads/2013/08/2011_March_Ann_Veneman_joins_Nestle.pdf.

14 WEF. *Everybody's Business: Strengthening International Cooperation in a More Interdependent World: Report of the Global Redesign Initiative.* Davos: WEF, 2010. Available at: www3.weforum.org/docs/WEF_GRI_EverybodysBusiness_Report_2010.pdf.

ment with the private sector in 2006 to prevent private sector corruption or takeover of the SCN was the last straw and the organizations withdrew support.[24] During the early 2000s these actors proposed to include private sector representatives in the SCN civil society constituency; this was rejected.[25] Their proposal to create a fourth constituency (private sector) was also rejected by the civil society and bilateral constituencies.

In 2007 the SCN Chair alleged that the 'nutrition community' was unable to reach consensus on the causes of malnutrition and resulting policies, and that the SCN was ineffective and needed to be reformed. The Chair proceeded to request—without a discussion with the full Steering Committee—an external evaluation of the SCN. The results of this evaluation, funded by the Gates Foundation, were briefly presented to the 2008 SCN annual plenary under protest.[26] These results were coincidentally in line with the recommendations of the renowned 2008 Nutrition Lancet series, also funded by Gates, which basically delinked malnutrition from its social, economic, political and cultural causes, including questions such as who produces the food, how, and for what reason.[27] Academics with public health or political economic perspectives were excluded from the evaluation. These developments helped the further 'medicalization' of nutrition, which presented donor agencies with simplistic, 'magic bullet' product-based solutions to malnutrition.

These 'medicalization' and product-based approaches were boosted at the 2008 SCN annual session by Doctors without Borders (MSF), demanding that the SCN stop 'blocking' the use of ready-to-use therapeutic foods (RUTFs) to treat acute malnutrition. The SCN Technical Working Group on Human Rights, Nutrition and Ethics, and other participants opined that the SCN should propose guidelines regulating the use and, particularly, the advertising and marketing of RUTFs. The plenary debate was heated and allegations were made by MSF representatives that the SCN civil society constituency did not want to save children's lives. Interestingly, under Veneman, UNICEF began wholesale use of RUTFs, in both the field and fundraising, and has become by far the largest purchaser.[28]

No one, particularly conscientious social movement leaders or health professionals, would deny the enormous relevance of adequately handling acute malnutrition cases, as well as cases of moderate and mild malnutrition. The issue is how to do it in a way that provides the best treatment possible for the child, while simultaneously promoting the support needed by the family and the community to recover their capacity to adequately feed all their members. Excessive attention to food supplements (like in the case of food aid when food surpluses were 'dumped' on developing countries) has been shown to negatively impact on healthy eating practices and local small-scale producers.[29]

The criticisms of the SCN civil society constituency to the multi-partner Global Action Plan for Scaling Up Nutrition (GAP),[30] proposed by the World Bank, went along the same lines. While SCN's constituencies had nothing against prioritizing the first 1,000 days of life of a baby, as proposed by GAP and later SUN, they simply questioned the lack of a human rights orientation of both initiatives, and their heavy emphasis on using products such as RUTF and food supplements. The companies providing these are usually based in Western Europe and Northern America.

The prioritization of the 1,000 days was originally described in SCN's 2020 Commission Report,[31] and was clearly contextualized within a person's life cycle and with consideration to the social, economic, political and cultural determinants of malnutrition. In the 1,000 days initiative, as proposed by the World Bank,[32] and later

15 The Global Compact (GC) was an initiative created in 1999 during the WEF to strength cooperation between the UN and business enterprises. It is not a binding instrument, relying instead on voluntary engagement of the business sector, and has been vehemently criticized by social movements and civil society organizations at local and international levels. The GC in no way holds transnational corporations (TNCs) accountable for their activities' impact on human rights worldwide. For a critical approach, see the activities of Corporate Europe Observatory *(corporateeurope.org/)* and CorpWatch *(www.corpwatch.org/)*, two international NGOs involved in monitoring and denouncing TNCs' threats to human rights.

16 Richter, Judith. "Public-private Partnerships and Health for All: How can WHO Safeguard Public Interests?" *GASPP Policy Brief 5* (2004). *Available at: www.ibfan.org/art/538-5.pdf.*

17 The GRI also established the Global Agenda Councils on Food Security and on Nutrition that are mainly composed of members directly or indirectly connected to TNCs or international institutions like the World Bank or WTO. The Councils have, for instance, representatives of Bunge, Coca-Cola, Nestlé, PepsiCo, and Unilever as their members. This illustrates the corporate capture of the food and nutrition agenda setting and governance. *Supra* note 14, p. 374.

18 *Supra* note 14, p. 367.

19 International Baby Food Action Network (IBFAN). *GAIN, a Wolf in Sheep's Clothing, Will Try Once Again to Enter WHO's Policy Setting Process.* Geneva: IBFAN, 2014. Available at: *ibfan.org/pr/Wolf-GAIN-PR.21.1.14.pdf.*

20 African Centre for Biosafety. "The True Beneficiaries of AGRA's 'Soil Health Program.'" *Right to Food and Nutrition Watch* (2013): 20–21. Available at: *www.fian.org/fileadmin/media/publications/Watch_2013_eng_WEB_final.pdf.*

21 For further information on SUN, please see: *www.unscn.org/en/sun-scaling-up/.* See also the article "The 'Business of Malnutrition': The Perfect Public Relations Cover for Big Food" in this issue of the *Right to Food and Nutrition Watch*, and Schuftan, Claudio and Ted Greiner. "The Scaling Up Nutrition (SUN) Initiative." *Right to Food and Nutrition Watch* (2013): 22–23. Available at: *www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2013/Watch_2013_PDFs/Watch_2013_eng_WEB_final.pdf#page=22.*

22 For detailed information on the business members of SUN, see: *2fe0ur3bixo1clqx344dzbo3f.wpengine.netdna-cdn.com/wp-content/uploads/sites/2/2015/01/SBN-Company-Commitments1.pdf.*

23 World Bank. *Repositioning Nutrition as Central to Development. A Strategy for Large Scale Action.* Washington: World Bank, 2006. Available at: *www.unhcr.org/45f6c4432.pdf.*

24 For more information on the SCN Private Sector engagement policy, please see: *www.unscn.org/en/mandate/private_sector/.*

25 Especially during the 31st Session that took place in New York in March, 2004. Available at: *www.unscn.org/files/Annual_ Sessions/31st_SCN_Session/31st_ session_REPORT.pdf.*

26 At the time, only a document of one and a half pages was submitted to members of the SCN, informing them about the implementation of an internal reform of the committee. The document stressed the necessity to "bring private sector representatives into all levels of the structure of new SCN." (Virtual document).

by SUN,[33] however, this perspective has been surgically removed, and it now only targets part of the problem. It does not address issues such as power relations, social exclusion, exploitation, poverty, discrimination, low pay, land grabbing, genetically modified organisms (GMOs), the agro-industrial model as a whole, child marriage, rape and other forms of violence against women, abusive marketing of food products, and child labor, all of which can cause all forms of malnutrition and hunger.[34]

The destruction of SCN's original functioning,[35] and the establishment of SUN, did not change the fact that the social, economic, political and cultural causes of malnutrition remain unaddressed. It also fails to address the differences within the nutrition community regarding, *inter alia*, the definition of priorities and the planning of policies and programs to address malnutrition. In reality, this development has masked the differences existing between conceptual frameworks, world views, and policy proposals by suppressing debate and devaluing the views of a significant proportion of the nutrition community. It presents governments with an imaginary consensus on the way to solve malnutrition that emphasizes the role of the private sector and the need to include it in policy formulation. Effective and efficient policy options cannot be made, much less put in place, when an untested neoliberal approach is the only one allowed to be aired in public.

In response to criticism from the human rights community, SUN Business Network uses human rights language, like in the UN Global Compact. For example, Principle 1 stipulates that "businesses should support and respect the protection of internationally proclaimed human rights"; similarly, Principle 2 requires business to "make sure that they are not complicit in human rights abuses."[36] In essence, however, the corporations are trying to capture the human rights agenda to make it serve their interests, i. e., 'privatizing' them. In this regard it is worth noting that the members of the SUN Business Network include large food and beverage corporations that have been accused of human rights abuses.[37]

Historically, peoples' struggle against abuses of power by the 'sovereign' led to the creation of human rights principles and standards for all and not just the elite. Examples include the signing of the *Magna Carta*, and the American and French Revolutions. They are part and parcel of the shift to peoples' sovereignty that legitimizes the governing role of national states, and indirectly the UN, as an expression of peoples' will. Peoples' sovereignty is the source of states' obligations to respect, protect and fulfill (promote, facilitate and provide) all human rights, and to recognize their indivisibility and interdependence. This clearly includes the obligation of states to prevent human rights abuses through regulation and to hold those responsible accountable at national and international level—be they petty criminals or large corporations.

The ongoing corporate capture of nutrition threatens the achievement of food sovereignty and the full emancipation of women. The corporate capture of nutrition brings with it industrialized food supplements, nutrient pills and powders, and other means of food fortification that do not serve public health goals. While GMO crops like Golden Rice claim to solve global malnutrition problems, they are actually a stunt to silence critics. Meanwhile, the efforts of the food sovereignty movement to treat food and nutrition as inseparable entities, and link food, health and nutrition with the health of the planet have no place in SUN or other corporate capture agendas. This takes us further away from the establishment of collectively managed, socially, economically and environmentally sustainable local and regional food systems based on agro-ecological principles that are capable of producing and offering a diversified,

27 For more information, please see: Schuftan, Claudio and Radha Holla. "Two Contemporary Challenges: Corporate Control over Food and Nutrition and the Absence of a Focus on the Social Determinants of Nutrition." *Right to Food and Nutrition Watch* (2012): 24–30. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2012/R_t_F_a_N_Watch_2012_eng_web_rz.pdf#page=24.

28 *Supra* note 13.

29 Kripke, Gawain. *Food Aid or Hidden Dumping? Separating Wheat from Chaff.* Oxford: Oxfam, 2005. Available at: www.oxfam.org/sites/www.oxfam.org/files/bp71_food_aid.pdf.

30 Susan Horton *et al., Scaling up Nutrition: What Will It Cost?* Washington: The World Bank, 2010.

31 Report available at: www.unscn.org/en/publications/2020_commission_report/.

32 *Supra* note 23.

33 For more information, see: www.thousanddays.org/partnerships/scaling-up-nutrition-info/.

34 Schieck Valente, Flavio Luiz, Ana María Suárez Franco and Rita Denisse Córdova Montes. "Closing Protection Gaps Through a More Comprehensive Conceptual Framework for the Human Right to Adequate Food and Nutrition." In *Gender, Nutrition and the Human Right to Adequate Food: Towards an Inclusive Framework*, edited by Anne C. Bellows, Flavio Luiz Valente Schieck, Stefanie Lemke and Daniela Núñez. New York: Taylor & Francis/Routledge, forthcoming.

35 The SCN was reformed in the late 1990s. In its reformed format, which lasted until 2008, the SCN effectively had three constituencies: UN agencies, governmental representatives (bilateral donors and recipients) and civil society. The steering committee, the technical working groups and the plenary meetings in the annual sessions reflected this composition. In 2008, UNICEF announced that it would no longer support the SCN secretariat, and the annual sessions were cancelled and working groups deactivated. For information about the last broadly participative SCN annual session, in 2008, please see: www.unscn.org/files/Annual_Sessions/35th_SCN_Session/Report_35th_session.pdf.

36 The principles of the Global Compact are available at: www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html.

37 "Blood sugar: Made in Cambodia." The *Phnom Penh Post*, April 2, 2014. Available at: www.phnompenhpost.com/analysis-and-op-ed/blood-sugar-made-cambodia. See also: Saage-Maaß, Miriam. *Holding Companies Accountable—Lessons from Transnational Human Rights Litigation.* Aachen/Berlin: ECCHR, MISEREOR, Brot für die Welt, 2014. Available at: www.ecchr.eu/en/documents/publications.html?file=tl_files/Dokumente/Publikationen/Booklet_HoldingCompaniesAccountable.pdf.

safe and healthy diet to all in line with their cultural and religious practices. This would help guarantee that all human beings can reach their full human potential.[38] This form of corporate capture, therefore, represents a 'life grab'.

Clear signs of this threat were observed during the preparatory and follow-up processes to the Second International Conference on Nutrition (ICN2), held in Rome in November 2014, including in its final document and in the governance of the food and nutrition policy spaces. Civil society clearly proposed that the CFS should be the overarching intergovernmental policy space to harmonize and coordinate food and nutrition policies. They also suggested that the WHO and FAO intergovernmental governing bodies should coordinate the normalization, regulatory and standard setting initiatives for food and nutrition. Civil society further stipulated that an SCN-like body should facilitate the global and national harmonization of food and nutrition policies, elaborate and implement the necessary programs, and report to the intergovernmental bodies of WHO, FAO, CFS and UN General Assembly (UNGA). These bodies must all act in accordance with the human rights framework, and follow strict procedures to prevent and confront conflicts of interest. However, in early 2015, different allies of SUN clearly attempted to increase the visibility and role of SUN in the CFS, and in the overall structure of the UN, including by trying to consolidate the Secretariat of the UN SUN network in the WFP. The Gates Foundation also made incursions in the CFS process.[39] At the time of writing, the outcome was still unclear.

The corporate capture of nutrition strengthens the instrumentalization of women's role as mothers and providers of food and nutrition to their families in the name of 'empowering' women.[40] In reality this pushes women further away from real emancipation. To prevent this, emphasis must be placed on the complete fulfillment of human rights throughout the life cycle of women on an equal footing with men and independent of their role as mothers. They must be guaranteed the right to make their own decisions, gender equality, study, work, receive equal pay, have access and control over land, choose their partners and jointly decide whether and when they want to become mothers.

For all these reasons, and taking into account the need to face this corporate capture of the food and nutrition policy space, and of the right to food, FIAN International, the social movements and civil society organizations that constitute the Global Network for the Right to Food and Nutrition (GNRFN)[41] have interpreted the right to adequate food and nutrition as embedding food sovereignty, the full realization of women's human rights, and the indivisibility of all human rights. This revised conceptual framework of the right to adequate food returns the ownership of human rights to the peoples. It is in full accordance with the Universal Declaration of Human Rights and includes all the present demands of the food sovereignty movement. It is also a useful analytical tool to bring together national, regional and global social struggles capable of creating another world based on gender equality, equity, justice, non-discrimination, human dignity, and participatory democracy to put an end to all forms of exploitation.

38 For more articles on food sovereignty, please see: Claeys, Priscilla. "From Food Sovereignty to Peasants' Rights: An Overview of Via Campesina's Struggle for New Human Rights." In *La Via Campesina's Open Book: Celebrating 20 Years of Struggle and Hope.* Jakarta: La Via Campesina, 2013; Fairbairn, Madeleine. "Framing Resistance: International Food Regimes and the Roots of Food Sovereignty." In *Food Sovereignty: Reconnecting Food, Nature & Community,* edited by Hannah Wittman, Annette Desmarais, and Nettie Wiebe, 15–32. Halifax: Fernwood Publishing, 2010; Windfuhr, Michael and Jennie Jonsén. *Food Sovereignty: Towards Democracy in Localized Food Systems.* Warwickshire: ITDG Publishing and FIAN, 2005.

39 In 2014, the Bill & Melinda Gates Foundation provided a grant of USD $745,473 to the Secretariat of the CFS to support the discussion of Food and Nutrition Governance. For more information, see: *www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database/Grants/2014/06/OPP1103948.* The draft document *CFS and its role advancing Nutrition* (CFS, BurAG2015/02/02/03), presented in February 2015 to the CFS Bureau focuses, to a large extent, on how the CFS could strengthen SUN, a PPP supported by the same foundation. Available at: *www.csm4cfs.org/files/News/216/cfs_bur_ag_2015_03_02_03_cfs_and_its_role_advancing_nutrition_(1).pdf*

40 For a detailed description of the instrumentalization of women by traditional food security policies and the food sovereignty framework for the human right to adequate food and nutrition, please see: Anne C. Bellows *et al.*, *Gender, Nutrition and the Human Right to Adequate Food: Towards an Inclusive Framework.* New York: Taylor & Francis/Routledge, forthcoming. See also Córdova Montes, Denisse and Flavio Luiz Schieck Valente. "Interdependent and Indivisible: The Right to Adequate Food and Nutrition and Women's Sexual and Reproductive Rights." *Right to Food and Nutrition Watch* (2014): 32–33. Available at: *www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2014/Watch_2014_PDFs/R_t_F_a_N_Watch_2014_eng.pdf#page=32.*

41 See the *Global Network for the Right to food and Nutrition Charter.* Geneva/Vienna: GNRtFN, 2013. Available at: *www.fian.org/fileadmin/media/publications/GNRtFN_-_Formatted_Charter.pdf.*

The peoples of the world must call on states to reject corporate capture and reaffirm peoples' sovereignty and human rights as a fundamental step to addressing all forms of inequity, oppression and discrimination, and to democratize national and global societies. Peoples must hold their governments, and through them the inter-governmental spaces, accountable for the implementation of their national and extraterritorial human rights obligations. Given this, we emphasize that states must:

1. Recognize peoples' sovereignty and food sovereignty as the source of the legitimacy of the mandate given to the state.
2. Recognize that ensuring human rights is part and parcel of the mandate given by the people to the state, and that they must hold themselves accountable for the implementation of their obligations to respect, protect and fulfill human rights, and recognize their indivisibility, interrelatedness and universality.
3. Recognize that the global and national governance of food and nutrition policy spaces must be under the exclusive responsibility of national states, and regulated by stringent conflict of interests procedures, in line with states' human rights obligations.
4. Recognize that human families, communities and peoples are diverse and complex entities, and that they must therefore, respect, protect and fulfill the human rights of each individual member, while respecting and promoting diversity.
5. Recognize that food and nutrition, and the realization of the right to adequate food and nutrition, are intimately intertwined with all human rights, human activities and policy areas, and that they must be dealt with by taking a holistic, multi-sectorial and participatory approach.
6. Recognize that private corporate entities are neither rights holders nor duty bearers. They must be considered in global and national processes as powerful third parties with strong private interests.
7. Regulate at national and international level all corporate sector initiatives that hamper or abuse the enjoyment of human rights, ensure the timely accountability and punishment of those responsible, guarantee redress for damages and prevent repetition.

INSIGHT 1

Why the Reformed Committee on World Food Security Could Be an Opportune Space in Which to Finally Consume the Marriage between Agriculture and Nutrition

Nora McKeon [42]

The match between the artificially separated couple—agriculture and nutrition—has been in the making since the 1930s,[43] when the paradoxical co-existence of wide-spread malnutrition and global over-availability of food was brought to the attention of the League of Nations. However, World War II broke out before remedial measures could be taken and the issue was parked until the international community sat down to design post-war global institutional structures conceived to help keep the peace and ensure the welfare of the world's population.

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Special thanks to Flavio Valente (FIAN International), Stefano Prato (SID) and Antonio Onorati (Centro Internazionale Crocevia) for their support in reviewing this article. This article was originally written in English.

43 For further information on the artificiality of this separation, please see articles "Gender and Food Sovereignty: Women as Active Subjects in the Provision of Food and Nutrition" and "The Corporate Capture of Food and Nutrition Governance: A Threat to Human Rights and Peoples' Sovereignty" in this issue of the *Right to Food and Nutrition Watch.*

In 1945 the Food and Agriculture Organization of the United Nations (FAO) was given a mandate that combined "raising levels of nutrition and standards of living" with "securing improvements in the efficiency of the production and distribution of all food and agricultural products".[44] Although nutrition received top billing in the FAO's constitution, in reality the agricultural part of the equation ruled the culture of the organization, whose reference point in member countries was the Ministry of Agriculture. The nutrition division of the FAO remained something of a poor sister for decades, thanks also to an approach to food security that viewed inadequate food supply as the problem and targeted producing more food through green revolution technologies as the solution. It was not until the FAO World Food Summit in 1996 that the pillars of food security were brought to four: availability, access, stability and—finally—utilization, thus incorporating the idea of food quality or nutrition.

Fragmentation of global responsibility for food security and nutrition has been a problem for decades. Brokering the marriage between separate organizations coming at the issues from different entry points was further complicated in the 1990s when the UN system began to recognize the need to open up governance by nation states alone to incorporate a whole host of other actors who were impacting on how global challenges were addressed, from civil society to the private sector.[45] This trend had profound implications for the FAO and World Health Organization (WHO), both of which are particularly subject to the attentions of multinational corporations: the Big Food agribusinesses[46] in the case of FAO and the Big Pharma corporations in the case of WHO.[47] Overt corporate participation in the FAO's governing bodies took the form of granting observer status not to single enterprises but to business associations like the International Fertilizer Industry Association (IFA) and the International Agri-Food Network. While technically non-profit organizations, they represent the interests of their corporate members. Of course, corporate influence 'in the corridors' of the FAO has been far more pernicious and difficult to track.

At the same time, however, since the World Food Summits of 1996 and 2002 the FAO has been the preferred global terrain of rural social movements seeking an alternative policy space to the WTO and the World Bank. The civil society forums held in parallel to these Summits put rural producers' organizations in the majority and in a decision-making role, unlike in other UN processes in which NGOs have dominated. The 2002 civil society forum adopted 'food sovereignty'[48] as its platform and the rural movements established their own global network to take it forward in their interaction with FAO. Since 2003, the International Planning Committee for Food Sovereignty (IPC) has opened up significant space for representatives of organizations of peasants, artisanal fisherfolk, pastoralists, indigenous peoples, agricultural workers and other constituencies in FAO global policy forums. These representatives had rarely set foot in such forums before, and the IPC supported them to use the space effectively.[49]

This networking and capacity building experience has put the food sovereignty movement in a good position to exploit the window of political opportunity that opened up with the food price crisis of 2007/2008,[50] and to play a major role in the reform of the UN Committee on World Food Security (CFS).[51] The resulting outcome is the foremost inclusive global food policy forum, which deliberates on food issues from a human rights perspective, and in which civil society organizations are full participants rather than observers. The right of civil society to autonomy and self-organization was recognized, and the resulting Civil Society Mechanism (CSM)

44 The Constitution of the FAO is available at: www.fao.org/docrep/x5584e/x5584e0i.htm.

45 McKeon, Nora. *Food Security Governance: Empowering Communities, Regulating Corporations.* Oxford/New York: Routledge, 2015, p. 89–91.

46 For further information on Big Food agribusinesses, please see the article "The 'Business of Malnutrition': The Perfect Public Relations Cover for Big Food" in this issue of the *Right to Food and Nutrition Watch.*

47 These two universes have come closer together with the successive trend towards corporate conglomeration.

48 Food sovereignty was a term first coined by La Vía Campesina during a parallel forum to the World Food Summit in 1996, highlighting peoples' sovereignty to define their own food and agrarian policies in order to guarantee their food security.

49 For further information on the IPC, please see: www.foodsovereignty.org.

50 For further information on the 2007/2008 food crisis, please see "The World Food Crisis and the Right to Food." *Right to Food and Nutrition Watch* (2008): 2–39. Available at: www.rtfn-watch.org/en/home/watch-2008/the-right-to-food-and-nutrition-watch-2008/.

51 For further information, please see: De Schutter, Olivier. "Governing World Food Security: A New Role for the Committee on World Food Security." Right to Food and Nutrition Watch (2009): 13–17. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2009/WATCH_2009_English.pdf#page=13.
See also: *supra* note 4, p. 105–111.

gives pride of place to the constituencies of those most affected by food insecurity.[52] The private sector is present as well, but in a separate mechanism. Opinions are divided as to whether this presence is a negative factor on the grounds that corporations should have no place in a normative forum, and those who feel that it is better to have them there, obliged to state their positions transparently. Experience indicates that the civil society positions are inevitably more legitimate and convincing, although there is a tendency to seek a 'balance' between the different views expressed without recognizing power imbalances and conflicts of interest.

If civil society would like to see the CFS play a central role in nutrition governance in the follow-up to the Second International Conference on Nutrition (ICN2), it is because its dowry chest contains items that address some of the key challenges highlighted in the above article.[53] The food sovereignty movement is strongly represented in the CFS and defends with force the vision of "collectively managed, socially, economically and environmentally sustainable local and regional food systems based on agro-ecological principles."[54] Differences among conceptual frameworks and policy proposals are brought out into the open, and civil society has succeeded in changing the terms of the debate on some important points. It has been recognized that small-scale producers are responsible for 70% of the world's food, which reaches those who consume it through local food webs without going anywhere near a corporate supply system. Although the various actors are in the room in the CFS, which is often referred to as a "multi-stakeholder platform", it is in fact governments who take the decisions at the end of the debate and hence can be held accountable.

This does not mean that the wedding bells are already ringing. The conflicting institutional, corporate and geo-political interests described at the end of the above article are still very much at war. Corporations are likely to continue to oppose the marriage between agriculture and nutrition since the current business model of corporatized agriculture and the junk food industry thrives on their separation. It is therefore to be expected that the CFS will come under considerable pressure to retain the *status quo* rather than strengthening local food systems and promoting nutritional outcomes based on local agro-biodiversity and further incorporating the health and care dimensions of nutrition into the equation, with the necessary closer involvement of WHO and UNICEF in the process. An agreement has not yet been reached on a clear and powerful global governance role for the CFS. But nutrition will be at the top of the agenda of the coming CFS plenary session in October 2015, and it seems likely that a serious process of investigation and negotiation to define the way forward will be adopted. This is what civil society is fighting for!

52 For more information on the CSM, please see: www.csm4cfs.org.

53 Please see the article "The Corporate Capture of Food and Nutrition Governance: A Threat to Human Rights and Peoples' Sovereignty" in this issue of the *Right to Food and Nutrition Watch.*

54 *Ibid.*

02

THE 'BUSINESS OF MALNUTRITION': THE PERFECT PUBLIC RELATIONS COVER FOR BIG FOOD

Patti Rundall[1]

"The secret of success is sincerity. Once you can fake that you've got it made."
Unknown author

Concern about all forms of malnutrition, especially undernutrition and overnutrition, has brought food corporations and the human right to adequate food and nutrition into sharp focus. This article examines how non-governmental organizations (NGOs) and the governments of developing countries are being lured into partnerships and 'multi-stakeholder'[2] arrangements with corporations through the 'business of malnutrition'. It argues that these approaches are unlikely to solve the problem of malnutrition, and may even worsen matters by giving corporations unprecedented access to policy-making processes, especially in developing countries. This could undermine confidence in bio-diverse culturally appropriate and affordable foods and create larger markets for highly processed fortified foods, supplements and snacks that have significant adverse health implications. The article proposes that engaging in corporate social responsibility (CSR) strategies is not a benign activity and poses serious risks, including preventing corporations from being held fully accountable for their actions.

VOLUNTARY COMMITMENTS VS. BINDING REGULATION[3]

Overnutrition (obesity) is one of the underlying causes of non-communicable diseases (NCDs) such as cancer, heart disease and diabetes, which are fast consuming national health care system and family budgets in rich and poor countries alike. Obesity occupies most of the public spotlight, and undernutrition—i.e. the stunting, wasting of young children, specifically during their first 1,000 days—has caught the attention of development NGOs, UN agencies, industrialized countries and donors.

There is consensus that the marketing of highly processed products with high levels of fat, salt and/or sugar ('Big Food') is a major cause of the overnutrition and obesity problems.[4] This has led to increased calls for the regulation of such marketing. These calls are opposed by food corporations who present themselves as an essential part of the 'solution', arguing that voluntary commitments to reduce advertising, reformulate their products (reducing sugar, fat and salt) and sponsor health education will solve the problem. As Peter Brabeck, the Nestlé CEO, said at the Nestlé Annual General Meeting (AGM) in 2010: "... tying corporations up in regulatory straightjackets is unnecessary when companies such as Nestlé already have sound principles and core values."[5]

However, a key part of Nestlé's CSR program since 1992, for instance, covers 'nutrition education' elements that have been criticized for blurring the boundaries between education and marketing.[6] Unfortunately, while experience has shown that this repositioning is mostly a public relations (PR) strategy designed to prevent regulatory action, part of the international development community supports and engages in CSR initiatives.[7] Concern around this issue dominated the 2015 World Health Assembly (WHA): should governments concentrate on regulating problematic industries or 'engage' or 'partner' with them and accept funding?[8]

1 Patti Rundall is a Global Advocacy Spokesperson for the International Baby Food Action Network (IBFAN). IBFAN is a 35 year-old global network that works to protect, promote and support breastfeeding and food-based complementary feeding to realize a child's rights to health and adequate food and nutrition. IBFAN is committed to working with governments, the United Nations and other organizations to help ensure child survival and to draw the world's attention to strategies that tackle malnutrition in a just, equitable and sustainable way, prioritizing people's ability to locally produce and access nutritious foods. For more information, please visit: *www.ibfan.org.*
Special thanks to Lida Lhotska (IBFAN-GIFA, Geneva Infant Feeding Association) and Stefano Prato (Society for International Development, SID) for their support in reviewing this article. This article was originally written in English.

2 For further information on 'multi-stakeholderism' and its origins, please see the insight box "The Origins of 'Multi-Stakeholderism'—Why Words Matter" below.

3 For further information on the discussion around voluntary commitments vs. binding regulation, please see: Monsalve Suárez, Sofía and Fabienne Aubry. "Rethinking the Voluntary vs. Binding Divide." Right to Food and Nutrition Watch (2014): 22–25. Available at: *www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2014/Watch_2014_PDFs/R_t_F_a_N_Watch_2014_eng.pdf#page=22.*

The conflicting interests lying at the heart of policy setting, especially in producer countries, complicate matters further. For example, policy makers in the European Union (EU) know that EU treaties and human rights covenants require that "a high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities."[9] On the other hand, they also know that ten times as much money can be gained from selling a kilo of infant formula with added nutrients than from selling a kilo of milk powder.[10] Policy makers are also acutely aware of the food industry being Europe's largest manufacturing and employment sector and the keenness of Ireland, New Zealand and other producer nations to exploit such markets. They also know that attempting to bring in effective regulations is, as one delegate to the World Health Organization (WHO) said, like holding "liquid fire".

All these factors can have a disincentivizing and chilling effect on those wishing to introduce effective regulation. Moreover, the new pacts enshrined in trade agreements such as the Transatlantic Trade and Investment Partnership (TTIP), Trans-Pacific Partnership (TPP), and Comprehensive Economic and Trade Agreement (CETA) contain provisions for the investor-state dispute settlement (ISDS), and will allow corporations to sue governments if their regulations interfere with their current and future profits.[11]

With the right support governments can fulfil their obligations to safeguard public health and human rights and regulate corporations. If UN agencies and NGOs stay focused on the long term, they can help governments deconstruct and counter industry arguments and avoid the ephemeral voluntary CSR schemes favored by the corporate sector.[12]

These 'voluntary' schemes suit corporations well, especially when they are tasked to develop communication strategies to promote positive behaviors and sponsor educational nutrition programs. This allows them to advertise any incremental changes made, build public trust, and reposition themselves as agents of 'health and wellness'. The positive image they gain from associating with high profile partners such as governments, the UN and international NGOs, has a substantial financial and emotional value.[13] From a PR viewpoint, they are highly effective at projecting a positive image and blurring the lines between the public and private sectors. They also help facilitate further incursions of corporations into the policy-making sphere.

From a health and education perspective, these strategies risk misleading children about nutrition and are less effective than, for example, taxing junk foods or regulating marketing strategies.[14] The CSR 'voluntary' schemes exist only as long as companies want them and rarely reduce the adverse impact of marketing strategies.[15] For instance, in the UK in 2011, the UK's coalition government created a new partnership with the food and drinks industry entitled 'Responsibility Deal'. This handed responsibility for reducing alcohol consumption and improving nutrition to corporations and resulted in a backsliding on salt reduction targets.[16]

4 Robert Moodie *et al.*, "Profits and Pandemics: Prevention of Harmful Effects of Tobacco, Alcohol, and Ultra-Processed Food and Drink Industries." *The Lancet* 381 (2013): 670–679.

5 Baby Milk Action. "Nestlé Challenged at its Annual General Meeting, 2010." Presentation made at Nestlé's Annual General Meeting, Lausanne, Switzerland, April 15, 2010. Available at: *www.babymilkaction.org/archives/618.*

6 Baby Milk Action. *Tackling Obesity: How Companies Use Education to Build 'Trust'.* Cambridge, UK: Baby Milk Action, 2012.

7 See, for instance, the EU Commission Platform for Action on Diet, Physical Activity and Health. Available at: *ec.europa.eu/health/nutrition_physical_activity/platform/index_en.htm.*

8 IBFAN. *Letter to WHO Commission on Ending Childhood Obesity.* Geneva: IBFAN, December 17, 2014. Available at: *www.babymilkaction.org/archives/2860.*

9 Article 168 of the Treaty on the Functioning of the European Union. Available at: *eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN.*

10 Coriolis. *Infant Formula Value Chain.* Auckland: Coriolis, 2014. This was prepared for the New Zealand Board of the Pacific Economic Co-operation Council, New Zealand. Available at: *nzpecc.org.nz/20901/index.html.*

11 For further information on trade agreements and their impact on human rights, please see article "Inequity Unlimited: Food on the WTO Table" in this issue of the *Right to Food and Nutrition Watch*.

12 See the insight box "The Origins of 'Multi-Stakeholderism'—Why Words Matter" below.

13 Monbiot, George. "How a Corporate Cult Captures and Destroys our Best Graduates." *The Guardian*, June 3, 2015. Available at: *www.theguardian.com/commentisfree/2015/jun/03/city-corporates-destroy-best-minds.*

14 Rayner, Mike. "Population Approaches to Non-communicable Disease Prevention: The Evidence." Paper presented at the BMJ Evidence Based Medicine Conference, London, April 14, 2015.

15 Hawkes, Corinna, and Jennifer L. Harris. "An Analysis of the Content of Food Industry Pledges on Marketing to Children." *Public Health Nutrition* 14 (2011): 1403–1414. More articles are available at: *info.babymilkaction.org/node/466.*

16 Hope, Jenny. "Ministers' Shame on Killer Salt: Government Sabotage of Drive to Cut Intake Has Cost 6,000 Lives, Say Doctors." *Daily Mail*, April 29, 2015. Available at: *www.dailymail.co.uk/news/article-3059765/Ministers-shame-killer-salt-Government-sabotage-drive-cut-intake-cost-6-000-lives-say-doctors.html.*

THE 'BUSINESS OF MALNUTRITION': ANOTHER ENTRY POINT

> *... the Scaling Up Nutrition [SUN] is not an initiative approved by the set of countries members of the UN. It is about a voluntary mechanism in which the integrant members, including the countries, manifest their interest in adhering, and for such, they commit themselves to follow its principles and modus operandi... [SUN] is structured around five networks of equal weight: from the countries, organizations of the civil society, the UN agencies, the business sector, and the donors.*[17]
>
> Elisabetta Recine and Nathalie Beghin (CONSEA Counselors)

When it comes to undernutrition, corporations have found another entry point into global and national policy-making through the SUN initiative. This initiative was launched by the World Bank (WB), UNICEF, World Food Programme (WFP) and WHO in 2010 to tackle malnutrition, with a focus on the first 1,000 days of a child's life.[18] Closely linked to SUN through the SUN Business Network (SBN) is the Global Alliance for Improved Nutrition (GAIN). This is a public-private hybrid entity with assets of US $60 million,[19] mainly from the Bill & Melinda Gates Foundation.

While IBFAN and other public-interest NGOs acknowledge the need to raise the profile of nutrition across all sectors, they have heavily criticized both SUN and GAIN.[20] The close involvement of corporations in decision-making, including in SUN's governing body (the Lead Group),[21] has led to conflicting interests and the prioritization of fortified foods and micronutrient interventions in many countries, including by donors. This has resulted in development funds being diverted from addressing the underlying causes of all forms of malnutrition. Another major concern is the SUN's establishment of 'multi-stakeholder' platforms in developing countries that include corporations.[22] Finally, SUN's Multi-Partner Trust Fund enlists the support of "multiple national and international stakeholders including government departments, civil society, *responsible businesses*, donors and UN system agencies" [emphasis added].

In 2012 IBFAN reported GAIN's efforts to dissuade the Kenyan government from introducing a strong law banning the promotion of baby foods.[24] The Kenyan government resisted this pressure and adopted the Breastmilk Substitutes (Regulation and Control) Act No. 34 of 2012. Its monitoring of the International Code of Marketing of Breastmilk Substitutes since 2008 and training of health professionals is clearly working: the 2014 Kenya Demographic and Health Survey (KDHS) showed that exclusive breastfeeding rates almost doubled since 2008/9 (61% compared to 32%) and helped reduce infant mortality from 52/1,000 to 39/1,000.

BY-PASSING DEMOCRATIC PROCEDURES

SUN often requires its member states to approach policy-makers individually rather than using democratic governmental processes that allow public debate about whether a country should join the initiative. Governments are led to believe that if they care about nutrition they should become a 'SUN country' and that by doing so they increase their chances of external financial support. Therefore, overnight, people are finding themselves in a SUN country, working under the SUN label. In many of these countries the successes of ongoing programs are quickly 'claimed' by the business-backed SUN newcomers.

17 *Official Comment to the Second International Conference on Nutrition (ICN2) by the Brazilian National Council on Nutrition.* Brazil: CONSEA, 2014. Available at: www.ghwatch.org/sites/www.ghwatch.org/files/Recine&Beghin_201140306_InternationalNutritionAgenda_En.pdf.

18 Schuftan, Claudio and Urban Jonsson. "The Right to Nutrition: Strategies to Hold Multilateral and Bilateral Donors Accountable." *Right to Food and Nutrition Watch* (2011): 47–53. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2011/Watch_2011_ENG.pdf#page=47.

19 GAIN. *Report of the Statutory Auditor on the Consolidated Financial Statements to the Board of the Foundation Consolidated Financial Statements.* Geneva: GAIN, 2014. Available at: www.gainhealth.org/wp-content/uploads/2015/01/Financial-statements-2013-2014.pdf.

20 For another civil society critique of SUN, please see article "The Corporate Capture of Food and Nutrition Governance: A Threat to Human Rights and Peoples' Sovereignty" in this issue of the *Right to Food and Nutrition Watch*. See also Schuftan, Claudio and Ted Greiner. "The Scaling Up Nutrition (SUN) Initiative." Right to Food and Nutrition Watch (2013): 22-23. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2013/Watch_2013_PDFs/Watch_2013_eng_WEB_final.pdf#page=22.

21 Business members include Ajinomoto, BASF, Britannia, Cargill, DSM, Nutriset and Unilever. More information is available at: www.scalingupnutrition.org/the-sun-network/lead-group.

22 See the insight box "The Origins of 'Multi-Stakeholderism'—Why Words Matter" below.

23 SUN. *The Multi-Partner Trust Fund: A catalytic instrument to support SUN efforts.* SUN, 2013. Available at: scalingupnutrition.org/resources-archive/sun-mptf.

24 IBFAN and International Code Documentation Centre (ICDC). *ICDC Legal Note.* Penang: 2013.

Meanwhile, in line with SUN's model of governance, the World Economic Forum's (WEF) Global Redesign Initiative (GRI) proposes that some issues be taken off the UN's agenda and addressed instead by "plurilateral, often multi-stakeholder, coalitions of the willing and the able."[25] The WEF envisages a world managed by a coalition of multinational corporations, nation states (including through the UN system) and select civil society organizations.

SUN'S FLAWED CONFLICTS OF INTEREST PROCESS

SUN has responded to the criticism by IBFAN and other public-interest organizations by changing, for example, some of the text on breastfeeding on its website and including references to human rights. Using a US $1 million grant from the Bill & Melinda Gates Foundation, it also started a process to prevent, identify, manage and monitor conflicts of interest (COIs). However, for this task, SUN chose the Global Social Observatory (GSO), a Geneva-based organization that represents business interests, receives corporate funding and promotes public-private partnerships (PPP).

Unsurprisingly, GSO redefines COIs to fit and legitimize SUN's multi-stakeholder governance structure. For example, it:

- focuses on 'trust' and 'collaboration' (rather than the need to exercise caution);
- confuses COIs with conflicts caused by disagreements and differences in opinions;
- promotes inclusiveness of all stakeholders as 'good governance';
- covers COIs only on the national level, it does not cover SUN's Lead Group; and,
- lacks mechanisms for whistleblower protection.

CONCLUSION

CSR is not something benign that helps companies end harmful practices. It is a carefully developed strategy—used effectively by the tobacco industry[26]—that deliberately diverts public attention away from the need to regulate corporations effectively and ensure accountability for human rights abuses. NGOs, policy makers and donors who seek to protect human rights and address the underlying causes of poverty should re-evaluate the wisdom of supporting and engaging in CSR strategies. They should instead stay focused on long-lasting solutions that protect human rights:

- support the adoption and implementation of effective regulations;
- monitor what companies *do*, rather than what they *say*;
- establish sound COI policies that keep public health research and policy making free from undue commercial influence;
- enact legal measures that protect whistleblowers; and, last but not least,
- avoid using business terminology without paying attention to the wider issues, in particular the term 'stakeholders'.[27]

25 WEF. *Everybody's Business: Strengthening International Cooperation in a More Interdependent World. Report of the Global Redesign Initiative.* Geneva: WEF, 2010. Available at: www3.weforum.org/docs/WEF_GRI_EverybodysBusiness_Report_2010.pdf. See also Pingeot, Lou. *Corporate Influence in the Post-2015 Process.* Aachen/Berlin/Bonn/New York: Global Policy Forum, Misereor and Bread for the World, 2014. Available at: www.globalpolicy.org/images/pdfs/GPFEurope/Corporate_influence_in_the_Post-2015_process_web.pdf.

26 Brownell, Kelly D. and Kenneth E. Warner. "The Perils of Ignoring History: Big Tobacco Played Dirty and Millions Died. How Similar is Big Food?" *The Milbank Quarterly* 87 (2009): 259–294.

27 See the insight box "The Origins of 'Multi-Stakeholderism'—Why Words Matter" below.

While many governments and large NGOs are focusing on CSR, there are a growing number of NGOs and people's movements recognizing the risks it poses, and working together to empower citizens to hold corporations accountable. Some examples include IBFAN, the People's Health Movement (PHM),[28] Third World Network, the Treaty Alliance that is working for a binding international treaty to address corporate human rights abuses,[29] and the Conflict of Interest Coalition, a network of 161 NGOs and networks that work to protect public health policy setting from undue commercial influence.

Whether the world will wake up to the threat ahead or head blindly into a car-crash will depend on whether these people's movements survive, grow and capture the public's imagination.

INSIGHT 2.1

The Origins of 'Multi-Stakeholderism'—Why Words Matter[30]

Lida Lhotska [31]

While the term 'stakeholder' is in everyone's vocabulary, it is not apolitical. Public-interest actors who want to have a clear discourse and avoid the blurring of roles, particularly in policy-making processes, should keep this in mind. Originally this term was used to press companies, particularly transnational corporations (TNCs), to acknowledge that they are not only accountable to their shareholders. Their operations, practices and actions impact others, and therefore these others have a stake in what the companies do. They are 'stakeholders'.

However, during the preparation of the first UN Conference on Environment and Development held in Rio de Janeiro, Brazil in 1992 (Rio Earth Summit), TNCs were concerned that more regulation might be proposed as alarm bells had started ringing on climate change and ecological disaster. Thanks to their powerful lobby, they managed to remove a chapter on their environmental responsibility from the Agenda 21,[32] and to recast themselves as one of the 'stakeholder' groups of the conference. Subsequently, their recommendations were clearly reflected in the Conference's final document.

This is when TNCs started asserting that "we are part of the solution" and "have to be treated in an inclusive manner." The negative consequences of this on climate and environment are well known. Now, when public-interest actors use the term 'stakeholder', they automatically accept that it also means TNCs/business, and are thus buying into the rhetoric of the neoliberal economic system and its model of governance.

Does this mean that the word 'stakeholder' should be erased completely from our vocabulary? No, it does not: we need to use the word when being critical of the PPP/multi-stakeholder model, to highlight the risks including conflicts of interest and undue influence on democratic decision-making.

28 Both IBFAN and PHM are members of the *Right to Food and Nutrition Watch* Consortium.

29 For further information on the Treaty Alliance, please see article "The Treaty on TNCs and the Struggle to Stop Corporate Impunity: An Interview with Civil Society" in this issue of the *Right to Food and Nutrition Watch*, and visit the Treaty Alliance's website: *www.treatymovement.com.*

30 For further information, please see: Richter, Judith. *Dialogue or Engineering of Consent? Opportunities and Risks of Talking to Industry.* Geneva: IBFAN-GIFA, 2002. Available at: *www.ethik.uzh.ch/ibme/team/affiliiert/judithrichter/judith-richter-dialogueg-eoc.pdf.*

31 Lida Lhotska is Regional Coordinator of IBFAN Europe. For more information, please see: *www.ibfan.org.*

32 Agenda 21 is a non-binding UN action plan regarding sustainable development, and is a product of the Rio Earth Summit in 1992.

INSIGHT 2.2

Citizens United Ruling: A Dangerous Expansion of Corporate Power in the US

Jonah Minkoff-Zern and Laura-Anne Minkoff-Zern [33]

While the economy improves in the United States (US), food insecurity lingers for over 49 million US residents.[34] Yet public policy in support of adequate and sustainable food and nutrition continues to be obstructed, in part because of the inordinate influence of corporate actors and agendas on our agricultural, food, and health policies. Corporate agribusiness has played an increasingly influential role in food production and provisioning in the US through federal and state programs over the last century—from international food aid to school lunches.[35]

This influence was deepened in 2010, when the Supreme Court ruled in the case *Citizens United v. Federal Election Commission* that campaign contributions are a form of "free speech", and that corporations have the same constitutional rights as individuals, guaranteeing corporations (and ostensibly individuals) the possibility of spending unlimited amounts of money to influence elections. The ruling has helped expand the influence of corporations on our political system, including our food and agricultural policies.[36] The agribusiness sector contributed a total of US $90 million at the federal level to the 2012 election cycle, their largest cyclic increase in contributions ever. Three quarters of this spending went to republican candidates, looking to stem food safety regulations and disclosure requirements, such as food labeling.[37]

The Farm Bill—omnibus legislation that governs an array of agricultural and nutrition assistance programs in the US—is the subject of heavy lobbying in the US legislature. In 2013, agricultural services and crop production industries, including Monsanto,[38] spent over US $57.5 million to influence the Farm Bill, which went on to cut billions of dollars in food stamps and conservation programs, even as it authorized a US $7 billion increase in crop insurance. Legislative lobbying reportedly included the implicit threat of further expenditures for and against members of Congress based upon their voting actions.[39]

Beyond the undue influence of the US Farm Bill, *Citizens United* has led to: industry resistance to labeling of products containing genetically modified organisms (GMO); blocking minimum labor wage; and reducing the impact of the Wall Street Reform and Consumer Protection Act passed in 2010, thus limiting the scope of the financial reform in the US. Election campaigns are overwhelmed by corporate spending.

To create a democratic and safe food system, the US must pass a Constitutional amendment to overturn *Citizens United* and return democracy and human rights to the people. This is a crucial movement for all who believe that food must be treated as a human right, not a mere commodity.

33 Jonah Minkoff-Zern is Co-Director of Public Citizen's "Democracy is for People" Campaign. Public Citizen is a national, non-profit consumer advocacy organization based in Washington, D.C. Laura-Anne Minkoff-Zern is an Assistant Professor (Department of Public Health, Food Studies, and Nutrition) at Syracuse University. For more information on Public Citizen, please visit: *www.citizen.org*.
Special thanks to Sriharsha Gowtham (Public Citizen), Kathleen Martin (Public Citizen), Smita Narula (Roosevelt House Public Policy Institute, Hunter College) and Anne C. Bellows (Syracuse University) for their support in drafting and reviewing this article. This article was originally written in English.

34 For further information on food policies in the US, please see article "The Right to Food in the US: The Need to Move Away from Charity and Advance Towards a Human Rights Approach" in this issue of the *Right to Food and Nutrition Watch*. See also National Geographic. 16 April, 2015. Available at: *theplate.nationalgeographic.com/2015/04/16/while-u-s-economy-improves-food-insecurity-lingers/.*

35 Clapp, Jennifer. *Food*. Cambridge, UK: Polity Press, 2012; Poppendieck, Janet. *Breadlines Knee-Deep in Wheat: Food Assistance in the Great Depression*. Berkeley, Los Angeles/ London: University of California Press, 2014.

36 Lilliston, Ben. "Agribusiness and Food Corporations are Not People." *Institute for Agriculture and Trade Policy—Think Forward Blog*, January 20, 2015. Available at: *iatp.org/blog/201501/agribusiness-and-food-corporations-are-not-people*; Levitt, Justin. "Confronting the Impact of 'Citizens United'." *Yale Law & Policy Review* 29 (2010): 217–234. Available at: *users.polisci.wisc.edu/kmayer/466/Levitt%20Confronting%20Impact%20of%20CU.pdf.*

37 Vendituoli, Monica. "Agribusiness: Background." *Center for Responsive Politics*, September, 2013. Available at: *www.opensecrets.org/industries/background.php?cycle=2014&ind=A.*

38 "Eight Ways Monsanto Fails at Sustainable Agriculture." Union of Concerned Scientists—Science for a Healthy Planet and Safer World. Available at: *www.ucsusa.org/food_and_agriculture/our-failing-food-system/genetic-engineering/eight-ways-monsanto-fails.html#.VaeKjvntlBc.*

39 Feinberg, Robbie. "Special Interests Heavily Involved in Farm Bill Maneuvering." *Center for Responsive Politics*, January 30, 2014. Available at: *www.opensecrets.org/news/2014/01/special-interests-heavily-involved/.*

03

GENDER AND FOOD SOVEREIGNTY: WOMEN AS ACTIVE SUBJECTS IN THE PROVISION OF FOOD AND NUTRITION

Mafalda Galdames Castro and María Daniela Núñez Burbano de Lara [1]

The year 2015 has often been predicted as an extremely significant moment for human rights. In fact, the 1996 World Food Summit (WFS) established the target of reducing the *number* of undernourished people to half the level of 1996 no later than 2015.[2] In 2000, the Millennium Development Goals (MDGs),[3] less ambitiously, promised to halve the *proportion* of undernourished people by the year 2015 as compared to the levels in 1990 (MDG 1c).[4] Similarly, the WFS committed itself to ensuring gender equality and the full exercise of women's rights (Objective 1.3), while MDG 3 aimed to eliminate gender disparity in education specifically by 2015 at the latest.

Nearly 20 years after the WFS, and 15 years after the adoption of the Millennium Declaration, there are no reasons to celebrate achievements by heads of State and governments. Far from achieving the objective set by the WFS,[5] 795 million people will continue to suffer from undernourishment between 2014 and 2016,[6] and the educational gap between men and women still exists at all levels.[7] Public outrage over this failure should be at least as resounding as the applause that followed the adoption of the MDGs. However, heads of State and the private business sector have managed to divert the attention towards the new myth of the Sustainable Development Goals (SDGs), which are being negotiated at the time of drafting this article.[7]

While the proposed SDGs aim at eliminating hunger, guaranteeing food security, improving nutrition, and promoting sustainable agriculture (SDG 2), as well as gender equality and the empowerment of women and girls (SDG 5), they fail, even before their approval, as they do not address the MDGs' serious oversight of not adopting a human rights approach, including accountability mechanisms.[9] As such, policies originating from the SDGs will continue to ignore the structural causes of inequality, poverty and undernourishment, reinforced by the hegemonic agro-export model of production and consumption.[10] These policies will not have communities, people, and especially not women, at their center but rather markets and transnational companies, whose ultimate goals are economic growth and excessive profits. This will damage local food systems, displace peasants, reinforce the sexual division of labor, interfere with access to natural resources and destroy the environment.[11]

DISCRIMINATION AGAINST WOMEN AS A VIOLATION OF THE RIGHT TO ADEQUATE FOOD AND NUTRITION

Despite many international instruments created to promote human development and gender equality,[12] many women still face discrimination in access to natural and productive resources, such as seeds, land, water, education, healthcare, stable employment and adequate wages, and social security, as well as in respect to sexual and reproductive rights, protection against violence, decision-making and social, cultural and political participation.[13] This discrimination constitutes a violation of

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Special thanks to Denisse Córdova (FIAN International) and Manigueuigdinapi Jorge Stanley Icaza (International Indian Treaty Council, IITC) for their support in reviewing this article. This article was originally written in Spanish.

2 World Food Summit. *Rome Declaration on World Food Security.* Rome, November 13–17, 1996, 2nd paragraph. Available at: www.fao.org/docrep/003/w3613e/w3613e00.HTM.

3 United Nations General Assembly. *United Nations Millennium Declaration.* New York, September 8, 2000. Available at: www.un.org/millennium/declaration/ares552e.htm.

4 Demographic growth can reduce the proportion of undernourished people without a reduction in absolute figures. The reference to 1990 allows for the inclusion of economic growth in China regardless of the MDGs from 1990 to 1996. See: Pogge, Thomas. "The First United Nations Millennium Development Goal: A Cause for Celebration?." *Journal of Human Development: A Multi-Disciplinary Journal for People-Centered Development* 5:3 (2004): 377–397.

women's human rights and hinders the full, autonomous and active exercise of their capacities in the provision of adequate food and nutrition for themselves, their families and their communities.[14]

Thousands of women are subjected to a life of injustice marked by material scarcity. This poverty is significant among rural women,[15] and is inextricably linked to their own undernourishment and that of girls and boys.[16] Moreover, undernourishment, which results from a massive increase in cheap so-called 'junk food',[17] has a higher impact on women and children, who at the same time suffer from poverty and food insecurity.[18]

Discrimination against women is conceived from the structural system of patriarchal domination, with the protection of the institutional and ecclesiastical 'powers that be'. It stems from an ideological capitalist determinism, based on the separation between production, remunerated and typically 'male', and reproduction, non-remunerated and 'female'.[19] In the context of food systems, this model has resulted in the de-contextualization and the business appropriation of food and nutrition. This has created an artificial separation between food (goods, with a production and distribution system boosted through technological innovations and world trade) and nutrition (focused on adding medicalized supplements of micronutrients).[20]

AN ALTERNATIVE MODEL BASED ON THE HUMAN RIGHT TO ADEQUATE FOOD AND NUTRITION: WOMEN'S RIGHTS AND FOOD SOVEREIGNTY

Food sovereignty, introduced in 1996 by La Via Campesina at the social movements' parallel forum to the WFS, is a normative alternative for the fight against hunger and undernourishment. Five years later, at the World Forum on Food Sovereignty held in Cuba, 400 delegates from 60 countries from all continents drafted the declaration entitled "For the peoples' right to produce, feed themselves and exercise their food sovereignty":

> *Food sovereignty is the means to eradicate hunger and malnutrition and to guarantee lasting and sustainable food security for all of the peoples. We define food sovereignty as the peoples' right to define their own policies and strategies for the sustainable production, distribution and consumption of food that guarantee the right to food for the entire population, on the basis of small and medium-sized production, respecting their own cultures and the diversity of peasant, fishing and indigenous forms of agricultural production, marketing and management of rural areas, in which women play a fundamental role.*[21]

Food sovereignty is built on traditional food systems, whose objectives are providing food to people and the common good. These systems have been accompanied by an exchange of knowledge on seed breeding and conservation for thousands of years, applying comprehensive sustainability without contributing to systematic cultural and natural resource erosion. Hence, food sovereignty entrusts peasants[22] with the decision on what food is produced, who produces it and how, and on the use of that food to achieve the full exercise of the human right to adequate food and nutrition (RtAFN).[23]

The realization of this right and food sovereignty are inseparable from the work of peasants, and are not conceivable without the integration of women. Women must

5 While "[t]he latest PoU [prevalence of undernourishment] estimates suggest that the development regions as a whole have almost reached the MDG 1c", the goal of the WFS "has been missed by a large margin" as it would have required reducing the number of people suffering from hunger to 265 million fewer than the current estimate for 2014–16. See: FAO. The State of Food Insecurity in the World 2015. Rome: FAO, 2015, p. 9. Available at: *www.fao.org/3/a-i4646e.pdf.* Moreover, in 2012, the FAO launched a new 'improved' methodology, through which undernourishment decreased to a larger extent than indicated by the previous estimates. See: FAO. *The State of Food Insecurity in the World 2012.* Rome: FAO, 2012. Available at: *www.fao.org/docrep/016/i3027e/i3027e.pdf.*

6 *Ibid.* FAO 2015, pp. 8–18.

7 UNESCO. *World Atlas of Gender Equality in Education.* Paris: UNESCO, 2012. Available at: *www.uis.unesco.org/Education/Documents/unesco-world-atlas-gender-education-2012.pdf.*

8 The proposed SDGs will be adopted at the UN Summit to Adopt the Post-2015 Development Agenda in September 2015. For more information, please visit: *sustainabledevelopment.un.org/topics/sustainabledevelopmentgoals*.

9 Wolpold-Bosien, Martin. "Human Rights Accountability, Inclusive Governance in Food and Nutrition, and the Post-2015 Framework." *Right to Food and Nutrition Watch* (2013): 13–15. Available at: *www.fian.org/fileadmin/media/publications/Watch_2013_eng_WEB_final.pdf#page=13*.

10 Schuftan, Claudio and Radha Holla. "Two Contemporary Challenges: Corporate Control over Food and Nutrition and the Absence of a Focus on the Social Determinants of Nutrition." *Right to Food and Nutrition Watch* (2012): 24–30. Available at: *www.fian.org/fileadmin/media/publications/R_t_F_a_N_Watch_2012_eng.pdf.*

11 Darrow, Mac. "The Millennium Development Goals: Milestones or Millstones? Human Rights Priorities for the Post-2015 Development Agenda." *Yale Human Rights and Development Journal* 15:1 (2014): 55–127. Available at: *digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1111&context=yhrdlj*; Quintos, Paul L. "La Agenda Corporativa de Desarrollo Post-2015: Expandiendo el Poder Corporativo en el Nombre del Desarrollo Sostenible." Presentation made at the Biannual Conference of the Asia Pacific Research Network, Hong Kong, China, September 1–2, 2014.

12 Among them, the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Rights of the Child (1989), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Platform for Action that came out of the 4th World Conference on Women in 1995.

13 FAO. *The State of Food and Agriculture 2010–11: Women in Agriculture: Closing the Gender Gap for Development.* Rome: FAO, 2011. Available at: *fao.org/docrep/013/i2050e/i2050e.pdf.*

14 Anne C. Bellows *et al., Gender, Nutrition, and the Human Right to Adequate Food: Toward an Inclusive Framework.* New York: Routledge, forthcoming November, 2015.

15 International Fund for Agricultural Development (IFAD). *Rural Poverty Report 2011.* Rome: IFAD, 2011, p. 61. Available at: *ifad.org/rpr2011/report/e/rpr2011.pdf.*

be valued for the role they play as human rights subjects, taking into account the function they have assumed since the origins of peasant agriculture and their productive role in food and nutrition for all peoples.[24] Social movements, within which women's participation is increasingly active, understand women as life's axis of integration and as promoters of good living (*buen vivir*).[25] Women are seen as bearers of peasant agriculture knowledge, which is based on agro-ecology. Therefore, they are key actors in the mitigation of climate change, given that agro-ecology is the only viable and autonomous alternative to produce diverse, healthy and nutritious food.

For social movements, nutrition cannot be separated from food, health, the environment and agriculture. Food and nutrition are comprised of identity, love, care, and spirituality, as well as physical, mental and emotional health. Both food and nutrition integrate the transmission of knowledge, languages, ceremonies, dances and prayers, as well as stories and songs related to subsistence practices and traditional foods. Social movements perceive and experience daily food and nutrition as an indivisible concept.[26]

Peasant, rural and indigenous women in Latin America, as well as in other parts of the world, are fighting against the patriarchal and neoliberal model: it is not enough to secure food production, distribution and nutritional supplements. Development concepts and programs to fight undernourishment must be reconsidered. It is essential to eliminate all forms of discrimination against women, as it violates their rights and hinders their contribution to food sovereignty. The fight against discrimination should start within the social movements themselves, as well as in valuing and sharing reproductive tasks between men and women. Moreover, it is essential to implement human rights-based policies, including accountability mechanisms and safeguards against undue business influence. Only in this way will women be able to fully exercise their capacities in the provision of adequate food and nutrition, which will not be disassociated from each other, or from people and nature.

INSIGHT 3

Violations of Women's Human Rights as Root Causes of Malnutrition: The Case of Communities Affected by Mining and Displacement in Essakane, Burkina Faso[27]

R. Denisse Córdova Montes and Kossiwavi A. Ayassou Sawadogo [28]

As a result of the Canadian mining conglomerate IAMGOLD's expanding activities in West Africa, 2,500 households in the north of Burkina Faso were displaced and resettled outside of the mining area in 2009. To support the communities' efforts in demanding the protection of their human rights and holding the State of Burkina Faso accountable for its human rights obligations, FIAN International and FIAN Burkina Faso documented women's perspectives of the impact of mining and displacement on women's rights, as well as on community members' right to adequate food and nutrition, and on children's access to nutrition.

A methodology was developed that recognized how women's holistic access to human rights shapes their capability to ensure family nutrition and children's human rights. Qualitative and quantitative methods assessed women's: (1) sexual and reproductive rights; (2) right to natural and productive resources; (3) right to be free from gender-based violence; and (4) right to recourse and accountability mechanisms. They also assessed children's right to education and right to health.

16 van den Bold, Mara, Agnes R. Quisumbing and Stuart Gillespie. "Women's Empowerment and Nutrition: An Evidence Review". *International Food Policy Research Institute Discussion Paper* 1294 (2013): 7–8.

17 The excess of sugar, carbohydrates and fat products has produced alarming figures of adults and children that are overweight or obese in industrialized countries and less industrialized countries alike, resulting in a higher risk of non-communicable diseases, such as cancer, chronic cardiovascular and respiratory diseases and diabetes. See: De Schutter, Olivier. *Report of the Special Rapporteur on the Right to Food: The Right to an Adequate Diet: The Agriculture-Food-Health Nexus (A/HRC/19/59).* Geneva: Human Rights Council, December 26, 2011, pp. 5–9. Available at: *www.srfood.org/images/stories/pdf/official-reports/20120306_nutrition_ en.pdf*; WHO. *Set of Recommendations on the Marketing of Food and Non-alcoholic Beverages to Children.* Geneva: WHO, 2010. Available at: *whqlibdoc.who.int/publications/2010/9789241500210_eng.pdf?ua=1*. See also: Cedeño, Marcos Arana and Xaviera Cabada. "Nutrition Policies Taken Hostage by Multinational and Conflicts of Interest: The Obesity and Diabetes Epidemic in Mexico" in this issue of the *Right to Food and Nutrition Watch.*

18 The Food Research and Action Center (FRAC) presents scientific evidence of the link between hunger, being overweight and obesity. Available at: *frac.org/initiatives/hunger-and-obesity/are-hunger-and-obesity-related.*

19 Nobre, Miriam. "Women and Food Sovereignty." *Nyéléni Newsletter* 6 (2011). Available at: *www.nyeleni.org/DOWNLOADS/newsletters/Nyeleni_Newsletter_Num_6_EN.pdf*. See also: Anne C. Bellows *et al., supra* note 14.

20 For more information on the corporate capture of food and nutrition, please see: Schieck Valente, Flavio Luiz. "The Corporate Capture of Food and Nutrition Governance: A Threat to Human Rights and People's Sovereignty" in this issue of the *Right to Food and Nutrition Watch*. See also: Anne C. Bellows *et al*., *supra* note 14; Schieck Valente, Flavio Luiz. "Nutrition and Food Sovereignty." *Nyéléni Newsletter* 22 (2015). Available at: *www.nyeleni.org/spip.php?page=NWarticle.en&id_article=509*. The 2011 *Nyéléni Newsletter* 6 places the process of industrialization of nature in agriculture on the same level as industrialization of women's bodies.

21 World Forum on Food Sovereignty. "Final Declaration of the World Forum on Food Sovereignty." Havana, Cuba, September 7, 2001, 1st paragraph. Available at: *www.ukabc.org/havanadeclaration.pdf.*

22 The term 'peasant' can apply to any person engaged in agriculture, cattle-raising, pastoralism, handicrafts related to agriculture or a similar occupation in a rural area, indigenous peoples working on the land, as well as the landless. See: Human Rights Council Advisory Committee. *Declaration on the Rights of Peasants and Other People Working in Rural Areas.* Geneva: United Nations General Assembly, June 20, 2013, Article 1. Available at: *www.ohchr.org/Documents/HRBodies/HRCouncil/WGPleasants/A-HRC-WG-15-1-2_en.pdf*.

23 *Nyéléni Newsletter* 6 (2011), *supra* note 19. See also: Schieck Valente, Flavio Luiz. "The Corporate Capture of Food and Nutrition Governance: A Threat to Human Rights and People's Sovereignty" in this issue of the *Right to Food and Nutrition Watch.*

During 2014 a total of 60 women participated in focus group discussions, and 19 women were selected to participate in individual surveys. That same year the results were presented for review and validation at community meetings involving an estimated 400–500 women and men in the six communities affected by IAMGOLD mining and resettlement.

Findings demonstrate the overall precarious situation of women's human rights in Essakane and its significant impact on the right to adequate food and nutrition of the communities' children. Women and children's human rights situation is worsened by the long-term, and sometimes permanent, migration of adult males in search of work at other mining sites. The patriarchal nature of society at community and national levels constructs female identity in terms of dependency, instead of self-determination born of human rights and dignity. Women appeared not to have a clear understanding of being rights holders, including having a right to physical and mental integrity that may not be threatened or violated, or having the right to hold their communities and the state accountable for human rights abuses and violations that they and their families face.

In 2015–2016 a series of workshops with affected men and women will take place to foster a greater understanding of human rights and gender equality, and effectively engage community members in the upcoming reporting and review processes of Burkina Faso by the Committees on Economic, Social and Cultural Rights (CESCR) and on the Elimination of Discrimination against Women (CEDAW) in 2016. These processes are further opportunities for affected communities to bring attention to violations of the right to adequate food and nutrition, and the interdependence of these with women and children's human rights.

24 In less industrialized countries women account for an average of 43% of the farming labor force and are understood as the economically active population working in agriculture. This figure varies from 20% in Latin America to nearly 50% in East and Southeast Asia and Sub-Saharan Africa. See: FAO, *supra* note 13, pp. 7–8 and 10. However, this indicator does not take into account subsistence production, reproductive tasks, which include childcare and household activities, and other activities in the different sectors of the food network, thereby underestimating women's contribution to food and nutritional security. For more information, please see: Deere, Carmen Diana. *The Feminization of Agriculture? Economic Restructuring in Rural Latin America.* Geneva: United Nations Research Institute for Social Development, February 1, 2005; Ferrant, Gaëlle, Luca Maria Pesando and Keiko Nowacka. *Unpaid Care Work: The Missing Link in the Analysis of Gender Gaps in Labor Outcomes.* Paris: Organization for Economic Co-Operation and Development, December 2014; Pimbert, Michel. "Women and food sovereignty." *LEISA Magazine* 25:3 (2009): 6–9.

25 See article "Struggling for Food Sovereignty: The Case of Peasant and Fisherfolk Communities in Pakistan and Uganda" in this issue of the *Right to Food and Nutrition Watch*.

26 *Nyéléni Newsletter* 6 (2011), *supra* note 19.

27 This article is based on a report by FIAN International and FIAN Burkina Faso. For more information, see: *Women's Perspectives on the Impact of Mining on the Right to Food. The Human Right to Adequate Food and Nutrition of Women and Children of Communities Affected by Mining and Displacement in Essakane, Burkina Faso.* Heidelberg and Ouagadougou: FIAN, April 2015. Available at: *www.fian.org/fileadmin/media/media_publications2015/FIAN_Essakane_270315_Ansicht.pdf.* Prior to publication, FIAN shared the report with IAMGOLD, requesting the corporation to provide a response to specific allegations. Responses provided by the corporation were incorporated into the report either in footnotes or directly into the text. Please see full report for IAMGOLD's responses.

28 R. Denisse Córdova Montes is the Gender and Women's Rights Coordinator at FIAN International. Kossiwavi A. Ayassou Sawadogo is a nutritionist in Burkina Faso and, during the elaboration and implementation of the study, an employee of FIAN Burkina Faso.
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04

STRUGGLING FOR FOOD SOVEREIGNTY: THE CASE OF PEASANT AND FISHERFOLK COMMUNITIES IN PAKISTAN AND UGANDA

An Interview with Social Movements [1]

All human beings have the right to adequate food and nutrition (RtAFN). However, in practice, peasants and fisherfolk worldwide face similar situations of hunger and malnutrition and challenges regarding food sovereignty, access to natural resources and gender disparities. This interview explores the daily realities and hardships for peasant and fisherfolk communities in the Sindh province, Pakistan and Katosi, Uganda.

The *Watch* Team interviewed Gulab Shah, Mustafa Mirani and Roshan Bhatti from Pakistan Fisherfolk Forum (PFF),[2] and Rehema Bavumu from World Forum of Fish Harvesters and Fish Workers (WFF) and the Katosi Women Development Trust (KWDT) to present the perspective of social movements on food and nutrition, the hurdles they face in advocating for the implementation of their RtAFN and the work they do to overcome and eradicate social injustice.[3]

THE MEANING OF FOOD: INTERRELATIONSHIPS BETWEEN FOOD, TERRITORY, CULTURE AND RELIGION

> Question: What comes to your mind when thinking about food and nutrition? What are the relationships between food, the territory that you live in and cultural and religious practices in your community?

Answer—Roshan Bhatti: Basically, food is the only reason we survive in our lives. Nutrition is fundamental to what we call food, which is composed of different nutrients, such as vitamins and proteins, and the carbohydrates that we need.

Different crops are grown in different areas of Pakistan. For example, wheat, rice, cotton and chilies are cultivated and harvested in the lower part of the Sindh province. Sugarcane, bananas and other fruits are found in the upper part of this province. Communities feel very emotionally connected to the types of crops they produce and to the territory they belong to.

In our villages in Pakistan we celebrate various traditional fairs, festivals and events, such as marriage ceremonies. The head of the family is able to marry their children using the proceeds of sale from their harvested crops. However, there are not as many festivals as we would like due to abject poverty. As regards religion, yes, there is indeed a link between our religion and our food. As a Muslim community, one of the basic requirements is that we have what we call *halal* food, meaning permitted or lawful food. Food is *halal* if it complies with the religious ritual and observance of Islamic Sharia law, as defined in the Quran. We consume meat that has been prepared in a *halal* manner, except for pork, and different kinds of vegetarian food, which is mainly linked with our belief system.

1 This article is based on interviews conducted in English in April and June 2015. Special thanks to Felipe Bley Folly (FIAN International), M. Alejandra Morena (FIAN International), Catherine Kent (a human rights specialist) and Nora McKeon (Terra Nuova) for their support in drafting and reviewing this article.

2 PFF is a member of the Watch Consortium. For more information on the PFF, please visit: *www.pff.org.pk.*

3 For more information on the WFF, please visit: *worldfisherforum.org.*
For more information on the KWDT, please visit: *www.katosi.org.*

A—Rehema Bavumu: I think food is anything that can be eaten within my cultural setting, while nutrition refers to the particular importance of specific foods to the body. In Uganda the proverb oluganda kulya, olugenda enjala teludda means that community is about eating and whoever leaves your home hungry will never come back! Food is a symbol of brother and sisterhood in our communities. Traditionally, when food was still available in abundance, people used to believe that you should never prepare just enough food. You should always prepare food in excess, lest a visitor comes and there is no food to give them! Such sayings are now difficult to live with when food is so scarce and families are struggling to feed their own children.

THE PRACTICE AND CHALLENGES OF FOOD PRODUCTION

Q: What is the importance of producing food yourself and how does the practice of producing and/or buying food work in your communities?

A—Rehema Bavumu: Food produced by the people themselves is much cheaper and usually fresh. It is also more nutritious because it is naturally cultivated without artificial fertilizers. Women and children usually look for and prepare food, while men are engaged with food in commercial terms; many of them go fishing and then sell their catch. However, families in fishing communities, where fish has been the traditional food over the years, are struggling because stocks are declining and access to Lake Victoria is becoming problematic. Fish is no longer available for local consumption and it is much more expensive for local people. The decision on what to produce largely depends on the available options. You cannot produce food if it requires land that you do not have. One alternative has been to introduce other staple foods from neighboring communities into our diets, as well as to graze livestock and grow crops.

A—Roshan Bhatti: We are peasant communities, who are connected to agricultural work and produce regular crops, trying to grow much of our staple diet. We cultivate the land and then harvest the crops. However, we do not process commodities. We sell raw commodities, such as wheat, sugarcane and rice, to mills, which then produce the final good. The products then go to commercial areas to be sold to consumers, where we buy the final processed product.

A—Mustafa Mirani: In the case of fisherfolk communities in Pakistan, we sell fish on the market and, if we do not sell everything by the second day, we consume them.

Q: What difficulties do you face in storing and selling the food that you produce?

A—Roshan Bhatti: Unfortunately, due to unequal power relations, fishing and peasant communities face injustice daily. We do not have enough capacity or financial resources to stock the food that we have produced. The ideal situation would be to have our own big factories and mills, so that we could directly produce, and then stock, food for our own consumption. However, the areas where we live are still marked by feudalism and some 'feudal lords' repress farmers. They influence every aspect of local life, for example, our educational system, the quality of our food, and access to land and to the markets. We are marginalized communities when it comes to food security and to access to nutritious food. This is why the PFF has been advocating and fighting for food and climate justice since 1998.

A—Gulab Shah: There are cases of people living in poverty in isolated villages in Pakistan with limited access to markets. Villagers are compelled to sell their harvest to a so-called middleperson, who buys their crops for cheap and sells them on at very high prices at the markets. We have food available but the distribution and allocation of that food is not just. Our major problem is the fisherfolk and peasant communities' lack of purchasing power, which prevents us from having proper access to the food available.

CHALLENGES IN ACCESSING NATURAL AND PRODUCTIVE RESOURCES

Q: As you mentioned, you also face problems regarding access to land. What are the main challenges and what actions are you taking to overcome them?

A—Roshan Bhatti: Sadly, in the majority of our communities we do not own the lands that we cultivate. As I mentioned before, we are just farmers working under feudal landowners. In the 1970s Prime Minister Zulfikar Ali Bhutto attempted to introduce a series of land reforms. However, they were not effective. We think that the only solution to succeed in ending poverty and hunger for our fisherfolk and peasant communities is land reform—this is what we advocate and struggle for. We are mobilizing people to demand this and claim their rights, including through strikes and demonstrations, to put pressure on the government.

A—Rehema Bavumu: One of the main reasons for hunger and malnutrition is the fact that women have no ownership of, and limited access to, land and water. Land is owned by men, who normally concentrate on producing food for market. The best crops and animal produce are exported or sent to markets in urban areas, which is more economically profitable for men than giving it to their families. Women feed themselves and their children with what is left over after sale. The KWDT works to empower women and engage them in income-generating activities. For example, some women are involved in fish farming, which is improving the situation of women and children, and increasing their access to food.

Q: Do you also face problems of accessing seeds or other natural resources?

A—Gulab Shah: Local, original seeds are unavailable in peasant communities; now hybrid seeds are replacing our local seeds. The problem with hybrid seeds is that they can only be used once and they are very expensive for peasants like us. Regarding other natural resources, fishing communities, normally located in isolated areas, are frequently neglected by the government, who are solely responsible for providing fish seed (fertilized fish eggs). People do not have enough resources to buy fish seed and so cannot guarantee their families' livelihoods. A shortage of freshwater in rivers is also a problem, which is affecting the reproduction of fish. The Indus delta, which used to be very prosperous in the past, is now not receiving the freshwater it requires to survive for the future, which is diminishing its biodiversity. The Indus delta is also facing sea intrusion and, according to some reports from agencies like the International Union for Conservation of Nature (IUCN) and recently the World Wide Fund for Nature (WWF) and the Standing Committee of the Senate, coastal districts like Karachi, Badin, and Thatta could disappear by 2060. The government has not taken any measures to solve agricultural and fishery problems in the region.

HUNGER AND MALNUTRITION AMONG CHILDREN

Q: Are there cases of hunger and malnutrition among children in the community? If so, how are your communities addressing this issue?

A—Roshan Bhatti: Our communities throughout the Sindh province face many cases of hunger and malnutrition. Due to poverty, three meals a day are not available to our communities, and that is why, on average, we only have two meals a day. In Tharparkar district, where communities also face extreme droughts, children are dying of hunger. This is mainly due to acute poverty and the lack of education. Communities are compelled to drink unsafe water and consume simple, low-nutrient foods, from which one does not get the necessary nutrients. The community does not have large-scale awareness of these issues and our government is failing to adopt and implement appropriate public policies. As a result, we feel helpless.

A—Rehema Bavumu: It is common in Uganda for many children, especially from families living in poverty under the care of old and frail grandparents, to go hungry or search for remains of food in the rubbish. In urban areas, these are often street children. In rural areas, these are children that live in very vulnerable and poverty-stricken households. There is no community action to address this as almost everyone is struggling to feed their own family.

FOOD, NUTRITION AND GENDER: THE IMPORTANCE OF BREASTFEEDING

Q: Is there any division of tasks between women and men?

A—Roshan Bhatti: Women contribute in different ways to all different kinds of activities related to fishing, apart from going far out to sea. For example, they arrange nets and separate the fish catch. The situation in agriculture is similar, but in this field they work mainly shoulder-to-shoulder with male farmers. In rural areas, the majority of women are involved in cultivating the land, contributing to the labor force.

A—Mustafa Mirani: Men and women from different parts of the community collectively produce the crops. It is the same with the fisherfolk communities; both fishermen and fisherwomen are responsible for producing the fish.

Q: What is the importance of food, meals and nutrition for the well-being of pregnant and breastfeeding women?

A—Rehema Bavumu: When a woman is hungry, she can hardly breastfeed! When you eat, then your baby eats. In most cases, breastfeeding mothers are also doing domestic work and chores, looking after older children, taking care of the home, as well as drying, and sometimes selling, fish. If they eat well, they are able to take good care of the children. It is only when there is sufficient food to start with that a woman can begin to think about improving her home and the education of her children—then other things follow. She can hardly think about schooling before what they have to eat!

Q: How do pregnant and breastfeeding women understand hunger in your community?

A—Rehema Bavumu: Pregnant and breastfeeding women experience hunger in a different way to the rest of the community. These women are supposed to eat often and well. But, on the contrary, women will normally give priority to the rest of the family members when eating; first to the husband and then to the children, visitors if any, and in-laws. Women think of themselves last. This affects them a lot when they are breastfeeding and that is why many of them will stop breastfeeding as soon as the child is able to eat solid food.

Q: How long do women exclusively breastfeed for and how is breastfeeding looked upon by communities?

A—Rehema Bavumu: It is normally recommended by health workers that women should breastfeed children for two years. Some do that in Uganda, but many are unable to do so. Some will breastfeed for around up to one year. One of the reasons for breastfeeding for a shorter period of time is that many women have to work outside their homes, and they are thus unable to take their children everywhere. But the most important reason is related to their own consumption. Many women will no longer have breast milk by the end of one year of breastfeeding. They do not eat any good food but give it to the children as the first priority! This compromises their ability to breastfeed.

A—Mustafa Mirani: In our communities in Pakistan we also share the common sense that a mother breastfeeds children for up to two years.

A—Roshan Bhatti: On average, children from marginalized communities in Pakistan are breastfed for between six months and a year. In rural areas, there is a very high birthrate. This is due to a lack of education and/or access to family planning. When women give birth to many children in a short period of time, the duration of breastfeeding per child is shorter than we would like. We do not have proper awareness in our community about breastfeeding and nutrition. Education also plays a role in this regard: more than 50% of the community is illiterate.

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

05

THE TREATY ON TNCs AND THE STRUGGLE TO STOP CORPORATE IMPUNITY

An Interview with Civil Society [1]

On June 26, 2014, under the leadership of Ecuador and South Africa, the UN Human Rights Council passed landmark resolution 26/9,[2] establishing an open-ended intergovernmental working group (IGWG)[3] that is mandated to elaborate an international legally binding instrument on transnational corporations (TNCs) and other business enterprises with respect to human rights (hereinafter, the Treaty). It was a tight vote: the resolution was supported by 20 states, mainly from Africa and Asia, and opposed by 14, including the United States and the European Union, with 13 abstentions. The resolution strikes a nerve—and there is much expectation around it.

The role of civil society organizations (CSOs) and social movements was fundamental in the adoption of the resolution. In early 2014, around 500 CSOs came together in the Treaty Alliance to collectively organize activities in support of the Treaty; now the Treaty Alliance is supported by more than 1,000 organizations and individuals worldwide.[4] The C*ampaign to Dismantle Corporate Power and Stop Impunity*,[5] which was formally launched in 2012 and brings together 200 social movements and affected communities from around the world, has also played a key role in the establishment and activities of the Treaty Alliance. Additionally, the Campaign is developing a Peoples Treaty aimed at articulating a common vision of the future international architecture of justice and law, as well as giving visibility to alternative practices that are already transforming several aspects of our social and economic lives, such as food sovereignty. Affected communities and social movements are the main protagonists in this process.

To find out more about these two processes, the *Watch* Team interviewed Carlos López, Senior Legal Advisor for Business and Human Rights at the International Commission of Jurists (ICJ); Gonzalo Berrón, Associate Fellow at the Transnational Institute (TNI); and Rolf Künnemann, Human Rights Director at FIAN International.

> Question: Civil society and social movements are increasingly coming together to demand that corporations be held accountable for the impact of their activities on people's human rights. What is at stake within the context of the Treaty?

Answer—Gonzalo Berrón: Over the past few years TNCs have obtained many rights. With the aim of attracting foreign investments, states promote trade and investment agreements guaranteeing companies access to markets under conditions of legal stability, as well as other benefits. Companies are able to move from one place to another, to come and go between places, to deposit funds in a country and transfer them to a different country the following day. They often operate in that way without considering the harm that their activities cause to nature or to local populations, benefiting from the absence of legal standards to regulate and control their operations at the international level. The term we use to talk about this legal structure is 'the architecture of impunity'.[6]

Cases of abuses by TNCs are very common in Latin America and worldwide. In Brazil, for example, there is an increase in investments in the development of

1 This article is based on interviews conducted in English and Spanish in April 2015. Special thanks to M. Alejandra Morena, Felipe Bley Folly and Ana María Suárez Franco (FIAN International), as well as Nora McKeon (Terra Nuova) and Priscilla Claeys (University of Louvain and French Institute of Pondicherry) for their support in drafting and reviewing this article.

2 Human Rights Council. *Resolution 26/9 (A/HRC/RES/26/9)*. Geneva: Human Rights Council, July 14, 2014. Available at: *ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/9*. Resolution 26/9 stemmed from a draft resolution signed and submitted on June 25, 2014, by Bolivia, Cuba, Ecuador, South Africa and Venezuela. Out of these five signatory countries, Ecuador and Bolivia were not members of the Human Rights Council and, for this reason, did not have the right to vote. Nonetheless, Ecuador, along with South Africa, spearheaded the process of its approval. The draft resolution is available at: *ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/26/L.22/Rev.1.*

3 The IGWG held its first meeting from July 6-10, 2014, in Geneva. For further information, please see: FIAN International. "A Victory vis-à-vis the Upcoming UN Treaty on TNCs and Human Rights." *FIAN*, July 10, 2015. Available at: *www.fian.org/news/article/detail/a_victory_vis_a_vis_the_upcoming_un_treaty_on_tncs_and_human_rights.* The report of the IGWG's first session will be made available at: *www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/Session1.aspx.*

4 Around 1,000 organizations and individuals from 95 countries signed the first Joint Statement of the Treaty Alliance, launched prior to the June 2014 session of the Human Rights Council during which resolution 26/9 was passed. For more information, please visit: *www.treatymovement.com.*

5 For more information, please visit: *www.stopcorporateimpunity.org/?page_id=5530.*

hydroelectric plants that displace indigenous populations and have negative impacts on the environment. An example is Tractebel,[7] a very strong European energy conglomerate that promotes this type of investment in Brazil. Another example is Vale do Rio Doce,[8] a Brazilian mining company whose activities have not only had a negative impact on Brazil, but also on Mozambique and other African countries.

This is very worrying and dangerous as often projects and investments are carried out without consulting the affected local communities, and without assessing the impact on society and the environment. Thus, what is at stake with the discussion of an international treaty is precisely that: to consider how we can find justice for affected communities and act as a kind of 'braking force' to TNCs regarding abuses of human rights. The Treaty is intended to address this issue in particular.

A—Rolf Künnemann: The adverse impact of corporations on human rights values is well known. What is at stake in the Treaty is to regulate TNC behavior so that states implement their human rights obligations to *protect* people against harm from TNC activities.[9] Since the activities of TNCs go beyond borders, their regulation also has to be cross-border. States have to implement their duty to cooperate: not only the states where people affected by the activities of TNCs live, but also the states where the TNCs are based or have major business activities. It means states have extra-territorial obligations (ETOs) in this context.[10] States must be accountable to the people in order to ensure that these obligations are complied with.

Q: The document to be elaborated by the IGWG would be the first international human rights treaty to specifically regulate the activities of TNCs and other businesses. How will this treaty work?

A—Carlos Lopéz: The proposed treaty will indeed be the first legally binding treaty to link human rights with the operations of business enterprises, including TNCs, realized through an inter-governmental process. This is a great opportunity to achieve the long-term objective of subjecting business enterprises to the rule of law and human rights norms. There have been other initiatives in this area in the past. However, experts led these initiatives. Now we are talking about an inter-governmental process run by states, in which the IGWG will deliberate the rules and processes to be part of international law.

Other treaties, such as the statute of the International Criminal Court (ICC), can be used as an example in this process. What treaties require from ratifying states is to incorporate into national legislation a series of definitions of offenses and breaches of human rights norms that are defined in the treaty. In that way, the standards are defined in international law under the treaty, but they have to be implemented through national law and enforcement mechanisms, such as the judiciary, and other monitoring bodies.

This can only be effective if the enforcement mechanisms to hold companies accountable are expeditious and effective. Many human rights abuses by business enterprises involve numerous actors across several jurisdictions. To adequately deal with this problem, we need national courts to expand their jurisdiction to deal with cases that are of transnational nature, that is, with abuses that occur abroad. The Treaty can provide that national courts shall have extraterritorial jurisdiction.

Importantly, this also will require international judicial cooperation and mutual legal assistance between political, judicial and legal authorities from different countries.

6 A further key issue to highlight in relation to the growing power of TNCs and erosion of human rights is the proliferation of investor-state dispute settlement (ISDS) mechanisms, including in the framework of trade agreements. For instance, under the current Trans-Pacific Partnership (TPP) draft, companies can sue governments for alleged losses due to government policies made in the public interest. This is a concerning development, since the threat of international arbitration can have a 'chilling effect' on governments and prevent them from introducing legislation. For further information on ISDS mechanisms, please see the insight box 6.3 "The Trans-Pacific Partnership: A Threat to Human Rights" in this issue of the *Right to Food and Nutrition Watch.*

7 Vieira Prioste, Fernando G. and Thiago de Azevedo P. Hoshino. *Transnational Corporations in the Defendant's Seat: Human Rights Violations and Possibilities for Accountability.* Curitiba: Terra de Direitos, 2009. Available at: *terradedireitos.org.br/wp-content/uploads/2011/08/Transnacional-em-ingl%C3%AAs.pdf#page=66.*
Victims of Tractebel's activities in Brazil have denounced the company in France, where the company has one of its main offices: Movimento dos Atingidos por Barragens. "MAB Denounces Tractebel's Action to French Parliamentarians." *Movimento dos Atingidos por Barragens,* September 9, 2014. Available at: *www.mabnacional.org.br/en/english/mab-denounces-tractebels-action-french-parliamentarians.*
Tractabel Engineering GDF-Suez was contacted with a request for a reaction on the information included in this article on July 15, 2015. In their reply of July 27, 2015, Tractebel affirms that several dams have been built on the Tocantins river. The first Hydropower Plant (HPP) developed by the Belgian energy company Tractebel was Cana Brava HPP (owned and operated by Tractebel Energia, a listed Brazilian utility, part of ENGIE), which was constructed together with Serra da Mesa HPP (developed and operated by the Brazilian public companies FURNAS and CPFL). According to the corporation, during the construction of the latter, five members of the Avá Canoeiros indigenous community were encountered and installed in a created reserve. In this sense, the company alleges that since both HPPs Cana Brava and Serra da Mesa initially were to be developed by FURNAS, all impacts for the indigenous community were identified at the beginning, leaving the issue solved for Cana Brava HPP, located downstream. For this reason, Tractebel sustains that Cana Brava HPP did not impact any indigenous community and that "all the individuals or families who were directly affected by the building of Cana Brava have been duly identified and compensated, according to Brazilian regulation."

Without this, it will be difficult for any given country to effectively investigate or prosecute and enforce decisions of foreign courts in their territory. We have seen cases in the recent past in which even judicial decisions have gone unenforced because of the lack of clear rules and procedures on recognition of foreign judicial decisions. It is important that the Treaty defines or creates an international monitoring and oversight system. Generally, international human rights treaties establish independent monitoring by a committee of independent experts.

Q: What would be the practical implications of the Treaty on the enjoyment of, and accountability for, human rights by the people, and specifically the human right to adequate food and nutrition? How could it help to strengthen human rights?

A—Rolf Künemann: The Treaty is, first of all, an agreement between states to jointly regulate TNCs and other business enterprises. Its practical implications will depend on the nature of regulation provided by the Treaty. This in turn will depend on the scope of the Treaty, which is to be determined and negotiated by the IGWG in its future sessions in 2015, 2016 and beyond. Probably the Treaty will codify duties of international cooperation and mutual assistance between states to jointly regulate and sanction harm done by TNCs. It would also set standards on how states themselves have to avoid assisting TNCs in doing such harm, and specify obligations of TNCs and their related liability, so that people and states can take TNCs to court.

The human rights values that could then be legally protected with international cooperation include people's adequate food and nutritional well-being, and the possibility to feed themselves in dignity. The harm addressed by the Treaty could include land, water and seed grabbing, forced evictions, eco-destruction, unsustainable production methods, contamination of food production resources, destruction of food crops, marketing of unsafe food, breaches of the code on infant food,[11] and corporate capture of agricultural and nutritional polices.[12]

Currently, big TNCs try to get control over global food production.[13] The Treaty could be a step to provide a remedy for such harm. These are not matters that trigger the human rights obligations of one state alone. Some states are directly or indirectly involved in supporting or tolerating the harm done by TNCs. Other states are threatened by international investment treaties in their human rights policies, for example, in the area of agrarian reform or indigenous peoples' land rights. The Treaty could provide international law that can roll back such malpractices.

Q: How would the future UN Treaty stand in relation to other documents, such as the UN Guiding Principles on Business and Human Rights (so-called Ruggie Principles)?

A—Carlos López: In principle, the Treaty should be complementary to and go hand in hand with other instruments. There is no necessary relationship of conflict between these instruments. On the contrary, the process around the Treaty can draw inspiration from certain provisions in the UN Guiding Principles on Business and Human Rights,[14] spearheaded by John Ruggie, and from the Norms of Human Rights for Transnational Corporations,[15] drafted by the UN Sub-Commission on the Promotion and Protection of Human Rights between 1997 and 2003. There is a good basis to start the discussion.

8 The company received the 2012 Public Eye Award on 'Corporate Irresponsibility'. For further information, please visit: *www.publiceye.ch/hall-of-shame.*
The Institute of Alternative Policies for the Southern Cone recently published the Unsustainability Report (2015) on the impact of the company's activities on human rights in Brazil, Mozambique, Peru, Malaysia and other countries. Available in Portuguese at: *www.pacs.org.br/files/2015/04/Relatirio_pdf.pdf.*
Vale S.A. was contacted with a request for a reaction on the information included in this article on July 15, 2015. In their reply of July 27, 2015, they claim Vale's activities have made a significant contribution to GDP, allowing mining regions to improve their HDI over the last 70 years in the State of Minas Gerais and over the last 30 years in the North of Brazil. They base their allegation in one study conducted by Oxford Policy Management, ICMM and IBRAM, which is available at: *www.icmm.com/document/5423*
Two other reports were also mentioned, which are available at: *www.fjp.mg.gov.br/index.php/noticias-em-destaque/1974-fundacao-joao-pinheiro-divulga-o-pib-dos-municipios-de-minas-gerais* and *www.mdic.gov.br/sitio/interna/interna.php?area=2&menu=208www.mdic.gov.br/sitio/interna/interna.php?area=2&menu=208.*
The corporation also affirms that, in other countries where it also operates, similar results and local and national developments are aimed. In the reply, the company claims that its sustainability performance can be advanced and refutes the two reports mentioned at the beginning of footnote 8 (the 2012 Public Eye Award and the 2015 Unsustainability Report), alleging they are partial and contain misleading information. The corporation is working on the clarification and rectification of the main allegations made in both reports (available by August 3, 2015 at: *business-humanrights.org/en/valebusiness-humanrights.org/en/vale*).

9 According to the United Nations interpretation of International Human Rights Law, "States assume obligations and duties under international law to *respect*, to *protect* and to *fulfil* human rights. The obligation to *respect* means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to *protect* requires States to protect individuals and groups against human rights abuses. The obligation to *fulfil* means that States must take positive action to facilitate the enjoyment of basic human rights." [emphasis added]. Office of the High Commissioner for Human Rights (OHCHR). "International Human Rights Law." *OHCHR*, undated. Available at: *www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx.*

10 For more information on ETOs, please visit: *www.etoconsortium.org.* See also: ETO Consortium. *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights.* Heidelberg: FIAN, 2013. Available at: *www.etoconsortium.org/nc/en/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23.*

But there is one key difference: a treaty is a legally binding instrument that contains regulations that are obligatory for ratifying states, whereas the provisions of non-binding instruments are recommendatory and declaratory only. A considerable number of CSOs have criticized the UN Guiding Principles for their lack of binding character and gaps in content in, *inter alia*, the area of access to remedies and justice. The Treaty, I hope, will mend those problems.

A—Rolf Künemann: In order to regulate TNCs and other businesses it is necessary to have binding international agreements on the cooperation of states; regulation is something that principles and guidelines cannot do. It is very difficult to protect rights just by providing 'guidance' to TNCs and businesses. TNCs are not just national corporations that could easily be regulated at the national level. While the Ruggie Principles focus on guidance and stress the obligation to *protect*,[16] they do not fully exploit the ETOs that need to be implemented by a binding international mechanism to jointly regulate TNCs.[17]

Q: The Maastricht Principles on Extraterritorial Obligations provide a summary on states' obligations to respect, protect and fulfill human rights beyond their own borders—separately and jointly.[18] How relevant are ETOs to the Treaty?

A—Rolf Künemann: ETOs are a key element to the Treaty. The Treaty needs to further operationalize states' extraterritorial obligations to respect and protect human rights when it comes to transnational businesses. ETOs include the obligation to cooperate with each other in the protection of people against harm done by TNCs. The Maastricht Principles summarize international human rights law that needs to be taken into consideration when drafting the Treaty. Without ETOs the Treaty cannot properly address the human rights challenges in regulating TNCs. It is not necessary for states to make promises to each other about how they would regulate business activities that do not impact abroad. We don't need this kind of mutual promises; we need reliable standards for what is to be considered an offense by a TNC and international cooperation of states in remedies.

Q: The Treaty Alliance comprises of more than 900 CSOs and social movements, including various members of the Watch Consortium and the Global Network for the Right to Food and Nutrition. Who is represented in the Treaty Alliance? How is its work organized and what are the key demands?

A—Rolf Künemann: The Treaty Alliance is an alliance of CSOs, many of whom have significant experience working with human rights issues that relate to the activities of TNCs. They know the difficulties that states encounter in meeting their obligations to protect human rights—and that such obligations need international cooperation and binding agreements to be implemented.

Members of the Treaty Alliance include ESCR-Net, FIAN International, International Federation for Human Rights (FIDH), International Commission of Jurists (ICJ), the Transnational Institute (TNI), Europe Third World Centre (CETIM), Friends of the Earth, Franciscans International, International Alliance of Catholic Development Agencies (CIDSE), International Baby Food Action Network (IBFAN) and other organizations that have been asking for such an instrument for quite some time. The Alliance is not an organization, but a loose coalition. Work is organized in

11 For more information, please visit: World Health Organization. *International Code of Marketing of Breast-milk Substitutes.* Geneva: WHO, 1981. Available at: www.who.int/nutrition/publications/code_english.pdf.

12 For more information on this issue, see article "The Corporate Capture of Food and Nutrition Governance: A Threat to Human Rights and Peoples' Sovereignty" in this issue of the *Right to Food and Nutrition Watch.*

13 For more information on this issue, please see: Nora McKeon. *Food Security Governance: Empowering Communities, Regulating Corporations.* New York/Oxford: Routledge, 2015.

14 OHCHR. *Guiding Principles on Business and Human Rights.* New York/Geneva: UN, 2011. Available at: www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

15 United Nations Sub-Commission on the Promotion and Protection of Human Rights. *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights.* Geneva: UN, 2003. Available at: www1.umn.edu/humanrts/links/res2003-16.html. These norms were not approved by the former UN Commission on Human Rights, although they were able to start the debate on the topic within the UN.

16 *Supra* note 9.

17 *Supra* note 10.

18 *Supra* note 10.

a very decentralized way. There is a facilitating group, some working groups and a good flow of cooperation and communication.

Key demands of the Treaty Alliance relate, first of all, to the need for states to monitor and regulate the operations of TNCs under their jurisdiction in order to protect human rights values—even outside their national territories. There is a need to create international monitoring and accountability mechanisms—and such mechanisms are a key demand of the Treaty Alliance.

One demand that should be stressed is that the Treaty Alliance wants a treaty; it is not enough to have just any type of legal instrument, such as an optional protocol or something of this nature. The TNC issue is a key component of globalization and such a treaty is actually overdue. So, the demand is to finally get the community of states to set up legal liability for TNCs if they harm human rights values.

A further vital issue in this context is the situation of human rights defenders. They are being increasingly criminalized, as are whistle-blowers, who are people inside TNCs or organizations that inform about activities that affect human rights values. The Treaty should provide protection for these groups too.

Q: Civil society and social movements are also negotiating a 'Peoples Treaty'. What is the goal of this treaty?[19]

A—Gonzalo Berrón: The Peoples Treaty (PT) is a political and conceptual structure that we have built together with social movements and organizations, as well as with communities affected by the operations of TNCs. The goal is to generate the laws, regulations, rules and institutions needed by the world and global society to stop human rights abuses by TNCs, which result from the growing economic power they have acquired, and to put an end to what we call the 'commoditization' of our lives and excessive consumerism.

Why a Peoples Treaty outside of the UN system? This idea arises from the mistrust that many social movements and organizations have towards the UN. TNCs' interests have largely captured the UN system.[20] In spite of being an organization where states take part, lately TNCs are the ones—indirectly—appointing the civil servants of those institutions and other international bodies. Thus, it is logical that we have some mistrust towards this institution and that, in this sense, we, movements, social organizations and affected communities, have decided to build our own instrument. Laws are created either as a tool to impose obligations on those who are dominated by others, or as a tool to stop abuses and defend the vulnerable. The latter case applies to the PT, through which the vulnerable are fighting to claim our rights at the international level.

This is a mobilization and discussion process, which started before the recent initiative in the UN. We have drawn up a first draft that will be discussed globally in 2015 and 2016, and which will serve as our reference in our discussions with the UN.

An important dimension of this document is that it is not merely a legal document, but it moves towards alternatives and proposals of different public policies to organize life in our societies and to protect peoples and communities, our environment, workers, women, youth and indigenous peoples. It is a tool for the struggle, which we hope turns into a reference towards a change for a better world.

19 For more information, please visit: www.stopcorporateimpunity.org/?page_id=5530.

20 *Supra* note 12.

Q: There is controversy over the UN Treaty among states. How can people contribute to a meaningful outcome in the next months and years? What are the next steps?

A—Gonzalo Berrón: The most important element to help this process move forward is people's mobilization. Governments need to feel that popular pressure in the capitals and at the international level is strong, that the public knows what's going on and is determined to effectively change the rules of the game for TNCs and people, and that there are many organizations supporting this process. Obviously, it is essential to develop a binding tool that protects them against abuses by TNCs.

Without mobilization and people's pressure, we cannot change the current correlation of power. As I mentioned before, there is a dispute within the UN in which the interests of TNCs have captured the political decision-making system. In the absence of people's mobilization, TNCs will end up winning. Therefore, we have to change this correlation of power and, as we have seen with the approval of resolution 26/9 in June 2014,[21] it is possible to achieve some victories. But this will only happen if, and only if, we mobilize and fight together for a treaty as comprehensive and inclusive as possible to be able to realize the human rights of all peoples.

A—Rolf Künemann: Firstly, for those who have not done so yet, organizations and social movements should join the Treaty Alliance. This ensures that member CSOs and social movements are in the loop about what is happening and what is needed. Individual members can also sign statements of the Treaty Alliance.[22] Secondly, advocacy and publicity with the general public on how such a Treaty can prevent or stop harm done by TNCs and other business is needed. Thirdly, governments must be lobbied and pressurized in the countries and capitals. Make your government and parliament understand that your state has to protect human rights values, not only at home but also towards populations abroad, and that it has to cooperate in the Treaty process to implement these obligations. We all depend on states being accountable to the people and doing their duties in regulating TNCs, including on issues of ecology. So, this is something highly significant politically. People should develop their vision on how states have to cooperate globally in the future in order to govern TNCs, instead of being governed by them—and use the Treaty process as a step towards realizing such cooperation.

21 *Supra* note 2.

22 For the latest statement of the Treaty Alliance, please visit: *www.treatymovement.com/statement.*

06

INEQUITY UNLIMITED: FOOD ON THE WTO TABLE

Biraj Patnaik [1]

WHAT AILS THE DOHA DEVELOPMENT ROUND?

There is currently stalemate in the Doha Development Round (DDR) of current trade negotiation at the World Trade Organization (WTO) on the issue of public stockholding of food grains for national food security purposes. The 1994 Agreement on Agriculture (AoA), concluded during the Uruguay Round[2] of the General Agreement on Tariffs and Trade (GATT),[3] limits the public procurement of food by national governments.[4] While governments are allowed to distribute food to clearly-defined sections of their populations at any subsidized price they deem fit, such subsidies must not directly or indirectly favor local food producers by influencing prices and quantities. This remains the case even if the support is helping ensure food security, and/or supporting small producers living in poverty.

Stockholding programs are considered to distort trade when governments purchase produce from farmers at fixed prices, known as 'supported' or 'administered' prices. Purchases at market prices, calculated using the prices during 1986–1988 (known as the External Reference Price or ERP) as a baseline, are not counted as 'supported'. The AoA makes it clear that the difference between today's administered price and the ERP for the procured food is regarded as a 'trade-distorting' subsidy. This difference is part of the calculation of the Aggregate Measure of Support (AMS) of which each WTO member can only have a limited amount.

Such provisions in the AoA can be detrimental to the food security interests of developing countries.[5] However, rather than examining all such issues, which would be beyond its scope, this paper demonstrates how the rules of the AoA work to the advantage of the United States (US) yet prevent developing countries like India from supporting their domestic food security programs.

WHAT AILS THE DEVELOPING COUNTRIES IN THE WTO?

To understand the level of inequity involved, consider this: the US spends approximately US $75 billion on just one of its food subsidy programs—Supplementary Nutrition Assistance Program (SNAP), popularly known as the food stamps—for 47 million beneficiaries. This translates to US $1,608 annually per person.[6] Contrast this with the US $20 billion dollars that India is proposing to spend to cover 867 million entitlement holders under its National Food Security Act (2013).[7] This is less than US $25 per person each year. The US thus provides roughly 64 times more food aid compared to what India intends to provide per person per year. While the WTO considers the US SNAP program as non 'trade-distorting', it regards India's National Food Security Act as 'trade-distorting' since it is providing price support to food producers by purchasing produce above the ERP.[8]

However, this by no means implies that US support for its agriculture is relatively negligible. Instead figures suggest that the US is 'box shifting',[9] that is taking advantage of the flexible rules that effectively shield 'trade-distorting' measures including high

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2 The term 'Uruguay Round' refers to the the 8th round of multilateral trade negotiations conducted within the framework of the General Agreement on Tariffs and Trade (GATT), spanning from 1986 to 1994 and embracing 123 countries as 'contracting parties'. It was launched at Punta del Este, Uruguay in September 1986 and concluded in Geneva in December 1993. For more information, please see: *www.wto.org/english/docs_e/legal_e/legal_e.htm#agreements.*

3 GATT was superseded by the WTO. An updated General Agreement is now the WTO agreement governing trade in goods. For more information, please see: *www.wto.org/english/tratop_e/gatt_e/gatt_e.htm.*

4 The original text of the Agreement on Agriculture is available at: *www.wto.org/english/docs_e/legal_e/14-ag.pdf.*

5 For a more detailed discussion, see: Konandreas, Panos, and George Mermigkas. *WTO Domestic Support Disciplines: Options for Alleviating Constraints to Stockholding in Developing Countries in the Follow-up to Bali.* Rome: FAO, 2014.

6 Wise, Timothy A. "Ten signs of US hypocrisy on India's food security programme." *FirstPost*, December 7, 2013. Available at: *www.firstpost.com/world/ten-signs-of-us-hypocrisy-on-indias-food-security-programme-1270775.html.*

7 The original Act is available at: *indiacode.nic.in/acts-in-pdf/202013.pdf.*

8 Berthelot, Jacques. *The green box a black box which hides the gold box.* Solidarité, 2005. Available at: *goo.gl/I6W0GK.*

levels of agricultural support from being part of a country's AMS. While recent figures by the South Centre show a significant increase in the overall 'trade-distorting' support from approximately US $7 billion in 1996 to US $12.14 billion in 2012,[10] non 'trade-distorting' subsidies rose considerably more from US $51.83 billion to US $127.44 billion in the same period.

The European Union (EU) also appears to use this 'box-shifting' strategy to protect their high levels of agricultural support. The South Centre estimates that its 'trade distorting' subsidies have declined from €71.85 billion to €10.84 billion between 1995–96 and 2011–12,[11] yet non 'trade-destorting' subsidies provided in the same period have risen from €18.78 billion to €70.98 billion.

The lack of challenge to the 'box shifting' of subsidies by the EU and the US in the ongoing DDR negotiations and the threat to the public stockholdings for food security by developing countries illustrates the control that developed countries enjoy in the WTO.

THE INDIAN DILEMMA: FEEDING THE LOW-INCOME PRODUCERS OF FOOD

India's problem is that it procures food aid at administered prices, known as Minimum Support Price (MSP),[12] from its farmers, 98.97% of whom are low-income, resource-poor farmers with ten hectares or less.[13] The food is then distributed through India's Targeted Public Distribution System (TPDS). Thus, India feeds those in poverty while also providing critical income support to a vast majority of its farmers who are net buyers of food.[14] If India fails to provide this support, the people it intends to feed might not have the money to buy food even at subsidized prices. However, such support to the producers that is linked to current production levels is considered 'trade-distorting' under the AoA.

THE EXTERNAL REFERENCE PRICE: QUICKSAND FOR FOOD SECURITY IN THE WTO

The core of the problem is an unrealistically fixed ERP at the base year 1986–88.[15] It basically penalizes developing countries for past good behavior.[16] While developed countries were providing very high agricultural support during the 1980s, developing countries were not in a position to do the same. By setting the base year in that period, the AoA effectively bound developing countries to a zero-support scenario where permissible support levels would eventually be insufficient to take care of their food security needs.

The AoA does partially remedy this issue by allowing "due consideration to the influence of excessive rates of inflation on the ability of any Member to abide by its domestic support commitments".[17] However, developing countries have so far been effectively denied recourse to this remedy by developed countries failing to identify reasonable criterion for invoking this provision. This is despite the more than 500% inflation of food prices since the 1980s.

Today, as food security and nutrition come to the fore of the global development agenda,[18] these archaic AoA rules prevent developing countries from ensuring a food secure future. What lies at the heart of the problem is the striking insensitivity of developed countries in refusing to discuss revising the ERP.

9 In WTO terminology, subsidies in general are identified by 'boxes' which govern whether the subsidies are permissible under WTO rules.

10 South Centre. *EU and US Domestic Supports: Some Figures and Trends.* Informal note [unpublished], April 29, 2015.

11 *Supra* note 8.

12 For more information on the MSP, please see: *cacp.dacnet.nic.in/content.aspx?pid=62.*

13 For more information see India's recent report to the WTO (G/AG/N/IND/7) dated June 9, 2011. Available at: *goo.gl/e1hsLf.*

14 More than half of India's population depends on agriculture and related activities for their livelihood.

15 The AoA has set the prevailing prices of food crops in the1986–88 period as the ERP. It is the difference between the administered price and the ERP multiplied by the total eligible production that constitutes the market price support (MPS) for a given crop. There are some persisting disputes regarding the interpretation of the ERP-related provisions of the AoA. One significant controversy is whether the ERP used in calculating the MPS for procurements for public stockholdings is fixed or adjustable.

16 Correa, Carlos. *Subsidies and Food Security in WTO: A Permanent Solution is Still Pending.* Geneva: South Centre, 2014. Available at: *www.gemdev.org/infosgemdev/wp-content/uploads/Analytical-Note-on-Subsidies-and-Food-Security_November-2014_Correa.pdf.*

17 Paragraph 4, Article 18 of the AoA.

18 See the full report of the Open Working Group of the General Assembly on Sustainable Development Goals (A/68/970). Available at: *www.un.org/ga/search/view_doc.asp?symbol=A/68/970.* An abridged version is available at: *sustainabledevelopment.un.org/content/documents/1579SDGs%20Proposal.pdf.*

BYPASSING HYPOCRISY FOR A PERMANENT SOLUTION

In 2012, in the face of this hypocritical intransigence of the developed countries, especially the US and the EU, the G-33,[19] led by India, demanded a permanent solution to the problem of public stockholding for food security.[20] Although it may be difficult to change the fixed ERP in the AoA, a permanent solution would still require significant amendments to the AoA. Nonetheless the G-33's crucial Non-Paper suggests that certain policies and services promoting rural development and poverty alleviation be exempted from reduction commitments under the AoA.[21] The permanent solution must also exclude the acquisition of food stocks by developing countries to support their low-income or resource-poor farmers from the calculation of AMS.

The G-33 understood that such far-reaching amendments to the AoA would take considerable time. Given this, it suggested that the WTO take certain supplementary decisions to alleviate the problem in the interim. This includes recognizing the unfairness of the ERP, easing the conditions currently required to invoke the inflation remedy and, most significantly, adding a 'peace clause' exempting developing counries' public stockholding programs from any adverse legal action under the existing WTO provisions until the issue is resolved.

BALI PACKAGE AND THE AFTERMATH

However, after much deliberation and debate in the run up to the 9th WTO Ministerial held in Bali, Indonesia in December 2013, developing countries could only get a watered-down 'peace clause' and a LDC (least developed countries)[22] package. This was also only after agreeing to sign the first multilateral agreement of the DDR, the Trade Facilitation agreement (TF).

The euphoria surrounding the TF predicted a US $1 trillion gain in overall world trade, however, the actual gains from the TF, especially towards developing countries, remain uncertain.[23] All that this package offered to the LDCs was promises on behalf of the developed countries to make world trade fairer for them. Moreover, the non-binding language of the relevant decision offers little hope for any meaningful gains for the LDCs.

The 'peace clause', which seemed like certain relief for the developing countries' food security programs in the G-33 proposal, was marred by a 'constructive ambiguity' regarding its expiry date.[24] The 'peace clause' asked WTO members to "refrain from challenging through the WTO Dispute Settlement Mechanism"[25] the already existing public stockholding programs of developing countries that ensure food security. However, the Ministerial Decision refers to the 'peace clause' as being in place "in the interim, until a permanent solution is found."[26] This language evoked much controversy regarding the actual length of time for which the 'peace clause' would be in force. It was almost a year later, in November 2014, that the US finally agreed to India's interpretation that the 'peace clause' would not expire until a final decision on public stockholdings has been taken at the WTO.[27]

The 'peace clause' also imposes onerous reporting obligations on developing countries before they can access the protection offered. In addition, it restricts the kind of food that can be acquired for public stockholding programs. Furthermore, the protection only applies to those public stockholding programs that already existed at the time of the decision (December 7, 2013). This implies that if a developing country launched or intends to launch a public stockholding program after this date, it

19 The G-33 is a group of developing countries that coordinate on trade and economic issues. It was created to help countries that were all facing similar problems. For more information, please see: *www.wto.org/english/tratop_e/dda_e/negotiating_groups_maps_e.htm?group_selected=GRP017.*

20 G-33 Proposal on Some Elements of TN/AG/W/4/Rev.4 for Early Agreement to Address Food Security Issues (Job/AG/22) dated November 30, 2012.

21 G-33 Non Paper (Job/AG/25) dated October 3, 2013.

22 LDCs are identified by the UN Committee for Development Policy. There are currently 48, including Bangladesh, Nepal, Sudan and Sierra Leone. For more information, please see: *www.un.org/en/development/desa/policy/cdp/ldc_info.shtml.*

23 Capaldo, Jeronim. *The Uncertain Gains from Trade Facilitation.* Massachusetts: Tufts University, 2013. Available at: *ase.tufts.edu/gdae/Pubs/rp/PB13-02UncertainGains.pdf.*

24 For a discussion of this 'constructive ambiguity', see Häberli, Christian. *After Bali: WTO Rules Applying to Public Food Reserves.* Rome: FAO, 2014. Available at: *www.fao.org/3/a-i3820e.pdf.*

25 WTO. *Public Stockholding For Food Security Purposes, Ministerial Decision (Wt/Min(13)/38).* Bali: WTO, 2013, paragraph 2. Available at: *www.wto.org/english/thewto_e/minist_e/mc9_e/desci38_e.htm.*

26 *Ibid.*

27 Office of the United States Trade Representative (USTR). *Fact Sheet: U.S.-India Agreement on Trade Facilitation.* Washington: USTR, 2014. Available at: *ustr.gov/about-us/policy-offices/press-office/fact-sheets/2014/November/US-India-Agreement-on-Trade-Facilitation.*

would not have the protection of the 'peace clause'. Such harsh terms imposed by the developed countries on the only concession made regarding food security do not give much hope for a meaningful permanent solution to the public stockholdings issue.

Even with such modest gains, the developing countries were able to give the WTO a new lease of life by conceding to the TF. However, the aftermath of the Bali Ministerial has been marked by increasing rigidity by developed countries against providing any further relief to the developing world on the issue of public stockholding. After keeping the 'constructive ambiguity' of the 'peace clause' simmering for almost a year, the US and the EU, and the allies of other developed countries are endeavouring to keep the developing countries divided. Despite their leverage at Bali, the TF was cheaply obtained, and developing countries now have little besides their unity to bank on during the upcoming 10th Ministerial Conference in Nairobi, Kenya (December 2015).[28] If the food security of the millions of people living in poverty is to be defended at Nairobi, it needs to become a non-negotiable end in itself rather than be a bargaining chip at the WTO table.

THE WAY FORWARD

The meeting of civil society organizations from Africa and Asia organized by the Our World Is Not For Sale Network (OWINFS),[29] on the sidelines of the World Social Forum in Tunis in March 2015, suggested four basic principles that developing countries should push for at the WTO.[30]

Firstly, all countries (including developed countries) should be able to conceive and implement comprehensive support programs to develop sustainable food production systems that ensure domestic food security. Public expenditure and the stockholding of food for food security should, therefore, be made part of the Green Box subsidies.

Secondly, all countries must be provided with mechanisms that can help protect their domestic food economy against the inequities and shocks of free trade. No country should be allowed to export any subsidised commodity that has a potentially adverse impact on the domestic food production of another country. Food, which is procured at domestically subsidized rates for public stockholding purposes as well as the food produced with subsidized inputs, should not be exported at prices lower than the world market price.

Thirdly, the existing stringent conditionalities and triggers for deployment of Special Safeguard mechanisms currently being negotiated should be revised and relaxed so that countries can realistically use them to protect against import surges.[31]

Lastly, countries should be allowed to use tariffs to protect their domestic food markets. However, if any future tariff cuts are negotiated, developing countries should have full recourse to Sensitive Products[32] and Special Products[33] mechanisms.

Given recent developments in Geneva at the WTO, the journey to the 10th Ministerial Conference in Nairobi is likely to be characterised by strong opposition from developed countries to any fundamental changes to the current trade order. As in Bali, every attempt will be made to coerce the Kenyan government to push other developing countries for a settlement that is less than satisfactory to ensure a 'successful' African Ministerial Conference. Since such a settlement would be detrimental to peasant farmers in most African countries, including Kenya, it is imperative that civil society does not allow the Nairobi Ministerial to be converted into an African Ministerial that needs to succeed at all costs.

28 Raghavan, Chakravarthi. "South Faces Uphill Fight on Food Security, Commitments on Bali Decisions." *TWN Info Service on WTO and Trade Issues*, April 9, 2015. Available at: *www.ourworldisnotforsale.org/en/article/south-faces-uphill-fight-food-security- commitments-bali-decisions.*

29 For more information on OWINFS, please see: *www.ourworldisnotforsale.org/en.*

30 James, Deborah. *Investing in Agriculture in Developing Countries: The Whole World Says Yes, but the WTO Says No.* Washington: OWINFS, 2015. Available at: *www.ourworldisnotforsale.org/en/report/investing-inagriculture-developing-countries-whole-world-says-yes-wto-says-no.*

31 For more information, please see: Das, Abhijit, and Sachin Kumar Sharma. *Evolution of WTO Agriculture Modalities: Survival of the Financially Fattest.* New Delhi: Centre for WTO Studies. Available at: *wtocentre.iift.ac.in/Occassinalpaper/01.pdf.*

32 "These products will undergo lower tariff reduction by deviating from the generally applicable formula cuts, but developed countries would be required to provide new access opportunities through expansion of tariff quota on these products. The extent of deviation from the formula cuts is linked to the extent of expansion of tariff quota - higher the deviation from the formula cut, more would be the expansion required in the tariff quota..." *Ibid*. p. 33.

33 "General Council Decision of August 1, 2004 specified that the developing countries would have the flexibility to designate an appropriate number of products as Special Products, based on the criteria of food security, livelihood security and rural development needs." *Ibid*., p. 42.

CONCLUSION

The right to adequate food and nutrition (RtAFN) for everyone is not just a moral imperative. It is enshrined in international treaties and covenants,[34] and members of the WTO are obligated to respect, protect and fulfil the right to adequate food and nutrition not only for their own people, but also those living in other countries, and the global community at large.[35] The somewhat hypocritical US stance against LDCs' food security concerns in the WTO explains why it has still not ratified many of these international covenants.[36] It is therefore important that all developing economies and the LDCs stand up to the US, the EU and their key allies to protect human rights, especially the economic, social and cultural rights of their people.

The Nairobi Ministerial might well prove to be the most decisive chance for the developing world to level the global playing field in agricultural trade. At stake in Nairobi is not just the food security of billions of people in developing countries, but a chance to reverse the historic inequity that permeates the present global trade order under the WTO today.

34 This includes the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of the Child.

35 ETO Consortium. *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights.* Heidelberg: FIAN, 2013. Available at: *www.etoconsortium.org/nc/en/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23.*

36 The Wire Staff. "India Suggests US Set Up National Human Rights Commission." *The Wire*, May 15, 2015. Available at: *thewire.in/2015/05/12/india-suggests-us-set-to-up-national-human-rights-commission.*

INSIGHT 6.1

Extraterritorial Human Rights Obligations in Trade Policies—The Case of the European Union

Armin Paasch [37]

Over the past years, various UN human rights treaty bodies and Special Procedures have been recognizing and affirming the extraterritorial scope of states' human rights obligations, in many instances inspired by the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights.[38] While among governments ETOs are still much under debate, not least in Europe, interestingly Articles 3 and 21 of the Treaty on European Union (TEU)[39] clearly obligate the European Union (EU) to, at least, respect and promote human rights abroad. Undoubtedly these obligations cover its trade and investment policies. In reality, though, the situation looks different.

For years studies have been raising serious concerns about violations or threats to human rights arising from existing and future EU trade agreements with African countries, Colombia, Peru, India and others. Excessive tariff cuts can trigger import surges of milk powder, tomato paste and chicken parts to West Africa that drive smallholders out of their local markets. Strict intellectual property rights provisions can limit farmers' access to and control over seeds in Peru and Colombia. Opening up big supermarket chains can destroy millions of jobs in the informal sector in India. In all these cases the human right to adequate food and nutrition is under threat.[40]

This threat is even greater since the EU does not currently have any effective instruments or mechanisms in place to avoid and mitigate such impacts. So far the Sustainability Impact Assessments (SIA), which the EU has been conducting on all of its trade agreements since 1999, do not sufficiently cover human rights.[41] The human rights clauses that are routinely included in all EU trade agreements since the early 1990s do not meet the human rights requirements of the TEU. Most importantly, they do not allow a party to take measures to respect, protect and fulfil human rights domestically when such measures contradict provisions in the trade agreement.[42]

37 Armin Paasch is Officer on Business and Human Rights at MISEREOR, the German Catholic Bishops' Organization for Development Cooperation. For more information, please visit: *www.misereor.de.*
Special thanks to Laura Michéle (FIAN International), Peter Lunenborg (The South Centre), and Antonio Onorati (Centro Internazionale Crocevia) for their support in reviewing this article. This article was originally written in English.

38 ETO Consortium. *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights.* Heidelberg: FIAN, 2013. Available at: *www.etoconsortium.org/nc/en/library/maastricht-principles/?tx_drblob_pi1%5BdownloadUid%5D=23.*

39 The full text of the Treaty is available at: *eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012M/TXT&from=EN.*

40 Paasch, Armin. *Human Rights in EU Trade Policy—Between Ambition and Reality.* Aachen/Berlin: MISEREOR, Heinrich Böll Foundation, and Glopolis, 2011. Available at: *www.ecofair-trade.org/sites/ecofair-trade.org/files/downloads/12/03/ecofair_trade_dialogue_human_rights_in_eu_trade_policy_paasch_2011.pdf.*

41 Bonanomi, Elisabeth Bürgi. *EU Trade Agreements and their Impacts on Human Rights.* Bern: German Federal Ministry for Economic Cooperation and Development (BMZ), 2014. Available at: *www.wti.org/fileadmin/user_upload/nccr-trade.ch/other_publications_events/01_CDE_Working_Paper_Buergi_2014.pdf.*

42 Bartels, Lorand. *A Model Human Rights Clause for the EU's International Trade Agreements.* Aachen/Berlin: German Institute for Human Rights and MISEREOR, 2014. Available at: *www.institut-fuer-menschenrechte.de/uploads/tx_commerce/Studie_A_Model_Human_Rights_Clause.pdf.*

The current crisis of EU trade policies caused by the massive protests against the Transatlantic Trade and Investment Partnership (TTIP) and the Comprehensive Economic and Trade Agreement (CETA) can open a window of opportunity for reforms, including regarding human rights.[43] In May 2015 the European Commission published a revised draft Handbook for SIA that includes human rights as a key component of sustainability.[44] The European Commissioner for Trade, Cecilia Malmström, also announced a new trade strategy that may "go beyond our current approaches to trade and labor, human rights and environmental protection."[45] However, such reforms should not legitimize and perpetuate an approach to trade policies that is problematic in general. Reforms must be substantial in order to serve human rights.

INSIGHT 6.2

TTIP is a Trojan Treaty

Mute Schimpf[46]

Over two million people have signed a European Citizens' Initiative (ECI) organized by an alliance of more than 380 European organizations to protest against the Transatlantic Trade and Investment Partnership (TTIP).[47] Tens of thousands have also taken to the streets across Europe. Yet over the previous decade dozens of trade deals have been negotiated, signed and implemented without garnering half as much public attention in Europe. What is it about the EU-US trade deal, currently being hammered out, that has caused such an outcry?

TTIP's route to increased trade has a different focus than traditional trade deals. It intends to harmonize regulations between the EU and US, including the regulations that govern food safety and chemical use, as well as numerous other issues that are extremely personal and immediate to many people. Given this, the rising public opposition ceases to surprise. This deal's impact on our food and farming would be immense.

TTIP is being negotiated behind closed doors. While big business lobbyists are known to be greatly influencing the discussions, civil society groups are largely excluded and left in the dark. However, the intentions of trade negotiators are clear from documents leaked and publicly available. Regulations are branded as 'barriers to trade', and must therefore be circumvented or removed.

According to a study by the European Parliament, if finalized the TTIP would allow more industrial farming products to be traded across the Atlantic.[48] Although agri-businesses have been pushing hard for this market access, few others will win from an influx of factory-farmed chickens and dairy products. The environment will lose as intensive farming and food production practices emit more greenhouse gases and carry greater risks of local pollution. European farmers will lose out too.

And the price for citizens? The EU and US have fundamentally different approaches to the issue of food safety. For instance, the US lacks federal standards for food production at farm level. Its federal legislation only applies once the animal enters the slaughter house. There are thus no specific rules regarding the use of antibiotics or animal welfare. This completely contradicts the EU's regulatory approach of minimizing the risks to the environment and human health at every step of the food production process, from field to fork.

43 For further information on the TTIP, see insight box 6.2 below.

44 European Commission. *Handbook for Trade Sustainability Impact Assessments.* Brussels: European Commission, 2015. Available at: trade.ec.europa.eu/doclib/docs/2015/april/tradoc_153400.pdf.

45 The full speech is available at: trade.ec.europa.eu/doclib/docs/2015/march/tradoc_153265.pdf.

46 Mute Schimpf is a member of Friends of the Earth Europe (FoEE). Friends of the Earth is a grassroots environmental network based in Europe that unites more than 30 national organizations with thousands of local groups. For more information, please visit: www.foeeurope.org.
Special thanks to Laura Michéle (FIAN International) and Peter Lunenborg (South Centre) for their support in reviewing this article. This article was originally written in English.

47 For more information about the campaign to stop TTIP/CETA, please visit: stop-ttip.org/about-the-eci-campaign.

48 European Parliament. *Risks and Opportunities for the EU Agri-Food Sector in a Possible EU-US Trade Agreement.* Brussels: EU, 2014. Available at: www.europarl.europa.eu/RegData/etudes/STUD/2014/514007/AGRI_IPOL_STU%282014%29514007_EN.pdf.

However, it is not just current protection for people and the environment that is at risk if EU and US regulations are harmonized. TTIP could also prevent desperately needed future improvements to regulation protecting our environment and public health from going forward. For the sake of our food and its impact on our environment, TTIP needs to be stopped.

INSIGHT 6.3
The Trans-Pacific Partnership: A Threat to Human Rights

Tessa Khan[49]

As the latest round of negotiations in the WTO continues at an incremental pace, governments have sought to secure foreign market access for their companies through the negotiation of preferential trade agreements (PTAs). An almost universally low rate of tariffs, together with the emergence of supply chain management, has shifted the focus of PTAs from addressing traditional barriers to trade to ensuring that domestic regulatory frameworks favor foreign trade and investment.

The Trans-Pacific Partnership (TPP) is among a new generation of ambitious PTAs which, if adopted, are likely to have alarming implications for the fulfillment of human rights. It is currently being negotiated between twelve of the major economies, including the US, Canada, Australia, Japan, Malaysia, Mexico, Peru, and Singapore. If adopted, it will cover one-third of all global trade. Like the TTIP, the manner in which the TPP is being negotiated is in itself a cause for grave concern and a *prima facie* violation of the right to participate in public affairs. The draft text is not publicly accessible although hundreds of corporate lobbyists have acted as advisers.[50] Moreover, even after the agreement is finalized, it will remain classified for years.

Leaked drafts of the TPP indicate that it will significantly constrain the regulatory powers of governments, including through an investor-state dispute settlement (ISDS) mechanism. Aside from serious concerns regarding the impartiality and transparency of ISDS, under the current TPP draft companies can sue governments for alleged losses due to government policies made in the public interest.[51] There have already been such cases, including the one brought by the tobacco company Philip Morris against the Australian government for requiring cigarette packages to include health warnings.[52] Other ISDS awards in favor of transnational corporations have been astronomical. Occidental Petroleum, for example, successfully sued Ecuador for US $1.77 billion.[53]

The threat of such international arbitration can have a 'chilling effect' on governments and prevent them from introducing legislation. Given the range of policy measures governments take to protect the right to adequate food that may contravene trade agreements such as the TPP, including public stockholding and procurement from local farmers, this 'chilling effect' poses a significant threat to local food security.

Civil society in almost all negotiating countries have been vocal in their opposition to the TPP, uniting social movements working to protect labor rights, the right to health, and women's rights and gender equality. The Asia Pacific Forum on Women, Law and Development (APWLD) is leading one of the global campaigns against the TPP, calling on governments to publicly release the draft text and ensure that the TPP does not further entrench corporate dominance and social and economic inequalities, including gender inequality.[54]

49 Tessa Khan is an international human rights lawyer for the Asia Pacific Forum on Women, Law and Development (APWLD). APWLD is the Asia Pacific's leading feminist, membership-driven network. It uses capacity development, research, advocacy and activism to claim and strengthen women's human rights. For more information, please visit: *www.apwld.org.*
Special thanks to Laura Michéle (FIAN International), Peter Lunenborg (The South Centre) and Antonio Onorati (Centro Internazionale Crocevia) for their support in reviewing this article. This article was originally written in English.

50 "Secret Trans-Pacific Partnership Agreement (TPP)-IP Chapter." *WikiLeaks*, November 13, 2013. Available at: *wikileaks.org/tpp/pressrelease.html.*

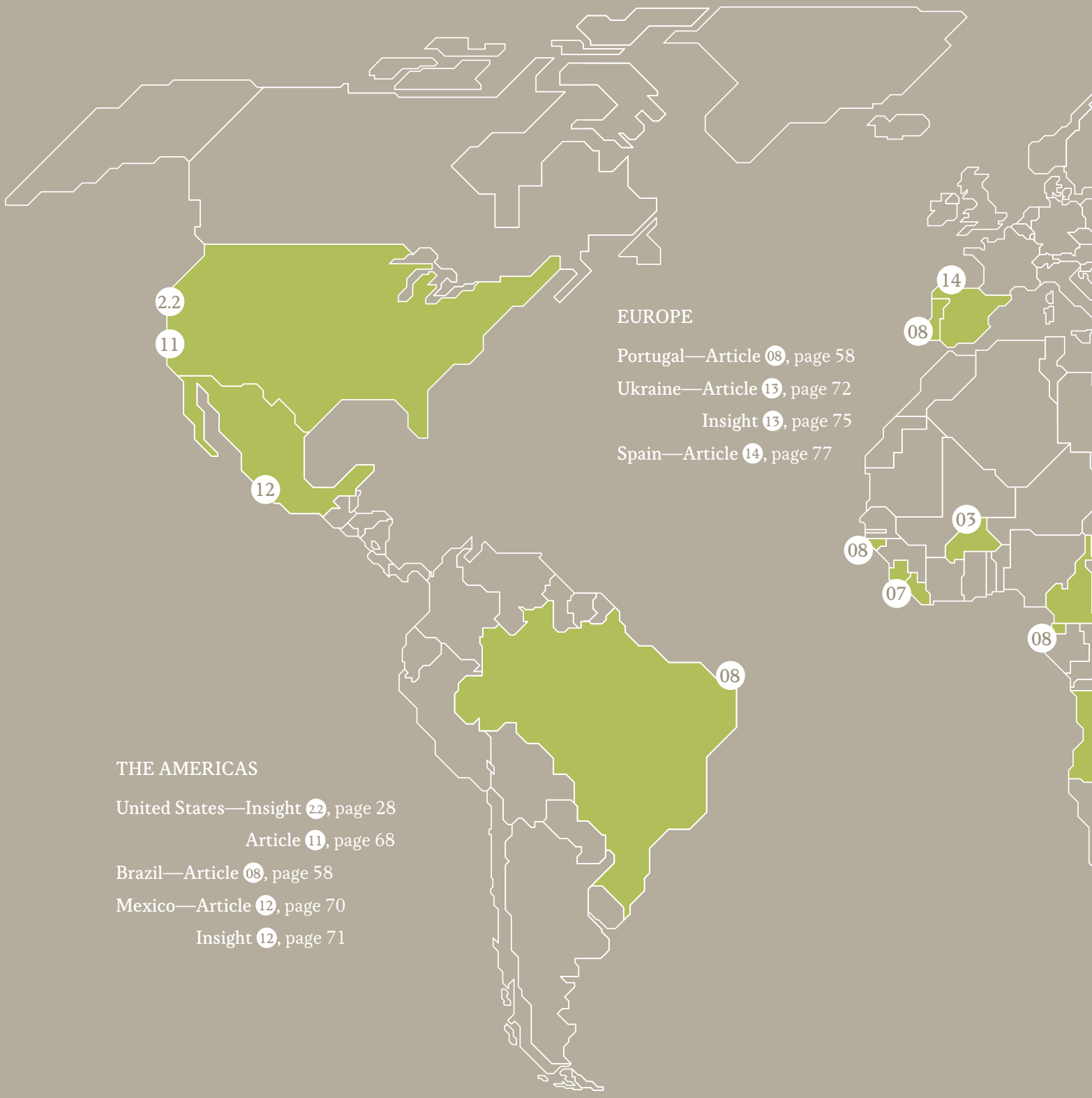
51 Ranald, Patricia. "Investor-State Dispute Settlement (ISDS): the Threat to Health, Environment and Other Social Regulation." Paper presented at the Stakeholders Forum, Eighth Round of Trans-Pacific Partnership Agreement negotiations, Chicago, September 10, 2011.

52 Australian Government. Tobacco Plain Packaging—Investor-State Arbitration. Attorney-General's Department. Available at: *www.ag.gov.au/tobaccoplainpackaging.*

53 Gill, Nathan. "Occidental Awarded $1.77 Billion in Ecuador Contract Dispute." *Bloomberg Business*, October 6, 2012. Available at: *www.bloomberg.com/news/articles/2012-10-05/occidental-awarded-1-77-billion-in-ecuador-contract-dispute-1-.*

54 APWLD. *Call For Endorsement: Resist the Trans-Pacific Partnership!* Chiang Mai: APWLD, September 1, 2014. Available at: *www.apwld.org/call-for-endorsement-resist-the-trans-pacific-partnership.*

WORLD MAP:
GEOGRAPHIC COVERAGE OF THE *WATCH* 2015



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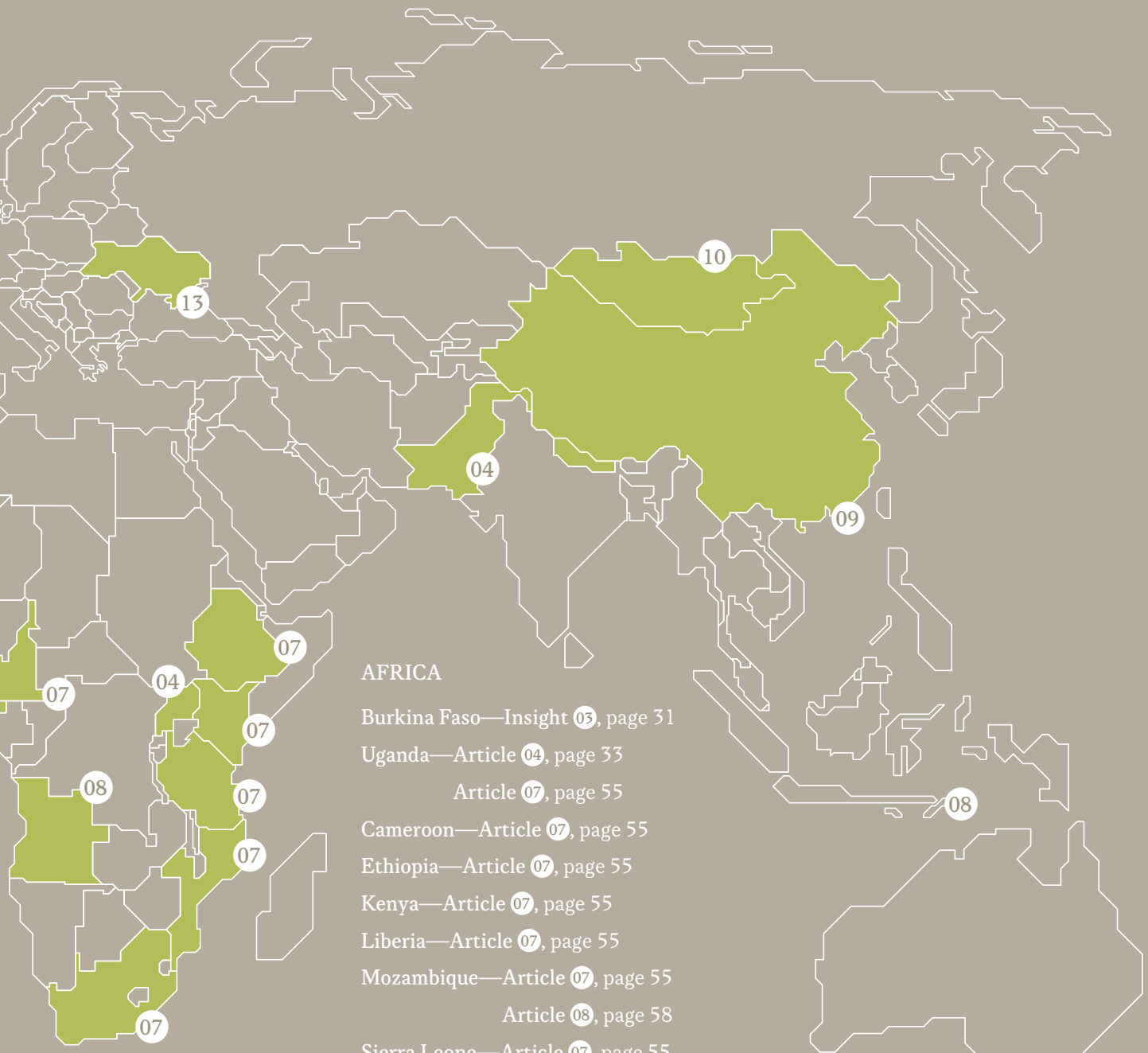

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NATIONAL AND REGIONAL REPORTS: Monitoring and Advancing the Right to Adequate Food and Nutrition

07

NUTRITION AND URBAN AGRICULTURE IN SUB-SAHARAN AFRICAN CITIES

Diana Lee-Smith and Davinder Lamba [1]

INTRODUCTION: HUNGER IN AFRICAN CITIES

The human right to adequate food and nutrition has to be guaranteed for the residents of African cities, where many live in informal settlements and cannot afford to buy food. Food is expensive and employment opportunities are scarce. Over three quarters of lower-income urban people suffer from food insecurity according to a survey carried out in eleven cities in Southern Africa by the African Food Security Urban Network (AFSUN).[2] In Kenya, people living in urban slums have been identified as among the most malnourished groups.[3]

Some residents have only one meal per day, and the chances of eating protein are low because the cost of buying meat, fish or even milk and eggs is prohibitive. Regarding dietary diversity, the AFSUN study also found that 96% of the food intake of the urban poor in Southern Africa was starchy staple foods. Those that were food insecure (the majority) had access to only five of the twelve food groups measured, two of which were sugar and beverages.[4] This causes obesity and poor health, including vulnerability to the so-called non-communicable diseases (NCDs) such as diabetes.

URBAN AGRICULTURE'S CONTRIBUTION TO NUTRITION

Around 40% of urban households in Africa are thought to be engaged in urban farming. Most farm to supplement their diet and save on food expenses, but many, especially urban livestock keepers, also sell part of their production, such as milk and eggs, which provides a secondary source of income.[5]

Urban agriculture significantly contributes to health and nutrition by providing fresh produce for lower income families. In Dar-es-Salaam, Tanzania, urban farms provide 90% of the city's leafy vegetables and over 60% of its milk. In Yaoundé, Cameroon, the growing of a variety of traditional leafy vegetables provides 8% of the protein and 40% of calcium consumed in the city. Statistical analyses have demonstrated that children in urban households consuming animal source foods (ASF) are healthier, indicating urban livestock keeping is beneficial to health and nutrition.[6]

Women predominate among urban farmers, especially in East and Southern Africa. Agricultural tasks are divided by gender, with women sometimes excluded from owning and controlling large livestock. Women are also disadvantaged in their access to land in sub-Saharan Africa as compared to men, and this also affects their position in urban agriculture. Due to women's inferior land rights, female-headed households predominate among the urban poor, who lack access to space for urban farming.

1 Diana Lee-Smith is an Associate and Davinder Lamba is the Executive Director of Mazingira Institute, a knowledge and action civil society organization based in Kenya. Mr. Lamba represents the Urban Poor Constituency in the Civil Society Mechanism (CSM) for the Committee on World Food Security (CFS). For more information, please visit: www.mazinst.org.
Special thanks to Emily Mattheisen (Habitat International Coalition, HIC) and Sibonile Khoza (independent advocate of the High Court of South Africa) for their support in reviewing this article. This article was originally written in English.

2 Bruce Frayne *et al*., "The State of Urban Food Insecurity in Southern Africa." *Urban Food Security* 2 (2010): 1–56. Available at: www.afsun.org/wp-content/uploads/2013/09/AFSUN_2.pdf.

3 African Population and Health Research Centre. *Urban Health in Kenya Key Findings: The 2000 Nairobi Cross-Sectional Slum Survey.* Nairobi: APHRC, 2012.

4 *Supra* note 2. The countries included in the study were Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe.

5 Diana Lee-Smith *et al.*, "Urban and Peri-Urban Farming Systems (UPUFS): Feeding Cities and Enhancing Resilience." In *Farming Systems and Food Security in Sub-Saharan Africa: Priorities for Science and Policy under Global Change,* edited by John D. Dixon *et al.* London: Earthscan, forthcoming, 2016.

6 Cole, Donald, Diana Lee-Smith, and George W. Nasinyama, eds. *Healthy City Harvests: Generating Evidence to Guide Policy on Urban Agriculture.* Kampala/Lima: Makerere University Press and International Potato Center/Urban Harvest, 2008.
See also *supra* note 5.

PLANNING CITIES FOR THE RIGHT TO ADEQUATE FOOD AND NUTRITION

In some medium-sized towns in Tanzania as many as 90% of households farm in town, while in large capital cities very few do so, especially among the low-income households, with about 5–10% farming inside the capitals. In Nairobi, the capital of Kenya, around 20% of households farm in the city, while 7% keep livestock. This adds up to 200,000 households, with thousands of cattle, sheep and goats counted in the 2009 census.[7]

Even though it may seem surprising, it is not always people living in poverty who practice urban farming. Middle and upper income households also farm—and it is easier for them to do so because they have space in their backyards. In contrast, for those affected by poverty, living in slums or crowded, unserviced informal settlements, it is hard to find space to farm. They usually farm in open spaces that are less secure. Due to a lack of planning for urban agriculture, poor people are constantly losing their access to a place to grow crops or keep livestock, and thus their right to adequate food and nutrition is continuously under threat from changing and competing land uses. High-density slums with no nearby open spaces are the equivalent of 'food deserts' in African urban areas.

Planning urban open spaces for low-income households, especially female-headed households, to grow crops and keep livestock should therefore be a priority in realizing the right to food. Until recently, however, few national or local governments have actively supported urban agriculture through policies and programs. The authorities have often turned a blind eye to what is considered a leftover rural practice; however, in times of disaster or civil war (for example in Uganda, Mozambique, Liberia or Sierra Leone) urban farming has been more actively encouraged as a survival strategy.

But things are changing. Despite no country in Africa having reached the stage of Brazil's pioneering 'Right to Food: Zero Hunger' approach, which includes land access for urban farming, some cities—including Kampala (Uganda), Cape Town (South Africa), Addis Ababa (Ethiopia) and Nairobi (Kenya)—now have departments or administrative units of food or agriculture within their local governments. For example, the City of Kampala, which created an Agriculture Department following decentralization in the 1990s, passed urban agriculture and livestock ordinances in 2006. Nairobi established a Directorate of Agriculture, Livestock and Fisheries in 2013 and is currently in the process of passing supportive legislation.

The situation in Nairobi is helped by an active civil society organization, the Nairobi and Environs Food Security, Agriculture and Livestock Forum (NEFSALF). Hosted by the Mazingira Institute, an independent research and development organization, NEFSALF has been training both male and female farmers for the last decade, including on the right to food, in collaboration with government extension trainers. Farmers joining the Forum also formed a network with over a thousand members.[8]

7 Lee-Smith, Diana. "Which way for UPA in Africa?" *City: Analysis of Urban Trends, Culture, Theory, Policy, Action* 17 (2013): 69–84. See also *supra* note 5.

8 Mazingira Institute. *Nairobi and Environs Food Security, Agriculture and Livestock Forum (NEFSALF) Bulletin* 21 (2014).

CONCLUSION

Despite some progress, none of the African city administrations have yet adopted a right to food approach. Rather, the support systems aim at developing value chains and food systems planning to improve production levels. The alignment of urban agriculture policies with the nutritional needs of urban families living in poverty, including female-headed households, has yet to be articulated by African cities.

Currently, there are popular assumptions supported by media statements that urban malnutrition and obesity result from higher urban incomes, poor dietary choices and changing lifestyles. However, data evidences that they are mainly caused by urban poverty and the lack of access to adequate quality and quantities of affordable food. As urbanization increases, urban poverty and undernutrition are becoming critical issues in achieving the right to food.

In addition to supporting small-scale food producers in rural areas to reach urban markets—on terms that are beneficial both to them and to urban consumers living in poverty—what is needed are policies that recognize and support urban land access for agriculture and livestock-keeping in African cities, and that prioritize people living in poverty and female-headed households. Also needed are institutions capable of planning urban food systems to address the human right to adequate food and nutrition.

08

THE 'LAB ISLAND': GOVERNANCE AND SUSTAINABLE AGRICULTURE IN SÃO TOMÉ AND PRÍNCIPE AND IN THE COUNTRIES OF THE PORTUGUESE-SPEAKING COMMUNITY

Joana Rocha Dias [1]

THE REGIONAL GOVERNANCE OF FOOD SECURITY AND NUTRITION IN THE CPLP

The member states of the Community of Portuguese-Speaking Countries (CPLP), a multi-regional entity formed by Angola, Brazil, Cape Verde, Guinea-Bissau, Mozambique, Portugal, São Tomé and Príncipe, and East Timor,[2] have a common history. As outlined by Sarmento, "for nearly four centuries in tropical environments on both sides of the Atlantic, the flow of people, plants, rituals and rhythms, shackled to the same social system, contributed to the formation of a complex system of habits and values".[3] In African countries, especially, this hindered the development of family farms and led to many rural communities and millions of peasants being under-equipped and without access to natural and productive resources or public services to guarantee their access to adequate food. The same is true for the patrimonial nature of their national states and the low level of participation of civil society in the development of public policies for food security and nutrition.

However, when analyzing the trends in malnutrition levels in Portuguese-speaking countries, hunger is apparently being reduced. In 1990, there were about 38 million undernourished people in the CPLP, and currently the number is a little over 22 million. Recent data published in the FAO report on State of Food Insecurity in the World (SOFI) shows that Goal One of the Millennium Development Goals (MDG 1) has been achieved in several CPLP countries, such as Brazil, Angola, São Tomé and Príncipe, and Mozambique, and may be reached by some of the other countries before 2020.[4] This data, however, should be interpreted with some caution, given the weaknesses of the national statistical systems in most African countries. Moreover, several civil society actors have criticized the methodology used in the SOFI report.

While we cannot directly associate this development with the approval of the CPLP Food Security and Nutrition Strategy (ESAN-CPLP),[5] which was ratified in 2012 by the heads of State and government,[6] its creation is a step forward for the civil society in these countries. The governance mechanisms of this Strategy are inspired by the reform of the Committee on World Food Security (CFS),[7] and the recommendations for food and nutrition security by the Global Strategic Framework for Food Security and Nutrition (GSF).[8] The Council of Food and Nutrition Security (CONSAN-CPLP)[9] was created with strong participation by civil society through the internal Mechanism for the Facilitation of Civil Society Participation. This ministerial body is mandated to advise and make proposals to the CPLP heads of State and government. Despite repeated delays in its full function, its creation was an important victory. As the former Special Rapporteur on the Right to Food, Olivier De Schutter, wrote in a letter to the CONSAN-CPLP in 2012 to congratulate

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Special thanks to Daniel Gómez (FIAN International) and Francisco Sarmento (University of Coimbra) for their support in reviewing this article. This article was originally written in Portuguese.

2 Equatorial Guinea was admitted as a member at the last meeting of CPLP heads of State and government in July 2014, despite strong opposition from civil society.

3 Sarmento, Francisco. "Condicionantes Históricas da Construção da Segurança Alimentar no Atlântico: o Caso de Angola e São Tomé e Príncipe." PhD diss., Universidade Federal Rural do Rio de Janeiro, 2008, p. 162. Rio de Janeiro: *Tese de Doutoramento, Instituto de Ciências Sociais e Humanas, Universidade Federal Rural do Rio de Janeiro,* 2008, p.162.

4 FAO. *State of Food Insecurity in the World.* Rome: FAO, 2015. Available at: *www.fao.org/3/a-i4646e.pdf.*

5 For more information, please visit: *www.cplp.org/id-2393.aspx.*

it on its first meeting, "the right to food must be understood not only as a symbol for the fight against hunger and malnutrition... It is an operational tool. It improves the effectiveness and sustainability of interventions in the area of food security."[10]

With this end in view, civil society has sought to assume a strategic role at the regional level and in appropriate spaces gradually created in different countries through the establishment of national councils for food and nutrition security. This important initiative includes the CPLP Regional Network for Food and Nutrition Security (REDSAN-CPLP), which is composed of 500 organizations and civil society networks,[11] and the CPLP Peasants Platform, which brings together organizations from all the countries and represents about 17 million peasants and family producers.[12]

FAMILY FARMING AND THE PROMOTION OF BIODIVERSITY

One of the priority issues for the CPLP's civil society is to promote family farming, one of the three pillars of the ESAN-CPLP.[13] Data presented by Sarmento illustrates the scope of the issue:[14] peasants cultivate small areas from 0.2 to 18 hectares, a figure that varies from country to country.[15] The levels of technology used by these farmers also differ, and they are responsible for producing 70–100% of the food in most countries, directly or indirectly feeding more than 45 million people. For this reason, the institutional recognition of family farmers and their improved access to natural resources, credit, and social technologies is crucial. This is particularly important in light of the trend in African CPLP countries to expand the agribusiness model, which makes intensive use of means of production and is based on working large tracts of land.[16]

The last meeting of the CONSAN-CPLP's Working Group on Family Farming was held in Rome in June 2015, on the sidelines of the 39th session of the FAO Conference. The participants approved the start of a process to develop joint guidelines for the promotion of family farming in the CPLP. This was an important victory for civil society. It will, of necessity, be a long-term exercise and part of a broader struggle for the sustainable use of biodiversity in production systems.

SÃO TOMÉ AND PRÍNCIPE: THE "LAB ISLAND"

São Tomé and Príncipe, a relatively small country of about 1,000 km², has a wealth of experience regarding the promotion of family farming and biodiversity within the CPLP, providing a source of institutional knowledge and good practices.

The country's economic and social weaknesses, which include limited access to infrastructure and basic services, are compounded by disturbing statistics on nutrition: 10% of the population suffers from insufficient food intake, while another 12% are within the lower threshold. Nevertheless, 2015 FAO data indicates that the number of undernourished people in the country has decreased by 51.4% since the beginning of the 1990s, and that the proportion of undernourished people of the total population has decreased by 71.2%.[17] These performance figures should not be a surprise, seeing that the development of family farming arose in the midst of a land reform program carried out in the 1990s, under which land was publicly owned and the economy was based on the exploitation of natural resources and biodiversity.

6 See Guideline 3.10 of the FAO. "States should support, including through regional cooperation, the implementation of national strategies for development, in particular for the reduction of poverty and hunger as well as for the progressive realization of the right to adequate food." *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (Right to Food Guidelines).* Rome: FAO, November 2004. Available at: *www.fao.org/3/a-y7937e.pdf.*

7 For more information on the CFS, please visit: *www.fao.org/cfs/cfs-home/en/.* See also: De Schutter, Olivier. "Governing World Food Security: A New Role for the Committee on World Food Security." *Right to Food and Nutrition Watch* (2009): 13–15. Available at: *www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2009/WATCH_2009_English.pdf#page=13.*

8 The GSF is a set of guidelines for states, intergovernmental actors, the private sector, and for the CFS itself, on how to promote political coherence, based on human rights, towards the full realization of the right to adequate food. This framework is not legally binding. Instead, as a compromise by the member states, it calls on actors to adopt its principles, options and political foundations as relevant to their local specificities. For more information, please visit: *www.fao.org/cfs/cfs-home/global-strategic-framework/en/.*

9 For more information on the CONSAN-CPLP, please visit: *www.cplp.org.*
For more information on the Mechanism for the Facilitation of Civil Society Participation, please visit: *www.msc-consan.org/.*

10 Communication of the former United Nations Special Rapporteur for the Right to Food sent to the IX Conference of Heads of State and Government of the CPLP, July 20, 2012. Available in Portuguese at: *www.actuar-acd.org/uploads/5/6/8/7/5687387/declar__cimeira_cplp__portugues.pdf.*

11 For more information, please visit: *www.redsan-cplp.org/.*

12 For more information, please visit: *www.pccplp.org/.*

13 The other two pillars are governance and social protection.

14 Sarmento, Francisco. Presentation to the First Forum on Family Farming and Food Security in the CPLP, São Tomé and Príncipe, March 16, 2015.

15 According to 2008 data, men are the estate owner in 68.8% of cases, but women now have access to land due to agrarian reform. For more information please see: Muniz, José Norberto. *Diagnóstico Socioeconômico do Meio Rural em São Tomé e Príncipe.* Viçosa: Universidade Federal de Viçosa, 2008.

16 The best known is the ProSAVANA program in Mozambique. For more information, please visit: *www.prosavana.gov.mz/index.php?num_lang=2.* However, there are other initiatives in the country, particularly in the Lúrio valley region. In other countries, such as Guinea-Bissau and Angola for example, this trend is also a reality, although it is not as well-known at the international level.

17 *Supra* note 4.

Family farmers, organized in cooperatives, knew how to reconvert the production of cocoa and coffee, integrated in agroforestry systems, redirecting it to the international organic food market, which has significantly raised their income.[18] It should be noted that despite the uncertain institutional characteristics of the country, the last ministers of agriculture and rural development were family farmers and always maintained a relationship of dialogue with civil society.

On the positive side of the ledger, São Tomé and Príncipe has unique capabilities related to the use of its rich biodiversity.[19] This is a source of healthy food and important raw materials for various industries and natural medicine.[20] It is also a sustainable tourist destination, but at the same time there are private investment projects in the country that threaten or may become a threat to this trend. One example is the company Agripalma's investment in palm oil production, with a projected plantation of around 4,500 hectares.[21] A less obvious threat lies in the ecotourism projects developed for high-income segments, mainly on the Island of Príncipe. Concessions already cover approximately one-third of the island, which was designated as a biosphere reserve by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in 2013.

Civil society, specifically through the Civil Society Network for Food and Nutrition Security of São Tomé and Príncipe (RESCSAN-STP), will focus on certain goals in its role on the National Council for Food and Nutrition Security, which is in the process of being formed in the country. This focus will be on the fight against the 'privatization of biodiversity' and is in favor of the development of legal instruments that allow the sharing of benefits with traditional communities. This is in line with the Nagoya Protocol for access to genetic resources and the fair and equitable sharing of benefits arising from their use.[22]

Thus, the new governance of food security and nutrition in São Tomé and Príncipe and in the CPLP brings issues related to access to natural resources and support for family farmers to the fore in the development of sustainable production models to fight malnutrition. This is encouraging news for the sub-region, and Africa in general.

18 According to the heads of the cooperatives, family farmers are earning between €200 and €500 per month when farming areas between two and five hectares. Data presented at the first Forum of Family Farming and Food Security in the CPLP, São Tomé and Príncipe, March 16, 2015.

19 The country possesses a unique biological richness and includes various types of ecosystems and endemic species, particularly birds, amphibians and plants. The rainforest of São Tomé and Príncipe is ranked number two among 75 African forests in terms of bird conservation. The flora in the country is also remarkable, with more than a hundred endemic species.

20 For a thorough presentation of plants with medicinal value in the country, see: Madureira, Maria do Céu. "Etnofarmacologia, a Medicina Tradicional Redescoberta." *Esporo – Revista de Informação Sobre Desenvolvimento Agrícola e Rural nos Países ACP* 86 (2008). Available at: *spore.cta.int/pt/component/content/article/10-spore/dossier/10/5271-alias-4-605.*

21 For more information on the impact of Agripalma (part of the SOCFIN Group) in São Tomé and Príncipe, please see: World Rainforest Movement (WRM). "São Tomé and Príncipe: Popular Resistance Succeeds in Curbing the Expansion of Industrial Oil Palm Plantations." *Monthly Bulletin* 193 (2013): 17–18. Available at: *wrm.org.uy/wp-content/uploads/2013/09/Bulletin193.pdf#page=17.*
SOCFIN Group was contacted with a request for a reaction on the information included in this article on July 15, 2015. In their reply of July 22, 2015, they claim that Agripalma was created by the Government of São Tomé and Príncipe to ensure economic development, to achieve self-sufficiency in vegetable oil and to serve as a buffer against "uncontrolled invasion to the national park", and that its activities can contribute to food security. It was also mentioned that Agripalma is operating on 2,000 ha and that "rehabilitation and planting was on non-occupied land", for which "there was no contestation by farmers".

22 Convention on Biological Diversity. *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization.* Montreal: Secretariat of the Convention on Biological Diversity, 2011. Available at: *www.cbd.int/abs/text/default.shtml.*

09

PEASANT AGRICULTURE AND NUTRITIONAL SECURITY IN CHINA

Jan Douwe van der Ploeg [1]

China's agriculture is the largest such system in the world. It ranks number one in terms of farm output and embraces a little more than 200 million smallholdings. Using just 10% of the world's cultivated land, these smallholders produce 20% of the world's total food supply. Consequently China is largely self-sufficient in meeting the nutritional needs of its huge population.[2] Yet in the past food and nutritional security has been far from self-evident. In the early 1990s Lester Brown wrote an important essay entitled "Who Will Feed China?". Now we know the answer: China is proudly feeding itself.

While China does not have a specific policy or law to protect and implement the right to adequate food and nutrition (RtAFN or right to food) directly, the Constitution of the People's Republic of China stipulates that the State shall improve the physical and cultural life of its people.[3] Since food is an important part of 'physical life' this implies a right to food. Furthermore, Chapter 5 of the Agriculture Law[4] requires the State to take measures to improve the nutritional structure of its people. The Government has also continually prioritized agriculture, nutritional security and self-sufficiency for food at national level as demonstrated by policy documents including the annual 'Number One Documents', in which the Government outlines its primary policy concerns and decisions.[5]

Outsiders, especially those coming from Western Europe and North America, are often intrigued by the small-scale character of China's agriculture. The average farm has only five *mu* (one third of a hectare) of agricultural land. From the hegemonic Western point of view (deeply rooted in today's agricultural sciences and international think-tanks) this is too small to earn an income. Since without income there can be no savings, and without savings there can be no investment and development, China's agriculture should be stagnant. However, over the last four decades total food production grew more than in any other country in the world.

This impressive performance is due to the peasant nature of China's agriculture. While the term 'smallholding' refers to the size of the farm unit, the notion of peasant agriculture refers to the way in which agricultural production is organized and developed. Peasant agriculture is driven by the quantity and quality of labour. Labour investments improving the quality of resources such as the building of irrigation systems and terraces also play a central role. Peasant agriculture is intensive and efficient. It produces as much as possible with the available resources without, providing conditions allow, damaging the quality of these resources. It minimizes the use of external inputs to be as autonomous as possible, and shows low levels of losses and polluting emissions. Peasant agriculture is also fairly resilient to market

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2 The one major exception is soy imports from Brazil for feeding the expanding pig-breeding industry.

3 For example, in articles 14, 19, and 21 of the Constitution. Available at: *www.npc.gov.cn/englishnpc/Constitution/2007-11/14/content_1372953.htm.*

4 Available in English at: *www.gov.cn/english/laws/2005-10/09/content_75375.htm.*

5 For more information on agriculture and the annual 'Number One Documents', please visit the website of the Ministry of Agriculture of China. Available in English at: *english.agri.gov.cn/hottopics/cpc/.*

fluctuations. Of course, while the potential of peasant farming can easily be blocked and hindered, China's experience demonstrates how it can be a powerful and progressive driving force.

In China, the 200 million peasant farms (representing at least 800 million people) easily satisfy the nutritional needs of their families and the migrant workers through, *inter alia*, granaries (in every household), barter systems and multiple cropping. They also produce enough to sell at the widespread and decentralized network of interconnected food markets that enables people living in the large cities and metropolis to access food. The *Xin Fa Di* market in Beijing is one example: here thousands of suppliers provide Beijing with the 16,000 tons of fruit and vegetables required daily by the city's population.[6]

To understand peasant agriculture in China one has to take into account three strategic features. Firstly, the circular nature of the labour migration processes. People leave and return to their places of origin. Young people frequently leave their villages to work in urban construction sites and industries, often in terrible and exploitative conditions. Once a family's first child starts attending primary school the wife returns to the village.[7] The husband then sends remittances home, and only occasionally returns home temporarily to help prepare and harvest the land. When he eventually returns home permanently he invests his savings in farming and/or other rural economic activities.[8] Migration is thus not a one-way move from the countryside to the cities. Secondly, one must consider the decisive role of rural women. Although largely unrecognized, they are central, with help from their husbands and parents-in-law, to the success of peasant agriculture in China. Thirdly, the role of the *hukou* system must be examined. *Hukou* is known principally in the West as tying access to services, including health and education, to people's residential status. However, the *hukou* system also allocates usufruct rights to land for all rural people, which in turn helps ensure food and nutrition security for them, and China's larger population. Many social struggles in the countryside gravitate on this fundamental right.

Despite the success of peasant farming in China, there are increasing threats through the trend to industrialize and commercialize agriculture. The relations between China's peasantry and the State are ambiguous. On the one hand there is the *Sannong* policy—the 'Three Rural Issues'—that might be summarized as: (a) self-sufficiency of food at national level *(nong ye)*; (b) an adequate well-being for peasant families *(nong min)*; and (c) an attractive countryside where the quality of life is well developed *(nong cun)*. Together these three policy lines make sure that China can feed itself. However, on the other hand, there is a new policy to develop 'family farms' that will have at least 50 and preferably 100 *mu*. This is ten to twenty times the size of the average peasant farm. This new policy carries the real danger of creating a new 'elitist agriculture'. Other threats to peasant agriculture are discussed in the insight box below.

China's agriculture is therefore at a crossroads. No doubt that the choices to be made—at many different levels—will have profound consequences for both food security and food sovereignty.

6 In China there is a multitude of well-functioning markets that link urban areas and the countryside, and ensure that millions of smallholders can adequately feed the urban populations.

7 People from the countryside are allowed to have two children.

8 Labor migrants are returning home permanently at increasingly lower ages than in the past. Upon returning these relatively young 'returners' strongly develop peasant farming.

INSIGHT 9

Farming in China: From Food Security to Food Sovereignty

Yiching Song[9]

China has a long farming history and civilization, with the largest peasant population in the world.[10] Chinese peasants practice intensive agriculture, using methods that sustain a high level of food production without exhausting local resources. Their bio-culture innovation system is the key to this long-standing farming. It includes three main interlinked aspects or components: livelihoods, agro-biodiversity and cultural/social attachment to the land, which provide resources to support individual and collective innovations for adaptation to natural and ecological changes, as well as socio-economic challenges. Over thousands of years, through innovation, adaptation and evaluation, Chinese farmers have accumulated rich agricultural biodiversity and traditional knowledge, as well as evolving resilient bio-culture farming systems to support and help ensure a plentiful and diversified food culture.

However, many serious problems regarding the local food system have been brought about by agricultural modernization, globalization and the rapid development of industrialization in recent decades in China. Ancient peasant agricultural practices and the bio-culture innovation system are threatened and being eroded,[11] and local farming species and landraces are disappearing at an alarming rate. Local and ethnic cultures, and traditional knowledge on food production and consumption, are disappearing. At the same time, peasant households and communities are losing their autonomous culture and independence. They have to increasingly rely on external markets for their food production and consumption. This has given rise to a series of social issues, including extreme poverty of, and risks to, small-scale farmers (mainly ethnic minority groups) in remote mountainous areas, food security, nutritional and food safety issues, gender inequality, increasing environmental degradation, and natural disasters. The migration of young people and middle-aged men to cities in search of livelihoods has been a phenomenon in the past 30 years, leaving middle-aged women, the elderly and children behind in rural areas. Consequently, women have to play not only the traditional role of taking care of their children and parents, but they must also take responsibility for most of the farming activities. Women and the elderly have thus become the remaining community members in rural areas, playing key roles in food and nutritional security, as outlined in the article above.

The Chinese public is increasingly aware of these serious social problems and there are signs of a process of change, as evident in the public discourse where the rhetoric has shifted from 'food security' to 'nutritional security', and even to 'food sovereignty' and 'seed sovereignty'. There are public discussions and campaigns on genetically modified food and the demand for safe and nutritional food is increasing. Young people, who have returned to their homelands, have started ecological and organic practices and/or farms. Networks concerned with food sovereignty and seed sovereignty have emerged, emphasizing the urgent need to protect local biological resources, traditional knowledge and cultural practices, as well as consumers' and farmers' rights and interests.

Government policies, under the current national 'ecological civilization' construction,[12] have given more support to ecological farming technologies, such as practices supporting circular farming and Integrated Pest Management (IPM)

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10 The average family farm in China is less than 0.5 hectares and farming activities are mostly reliant on family labor. In most cases, family farms are examples of subsistence agriculture, where farms are self-sufficient.

11 Comprehensive research undertaken in southwestern China in 2013 by the SIFOR China Team revealed these trends. For further information see Song, Yiching, Yanyan Zhang and Xin Song. *Emerging Biocultural Innovations for Climate Resilience in Southwest China*. London: IIED, 2015. Available at: *pubs.iied.org/pdfs/G03916.pdf.* Please refer to the International Institute for Environment and Development's website for more information. Available at: *www.iied.org/chinas-farmers-innovate-adapt-climate-change.*

12 The concept of 'ecological civilization' was officially launched at the 18th Communist Party of China (CPC) National Congress in 2012 by the Chinese government as a response to the environmental challenges in the country.

programs. However, increased recognition of peasants' crucial agricultural role, as a root cause of, and base for, sustainable development, is urgently needed for ecological civilization construction. Furthermore, more support for the bio-culture innovation system is required to ensure food and nutrition security in China.

10

MONGOLIA'S TRANSITION FROM A PASTORAL TO A MARKET-DRIVEN ECONOMY: A THREAT TO THE RIGHT TO FOOD

Munkhbolor Gungaa[1]

"Who is rich, if not Mongolia, with its language, border and livestock?"
Zunduin Dorj

The phrase of the poet Zunduin Dorj, born to a nomadic Mongolian pastoralist family, expresses strongly, yet succinctly, how livestock is a crucial element for the country's sovereignty and security. Mongolia lies between Russia and China and has a population of three million, almost half of which depend on pastoral livestock, making it central to the country's economy. Over 80% of land is grassland, providing home to fifty million heads of livestock, including horses, sheep, goats, cattle, yaks, camels, and reindeer.[2] Pastoralism in Mongolia is a way of life, adapted to the prevailing harsh climatic conditions, which range from extremely cold winters down to -50°C and hot summers up to 35°C, and the meagre ecological conditions. Nevertheless, Mongolian pastoralism is currently under threat due to the impact of climate change, the expansion of mining, and a lack of adequate public policies.

THE LEGAL FRAMEWORK FOR THE RIGHT TO FOOD

Although Mongolian constitutional law does not explicitly recognize the human right to adequate food and nutrition (right to food or RtAFN), the Constitution stipulates that "the citizens of Mongolia shall be guaranteed the privilege to enjoy the right to a healthy and a safe environment, and to be protected against environmental pollution and ecological imbalance."[3] This is consistent with the right to food principles. National legislation does, to a certain extent, strengthen this right.[4] Moreover, the State of Mongolia has ratified several international conventions that are directly and indirectly linked to the right to food, including the International Covenant on Economic, Social and Cultural Rights (ICESCR). However, as clarified below, despite the State's obligations under domestic and international law, there is no concrete application or development of public policies that makes the right to food a reality or, specifically, to protect and promote the rights of pastoralists in Mongolia.

THE HARSH REALITY OF FOOD AND NUTRITION INSECURITY IN MONGOLIA

Mongols' traditional diet is based on meat, flour and milk. Vegetables and fish do not play a significant role. Although consumption of animal products in Mongolia is among the highest in the world, cereals, like flour, are still the main source of energy, providing on average 55% of the daily intake.[5] Meat and meat products constitute a further 20% of daily intake, while milk and other dairy products amount to 11%. Within the latter category, fermented mare's milk, *airag*, is very important in the Mongolian diet. It contains five times more vitamin C than cow's milk and also

1 Munkhbolor Gungaa is the Focal Point of the World Alliance of Mobile Indigenous Peoples (WAMIP) in Central Asia. WAMIP is a global alliance of nomadic peoples and communities practicing various forms of mobility as a livelihood strategy, while conserving biological diversity and using natural resources in a sustainable way. It is a member of *the Right to Food and Nutrition Watch* Consortium. For more information, please visit: *wamipglobal.org.*
Special thanks to Monika Agarwal (WAMIP), Claudio Schuftan (People's Health Movement) and Bernhard Walter (Bread for the World) for their support in drafting and reviewing this article. This article was originally written in English.

2 Suttie, James M. "Grazing Management in Mongolia." In *Grasslands of the World*, edited by James M. Suttie, Stephen G. Reynolds, and Caterina Batello, 265–303. Rome: FAO, 2005. Available at: *www.fao.org/docrep/008/y8344e/y8344e0e.htm.*

3 *Constitution of Mongolia*, 1992, article 16, paragraph 2. Available at: *www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@ilo_aids/documents/legaldocument/wcms_117392.pdf.*

4 *Food Law of Mongolia*, 1999. Available at: *www.wipo.int/wipolex/en/text.jsp?file_id=179617*. See also, land ownership legislation from the beginning of the 2000s, such as the Law of Mongolia on Land, 2002. Available at: *faolex.fao.org/cgi-bin/faolex.exe?rec_id=046825&database=FAOLEX&search_type=link&table=result&lang=eng&format_name=@ERALL.*

provides vitamins A, B1, B2, B12, and D.[6] *Airag* is said to have many health benefits and is used to treat tuberculosis and other lung ailments.[7] A traditional food made of barley, milk, butter, tea and sugar, *arvain guril*, is also a popular staple.

Livestock is vital for the Mongolian diet. However, the cultural and traditional food system of pastoralists is disintegrating. This has a great impact on food and nutrition security in the country. According to official statistics, one quarter of the population in Ulaanbaatar, the capital and largest city in Mongolia, one third of that in the *aimag* (provinces) centres and almost half of that in the *soum* (districts) centres has been classified as poor.[8] About 60% of households live with inadequate daily food and nutrition requirements.[9] In addition, at least 25% of children under five suffer from growth problems, 32.1% suffer from malnutrition and 43.2% lack vitamin D.[10] Furthermore, 37.1% of pregnant women and 30.5% of breastfeeding mothers lack vitamin D.[11]

PASTORALISM: A WAY OF LIFE UNDER THREAT

Pastoralism is under threat due to the impacts of climate change, which result in severe droughts, storms and even harsher winters, locally called *zuds*. The 2010 *zud* was the worst ever and resulted in the death of 20% of the national herd.[12] Under these unpredictable severe climatic conditions, it is estimated that, according to international standards, the daily calorie intake in Mongolia should be 2,700 kilocalories. As explained above, the Mongolian diet is directly connected to pastoralism, as it is largely based on meat and dairy products.

The situation of pastoralists is also being exacerbated by new land use policies and the recent spurt in mining and mineral industries. These adversely affect the life-sustaining pastures and water springs, while the accompanying pollution poisons grasslands and livestock and affects human health.[13] Moreover, seasonal pastoral camps are being lost to open-pit mines, road building, waste dumping and water extraction.[14] There are also fears that the government may declassify currently designated Protected Areas so that mining can commence in pastoral areas. As a result, pastoralists are forced to migrate from rural to urban areas. However, young pastoralists frequently do not find suitable jobs in urban areas. This migration thus contributes to undermining the centuries-old pastoral culture, as well as to increasing the rate of food insecurity in the country. It is clear that the Mongolian pastoralists' right to food is directly related to whether or not they are able to continue practicing pastoralism.

As well as dwindling traditional food production systems, domestic markets do not favour Mongolians. Pastoralists and peasants are not able to deliver their produced food to markets directly due to the lack of a direct supply system; middlepersons manage the food distribution system. Furthermore, the production of basic food, such as meat, milk, wheat and poultry, receives little State support. The government prioritizes the importation of cheap products, instead of developing a favourable environment of national loans and tax policies to benefit family farming and smallholders. In this context, poverty is a severe problem in rural areas, especially due to the lack of public policies on capacity building for nomadic communities to empower themselves, influence policy and develop local food production.

5 Adapted from: Flintan, Fiona. *Women's Empowerment in Pastoral Societies.* Addis Ababa: WISP, Global Environmental Facility, United Nations Development Programme (UNDP), and International Union for Conservation of Nature (IUCN), 2008. Available at: *cmsdata.iucn.org/downloads/gender_format.pdf*. See also FAO, United Nations Children's Fund (UNICEF) and United Nations Development Program (UNDP). *Joint Food Security Assessment Mission to Mongolia*. Rome: FAO, 2007. Available at: *ftp.fao.org/docrep/fao/010/j9883e/j9883e00.pdf.*

6 Olsen, Sandra. *Nomadic Pastoralists, their Livestock, and their Landscape.* Available at: *www.ucis.pitt.edu/mongolia/pdfs/01.5_olsen.pdf.*

7 *Ibid.*

8 *Supra* note 5, FAO, UNICEF and UNDP.

9 Right to Food Thematic Working Group of the Human Rights NGO Forum. *Mongolia—Stakeholders Submission on Right to Food to the Office of the High Commissioner for Human Rights for Universal Periodic Review*, 2010. Available at: *lib.ohchr.org/HRBodies/UPR/Documents/session9/MN/HC_Hunscoalition.pdf.*

10 *Ibid.*

11 *Ibid.*

12 Vernooy, Ronnie. "How Mongolian Herders Are Transforming Nomadic Pastoralism." *The Solutions Journal* 2:5 (2011): 82–87.

13 "Inner Mongolia suffers from the 'resource curse', experts say. The easy money generated by mineral wealth produces a narrow elite with little interest in the welfare of common citizens and often lower levels of spending on education and healthcare." Denyer, Simon. "Inner Mongolian Herders Feel Force of China's Hunger for Minerals." *The Guardian*, April 10, 2015. Available at: *www.theguardian.com/world/2015/apr/10/inner-mongolia-pollution-grasslands-herders.*

14 Dugersuren, Sukhgerel. "'When I Was Herding I Had a Plentiful Life. Now I Am Working for Another and Have Lost My Independence'." *The Guardian*, March 9, 2015. Available at: *www.theguardian.com/global-development-professionals-network/2015/mar/09/mongolian-nomads-displacement-mining-impact-development-projects.*

EMERGING RESPONSES FROM MONGOLIAN CIVIL SOCIETY

There are various factors hindering a strong response to the situation in Mongolia. Policy makers, civil society and local communities do not yet have a critical unified approach. These actors generally lack human rights knowledge and do not realize the contribution of indigenous or nomadic food systems to food security in the country. On the other hand, mineral resources are often seen as a tremendous economic opportunity, while its negative impacts on the environment and culture are only slowly being understood and acknowledged.

However, some positive signs are emerging. There are sporadic protests by herders, and an increasing number of people are also raising their concerns in favour of pastoralists. Furthermore, a number of civil society organizations and social movements are supporting and fighting for land and water rights in Mongolia.[15] The Mongolian Alliance of Nomadic Indigenous Peoples (MANIP) was recently constituted by nomadic pastoralist communities themselves. It aims to build a strong pastoralist network at the national level, build the capacity of pastoralists and bring their voices to regional and international dialogues and consultations, as well as to influence government policy.[16] Its Board includes gender-sensitive focal members from each region, as well as youth representatives. Under the Pastoralist Knowledge Hub,[17] an initiative supported by the FAO, MANIP will host the first Central Asian Meeting of Pastoralists in July 2015 to discuss food and nutrition security, as well as issues related to land tenure and ways to sustain traditional knowledge.

CONCLUSION

Mongolia is a striking example of a country where centuries-old traditional livelihoods are at odds with 'industrial' market-based State development policies. There is tremendous pressure on historic pastoral land rights and pastoralists' way of life, and hence on the survival of the pastoral culture in Mongolia. Its continued existence will depend on the policy environment and on people's capacity to influence change. For this reason, partnership and understanding between the government, pastoralists and all other supporting organizations will be essential to build a strong mechanism for strengthening food and nutrition security and ensuring the realization of the right to adequate food and nutrition for all in Mongolia.

15 Examples are the United Movement of Mongolian Rivers and Lakes (UMMRL), Baigal Ekhiin Avral San, the Mongolian Association of Environmental Protection, the Mongolian Council of Environment, My Mongolia Land, Onon Ulz River Residentials, and the Southern Mongolian Human Rights Information Centre.

16 MANIP is a member of the Central Asia group of WAMIP. For more information, please visit: *www.centralasiapastoralists.weebly.com.*

17 The Hub aims to facilitate the creation of national and regional pastoralist mechanisms for policy advocacy, knowledge sharing and dialogue. For more information, please see the Pastoralist Knowledge Hub's website. Available at: *www.fao.org/pastoralist-knowledge-hub/en.*

11

THE RIGHT TO FOOD IN THE US: THE NEED TO MOVE AWAY FROM CHARITY AND ADVANCE TOWARDS A HUMAN RIGHTS APPROACH

Jessica Powers [1]

One in six households in the United States (US) report that they struggle financially to put food on the table.[2] Advocates have largely framed this far-reaching problem as one of hunger, rather than poverty.[3] Consequently, approaches to ameliorate it have generally focused on capturing food waste, distributing food through charitable organizations, and defending existing (and inadequate) government programs that provide 95% of the available nutrition assistance through a patchwork of entitlements in uncoordinated pieces of legislation.[4]

But the human right to adequate food and nutrition, as recognized in the International Covenant on Economic, Social and Cultural Rights (ICESCR),[5] does not only stipulate that governments must provide food when needed. Governments must also ensure that food is available, accessible, and adequate for all. They must support opportunities and processes at the individual and community level to self-determine food and nutrition security with dignity and with an emphasis on prioritizing the most marginalized populations, rather than allowing corporations to control these decisions. In the US, women (particularly single mothers), children, adolescents, workers living in poverty, older people, people of color, migrants, LGBTQIA individuals[6] and persons with disabilities are disproportionately impacted by food insecurity and poverty.

The US has famously declined to ratify the ICESCR, and continues to give primacy to civil and political rights over economic, social, and cultural rights (ESCR), even though social movements have long called for the fulfillment of the full spectrum of human rights. Framing the hunger problems in terms of the right to food could potentially serve as a catalyst for systemic change that addresses poverty as a root cause of food insecurity. It would also help hold the US government accountable when it fails to respect, protect and fulfill the right to food for all. The US food justice movement has a critical role to play in this regard: in addition to supporting community-led initiatives aimed at ensuring self-sufficiency and self-determination, it must also call for a 'joined up' food policy, that is, a national, comprehensive, and integrated food policy that respects the interdependence of human rights and addresses the too often disconnected but interrelated policies of social welfare, public health, agriculture, trade, and the environment.[7]

National food policy should not depend on voluntarism and charity, yet food banks occupy a mythic role in the popular imagination, with millions of citizens participating as volunteers at food pantries, collecting canned goods, and raising funds

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Special thanks to Smita Narula (Roosevelt House Public Policy Institute, Hunter College) and Anne C. Bellows (University of Syracuse) for their support in reviewing this article. This article was originally written in English.

2 Food Research and Action Center. *How Hungry is America?* Washington: FRAC, 2015. Available at: frac.org/pdf/food_hardship_2014.pdf.

3 Fisher, Andy. *Hunger, Inc.* Forthcoming.

4 Bread for the World. *Fact Sheet Churches and Hunger.* Washington: Bread for the World, 2013. Available at: www.bread.org/ol/2013/engagement/downloads/churches-and-hunger-fact-sheet.pdf.

5 Anderson, Molly. "Working Toward the Right to Food in the USA." *Right to Food and Nutrition Watch* (2013): 89-90. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org.

6 This umbrella term refers to people who are lesbian, gay, bisexual, transsexual, queer, intersex, or asexual.

7 Riches, Graham and Tiina Silvasti. *First World Hunger.* New York: Palgrave Macmillan, 2014.

through religious institutions and civic groups. While food banks attempt to educate donors about making changes, the allure of charity is a 'national pastime.'[9] Anti-hunger advocates are forced to defend the eroding social safety net, and lament that there is not sufficient political will for comprehensive anti-poverty legislation. The cultural values of individualism and self-reliance have also favored a charitable response rather than a community-driven or rights-based approach. The public perception that hunger can be solved through charitable aid must not be allowed to absolve the US government from its obligation as a human rights *duty bearer* to create a comprehensive and coherent food and nutrition policy that respects, protects and fulfills the human right to adequate food and nutrition of all *rights holders*, especially those most socially marginalized.[10] Moreover, after nearly a half-century of food banking in the US, most food banks recognize that an ever-increasing demand for their services is simply not sustainable. Changes are needed and underway, and include intentional shifts in re-framing hunger to address systemic causes of poverty, and to fulfill the right to food as well as food sovereignty, and/or the right of producers and consumers to determine food production and policies. Two examples follow.

In rural Bellingham, Washington (Northwest US), the Community to Community (C2C) organization is attempting to create a new economic model entirely; specifically, a self-governing solidarity economy center led by farmworkers, including migrants and immigrants. Seeing cheap farm labor as propping up an extractive and exploitative neoliberal economic system that was first built on slave labor, members are committed to "redefining power in order to end settler colonialism, capitalism, and patriarchy in their external and internalized forms." Through organizing campaigns, farming cooperative development, political education, mentorship, and solidarity with international movements, C2C is attempting to create an alternative to a system that "officially, legally, and compassionately keeps people poor."[12]

In urban Detroit, Michigan (Northeast US), the Detroit Black Community Food Security Network (DBCFSN) works collectively to address the community's own needs through community self-determination and cooperative economies. In the face of the intentional disinvesting in and destabilizing of Black communities—through land loss, exclusion from small business loans, predatory lending and advertising, violence, etc.—there has also been a long history of African-American resilience and cooperative development. Coming out of the Black liberation movement, the founders see human rights as intrinsically part of the definition of food justice and the overall movement for social justice. Recognizing that the "logic of capitalism supersedes the rights of people," DBCFSN seeks to empower communities to thrive as an alternative to that system.[13]

The above organizations and many others are envisioning and building new solutions rooted in and for their communities. Cumulatively, these projects are part of a wider movement to address racial, social, and economic injustice, the effects of neoliberalism, the realities of climate change, and a broken food system. These community-driven alternatives to charitable food distribution must be complemented by a comprehensive national food program that respects, protects and fulfills the human right to adequate food and nutrition. Within this, the US government must fulfill its obligations to the food insecure and hungry without depending on charity, and also respect and protect social justice of diverse communities in exerting sovereignty and/or self-determination over their own local food systems. This emerging movement for self-determination in community-based food systems must bring together these frontline alternative approaches with a comprehensive and integrated food and agriculture policy that ensures the right to nutritious food obtained through dignified means.

8 Food banks in the US are formed by charitable or non-profit organizations to acquire and redistribute food to low income groups vulnerable to food insecurity and hunger. See: Powers, Jessica. *A History of Emergency Food in the US.* Prezi, 2015. Available at: *prezi.com/v-76nrp83de2/?utm_campaign=share&utm_medium=cop.*

9 Poppendieck, Janet. *Sweet Charity?: Emergency Food and the End of Entitlement.* New York: Penguin Group, 1998.

10 International Human Rights Clinic. *Nourishing Change: Fulfilling the Right to Food in the United States.* New York: NYU School of Law, 2013. Available at: *chrgj.org/wp-content/uploads/2013/05/130527_Nourishing-Change.pdf.*

11 Other examples can be found at: Powers, Jessica, and Theresa Snow. *Beyond Bread: Healthy Food Sourcing in Emergency Food Programs.* New York: WhyHunger, 2014. Available at: *www.whyhunger.org/getInfo/showArticle?articleId=3674.*

12 Guillen, Rosalinda (C2C). Personal communication, March 24, 2015.

13 Yakini, Malik (DBCFSN). Personal communication, March 24, 2015.

12

NUTRITION POLICIES TAKEN HOSTAGE BY MULTINATIONALS AND CONFLICTS OF INTEREST: THE OBESITY AND DIABETES EPIDEMIC IN MEXICO

Marcos Arana Cedeño and Xaviera Cabada [1]

The obesity and diabetes epidemic in Mexico has reached catastrophic dimensions. One third of children and teenagers are overweight or obese. The same problem affects seven in ten adults, 14% of who have been diagnosed with diabetes and 40% with metabolic syndrome. Over the last six years, half a million Mexicans have died of diabetes. Mortality rates linked to this disease tripled between 1980 and 2005, and 90,000 people annually have one of their limbs amputated. 15% of the national health budget covers problems created by inadequate diets, and, if the current trend does not change, this figure will surpass 35% in ten years.[2] This situation has been exacerbated over the last 20 years by the entry into force of the North American Free Trade Agreement (NAFTA).[3] This allows huge imports of ultra-processed foods with a high content of sugar, fat and salt, and low in fiber. During the same period the Mexican Government has encouraged the creation of, and investment in, large food corporations, thus, multiplying their influence and sales.[4]

The traditional food culture has been eroded to such an extent that nowadays most of the calorie intake of preschool children comes from processed foods, and 12% from bottled beverages.[5] Children are exposed to intensive advertising of unhealthy products, mainly pastries, soft drinks and sweets.[6] On average each Mexican consumes 163 liters of soft drinks annually; a figure higher than any other country.[7] Breastfeeding, one of the most effective ways of preventing obesity, has dramatically decreased: 85% of babies less than six months old are fed formula with a high level of added sugar; sugar levels are particulary high in formulas used after the first six months of life.[8] The promotion of breast milk substitutes is practically unlimited as producing companies have been allowed to finance and participate, together with different institutions, in educational activities aimed at mothers and health care professionals.[9]

Despite the fact that the Government has expressed concerns regarding this situation, it has not taken the necessary measures to fulfill its responsibility to protect the population through effectively regulating the marketing of high caloric industrialized products flooding the country. Instead, the Government has established alliances with multinational food corporations within the framework of the National Crusade against Hunger (*Cruzada Nacional contra el Hambre*, CNH). This is the Government's largest social program and is aimed at the most vulnerable groups. Its goal is to promote better nutrition and reduce undernutrition, which still affects 18% of children. The Swiss multinational corporation Nestlé cooperates with the Government in a project called My Sweet Business (*Mi Dulce Negocio*), under which 15,000 women are trained to prepare and sell desserts door-to-door as a means of self-employment, and providing nutritional education to the population.[10] This is clearly an action contrary to the fight against obesity and diabetes.

1 Marcos Arana Cedeño is a member of the International Baby Food Action Network (IBFAN) and World Alliance for Breastfeeding Action (WABA), Director of the Training and Education Centre of Ecology and Health for Peasants (CCESC) in Chiapas, Mexico, and researcher at the Mexico National Institute of Nutrition Salvador Zubirán (INNSZ), OBSCIUDES, Project Alimente, Alianza por la Salud Alimentaria and Espacio DESC. Xaviera Cabada is a member of IBFAN Mexico, El Poder del Consumidor AC and Alianza por la Salud Alimentaria, Director of the Psychology College of Ciudad de Juarez (ESPCJ), and an academic and researcher at Universidad Mexicana del Norte (UMN).
Special thanks to Dinorah López (FIAN Mexico) and Manigueuigdinapi Jorge Stanley Icaza (IITC) for their support in reviewing this article. This article was originally written in Spanish.

2 Jose A. Córdova-Villalobos *et al.*, "Las Enfermedades Crónicas no Transmisibles en México: Sinopsis epidemiológica y prevención integral." *Salud Pública de México* 50 (2008): 419–427.

3 Cedeño Arana, Marcos. "Inequality and Dependence in Post-NAFTA Rural Mexico." *Right to Food and Nutrition Watch* (2012): 71–73. Available at: *www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2012/R_t_F_a_N_Watch_2012_eng_web_rz.pdf#page=71.*

4 Ping Zhang *et al.*, "Global Healthcare and Expenditure on Diabetes for 2010 and 2030." *Journal on Diabetes Research and Clinical Practice* 87 (2007): 293–301. See also: Juan Pablo Gutiérrez *et al., Encuesta Nacional de Salud y Nutrición 2012.* Cuernavaca, Mexico: Instituto Nacional de Salud Pública, 2012.

The CNH also includes the annual transfer of US $322 million of public funds through 717,000 Without Hunger (*Sin Hambre*) cards to those living in poverty to enable them to acquire 15 products. Multinational food corporations produce half of these products, including soluble coffee, chocolate powder, oat cereals, canned chili peppers and milk powder.[11] With these transfers, the program helps replace local foods with processed foods, creating huge profits for the companies. So far this initiative has had little effect on reducing malnutrition.

Large corporations, through the creation of public-private alliances and intense lobbying efforts in the Mexican Congress, have repeatedly boycotted any attempts to regulate the marketing of processed foods, especially those targeting children. It was thus very important that, despite the companies' efforts to avoid it, the initiative pushed by the Food Health Alliance[12] (*Alianza por la Salud Alimentaria*) to tax consumption of sugared drinks was approved at the end of 2013. It was also proposed that the revenue raised with this tax be used to provide drinking water at public schools, and to prevent and treat chronic diseases. However, the Government's response to this has been slow and insufficient. A law banning the sale of soft drinks in schools was adopted on May 16, 2014. While soft drinks companies tried to appeal against Congress's decision, their appeal was eventually overturned.[13]

Nevertheless, corporations have been successful in influencing the process. This influence has resulted in the misleading and confusing labeling of foods and non-alcoholic beverages. Moreover, the industry has actively prevented the commitments in the National Strategy for the Prevention and Control of Overweight, Obesity and Diabetes from being fulfilled.[14] This has been facilitated by the lack of oversight or sanction mechanisms that would ensure compulsory compliance.

One in three children born in Mexico after 2010 will develop diabetes if the necessary preventive measures are not implemented.[15] The Government of Mexico must limit the influence that it has unduly granted to large food corporations, as this is incompatible with its responsibility to protect citizens and ensure their rights.

INSIGHT 12

Encouraging the Consumption of Traditional and National Foods and Beverages with the Campaign "Healthier Eating as Mexicans Eat"

The consumption of bottled sugared beverages is especially high in indigenous regions where soft drink companies encourage the consumption of their products by using monopolistic practices and reducing the price instead of applying the consumption tax approved by Congress.[16] This measure, besides contributing to the increase in diabetes, promotes the consumption of soft drinks and undermines the consumption of traditional beverages that have an important cultural and nutritional value.

As a response to this situation, the project *Alimente*, the Training and Education Centre of Ecology and Health for Peasants (CCESC) and *El Poder del Consumidor* have launched the campaign "Healthier Eating as Mexicans Eat" (*Más Sanos Comiendo como Mexicanos*).[17] The campaign aims to recover the prestige of, and promote, the consumption of natural water and traditional Mexican food and beverages, particularly the *pozol*, which is a nutritious and refreshing drink produced with maize. The campaign's goal is to reduce the consumption of bottled soft drinks by 50% in five years.

5 Dinora González-Castell *et al.*, "Alimentos Industrializados en la Dieta de los Preescolares Mexicanos." *Salud Pública de México* 49 (2007): 345–356.

6 Instituto Nacional de Salud Pública. *Publicidad de Alimentos y Bebidas*. Cuernavaca, México: Instituto Nacional de Salud Pública, 2013. Available at: *www.insp.mx/epppo/blog/2984-publicidad-alimentos-bebidas.html.*

7 For more information on the work of the Rudd Center for Food Policy and Obesity at the University of Connecticut, please visit: *www.uconnruddcenter.org.* See also: Tatiana Andreyeva *et al.*, "Exposure to Food Advertising on Television: Associations with Children's Fast Food and Soft Drink Consumption and Obesity." *Economics and Human Biology* 9 (2011): 221–233.

8 Calvillo, Alejandro, Xaviera Cabada and Kati García. *La Alimentación Industrializada del Lactante y Niño Pequeño, el Nuevo Mega Negocio.* Mexico City: El Poder del Consumidor, 2013.

9 Some of the provisions of the International Code of Marketing of Breast Milk Substitutes (1981) have been integrated in the national legislative framework. However, the Government has signed several agreements for the self-regulation of companies, and currently no sanctions exist.
For more information on the role of companies in nutritional education, see article "The 'Business of Malnutrition': The Perfect Public Relations Cover for Big Food" in this issue of the *Right to Food and Nutrition Watch*.

10 Official Agreement between Nestlé and the Government of Mexico. Mexico City: April 9, 2013. Available in Spanish at: *www.sedesol.gob.mx/work/models/SEDESOL/Resource/545/1/images/CONVENIO_NESTLE%20.pdf.*

11 This is based on information compiled by OBSCIUDES in February/March 2015.

12 This alliance is comprised of 27 civil society organizations. For more information, please visit: *www.alianzasalud.org.mx*.

13 Yale, Israel and Teresa Moreno. "Legal Prohibir en Escuelas la "Comida Chatarra": Juez." *24 Horas*, March 26, 2015. Available at: *www.24-horas.mx/legal-prohibir-en-escuelas-la-comida-chatarra-juez/.*

14 Ministry of Health. *National Strategy for the Prevention and Control of Overweight, Obesity and Diabetes*. Mexico City: Ministry of Health, September, 2013. Available in Spanish at: *promocion.salud.gob.mx/dgps/descargas1/estrategia/Estrategia_con_portada.pdf.*

15 World Bank. "Seis Millones de Razones para Hacer Adelgazar a los Mexicanos." *World Bank – News*, February 27, 2014. Available in Spanish at: *www.bancomundial.org/es/news/feature/2014/02/27/diabetes-mexico.*

16 For more information, please visit: Cedeño Arana, Marcos and Xaviera Cabada. "Bitter Reality Fuelled by Sugar: Higher Risks and Threats for Indigenous Peoples in Mexico." *Right to Food and Nutrition Watch* (2012): 46–48. Available at: *www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2012/R_t_F_a_N_Watch_2012_eng_web_rz.pdf#page=46.*

17 El Poder del Consumidor. *Necesaria una Revolución Alimenticia en Mexico.* Mexico City: El Poder del Consumidor, 2015. Available in Spanish at: *elpoderdelconsumidor.org/saludnutricional/necesaria-una-revolucion-alimenticia-en-mexico.*

13

QUIETNESS AND ADAPTABILITY: UKRAINIAN PEASANTS' RESPONSES TO LAND GRABBING AND AGRIBUSINESS EXPANSION[1]

Natalia Mamonova[2]

While peasants worldwide have united in social movements to fight land grabbing and protect their right to an adequate standard of living, including their right to food and right to land, the post-Soviet rural population, such as in Ukraine, has so far not expressed outright resistance to large-scale agricultural development, and the peasants' rights discourse has been absent.

This article examines Ukrainian peasants' responses to land grabs and agribusiness expansion. It discusses the post-Soviet context, forms of incorporation of the rural population in land deals, the lack of rural protests and mobilization, and the prospects for small-scale agriculture in the country.

LAND GRABBING AND THE ABSENCE OF PEASANT RESISTANCE

The World Bank recently included Ukraine in the list of resource-rich and finance-poor countries that have become targets for land grabbing. The country possesses more than 25% of the world's richest and most fertile soil, 'Black Earth', and was the Soviet Union's 'breadbasket'. After the collapse of the Soviet Union in 1991, Ukraine undertook a land reform to break down the collective farms and distribute their lands to rural dwellers to help develop private farming. However, since all the other important factors (such as capital, know-how, upstream and downstream markets, and the rule of law) disappeared with the breakdown of the collectives, rural dwellers could not effectively use their land. Instead, land became concentrated: first in the hands of rural elites and later accumulated by large domestic and foreign investors that were motivated by the upswing in world food markets and the global land rush of the early 2000s. To date 60% of Ukrainian farmland is controlled by large agribusinesses, whose size and scale are comparable with the largest *latifundia*[3] in Brazil and Argentina.[4] The sale of agricultural land is prohibited in Ukraine until January 2016.[5] Agribusinesses, therefore, rent land from the rural population (usually at unfavorable rates for the latter) or resort to illegal schemes to acquire land.

This expansion of land grabbing and agribusiness did not face outright resistance from the rural population. Instead, many rural Ukrainians rent out the distributed land to agribusinesses, while they cultivate tiny household plots (on average 0.4 hectares). Rural households only use 12% of Ukrainian farmland in total, but contribute

1 This article is largely based on the academic research conducted by the author in 2012–2014 in Central and Western Ukraine. For more information, see: Mamonova, Natalia. "Resistance or Adaptation? Ukrainian Peasants' Responses to Large-Scale Land Acquisitions". *Journal of Peasant Studies* 42:3–4 (2015): 607–634.

2 Natalia Mamonova is a PhD candidate in Development Studies at the International Institute of Social Studies (ISS) of Erasmus University Rotterdam.
Special thanks to Christina Plank (University of Vienna), Antonio Onorati (Centro Internazionale Crocevia), Priscilla Claeys (University of Louvain and French Institute of Pondicherry) and Stineke Oenema (ICCO Cooperation) for their support in reviewing this article. This article was originally written in English.

3 A *latifundium* is a large landed estate or ranch typically worked by peasants or people working under conditions of modern slavery.

4 Lapa, Volodymyr, Alexej Lissitsa and Andriy Tovstopyat. "Super-Large Farms in Ukraine and Land Market." Paper presented at annual IAMO Forum, Germany, June 25–27, 2008.

5 For more information on the land market in Ukraine, please see insight box below.

to 52.7% of the gross domestic agricultural output. They produce 98% of the total harvest of potatoes, 86% of vegetables, 85% of fruits, and 81% of milk.[6] The Ukrainian government largely overlooks the importance of population farming in its agricultural policy and instead supports agribusinesses. In 2012, 60% of all State subsidies to agriculture went to large businesses.[7] Meanwhile, the rural population is on the brink of poverty with 44% having incomes below the subsistence minimum and 7% experiencing malnutrition.[8]

The lack of open protest among the post-Soviet population is often explained by 70 years of socialism, during which expressions of disagreement with governmental actions were prosecuted, and serious protest led to being deported to work in the *Gulag* labor camp. The Ukrainian countryside is also currently experiencing an exodus of young and active residents who migrate to urban areas leaving behind the older population. Just over 24% of rural Ukrainians are over 60. Nevertheless, while these are important factors, our analysis suggests that the main reasons for this 'quietness' are: (1) the continuity of a dual agrarian structure, and the absence of conditions for commercial family farming; (2) the partial inclusion of rural households in land deals and large-scale agricultural development; and (3) the adaptability of peasant farming allowing it to persist in a hostile environment.

PEASANTS AND LARGE-SCALE AGRICULTURAL DEVELOPMENT

The bifurcated 'Soviet-like' agrarian structure remained in Ukraine despite the post-socialist land distribution: former collectives have been gradually transformed into large agribusinesses, while rural dwellers continue subsistence farming with their household plots, albeit with fewer opportunities for wage-work. Land grabbing was carried out without the physical displacement of the rural population.

When the large companies arrived in the Ukrainian countryside in the 2000s, rural socio-economic conditions were deplorable. The de-collectivization process of the 1990s caused: (1) a 40% rate of rural unemployment; (2) the disappearance of formal and informal support to households (previously, households were allowed to use collective facilities, such as pastures, machinery, and input; and pilfering from collective fields was socially accepted); and (3) a deterioration in rural infrastructure, which was formally part of the collectives' responsibilities.

The domestic and foreign agribusinesses revitalized large-scale agricultural production, converting Ukraine into one of the world's leading agro-food exporters. The new agricultural operators not only took over the land, but also several social functions of the former collectives. Some functions are performed in order to prevent sabotage to agribusinesses' fields. Other functions are required by Ukrainian land law, which does not allow companies to own agricultural land. Since agribusinesses have to rent the land from peasants, they partly incorporate the rural population into large-scale agricultural development. The rental agreements imply a small (in-kind) payment to the landowners with almost no termination or renegotiation options. However, these payments are an important additional income for many rural households.

The lack of small-scale farm development programs, widespread corruption, and power discrepancies discourage peasants from using the distributed land for commercial farming. Moreover, due to the socialist tradition of industrial farming, many rural Ukrainians regard themselves primarily as workers rather than landowners, and believe that the agricultural land should be cultivated collectively. These factors define the peasants' preference for wage-jobs at agribusinesses rather

6 State Statistics Committee of Ukraine. *Production of Major Agricultural Products*. 2015. Available at: www.ukrstat.gov.ua.

7 Lapa, Volodymyr. General Director of the Ukrainian Agribusiness Club. Interview with author, Kiev, July 22, 2012.

8 Vlasenko, Nataliya S. "Rural Poverty in Ukraine." *Problems of Economic Transition* 51:7 (2008): 21–28.

than establishing independent family farms. According to the FAO Farm Survey of 2005, 96% of Ukrainian villagers did not want to start individual farming; 20% of those surveyed had a job; and 26% desired an agricultural wage-job.[9] Rural workers also benefit from additional services provided by their employers (e.g. discounted farm input and output, assistance with ploughing, etc.). Rural families with at least one member employed at agribusinesses have the lowest poverty risk.

However, not everyone is integrated into large-scale agricultural development. Rural unemployment remains high. In 2004, 10% of the working-age rural population was unemployed.[10] A number of rural households also do not receive rent payments. These include those who did not receive land plots during the land distribution, i.e. rural teachers, medical staff, postal workers, and those who sold their land in the early 1990s. Furthermore, a small group of commercial family farmers have experienced severe difficulties from the large agribusiness expansion. Large agribusinesses control food markets, the value chain and farmland distribution, and also receive the majority of State subsidies. This leaves limited opportunities for family farmers to grow and succeed.

ADAPTATION AND PERSISTENCE OF PEASANT HOUSEHOLDS

The adaptability of rural households is the other factor explaining the lack of rural protests against land grabs and large-scale agricultural development. Peasants are able to adapt their agricultural production to ensure that it does not overlap with the interests of agribusiness. After the collapse of the Soviet Union, rural household production has more than doubled. Before peasants produced almost everything for their subsistence needs, including wheat and other crops. Nevertheless, with the agribusiness expansion, peasants had to change their production strategy. The agribusinesses are interested in export-oriented monocrop (primarily wheat, barley and maize) production and neglect labor and time-intensive and less profitable agriculture such as potatoes, vegetables, fruits, meat, and dairy. Peasants took over this market niche and intensified the production of related foods. Today rural households meet their families' needs with these products and sell the surplus on domestic markets. This market segmentation contributes to a fragile coexistence of large-scale agriculture with peasant farming.

However, if the interests of peasants and agribusinesses collide, the latter resort to predator politics to eliminate their competitors. The current State program supporting the industrialization of milk and meat production attracted agribusiness to this sector at the expense of rural households. Rural households are unable to meet the recently introduced sanitary requirements for keeping and slaughtering animals, and the annual epidemics of swine flu have led to a mass slaughtering of pigs. Peasants see these moves as a war against them.

Furthermore, the system of organized peasant food markets is underdeveloped in Ukraine. The majority of potatoes, fruits and vegetables produced by peasants are sold at improvised markets or on the roadside. Dairy and meat products require certification and can only be sold at official market places that are inaccessible and unaffordable to many peasants, or must be collected by intermediaries or processing plants. The collectors' procurement prices are very low, often below peasants' production costs. The absence of efficient protection mechanisms for small-scale farmers and a highly monopolized and criminalized collection business (especially for milk) means that peasants are unable to bargain for a higher price. In 2012, many peasants decided to take action and protested against the low milk procurement prices in front of local administration offices in several Ukrainian regions. Nevertheless, protesters

9 Zvi Lerman *et al.*, *Ukraine after 2000: A Fundamental Change in Land and Farm Policy?* Rome: FAO, 2006. Available at: *departments.agri.huji.ac.il/economics/lerman-fao-study.pdf.*

10 State Employment Service. *Economically Active Population*, 2014. Available in Ukrainian at: *www.dcz.gov.ua.*

did not manage to change the situation. In fact, several participants experienced threats, militia control checks, and even legal prosecution as a result of their protest. Subsequently, people believed there was a 'milk mafia' and State-agribusiness collusion.

Despite the predatory politics of large agribusiness and the State policy to 'modernize' agriculture in an agro-industrial way, peasant households persist and show a phenomenal ability to survive in hard times. While the economic crisis of 2007–2008, and the ongoing civil war that started in 2014, caused severe financial difficulties for many agribusinesses, peasants diversified their activities and became almost self-sufficient. The persistence of the peasant mode of production is defined by the use of family labor, self-controlled resources, informal networks for food distribution, and traditional forms of land cultivation, which do not require significant input or advanced machinery. Peasants produce their food manually and use primarily organic fertilizers. Moreover, social relations and mutual support play an important role in food sharing and distribution practices.

Academics and practitioners often discuss the sustainable small-scale food production in other countries as an alternative to the corporate food regime. These discourses are, however, absent in the post-Soviet countryside.[11] The Ukrainian rural population considers their farming not as an alternative, but rather as subsidiary to industrial farming. Rural civil society organizations that could generate ideas about peasant rights and sovereignty are scarce, and lack support from the rural population.[12]

There are ongoing academic and political debates about whether the post-Soviet bifurcated agrarian structure will remain stable or transform into a monopolistic agricultural model.[13] Until land sales are allowed, large agribusinesses will continue operating on peasant land. However, the liberalization of the land market is expected within the program of European Union (EU) integration. In this process, both Europe and the Ukrainian government should protect the small-scale producers and recognize their important contribution to the availability of a more diverse range of nutritious products on the market. This would protect both the rights of producers and consumers.

11 The discussion on efficiency and sustainability of the post-Soviet peasant farming can be found in Oane Visser *et al.*, "'Quiet Food Sovereignty' as Food Sovereignty without a Movement? Insights from Post-socialist Russia." *Globalizations* 12:4 (2015): 513–528.

12 Visser, Oane, and Natalia Mamonova. *Large-Scale Land Acquisitions in the Former Soviet Union. A Study of Rural Social Movements and Land Conflicts in Russia and Ukraine*. IS Land Academy, 2011.

13 Mamonova, Natalia. "Challenging the Dominant Assumptions About Peasants' Responses to Land Grabbing: A Study of Diverse Political Reactions from Below on the Example of Ukraine." Paper presented at the International Conference on Global Land Grabbing II, Cornell University, Ithaca, October 17–19, 2012.

INSIGHT 13

Liberalization of the Ukrainian Land Market: A Threat to the Right to Food

Christina Plank[14]

The introduction of the land market is once again at the top of the political agenda in Ukraine. To date, the moratorium—valid until January 2016—prohibits the sale and purchase of agricultural land. Yet the current government is already preparing the opening-up of the land market with the support of the EU, as highlighted in the article above. Since the privatization of farmland is an unpopular topic among the (rural) Ukrainian population, liberalization has already been postponed several times.[15]

According to an opinion poll carried out by the Razumkov Centre in 2011, there is no clear majority in favor of private ownership of farmland. While 37.8% of the interviewees supported the idea, 34.4% opposed it and 27.9% were unable to answer. Major reasons for this opposition were that "land should stay in state or municipal ownership" and that "land will be bought up by oligarchs and MPs".[16] This fear is shared by State Architectural and Construction Inspection Chief, Maksim Martynyuk, who depicts the social consequences as "catastrophic", and expects farmers to lose

14 Christina Plank is a Ph.D. candidate at the Institute of Political Sciences of the University of Vienna.
Special thanks to Natalia Mamonova (ISS), Antonio Onorati (Centro Internazionale Crocevia) and Stineke Oenema (ICCO) for their support in reviewing this article. This article was originally written in English.

15 For a more detailed analysis on the land situation in Ukraine, please see: Plank, Christina. "Land Grabs in the Black Earth: Ukrainian Oligarchs and International Investors." In *Land Concentration, Land Grabbing and People's Struggles in Europe*, edited by Jennifer Franco and Saturnino M. Borras Jr., 184–190. Amsterdam: Transnational Institute, 2013.

16 Mishenko, Mykhailo. "Public Opinion on Land Policy and Land Reform in Ukraine." *National Security & Defence Journal* 1:130 (2012): 3–20; p. 12. Available at: www.uceps.org/eng/files/category_journal/NSD130_eng.pdf#page=3.

their livelihoods if the moratorium is lifted at the beginning of 2016.[17] To prevent this, and as a result of an assessment for monitoring the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, it has been suggested that the moratorium be lifted "in a phased manner".[18] The introduction of a computerized land administration system aims to contribute to greater transparency and to lower the costs of land registration.[19] However, due to the economic crisis and now the civil war in the country, the majority of Ukrainians have no money to purchase the relatively cheap land.

Although the elite governing the country tries to benefit as much as they can from Ukraine's 'Black Earth', this important national resource has not yet been officially divided amongst oligarchs and international investors. In the past, there were protests against the attempts of president Viktor Yanukovych and his 'family' to secure this future business. It is now the turn of the current President, Petro Poroshenko, to feather his own nest within the agricultural sector. Poroshenko, also known as the 'chocolate king' is yet to sell his business, despite having promised to do so once elected as president. The acreage of his agro-holding, Agroprodinvest, tripled last year, and provides the sugar beet for his famous chocolate company Roshen.[20] It is thus no coincidence that the agrarian committee is the most popular committee in the Ukrainian parliament, and new oligarchs are highly likely to emerge in the agricultural sector.[21]

With the Government's 'Western turn' there is a revival of the discourse on creating transparency, incentives for foreign direct investment and ensuring property rights for the agricultural sector. For instance, in 2014 a new initiative was launched with the EU Twinning program to provide examples of EU 'best practices' in order to support the liberalization of the land market.[22] However, this 'Western turn' does not necessarily lead to a more democratic way of farming and governing resources. Instead it could open up the country for Western agribusiness investors from the EU and the US.[23] This move from a national to a more Western capital-guided strategy had already been seen after the Orange Revolution in 2004.[24]

The lack of support for small-scale producers by international financial institutions, such as the European Bank for Reconstruction and Development (EBRD), strongly indicates that national and international agribusinesses are favored in the country. The EBRD openly admits that, due to their system of loaning foreign currencies, financing small-scale producers is hardly possible.[25] The EU Association Agreement also assists agribusiness to target Ukraine as a resource-rich country.[26]

The liberalization of the land market would be contrary to Article 48 of Ukraine's Constitution, which stipulates that "[e]veryone has the right to a standard of living sufficient for himself or herself, and his or her family that includes adequate nutrition, clothing and housing."[27] These current developments undermine the right to adequate food and nutrition. Therefore, while the relationship between the national and international elite is changing, unless there are major modifications to the current power structures, land concentration will continue[28]—to the detriment of the Ukrainian population.

17 Kuchar, Michail. "Maksim Martynyuk: Gosgeokadastr Dolzhen Zanimatsya Uchetom Zemel a Ne Ich Raspredeleniem." *ZN.UA*, April 10, 2015. Available at: *gazeta.zn.ua/macrolevel/maksim-martynyuk-gosgeokadastr-dolzhen-zanimatsya-uchetom-zemel-a-ne-ih-raspredeleniem-_.html.*

18 Tonchovska, Rumyana and David Egiashvili. "Using Existing Land Governance Assessment Tools for Monitoring Voluntary Guidelines Implementation at the National Level." Paper presented at the 2014 World Bank Conference on Land and Poverty, Washington DC, March 24–27, 2014. Available at: *www.fao.org/fileadmin/user_upload/nr/land_tenure/TONCHOVSKA_808.pdf.* The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security is available at: *www.fao.org/docrep/016/i2801e/i2801e.pdf.*

19 Rumyana Tonchovska *et al.*, "Standards for Land Tenure and Administration." Geospatial World—The *Geospatial Industry Magazine* 9:4 (2014): 37–39. Available at: *geospatialworld.net/Magazine/MArticleView.aspx?aid=30950.*

20 Samaeva, Yuliya. "Navstrechu Agrokolonializmu." *ZN.UA*, April 24, 2015. Available at: *gazeta.zn.ua/macrolevel/navstrechu-agrokolonializmu-_.html.*

21 Leshchenko, Sergii. "Ukraine Between Corruption and Reform." Lecture at the Institute for Human Sciences (IWM), Vienna, May 7, 2015. Available at: *www.youtube.com/watch?v=fcr1SMLEWiY.*

22 EUUKRAINECOOP. "EU Helps Create Ukrainian Agricultural Lands Market." *EU Co-Operation News—Newsletter of the Delegation of the European Union to Ukraine*, September 9, 2014. Available at: *euukrainecoop.com/2014/09/12/agriculture/.*

23 Word, Jettie, Alice Martin-Prével and Frédéric Mousseau. *Walking on the West Side: The World Bank and the IMF in the Ukraine Conflict*. Oakland: Oakland Institute, 2014. Available at: *www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OurBiz_Brief_Ukraine.pdf.*

24 Plank, Christina. "Ukraine: Die Politische Ökonomie der Oligarchen." *Z. Zeitschrift Marxistische Erneuerung* 99 (2014): 44–52.

25 EUUKRAINECOOP. "EBRD Official: 'We Invest €1 billion to Ukraine Every Year'." *EU Co-Operation News—Newsletter of the Delegation of the European Union to Ukraine*, January 29, 2015. Available at: *euukrainecoop.com/2015/01/29/ebrd/.*

26 Becker, Joachim. "Untergeordnete Integration: Das Assoziationsabkommen zwischen der EU und der Ukraine." *Kurswechsel* 3 (2014): 76–82. See also: Euromemorandum. *What future for the European Union— Stagnation and polarisation or new foundations?* 2015. Available at: *www2.euromemorandum.eu/uploads/euromemorandum_2015.pdf.*

27 *Constitution of Ukraine*, 1996, article 48. Available at: *www.kmu.gov.ua/document/110977042/Constitution_eng.doc.*

28 Latifundist. Top 100 *latifundistov Ukrainy*. 2015. Available in Ukrainian at: *latifundist.com/rating/top100#88.*

14

THE IMPACT OF AUSTERITY MEASURES ON THE RIGHT TO ADEQUATE FOOD IN SPAIN

Laia Fargas Fursa [1]

Over the past eight years civil society organizations (CSOs) and social movements have repeatedly denounced the violation of social rights in Spain. The situation has deteriorated due to regressive legal reforms adopted in this field and austerity policies applied under the pretext of the economic crisis. This situation is demonstrated by, for example, the tens of thousands of evictions, the increase in poverty,[2] which especially affects children, as well as by the reduced enjoyment of the human right to adequate food and nutrition (RtAFN) of lower income groups.

In this context, in June 2014, a coalition of CSOs composed of, among others, Observatori DESC, Entrepobles and Educación por la Acción Crítica (EdPAC), submitted an alternative report to the Spanish Government's report for the UN Human Rights Council's Universal Periodic Review (UPR),[3] which was held in January 2015. The alternative report focuses on the impoverishment of Spanish society in general, and the Catalan society in particular, with a focus on the RtAFN.[4]

FOOD POVERTY AND MALNUTRITION

The alternative report's conclusions resulted from a participatory diagnosis process that started in October 2013 in the Autonomous Community of Catalonia, which highlighted the impact of the aforementioned policies on the enjoyment of the RtAFN.[5]

This participatory process subsequently led to the presentation of a second report in December 2014.[6] This report presented several key findings. Firstly, the process of food commodification demonstrates a clear link between poverty and the violation of the RtAFN. Families have been directly hit by cuts in social budgets, the elimination of subsidies under the 2007 Dependency Law, the removal of grants for school meals and the reduction of minimum income schemes that promote social inclusion. All of these measures have mainly affected women, who assume most of the responsibility for care giving and the provision of food. The data is very enlightening: between 2011 and 2012, 7,000 households stopped receiving minimum income support and, from 2011 to 2013, 37,000 assistance requests were denied in Catalonia alone. Moreover, in 2011, the regional budget allocated to school meal grants for vulnerable families was reduced by €2 million.[7]

Secondly, institutional responses to the growing food insecurity are limited to assistance-driven and mitigation measures, which are not applied widely enough. Assistance through food banks and social canteens, which are widespread in Spain nowadays, stand out among these measures. As a result, the food and nutritional needs of excluded and socially vulnerable people are not quantitatively nor qualitatively being met.

Thirdly, the study also confirms the absence of official statistics about the population's food needs, making it impossible to undertake a full diagnosis. Such a diagnosis would help in designing integral and coordinated strategic plans among the different areas of institutional care, such as health centers, schools and social

1 Laia Fargas Fursa is a member of the team responsible for social rights and right to food training of Observatori DESC in Barcelona, Spain. Observatori DESC is a social rights advocacy organization and member of the *Right to Food and Nutrition Watch* Consortium. For more information, please visit: *observatoridesc.org.*
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2 The rate of people 'at risk of poverty or social exclusion' (AROPE) increased from 24.5% in 2008 to 28.2% in 2012. This is based on data obtained from the Spanish National Institute of Statistics, EUROSTAT and Spain's AROPE data. Available at: *www.ine.es/jaxiT3/Datos.htm?t=4586.*

3 The UPR is one of the Human Rights Council's human rights monitoring mechanisms for the 193 UN member states. It was created through resolution 60/215 (April 3, 2006) of the UN General Assembly. It represents a step forward towards the interdependence and indivisibility of all human rights, as each country's compliance with, *inter alia*, the human rights instruments to which it is a party is examined. It should be highlighted that civil society participation is limited in this mechanism to submitting alternative (or 'shadow') reports and to lobbying the representatives of other countries to address relevant concerns and recommendations for the State under examination.

services. Similarly, there are still many obstacles in analyzing the actual level of malnutrition in the country. The Catalonian Ombudsperson (*Síndic de Greuges de Cataluña*), denounced the lack of systematized information on child malnutrition in its August 2013 report.[8] The Ombudsperson's report provided visibility to this issue and sparked a public debate on its various dimensions.

Finally, the participatory approach adopted by the study showed that none of the different State levels—central, regional and local—are fulfilling their international legal obligations regarding the RtAFN. This is illustrated by the absence of measures or actions to fulfill these obligations at constitutional, legislative and public policy levels. These obligations are elaborated on by the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security,[9] and in the January 2014 recommendations of the former Special Rapporteur on the Right to Food.[10]

RECOMMENDATIONS

CSOs demand that the Spanish State implements its commitments under international human rights law, does its utmost to respect, protect and fulfill the RtAFN, and increases the available resources to realize this right. We deplore the fact that the economic crisis is being used as an argument, and excuse, to adopt decisions that imply regression of, or harm to, the realization of economic, social and cultural rights (ESCR) and, in particular, the right to food. Recommendation 131.125 of the Brazilian Government in the report of the Working Group on the UPR should be highlighted, as it calls on Spain to take steps to ensure that austerity measures do not negatively impact ESCR, especially the rights to adequate housing, health, food and education.[11]

The Spanish Government must enshrine its international human rights law obligations pertaining to the right to food in domestic legislation. Equally, public policies must be designed and implemented with a human rights-based approach that includes ensuring civil society participation. Some of the necessary policies include encouraging access to land for those who want to grow food, especially through agro-ecological social projects, such as community gardens, and the establishment of social and environmental criteria for the public procurement of local food production.

4 The report was drafted by Educación Para la Acción Crítica (EdPAC) in cooperation with the Human Rights and Sustainability Research Group of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Chair of Sustainability, Observatori DESC, Entrepobles, Espai Social i de Formació d'Arquitectura (ESFA), VSF Justicia Alimentaria Global, Aliança per la Sobirania Alimentària de Cataluña, Xarxa Consum Solidari and Associació Salut i Agroecologia (ASiA). Available only in Spanish at: *observatoridesc.org/sites/default/files/epu_espanya_2014_edpac_joint_summ.pdf.*

5 From October 2013 to June 2014, information was compiled on the level of poverty in Spanish society and its impact on the RtAFN. The fieldwork was undertaken in Catalonia, with 60 interviews with institutional actors (different levels of government, the Catalonian Ombudsman, social services practitioners, doctors and political organizations), people whose rights had been violated, and individuals belonging to more than 20 social organizations, NGOs and universities. More than 40 volunteers took part in different activities linked to the drafting of the report.

6 Observatori DESC, Entrepobles and EdPAC. *Informe Sobre el Derecho a la Alimentación en Cataluña. Impactos de la Pobreza Alimentaria en Ciutat Vella i Nou Barris (Barcelona).* Barcelona: Observatori DESC, Entrepobles and EdPAC, December 2014. Available only in Spanish at: *observatoridesc.org/es/informe-derecho-alimentacion-cataluna-impactos-pobreza-alimentaria-ciutat-vella-y-nou-barris-barcelo.*

7 *Ibid.*

8 Síndic de Greuges de Cataluña. *Informe Sobre la Malnutrición Infantil en Cataluña.* Barcelona: Síndic de Greuges de Cataluña, August 2013. Available only in Spanish at: *www.sindic.cat/site/unitFiles/3505/Informe%20malnutricio%20infantil%20castella.pdf.*

9 FAO. *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security.* Rome: FAO, November 2004. Available at: *ftp.fao.org/docrep/fao/009/y7937e/y7937e00.pdf.*

10 De Schutter, Olivier. *Report of the Special Rapporteur on the Right to Food: The Transformative Potential of the Right to Food (A/HRC/25/57).* Geneva: Human Rights Council, January 24, 2014. Available at: *www.srfood.org/images/stories/pdf/officialreports/20140310_finalreport_en.pdf.*

11 Human Rights Council. *Report of the Working Group on the Universal Periodic Review—Spain (A/HRC/29/8).* Geneva: Human Rights Council, April 13, 2015. Available at: *www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Pages/ListReports.aspx.*

SUMMARY AND CONCLUSION[1]

NUTRITION FROM A HUMAN RIGHTS PERSPECTIVE

Going beyond corporate-rooted conceptions, this year's *Watch* focuses on nutrition from a human rights perspective. "Peoples' Nutrition Is Not a Business" is about the competing visions of nutrition, the causes of malnutrition and the policy responses, often targeting women inappropriately, both behind the scenes and in the public sphere. What are the main causes that explain why hundreds of millions go undernourished while half a billion suffer from obesity? What would it take to ensure that nutrition belongs to the peoples and not to the corporations?

Throughout this publication, social movements and wider civil society organizations (CSOs) from across the world point in the same direction: nutrition is inseparable from the right to adequate food. The artificial separation of nutrition and sustainable food systems, increasingly led by a corporate agenda, is resulting in vertical, technical and product-based solutions that ignore social, economic, political, environmental, health and cultural determinants.

Following the unsatisfactory outcomes of the Second International Conference on Nutrition (ICN2), the Watch Consortium and the Global Network for the Right to Food and Nutrition maintain the momentum to mainstream nutrition within a human rights framework, so as to push for the effective progressive realization of the right to adequate food for all.

A HUMAN RIGHTS PERSPECTIVE VS. A CORPORATE APPROACH

Both obesity and undernutrition are to a major extent caused, *inter alia*, by the corporate control over food systems, from the production stage to the point where food reaches consumers. The medicalization of nutrition has attempted to move our health and well-being from something that we can address ourselves to something that we must buy. Peoples' nutrition should not rely on global models; such models do not work. Love, care, spirituality, and culture transform food into what nourishes the human body and the community. Nutrition cannot be commercialized.

From a human rights perspective, adequate nutrition requires dietary adequacy in quantity and quality, safe food, cultural acceptability, environmental and economic sustainability, and stable physical and economic access. Studies show that better nutrition is the result of consuming diets rich in fresh foods of vegetable and animal origin, with only slightly processed foods (without the addition of salt, sugar, fats, or additives) and very little quantities of processed products.[2]

The full realization of the human right to adequate food and nutrition depends on the full realization of all women's rights, in equal standing with men, guaranteed access to healthy and adequate living conditions (adequate housing, water and sanitation), adequate public health services (including sexual and reproductive health services), and adequate care at the household and community level. The human rights perspective therefore calls for respect, protection and fulfillment of socially, economically and environmentally sustainable local and regional food systems. These systems must be based on agroecological principles and capable of producing a diversified, safe and healthy diet in line with cultural practices and traditions, including optimal breastfeeding and adequate complementary feeding, as well as of all related rights mentioned above.

Peoples' food and nutrition sovereignty requires attention to the breadth of human rights violations that interfere with the progressive realization of the right to adequate food and nutrition. The role and legitimacy of the State are rooted in its

1 We would like to thank Anne C. Bellows (University of Syracuse) and Sofía Monsalve Suárez (FIAN International) for drafting this piece. A special thanks goes also to Priscilla Claeys (University of Louvain and French Institute of Pondicherry), Biraj Patnaik (Office of the Commissioners to the Supreme Court of India), Antonio Onorati (Centro Internazionale Crocevia), Nora McKeon (Terra Nuova), Flavio Luiz Schieck Valente, R. Denisse Córdova Montes, Alejandra Morales del Rey and Felipe Bley Folly (FIAN International) for their support in reviewing it.

2 See for example, Carlos Monteiro *et al.*, "The Food System: Ultra-Processing, 2012 Position Paper: The Big Issue for Nutrition, Disease, Health, Well-Being." *World Nutrition* 3:12 (2012): 527–569.

accountability for its obligation to respect, protect and fulfill this right to adequate food and nutrition, which includes the democratic and participatory processes of the people in progressively realizing this right.

THREATS TO FOOD AND NUTRITION SOVEREIGNTY: CORPORATE CONFLICTS OF INTEREST

Articles in this issue of the *Watch* pointed to an unrestrained march of transnational corporations (TNCs) into the realm of public policy through the popularization of 'public-private partnerships' (PPPs). These partnerships evade democratic principles, dodge socially inclusive processes, and feign corporate social responsibility when the ultimate business maxim is shareholder profit. This is not paranoia, but rather the unapologetic articulation of activities like the World Economic Forum's (WEF) 2010 Global Redesign Initiative (GRI) and its pilot, the Global Food, Agriculture and Nutrition Redesign Initiative (GNANRI) that seeks to move governance from the UN to 'multi-stakeholder' platforms dominated by the interests of corporations. Corporate conflicts of interest in public policy violate peoples' right to food and nutritional sovereignty and are revealed in the following examples:

- The collapse of the UN Standing Committee on Nutrition (SCN) and its absorption into the medicalized, nutrition-focused Scaling Up Nutrition (SUN) ignores the social determinants of, and human rights violations associated with, mother, fetal, infant, and early childhood malnutrition. It also minimizes local capacities to respond to malnutrition, while privileging a global nutrition industry response.
- The rapidly growing and proliferating multilateral agreements grant rights to corporations instead of people. These pacts are negotiated with no or minimal public transparency and grant unacceptable power to corporations, including their legal right to sue governments if regulation were to interfere with current or future profit. These include the Transatlantic Trade and Investment Partnership (TTIP), the Trans-Pacific Partnership (TPP), and the Comprehensive Economic and Trade Agreement (CETA), which, together with existing trade agreements like NAFTA, strengthen transnational corporate rule through multilateral trade relationships around the globe.
- The post-2015 UN Sustainable Development Goals (SDGs) fail to incorporate the human rights framework that would clearly link 'accountability' and the progressive realization of the right to adequate food and nutrition to legally binding instruments, instead of relying on weak voluntary and self-reviewing guidelines for 'ethical' business behavior as pushed by the corporations themselves.
- The 1994 Agreement on Agriculture (AoA), finalized during the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), and being renegotiated now in the Doha Development Rounds, obstructs peoples' food and nutrition sovereignty. For example, the AoA limits the public procurement of food by national governments on behalf of their populations. Further, the World Trade Organization's (WTO) rulings on 'correct' national trade behavior beg impartiality when the United States (US) spends 64 times more per person on food subsidies than does India. However, the latter faces sanctions for a 'trade-distorting' public policy, which includes stockholding programs that feed those in poverty while providing critical income support to farmers, most of whom are small-scale and economically insecure themselves.

MAINSTREAMING GENDER WITHIN POLICY RESPONSES

A human rights framework insists on attention first and foremost to those most socially and economically marginalized. Women and girls represent 60% of the world's undernourished.[3] Those under 18 years of age reflect 47% of people living in extreme poverty and the poorest quintile under age five die at twice the rate of their counterparts in the richest quintile.[4] Nutritional access, adequacy, and sustainability are critical components for the empowerment of women and girls and other marginalized groups and communities.

Nutrition for all is inseparable from women's well-being and rights. Only a woman living a dignified life will be able to feed herself adequately, to breastfeed if she decides to do so, and to provide food for her family and community. Empowerment of women and the realization of all of women's human rights, including food, education, and health, is the single most important determinant of improved nutritional outcomes for families' well-being and children's human rights.[5] As recently shown by FIAN during its efforts to document violations of the right to adequate food and nutrition in Burkina Faso, addressing intertwined violations of women's human rights requires new approaches to data access and analysis.

Public programs to promote social justice must be critiqued when they incorporate corporate, elitist or patriarchal advantage at odds with goals of social well-being and equity. In the context of women and nutrition, the *Watch* reports, for example:

- The Mexican government now cooperates with the Swiss-based TNC Nestlé in a project ostensibly to boost women's income and promote nutrition education by training women living in poverty to prepare and sell desserts door-to-door. The positive sounding program in fact promotes a business that bolsters, instead fighting, increasing trends towards high caloric food consumption.
- Peasant agricultural knowledge provides the foundation of agroecology, considered the most viable agricultural model to withstand and mitigate climate change. Some consider women to be the main bearers of that peasant agricultural knowledge. Yet this precious knowledge is isolated from control over land. Social movements from Pakistan describe landownership as the realm of the feudal elite, and from Uganda it is noted that women cannot own land.

THE ROLE OF THE STATE: RESPECT, PROTECT, FULFILL

It is the State that is obliged to meet the food and nutrition needs of those who cannot feed themselves. However, the human right to adequate food and nutrition neither begins nor ends with assistance. Many people are able to feed themselves with only some facilitation on the part of the State to advance local autonomy. In Spain, CSOs demand more than the basic assistance-driven measures from the State, including holistic data on food insecurity and hunger that can link community development and empowerment strategies with marginalization and needs, as well as the provision of land for those who want to grow food. In the US, activists fight chronic food insecurity and emergency food dependency by organizing community-driven local food security and food system economies.

The disintegration of peoples' vital relationship with nature to feed themselves helps explain alienation, malnutrition and overnutrition. CSOs in Mongolia identify promoting human rights knowledge as critical to educating policy makers, civil society, and local communities about the available legal frameworks that can leverage respect for pastoralism. This traditional lifestyle is threatened by an expansion in

3 United Nations Economic and Social Council (ECOSOC). *Strengthening Efforts to Eradicate Poverty and Hunger, Including through the Global Partnership for Development: Report of the Secretary-General.* New York: UN, 2007. Available at: www.un.org/en/ecosoc/docs/pdfs/07-49285-ecosoc-book-2007.pdf; World Food Programme (WFP). *WFP Gender Policy: Promoting Gender Equality and the Empowerment of Women in Addressing Food and Nutrition Challenges.* Rome: FAO, 2009. Available at: one.wfp.org/eb/docs/2009/wfp194044~2.pdf.

4 United Nations International Children's Emergency Fund (UNICEF). Number 11: Progress for Children: Beyond Averages: Learning from the MDGs. New York: UNICEF, 2015, p. 3. Available at: www.unicef.org/publications/files/Progress_for_Children_No._11_22June15.pdf.

5 De Schutter, Olivier. Foreword to Anne Bellows *et al.* (eds.), Gender, Nutrition and the Human Right to Adequate Food: Toward an Inclusive Framework. London: Routledge, forthcoming, 2015.

mining, climate change, and inadequate government policies. After the monopolization of agriculture by the State, post-Soviet Ukraine faces re-consolidation through land grabbing by the agro-industry in early 2016.

NUTRITION IS NOT A BUSINESS: VIABLE ALTERNATIVES

The goal of the *Watch* is not only to analyze violations of the human right to adequate food and nutrition, but also to identify and celebrate when this work achieves success and fosters alternatives to the root social and economic causes of violations. In addition to the examples mentioned above, and as demonstrated in the November 2014 ICN2, there is growing momentum among peoples' organizations such as the Pakistan Fisherfolk Forum (PFF) and the Mongolian Alliance of Nomadic Indigenous Peoples (MANIP), feminist organizations such as Katosi Women Development Trust (KWDT) from Uganda, social movements working in the health sector like the People's Health Movement, and increasingly broad social movements, to rally cooperatively for food sovereignty and nutrition for all.

Cooperation and collaboration are key. One of the explanations for food insecurity in the Community of Portuguese-Speaking Countries (CPLP), located in nine nations and four continents, is the common history of migration and patriarchal states. The influence of migration and patriarchy is now countered at the institutional level with the promotion of national councils for food and nutrition security, and at the community level with support for family farms. In São Tomé and Príncipe and in other CPLP countries, family peasants are organizing in cooperatives to foster agroecology and participate in the international market of organic food. Consequently, their income has risen and the environment is being protected. African countries, including nine Southern African countries cooperating in the African Food Security Urban Network (AFSUN) and East, West, and North African countries, are all sharing strategies to promote, regularize, and expand food production in and around cities on behalf of urban and rural migrants living in poverty, especially women. Inspiration for urban agriculture comes from many sources including regional advances in Kampala (Uganda), Cape Town (South Africa), Addis Ababa (Ethiopia) and Nairobi (Kenya). In Brazil land access for urban food production is a function of the right to food as framed constitutionally and administratively in the 'Zero Hunger' strategy, a safety net component of the human rights-based National Food and Nutritional Security Policy and Plan. In China, where the average farm size is one-third hectare, the State has supported small-scale peasant agriculture, providing the vast population's needs and presenting a bulwark against the growing power of agribusiness. At the same time, Chinese agriculture is at a crossroad involving public discussions of traditional farming practices and agroecology versus GMOs, gendered rural isolation and urban in-migration, and the need and role of food sovereignty as a people's movement seeking self-determination and the effective accountability of the State.

Collaboration and shared inspiration reinforce public interest civil society's engagement against corporate forces that market products at the source of the non-communicable diseases (NCDs) explosion. In Kenya, where corporate lobbying sought to weaken regulatory capacity to protect the health of infants and young children, local, regional, and international sections of the International Baby Food Action Network (IBFAN) convinced the national government to adopt the Breast-milk Substitutes (Regulation and Control) Act No. 34 of 2012. This resulted in a rapid increase in exclusive breastfeeding rates, which maximizes early childhood nutrition and health. In Mexico, where companies expand soft drink consumption with the aid of monopolistic practices, price reduction, and tax evasion, civil society groups jointly launched the campaign "Healthier Eating as Mexicans Eat" *(Más Sanos*

Comiendo como Mexicanos) to recover the prestige of traditional Mexican food and beverages and natural water. In the US, community activists respond to gaps in social protection and the corporate stranglehold that have steadily increased poverty and wealth polarization, as well as popular reliance on food charities, by calling for a 'joined up' food policy that integrates local food sovereignty initiatives with a national, comprehensive, and integrated food plan that respects the interdependence of human rights.

At the international level, the reformed UN Committee on World Food Security (CFS) plays a relevant role in the discussions on food and nutrition governance and the guarantee of civil society participation through the Civil Society Mechanism (CSM). In 2014, the UN Human Rights Council voted to initiate the introduction of an international legally binding instrument on TNCs and other business enterprises with respect to human rights; the open-ended intergovernmental working group (IGWG) began work in summer 2015. In parallel, the Campaign to Dismantle Corporate Power and Stop Impunity and others are developing a Peoples Treaty, independent of the UN. The Peoples Treaty is seen as a political and conceptual structure to generate the laws, regulations, rules and institutions needed to stop TNC human rights abuses, economic monopolies, and the 'commoditization' of our lives with excessive consumerism.

CONCLUSION

It is not possible to isolate nutrition from the socio-economic and cultural context of food consumption. The comprehensive concept of nutrition goes beyond any medicalization and commoditization of human livelihoods. The findings of this publication reaffirm that "Peoples' Nutrition Is Not a Business", highlighting the following conclusions:

- Public policy must address food production and human nutrition simultaneously and through the legally binding human rights framework for the progressive realization of adequate food and nutrition for all.
- All countries (including developed countries) should conceive and implement comprehensive support programs to develop sustainable food production systems that ensure domestic food security and economies.
- The realization of women's human rights predetermines all peoples' human right to adequate food and nutrition; their leadership and participation in food and nutrition governance from the household to an international scale must be a priority.
- The CFS has been the preferred international arena for rural social movements seeking an alternative policy space to the WTO and the World Bank. Its work to strengthen local food systems that promote successful nutritional outcomes based on agro-biodiversity must continue and expand.
- Without absolute transparency and the participation of public interest CSOs and communities, international trade agreements, especially in food and agriculture sectors, must not be signed. Trade interests can never be allowed to supersede the right to adequate food and nutrition.
- Governments have the obligation to promote human rights through education and the empowerment of those, in particular, whose human rights have been violated, as well as through the efficient availability of remedy mechanisms for human rights holders to seek redress for violations.

- The link between food production, access and nutrition must be strengthened: through the promotion and protection of labor-intensive and locally rooted food systems engaged in sustainable agroecological methods; through women and men's secure access to land in urban, as well as rural, settings; and through restoration of traditional rights to harvest and re-use seeds.

Nutrition is inherent to people, not to corporations. It must not be for sale or profit. Peoples' food sovereignty and a human rights perspective are fundamental to addressing all forms of inequity, oppression and discrimination and to the democratization of national and global societies. Peoples must hold their governments accountable for the implementation of states' national and extraterritorial human rights obligations.

> *"In a world where corporations are increasingly abusing and threatening peoples' human right to adequate food and nutrition, this issue of the* Right to Food and Nutrition Watch *immerses us in the struggle against turning nutrition into a big business for a few transnational corporations. Peoples are demanding states to combat and eradicate poverty, hunger and malnutrition—which are not only ethically unacceptable, but also a blatant breach of states' core human rights obligations. It is imperative that states regulate and hold corporations accountable for their crimes against human rights. Read the* Watch*, rise up and join the struggle to make the right to adequate food and nutrition a reality for all. This would make a crucial difference."*
> Jean Ziegler, current member of the UN Human Rights Council's Advisory Committee and former UN Special Rapporteur on the Right to Food (2000–2008)

> *"As the authors of this enlightening volume of the* Watch *make clear, nutritional adequacy and well-being are integral dimensions of the right to adequate food—and must be dealt with as such. Peoples' nutrition and food sovereignty risk being undermined by predatory agri-business practices that relentlessly pursue maximum profit at all costs."*
> Hilal Elver, current UN Special Rapporteur on the Right to Food

Commonly referred to as 'corporate capture', the increasing control of businesses over food systems and resources, institutions, policy spaces and governance structures, is putting human rights at great risk. The world is witnessing this reality from the Americas to Asia, particularly since the 2008 world food crisis that shook societies across the globe. It is clear that the present economic model cannot guarantee the conditions for national governments to fulfill their human rights obligations, including the right to adequate food and nutrition.

Corporate-based approaches have led to an artificial separation of nutrition and sustainable food systems, resulting in vertical, technical and product-based solutions that ignore social, economic, political, environmental, health and cultural determinants. In a world where hundreds of millions go undernourished while half a billion suffer from obesity, communities worldwide see the prevention of corporate capture as a critical issue. Peoples' nutritional sovereignty and core human rights principles are unalienable pillars in tackling inequity, oppression and discrimination and democratizing national and global societies.

The *Right to Food and Nutrition Watch* 2015 places nutrition under the spotlight and exposes the impact of business operations on peoples' livelihoods. The concept of nutrition is assessed from a human rights perspective, going beyond the mere measurement of nutrients in food and human bodies to considering the socio-economic and cultural context in which human beings feed themselves. "Peoples' Nutrition Is Not a Business" explores the competing visions of nutrition, the causes of malnutrition and the policy responses, which often affect women disproportionately, both behind the scenes and in the public sphere. It uncovers pervasive corporate abuse and impunity, and puts forward recommendations for states to prevent and punish initiatives that hamper the enjoyment of the right to adequate food and nutrition.

For more information on the *Right to Food and Nutrition Watch*:
www.rtfn-watch.org

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