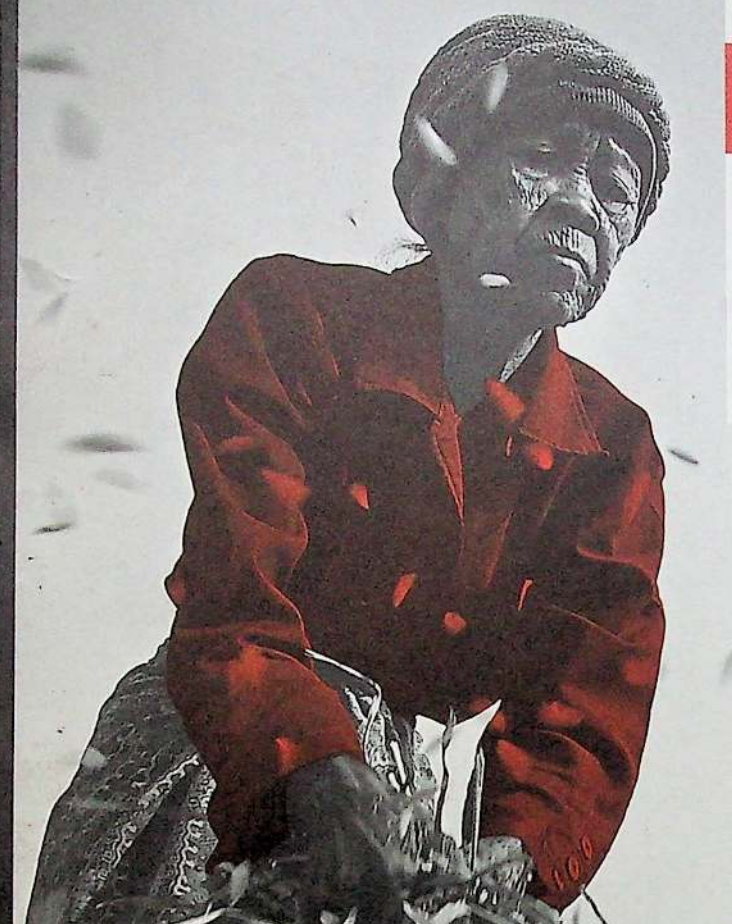
RIGHT TO FOOD AND NUTRITION WATCH



Keeping Seeds in Peoples' Hands

"In all world regions, communities are building alternative food networks as well as new ways of producing and consuming food, and of sharing seeds. They are circumventing the mainstream food system and the striking inequalities and concentration of power that characterize it. The battle around seeds and agrobiodiversity illustrates this better perhaps than any other part of the food system. Sociodiversity appears as a key tool for the preservation and enhancement of agrobiodiversity, and food sovereignty as a condition for the full realization of the right to food. This edition of the Right to Food and Nutrition Watch *is therefore an invitation to take action: to find alternatives and to challenge the mainstream narrative as to what progress is about and how to measure it."*

Olivier De Schutter, former UN Special Rapporteur on the Right to Food (2008–2014) and current member of the UN Committee on Economic, Social and Cultural Rights

"The Watch *2016 highlights a crucial factor in ensuring equitable access to food and nutrition: that of preserving the genetic diversity of crop plants by keeping seeds in the hands of peasant farmers. As the original breeders of new varieties and custodians of seeds, they possess invaluable knowledge on genetic diversity. Agricultural biodiversity provides us with the means to confront climate turbulence and other challenges. If we ignore this, we do so at our own peril."*

Suman Sahai, Chairperson, Gene Campaign (India)

Despite feeding the world and providing resilience to natural disasters, peasant seed systems face severe threats due to the appropriation of nature by corporations and the accelerated destruction of agricultural biodiversity. Increasingly, seed and agrochemical businesses seek to privatize, monopolize and control seeds by patenting and commodifying this very source of life. Meanwhile, peasant and indigenous communities, who have been the developers and guardians of seeds for millennia, are finding their rights to save, use, exchange and sell seeds overshadowed by a corporate agenda that prioritizes profit over human rights and the sustainable maintenance of nature.

It is now high time that the spotlight is turned on to how the corporate capture of seeds and other natural resources (land, water, forests) is impacting the way in which the food we eat is produced. This compels us to look at the rights of peasants and small-scale food producers overall. The central role of women as custodians of seed and biodiversity must also be recognized; women are the unacknowledged and unseen experts on these matters and must be involved in decision-making. But, above all, what needs to be changed is the current value system that prioritizes seed and food for profit over seed and food *rights*, not *commodities*, for those who produce it and their heirs. Without this breakthrough, we cannot move forward.

Seeds and agricultural biodiversity have been at the heart of social movements' struggles for decades. Nonetheless, despite the manifold interlinkages, efforts towards the realization of the human right to adequate food and nutrition have thus far paid insufficient attention to them. The *Right to Food and Nutrition Watch* 2016—"Keeping Seeds in Peoples' Hands"—explores ways to close this gap and promote a stronger agenda to advance these interconnected struggles. It discusses how peasant movements, indigenous peoples, and other local communities around the world are resisting the privatization and commoditization of nature and presenting alternatives. Read the *Watch*, rise up and join the struggle to make the right to food and nutrition a reality for all!

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ACRONYMS AND ABBREVIATIONS

AGRA	Alliance for a Green Revolution in Africa
AU	African Union
CEDAW	UN Committee on the Elimination of Discrimination against Women
CESCR	UN Committee on Economic, Social and Cultural Rights
CFI	Coastal Fisheries Initiative
CFS	UN Committee on World Food Security
CONSAN-CPLP	Council of Food and Nutrition Security of the Community of Portuguese-Speaking Countries
CPLP	Community of Portuguese-Speaking Countries
CSM	Civil Society Mechanism for relations to the UN Committee on World Food Security
CSO	civil society organization
ECOWAS	Economic Community of West African States
EMUWA	Economic and Monetary Union of West Africa
ESCR	economic, social and cultural rights
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FIES	Food Insecurity Experience Scale
GMO	genetically modified organism
GNRTFN	Global Network for the Right to Food and Nutrition
HRC	UN Human Rights Council
IACHR	Inter-American Commission on Human Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
IPC	International Planning Committee for Food Sovereignty
IPR	intellectual property rights
ITPGRFA	International Treaty on Plant Genetic Resources for Food and Agriculture
LVC	La Via Campesina
MDGs	Millennium Development Goals
NGO	non-governmental organization
OHCHR	Office of the High Commissioner for Human Rights
PoU	Prevalence of Undernourishment
SDGs	Sustainable Development Goals
SOFI	State of World Food Insecurity
SUN	Scaling Up Nutrition (Initiative)
TGs	*Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*
TNC	transnational corporation
TPP	Trans-Pacific Partnership
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UN	United Nations
UNDP	United Nations Development Programme
UPOV	International Union for the Protection of New Varieties of Plants
WFF	World Forum of Fish Harvesters and Fish Workers
WFFP	World Forum of Fisher Peoples
WFP	World Food Programme

PREFACE

A staggering 70% of the food we consume worldwide is produced by smallholders. Peasant and indigenous communities, who produce a great deal of this food, have been developing and saving seed for millennia—from Guatemala through Senegal to Nepal. However, today seeds are under threat everywhere. Laws are increasingly limiting what peasants can do with their seeds and criminalizing them, thereby impeding their role as food producers and threatening our food sovereignty. The destruction of agricultural biodiversity is also rising at an alarming rate: at the end of the 20th century, three quarters of the world's food was generated from only 12 plants and five animal species.

Corporate pressure is behind these threats: seed and agrochemical transnational corporations seek to privatize, monopolize and control seeds; they are patenting and commodifying the very source of life. The new round of giant mergers—Bayer with Monsanto, Dow Chemicals with DuPont and Syngenta with ChemChina, to name but a few—shows that corporations are aiming for a tighter grip on genetic resources to reap even larger profits. These exorbitant deals have been brought under the watchful eye of the media and the larger public. It is now high time that the spotlight is turned on how the corporate capture of seeds and other natural resources is impacting the way in which the food we eat is produced.

This necessarily compels us to look at the rights of peasants and small-scale food producers overall. We must also apply a gender lens and recognize the central role of women as custodians of seed and biodiversity—they are the unacknowledged and unseen experts on these matters and must be involved in decision-making. But it makes little sense for women to become equal partners within a broken system: what needs to be changed is the current value system that prioritizes seed and food for profit over seed and food—*rights*, not *commodities*—for those who produce it and their heirs.

States must thus step up and fulfill their human rights obligations by adopting stronger policies and laws that recognize and protect peasants' rights to save, use, exchange and sell seed, as found in the FAO Seed Treaty and currently debated in the negotiations for a UN Declaration on the Rights of Peasants and Other People Working in Rural Areas. Over recent decades, these and other rights have been increasingly neglected by states in order to advance a corporate agenda that protects intellectual property rights, often via trade agreements.

We as civil society also have a crucial role to play. Indeed, seeds and agricultural biodiversity have been at the heart of social movements' struggles for decades. However, despite the manifold interlinkages and interconnections, efforts towards the realization of the human right to adequate food and nutrition have thus far paid insufficient attention to them. The *Right to Food and Nutrition Watch* 2016—"Keeping Seeds in Peoples' Hands"—explores ways for closing this gap and promoting a stronger agenda to advance these interconnected struggles.

The *Watch* 2016 is published at a moment marked by increasing solidarity and cooperation among civil society and social movements fighting for food sovereignty around the world. The Global Convergence of Land and Water Struggles is a case in point: in March 2016, its West African chapter mobilized thousands of people across fifteen countries in the region, jointly calling for the protection of land, water and peasant seeds. The Global Network for the Right to Food and Nutrition, which comprises now more than thirty social movements and civil society organizations, reaffirmed its commitment to support the convergence of struggles by concurrently holding its fourth annual meeting in Dakar, the finishing line of the West African

caravan.[1] In late 2015, it also carried out a joint Fact-Finding Mission in India—not only a first for the Global Network, but also evidencing a growing common agenda between its members.

As we finalize the *Watch* 2016, there is much excitement and energy amongst governments and international institutions towards the implementation of the newly adopted Sustainable Development Goals (SDGs). While we welcome the renewed commitments to reduce inequalities and the stress on states to take national ownership over their implementation, mechanisms of accountability and human rights obligations must be at the core of all efforts to assess progress. Civil society is now assessing how to strategically engage with the SDGs as a tool to hold states accountable at all levels for realizing the right to food and nutrition, as well as for building mechanisms that will support grassroots organizations in local, regional and national monitoring and accountability exercises. The *Watch* will seek to contribute to such efforts as it continues to evolve as the most prominent monitoring tool of the Global Network.

We would like to thank all those who have contributed to the 2016 issue of the *Right to Food and Nutrition Watch*, including the nearly fifty authors for their excellent inputs and the Editorial Board members for their invaluable support. Special thanks go to the *Watch* Coordinator, M. Alejandra Morena, for her admirable and outstanding work, which has played a crucial role in achieving a stimulating edition. Moreover, we would like to express our gratitude to Felipe Bley Folly, the *Watch* Project Assistant, for his excellent work and dedication, and to the editors, translators, proofreaders and reviewers. Thanks also go to Emily Mattheisen, Alejandra M. del Rey and Wilma Strothenke for their valuable contributions to the elaboration and promotion of this publication.

Last but not least, we would like to dedicate this year's issue to all women and men around the world who devote and risk their lives to defending peoples' sovereignty and human rights—in particular to Berta Cáceres, Lenca indigenous leader and coordinator of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH), murdered in March 2016 as a result of her fight for life and against the Agua Zarca hydroelectric dam. Those who killed her tried to silence her, but she planted a seed for a struggle that others will reap with their enduring fight for human rights: a seed that cannot be owned or coopted; it can only be propagated into the social movement she envisioned.

Yours sincerely,
Bernhard Walter, Bread for the World—Protestant Development Service
Sofía Monsalve Suárez, FIAN International
Marijke de Graaf, ICCO Cooperation

1 For more information on the public declaration made by the Global Network in Dakar, where the journey of the West African Caravan of the Global Convergence of Land, Water and Seeds culminated, please see: Global Network for the Right to Food and Nutrition. *Dakar Declaration of the Global Network on the Right to Food and Nutrition 2016. March 2016*. Available at: *www.fian.org/fileadmin/media/publications_2016/Dakar_Declaration_GNRtFN_English.pdf*

INTRODUCTION[1]

Who should control natural resources such as seeds, land, water, fisheries and forests?
Who should have access, on which terms and to what end?
What role should these resources play in our society?

The *Watch* Consortium and Global Network for the Right to Food and Nutrition, comprised of civil society organizations and social movements from around the world, aim to dig deeper into these questions by presenting an overview of ongoing local, regional, national, and global struggles to defend and protect the rights of local communities to the seeds, land, forests and fisheries they depend on for their livelihoods.

The *Right to Food and Nutrition Watch* 2016—"Keeping Seeds in Peoples' Hands"—explores the articulation of seeds, land and other natural resources with the human right to adequate food and nutrition. It assesses the role played by access to and control over natural resources in the realization of the right to food and nutrition across the world. Over the last few decades, the privatization and commoditization of nature has resulted in a multiplication of local struggles using human rights against the appropriation of agricultural biodiversity, land and water resources by corporations and states. How are peasant movements, indigenous peoples, and other local communities resisting—and what are the alternatives they present?

As in previous editions, the *Watch* 2016 is divided into two main sections. The first is the thematic section, which explores the interconnections and interlinkages between seeds, biodiversity, and the right to food and nutrition. It also touches on ongoing global, regional and national processes shaping tenure of land, fisheries and forests, as well as on the relationship between rural and urban spaces in food systems. The second section of the *Watch* is organized by geographical region and features relevant developments around the right to food and nutrition at local and national levels. It sheds light on how social movements and civil society are rising up against the challenges they face. For the first time, the Watch includes a section on the Middle East and North Africa, a region where food sovereignty is becoming a key component of grassroots advocacy.

This year's edition of the *Watch* turns the spotlight on people-centered monitoring of the right to food and nutrition. In a thought-provoking piece and a complementary insight box, the authors invite us to move away from abstract metrics that focus on outcomes, and to pay attention to the ways in which these outcomes are achieved. The participation of civil society in identifying and monitoring the primary barriers to food sovereignty is key to measuring the progressive realization of the right to food and nutrition, and to disentangling human rights monitoring from the industrialized agribusiness agenda.

The thematic section opens with a discussion on the importance of seed control and agricultural biodiversity for the right to food and nutrition. The authors argue that seeds are the neglected backbone of this human right, and that new ways to respect, protect and fulfill people's access to and use of seeds, plants, and animals must take center stage in the ongoing development of the right to food and nutrition, within the framework of food sovereignty. The authors also advocate the recognition of a stand-alone human right to seeds. Two complementary insight boxes describe how farmers' rights to seeds are currently protected in international legal regimes, how and where these regimes conflict, and describe ongoing efforts to better protect peasant seed systems in the framework of the negotiation of a Declaration on the

1 We would like to thank Priscilla Claeys (University of Louvain and French Institute of Pondicherry) for drafting this piece.

Rights of Peasants and Other People Working in Rural Areas at the UN Human Rights Council. A third insight box shares the experience of a seed sovereignty experiment in war-torn Syria, which calls itself the 15th Garden.

As part of the key issues and developments this year, the *Watch* 2016 features a preliminary assessment of the implementation of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (the Tenure Guidelines or TGs) from the perspective of social movements. It argues that the TGs are increasingly becoming a tool for social movements across the world to demand peoples' sovereignty over natural resources and social justice from governments. The publication of a People's Manual on the use of the Tenure Guidelines by social movements themselves is a positive example of how the TGs have enlarged the space of small-scale food producer organizations to jointly act.

Keeping the spotlight on natural resources, this section also includes an analysis of the corporate capture of global fisheries. It shows that so-called 'rights-based' approaches try to occupy again a center stage in ongoing efforts to reform fisheries policies at the national and global levels. Unfortunately, property rights and not human rights are the driving force behind such initiatives, which seek to preserve the oceans' resources through the privatization of access, and the commodification of rights.

The concluding article of the thematic section addresses ongoing discussions in preparation of Habitat III, the UN Conference on Housing and Sustainable Urban Development. Its authors argue that we need to react against the urbanization of the development agenda, and the long-held dichotomy of rural and urban spaces. The Urban Food Policy Pact, a mayor-led initiative that seeks to create a stronger governance framework for local food systems, is an interesting example of how to reinforce the role of local governments in the transition towards territorial food systems. A complementary insight box explores the recent recognition, at the UN Committee on World Food Security (CFS), that territorial markets—not corporate supply systems and international value chains—channel the bulk of the food consumed worldwide. At the CFS, the Civil Society Mechanism (CSM) has negotiated a number of policy recommendations that could help document, protect, and support the variety of domestic marketing arrangements that play a crucial role for the realization of the right to food and nutrition. The key role of Detroit's African American population in the setting up of the city's Food Policy Council is highlighted in a second insight box.

The regional section opens with Africa, with the piece "African Food Sovereignty: Valuing Women and the Seeds they Keep." It argues that, to ensure continued access to seeds and land, we need to pay attention not only to gender equality but also to the intergenerational impacts of patriarchy. Focusing specifically on West Africa and on regional efforts to articulate struggles around land and water, the following article emphasizes the importance of bringing together various social movements and NGOs, and of establishing strong links across countries to put pressure on institutions and governments, defend communities' rights, and promote peasant agroecology.

The first piece of the new Middle East and North Africa section examines what food sovereignty and self-determination mean to the people of Western Sahara, and discusses efforts to regain dignity and autonomy through home gardens that enable families to produce fresh foods in refugee camps. Subsequently, there is an analysis of the struggle for food sovereignty in Egypt. The 2014 constitution recognizes the right to food and food sovereignty, but the country remains heavily dependent on food imports, and the recently reformed bread subsidy system fails to reach the most vulnerable.

The regional section on Asia starts with a shocking account of the working conditions of tea plantations workers in India, following the first-ever Fact-Finding Mission organized by the Global Network for the Right to Food and Nutrition. The

article ends on an encouraging note, sharing the experience of workers who have organized themselves to defend their rights. From India we move to Myanmar, where civil society has effectively used the Tenure Guidelines to show where national policy and legal developments around land have fallen short of international standards, while underlining the legitimacy of grassroots perspectives. This experience reflects the potential impact of the Tenure Guidelines when they become a tool for social movements in their struggles, as previously highlighted.

Moving on to the Americas, we first hone in on Brazil and the struggle of the Guarani and Ḳaiowá indigenous communities for their right to land and territory, food and life. Their ongoing battle shows that self-determination is more than ever about the right to control natural resources. It is also a reminder that criminalization of land rights' defenders is on the rise across the planet. The following reading discusses ongoing struggles in the region with regards to seed sovereignty. It reveals that civil society in Brazil, Ecuador, Colombia, Honduras, and Guatemala is combining resistance to GMOs and industrial certified seeds with legal strategies to protect peasants' seed rights and associated traditional knowledge.

Lastly, in the Europe regional section, a range of direct democracy initiatives to advance food sovereignty in Switzerland shows that more needs to be done in terms of advocacy and awareness raising to convince citizens of the need to transition to sustainable, equitable and peasant-based food systems. The last piece of this issue of the *Watch* turns to Italy, to discuss the burning issue of asylum seekers, refugees and migrants and its relation to contemporary forms of slavery and exploitation in agriculture. A complementary insight box highlights pockets of resistance and solidarity, where civil society is joining forces to combat the slave-like working conditions of agricultural workers to change a broken food system at its roots, demonstrating that there can be a direct relationship between producers and consumers.

It is our hope that the information presented in the *Watch* 2016 will incite readers to reflect upon the importance of defending peasant seeds as a crucial step to guarantee peoples' food sovereignty globally. In this sense, reading becomes a transformative action leading to the support of the struggles of civil society and social movements across continents for a world where the right to food and nutrition becomes a reality for all.

The *Watch* 2016 Editorial Board

SPOTLIGHT
MOVING TOWARD PEOPLE-CENTERED MONITORING OF THE RIGHT TO FOOD AND NUTRITION

Molly D. Anderson [1]

The human right to adequate food and nutrition is the bedrock of the UN Committee on World Food Security (CFS), the premier forum for international discussion and decision-making regarding issues that affect food security. All CFS recommendations and outcomes must be congruent with this right. So far, mainly the UN Committee on Economic, Social and Cultural Rights (CESCR) has been monitoring the right to food and nutrition during its periodic reviews, while food security—an essential outcome of achieving the right to food and nutrition—is still assessed poorly. The adoption of the 2030 Agenda for Sustainable Development (2030 Agenda) and Sustainable Development Goals (SDGs) in September 2015 brought new international attention to food security indicators; food security is part of Goal 2: "End hunger, achieve food security and improved nutrition and promote sustainable agriculture."[2] After explaining how the Food and Agriculture Organization (FAO) has tried to improve measurement of food security over the past few years, this article introduces a new project to monitor some of the major determinants of food sovereignty as an approach to monitoring the right to food and nutrition.

Until 2013, the primary metric for measuring food insecurity in the FAO's annual flagship publication, the *State of World Food Insecurity* (SOFI), was the Prevalence of Undernourishment (PoU). But PoU is a crude aggregated measure of chronic severe caloric deficiencies for an entire country, hardly a measure of food security, which "exists when all people, at all times, have physical and economic access to sufficient safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life."[3] Use of the PoU resulted in seriously underestimating the real extent of food insecurity due to short-term or seasonal shortcomings, discrimination that prevented women or marginalized sub-populations from accessing food, and so-called 'hidden hunger' (vitamin and mineral shortages).

In recognition of the problems with the PoU metric, the FAO introduced new indicators in SOFI 2013, including proxies for vulnerability and shocks in addition to multiple indicators of food availability, access and utilization. Although these additional data provided a more nuanced picture of the status of food insecurity, their interpretation in SOFI 2013, 2014 and 2015 revealed assumptions of a neoliberal bias for free trade, industrialized agriculture, export-oriented agriculture and mainstream economic development as pathways to food security. Ending hunger by 2030, achieving food security and improved nutrition, and promoting sustainable agriculture require a clear road toward these goals, based on evidence, not assumptions. Over the past year, the FAO has piloted a Food Insecurity Experience Scale (FIES) to assess anxiety over food and food deprivation. These data will be extremely valuable to track the status of food insecurity, but country results are not yet available and may be politically sensitive, if they contradict earlier assessments of hunger.

Concerns over how progress toward food security will be tracked in the future are based in part on the uninspiring track record of how the Millennium Development Goals (MDGs) and SOFI used hunger data, in addition to the used metric (PoU). Over a time period that included massive price volatility, increasing global inequality,

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2 For more information on the SDGs, please visit: sustainabledevelopment.un.org/?menu=1300.

3 European Commission (EC), FAO. *An Introduction to the Basic Concepts of Food Security.* Rome: EC—FAO Food Security Program. 2008. Available at: www.fao.org/docrep/013/al936e/al936e00.pdf.

and increasing vulnerability of food production due to climate change, the official FAO report claimed that food insecurity had shown dramatic decreases and MDG1 (to halve hunger) had been achieved in 72 countries, with others on track to achieving this goal.[4] The implication was that even more neoliberal policies were in order because they were working so well. Lying with statistics is easy; drawing the wrong inferences because data are not disaggregated by country, gender or sub-population or because the wrong things are measured is even easier.

The 2030 Agenda for Sustainable Development has laudable aspirational goals but it remains fundamentally embedded in prioritizing national economic growth over achieving human rights for each person. It sets the clock back by framing human rights as 'needs', opening dangerous avenues for their commodification. This is especially pernicious given the significant influence of corporate actors in shaping the 2030 Agenda and the pervasive belief in many UN forums that the private sector holds the key to SDG implementation. Goal 2 includes nothing about the right to food and nutrition, thus missing alignment with the CFS and ignoring substantial evidence that implementation of this right has resulted in significant improvements in food security.[5] The 2030 Agenda and SDGs have been swept up in the 'data revolution', in which quantifiable data manipulated by technocratic data 'experts' are seen as the main, if not only, path to knowledge. The emphasis in proposed SDG indicators has been on measurement of outcomes, rather than monitoring the ways in which these outcomes are achieved.

Human rights-based approaches, in contrast, require an assessment of food insecurity and malnutrition that is centered on the knowledge and direct participation of people, particularly those most affected by these challenges. They also require that the process by which people achieve food security is assessed, e.g. through monitoring whether a multi-actor body capable of determining food policies exists, and whether there is supportive legislation for unions of food workers and farm workers to promote livable wages. Moreover, it is equally important to document examples of congruence with the right to food and nutrition, for instance its legal recognition and recourse to redress violations in court. Data from some metrics proposed as SDG indicators are relevant to the right to food and nutrition, but without these key elements of human rights-based approaches (participation, focus on process as well as outcomes, explicit legal recognition of the right to food and nutrition and recourse to violations), the SDGs cannot point to the best ways to achieve this right or even food security.

Monitoring progress is essential in order to know whether government agencies and non-governmental organizations working on hunger, food insecurity and the right to food and nutrition are on the right track. It is essential to choose metrics for this monitoring that reflect people's experience, allow comparison between different approaches to food insecurity, and adhere to human rights-based approaches. To achieve the right to food and nutrition, food systems need fundamental transformation. It is also paramount that the voices of the primary contributors to food security—who incidentally also suffer the worst consequences of food insecurity, but have not been heard sufficiently—are heard; they should participate at each step. Pressure from vested interests that profit from the 'status quo' explain a great deal about the over-reliance on metrics by some countries. However, metrics reveal very little about feasible pathways to ending hunger and how this goal can be met cost-effectively through more democratic governance, agroecology and food sovereignty, without increasing dependence on predatory lending and imports of expensive inputs.

4 FAO. "Seventy-two countries achieve the MDG target to halve proportion of hungry people." Rome: FAO, June 7, 2015. Available at: www.fao.org/news/story/en/item/292551/icode/.

5 Sano, Hans-Otto and Birgitte Feiring. *A Human Rights Review of the Proposed SDG Priority Indicators*. Copenhagen: Danish Institute for Human Rights, 2015. Available at: www.plan-academy.org/mod/data/view.php?d=18&rid=196.

Disentangling the industrialized agribusiness agenda from real progress toward the realization of the right to food and nutrition is a vital step in transforming food systems to serve those who suffer from hunger and food insecurity.

INSIGHT Peoples' Monitoring for the Right to Food and Nutrition
FIAN International[6]

The vast majority of violations of the right to food and nutrition are associated with acts of commission and omission of governments and with abuses carried out by transnational corporations (TNCs). These acts of violence take a variety of different forms: land grabbing, forced evictions, child marriage and gender-based violence, bonded labor, abusive utilization of agrochemicals by agribusiness with detrimental consequences to health and the environment, criminalization of social movement leaders and human rights defenders, ocean and fisheries grabbing,[7] abusive marketing of junk food, and furthering climate change. These violations lead to hunger, malnutrition, loss of livelihoods and reduction in the quality of life. They reflect the lack of peoples' sovereignty over their own lives and bodies, and states that are indifferent to peoples' needs and priorities.

In the face of these challenges, peoples, communities and grassroots groups have organized in different ways to resist the increasing level of violence perpetrated by the powerful global and national elites. More recently, efforts have intensified to build a convergence of struggles that departs from local, national and regional processes. Examples include the Global Convergence of Land and Water Struggles[8] and other peoples' initiatives in Mali and in the Basque Country.

FIAN International has initiated a project together with social movements, civil society organizations (CSOs), and academics to monitor the primary barriers to food sovereignty. While other initiatives have built tools for states to monitor achievement of the right to food and nutrition,[9] this new initiative recognizes that food sovereignty is the only way forward. It therefore assesses the conditions necessary for food sovereignty, including the legal and institutional framework for the right to food and nutrition, women's rights, small-scale producers' access to and control over resources, genuine political participation in policy making, and absence of discrimination in enacting food policies and programs—all of these issues overlap and intersect, but have yet to be fully included in the mainstream analysis, and thus into solutions posed to eliminate hunger and malnutrition.

A group of advisors has worked collectively, in consultation with experts who have experience working with social movement and grassroots organizations, to develop indicators for each of these determinants, using various methods and data sets. This initiative seeks to develop a human rights-based food sovereignty counterpoint to the existing monitoring tools; demonstrate the impacts of popular participation, human rights-based accountability and policy coherence in operationalizing human rights obligations; create greater synergy between global and local movements and policy processes; create coherence in human rights advocacy in international reporting; and provide comprehensive analysis and resources for those engaged in work related to the right to food and nutrition. The process, results and ongoing work in this new collective initiative will be closely linked to the Global Network for the Right to Food and Nutrition, working across sectors and constituencies to create and generate a powerful tool to support CSOs.[10] This will enable them to

6 FIAN International is an international human rights organization that has been advocating for the realization of the human right to adequate food and nutrition for 30 years. FIAN consists of national sections and individual members in over 50 countries around the world. For more information, please visit: www.fian.org.
Special thanks to Emily Mattheisen and Sofia Monsalve Suárez (FIAN International) for their support in drafting and reviewing this insight box.

7 For more information on the corporate capture of global fisheries, please see article "Privatization and Corporate Capture of Global Fisheries Policy" in this issue of the *Right to Food and Nutrition Watch*.

8 For more information on the Global Convergence of Land and Water Struggles—West Africa, please see article "The Global Convergence of Land and Water Struggles in West Africa: Building a Strong and United People" in this issue of the *Right to Food and Nutrition Watch*.

9 For previous initiatives on monitoring the achievement of the right to food and nutrition, please see: Riedel, Eibe, Jan-Michael Arend, and Ana María Suárez Franco. *Indicators-Benchmarks-Scoping-Assessment: Background Paper*. Berlin and Geneva: Friedrich Ebert Stiftung, 2010. Available at: www.fes-globalization.org/geneva/documents/HumanRights/6July10_BackgroundPaper_IBSA.pdf.

10 For more information, please visit the new website, which will be launched in the second half of 2016: www.righttofoodandnutrition.com.

articulate their monitoring work in different fora more strategically and to create links between existing monitoring systems including within the CFS, UN human rights bodies such as the CESCR and the UN Committee on the Elimination of Discrimination against Women (CEDAW), and the SDGs.

The initiative intends to be a participatory action research project in dialogue with social movements and grassroots organizations. It will remain flexible in its approach, and be tested, adjusted and fine-tuned as we move forward. The success achieved in advocacy is always the result of collective work, so we call on those interested to participate and support this collaborative and ongoing process to join us![11]

11 For more information on how to join, please contact Emily Mattheisen (FIAN International) at *mattheisen@fian.org*.

SEEDS, AGRICULTURAL BIODIVERSITY AND THE RIGHT TO FOOD AND NUTRITION

01

SEEDS AND AGRICULTURAL BIODIVERSITY: THE NEGLECTED BACKBONE OF THE RIGHT TO FOOD AND NUTRITION

Sofía Monsalve Suárez, Maryam Rahmanian and Antonio Onorati [1]

The human right to adequate food and nutrition has not paid enough attention to seeds and agricultural biodiversity, but the time has now come to turn this trend around. Peasant seed systems feed the world and are resilient in times of natural disasters. Yet they face severe threats due to the increasing corporate capture of seeds and nature on the one hand and the accelerated destruction of agricultural biodiversity on the other. Right to food and nutrition activists can strengthen the work of small-scale food producers to protect their agrarian, fishing, pastoral and agro-ecological systems by granting seeds and agricultural biodiversity their well-deserved place.

WHAT ARE THE MAIN THREATS TO SEEDS AND AGRICULTURAL BIODIVERSITY TODAY?

Peasants are steadily losing their seeds: Their collective seeds systems are being made illegal and are destroyed and contaminated by genetically modified organisms (GMOs). The Green Revolution's agricultural policies, trade agreements, and more recently, the national and international legal frameworks protecting intellectual property rights (IPR) are behind this encroachment on peasants' seeds.[2]

IPR protection regimes such as the International Union for the Protection of New Varieties of Plants (UPOV) have been devised so as to protect the interests of the seed and breeder industry.[3] They severely impair access to seeds outside of UPOV by restricting peasant practices and seed management systems. In Tanzania and Colombia, among other countries, peasant practices have been declared illegal, and criminalized.

Furthermore, IPR protection regimes tend to create monopolies, which then place them in the position to reap profits and to enlarge their market power. It is estimated that Monsanto, DuPont, and Syngenta control 53% of the global commercial market for seeds.[4] The big six agro-chemical corporations (BASF, Bayer, Dow, DuPont, Monsanto, Syngenta) have recently announced that mergers are in the pipeline, leading to even more market concentration.[5] The economic, ecological, and socio-political risks of a monopolized seeds and breeds supply system are innumerable.

Other major threats relate to the destruction of agricultural biodiversity. This sad state of affairs is the result of land clearing, population pressure, overgrazing, environmental degradation, and industrialized farming, fishing and livestock keeping practices.[6] The industrial seed and breeding systems favor standardization and homogeneity. These have a negative impact on the very variables that underpin biodiversity.[7] The destruction of agrobiodiversity is particularly problematic given the challenges that climate change is posing on the realization of the right to food and nutrition.

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Special thanks to Stig Tanzmann (Bread for the World—Protestant Development Service) and Priscilla Claeys (University of Louvain and French Institute of Pondicherry) for their support in reviewing this article.
This article was originally written in English.

2 La Via Campesina and GRAIN. *Seeds laws that criminalize farmers: Resistance and Fight-back*. LVC and GRAIN, 2015. Available at: *viacampesina.org/en/images/stories/pdf/2015-Seed%20laws%20booklet%20EN.pdf*.

3 For more information, please see insight box 1.1 "Farmers' Rights to Seed: Conflicts in International Legal Regimes" below.

4 ETC. "Who Will Control the Green Economy?" *ETC Group Communiqué* 107. (November, 2011): 22.
Available at: *www.etcgroup.org/files/publication/pdf_file/ETC_wwctge_4web_Dec2011.pdf*.

5 ETC. "Breaking Bad: Big Ag Mega-Mergers in Play." *ETC Group Communiqué* 115. (December, 2015): 4. Available at: *www.etcgroup.org/sites/www.etcgroup.org/files/files/etc_breakbad_23dec15.pdf*.
For more information on concentration in the livestock sector, please see:
Gura, Susanne. *Livestock Genetics Companies. Concentration and proprietary strategies of an emerging power in the global food economy*. Ober-Ramstadt: League for Pastoral Peoples and Endogenous Livestock Development, 2007. Available at: *www.pastoralpeoples.org/docs/livestock_genetics_en.pdf*.

100 YEARS OF AGRICULTURAL CHANGE:
SOME TRENDS AND FIGURES RELATED TO AGROBIODIVERSITY

- Throughout the 20th century, "some 75[%] of plant genetic diversity has been lost as farmers worldwide have left their multiple local varieties and landraces for genetically uniform, high-yielding varieties.
- 30[%] of livestock breeds are at risk of extinction; six breeds are lost each month.
- [By 1999,] 75[%] of the world's food [was] generated from only 12 plants and five animal species."[8]

WHAT IS THE UNDERSTANDING OF SEEDS, AGRICULTURAL BIODIVERSITY AND THE RIGHT TO FOOD AND NUTRITION SO FAR?

General Comment 12 of the UN Committee on Economic, Social and Cultural Rights (CESCR) states that the core content of the right to food and nutrition covers, *inter alia*, the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture. 'Availability' refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or to well-functioning distribution, processing and market systems (paragraph 12). This implies that seeds, plants, and animals are as indispensable as are land and water for feeding oneself.[9] Therefore, state parties (164 to date) to the International Covenant on Economic, Social and Cultural Rights (ICESCR) have the obligation to respect, protect, and fulfill access to—and use of—seeds, plants, and animals that people need in order to feed themselves.[10]

The relationship between the right to food and nutrition, seeds, and agricultural biodiversity was explicitly articulated for the first time in the FAO *Right to Food Guidelines*.[11] However, these guidelines did not mention farmers' rights to save, use, exchange, and sell farm-saved seed, as per Article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).[12] The guidelines also fail to provide guidance on how to respect, protect, and fulfill access to—and use of—seeds, plants and animals. Ultimately, these are elements that contribute to the realization of the right to food.

It is worth noting that the former UN Special Rapporteur on the Right to Food, Olivier De Schutter, highlighted that the state's obligations are both to preserve and enhance informal and traditional farmers' seed systems as well as to regulate commercial seed systems. This implies that farmers should have access to inputs with reasonable conditions.[13] Building on this interpretative development, important work has been done in terms of understanding the human rights impact of IPR protection regimes such as the 1991 Act of the UPOV Convention (UPOV 1991) on the right to food of peasants.

Against the backdrop of these threats, gaining a broader understanding of the fundamental relationship between seeds and agricultural biodiversity and the right food and nutrition is crucial, especially in the context of food sovereignty.[14] Key opportunities can be found in the current debate on how to implement farmers' rights within the framework of ITPGRFA and in the discussions at the UN Human Rights

6 Please see the *Wilderswil Declaration on Livestock Diversity* for the position of the organisations of livestock herders and other CSOs on industrial livestock production. Available at: www.grain.org/article/entries/2227-wilderswil-declaration-on-livestock-diversity.

7 Ensor, Jonathan. *Biodiverse agriculture for a changing climate*. Rugby (UK): Practical Action, The Schumacher Centre for Technology and Development, 2009. p. 26. Available at: practicalaction.org/docs/advocacy/biodiverse-agriculture-for-a-changing-climate-full.pdf; FAO Commission on Genetic Resources for Food and Agriculture. *The Second Report on The State of The World's Plant Genetic Resources for Food and Agriculture*. Rome: FAO, 2010. p. 19 ff. Available at: www.fao.org/docrep/013/i1500e/i1500e.pdf.

8 Guendel, Sabine. "What is agrobiodiversity?" In FAO. *Building on Gender, Agrobiodiversity and Local Knowledge*. Rome: FAO, 2005. p. 3. Available at: www.fao.org/3/a-y5956e.pdf.

9 OHCHR and FAO. "The Right to Adequate Food." *Fact Sheet* 34. Geneva: UN, 2010. Available at: www.ohchr.org/Documents/Publications/FactSheet34en.pdf.

10 In its concluding observations, the CESCR recommended to India in 2008 to provide "state subsidies to enable farmers to purchase generic seeds which they are able to reuse, with a view to eliminating their dependency on multinational corporations," and to review the seed bill of 2004 in light of obligations with the right to food and nutrition. Committee on Economic, Social and Cultural Rights. Consideration of Reports Submitted by the States Parties under Articles 16 and 17 of the Covenant. E/C.12/IND/CO/5. May 2008. Paragraph 69.

11 For more information on genetic resources for food and agriculture, please see Guideline 8D in FAO. *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*. Rome: FAO, 2004. Available at: ftp.fao.org/docrep/fao/009/y7937e/y7937e00.pdf.

12 FAO. *International Treaty on Plant Genetic Resources for Food and Agriculture*. Rome: FAO, 2009. Available at: ftp.fao.org/docrep/fao/011/i0510e/i0510e.pdf.

13 De Schutter, Olivier. *The Right to Food. Seeds policies and the right to food: enhancing agrobiodiversity and encouraging innovation*. 2009. Paragraph 7. Available at: www.srfood.org/images/stories/pdf/officialreports/20091021_report-ga64_seed-policies-and-the-right-to-food_en.pdf.

14 For a more detailed discussion, please see: Bellows, Anne C. *et al.*, eds. *Gender, Nutrition, and the Human Right to Adequate Food: Toward an Inclusive Framework*. Routledge: New York, 2016.

Council on the recognition of the rights to seeds and biological diversity within the draft Declaration on the Rights of Peasants and Other People Working in Rural Areas.[15] The links between the right to food and nutrition and farmers' and peasants' rights to seeds and agricultural biodiversity need to be consolidated.

TOWARDS A BETTER UNDERSTANDING OF HOW SMALL-SCALE FOOD PRODUCERS RELATE TO SEEDS AND AGRICULTURAL BIODIVERSITY[16]

The right to food and nutrition encompasses 'adequacy' in nutritional, cultural, socio-economic, climatic and ecological terms.[17] In order to perceive this dimension, it is essential to develop an in-depth understanding of how small-scale food producers access, use, and relate to seeds, plants, and animals for food provision.

In South Asia and Sub-Saharan Africa, among other areas, the large majority of peasants, particularly women, still rely on peasant seed systems.[18] Access to seeds is additionally provided via formal, commercial, and state supported seed systems.

Small-scale food producers do not talk about 'genetic resources' or 'biodiversity' when referring to seeds, plants, animals, insects or microorganisms. Those who are still connected to traditional systems use terms that are rooted in their worldviews and the belief that all of nature is living, and that human beings are an intrinsic part of the family of living creatures. For instance, indigenous peoples in Peru refer to their livestock as 'brothers' and 'sisters'.

Human beings and other living beings shape each other's existence through a timeless relationship of mutual interaction; it is a process of co-evolution. Biodiversity embodies a dynamic, constantly changing, and fluid patchwork of relations between people, plants, animals, other organisms, and the environment. Thus, biodiversity is the manifestation of the creativity and knowledge of peasants as they engage with the natural environment to satisfy their needs, while striving for autonomy.[19] Indeed, for those living in poverty in rural areas across the planet, the only chance of survival has always been to rely on nature.

It is clear then that peasant seed 'varieties' and livestock keepers' breeds are inextricably linked to culture, specific production systems and land, pastures, forests, rivers, and lakes. No peasant variety from any given territory and ecosystem can survive without the community being responsible for its selection and conservation.[20] Indeed, peasant seeds are so well adapted to their local environment and culture, that they can also be used to rebuild agricultural areas following a natural disaster. The earthquake in Nepal is a case in point.[21]

Women and men harbor knowledge about different areas related to plants and animals, which equally contribute to human welfare. In Africa and Latin America, for instance, women are often wild plant gatherers, home gardeners, plant domesticators and herbalists.[22] But they may also be the custodians of seeds and of related knowledge. Women's criteria for choosing certain food crop seeds may include: cooking time, the quality of a meal and its nutritional value, taste, resistance to bird damage, ease of collection, processing, preservation, and storage. Men are more likely to consider yield, suitability for a range of soil types, and ease of storage.

15 For more information on the work of the open-ended intergovernmental working group on this declaration, please visit: www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/3rdSession.aspx.

16 For more information, please see: International Planning Committee for Food Sovereignty (IPC). Agricultural Biodiversity Working Group. "Biodiversity for Food and Agriculture: the perspectives of small-scale food providers." in FAO. *State of the World's Biodiversity for Food and Agriculture. Thematic Study*. Rome: FAO, 2015.

17 United Nations Committee on Economic, Social and Cultural Rights. *General Comment 12*. Paragraphs 7–11. Available at: www.refworld.org/pdfid/4538838c11.pdf.

18 Thomas Braunschweig *et al., Owning Seeds, Accessing Food. A Human Rights Impact Assessment of Upov 1991 based on Case Studies in Kenya, Peru and the Philippines*. Zurich: Berne Declaration, 2014. pp. 19, 24–36. Available at: www.evb.ch/fileadmin/files/documents/Saatgut/2014_07_10_Owning_Seed_-_Accessing_Food_report_def.pdf.

19 Kastler, Guy, Antonio Onorati and Bob Brac. "Seeds and Peasant Autonomy." *Right to Food and Nutrition Watch* (2013): 47–50. 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=47.

20 Brac de la Perrière, Robert Ali and Guy Kastler. *Seeds and Farmers' Rights: How international regulations affect farmer seeds*. Peasants Seeds Network and BEDE, 2011. p. 53. Available at: www.farmersrights.org/pdf/semences_reglementations_EN.pdf.

21 For more information, please visit: www.libird.org/app/news/view.aspx?record_id=35.

22 For more information on women and seeds in Africa, please see the article "African Food Sovereignty: Valuing Women and the Seed They Keep" in this issue of the *Right to Food and Nutrition Watch*.
For more information on seeds in Latin America, please see the article "The Struggle for Peoples' Free Seeds in Latin America: Experiences from Brazil, Ecuador, Colombia, Honduras and Guatemala" in this issue of the *Right to Food and Nutrition Watch*.

DEEPENING THE UNDERSTANDING OF THE CONNECTION BETWEEN THE RIGHT TO FOOD AND NUTRITION AND SEEDS AND AGRICULTURAL BIODIVERSITY

We now turn to the question on what states should do to respect, protect, and fulfill access to—and use of—seeds, plants, and animals that people need in order to feed themselves.

Seeds and breeds are not a commodity that peasants buy and sell. Nor are they a scientific invention. In this sense, rural people's access to seeds and breeds should not be framed as access to commodities (or 'genetic material') produced by industry and science. In a human rights-based approach, access to seeds, plants, and animals is framed as an evolving and collective relationship to nature in any given territory. This means that peasant systems, which underpin agricultural biodiversity, should be recognized, protected, and promoted by states.

The full respect and enjoyment of women's rights are central to the protection of agricultural biodiversity. Women can only make their own choices for the selection and conservation of crops and animals if they control land and water and are able to participate on equal terms in policy making and in defining research priorities.

In order to ensure the existence and further development of peasant seeds and breed systems, states have the obligation to regulate commercial and state-driven systems in such a way as to support peasant systems, rather than to threaten them.

CONCLUSION

New ways to respect, protect and fulfill peoples' access to and use of seeds, plants, and animals that they need in order to feed themselves must take center stage in the ongoing development of the right to food and nutrition, within the framework of food sovereignty. The evolving collective relationship that rural people have to seeds, plants, animals, territories, and nature should play a key role. This relationship is so deeply intertwined with rural people's human dignity, that its protection justifies a stand-alone human right to seeds and biological diversity. This long-overdue contribution to the right to food and nutrition will soon become a reality in the forthcoming UN Declaration on the Rights of Peasants and Other People Working in Rural Areas.[23]

INSIGHT 1.1 Farmers' Rights to Seed: Conflicts in International Legal Regimes

Karine Eliane Peschard [24]

The principle of the *farmers' exception*—farmers' right to save, use, grow, exchange, and sell seeds of protected varieties—is one of the most contentious issues in the international negotiations on the rights to plant genetic resources for food and agriculture. The proliferation of global intellectual property, trade and environmental regimes in the last 25 years has led to conflicting norms. With regard to farmers' right to seed, the main conflict is between trade agreements and the International Union for the Protection of New Varieties of Plants (UPOV) on the one hand,[25] and the FAO International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA),[26] also known as the Seed Treaty, on the other.

23 Please see insight box 1.2 "Peasants' Rights to their Seeds are at the Forefront of Human Rights" below.

24 Karine Eliane Peschard is an SNF Postdoctoral Researcher at the Graduate Institute of International and Development Studies in Geneva. Special thanks to Stig Tanzmann (Bread for the World—Protestant Development Service) and Sofia Monsalve Suárez (FIAN International) for their support in reviewing this insight box. This insight box was originally written in English.

25 For more information on the UPOV Convention, please visit: www.upov.int.

26 For more information on the *International* Treaty on Plant Genetic Resources for Food and Agriculture, please visit: www.planttreaty.org.

In the preamble of the Seed Treaty, it is stated that farmers' right to save, use, exchange, and sell farm-saved seed and other propagating material is fundamental to the realization of farmers' rights. However, other international trade and intellectual property (IP) agreements severely restrict these same rights.

The application of the UPOV Convention, as revised in 1991, effectively undermines the implementation of farmers' rights. The 1978 Act of the UPOV Convention allowed farmers to save, use, and exchange seeds. With the 1991 revision, farmers' right to seed have become an optional exception left to the discretion of national governments; it is restricted to farmers' own use and must "safeguard the legitimate interests of the breeder" (Article 15.2).

Article 27(3)(b) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) provides some flexibility in terms of plant variety protection. However, many countries are signing away this flexibility by entering into bilateral or regional trade agreements that include provisions for intellectual property in plant varieties that go beyond the TRIPS minimum requirements. Hence, for example, member countries of the recently concluded Trans-Pacific Partnership (TPP)[27] are required to join the 1991 Act of the UPOV Convention (UPOV 1991).

These restrictions on farmers' abilities to save, exchange, and sell seeds clash with the farmers' rights that are guaranteed in the Seed Treaty. Article 9.3 of the Seed Treaty states:

> *Nothing in this Article shall be interpreted to limit any rights that farmers have to save, use, exchange and sell farm-saved seed/propagating material, subject to national law and as appropriate.*

While these contradictions remain largely unaddressed and unresolved, the corporate sector is actively pursuing its efforts to exploit agrobiodiversity for private ends. For example, the DivSeek initiative, launched in 2012, aims to "uncover crops' hidden genetic data" by sequencing plant genetic material held in national and international gene banks.[29] This material was collected from farmers' communities under the assumption that it would remain in the public domain.[30] By bringing together 69 institutional and corporate members (including leading agbiotech companies Bayer Crop Science, DuPont Pioneer, Monsanto and Syngenta), DivSeek opens the door to the corporatization of these resources. Farmers are conspicuously absent from the initiative, and the latter makes no mention of access and benefit sharing. If such an initiative is allowed to proceed, it will make a farce of the Seed Treaty efforts to enforce farmers' rights.

There is an urgent need to address incoherencies in the international legal system. Increasing restrictions on age-old seed-saving practices have been accompanied by a subtle but disturbing shift in language: farmers' rights to seeds are increasingly couched as 'privileges' and 'exceptions', subordinated to the dominant 'rights' of breeders. Current efforts to have the rights to seed and biological resources recognized in the draft of the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas are aiming to establish the primacy of these rights as human rights that should not be subordinated to trade and intellectual property.

27 For more on the TPP, please see: Khan, Tessa. "The Trans-Pacific Partnership: A Threat to Human Rights." *Right to Food and Nutrition Watch* (2015): 51. Available at: *www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf#page=51*.

28 Five countries (out of twelve) will have to join the UPOV 1991 as a result of the TPP: Brunei, Chile, Malaysia, Mexico, and New Zealand. Due to their membership in UPOV 1991, six TPP members are in potential violation of their commitments to farmers' rights under the Seed Treaty.

29 For more information on DivSeek, please visit: *www.divseek.org*.

30 For more information, please see: Kastler, Guy, Antonio Onorati and Bob Brac. *Supra* note 19.

INSIGHT L2 Peasants' Rights to their Seeds are at the Forefront of Human Rights

Guy Kastler[31]

Subsistence agriculture destined for local markets provides three quarters of global food consumption. The peasant farmers who produce this food do not have the financial means to buy commercial seeds and the necessary inputs. By depriving them of their right to reproduce and exchange their own seeds, small-scale food producers are being forced into debt, bankruptcy, and migration towards the slums of large cities—and even to suicide. This constitutes an intolerable violation of the right to work and the human right to adequate food and nutrition.

Commercial seeds are almost exclusively bound for monocultures that are exported to rich nations to feed their animals, dress their people, and fill their car tanks. They also feed speculation on the agrifood industry in the global hunger market. Forcing peasants to buy commercial seeds every year undermines the food security of most of the world's population, who are dependent on food crops. Commercial seeds are selected in seed stations or laboratories, far removed from the fields. They are adapted to the standardized crop conditions of experimental stations and are based on chemical fertilizers and pesticides, which can then be used everywhere to erase the diversity of local environments. These industrial selections have provoked the disappearance of almost 75% of crop diversity in the world.[32] Moreover, laboratories now add resistance genes to pathogens and herbicides. These transgenic varieties are rapidly spreading all over the planet, and thus pathogens are adapting and bypassing the resistance genes, which in turn leads to an increase in the use of pesticides. The same is true for herbicides, which adventitious seeds are also becoming resistant to.

Local peasant seeds are the only selections which permit the adaptation of crops to the complexities of each ecosystem without having to resort to astronomical quantities of inputs. Additionally, these seeds allow for constant renewal of biodiversity, firstly through massal selection from local crops and then regularly complemented by slight contributions from exogenous seeds. Local adaptation and the constantly renewing diversity are key factors in the sustainable resilience of food crops in the current context of climate, environmental, health, and economic crises. The opposite can be said for the specific and therefore short-lived resistance of industrial selections.

Peasant seed systems build on peasant rights to preserve, use, exchange, and sell their own seeds. Peasants have handed over the entirety of plant genetic resources from their plant selections to research, and to the industry—free of cost. They do not completely reject the improvements being made, but they do reject the imposed legal and technological barriers (for instance, hybrid F1 seeds, 'terminator' seeds) used by the industry to ensure its absolute monopoly by banning peasants from using and exchanging their own seeds. Peasants reject, too, the contamination of their crops and of the wild biodiversity, which slowly but surely weakens plants and poisons animals and human beings. Peasant seeds cannot live side by side with terminator seeds, the 1991 Act of UPOV Convention (UPOV 1991), patents on seed and seed genes, nor with GMOs, as they all destroy biodiversity as well as the rights and health of peasants.

31 Guy Kastler is facilitator at the Réseau Semences Paysannes, Aiguillon in France. For more information, please visit: www.semencespaysannes.org.
Special thanks to Karine Eliane Peschard (Graduate Institute of International and Development Studies) and Stig Tanzmann (Bread for the World—Protestant Development Service) for their support in reviewing this insight box. This insight box was originally written in French.

32 Guendel, Sabine. "What is agrobiodiversity?" In FAO. *Building on Gender, Agrobiodiversity and Local Knowledge*. Rome: FAO, 2005. pp. 1–6. Available at: www.fao.org/3/a-y5956e.pdf.

Peasants have placed their hopes in the proposition of strengthened rights to seeds and biodiversity in the draft Declaration on the Rights of Peasants and Other People Working in Rural Areas, currently being discussed at the UN Human Rights Council.[33] The draft declaration[34] asserts the rights of peasants to "conserve, use, maintain, and develop their own seeds, crops and genetic resources, or those of their choice." It also affirms their rights to "save, store, transport, exchange, donate, sell, use and re-use farm-saved seeds, crops, and propagating material." In addition, the text stipulates that peasants have "the right to conserve, maintain and develop agricultural biodiversity," and confirms their right to traditional knowledge. It also addresses the right to protect peasant seeds and agricultural systems from genetic contamination, biopiracy and theft, and all actions that endanger biodiversity and traditional knowledge; peasants' collective rights "to maintain their traditional agrarian, pastoral and agroecological systems upon which their subsistence and their renewal of agricultural biodiversity depend"; the right to exclude their genetic resources, agricultural biological diversity and their own knowledge and technologies from intellectual property rights; and "the right to participate in decision-making on matters related to the conservation and sustainable use of agricultural biodiversity."

INSIGHT 1.3 The 15th Garden: The Food Sovereignty Network of the People of Syria

Julia Bartal[35]

When diplomatic solutions lead from one closed border to another and reports tell of one disaster after the next, the real solutions are often found within civil society. Yet Syrian civil society faces insurmountable obstacles. Since the start of the revolution in 2011, the international community has failed to protect the human right to adequate food and nutrition of the people of Syria. Over the past years, communities across Syria have come under siege—mostly by the Syrian regime and its allies.[36] However, starvation is also a consequence of the international community's failure to perform up-to-date evaluations on aid and development and to demand access into besieged communities.

As a farmer in the food sovereignty network that supports Syrian activists, I have recently returned from the closed Syrian-Turkish border. In spring 2016, I witnessed how tens of thousands of people were stranded in Greece. In Europe, human rights violations of refugees can be easily documented, but at the Syrian border increased militarization means that civilian contact and camera documentation is practically impossible. Following the closing of borders, civil society work has been ground to a halt.

Behind the silenced, closed borders, hundreds of thousands of people are trapped—whether they try to flee or stay. Nevertheless, many communities across Syria are sustaining a civil society presence, while struggling to produce food and realize the right to food and nutrition. One truly grassroots network is The 15th Garden.[38] A network of urban and family gardens and rural agricultural projects, it was formed in 2013 to create small local farmer unions and find pragmatic solutions to food production in besieged areas. The network is supported by farmers and gardeners from various countries in Europe, and reaches out to refugee communities inside and outside Syria's borders. The network exchanges vegetable seeds and rejects the use of hybrids and GMOs, as well as agricultural support that leads to dependency. The 15th Garden also shares knowledge on how to grow, harvest, and reproduce local

33 For a more detailed discussion, please see: Monsalve Suaréz, Sofia. "The right to seeds and biological diversity in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas." *FIAN International Briefing* (March, 2016). Available at: *www.fian.org/fileadmin/media/publications_2016/droits_semences_UK_web.pdf*.

34 For more information on the draft declaration and the text cited in this article, please see: *documents-dds-ny.un.org/doc/UNDOC/GEN/G16/046/42/PDF/G1604642.pdf*.

35 Julia Bartal is an active farmer from East Germany. She works at a collective farm of 45 hectares, which produces vegetables and honey, and raises cattle, milk goats and workhorses. She has worked in solidarity networks in Palestine and Syria, as part of the support network of The 15th Garden Syria, and is member of the *Arbeitsgemeinschaft bäuerliche Landwirtschaft* (AbL), which is La Via Campesina's (LVC) German member organization. LVC is an international movement that coordinates peasant organizations of small and middle-scale producers, agricultural workers, rural women, and indigenous communities from Asia, Africa, America, and Europe. For more information, please visit: *www.viacampesina.org*.
Special thanks to Paula Gioia (European Coordination Via Campesina—ECVC) and Ansar Jasim (supporter of The 15th Garden) for their support in drafting and reviewing this insight box. This insight box was originally written in English.

36 Break the Sieges and Siege Watch are two initiatives that regularly map hunger sieges in Syria. There are currently 52 cities and communities under siege: 49 by the Syrian regime and 3 supposedly by Islamist forces, such as ISIS. An estimated one million people are affected. For more information, please visit: *www.breakthesieges.org* and *www.siegewatch.org*.

37 Food baskets are regularly delivered into areas where farmers are still operating, thus destroying their local survival possibilities even further. Development projects are being implemented, but UN seed deliveries into Syria, including connected data, are controlled and approved by the Syrian government. Although international organizations, such as the FAO, have offices in Syria and Turkey, the approval process goes through the Damascus office (personal conversation with FAO). Packages contain hybrid seeds, pesticides and fertilizers. GIZ (the German aid agency) delivered pesticides but failed to include protective clothing (personal conversation with local farmers and activists). For more information, please see: *www.carnegieendowment.org/2015/06/04/food-insecurity-in-war-torn-syria-from-decades-of-self-sufficiency-to-food-dependence/i9hq*.

38 For more information, please see: Montgomery, Katarina. "Greening the Rubble: Syrians Embrace Urban Farming to Stave off Starvation." *News Deeply*, October 28, 2014. Available at: *www.newsdeeply.com/syria/articles/2014/10/28/greening-the-rubble-syrians-embrace-urban-farming-to-stave-off-starvation*. Please also see: La Via Campesina. "The struggle for freedom and food sovereignty: a letter of solidarity to the farmers of Syria." July 7, 2014. Available at: *www.viacampesina.org/en/index.php/main-issues-mainmenu-27/human-rights-mainmenu-40/1633-the-struggle-for-freedom-and-food-sovereignty-a-letter-of-solidarity-to-the-farmers-of-syria*.

seeds. They conduct workshops inside and outside of Syria, bringing together Syrian and international food producers and activists. The network develops creative ways for sharing skills, including manuals on seed reproduction, natural fertilization methods, and growing vegetables, which can get through the blockades. In besieged areas, there is proof that some gardens can cover up to 20% of community needs and, during harvest, black market prices have dropped to pre-siege levels.

The international community has neglected Syrian civil society for five years now. Recent closed-border policies are taking their toll on civil society actors. The public narrative is shaped by questions on how to 'manage' the flow of refugees and confront extremism. Yet the solutions provided by those in power contradict the reality on the ground, neglecting both the needs and capabilities of the people of Syria. It is high time that the world acknowledges the role played by grassroots organizations, food sovereignty networks, farmers and city gardeners in breaking down the barriers and staving off starvation in Syria.

KEY ISSUES AND DEVELOPMENTS ON THE RIGHT TO FOOD AND NUTRITION

02

TOWARDS AN ASSESSMENT OF THE IMPLEMENTATION OF THE GUIDELINES ON TENURE OF LAND, FISHERIES AND FORESTS: A TOOL FOR SOCIAL MOVEMENTS' STRUGGLES

Ángel Strapazzón [1]

"A word says nothing
and yet hides everything
just as wind hides water
and flowers hide in the mud."
Una Palabra, Carlos Varela (Cuban singer and songwriter, 1963) [2]

The *Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (Tenure Guidelines or TGs), adopted by the UN Committee on World Food Security (CFS) in 2012 following a long participatory process,[3] are becoming a fundamental tool for the struggles of social movements and indigenous peoples worldwide. However, the Tenure Guidelines are also being turned into an indisputable reference for all hegemonic, neutral and counterhegemonic groups of actors. This article provides a preliminary assessment of the implementation of the TGs from the perspective of social movements and organizations four years after their adoption.

USING THE TENURE GUIDELINES AS A TOOL FOR STRUGGLES OVER NATURAL RESOURCES

We, the organizations participating in the Land and Territory Working Group of the International Planning Committee for Food Sovereignty (IPC), have taken on the responsibility of supporting the implementation of the Tenure Guidelines by using them as another tool in our struggles. To this end, in a joint effort with different constituencies (peasants, indigenous peoples, fishers, pastoralists) from the whole world, we developed a People's Manual for capacity-building.[4] Our People's Manual is an ingenious popular education tool that brings an otherwise difficult document to read closer to the people and to grassroots communities. Developing such a tool was a learning curve and an exercise of solidarity, as the aim was not to present specific situations, but rather to find universal elements that are common to different situations. The People's Manual is currently being translated into local and indigenous peoples' languages. Based on the People's Manual, capacity-building workshops with grassroots members of social movements were organized in fifteen countries on all continents.[5] A capacity-building curriculum for learning and capacity-building was developed, using our own methodology, and it has had much resonance. At the same time, we have strengthened our commitment to forge alliances and foster the convergence of our struggles. Based on this capacity-building work, we have developed processes to influence public policies on governance of land, fisheries and forests in seven countries, thus opening spaces of dialogue and negotiation with governments, local authorities and regional bodies,[6] and improving our proposals and arguments by employing the language of the Tenure Guidelines. In some countries we

1 Ángel Strapazzón is member of the National Peasant and Indigenous Movement (MNCI) in Argentina and La Via Campesina (LVC). He is the coordinator of the Land and Territory Working Group of the International Planning Committee for Food Sovereignty (IPC). The IPC is the platform for small-scale food producers, rural workers' organizations and grassroots social movements to propel food sovereignty at the global and regional level. Special thanks to Philip Seufert (FIAN International), Manigueuigdinapi Jorge Stanley Icaza (International Indian Treaty Council, IITC) and Francisco Sarmento (University of Coimbra) for their support in reviewing this article. This article was originally written in Spanish.

2 Carlos Varela's song is originally in Spanish *("Una palabra no dice nada / y al mismo tiempo lo esconde todo / igual que el viento esconde el agua / como las flores que esconde el lodo").*

have achieved new laws and policies that are in line with the spirit of the TGs,[7] and we have also made progress in land-related conflict-resolution in several countries.

By engaging with the Tenure Guidelines and incorporating them into our lives, we have widened our horizon and deepened our understanding of public policies and the governance of natural resources. As social movements and indigenous peoples, we now have more elements with which to analyze, develop, put forward and defend our public policy proposals. The implementation of the TGs in our countries has also brought back to life the spirit of other pertinent human rights instruments, such as the UN Declaration on the Rights of Indigenous Peoples and the ILO Convention 169 on Indigenous and Tribal Peoples. In addition, we have managed to strengthen the FAO's recognition of social movements and indigenous peoples as actors who play a key role in the process of implementation of the TGs. Moreover, governments and the FAO are increasingly acknowledging us as experts on an equal footing with other experts.

SOME WORRYING TRENDS

We oppose current attempts to misuse the Tenure Guidelines to turn them into a Corporate Social Responsibility instrument, as promoted by some donor governments and NGOs in order to legitimize or promote grabbing of natural resources. Large corporations, such as Coca Cola, Pepsi, Cargill, Nestlé, Unilever, Ilovo and philanthropic organizations such as the Bill & Melinda Gates Foundation, claim to be implementing the TGs.[8] We insist that the TGs are primarily addressed to states and that by adopting them, states have committed to apply them according to their paramount objective: to contribute to the realization of the human right to adequate food and nutrition by improving the governance of tenure for the benefit of vulnerable and marginalized people and communities.[9] This means that all efforts must center on the rights and needs of the most marginalized communities and groups, and not on private business interests.

We are also concerned about the fact that very few governments have undertaken initiatives to implement the TGs via processes that respect the participatory and inclusive standards set out in the instrument, and that parliaments remain largely unaware of them. Capacity-building of governments and local authorities on implementing the Tenure Guidelines remains a challenge. Yet it is also essential that states improve their capacity to monitor conflicts and the tenure situation at country-level, and that they step up the actual prosecution of cases of abuse and crimes committed by companies and investors.

MAKING HEADWAY

It is still early days to reach a conclusive assessment of the Tenure Guidelines, as only four years have passed since their adoption. Improving the governance of tenure is a complex and lengthy process, in which the key is to find ways to resolve social and political conflicts.[10] On our path to food sovereignty and justice, we continue to incorporate the TGs and other human rights instruments into our struggles. We, the social organizations, give normative and social value to these instruments. It is our words that forge, create, invent, disarm and organize. Those who wish to hear: listen. Those who wish to see: look. We have learnt from our teachers—the wise men and women from the mountains, rivers, seas, forests and gorges—that our words walk,

3 FAO. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome: FAO, 2012. Available at: www.fao.org/docrep/016/i2801e/i2801e.pdf. Please also see: Monsalve Suárez, Sofia. "The Recently Adopted Guidelines On The Responsible Governance Of Tenure Of Land, Fisheries And Forests: A Turning Point In The Global Governance Of Natural Resources?" *Right to Food and Nutrition Watch* (2012): 37–40. 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=37. Please also see the following interview: Strappazzón, Ángel. "A Stepping Stone to a New Civilization." *Right to Food and Nutrition Watch* (2012): 42–43. 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=42.

4 Land and Territory Working Group of the IPC. *People's Manual on the Guidelines on Governance of Land, Fisheries and Forests*. March 2016. Available at: www.foodsovereignty.org/peoplesmanual.

5 Argentina, Nepal, Mozambique, Nicaragua, Panama, Peru, Colombia, Paraguay, South Africa, Guatemala, Myanmar, Mali, Senegal, Niger, India, Italy and Belgium, among others.

6 Mali, Senegal and Myanmar, among others.

7 For a specific example, please see: "Land and Peace in Myanmar: Two Sides of the Same Coin", in this edition of the *Right to Food and Nutrition Watch*.

8 For more information, please see: The Coca-Cola Company. *The Coca-Cola Company Commitment: Land Rights and Sugar*. 2013. Available at: assets.coca-colacompany.com/6b/65/7f0d386040fcb4872fa136f05c5c/proposal-to-oxfam-on-land-tenure-and-sugar.pdf. Please also see: Cargill. *Does Cargill support global standards that respect and strengthen local communities and farmers' rights to land?* 2014. Available at: www.cargill.com/news/issues/agricultural-development/land-rights/index.jsp and Nestlé. *Nestlé Commitment on Land & Land Rights in Agricultural Supply Chains*. 2014. Available at: www.nestle.com/asset-library/documents/library/documents/corporate_social_responsibility/nestle-commitment-land-rights-agriculture.pdf.

9 For more information, please see the international statement made by different civil society organizations and social movements: *The Guidelines on the Responsible Governance of Tenure at a Crossroads*. December 10, 2015. Available at: www.fian.org/fileadmin/media/publications/2015_TG_Statement_final_EN.pdf.

10 For an example of this process, please see insight box 2.1 "Family Farming and Governance of Land and Natural Resources in Portuguese-Speaking Countries" below.

and lead, our words forge and touch yet touch and forge: our words create. The Tenure Guidelines have been developed with those very words, while the People's Manual encourages us to engage with them, by providing us with keywords that help us to understand. Thus, the words in the Tenure Guidelines and in the People's Manual not only walk, they take on a new life because we, the people, are an intrinsic part of them: our lives, our achievements, our victories and our defeats. We shape them, and they shape us.

In this regard, we will continue to strengthen our alliances and our arguments, and to build supportive tools, while using our own means of communication to challenge the mass media. The Tenure Guidelines convey a powerful message: natural resources are a right of peasants, small-scale fishers, pastoralists, indigenous peoples, the landless, rural workers, food consumers, youth, men and women; natural resources are a right of peoples and humanity as a whole. Yet, even though we have the right to land, we, together with peoples and civilizations of the Americas, boldly say that land does not belong to us, but rather we belong to her.

INSIGHT 2.1 Family Farming and Governance of Land and Natural Resources in Portuguese-Speaking Countries

Francisco Sarmento [11]

Within the framework of the Council of Food and Nutrition Security of the Community of Portuguese-Speaking Countries (CONSAN-CPLP), a Working Group on Family Farming (GTAF) was created in 2012 in order to implement the Food Security and Nutrition Strategy (ESAN-CPLP).[12]

This ad hoc working group consists of multiple actors, whose mandate is to formulate public policy proposals (for approval by CONSAN-CPLP) to support family farming. One of the group's first proposals was the development of the *Guidelines in Support of Family Farming in CPLP Member States*.[13]

In the latest version, currently under discussion, several areas have been prioritized for potential cooperation between CPLP member states. Emphasis has been particularly placed on the improved governance of land and natural resources. In fact, this was the main objective expressed by states at the UN Committee on World Food Security (CFS) with the adoption, in 2012, of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (hereinafter the Tenure Guidelines or TGs).[14]

Ongoing participation of civil society, academia, parliamentarians and the private sector in the CONSAN-CPLP may allow for an agreement on a set of principles and actions for the improved governance of land and natural resources. This agreement shall include, among others, the implementation of existing land laws, the updating of land registries and agro-ecological zoning, the effective regulation of private investment and the coordination of these measures with potential support programs for family farmers. This process is one of the main challenges faced by the ESAN-CPLP.

11 Francisco Sarmento has a postdoctoral degree in the governance of food security from the University of Coimbra (Portugal) and is a consultant at the FAO.
Special thanks to Daniel Gómez (FIAN International), Miguel Malta (ACTUAR) and Marcos Arana Cedeño (WABA) for their support in the reviewing this insight box.
This insight box was originally written in Portuguese.

12 The CPLP Food Security and Nutrition Strategy (ESAN-CPLP) was drawn up on the basis of an online consultation for all stakeholders, member states, civil society and the private sector. ESAN-CPLP was approved by member states in 2011 and presented in October of the same year at the 37th session of the UN Committee on World Food Security (CFS) in Rome, Italy.

13 The Version 1.0 of the *Guidelines in Support of Family Farming in CPLP Member States*, which was open to public consultation between April 1 and June 15, 2016, is available in Portuguese at: esancplp.wix.com/diretrizes-af-cplp.

14 FAO. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome: FAO, 2012. Available at: www.fao.org/docrep/016/i2801e/i2801e.pdf.

FAMILY FARMING

The only CPLP member state where family farming is legally recognized as a category is Brazil. In other member states, most family farmers are not necessarily accounted for in existing statistical classifications, such as, 'independent sole holder' (Portugal), 'small farmers' (some African countries and East Timor) or 'peasants' (most African countries). They are, however, on the whole, very important players. They cultivate areas of small to medium relative size (between 0.20 and 18 ha), using technology of different levels, and are responsible for 70% to 100% of food production. They employ between 60% and 84% of the workforce (with the exception of Cape Verde and Portugal).[15] Their identification and recognition is important for the implementation of various public policies, including ensuring access to and control over land. This recognition is closely linked to the commitment made by states, including those of the CPLP, to the progressive realization of the human right to adequate food and nutrition in various international instruments.

CONTEXT OF CONFLICT

This discussion is taking place amidst an international context of renewed interest in land and natural resources. Brazil, despite recent progress, continues to have one of the world's most unequal land tenure systems. In East Timor, with the due differences, there are frequent conflicts over land ownership. In São Tomé and Príncipe, despite the agrarian reform of the 1980s, a sharp fragmentation is found in family properties posing new challenges to the sustainability of these production systems.[16] It is important to note that in Portugal, the only European Union country, young men and women farmers face serious limitations in accessing land and remaining on it, due to an increasingly concentrated food system.

In the case of the largest African CPLP countries (Mozambique, Angola and Guinea-Bissau), land occupation processes for large-scale private investments are common, resulting in many conflicts over land. The so-called ProSavana program is a case in point.[17] The governments of Brazil, Mozambique and Japan launched this cooperation program in 2011 to develop farming in the Nacala Corridor, which spans 19 districts in northern Mozambique.

Civil society has expressed its concern over violations of the rights of communities and local peoples in occupations that may jeopardize the access of family farmers to quality land. It has also expressed concern over the state support provided to the widespread expansion of a production model that is based on the intensive use of agricultural inputs, leading to negative environmental externalities. The No to ProSavana Campaign in Mozambique is an example of a more organized form of civil society.[18] In addition, grassroots organizations linked to the Catholic Church are further deepening the debate on this issue. At the time of writing this article, a meeting of representatives of various grassroots organizations of the Catholic Church of all CPLP countries is taking place in Mozambique to discuss a joint position and strategy.

During the last CONSAN-CPLP meeting held in November 2015 in East Timor,[19] informal discussions between the various actors involved signaled the private sector's concern over providing land security and lower transaction costs in the ongoing investments. Private sector representatives also expressed the desire to have clarity on the areas available for new agricultural investments. Some governments have ex-

15 FAO. *Situação da governança da segurança alimentar e nutricional e papel da agricultura familiar nos países da CPLP*. Rome: FAO, 2013. Available in Portuguese at: www.fao.org/3/a-ar430o.pdf.

16 For more information, please see: Rocha Dias, Joana. "The 'Lab Island': Governance and Sustainable Agriculture in São Tomé and Príncipe and in the Countries of the Portuguese-Speaking Community." *Right to Food and Nutrition Watch* (2015): 58-60. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf#page=58.

17 For more information on ProSavana, please see: www.farmlandgrab.org/post/view/26158.

18 An open letter to urgently halt the ProSavana program was sent to the governments of Mozambique, Brazil and Japan in 2013. Available in Portuguese at: www.verdade.co.mz/vozes/37-hora-da-verdade/37359-carta-aberta-para-deter-e-reflectir-de-forma-urgente-o-programa-prosavana. Additionally, an open letter was sent to the President of the Republic of Mozambique in 2015. Available in Portuguese at: www.verdade.co.mz/vozes/37-hora-da-verdade/53904-selo-carta-aberta-a-sua-excelencia-presidente-da-republica-de-mocambique-por-sociedade-civil.

19 In the launch meeting of their facilitation mechanism for participation in CONSAN, private sector representatives pointed out as a priority, the identification of land available for investment in all countries. They opened an informal discussion on the topic at the last CONSAN-CPLP meeting in November 2015.

pressed concerns regarding conflicts over land and their need for capacity building in the implementation of land laws, management of land registries and updating of agro-ecological zoning (which mainly only indicate potential productive characteristics).

CHALLENGES ON THE SHORT AND MEDIUM TERM

Without underestimating the conflicting interests at stake and existing challenges, it is believed, based on the verified preliminary discussions, that the possibility of negotiating an agreement between the various actors is within the reach of the CONSAN-CPLP.

However, on the medium term, its materialization is perhaps the biggest challenge for this innovative institutional arrangement of the CPLP. The complexity of the subject, the lack of experience and means of the CONSAN-CPLP and the recent closure of the Ministry of Agrarian Development in Brazil (the main driver of the Working Group on Family Farming in the CPLP) are all factors that have to be taken into account.

The strengthening of family farmers in the CPLP thus involves identifying and recognizing them, their guaranteed access to land and other natural resources, and the implementation of appropriate public policies. This means that in order to strengthen family farming, improving land governance should be an integral part of the CONSAN-CPLP's agenda.

At a time when we are looking to strengthen, on an international level, the monitoring of the implementation of the Tenure Guidelines,[20] it is important that the CPLP countries take advantage of the next meeting of CONSAN-CPLP to discuss and agree on a set of commitments and the criteria and means for their monitoring at a national and regional level.

20 *Supra* note 14.

03

PRIVATIZATION AND CORPORATE CAPTURE OF GLOBAL FISHERIES POLICY

Mads Barbesgaard[1]

"Talk of the ocean as a new economic frontier, of a new phase of industrialization of the seas, will become widespread in 2016".
The Economist, 2015[2]

As we move towards the end of 2016, The Economist's prediction seems to have to some extent come true. Through the course of the past years, evermore actors have become interested in the very fundamental questions of how to best manage the ocean's resources: who should control the resources, who should have access, on which terms and to what end? On the broader scale: what role should these resources have in our society?

Increasingly, these questions are discussed within the context of 'Blue Growth' initiatives, which are no longer merely debated amongst state officials, the fisheries sector and scientists but also by international environmental NGOs such as the World Wide Fund for Nature (WWF) and Conservation International, the financial sector including Credit Suisse and Goldman Sachs, and even military companies such as Lockheed Martin. In 2015 alone, a stream of international conferences on how to 'invest in the Blue Economy' and how best to attain 'Blue Growth' brought together all the actors. Within this frame, focus is on 'triple benefit' policy solutions for the ocean's resources where everybody supposedly wins: communities, the environment and profits. In line with this idea of win-win-win solutions, a widely cited fisheries economist stressed in his report for The Economist's World Ocean Summit on Blue Growth that fisheries can be turned into a "driving force of the blue economy for the long-term", if the right policies are implemented.[3] In the report, fisheries policy reforms across a range of countries are heralded for "reversing overfishing, reviving coastal communities, and bringing oceans back to life."[4] What was at the core of these 'miracle' reforms? The answer lies in the so-called 'rights-based' approaches.

'PRIVATIZE-OR-PERISH'[5]

For readers of this report, the notion that a 'rights-based' approach to fisheries—with its affinity to human-rights talk—would have positive effects, might sound uncontroversial. However, behind what fisheries economists call 'rights-based' approaches are not *human* rights, but *property* rights—and for the most part private property rights. In contrast to the picture painted by 'rights-based' proponents, fisher peoples' movements have denounced such privatization policies as 'ocean grabbing', stressing that they have adverse social and environmental consequences.

But where does this rights-talk come from? In 1989, an academic volume titled Rights Based Fishing introduced the concept and the proposition that the only way to avoid economic as well as environmental havoc in fisheries was to introduce private property rights over the fish resources and the market to govern them.[6] The authors quite openly clarified that what they were calling for was the "enclosure and

1 Mads Barbesgaard is a PhD candidate in Human Geography at Lund University (Sweden). This article was written in close collaboration with the International Secretariat of the World Forum of Fisher Peoples (WFFP), a mass-based social movement of small-scale fisher peoples from across the world. For more information, please visit: www.worldfishers.org.
Special thanks to Seth Macinko (University of Rhode Island) and Antonio Onorati (Centro Internazionale Crocevia) for their support in reviewing this article. This article was originally written in English.

2 Goddard, Charles. "The Ocean Business: The Rise and rhetoric of the blue economy." *The World in 2016, The Economist Magazine*, November 2, 2015. Available at: www.theworldin.com/article/10625/ocean-business.

3 Christopher Costello *et al.*, *The Potential for Global Fish Recovery: How effective fisheries management can increase abundance, yield and value*. UCSB, University of Washington & Environmental Defense Fund, 2015. p. 5.

4 *Ibid.*

5 Macinko, Seth. "Lipstick and catch shares in the Western Pacific: Beyond evangelism in fisheries policy?" *Marine Policy* 44 (2014): 37–41. Available at: www.researchgate.net/publication/259514077_Lipstick_and_catch_shares_in_the_Western_Pacific_Beyond_evangelism_in_fisheries_policy.

6 Neher, Philip A., Ragnar Arnason and Nina Mollet, eds. *Rights Based Fishing*. Springer, 1989. Available at: link.springer.com/book/10.1007%2F978-94-009-2372-0.

privatization of the common resources of the oceans."[7] As was stressed by one of the co-authors of the volume in a later article, the need for this enclosure and privatization is based on the assumption amongst some fisheries economists that property rights represent the pinnacle of human civilization:

> *[...] without property rights, human society seems doomed to abject poverty. In fact, with little or no property rights, human society would be primitive indeed, not much different from the more advanced versions of animal societies [...]. It follows immediately that the fisheries problem would disappear if only the appropriate property rights could be defined, imposed and enforced.*[8]

Since then, such positions have become increasingly hegemonic and alarmist to the point that fisheries economists are now pushing what has been called a "privatize-or-perish dichotomy."[9]

What these celebratory accounts often gloss over, however, is the devastating social consequences of such privatization programs that in reality lead to a select few winners while dispossessing the majority of the former resource users. As the resource is commodified, i.e. the right to fish can be bought and sold on a newly created market, the resource becomes concentrated in the hands of a few—those having the best access to capital.[10] In Denmark—one of the heralded examples—the introduction of a 'rights-based approach' led to massive social disruption within and between coastal communities. A select few capital-strong boat owners amassed the resources through the "centralization [of fishing rights] on fewer larger vessels concentrated in fewer harbors."[11] By 2015, one fishing enterprise owned fishing rights worth over €116 million (US $130 million).

Similarly, when a 'rights-based' reform was introduced in post-apartheid South Africa, approximately 45,000 small-scale fishers had their rights taken away from them. After a protracted struggle by the dispossessed fisher peoples, this reform was eventually deemed unconstitutional in 2007 on the premise that it undermined fisher peoples' human right to adequate food and nutrition.[13]

According to the two global fishers' movements—the World Forum of Fisher Peoples (WFFP) and the World Forum of Fish Harvesters and Fish Workers (WFF)—these dynamics are not unique to either Denmark or South Africa. Rather, they are endemic to such 'rights-based' approaches. Pointing to experiences in many of the same countries that 'rights-based' proponents had highlighted positively, the movements have shown that "rights-based fisheries lead to de facto exclusion of small-scale fishers and the concentration of fishing rights with an elite minority, [therefore] rights-based fisheries are incompatible with small-scale fishing."[14]

THE COASTAL FISHERIES INITIATIVE

Despite these experiences, similar programs are gaining ground at a global level, especially with the rise of the Blue Growth framework. The most recent example is the Coastal Fisheries Initiative (CFI). This program aims to reform fisheries in six countries spanning three continents: Cape Verde, Côte D'Ivoire, Senegal, Ecuador, Peru and Indonesia.

Over a period of four years, US $238 million will be distributed through a number of projects in these countries.[15] The implementing agencies are the Food and Agriculture Organization (FAO), the United Nations Environment Program (UNEP),

7 *Ibid.* p. 3.

8 Árnason, Ragnar. "Property rights as a means of economic organization." Paper presented at the Use of Property Rights in Fisheries Management Fish Rights 99 Conference, Fremantle, Western Australia, November 11–19, 1999. Available at: www.fao.org/docrep/003/x7579e/x7579e03.htm#b2-Property%20Rights%20as%20a%20Means%20of%20Economic%20Organization%20R.%20Arnason.

9 *Supra* note 5. p. 40.

10 For a critique on the impact of similar processes in relation to seeds, another type of natural resources, please see insight box 1.1 "Farmers' Rights to Seed: Conflicts in International Legal Regimes" in this issue of the *Right to Food and Nutrition Watch*.

11 Høst, Jeppe E. "A neoliberal catch: Access rights and the clash of coastal lifemodes." Paper presented at the World Small-Scale Fisheries Congress, Bangkok, Thailand, October 18–22, 2010. p. 13. Available at: www.seafdec.or.th/wsfc2010/CZAP-WS-FC%20Conference%20Proceedings/Concurrent%20session%201-2/Jeppe_Host_Full_Paper_CZAP_WSFC_2010.pdf#page=13.

12 For more information, please see Danish documentary on small-scale fisheries on DR TV. "DR 2 Undersøger: kvotekonger og små fisk." September 8, 2015. Available at: www.dr.dk/tv/se/dr2-undersoeger/dr2-undersoeger-kvotekonger-og-sma-fisk.

13 For more information on the case *Kenneth George and others vs. Minister of Environmental Affairs and Tourism* and the new small-scale fisheries policy it led to, please see: De Schutter, Olivier. "From Charity to Entitlement, Implementing the right to food in Southern and Eastern Africa." *Briefing Note* 05 (2012): 13. Available at: www.ohchr.org/Documents/Issues/Food/SRRTF%20BN%2005_SouthernEasternAfrica_en.pdf. Please also see: TNI, Afrika Kontakt and Masifundise. *The Global Ocean Grab: A Primer*. Amsterdam: The Transnational Institute (2014): 45. Available at: www.tni.org/files/download/the_global_ocean_grab.pdf#page=45.

14 WFFP and WFF. "A call on governments to stop supporting the Global Partnership for Oceans and Rights-Based Fishing Reforms" (2013). Available at: www.worldfishers.org/wp-content/uploads/2015/11/WFFP-WFF-Call-on-Governments_GPO_200313.pdf.

15 For more information on the Global Environment Facility and Global Coastal Fisheries Initiative (CFI) Program, please visit: www.thegef.org/gef/International_Waters/Coastal-Fisheries.

the United Nations Development Program (UNDP), Conservation International, WWF, and the World Bank. CFI is funded jointly by the Global Environmental Facility (GEF), the implementing governments, environmental NGOs, foundations and private sector actors. Implementation is divided amongst the different organizations, with WWF implementing in Indonesia; UNDP, WWF and Conservation International implementing in Ecuador and Peru; and FAO and UNEP implementing in Cape Verde, Cote D'Ivoire and Senegal.

At the time of writing, the CFI is yet to be implemented. However, according to social movements WFFP and WFF, CFI's program framework document is firmly rooted in the idea that privatization is the only way forward for fisheries management in the targeted countries.[16] In a November 2015 statement, they lament that "CFI has a blind belief in [so-called 'rights-based' fisheries], which aim at privatization of maritime resources as the cure-all to any and all problems relating to the environment as well as poverty reduction."[17] As they point out, this is however not immediately clear from the document as it is couched in the language not of private property rights, but rather of "secure tenure and access rights," not specifying if these are indeed private rights. Instead, the CFI document is littered with a call for "secure rights" for "fishers, fishing communities and businesses."[18] In tune with the logic of the abovementioned fisheries economists, it is argued that this spread of 'rights' will promote "environmentally, economically and socially sustainable resource utilization."[19] This alludes to another development in fisheries jargon, where the 'rights-based' proponents no longer speak openly of privatization as they did in 1989, but instead use "strategically benign rhetoric" that masks the actual aims, not to mention consequences, of the 'rights-based' approach.[20] However, "[e]nclosure through privatization of access and commodification of rights can take many forms, even if the language changes."[21]

According to WFFP and WFF, "[t]he content in the [CFI document] has been developed and written by an exclusive set of people" and in this process the only form of 'consultation' that took place was the option of answering online questionnaires and participating in workshops. They stated that "[we were] reduced to the level of other 'stakeholders' on par with private-sector representatives, academics etc. although we are the ones who represent the people who stand to be most affected by the CFI."[22]

Both of these aspects in the fisher peoples' movements' critique find their basis in the recently endorsed FAO *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication*.[23] In paragraph 5.1, it is stressed that the guidelines support "equitable distribution of the benefits yielded from responsible management of fisheries and ecosystems, rewarding small-scale fishers and fish workers, both men and women".[24] Such an equitable distribution would seem to be severely contravened by the enclosure and privatization processes envisioned by the CFI. Furthermore, the top-down process leading to the CFI is the very opposite of the decision-making processes envisioned in the guidelines. These suggested processes should "ensure active, free, effective, meaningful and informed participation of small-scale fishing communities, including indigenous peoples [...] in the whole decision-making process related to fishery resources."[25] With such clear and unambiguous language, WFFP and WFF consider it highly provocative for CFI to claim that national policies for the six countries targeted for reform adequately reflect FAO guidelines. They state that, on the contrary, CFI disregards the guidelines both in its content and its process.

16 FAO. *Program Framework Document of the Coastal Fisheries Initiative*. Rome: FAO, 2015. Available at: worldfishers.org/wp-content/uploads/2015/11/GEF-CFI-Framework-document.pdf.

17 WFFP and WFF. "Fisherfolks say no to the Coastal Fisheries Initiative." (2015) Available at: www.worldfishers.org/2015/11/09/fisherfolks-say-no-to-the-coastal-fisheries-initiative.

18 FAO. *Supra* note 16. p. 18.

19 *Ibid.*

20 Macinko, Seth. *Supra* note 5. p. 40.

21 Longo *et al.*, *The Tragedy of the Commodity: Oceans, Fisheries and Aquaculture*. Rutgers University Press. 2015. p. 53.

22 WFFP and WFF. *Supra* note 17.

23 FAO. *Voluntary guidelines for securing sustainable small-scale fisheries in the Context of Food Security and Poverty Eradication*. Rome: FAO, 2014. Available at: www.fao.org/3/a-i4356e.pdf.

24 *Ibid.* p. 5.

25 *Ibid.* p. 3.

BLUE GROWTH & OCEAN GRABBING

The critique concerning participation and representation in decision-making also points to the broader processes alluded to in the introduction. With the rise of Blue Growth, the past years have seen increasing 'participation' (or dominance) of a broad range of profit-seeking actors in questions and decisions of what to do with the ocean's resources. Thus, fisher folk are not only competing with large-scale actors in the fishing sector to retain access and control over resources; they must now also contend with actors in the tourism, aquaculture, agriculture, energy, mining and infrastructure industries. In addition, actors engaged in conservation and climate mitigation efforts also appropriate aquatic resources from fisher peoples. As pointed out in the guidelines, because of their market power, these actors often have stronger political and economic influence over decision-makers than small-scale fisher peoples movements do. Therefore, Blue Growth potentially signifies a new phase of 'ocean grabbing', namely: "the capturing of control by powerful economic actors of crucial decision-making [...] including the power to decide how and for what purposes marine resources are used, conserved and managed."[26]

As regular readers of the *Watch* know,[27] the increasing corporate capture of global decision-making processes is by no means isolated to ocean resources, but part of a much broader process where the existing international framework, herein international human rights law, is continually undermined in favor of issue-driven alliances that are much more closely aligned with the needs and interests of the private/corporate sector. Especially in this light, the CFI is worrying. Despite the initiative's own claims of upholding and furthering one of the few international tools aimed at strengthening the struggle of fisher peoples, fisher peoples themselves are deploring how the CFI will steadily undermine it.

26 TNI, Afrika Kontakt and Masifundise. *Supra* note 13. p. 3.

27 For more information on corporate capture of decision-making processes, please see last year's issue of the *Right to Food and Nutrition Watch*, "Peoples Nutrition is Not a Business," 2015. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf.

04

TERRITORIAL FOOD SYSTEMS: PROTECTING THE RURAL AND LOCALIZING HUMAN RIGHTS ACCOUNTABILITY

Thomas Forster and Emily Mattheisen [1]

For decades, the challenges of urbanization have featured prominently in various policy agendas. The approval of the Sustainable Development Goals (SDGs) have reinforced the paradigm that places cities at the heart of development, following the adoption of a stand-alone goal (Goal 11) to "make cities inclusive, safe, resilient and sustainable."[2]

The terms 'rural-urban linkages', 'city-region food systems', and 'territorial food systems' are often used interchangeably in international policy fora, academia, and other discussions on how rural and urban spaces relate to each other in food systems. However, the issue of what can be considered 'uniquely rural', and the rights of rural communities tend to be omitted. The long-held urban-rural dichotomy reinforces an inequitable development model, which puts industrial and 'urban growth' pressure on rural areas and on small-scale food producers to feed increasingly urban populations. The development model itself, however, is not questioned.

URBAN BIAS IN THE DEVELOPMENT AGENDA

The 'urbanization' of the global development agenda is clear in the preparations of the UN Conference on Housing and Sustainable Urban Development (Habitat III), to take place in Quito in October 2016, and its proposed bi-decennial policy outcome: the New Urban Agenda.[3] Habitat III is the first global summit to take place since the adoption of the SDGs. At the time of writing, it is expected that the New Urban Agenda will recognize food and nutrition as key issues in urban development, but not food sovereignty nor the human right to adequate food and nutrition, and that there will be no coherence or cross-fertilization with the UN Committee on World Food Security (CFS). Civil society has criticized Habitat III and the New Urban Agenda for the lack of follow-up to the commitments made in Habitat II (1996), and the corresponding human rights obligations, as well as neglecting previous commitments to balanced rural and urban development.[4]

The Habitat III process is emblematic of global policy shifts across the UN system and at the national level, as human rights have been largely dropped from policy documents and discussions. Member states and UN institutions continue to reinforce weakened language and commitments, and increasingly push responsibility onto the corporate sector via language that uses 'inclusion', 'access', 'empowerment' and 'social responsibility' in lieu of the human rights obligations of states. Even though the SDGs have weak human rights commitments, it is clear that they cannot be realized without respecting, protecting and fulfilling human rights and without the full integration of civil society in decision-making processes.[5]

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Special thanks to Joseph Schechla (Habitat International Coalition-Housing and Land Rights Network, HIC-HLRN) and Anne C. Bellows (University of Syracuse) for their support in reviewing this article. This article was originally written in English.

2 For more information on the SDGs, please visit: sustainabledevelopment.un.org/?menu=1300.

3 The New Urban Agenda Zero Draft (2016) of the UN Conference on Housing and Sustainable Urban Development (Habitat III) is available at: www.habitat3.org/zerodraft.

4 Habitat International Coalition. "Fractured Continuity: Habitat II to Habitat III." September 14, 2015. Available at: www.hic-gs.org/news.php?pid=6392.

5 For a critique on the SDGs, please see article "Moving Toward People-Centered Monitoring of the Right to Food and Nutrition" in this issue of the *Right to Food and Nutrition Watch*.

Habitat III is representative of another global trend. Many international processes often fail in the promotion of the need for balanced local development in terms of economics, planning and social development. Overall, many of the 'urban' centered processes that engage with space, land, ecosystems, resilience, etc., have conceptualized and elevated urban development and urbanization without meaningful consideration to rural areas, except insofar as they accommodate urban priorities. This one-sided agenda leans towards a vision of urbanization where rural areas are void of smallholders and rural communities, as they become incorporated into a mechanized, 'transformative', profit-seeking, and extractive approach to rural resources as faceless commodities, including food, water, energy, biodiversity and mineral resources. These discussions have been completely delinked from other important standard-setting processes, such as the negotiations of a Declaration of the Rights of Peasants and Other People Working in Rural Areas at the Human Rights Council and other relevant processes at the CFS.[6] As outputs of international agendas continue to omit human rights obligations and issues that are fundamental to food sovereignty, it has become imperative to work at other levels. Small-scale food producers produce the majority of the world's food; therefore strategies are needed to discuss the role and inclusion of rural communities and rural areas in development processes, while ensuring that the voice of rural communities are heard.

LOCAL SOLUTIONS NEED LOCAL GOVERNANCE

The most pressing and important change is needed at the local and territorial level. Sub-national governments should play a strong role, despite the reluctance of some national governments. Food systems in territories of all sizes include both formal and informal markets, layers of intermediary marketers, distributors and processors, as well as many small-scale producers, local processing, and agricultural and food system workers.[7] These rural and urban food systems are poorly understood by local or regional governments that often lack the mandate, jurisdiction or technical capacity to manage them. However, there is hope: In order to address economic or environmental food system shocks and the systemic lack of access to fresh, healthy foods, a number of local governments have had to rethink how their food systems are managed—and more importantly, by whom. Across the globe, more and more local governments[8]—city, metropolitan and regional—are paying attention to issues of food and nutrition as a result of increasing public health and nutrition pressures (communicable and non-communicable diseases), and in response to the demands of food movements.

In this context, a growing number of social movements and civil society organizations (CSOs) that have traditionally focused on rural areas, have started to look into 'urban' food sovereignty and the right to food and nutrition at the level of cities, regions, and territories. The role of local public policy-making is paramount in these emerging discussions. Key areas include public procurement and access to domestic markets; access to natural resources, agroecology, secure land tenure and the preservation of agricultural lands; social protection and assistance; and in general, the management of the commons. Addressing food system change and coherent policy-making involves challenges that are at once social, environmental and economic, and cross-sectoral. It is common knowledge today that the most effective solutions often require an inter-agency, inclusive approach. However, national ministries are often siloed by mandates that place agriculture into the rural (for instance, agricultural ministries) and food security into the urban (social development, health and education

6 For more information on the Declaration, please see insight box 1.2 "Peasants' Rights to their Seeds are at the Forefront of Human Rights" in this issue of the *Right to Food and Nutrition Watch*. For more information on the draft Declaration, please visit: www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/3rdSession.aspx. See also a series of briefings on peasants rights published by FIAN International: www.fian.org/library/publication/publication_of_a_series_of_briefings_on_peasants_rights.

7 For more information on territorial markets, please see insight box 4.1 "Peoples' Markets or Corporate Supply Systems? Negotiating in the Committee on World Food Security" below.

8 For an example, please see insight box 4.2 "From the Bottom Up: Building the Detroit Food Policy Council" below. See also Lee-Smith, Diana and Davinder Lamba. "Nutrition and Urban Agriculture in Sub-Saharan African Cities." *Right to Food and Nutrition Watch* (2015): 55–57. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf#page=55.

ministries). International agencies are similarly divided into rural and urban mandates. But this false dichotomy may be changing, as mayors and civil society actors are today prioritizing food policies and operationalizing urban-rural linkages. A few countries are also responding with policies that support greater territorial autonomy and self-governance.

URBAN FOOD POLICY PACT

Despite the links to communities and potential for participatory governance evolving at the local level, local and territorial governments are often excluded from international policy-making, thus undermining the importance of their authority. Examples include the lack of inclusive engagement with local authorities in the reviews of progress on the SDGs at the High Level Political Forum (HLPF)[9] and in the governance of food systems at the CFS. An emerging strategy within many CSOs is to work directly with global associations of local and territorial governments such as United Cities and Local Government (UCLG)[10] and Local Governments for Sustainability (ICLEI)[11] as well as national associations of local governments, to engage in dialogue about policy alternatives and, in some cases, design policy commitments.

Signed in October 2015, the Urban Food Policy Pact (Milan Pact) is a mayor-led initiative that seeks to create a stronger governance framework for local food systems. The Milan Pact represents a process that reaffirms the role and responsibilities of local governments to take action and fulfill their mandates to respect, protect and fulfill human rights.[12] It promotes participatory decision-making directly with civil society and small-scale food producers, covering thematic areas such as governance, social and economic equity, sustainable diets and nutrition, food production, supply and distribution, and food loss and waste. These commitments represent a critical step forward in understanding the role of local governments in upholding and operationalizing human rights obligations across territories.

While it is far from perfect, many of the 120 cities[13] that signed the document are moving forward in creating participatory spaces of governance and dialogue with communities in creating food policy, while others are engaging in specific areas of intervention (e.g. food loss and waste reduction, public space for food production, public procurement, etc.). In discussions on how to monitor the impact of the Milan Pact, CSOs are asking how to best operationalize these commitments.

There is much excitement around the renewed discussions on urbanization and food systems, and many cities are now eager to move forward with the Milan Pact. On the one hand, it is seen as an opportunity to take advantage of the political uptake and push for changes that support the realization of human rights and food sovereignty. On the other hand, these changes need to be upheld beyond a political term. Furthermore, governments should coordinate initiatives with civil society in order to address the needs of both rural and urban communities. The Milan Pact is not the final solution: It is a tool for building political will, supporting local processes and inclusive decision-making—as well as opening up new spaces for advocacy.

In order to promote meaningful change in food policy at any level, civil society participation is fundamental. The extent to which human rights are operationalized at the local level is directly related to state accountability, government effectiveness and governance at the local level. This was highlighted in a report issued in August 2015 by the UN Human Rights Council Advisory Committee and entitled Role of Local Government in the Promotion and Protection of Human Rights.[14]

9 For more information on the High Level Political Forum (HLPF), please visit: www.sustainabledevelopment.un.org/hlpf.

10 For more information on United Cities and Local Government (UCLG), please visit: www.uclg.org.

11 For more information on Local Governments for Sustainability (ICLEI), please visit: www.iclei.org.

12 For the full text of the Urban Food Policy Pact (2015), please see: www.foodpolicymilano.org/wp-content/uploads/2015/10/Milan-Urban-Food-Policy-Pact-EN.pdf. For the e-book of selected good policy and practices in urban food systems, please see: www.foodpolicymilano.org/en/ebook-good-practice-en.

13 For more information, please see: www.foodpolicymilano.org/en/the-cities-of-the-milan-urban-food-policy-pact.

14 The report is available at: www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_49_ENG.docx.

MOVING FORWARD: BALANCING FOOD GOVERNANCE AND STRENGTHENING HUMAN RIGHTS ACCOUNTABILITY

Any new policy calling for integrated territorial development must be accompanied by implementation guidance, inclusive planning across urban and rural sectors and governments, and institutional capacity-building on operationalizing international human rights and accountability. Clear policy mechanisms should better support small-scale food producers and the local economy.

Following Goal 11 of the SDGs, discourse around the New Urban Agenda will be most likely be framed by inclusive, balanced and integrated territorial development, in accordance with the call for national urban policies, spatial strategies, environmental protection, climate change, governance and financing. However, it remains to be seen whether food systems and small-scale food producers will receive the focused treatment needed to have meaningful 'territorial development'. Thus far, policy discussions within Habitat III and other fora have been mainly dominated by governmental and technical approaches, with heavy involvement and input of the private sector. Civil society perspectives have been less well addressed or integrated. The current narrative also remains too restricted to limited conceptions of urban space and insufficiently addresses the important linkages and interactions within territories, including rural and peri-urban areas. As a result, policy discourses have sometimes perpetuated false solutions to issues of food security, territorial planning or urban-rural linkages, environment, sustainability, climate change and natural resource governance. While urban and territorial approaches to food systems are certainly relevant and important, the discourse needs to be formed by the initiatives of social movements and small-scale food producers and thus create a space to better define and mobilize territorial food systems, economies, and real development.

Whatever happens, or does not happen, within the Habitat III process, the CFS, and even the ongoing follow-up and implementation of the 2030 Agenda for Sustainable Development, it is critical that civil society and grassroots organizations continue to push their expectations in terms of process and outcome at all levels of government. To achieve the needed policy changes it is key to continue to work across sectors to build stronger food system advocacy based on the full and progressive realization of human rights obligations and food sovereignty, and to ensure accountability to human rights obligations and actually follow-up (implement, monitor and evaluate) the policy commitments in all government spheres, including the local.

INSIGHT 4.1 Peoples' Markets or Corporate Supply Systems? Negotiating in the Committee on World Food Security

Mamadou Goita, Nora McKeon and Nadjirou Sall[15]

'Connecting Smallholders to Markets' is the unfortunate title of an important policy discussion in the UN Committee on World Food Security (CFS).[16] It reflects the dominant conviction that small-scale producers are backward people trapped in self-subsistence who need to be 'modernized' and hitched up to corporate value chains.

Nothing could be further from the truth. Around 70% of the food consumed in the world is produced by smallholder producers and workers. Most of it is channeled through local, national and regional markets. Only 10 to 12% of agricultural products

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Special thanks to Biraj Patnaik (Office of the Commissioners to the Supreme Court of India) and Stefano Prato (Society for International Development, SID) for their support in reviewing this insight box. This insight box was originally written in English.

16 The debate began with a High Level Forum on June 25, 2015 on the overall issue and concluded on June 9, 2016 after two days of negotiations on policy recommendations. The outcome document will be adopted during the UN Committee on World Food Security (CFS) Plenary Session from October 17–21, 2016. For more information on these negotiations and all of the documents cited in this article, please visit: *www.csm4cfs.org/working-groups/connecting-smallholders-to-markets*.

is traded on the international market (9% of milk production, 9,8% of meat production, 8,9% of rice, and 12,5% of cereals).[17] The idea of 'connecting smallholders to markets' is misleading: globally more than 80% of smallholders operate in domestic markets, which are the most important for food security and nutrition.[18] As advocated by the Civil Society Mechanism (CSM),[19] the autonomous space mandated to facilitate and coordinate civil society and social movement interaction with the CFS, "[w]e want these markets to be recognized, supported and defended by appropriate public policies."[20]

There is a rich variety of domestic marketing arrangements that do not obey the logic of dominant corporate value chains—including indigenous barter markets in Latin America, weekly markets in Africa and Asia, and farmers' markets in Europe and North America. However, little has been done thus far to collect and capitalize on this experience. The CFS discussions are offering a welcome opportunity to start doing so. The severe lack of data on these markets and how they function makes them 'invisible' to policy makers, who privilege support for 'modern' supply systems. The CSM has started to fill this data gap with an 18-page annotated bibliography of case studies and articles. The CSM has also clarified just what distinguishes these markets from corporate value chains and international supply systems:

- They aim at satisfying the needs of the local, national, regional food systems first;
- In addition to food provision, they also perform multiple cultural and social functions and act as an arena in which political and cultural power relations can be addressed;
- They are controlled by the producers, consumers and local authorities of the territory concerned and are structured according to a logic of inter-dependence and solidarity among the actors;
- They contribute to the local economy by redistributing, within the territory concerned, the wealth generated by the production, processing and marketing of products;
- They are inclusive, since they offer space for all actors to exchange their products; and
- The diversity of food products in these markets—in contrast with the focus on single products in international commodity chains—reflects the diversity of the food systems of the territory.[21]

The CSM had proposed to call them 'territorial markets' because they are all situated in and identified with specific areas, from the village up to the national or even regional level. The point was to avoid the trap of limiting the understanding of these markets to the purely 'local' and 'informal', and thus downplaying their significance as the dominant modality of food provision worldwide. The term, however, evoked skittish reactions on the part of diplomats accustomed to associate it with sovereignty and frontiers, so the CSM dropped it in favor of agreement on the content. The final negotiated text incorporates practically all of the points to which the small-scale producer organizations themselves attached importance:

> *Local, national, and regional markets and food systems: Globally more than 80% of smallholders operate in local and domestic food markets. These highly diverse markets, in which most of the food consumed in the world transits, can range from*

17 FAO. 2015–2016—*The State of Agricultural Commodity Markets: Trade and food security: achieving a better balance between national priorities and the collective good*. Rome: FAO, 2015. Available at: www.fao.org/3/a-i5090e.pdf; FAO. *Food Outlook – Biannual Report on Global Food Markets*. Rome: FAO, 2014. Available at: www.fao.org/3/a-i4136e.pdf.

18 Reardon, Thomas, and Julio Berdegué. "Agrifood markets and value chains" in IFAD, *Rural Development Report*. Forthcoming; Del Pozo-Vergnes, Ethel. *From survival to competition: informality in agrifood markets in countries under transition. The case of Peru*. London: IIED, 2013. Available at: pubs.iied.org/pdfs/16533IIED.pdf.

19 For more information on the Civil Society Mechanism (CSM) for relations with the United Nations Committee on World Food Security (CFS), please visit: www.csm4cfs.org.

20 Civil Society Mechanism. "'Connecting Smallholders to Markets'. What the CSM is advocating." 2015. p. 1. Available at: www.fao.org/fileadmin/templates/cfs/Docs1516/OEWG_Small/CFS_Smallholders_Inputs_Chairs_Proposal_CSM_brief.pdf.

21 Civil Society Mechanism. "CSM Additional Commepts on the Zero Draft 'Connecting Smallholders to Markets'". 29 April, 2016. p. 4. Available at: www.csm4cfs.org/wp-content/uploads/2016/02/CSM-additional-comments-on-the-Zero-Draft.pdf.

local to transboundary to regional and may be located in rural, peri-urban or urban contexts or span these contexts, and are directly linked to local, national, and/or regional food systems. This means that the food concerned is produced, processed, and traded within these systems. These value adding processes can help to create employment and contribute to local, social and economic development, when the benefits of value addition circulate within the local, national and regional systems. They can take place in structured arrangements or in more ad-hoc or informal ways, which provide greater flexibility for smallholders and fewer barriers to entry. They perform multiple functions beyond commodity exchange, acting as a space for social interaction and exchange of knowledge. Despite their importance, these markets are often overlooked in data collection systems, which impacts negatively on the evidence base for informing public policies.[22]

Civil society registered some important 'wins' in the negotiated policy recommendations as well. These include invitations to governments to fill the data gap on these markets to improve the tools available for better public policies; develop hygienic and sanitary regulations for food safety that are appropriate to the scale and context of small-scale production and domestic marketing; promote public procurement in support of local food systems taking into account social, environmental, and nutritional benefits and not just the economic cost of the food; and provide for prices that adequately remunerate smallholders' work and investments. Mention of 'fortified foods' was deleted from the draft text.[23] However, the CSM did not succeed in eliminating reference to international markets, value chains and agribusiness on the grounds that these phenomena were irrelevant in a negotiation focused on smallholders and the human right to adequate food and nutrition. A schizophrenic vision of what is best for small-scale producers and food security and nutrition continues to prevail and civil society will continue to fight it on stronger grounds, thanks to the CFS negotiations.

22 Committee on World Food Security. "CFS Recommendations on Connecting Smallholders to Markets. Final Draft." 2016. Paragraph 4. Available at: www.fao.org/fileadmin/templates/cfs/Docs1516/OEWG_Small/CFS_Connecting_Smallholders_to_Markets_Final_Draft.pdf.

23 For a critique of the prioritization of fortified foods and micronutrient interventions in many countries, please see: Rundall, Patti. "The 'Business of Malnutrition': The Perfect Public Relations Cover for Big Food." *Right to Food and Nutrition Watch* (2015): 23–27. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf#page=23.

INSIGHT 4.2 From the Bottom Up: Building the Detroit Food Policy Council

Malik Yakini[24]

Detroit is a city with a history steeped in the struggle for human rights and racial equality, with the highest percentage—83%—of Black residents in any American city, and emblematic of the inequalities perpetuated through the capitalist system. Presently it is also a city struggling with bankruptcy—a result of unsustainable and unequal economic and social policies at the federal state level. Public funds are very thin, as there is no strong tax base in Detroit with nearly 40% of households living with income below the poverty level. Amounting to over 10%, Detroit's unemployment rate is not only twice as much as the average in Michigan state, but also the highest in the top 50 largest cities in the United States.[25]

This history and current situation has deeply influenced the Detroit Black Community Food Security Network (DBCFSN). It was founded in 2006 to ensure that Detroit's African American population played a leadership role in the burgeoning food justice movement. This network, dedicated to building community power and self-reliance, set its focus on urban agriculture, youth development, cooperative economics, community education and creating a more conducive policy environment.

DBCFSN affirms that regardless of a person's economic standing, access to quality foods is a human right. That position was informed by an understanding of

24 Malik Yakini is a founding member and Executive Director of the Detroit Black Community Food Security Network (DBCFSN). He also served as Chair of the Detroit Food Policy Council Convening Committee and as the founding Chair of the Detroit Food Policy Council (DFPC). DBCFSN was formed in February 2006 to address food insecurity in Detroit's Black community, and since then has organized members of that community to play a more active leadership role in the local food security movement. For more information, please visit: www.detroitblackfoodsecurity.org. Special thanks to Saulo Araujo (WhyHunger), Anne C. Bellows (University of Syracuse) and Emily Mattheisen (FIAN International) for their support in reviewing this insight box. This insight box was originally drafted in English.

25 Eisenbrey, Ross. "Detroit's Bankruptcy Reflects a History of Racism." *Economic Policy Institute Working Economics Blog*, February 25, 2014. Available at: www.epi.org/blog/detroits-bankruptcy-reflects-history-racism.

how racism intersecting with class in the United States results in food insecurity and food injustice in many African American communities.[26] The network also affirms that African American communities have the right to self-determination. We have the right and responsibility to govern ourselves and determine our own destinies. In areas where we are the majority, we should exert influence on, and when possible control, the politics and the governmental apparatus.

After criticizing the city of Detroit for the lack of a comprehensive food policy, in 2006 DBCFSN was appointed by the city council to create a task force to develop a food security policy for the city. For the following 18 months a committee of DBCFSN members worked to develop this policy, soliciting public input, particularly from Detroit's food justice movement. That input[27] was incorporated into a final draft that was presented to the city council and passed unanimously in March of 2008. The policy addresses current access to quality food in Detroit; hunger and malnutrition; impacts of an inadequate diet; citizen education; economic injustice in the food system; urban agriculture; the role of schools and other public institutions; and emergency response.

Perhaps, most importantly, the policy document called for the creation of the Detroit Food Policy Council (DFPC),[28] which would be responsible for helping to implement the recommendations in the policy document and advising the mayor's office and the city council on food related matters. After 18 months of research, consultations, and appointing members, the DFPC held its first meeting in December 2009.

Throughout the process of developing the city of Detroit's Food Security Policy and the DFPC, we were acutely aware that we were creating a model of community level democracy. The DFPC has received widespread attention because, unlike many other U.S. food policy councils, it was founded from the grassroots rather than by academics or government officials. It has received praise because of its intentionality in designating six seats out of 21 for grassroots community residents.

Since 2009 the DFPC has grown, evolved and continued working for a more food-secure, food-just Detroit,[29] bringing together people of diverse backgrounds and viewpoints in a unique experiment in community-level participatory democracy. It has continued to raise the consciousness of Detroiters about the role of food equity as the city redevelops. In these regards, the DFPC has been a success.

The DFPC has also had many challenges and has not, as originally envisioned, served as an advisory body to the mayor's office or the city council in any significant way. The city's current mayor and most of its city council members have little knowledge of the city's Food Security Policy or the role of the DFPC. The last several years have been some of the toughest in Detroit's history, including 18 months during which a state-appointed emergency manager ran the city, disempowering the mayor and city council, and filed for bankruptcy. Detroit's elected and appointed officials have been faced with almost insurmountable odds.

Now that the powers have been restored to Detroit's mayor and city council, and the city is emerging from bankruptcy, the conditions may again be ripe for the DFPC to exert more influence on Detroit's political leadership and achieve real impact on the realization of peoples' rights and sovereignty.

26 Powers, Jessica. "The Right to Food in the US: The Need to Move Away from Charity and Advance towards a Human Rights Approach." *Right to Food and Nutrition Watch* (2015): 68–69. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf#page=68.

27 DBCFSN. *Detroit Black Community Food Security Network's Recommendations for the Establishment, Structure and Functioning of the Detroit Food Policy Council*. Detroit: DBCFSN, 2008. Available at: www.detroitfoodpolicycouncil.net/sites/default/files/pdfs/DBCFSN_DETROIT_FOOD_POLICY_COUNCIL_RECOMMENDATIONS.pdf.

28 For more information, please visit: www.detroitfoodpolicycouncil.net.

29 Among the many things that the DBCFSN has accomplished are the following: it obtained grant funding; established offices and hired staff; published two Detroit Food System Reports; published weekly columns in the Michigan Citizen newspaper; sponsored annual Detroit food summits; conducted a public listening session on the city's process for selling public land; co-sponsored community listening sessions on the Detroit Urban Agricultural Ordinance.

WORLD MAP: GEOGRAPHIC COVERAGE OF THE *WATCH* 2016



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

05

AFRICAN FOOD SOVEREIGNTY: VALUING WOMEN AND THE SEED THEY KEEP

Elfrieda Pschorn-Strauss [1]

The link between women and seed is ancient. Women's link to seed is through food, health, culture, ecology, spirituality and social relationships. In their roles as seed custodians, plant breeders, farmers, herbalists and mothers, African women's daily work involves an intimate involvement and knowledge of plants. Women are the unacknowledged and unseen experts on seed and on both domesticated and wild biodiversity.[2]

In Africa, as in other regions of the world,[3] women are responsible for most harvesting and post-harvesting activities and therefore save, select and breed seed. For them, farming and breeding are one and the same activity as the many challenges they face require not only knowledge but also the ability to innovate. This life-giving function is embedded in a sophisticated knowledge system. As seed custodians, women are often responsible for rituals around key moments in the crop cycle and the act of celebrating these life cycles gives meaning and importance. Controlling their own diverse seed supply increases women's ability to provide a balanced diet for their families, ensures that seed is available at the right time, and augments household and community bargaining power.[4]

Women's local seed networks operate to exchange and sell seeds and serve as a safety net and backup when a crop fails to germinate. These networks are autonomous and therefore more resilient to outside shocks and global market forces.[5]

But all is not well with women's seed as it is undermined by patriarchy, gender inequality and waves of genetic erosion that occurred throughout the history of colonialism and neo-colonialism.[6]

GENDER INEQUALITY IS UNDERMINING THE HEALTH OF FAMILIES

The inequality between men and women is a barrier to the implementation of food and seed sovereignty.[7] The image of a rural African household with a woman winnowing or bent over a cooking pot or hoe and the men sitting talking under a tree, is very close to the truth. Women's contribution to food and seed sovereignty is key, but largely invisible and not recognized or supported.

Most female African farmers combine their roles as seed custodians and small-scale food producers with their role as primary family caretakers. Women undertake 85–90% of household chores and 65% of related journeys, such as fetching water and wood.[8] They accomplish these critical and life-giving functions within a context of gender inequality and inequity—which is testimony to their resilience.

1 Elfrieda Pschorn-Strauss is Coordinator of the Seed and Knowledge Initiative (SKI), a regional program housed at Biowatch. Biowatch is an NGO working with farmers on seed and agroecology in Northern KwaZulu-Natal, South Africa. For more information, please visit: *www.biowatch.org.za*. Special thanks to Rose Williams (Biowatch) and Anne C. Bellows (University of Syracuse) for their support in reviewing this article. This article was originally written in English.

2 Howard, Patricia. "The Major Importance of 'Minor' Resources: Women and Plant Biodiversity." *Gatekeeper series* 112. London: IIED, 2003. Available at: *pubs.iied.org/pdfs/9282IIED.pdf*.

3 For more information on the role of women as seed custodians in Latin America, please see article "The Struggle for Peoples' Free Seeds in Latin America: Experiences from Brazil, Ecuador, Colombia, Honduras and Guatemala" in this issue of the *Right to Food and Nutrition Watch*.

4 Pionetti, Carine. *Sowing Autonomy. Gender and Seed Politics in Semi-arid India*. London: IIED, 2012. Available at: *pubs.iied.org/pdfs/14502IIED.pdf*.

5 Sperling, Louise, and Shawn McGuire. "Understanding and strengthening informal seed markets." *Experimental Agriculture* 46:2 (2010): 119–136. Available at: *journals.cambridge.org/download.php?file=%2FEAG%2FEAG46_02%2FS0014479709991074a.pdf&code=6d05a0855e6b4c2e3d961c531b3262e2*.

6 African Biodiversity Network and The Gaia Foundation. *Celebrating African Rural Women: Custodians of Seed, Food & Traditional Knowledge for Climate Change Resilience*. London: Mobius, 2015. Available at: *www.gaiafoundation.org/sites/default/files/celebrating_african_rural_women_nov2015.pdf*.

Women's access to land and other important resources are constrained by patriarchy and social attitudes that relegate them to the most marginal land, while their land is taken away if they divorce or their husband dies. They are the majority of farmers in Africa (70%) yet represent less than 15% of all agricultural landholders.[9] Migration, conflict, and HIV/AIDS have resulted in up to 40% of rural households in Africa being solely female-headed, with women taking even more responsibility for agriculture.[10]

Gender inequality generates farm inefficiencies and complicates coping with malnutrition. Women's multiple, heavy, and unequal work burden allows them neither adequate time and decision-making power to reach full productivity as farmers, nor sufficient hours in the day to prepare nutritious meals. In Africa, 40% of children under five are stunted, triggered partly by a lack of dietary diversity and inadequate maternal health, but also, by gender inequality.[11]

THE GREEN REVOLUTION: A THREAT TO OUR GENDER REVOLUTION AND OUR HUMAN RIGHTS

In Africa, human rights and access to seed, land, and water are being undermined by a recent flood of foreign investment in mining and large-scale agriculture and plantations. We are witnessing a push in many African countries for land and seed laws to be changed to secure access and control for private investors, undermining domestic farmers' access and control.[12] African governments are coerced through donor pressure from the Alliance for a Green Revolution in Africa (AGRA) and the G8 New Alliance for Food Security and Nutrition in Africa[13] to replace farmer seed systems with corporate-owned seeds.

Women stand to lose the most in this transition of agriculture to a high-input, market–orientated system as fixed gender roles mean that they have virtually no say about land transactions or the perilous future of the seeds they have fostered as custodians. The resilience that community and kinship provides in terms of food and seed security, is undermined by policies[14] that reinforce existing inequalities and undermine local knowledge and seed systems.[15]

The Green Revolution's solution to both food and nutrition security is a commercialized cure from outside, i.e. patented seeds, fertilizers, and fortified food.[16] This approach interferes with people's sovereignty by draining local people's, particularly women's, capacity to actively participate in their own food and nutrition security[17] and by promoting economic dependency.

Undermining women's right to save seed and protect agricultural biodiversity harms their livelihoods and weakens the genetic base and community commons on which the food supply of future generations depends. Such human rights violations reflect a confrontation between, on the one hand, respect for the intrinsic value of seed and the intergenerational responsibilities to protect and enhance it, and, on the other hand, the idea of seed as a commodity from which one can profit as private owner.

The current globalized food and seed system erodes women's progress toward equality. Dependency on the 'global supply' chain makes women complicit in a system that undermines their rights not only as women, but also their rights to sustainable livelihoods.

7 Bezner Kerr, Rachel *et al.*, "Participatory, Agroecological and Gender-Sensitive Approaches to Improved Nutrition: A Case Study in Malawi." Paper presented at the FAO Expert Meeting 'Nutrition-Sensitive Food and Agriculture Systems' in preparation for ICN+21, Rome, 2013. Available at: *www.fao.org/fileadmin/user_upload/agn/pdf/FAO-expert-meeting-submission-Bezner-Kerr-et-al-ver4-2_FAO_comments_doc.pdf*.

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

9 *Ibid.*

10 For a discussion on the feminization of agriculture, please see the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD) report. Available at: *www.globalagriculture.org/report-topics/women-in-agriculture.html*.

11 UNICEF. *Improving Child Nutrition: The achievable imperative for global progress*. New York: UNICEF, 2013. Available at: *data.unicef.org/corecode/uploads/document6/uploaded_pdfs/corecode/NutritionReport_April2013_Final_29.pdf*.

12 GRAIN and AFSA. *Land and Seed Laws under Attack: Who is pushing changes in Africa?* Barcelona: GRAIN, 2015. Available at: *www.grain.org/article/entries/5121-land-and-seed-laws-under-attack-who-is-pushing-changes-in-africa*. For more information on land grabbing in Africa, please see: Seufert, Philip. "Tree Plantations and Land Grabbing in Niassa, Mozambique." *Right to Food and Nutrition Watch* (2013): 61–67. 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=61*.

13 FIAN International and FIAN Germany. *G8 New Alliance for Food Security and Nutrition in Africa: A Critical Analysis from a Human Rights Perspective*. Heidelberg: FIAN International, 2014. Available at: *www.fian.org/fileadmin/media/publications/2014_G8NewAlliance_screen.pdf*.

14 These include agricultural input subsidy policies and programs implemented in many African countries; Malawi's AISP and Zambia's FISP are well-known examples. Others include the harmonization of seed trade laws and plant variety protection laws in the region.

15 Bezner Kerr, Rachel. "Seed struggles and food sovereignty in Northern Malawi." *The Journal of Peasant Studies* 40:5 (2013): 867–897.

16 For more information on the problems around fortified foods, please see: Rundall, Patti. "The 'Business of Malnutrition': The Perfect Public Relations Cover for Big Food". *Right to Food and Nutrition Watch* (2015): 23–27. Available at: *www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf#page=23*.

17 Lemke, Stefanie and Anne C. Bellows. "Bridging Nutrition and Agriculture. Local Food-livelihood Systems and Food Governance Integrating a Gender-Perspective." *Theorie und Praxis* 20:2 (2011).

18 *Ibid.*

'SISTERS, KEEP SEEDS IN YOUR HANDS'

At the intersection between customs, fundamentalist religion and a renewed pressure towards the privatization of land, seed and water, women's rights, knowledge and stewardship of seeds and nature is under threat. It is therefore more important than ever for women to have a political voice and leadership in decision-making processes concerning the life and well-being of their physical, social, and economic environments. Women need to self-organize to overcome inequality and oppression, and to gain recognition for their innovation and knowledge.

Ensuring continued access to seed and land means that women and men need to pay attention not only to gender equality, but also to the intergenerational impact of patriarchy.[18] An inspiring example is *'We are the Solution'*,[19] a campaign for food sovereignty and agroecology and for the intergenerational transmission of traditional knowledge, led by women from Senegal, Burkina Faso, Mali, Ghana and Guinea.[20]

Applying a gender lens to the capture and globalization of seed and the food system is essential, but there is no point in women becoming equal partners within a broken system. What needs to be changed is the current value system that prioritizes seed and food for profit as opposed to seed and food for those who produce it and their heirs.[21] And women are well placed to lead.

19 For more information, please visit: *www.fahamu.org/WAS*.

20 Interview with Mariama Sonko, Senegal. *Other Worlds*, November 4, 2015. Available at: *otherworldsarepossible.org/we-are-solution-african-women-organize-land-and-seed-sovereignty*.

21 Tandon, Nidhi. "Changing Value Systems: One Village at a Time." *GROW blog channel*, November, 2012. Available at: *blogs.oxfam.org/en/blogs/changing-value-systems-one-village-time*.

06

THE GLOBAL CONVERGENCE OF LAND AND WATER STRUGGLES IN WEST AFRICA: BUILDING A STRONG AND UNITED PEOPLE

Massa Koné and Chantal Jacovetti [1]

Established in October 2014 during the African Social Forum in Dakar, the Global Convergence of Land and Water Struggles (Convergence) became consolidated in March 2015,[2] during the World Social Forum in Tunis. The first regional chapter in West Africa was founded in June 2015,[3] during a meeting held at the Nyéléni international training center for agroecology in Sélingué (Mali). The Convergence comprises several social and grassroots movements and various civil society organizations (CSOs), which are engaged in the defense of the rights to land, water and seeds. The cornerstone of the Convergence is the declaration entitled "Rights to Water and Land, a Common Struggle—Dakar to Tunis: Declaration of the Global Convergence of Land and Water Struggles" (Dakar to Tunis Declaration),[4] which sets out the vision, principles and aspirations of the Convergence. The Dakar to Tunis Declaration is the pillar of a strong and unified movement that fights for policies that promote human rights, including rights to land and water within the framework of food sovereignty.

SAME PLIGHT, SAME FIGHT

Water and land grabbing benefits harmful industrial agriculture, at the expense of rural and urban communities. It strongly destabilizes areas of poverty and has an impact on family farming, which feeds and employs over 70% of the population and contributes on average, to 40% of the GDP.[5] Land rights are violated in a climate of absolute violence and impunity: Forced evictions destroy social cohesion, cultural identity and local food systems in communities, not to mention the disastrous consequences for agri- and ecosystems.[6] This social and economic disruption paves the way towards perilous migration to either Europe, the suburbs of large African cities, gold-mining areas or even armed groups.

Donor agencies and multinationals are leading an offensive surge to influence legislation in their favor and to impose an industrial model of agriculture through programs such as the Alliance for a Green Revolution in Africa (AGRA), the G8 New Alliance for Food Security and Nutrition in Africa,[7] and Scaling Up Nutrition (SUN), thus threatening and destabilizing countries, communities and economies—and shaking the very foundations of sovereignty. Chemical products, hybrid seeds, and genetically modified organisms (GMOs), associated to livestock concentration, selection and intensification, monocultures and all-out mechanization run counter to peasant agroecology, which holds the key to a future innovative agriculture that is respectful of and adapted to peoples' knowledge (both know-how and life skills) among communities. This type of agriculture is environmentally-friendly and conserves and enriches soil, biodiversity and production overall, with little or no impact on the environment, and thus contributes to combatting global warming.

1 Massa Koné is the representative of the Global Convergence of Land and Water Struggles in West Africa. Chantal Jacovetti is member of the National Coordination of Farmers' Organizations (CNOP) and of the Malian Convergence against Land Grabbing (CMAT). These two organizations are part of the Global Convergence of Land and Water Struggles in West Africa. They aim to raise awareness on land grabbing and the importance of guaranteeing access to natural resources in the region. Special thanks to Priscilla Claeys (University of Louvain and French Institute of Pondicherry) and Valentin Hategekimana (FIAN International) for their support in reviewing this article. This article was originally written in French.

2 FIAN International. *Dakar to Tunis Declaration, a common ground for land and water struggles*, April 4, 2015. Available at: *www.fian.org/library/publication/dakar_to_tunis_declaration_a_common_ground_for_land_and_water_struggles*.

3 FIAN International. "Right to Water and Land, a Common Struggle in West Africa", June 25, 2015. Available at: *www.fian.org/en/news/article/right_to_water_and_land_a_common_struggle_in_west_africa*.

4 Global Convergence of Land and Water Struggles. *Rights to Water and Land, a Common Struggle—Dakar to Tunis: Declaration of the Global Convergence of Land and Water Struggles*. Tunis: March 28, 2015. Available at: *www.fian.org/fileadmin/media/media_publications2015/Dakar_to_Tunis_Declaration_EN_finalfinal.pdf*.

West African states and their bodies, including the African Union (AU), the Economic Community of West African States (ECOWAS) and the Economic and Monetary Union of West Africa (EMUWA), should also not give in to the desires of the World Bank, which aims at improving the business climate, nor should they heed the siren's song of 'free' trade agreements, such as Economic Partnership Agreements (EPAs). These initiatives do not only have harmful social and environmental but also fiscal consequences, as they destroy local economies. In order to achieve sustainable and shared prosperity, it is essential to guarantee that communities can safeguard and control natural resources.

A MOVEMENT MARCHING FOR A PEOPLES' ECOWAS: RIGHTS TO LAND AND WATER, A COMMON STRUGGLE!

In light of this disastrous situation, over ten thousand people, including women, men and young people, from fifteen different countries in West Africa, decided to come together between March 3 and March 19, 2016, under the slogan 'Land is my life!'. The aim was to share their analyses and formulate their proposals for a strong West Africa, which respects not only community and individual human rights, but also our commons: land, water and peasant seeds. Thus, the Convergence organized a West African caravan for land, water and peasant seeds and published a document of analyses and proposals, entitled "The Convergence's Green Booklet: Advocacy Document" (Green Booklet),[8] with support from national platforms. The goals are to:

- raise awareness among the communities of West Africa on the grabbing of natural resources, such as land, water and seeds, as well as on related challenges and issues;
- mobilize West African social movements and organizations in order to build a strong movement, capable of asserting and securing community rights, while promoting family farming based on peasant agroecology and food sovereignty;
- become engaged in favor of peace, justice, social and environmental justice, gender equality, public health and the fight against climate change;
- call on national political and administrative authorities as well as sub-regional institutions (ECOWAS and EMUWA) to uphold their obligations to realize human rights and to heed to our appeals and proposals on the implementation the *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*,[9] the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*,[10] the Framework and Guidelines on Land Policy in Africa,[11] and their implementation in the sub-region, which is currently being negotiated at ECOWAS, as well as the EMUWA's different regulations on the risks linked to biotechnologies. The current phase of these processes is paramount, therefore they must unfold in a transparent manner, ensuring the effective participation of those organizations that represent the most affected;
- support all activists and communities that defend human rights linked to land, water and seeds, and denounce their criminalization.

5 Toulmin, Camilla and Bara Guèye. "Transformations in West African agriculture and the role of family farms." *International Institute for Environmnet and Development* 123. London: IIED, 2003. Available at: *pubs.iied.org/pdfs/9309IIED.pdf*.

6 GRAIN and AFSA. *Land and Seed Laws under Attack: Who is pushing changes in Africa?* Barcelona: GRAIN, 2015. Available at: *www.grain.org/article/entries/5121-land-and-seed-laws-under-attack-who-is-pushing-changes-in-africa*. For more information on land grabbing in Africa, please see: Seufert, Philip. "Tree Plantations and Land Grabbing in Niassa, Mozambique." Right to Food and Nutrition Watch (2013): 61–63. 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=61*.

7 FIAN International and FIAN Germany. *G8 New Alliance for Food Security and Nutrition in Africa: A Critical Analysis from a Human Rights Perspective*. Heidelberg: FIAN International, 2014. Available at: *www.fian.org/fileadmin/media/publications/2014_G8NewAlliance_screen.pdf*.

8 The Green Booklet is available in French at: *www.grain.org/fr/article/entries/5416-caravane-ouest-africaine-droit-a-l-eau-et-a-la-terre-une-lutte-commune-3-19-mars-2016*.

9 FAO. *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*. Rome: FAO, 2004. Available at: *www.fao.org/3/a-y7937e.pdf*.

10 FAO. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome: FAO, 2012. Available at: *www.fao.org/docrep/016/i2801e/i2801e.pdf*.

11 African Union (AU), African Development Bank (AfDB) and Economic Commission for Africa (ECA). *Framework and Guidelines on Land Policy in Africa*. Addis-Abeba: AUC-ECA-AfDB Consortium, 2010. Available at: *www.uneca.org/sites/default/files/PublicationFiles/fg_on_land_policy_eng.pdf*.

The caravan was composed of grassroots organizations and CSOs from twelve West African countries (Benin, Burkina Faso, Côte d'Ivoire, Gambia, Ghana, Guinea, Mali, Mauritania, Niger, Senegal, Sierra Leone and Togo). It departed from Burkina Faso, travelled through Mali and arrived in Senegal, stopping at eleven towns/cities along the way (Ouagadougou, Houndé and Bobo Dioulasso in Burkina Faso; Bamako, Kayes and Sikasso in Mali; Diamniadio, Koalack, Mékhé, Tambacounda and Dakar in Senegal). All along the journey, people, organizations, movements, but also officials (governors, ministers and mayors, among others) participated in the activities. Depending on where they were taking place, debates, workshops and marches—but also field visits to areas that hold testimony to human rights violations—granted people a voice to appeal to officials who were present. Officials received the Green Booklet and in turn encouraged the initiative.

Upon its arrival in Dakar, the final destination, the caravan's closing event was marked with the handing over of the Green Booklet to Mr. Macky Sall, the president of Senegal, who was appointed as representative by the current president of ECOWAS and with an international conference of the Global Network for the Right to Food and Nutrition. The caravan was a powerful moment, allowing for the creation of strong ties between countries and the strengthening of the movement at sub-regional level. The overall goal was to exert more pressure on institutions and governments to assert and secure community rights while promoting family farming based on peasant agroecology and food sovereignty. Such a struggle can only be built if there is solidarity with defenders of rights to land, water and seeds, who are constantly criminalized, be they community or social movement members.

BUILDING THE FUTURE

Strengthened by the success of this first action, the Convergence intends to continue pursuing its struggle. The loose coordination of the Convergence is already becoming more solid thanks to the creation of national platforms. We have to pave the way towards other actions that build on our common concerns and that enable us to influence decision-making at the governmental and institutional level. We propose credible solutions for achieving food sovereignty, family farming, and peasant agroecology, as well as the participation in decision-making processes that are linked to food, nutrition, and agriculture systems.

We are currently developing a program of common actions and establishing a warning system to support victims and activists who fight for our commons, the future of our planet and our humanity and yet are harassed, imprisoned and criminalized. We are not the criminals; we turn to the real criminals and say: "Do not touch my land, my home, my activists!"[12] Participants of the caravan have laid the first stone of the Global Convergence of Land and Water Struggles in West Africa; however, it would not have been possible without the human and financial resources provided by international, sub-regional and national organizations and the dedication and sacrifice of activists.

It is primordial that other regions self-organize and converge, in order to amplify our actions, underpinned by our values, principles of analysis and proposals to build synergies across constituencies, as set out in the Dakar to Tunis Declaration,[13] and broaden the West African perspective of our Green Booklet. Come and support the Convergence, join us at the next mobilizations, and, why not, let us organize together another caravan in 2018!

12 In French, CMAT's slogan is "Ne touche pas à ma terre, ma maison, mes militant-e-s." Please see: www.no-vox.org/spip.php?article304&lang=fr.

13 *Supra* note 4.

07

CULTIVATING HOPE FOR WESTERN SAHARA: MOVING MY PEOPLE TOWARD SELF-SUFFICIENCY

Taleb Brahim [1]

The occupation of Western Sahara—located in the Maghreb region of North Africa—is often forgotten, despite the longevity of the situation and the large community living in protracted displacement. In 1975, Moroccan and Mauritanian troops invaded Western Sahara in an effort to extend territorial control, forcing thousands of native Sahrawis to flee and seek refuge in the southwestern corner of the Algerian desert near the remote city of Tindouf. The occupation of Western Sahara led to an armed conflict which left the Sahrawi liberation movement (Polisario Front)[2] fighting on two fronts—Morocco in the north and Mauritania in the south. In 1979 Mauritania signed a peace agreement with the Polisario Front and put an end to its participation in the conflict. The armed conflict between the Polisario Front and the Moroccan army was finalized when a settlement plan and a cease-fire agreement were negotiated in 1991 after UN intervention. In 1992, a referendum was to be conducted in which the Sahrawis would be able to vote whether to become part of the Moroccan Kingdom or become an independent state.

Twenty-five years have passed since then, yet the political impasse persists and the UN is still unable to organize the referendum.[3] Western Sahara thus remains the most significant territory on the UN list of non-self-governing territories—both in terms of land area and population. Morocco's ongoing forty-year occupation of Western Sahara has had severe implications for the Sahrawis,[4] including restrictions on the use of the territory's natural resources in contravention of international law,[5] and a prolonged refugee crisis in Algeria. An estimated 165,000 Sahrawi refugees are currently still settled in various camps near Tindouf.[6]

In the 1980s, Morocco constructed the *berm*, a wall that runs 2,700 kilometers north to south along the western border of Algeria and Mauritania. The wall is three to four meters high, with high-tech radar detection systems, a Moroccan patrolling force of 120,000 soldiers, and the largest continuous minefield in the world.[7] In addition to the threats to return and to the safety of the Sahrawis' desert communities, this wall severely limits movement in the desert for the traditionally nomadic Sahrawi people.

These conditions make it difficult, if not impossible, for the Sahrawi people to produce their food and cover nutritional needs by themselves, leading to a total dependency on food aid programs from the international community for their survival. Food produced by countries all over the world is collected by international organizations and agencies[8] and distributed to the Sahrawi refugees. The distributed monthly food baskets are calculated according to the minimum number of kilocalories required

1 Taleb Brahim is a Sahrawi engineer and permaculturalist with a Master's degree in Agriculture. He currently resides in the Smara refugee camp in Algeria, where he has been involved in various agricultural projects sponsored by different NGOs. He is working to achieve his dream to make the desert green.
Special thanks to Adam VanNoord (Not Forgotten International), Marcos Arana Cedeño (WABA), and Emily Mattheisen (FIAN International) for their support in reviewing this article. This article was originally written in English.

2 The Polisario Front is a politico-military organization striving to end Moroccan control of the former Spanish territory of Western Sahara, and win independence for that region.

3 The United Nations Mission for the Referendum in Western Sahara (MINURSO) was created in 1991 in accordance with the settlement plan agreement between Morocco and the Polisario Front, in order to finalize the decolonization process and conduct and monitor the referendum on Western Saharan independence. Due to political blockages, the referendum has yet to take place and the mandate of MINURSO has been extended about 41 times. For more information, please visit: *www.un.org/en/peacekeeping/missions/minurso*.

by the human body and mainly consist of dry foods such as cereals and pulses, sugar and oil. No dairy products, meat or fish are included. It was only over the last ten years that they started adding two to three kilograms of vegetables per month to the food basket.

Following forty years of dependency on a nutritionally unbalanced food basket, nutritional deficiencies and malnutrition are widespread, including anemia in both women and children, stunted growth in children, obesity and goiter.[9] Despite the fact that the situation is a protracted crisis, there has been little investment in local self-sufficiency.[10] The food baskets have been reduced many times and some products have been excluded permanently or temporarily. The lack of food aid and insufficient funding have repeatedly threatened Sahrawi refugees.

One of the solutions that is helping to overcome these problems in our camps is helping our people to be able to produce fresh food at their homes to cover part of their needs.[11] However, there are many constraints due to the shortage of water, the harsh conditions and the lack of fertile soil. Another challenge is the fact that these communities were originally nomads; it therefore takes a lot to persuade people who have no agricultural background that they can produce their own food in the same way as neighboring peoples who practice agriculture.

A great deal of training and guidance was needed, but in ten years we have been able to move from thirty gardens to around one thousand home gardens across three of our six camps.[12] Families receive training on various aspects of production, focusing mainly on agricultural practices; methods of organic agriculture such as composting, mulching, and biological control of pests; production of biofertilizers and preparations to control pests, weeds, etc.; the basics of permaculture; and preservation of seeds. Those who have received this valuable training are now able to produce a sizeable portion of fresh food, thus inspiring many others to participate in these projects. None of these results would have been possible without the initial support of many NGOs, international volunteers, local organizations such as the Sahrawi Union of Farmers, and active members of civil society.

As with any case of occupation, no real solution can be found for the Sahrawi refugees and other Western Sahrawis until the occupying power leaves the territory and restores the land and natural resources to their rightful owners. Our forgotten people are a long way from becoming self-sufficient but what we have achieved so far is a step in the right direction towards easing our suffering and reclaiming sovereignty over our food and our communities.

4 For more information on the history of the occupation and a human rights analysis, please see: Lakhal, Malainin, and Mohamed Amroun. "Western Sahara: Denial of Self-determination and Human Rights." In *Land and its People: Civil Society Voices Address the Crisis over Natural Resources in the Middle East/North Africa*, edited by Housing and Land Rights Network—Habitat International Coalition, 235-242. Cairo: HIC-HLRN, 2015. Available at: *hlrn.org/img/publications/BigMasterFinal.pdf*.

5 Housing and Land Rights Network. "Western Sahara: Exploitation through Morocco-EU Fisheries Agreement." *Right to Food and Nutrition Watch* (2013): 59. 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=59*.

6 UNHCR. *2015 UNHCR Country Operations Profile—Algeria*. Geneva: UNHCR, 2015. Available at: *www.unhcr.org/pages/49e485e16.html*.

7 Ahmed, Akbar, and Harrison Akins. "Waiting for the Arab Spring in Western Sahara." *Al Jazeera*, March 14, 2012. Available at: *www.aljazeera.com/indepth/opinion/2012/03/201231410151626l596.html*.

8 These include the World Food Programme (WFP), the Office of the United Nations High Commissioner for Refugees (UNHCR), the European Commission's Humanitarian Aid and Civil Protection Department (ECHO), the Spanish Agency for International Development Cooperation (AECID), Medico International and Oxfam Solidarité, among others.

9 UNHCR. *Nutrition Survey Saharawi Refugee Camps, Tindouf, Algeria*. Geneva and Rome: UNHCR and WFP, 2012. Available at: *vest-sahara.no/files/dated/2014-11-23/2012_nutrition_survey_report_final_draft_en_v2.doc*.

10 The Framework for Action for Food Security and Nutrition in Protracted Crises (CFS-FFA), endorsed by the UN Committee on World Food Security (CFS) in October 2015, is an important policy document that provides policy guidance for communities living in protracted crises, such as the Western Saharan refugees. The emphasis is specifically placed on community-led strategies (Principle 7) and durable, long-term solutions rather than "emergency" aid over long periods (Principle 1). Available at: *www.fao.org/fileadmin/templates/cfs/Docs1415/FFA/CFS_FFA_Final_Draft_Ver2_EN.pdf*.

11 Camel husbandry and herd recovery are also being promoted in order to provide milk and meat. For more information, please see: Volpato, Gabriele, and Patricia Howard. "The material and cultural recovery of camels and camel husbandry among Sahrawi refugees of Western Sahara." *Pastoralism: Research, Policy and Practice* 4:7 (2014). Available at: *pastoralismjournal.springeropen.com/articles/10.1186/s13570-014-0007-4*.

12 For more information on the technical development and timeline of the gardens, please visit: *landtimes.landpedia.org/newsdes.php?id=pW1t&catid=ow==&edition=o2s*.

08

FROM BREAD TO FREEDOM: BREAD SUBSIDIES AND THE RIGHT TO FOOD IN EGYPT

Hala N. Barakat and Heba Khalil [1]

During the 2011 uprising in Egypt, the people gathered together shouting 'Bread, freedom and social justice'. In Egypt bread is more than just the main staple food—the word itself also means life in the Egyptian dialect of Arabic. Nearly 25% of the population of Egypt depends on public assistance programs to access bread. In this context, increases in its price have been the trigger of major riots and uprisings in 1977, 2007 and 2008.

Following political upheaval, regime changes and the constitutional recognition of the right to food and food sovereignty in 2014, concerns over bread—from production to consumption—continue to weigh on large segments of Egyptian society. These issues threaten social protection and are a primary driver for the ongoing corruption of state actors. As subsidy reforms take off across the country, it becomes paramount to utilize the new constitution to hold the government accountable to the commitments within.

THE RIGHT TO FOOD AND FOOD SOVEREIGNTY IN EGYPT'S CONSTITUTION: A VICTORY FOR CIVIL SOCIETY

During the 2013 drafting process of the new constitution, the Working Group on the Right to Food and Food Sovereignty in Egypt, a civil society-based initiative led by the Egyptian Initiative for Personal Rights (EIPR),[2] was committed to achieving progressive language and commitments on the right to food and food sovereignty. Consequently, Article 79 of the constitution, which was adopted in January 2014,[3] makes explicit reference to the right to food and food sovereignty. It is important to note that Egypt is the first Arab state, and one of seven globally, to constitutionalize food sovereignty. Together with provisions that oblige the state to abide by international agreements and treaties signed by Egypt, Article 79 is an important step in holding the state accountable to obligations to fulfill economic, social and cultural rights, and a premise towards the realization of sustainable development nationwide.

Nevertheless, despite a rather progressive constitution, especially in its protections of human rights, economic and social policy in Egypt has remained resistant to constitutional commitments. It has continued to favor austerity measures that negatively impact those populations most at risk. Additionally, unsustainable funding of development objectives, including a heavy reliance on food imports, also puts into question the very value of the constitution.

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2 For more information, please visit: *eipr.org/en*.

3 The *Constitution of the Arab Republic of Egypt 2014* is available in English (unofficial translation) at: *www.sis.gov.eg/Newvr/Dustor-en001.pdf*.

BREAD SUBSIDIES: A PRECARIOUS SYSTEM

Bread is a major part of the Egyptian diet, as wheat production, flour and bread have been heavily subsidized by the government for several decades. Egypt is the world's biggest importer of wheat, importing some 11 million tons during 2015, which is just over half the needed 19 million tons.[4]

The bread system in Egypt is complex, multi-layered and plagued with corruption,[5] however, bread has been a longstanding social protection strategy for the Egyptian government. Despite changes to the systems, families still heavily rely on these subsidies. Considering that the average Egyptian household spends 46% of its income on food, subsidies on consumer goods (especially food and fuel) are critical for most households to meet their basic needs. They accounted for 4% of Egypt's total spending during the 2014/15 financial year.[6]

SUBSIDY REFORM

Food subsidy reform has often surfaced in the government's plans over the last decade. Nonetheless, it continues to be a sensitive political issue, especially in the wake of the more recent severe economic crisis, which has led to inflation, unemployment and underemployment. Various approaches to subsidies have been proposed, including scaling them down, eliminating them altogether or replacing them with their monetary equivalent.

After the nationwide mass uprisings in 2011, calls for reform have also focused on making the bread subsidy system more targeted to those most in need, as well as more efficient in battling widespread corruption, all the more so given the budget deficit. However, instead of reforming a poorly managed welfare system, the state has focused on reforming welfare spending within an austerity package that has consequences on social systems.

In 2014 and 2015, the government announced that the aim of the food subsidy reform was to cut waste and create a more efficient system to state spending on wheat. To accomplish this, the government introduced a new system of rationing bread through cards and diversifying subsidized commodities available to low-income populations. It also committed to minimize corruption. The new smart card entitles owners to a fixed ration of five loaves of bread per day, whereas before anyone could buy an unlimited number of subsidized bread loaves at specified bakeries. However, one of the biggest changes to the system is that the government has decreed that bakers will no longer buy flour at the subsidized price; instead, they will be reimbursed by the state based on sales data gathered from smart cards. This has been proposed in an effort to crack down on smuggling and waste, since bakeries were selling subsidized flour at market price to pastry shops and individuals. Moreover, subsidized bread was often used as fodder as it is cheaper than animal feed bought on the market.

According to the state, the new food subsidy system and discounts at state grocery stores are meant to counter possible price hikes resulting from cutting fuel subsidies. This soon proved necessary with price hikes resulting from new monetary policies and fuel subsidy cuts implemented in during 2015 raising food price inflation to a massive 15% in December 2015, as opposed to 8% in December 2014.[7] As wages have not increased for most persons, this steep inflation rate has had serious effects on access to food for many families.

4 FAO. *Global Information and Early Warning System on Food and Agriculture (GIEWS) Country Briefs Egypt*. Rome: FAO, 2016. Available at: www.fao.org/giews/countrybrief/country.jsp?code=EGY.

5 For more information on the politics of wheat and bread in Egypt, and the process of bread production, please see: Kamal, Oday. *Half-baked, the Other Side of Egypt's Baladi Bread Subsidy*. Barcelona: Center for International Affairs (CIBOD), 2015. Available at: www.cidob.org/en/publications/publication_series/monographs/monographs/half_baked_the_other_side_of_egypt_s_baladi_bread_subsidy.

6 Waad, Ahmed. "Egypt's new system tackles bread consumption." *Ahram*, July 14, 2014. Available at: english.ahram.org.eg/NewsContent/3/12/106252/Business/Economy/Egypts-new-subsidy-system-tackles-bread-consumptio.aspx.

7 FAO. *Supra* note 4.

THE REALIZATION OF THE RIGHT TO FOOD: RISING TO THE CHALLENGE

In terms of supply, Egypt's reformed food subsidy system might have become more 'efficient', but the outcome in terms of access for the most at-risk populations is still questionable, as it does not address the root causes of food insecurity. The country's poverty rate has increased in the past years, reaching 26.3% for the year 2012/13, according to the latest reports from the Central Agency for Public Mobilization and Statistics (CAPMAS).[8] With the increase of food prices and currency devaluation, assumptions can be made that the situation is worse, in particular for those living in extreme poverty and already lacking access to their basic rights.

Additionally, as government programs continue to rely on the same corrupt channels that have reportedly deprived the most vulnerable households from benefitting from more than 20% of subsidized goods, a serious reform of public governance is needed at all levels. The government must focus its efforts in reaching the most vulnerable populations, so as to ensure that subsidies are targeted and reach their beneficiaries, and to realize the right to food and nutrition for all citizens, as enshrined in the constitution.[9]

As inflation continues to surge and the poverty rate escalates, bread subsidies in Egypt must continue to support the operationalization of the right to food. Additionally, new approaches that take into account the larger food system should be explored, paying particular attention to production overall and to small-scale producers. The dependence on grain import is a serious problem that needs to be addressed by protecting local production and small-scale farmers, supporting their rights to grow their local varieties. This requires adherence to constitutional commitments and policies that the government is still far from implementing.[10]

In light of a parliament that is representative of the executive branch, more so than of the people, and in view of growing restrictions on freedom of expression and routes of mobilization, the question remains on how Egyptians will fight for their food needs and entitlement to food. The constitutional protection of food sovereignty and the right to food is a theoretical ideal on paper, but it remains far removed from reality.

8 For more information (in Arabic), please visit: www.capmas.gov.eg.

9 The Egyptian Center for Economic and Social Rights. *Joint NGO Session on the Situation of Economic, Social and Cultural Rights in Egypt*. Cairo: ECESR, 2014. p. 6. Available at: cesr.org/downloads/JS_Economic_Social_Rights_Egypt.pdf.

10 Saqr, Basheer and Emily Mattheisen, "Operationalizing Food Sovereignty in the Egyptian Constitution." In *Land and its People: Civil Society Voices Address the Crisis over Natural Resources in the Middle East/North Africa*, edited by Housing and Land Rights Network—Habitat International Coalition, 299–304. Cairo: HIC-HLRN, 2015. Available at: hlrn.org/img/publications/BigMasterFinal.pdf.

09

THE PRICE OF YOUR CUP OF TEA: HUMAN RIGHTS VIOLATIONS IN INDIA'S TEA PLANTATIONS

Sue Longley[1]

Grown mainly in tropical and subtropical regions, tea has been traded around the world since the sixteenth century—and is now the most consumed drink after water. With 1,614 tons per year, China is the largest consumer worldwide, while India, Turkey, Pakistan, Russia, and the United Kingdom are amongst the major consumers.[2] But do you know who is behind your cup of tea?[3]

After China, India is the world's second largest producer of tea. Employing 1.2 million people, of whom 70% are women, the tea industry is India's second largest employer in the organized sector. West Bengal and Assam generate 70% of production. The story of India's tea plantations dates back to the late nineteenth century, when thousands of landless people and poverty stricken peasants from India's indigenous communities were recruited by colonial planters to work on often very isolated, so-called tea 'gardens'. Workers' mobility was heavily restricted, and the relationship between the planters and workers was characterized as 'master and servant' rather than employer and employee. No laws were in place to regulate plantation laborers' work hours, nor the working and living conditions.[4] Without any alternative means for livelihood, they were tied to the gardens, generation after generation.

Little has changed since then. By enacting the Plantation Labor Act (PLA) in 1951, in reality, India formalized this system of extreme dependency instead of responding to the structural causes of the plight of tea plantation workers. Media exposures have repeatedly highlighted the poor working and living conditions on India's tea plantations over the years, yet the tea workers' situation continues to be characterized by poverty wages, gender discrimination and a lack of access to a basic standard of living.[5] This denies them their human right to adequate food and nutrition and other related human rights.[6]

In order to investigate the human rights situation of tea workers, the Global Network for the Right to Food and Nutrition[7] conducted its first ever Fact-Finding Mission (hereinafter, the Mission) in India in late 2015. Various of its member organizations—the International Union of Food Workers (IUF), FIAN International, the Right to Food Campaign in India, and the International Baby Food Action Network (IBFAN)—visited 17 plantations in West Bengal and Assam and interviewed 300 workers, along with representatives from Paschim Banga Khet Majoor Samity (PBKMS) and the Pesticides Action Network (PAN).

1 Sue Longley is the International Officer for Agriculture and Plantations at the International Union of Food Workers (IUF). She represents the IUF in the Coordinating Committee of the Global Network for the Right to Food and Nutrition (GNRTFN) along with Svetlana Boincean. They both participated in the Fact-Finding Mission to India in 2015. The IUF is the global trade union federation representing workers throughout the food chain. It has 420 affiliated trade unions in 126 countries and is a founding member of the GNRTFN. For more information, please visit: *www.iuf.org*.
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2 FAO. *World Tea Production and Trade Current and Future Development*. Rome: FAO, 2015. p. 6. Available at: *www.fao.org/3/a-i4480e.pdf*.

3 This article is based on: FIAN International; The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF); Right to Food Campaign in India and Paschim Banga Khet Majoor Samity (PBKMS). *A Life without Dignity – The Price of Your Cup of Tea*. June 2016. Available at: *www.fian.org/fileadmin/media/publications_2016/FFMReport_June_2016.pdf*.

4 Bhowmik, Sharit. *Class Formation in the Plantation System*. New Delhi: People's Publishing House, 1981.

The Mission's final report,[5] published on International Labor Day in 2016, unveils shocking realities. Across all tea plantations visited, widespread violations of the human right to food and nutrition and related human rights were identified. These were directly linked to poor working conditions, poverty wages, and a general lack of access to basic housing, electricity, water and sanitation as well as child and health care—all compounded by pervasive gender discrimination and insecurity of tenure, and in contrary to provisions set by the PLA. The situation in West Bengal was of particular concern: In one garden that was abandoned by its owners, workers were left without pay or rations and starvation deaths have occurred.

Visiting workers' housing in the labor lines one is struck by how transient their housing appears to be—even when families have been living there for generations. The houses are basic constructions of mud and wood with tin or straw roofs. Inside the dark, small rooms there are few possessions: a cooking pot, a bag of rice, some flour, a line of string with some clothing hung over it, and sleeping mats folded neatly in the corner. The Mission concluded that a lack of security of tenure over their housing increased their vulnerability. Indeed, the land on which their home is built is controlled by management; as a result, workers continue to work under appalling conditions so as to be able to maintain a home for their family.

In view of the dire situation, the Global Network for the Right to Food and Nutrition calls upon the Government of India to:

- Take immediate actions to guarantee all human rights of tea workers, specifically the rights to food and nutrition, housing, water and education;
- Pay urgent attention to closed tea gardens and ensure immediate support to those at risk of starvation;
- Take immediate actions to guarantee all women's human rights; and
- Ensure that any decisions in relation to the future of tea gardens, including any structural alternatives to the present situation, are taken with the involvement and participation of the concerned tea workers.

Nevertheless, it is important to note that not all tea workers are passive victims of their situation: Many workers are organizing and fighting for their rights. For instance, having received support from IUF, women workers in the tea sector in West Bengal have succeeded in claiming their rights after three years of struggle. In 2012, workers came out on strike in defense of a colleague who was denied medical treatment when she was seven and half months pregnant. The company locked them out in an attempt to starve them back to work. However, the women fought on and as a result gained improved access to their maternity rights, better crèches and better school transport.[09] Workers are now building a democratic union that can negotiate on their behalf.[10] Another example—in Kerala—illustrates how women tea workers organized themselves to fight for and win a wage increase and to challenge their male-dominated union.[11]

The ongoing human rights violations in India's tea plantations are an expensive price to pay for a cup of tea. Yet, the struggle for the progressive realization of the right to food and nutrition is strengthened when tea plantation workers themselves call for changes and demand their rights. The Global Network for the Right to Food and Nutrition will continue to support their struggle.

5 For more information, please see: Rowlatt, Justin, and Jane Deith. "The bitter story behind the UK's national drink." *BBC News*, September 8, 2015. Available at: www.bbc.com/news/world-asia-india-34173532. Please also see: Chamberlain, Gethin. "India's tea firms urged to act on slave trafficking after girls freed." *The Guardian*, March 1, 2014. Available at: www.theguardian.com/world/2014/mar/01/india-tea-firms-urged-tackle-slave-traffic-plantations.

6 For more information on tea plantations, please see: Roman Herre et al., *Harvesting Hunger—Plantation workers and the right to food*. Aachen: MISEREOR, 2014. Available at: www.iuf.org/w/sites/default/files/2014%20Harvesting%20Hunger.pdf. Please also see: Columbia Law School Human Rights Institute. *"The more things change..." The World Bank, Tata and Enduring Abuses on India's Tea Plantations."* Columbia Law School, 2014. Available at: web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/tea_report_final_draft-smallpdf.pdf.

7 The Global Network for the Right to Food and Nutrition, launched in 2013, currently comprises over 30 public interest civil society organizations and social movements working for the realization of the human right to adequate food and nutrition. The Network opens a space for dialogue and mobilization of its members to hold states accountable for their obligation to realize the right to food and nutrition. It supports the struggles of social movements and groups that, as a result of standing up to violations of these rights, may suffer from repression, violence, and criminalization. Additionally, the Network works towards ending the impunity of State-condoned human rights violations and of human rights abuses by non-state actors. For more information, please visit www.righttofoodandnutrition.com.

8 *Supra* note 3.

9 IUF. "Union wins new gains for Tata/Tetley West Bengal Tea Workers." May 13, 2012. Available at: cms.iuf.org/?q=node/1675.

10 For more information on the workers' *Charter of Demands*, please see: *Supra* note 3. Annex 5.

11 Jayaseelan, Raj. "The women strike back: the protest of Pembillai Orumai tea workers." *Open Democracy*, February 4, 2016. Available at: www.opendemocracy.net/beyondslavery/jayaseelan-raj/women-strike-back-protest-of-pembillai-orumai-tea-workers.

10

LAND AND PEACE IN MYANMAR: TWO SIDES OF THE SAME COIN

Jennifer Franco and Khu Khu Ju [1]

Myanmar stands at a historic crossroads: one where the optimism of a "critical juncture" that is "more promising than at any time in recent memory" meets apprehension over what could happen if a "host of social crises that have long blighted our country" go unaddressed.[2]

After more than sixty years of civil war and 'social crises', land grabbing figures are high. New legislation is designed to move land out of the hands of rural working people and into the hands of 'modern farmers' and foreign and domestic big business actors.

This article outlines the land problem and how social actors have been using the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (hereinafter the Tenure Guidelines or TGs)[3] to pursue their quest for land, justice, peace and democracy.[4]

THE MYANMAR CONTEXT: POPULATION, CONFLICT, LAND CONFISCATION

Approximately 70% of Myanmar's 50 million people live and work in the highly diverse economic, social and cultural fabric of its rural areas. Extremely diverse ethnically, Myanmar's ethnic minority communities comprise 30–40% of the total population, whilst ethnic states occupy 57% of the land area.[5] They are home to often persecuted ethnic nationalities living in poverty, including many subsistence farmers practicing upland cultivation. The central government systematically exploits the natural resources of these impoverished, war-torn areas, without reinvesting the earnings to benefit local populations. Economic grievances fuel the ongoing civil war.[6] The ranks of vulnerable and marginalized people living in poverty, who have little or no land, including many rural women and landless laborers, are growing[7] as thousands are displaced by land grabs, as well as armed conflict[8] and natural disaster.[9] Land confiscation by the military is a major problem. During 50 years of military rule, much land was taken from farmers, often with little or no compensation. Although exact figures vary, an estimated 1.9 million acres was transferred to private companies before 2010.[10] By mid-2013, another 5.2 million acres were confiscated for agribusiness concessions.[11] Internally displaced persons (IDPs) and refugees hoping to return to their original places face many challenges, including landmines, land disputes with secondary occupants, and military and/or industrial operations.

After 2010, new laws designed behind closed doors by the government of President Thein Sein, a former general, worsened the situation. They do not recognize ethnic and customary land tenure rights, such as shifting cultivation, water and forest commons. The *Farmland Law* (2012) legalized buying and selling of land use rights using government-issued individual Land Use Certificates (LUCs). The *Vacant, Fallow,* and *Virgin* (VFV) *Land Law* (2012) authorized reallocation of VFV areas, affecting villagers' farms, areas under rotational farming systems, and community lands within upland areas under customary tenure systems and lowland areas lacking official land use title. Such areas are now earmarked for investments of up to 50,000 acres per deal for a renewable thirty-year lease for industrial crops.[12] A third

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Special thanks to Hannah Twomey (International Institute of Social Studies, ISS) for editorial assistance, as well as to Mrinalini Rai (Global Forest Coalition) 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 TNI, "The Generation to Enjoy Peace? A commentary by LahPai Seng Raw," 17 March, 2016. Amsterdam: Transnational Institute. Available at: www.tni.org/en/article/the-generation-to-enjoy-peace.

3 FAO. *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome: FAO, 2012. Available at: www.fao.org/docrep/016/i2801e/i2801e.pdf. For more information on the Tenure Guidelines, please see article "Towards an Assessment of the Implementation of the Guidelines on Tenure of Land, Fisheries and Forests: A Tool for Social Movements' Struggles" in this issue of the *Right to Food and Nutrition Watch*.

4 In response to the many threats to the diverse relationships of rural peoples to land, many farmers and activists are asserting a human right to land, while resistance to the dominant development agenda is expressed through many avenues. Jennifer Franco *et al., The Meaning of Land in Myanmar—A primer*. Amsterdam: Transnational Institute, 2016. Available at: www.tni.org/en/publication/the-meaning-of-land-in-myanmar.

5 TNI and Burman Centrum Netherlands. "Access Denied: Land Rights and Ethnic Conflict in Burma," *Burma Policy Briefing* 11 (2013): 1. Available at: www.tni.org/en/publication/access-denied-land-rights-and-ethnic-conflict-in-burma.

law restricts the agricultural sector to large-scale investment with land use rights of up to seventy years. A *Special Economic Zones* (SEZ) *Law* gives foreign investors up to seventy-five years of land use rights for large-scale industry; low tax rates; import duty exemptions; unrestricted foreign shareholding; and government security support.[13] These laws are fueling land polarization and ethnic conflict.

Land grabbing is linked to the expansion of flex crops and other industrial crops (corn, sugarcane, oil palm, and rubber); China's opium substitution program[14] and large-scale hydropower; mining concessions; military installations; and also to nature conservation projects backed by international environmental NGOs.[15] Rural working households, as well as customary communities with community forests and grazing lands, medicinal gardens and reserve lands, are losing out. Access to land is increasingly tenuous, particularly for land users in ethnic borderland areas, upland shifting cultivators, and others lacking authorized documentation.

Even those with legal documents are not immune. A survey by the right to land movement Land in Our Hands (LIOH, 'Doe Myay' in Burmese)[16] of its members whose land was confiscated, found that 42.5% possessed the proper legal documents, while 39.8% did not.17 For many, one-time monetary compensation does not compensate for the injustices endured, especially when it involves giving up their right to land.[18]

USING THE TENURE GUIDELINES TO ADVANCE LAND RIGHTS

Against this backdrop, use of the Tenure Guidelines has come more 'from below' (i.e., civil society actors *using* them) than 'from above' (i.e., state actors *implementing* them). While the TGs were being negotiated in 2011–2012, Myanmar's land problem reignited with new talks (leading to signing of new ceasefire agreements) with some of the ethnic armed groups and promulgation of the new land laws—both widely seen as benefitting a few whilst harming the many, particularly those in rural and ethnic areas.

Strengthening civil society voices vis-à-vis talks between the government and ethnic armed opposition groups has become key for many ethnic rights groups, especially in borderland areas where armed conflict and natural resource exploitation and extraction is most concentrated. Many see the need to develop land policies based on their own distinct customary practices and values and on their conceptions of social and environmental justice.

Policymaking 'from below' involves grassroots communities making their own proposals for lobbying the Myanmar government and the ethnic armed groups, and using the TGs to illuminate gaps in existing policy proposals, to validate people's ideas based on their own experiences and beliefs, and to encourage those suffering injustice to speak out. The TGs are also being used to frame advocacy vis-à-vis national land policy-making processes.

In an unprecedented move in October 2014, the Myanmar government unveiled a draft *National Land Use Policy* (NLUP) for public consultation, which it hoped to finalize and adopt by December 2014. Although the move was welcomed, the draft NLUP itself was decidedly pro-business and the planned consultation was severely limited. In a tense atmosphere, many local groups chose to engage, hoping to slow down the process and give time for people to study and develop a unified response.

6 *Ibid.*

7 Hiebert, Murray, and Phuong Nguyen. "Land Reform: A Critical Test for Myanmar's Government, Commentary." *Southeast Asia from the Corner of 18th & K Streets* 3:21 (2012). Available at: csis.org/print/40444.

8 Prior to new fighting in Northern Shan State last year, there were an estimated 650,000 IDPs in ethnic borderlands, and more than 130,000 refugees in Thailand, as well as two million migrants to third countries. For more information, please see: TNI and Burman Centrum Netherlands. "Burma's Ethnic Challenge: From Aspirations to Solutions" *Burma Policy Briefing* 12 (2013): 10. Available at: www.tni.org/en/briefing/burmas-ethnic-challenge-aspirations-solutions.

9 For example, the destruction caused by 2008 Cyclone Nargis or the devastating floods of 2015.

10 *Supra* note 7.

11 Vrieze, Paul. "Rapid Plantation Expansion Fuels Deforestation in Ethnic Regions," *The Irrawaddy*, November 29, 2013.

12 Jennifer Franco *et al.*, *supra* note 4.

13 *Supra* note 5. Similar developments can be observed in other countries: in India, SEZs have led to large-scale land grabbing, and in Honduras, so-called 'charter cities' pose an imminent threat to human rights and peoples' sovereignty. For more information on the latter, please see: Moreno, Ismael. "A Charter City Amidst a Tattered Society." *Right to Food Journal* (2015): 7. Available at: www.fian.org/fileadmin/user_upload/Right_to_Food_Journal_2015.pdf#page=7.

14 This Chinese government program promotes and subsidizes Chinese companies in creating large-scale agricultural concessions, such as rubber plantations, in Northern Burma and Laos. Justified as combatting poverty and opium trade, the program fails to benefit people living in poverty, has led to dispossession, and is carried out through contracts with state and military authorities. For more information, please see: TNI. "Alternative Development or Business as Usual?" *Drug Policy Briefing* 33 (2010). Available at: www.tni.org/files/download/brief33.pdf. See also: Kramer, Tom, and Kevin Woods. *Financing Dispossession: China's Opium Substitution Programme in Northern Burma*. Amsterdam: Transnational Institute, 2012. Available at: www.tni.org/en/publication/financing-dispossession.

15 For more information, please see: Fairhead, James, Melissa Leach, and Ian Scoones. "Green Grabbing: A New Appropriation of Nature?" *Journal of Peasant Studies* 39:2 (2012). Available at: www.tandfonline.com/toc/fjps20/39/2.

16 For more information on LIOH, please see *supra* note 1.

17 LIOH. *Destroying People's Lives: The Impact of Land Grabbing on Communities in Myanmar*. LIOH, 2015. Available at: partnersasia.org/wp-content/uploads/2016/01/LIOH-land-research-report_Eng.pdf.

18 Many of those surveyed by LIOH say they reject compensation as an act of resistance. LIOH, *supra* note 17.

Aided by allies, the LIOH network organized nearly a dozen autonomous pre-consultations across the country. Participants used the TGs to assess the draft policy's objectives and principles, to identify gaps and weaknesses, and to reflect on their own perspectives. The TGs showed where the government's draft fell short of international standards, while underlining the legitimacy of grassroots perspectives.[19]

Their efforts contributed to changing the process and its outcome. The government was forced to slow down and become more inclusive. Only in January 2016 was the final version of the NLUP unveiled—not perfect, but vastly improved. Ultimately, the strategy of critical engagement altered the parameters of the consultation process and some of the most important demands of LIOH and others were accommodated.

Today, however, new uncertainties lay on the horizon. Chief among them is uncertainty over how the newly elected National League of Democracy (NLD) government will proceed in drafting a new land law. Ironically, the NLUP adopted under the previous government is far closer to the TGs than the new NLD government's own election manifesto. Those hoping for change in a better direction will likely have to struggle on.

CONCLUSION

The TGs are not a 'magic bullet' that, if applied correctly, will solve the land question in Myanmar. Rather, under the right conditions, they can be one small but useful weapon, in an arsenal of weapons for redressing injustice and realizing the right to land with peace and democracy.

The future remains uncertain especially for ethnic nationalities, whose right to land and tenure rights are not recognized by current laws, for landless and near-landless rural working people, and for IDPs and refugees who wish to return.

Yet solving the land problem is tied to prospects for peace. Moving forward on either front will require an approach that puts state-led initiatives at the service of community-defined and community-led processes of negotiation and collective decision making, and opening political space particularly at the ground level for those most affected to debate and negotiate amongst themselves their own visions of the future.

19 For a comparison between the TGs and Myanmar's land policy draft, please see: Jennifer Franco *et al.*, *The Challenge of Democratic and Inclusive Land Policymaking in Myanmar*. Amsterdam: Transnational Institute, 2015. Available at: www.tni.org/files/download/the_challenge_of_democratic_and_inclusive_land_policymaking_in_myanmar.pdf.

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CIMI is an organization of the Catholic Bishops Conference of Brazil (CNBB), which has been supporting indigenous communities, peoples and organizations since 1972, strengthening them in their struggles for rights, autonomy and cultural identity.
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11

THE GREAT GUARANI AND KAIOWÁ PEOPLES AND THEIR STRUGGLE FOR RIGHTS AND FOR LIFE IN BRAZIL

Valéria Burity, Flavio Machado and Adelar Cupsinski [1]

"Our lands are being invaded, our lands are being taken, our territories are being invaded ... They say that Brazil was discovered; Brazil was not discovered, no, Holy Father. Brazil was invaded and taken from the indigenous peoples of Brazil."
Marçal Tupã'i, Guarani-Nhandeva leader assassinated in 1983

The history of indigenous peoples in Brazil is marked by serious material and immaterial losses. The Figueiredo Report[2] and the Final Report of the National Truth Commission (CNV)[3] have recorded systemic violations resulting from actions or omissions by the Brazilian State. The brutal extermination of the indigenous population is one of the facts that back up this claim. Several historians estimate that when the Portuguese arrived in Brazil in 1500, there were 5 to 6 million indigenous peoples living here. According to the 2010 census by the Brazilian Institute of Geography and Statistics (IBGE), there were 896,917 indigenous people in total, which is 0.4% of Brazil's population.[4]

Given the fact that their right to territory and cultural identity is neither respected, protected nor promoted, all other rights are violated and/or threatened, including the human right to adequate food and nutrition. For this reason, indigenous peoples fare worse in living conditions indicators than the total population. For example, the food and nutrition insecurity of three Guarani and Kaiowá communities, which were the subject of research[5] by FIAN Brazil, stands at 100%,[6] compared to 22.6%[7] for the Brazilian population and 18.2% for Mato Grosso do Sul (MS).[8] In MS, a state in the Centre-West region of Brazil, bordering Paraguay and Bolivia, this is the context that the Guarani and Kaiowá people find themselves in. The geopolitical occupation of this border region and the economic exploitation of the state of MS, intertwined with actions and omissions by the State of Brazil, led to serious violations of rights. A case in point is the process of agricultural settlements in the state of MS.[9] It is worth highlighting that it is here in MS, that the second largest indigenous population and one of the worst indices (1.8%) of demarcated Indigenous Territories can be found.[10] Demarcation is the administrative process that identifies and signals the limits of the territories that were traditionally inhabited by indigenous peoples.[11]

The Guarani and Kaiowá currently make up a group of over 45,000 people in MS.[12] Some live in urban centers, but in general, they find themselves in one of the following three situations. First, a minority lives on demarcated land. Second, a large majority lives in reserves, where violence, malnutrition and suicide indicators are the

2 Brazil—Ministry of Home Affairs. *Figueredo Report*. Brasilia: Ministry of Home Affairs, 1967. Available in Portuguese at: *www.janetecapiberibe.com.br/component/content/article/33-relatorio-figueiredo/20-relat%C3%B3rio-figueiredo.html*.

3 The National Truth Commission (CNV) was created to examine and clarify the serious violations of human rights between 1946 and 1988.

4 Brazilian Institute of Geography and Statistics (IBGE). *Censo Demográfico* 1991/2010. Brasília: IBGE, 2010. Available in Portuguese at: *indigenas.ibge.gov.br/graficos-e-tabelas-2.html*.

5 In 2013, FIAN Brazil undertook socio-economic and nutritional research in three emblematic communities: Guaiviry, Ypo'i and Kurusu Ambá. The research was coordinated by Cêlia Varela (former Secretary General of FIAN Brazil) and CIMI in MS. Ana Maria Segall Corrêa coordinated the team of experts, consultants and partners responsible for the fieldwork and the systematization of data.

6 FIAN Brazil, FIAN International and CIMI. *Diagnóstico da Situação de Segurança Alimentar e Nutricional dos Guarani e Kaiowá*. Brasília: FIAN Brazil, 2016. Available at: *www.fianbrasil.org.br/noticia/visualizar/10*.

worst. To illustrate this, from 2003 to 2010 there were 250 homicides and 176 cases of suicide.[13] During the same period, 4,000 children suffered from malnutrition.[14] In this regard, it is worth noting that in certain years the suicide rate in MS may even exceed 100 per 100,000 inhabitants, compared to the national average of 5.7 per 100,000, according to the National Foundation of Health.[15] Finally, the rest live in camps on the sides of the roads or in areas that they have retaken by occupying parts of farms that overlap with their traditional territories and are thus in a situation of conflict. This is a reaction to the omissions by the state, which does not guarantee the right to territory, and a way of not having to submit to the precarious living conditions in the reserves. They are surrounded by sugar cane and grain monocultures that require intensive use of agrochemicals. Many complaints have been filed regarding the contamination of water.[16] There have also been complaints about communities being intentionally targeted and sprayed with agrochemicals.[17]

These peoples use the term *tekohá* for their territory. Pereira and Mota make it clear that this term reflects the deep connection between cultural identity and ancestral territory. They state that the prefix *teko* represents a series of norms and customs, while the suffix ho has a connotation of place. Without *teko* there is no *tekohá* and without *tekohá* there is no *teko*.[18]

There are major conflicts between representatives from the agribusiness sectors and indigenous communities. As a reaction to the struggle over *tekohá*, the murder of leaders and evictions are ongoing.[19] Ever since Marçal was murdered in 1983, ten leaders have been killed. In some cases—such as with Nísio Gomes of the Tekohá Guaiviry people—their bodies were never found. Apart from the murder of leaders, conflicts over land lead to hundreds of deaths. MS accounts for 54.8% of criminal acts of murder against indigenous peoples in the country—the fourth cause of these assassinations is land conflicts.[20]

The local context is a reflection of violations of the laws, which the State of Brazil is responsible for, given the three spheres of power conferred upon it.

The executive power has backed actions that go against the rights of indigenous peoples, such as the promotion of agribusiness in areas where there are indigenous lands, and has failed to fulfill its obligation to demarcate indigenous land. The interim government—resulting from an impeachment process devoid of legitimacy—puts the rights of indigenous peoples at an even higher risk.[21]

Regarding the legislative power, the initiatives that violate the rights of indigenous peoples are countless. The Proposed Constitutional Amendment (PEC) 215 is one of the most serious attacks against indigenous rights.[22] Furthermore, Parliamentary Commissions of Inquiry (CPI) have been established with the purpose of criminalizing the indigenous struggle and its supporters. An example of this is the CPI against the Missionary Council for Indigenous Peoples (CIMI), established by the legislative powers of MS. In a final report, the CPI requests, among other things, that all crimes and illicit acts committed by CIMI members be investigated with the upmost rigor and severity by competent authorities.[23]

The judiciary power, in turn, has failed to guarantee the indigenous peoples' condition as rights-holders in proceedings over land tenure concerning ethnic dignity. From the outset, the judiciary has opted for measures that affect their right to territory. There are inefficiencies in reaching the final ruling on actions that have an impact on indigenous rights. Therefore, they are being denied access to justice. Therefore, they are being denied access to justice. The controversial 'Marco Temporal' theory

7 National Council on Food and Nutrition Security (CONSEA). "IBGE divulga PNAD sobre segurança alimentar no Brasil." *CONSEA*, December 18, 2014. Available in Portuguese at: *www4.planalto.gov.br/consea/comunicacao/noticias/2014/ibge-divulga-pnad-sobre-seguranca-alimentar-no-brasil*.

8 Rezende, Graziela. "81,8% do sul-mato-grossenses vivem com segurança alimentar, diz IBGE." *G1 Globo*, December 18, 2014. Available in Portuguese at: *g1.globo.com/mato-grosso-do-sul/noticia/2014/12/818-do-sul-mato-grossenses-vivem-com-seguranca-alimentar-diz-ibge.html*.

9 Cunha, Manuela C. da. "O STF e os índios, por Manuela Carneiro da Cunha." *Racismo Ambiental*, November 19, 2014. Available in Portuguese at: *racismoambiental.net.br/?p=165317*.

10 National Indian Foundation (FUNAI), "Terras indígenas: o que é?" Available in Portuguese at: *www.funai.gov.br/index.php/nossas-acoes/demarcacao-de-terras-indigenas*.

11 The administrative process for demarcating land, ruled by Decree 1775, 1996, sets forth the following steps: i) carry out Identification Studies; ii) approve the report that results from Identification Studies by the National Indian Foundation (FUNAI); iii) presentation of appeals; iv) statements on limits of Indigenous Territory (TI); physical demarcation by FUNAI; vi) approval by *Presidential Decree*, and lastly; vii) up to 30 days after approval, registration at the land registry office in the corresponding district and at the Federal Properties Management Office (SPU).

12 There is divergence on the information provided by researchers. Figures vary between approximately 45,000 and 60,000.

13 Regarding suicide among the Guarani and Kaiowá, ensuing from deterritorialization and precarious living conditions, official data from the Special Secretariat of Indigenous Health (SESAI), disseminated by CIMI in May 2014, show that there was, on average, one suicide every five days in the state of Mato Gross do Sul (MS), making up 73 cases in 2013. This index is the highest in 28 years, according to CIMI's records. From the 73 indigenous fatalities, 72 were from the Guarani and Kaiowá people and most were aged between 15 and 30. For more information, please see: CIMI. *Relatório Violência contra os Povos indígenas – Dados de 2013*. Brasília: CIMI, 2014. Available in Portuguese at: *www.cimi.org.br/site/pt-br/?system=publicacoes&cid=30*.
Please also see: CIMI. *Relatório Violência contra os Povos indígenas – Dados de 2014*. Brasília: CIMI, 2015. Available in Portuguese at: *cimi.org.br/pub/Arquivos/Relat.pdf*.

14 Mota, Juliana G. B. and Levi M. Pereira. "O Movimento Étnico-socioterritorial Guarani e Kaiowa em Mato Grosso do Sul: Atuação do Estado, Impasses e Dilemas para Demarcação de Terras Indígenas." *Boletim DATALUTA* 58 (2012). Available in Portuguese at: *www2.fct.unesp.br/nera/artigodomes/10artigodomes_2012.pdf*.

15 Moncau, Joana and Spensy Pimentel. "O genocídio surreal dos Guarani-Kaiowá." *Instituto Humanitas Unisinos*, October 14, 2010. Available in Portuguese at: *www.ihu.unisinos.br/noticias/noticias-arquivadas/37265-o-genocidio-surreal-dos-guarani-kaiowa*.

arising from a 2009 land demarcation judgement by the Brazilian Supreme Federal Court (STF)[24] is one of the major threats to indigenous peoples' original rights.

This is the context in which FIAN has supported CIMI and indigenous communities in their struggle for their rights. In notes and documents that aim to denounce the situation, FIAN has highlighted that the causes of these violations stem not only from the denial of their right to territories and ensuing disputes, but also from discrimination. The violations that affect the Guarani and Kaiowá not only reflect a violation of their cultural identity, the violations of indigenous peoples' rights generally take place because of their cultural identity. They are discriminated against because they are 'different', living in poverty and victims of violence. It is because they are 'different' and use their land for traditional customs and not to accumulate material wealth that they are considered 'lazy' or 'criminals'. It is because they are different that public policies that should realize their rights either do not exist or are not adequate. Therefore, the lack of respect, protection and promotion of their cultural identity is the structural cause of all the violations of rights that the Guarani and Kaiowá people suffer from; starting with the violation of their territorial rights, paving the way towards the denial of other rights, including the human right to adequate food and nutrition and the right to life.

In this context, one of the strategies adopted to support the struggle for rights is a complaint to be lodged against the Brazilian State with the Inter-American Commission on Human Rights (IACHR). The international complaint is of particular relevance first and foremost because Aty Guasu, the Assembly that brings together the Guarani and Kaiowá of MS, is taking this action. Moreover, it is an important strategy for the enforcement of rights, as it records and highlights omissions and actions that violate the rights of the Guarani and Kaiowá peoples in Brazil. FIAN, together with CIMI and indigenous leaders have also been seeking to influence the international arena such as political bodies of the European Union and its member states and United Nations human rights bodies. Another strategy is to concentrate all efforts against the ongoing process of criminalizing CIMI.

Despite the huge efforts, the struggle on the ground is and always will be guided by courage, faith, huge resistance to and contestation of the cowardly historical violations that have been affecting Guarani and Kaiowá children, men and women for centuries.

16 Glass, Verena. *Em terras alheias – a produção de soja e cana em áreas Guarani no Mato Grosso do Sul*. São Paulo: Repórter Brasil, CIMI and Centro de Monitoramento de Agrocombustiveis, 2012. Available in Portuguese at: *reporterbrasil.org.br/documentos/emterrasalheias.pdf*.

17 Sousa, Neimar M. de. "Arquitetura da destruição." *GELEDÉS – Instituto da Mulher Negra*, January 14, 2016. Available in Portuguese at: *www.geledes.org.br/arquitetura-da-destruicao-por-neimar-machado-de-sousa*.

18 Mota, Juliana G. B. and Levi M Pereira. *Supra* note 14.

19 Kintschner, Fernanda. "Em CPI, depoente diz que MS registra 54.8% das mortes de indígenas do país." *Assembleia Legislativa do Mato Grosso do Sul*, April 7, 2016. Available in Portuguese at: *www.al.ms.gov.br/Default.aspx?Tabid=56&ItemID=45833*.

20 Information provided by the historian Marcelo Zelic, in a statement on behalf of the Parliamentary Commission of Inquiry (CPI), which investigated actions and omissions by the state of Brazil in cases of violence against indigenous peoples between 2000 and 2015. Available in Portuguese at: *www.al.ms.gov.br/Default.aspx?Tabid=56&ItemID=45833*. For more information on cases of violence, please also see: CIMI. *Relatório Violência contra os Povos Indígenas – Dados de 2014*. Brasília: CIMI, 2015. Available in Portuguese at: *cimi.org.br/pub/Arquivos/Relat.pdf*.

21 Barros, Ciro. "A tensão indígena com a gestão Temer." *El País*, May 22, 2016. Available in Portuguese at: *brasil.elpais.com/brasil/2016/05/21/politica/1463864670_330401.html*.

22 This Proposed Constitutional Amendment (PEC) defines the 'exclusive competence' of National Congress as being to approve the demarcation of lands traditionally occupied by indigenous peoples. If PEC 2015 were to be approved, the right to indigenous land would be fully conditioned by the will of a parliamentary political majority, usually dominated by interests of the 'ruralist contingent'.

23 For more information, please see CPI final report on CIMI. Available in Portuguese at: *www.al.ms.gov.br/LinkClick.aspx?fileticket=WVDm0fvZ9Uk%3d&tabid=621*.

24 This theory was discussed in the context of the 2009 judgment of Petition 3.388/RR on the demarcation of the indigenous land named Raposa Serra do Sol. The rapporteur was Minister Carlos Britto. In the final judgment, the STF established that the indigenous peoples had the right to the whole territory concerned. One of the arguments used in the judgement was that these lands were being occupied by these indigenous peoples at the time when the Federal Constitution—in which indigenous peoples' original rights are recognized—was promulgated, i.e. October 5, 1988. Some STF members have stressed that non-occupied lands in 1988 do not lose their traditional status as a result of actions undertaken by non-indigenous persons. However, other courts and some STF members have interpreted the theory in a restrictive manner, claiming that in order to have the right to their lands guaranteed, indigenous peoples should prove that they were occupying those territories in 1988. This fails to consider the violent process that removed several indigenous communities from their lands, as well as the historical and structural injustice they faced.

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THE STRUGGLE FOR PEOPLES' FREE SEEDS IN LATIN AMERICA: EXPERIENCES FROM BRAZIL, ECUADOR, COLOMBIA, HONDURAS AND GUATEMALA

Laura Gutiérrez Escobar and Germán Vélez [1]

Since ancestral times human populations and particularly women,[2] have given rise and prominence to agriculture: domesticating, improving and adapting an extensive variety of crops and animals to their various environmental, technological, cultural and socio-economic requirements. Latin American civilizations and peoples nurtured numerous native varieties of corn, bean, potato, cassava, tomato, fruit and other crops that still feed the world today and are conserved and used by indigenous, Afro-descendent and peasant communities for their own sustenance and the preservation of their cultures.

As in the rest of the Global South, seeds are seen as a godsend and held sacred as the 'collective heritage of the people'. As such, they have circulated freely among the rural Latin American population guaranteeing food sovereignty and food autonomy against various global crises. In doing so, they have exercised collective rights in the use, handling, exchange and local control of seeds and consider these rights to be 'inalienable', and 'imprescriptible'.[3] The extensive variety of local native seeds, especially at present, are necessary to counteract climate change and the failure of industrial agriculture that, to make profits, seeks to homogenize seeds and limit seed numbers.

However, owing to the advance of a neoliberal food and agricultural system and regime in the nineties, food is no longer a fundamental right for life and has become a commodity that is monopolized by transnational companies. For example, in around 2008 ten companies held 67% of the seed market in Ecuador, of which Monsanto, DuPont and Syngenta controlled 47% under the umbrella of CropLife Ecuador[4] in collaboration with Agrocalidad.[5]

The monopolization of the agri-food system by transnational companies and national governments generates profound effects on peoples. Despite being responsible for the majority of food production, and therefore key agents in ensuring food sovereignty, small rural producers encounter unfair and precarious production and living conditions. In Brazil for example, peasant and traditional farming, despite occupying less than 20% of the national territory, is responsible for producing 70% of the food consumed in the country.[6]

GENETICALLY MODIFIED FOOD AND CROPS

Despite the serious questions that have arisen due to environmental and socio-environmental impacts on human and animal health,[7] in recent decades genetically modified (GM) seeds have spread across Latin America. Some countries have banned them (Ecuador), in others they have been allowed for research but banned commercially (Guatemala); other countries have an area sown for limited commercialization on a global scale, although the threat remains the same (Colombia and Honduras); and then there are countries like Brazil (and in general the Southern Cone), which in 2014 was the second-largest producer of GM crops after the United States.[8]

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2 For more information on the role of women as seed custodians in Africa, please see article "African Food Sovereignty: Valuing Women and the Seed They Keep" in this issue of the *Right to Food and Nutrition Watch*.

3 Please also see article "Seeds and Agricultural Biodiversity: The Neglected Backbone of the Right to Food and Nutrition", in this issue of *Right to Food and Nutrition Watch*.

4 CropLife Ecuador represents transnational companies that research and develop agro-chemical products, agricultural biotechnology and seeds.

5 Jara, Carlos. "Matriz productiva, soberanía alimentaria y buen vivir rural." Paper presented at the Cambiamanos Forum for a debate on peasant economies, the new production model and food sovereignty, Guayaquil, Ecuador, October 2013.

6 Brazilian Institute of Geography and Statistics (IBGE). *Censo Agropecuário: Agricultura Familiar – Primeiros Resultados*. Rio de Janeiro: IBGE, 2006. Available in Portuguese at: *www.mma.gov.br/estruturas/sds_dads_agroextra/_arquivos/familia_censoagro2006_65.pdf*.

Unfortunately, in the case of Ecuador, legal bans on genetically modified organisms (GMOs) have not halted their spread. In fact, the Ecuadorian High-Yield Seeds Project aims to increase the crop productivity of 90,000 small and medium-sized producers through technological packages that will include GM soya and canola seeds[9].

In Colombia, the initially rapid spread of GM crops has suffered significant setbacks because they have not been economically viable for the farmers who have sown them. This occurred with GM cotton, approved in 2002 by the Colombian Agriculture Institute (ICA), whose planting area has decreased by 40% over the last three years. In the case of GM corn, approved in 2008, impacts on the environment, socio-economic and biodiversity factors have been negative, and led to the ruin of many farmers.

It should be noted that the development of seed biotechnology by companies like Monsanto, DuPont, Syngenta and Bayer has meant the dispossession of these commons for communities. Exacerbating the trend established since the Green Revolution,[10] GM seeds have been developed and modified so that they lose their reproductive traits, crops become dependent on chemical herbicides such as glyphosate and 'biological' patents are requested and lodged on transformed seeds. Therefore, farmers become dependent not only on the market, having to return after each harvest to stock up on their seeds, but also on technological packages which are tied to GM seeds and produced by the same biotechnology companies.[11]

In addition, biosecurity standards on genetically modified organisms (GMOs) adopted by countries in the region are inadequate because they are reduced to fine-tuning the legal formalities for the approval and marketing of GMOs instead of comprehensively evaluating the socio-economic, cultural and environmental risks, including the genetic contamination of local native varieties and the effects on human and animal health. For example, in Brazil the *Biosafety Law (Law 11.105/2005)* was approved despite the presentation of more than 750 studies on the risks and uncertainties of transgenic technologies.[12]

Adverse rural policies and free trade agreements (FTA) over the last two decades have also led to the reduction in domestic agricultural production and to massive food imports, especially of GM soya and corn, with no controls on the potential impacts on human and animal health, on local native varieties and on ecosystems.

THE UPOV SYSTEM AND INTELLECTUAL PROPERTY RIGHTS

Transnational corporations have managed to privatize and gain monopoly control over the seeds system by means of applying for patents and plant breeders' rights, granted by the International Convention for the Protection of New Varieties of Plants (UPOV Convention), which led to the creation of the International Union for the Protection of New Varieties of Plants (UPOV),[13] and laws that control the production and commercialization of seeds. These laws seek to stop native and local native seeds from freely circulating, thus drastically reducing genetic diversity and the traditional movement of seeds. This also has a huge impact on food diversity and on the realization of the human right to adequate food and nutrition. These laws build on the commodification of life and are therefore alien to the Maya q'eqchi' legal systems in Guatemala, and other indigenous peoples' ancestral systems in Latin America.

There is currently a lot of pressure on countries in the Global South by industrialized states to adhere to the 1991 Act of UPOV Convention (UPOV 1991), which is more restrictive than the 1978 Act of UPOV Convention (UPOV 1978),

7 There are several critical studies on GMOs by the Union of Concerned Scientists in the United States of America and others by scientists such as Andrés Carrasco and Elizabeth Bravo, associated to the Network for a Transgenic-Free Latin America. For more information, please see: *re.indiaenvironmentportal.org.in/files/file/Scientific_Papers_Compiled_March_2013_coalition-for-a-gm-free-india.pdf*.

8 According to Agrobio, 100,000 hectares of GM corn and cotton crops were sown in Colombia in 2014, 42.2 million hectares mostly of soya but also of corn and cotton in Brazil, and less than 50,000 hectares of corn in Honduras. For more information, please see: *www.agrobiomexico.org.mx/images/images/MAPA%20ISAAA%202014.JPG*.

9 Ministry of Agriculture, Livestock, Aquaculture and Fishing (MAGAP), *El Sector Agropecuario Acuícola y Pesquero en el Cambio de la Matriz Productiva*. Quito, Ecuador, 2013.

10 The Green Revolution was based on the production of hybrid seeds, characterized by their heavy reliance on chemical inputs, their partial loss of vigor and reproductive capacity and the agronomic features that distinguish them in subsequent generations. Moreover, peasant producers were subjected to such technological packages.

11 Biotechnology companies have developed Genetic Use Restriction Technologies (GURT), commonly known as 'Terminator technology', which genetically modify plants to make them sterile or to produce 'suicide seeds'. The threat is even higher as these GM varieties can sterilize non-transgenic varieties and their wild relatives. For this reason, the United Nations (UN) has declared a global moratorium on 'Terminator technology' in the Convention on Biological Diversity (CBD). Despite the moratorium, transnational biotechnology companies are trying to bypass it by creating a new generation of 'Terminator' seeds. This new generation is part of the European Union's 'Transcontainer' project, which aims to develop a chemically induced 'reversible transgenic sterility'. (ETC Group, 20017) Please also see insight box 1.2 "Peasants' Rights to their Seeds are at the Forefront of Human Rights" in this issue of the *Right to Food and Nutrition Watch*.

12 Gilles Ferment *et al., Lavouras Transgênicas – riscos e incertezas: mais de 750 estudos desprezados pelos órgãos reguladores de OGMs*. Brasília: Ministry of Agrarian Development, 2015. Available in Portuguese at: *www.mda.gov.br/sitemda/sites/sitemda/files/ceazinepdf/LAVOURAS_TRANSGENICAS_RISCOS_E_INCERTEZAS_MAIS_DE_750_ESTUDOS_DESPREZADOS_PELOS_ORGAOS_REGULADORES_DE_OGMS.pdf*.

as it does not recognize the farmers' right to re-sow from their own harvest and criminalizes those who violate the intellectual property rights of companies via fines, destruction of seeds and imprisonment.[14] As very few countries have so far adhered, some countries have been forced to approve this convention through 'free' trade agreements (FTA),[15] and to implement it via national legislation through the so-called 'Monsanto laws'. This has generated much resistance, especially among rural organizations.

In Colombia, agrarian popular mobilization during the 2012 and 2013 agrarian strikes demanded the derogation of these new laws. Additionally, in 2012 Colombia's Constitutional Court declared Law 1518 invalid, due to the lack of previous consultation of ethnic peoples, highlighting moreover that this convention directly affected them in terms of traditional knowledge, food sovereignty, food autonomy and culture.[16] Nevertheless, the State of Colombia has ignored this ruling as it continues to issue legislation, such as Resolution 3169 of the Colombian Agriculture Institute (ICA), which criminalizes the conservation and commercialization of seeds without the consent of the breeder.[17] In the case of Guatemala, thanks to popular pressure, the *Law on the Protection of New Varieties of Plants* was derogated, which does not mean that the introduction of GM plants has been halted.[18]

In countries such as Brazil and Ecuador, which have not signed FTAs, governments have thus far had less legal and political capacity, as well as more popular resistance, when it comes to adopting provisions from UPOV 1991.[19] Nevertheless, in Brazil there are significant legal initiatives in place to reverse this situation. A case in point is *Draft Law 827/2015*, which, in accordance with UPOV 1991, widens the scope of restrictions to free use of seeds by farmers, and therefore decreases the exceptions that can be applied to peasants and traditional peoples and communities.

On the other hand, it is also worth highlighting that the Convention on Biological Diversity (CBD) includes provisions on the conservation and benefit-sharing arising from the utilization of genetic resources and transfer of technology. However, negotiations between the states or between the state and transnational corporations that are interested in accessing indigenous peoples' biocultural resources are defined within the framework of a capitalist economy, establishing access fees per sample collected and commercialization license fees, as well as royalties and joint ownership payments from intellectual property rights. These contracts and payments are unfair most of the time; they do not guarantee an adequate protection of indigenous peoples' systems of collective interrelation with nature; they are based on the direct exclusion of indigenous peoples, and especially women; they promote the use of GMOs; they equate extractivist projects to sustainable alternatives; and they generate new strategies to plunder regional native species.

FOOD AID AND RURAL DEVELOPMENT PROGRAMS

Another serious threat to food sovereignty and, more specifically, to the rights of peasants, Afro-descendent and indigenous peoples to handle traditional seed, is the state-led and private promotion of the use of 'improved' seeds, including GM seeds, as part of rural development and food security technological packages.

These programs genetically contaminate local native seeds and do not acknowledge that food aid must only be allocated in real emergencies, instead of being policies aimed at undermining the food sovereignty of countries and communities through importing food surpluses either free of charge or at low prices (dumping)

13 For more information on UPOV, please see insight box 1.1 "Farmers' Rights to Seed: Conflicts in International Legal Regimes" in this issue of the *Right to Food and Nutrition Watch*.

14 For an example of the criminalization of peasants and the destruction of rice seed in Colombia, following the implementation of intellectual property and agricultural health laws, please see Victoria Solano's documentary 970. The title refers to the implementation of ICA *Resolution 970* in the municipality of Campoalegre (Huila). Available in Spanish at: *www.youtube.com/watch?v=kZWAqS-El_g*.

15 This was the case with Colombia's FTA with the USA and Honduras' and Guatemala's Central America Free Trade Agreement (CAFTA).

16 Constitutional Court of Colombia. *Press Release No. 50, Ruling C-1051/12*. December 5–6, 2012.

17 *Ibid.*

18 On September 5, 2014, the Guatemalan Congress derogated the *Law on the Protection of New Varieties of Plants* (Monsanto Law), which had been approved in June of the same year and aligned the country with the requirements of UPOV 1991. For more information, please see: APREBES. "Guatemala: Social mobilization crowned with victory." *APREBES*. October 8, 2014. Available at: *www.aprebes.org/news/guatemala-social-mobilization-crowned-victory*.

19 See country case studies below.

and destroying local and regional agricultural economies. To this regard, social organizations in Latin America are calling on food aid programs to not contain GM crops given that what is needed is the supply of culturally appropriate food respecting the right to know what kind of food is being consumed.

Neoliberal reforms in Honduras at the end of the eighties and during the nineties scrapped seed improvement programs leaving this strategic activity to domestic and international private initiatives. Currently, the Vision 20–20 governmental program 'Sowing the country with more corn',[20] supported by Monsanto, Syngenta, Bayer and Denace, aims to cultivate 100,000 hectares of GM corn to 'resolve' the chronic production deficit of some 12 million annual quintals.[21]

The use of GM crops has also been documented in food aid programs in Guatemala. In 2002 in the municipality of San Mateo Ixtatán (Department of Huehuetenango), where the official malnutrition rate is 72%, the Guatemalan state distributed the product Vitacereal through the private company Alimentos S.A. as part of the National Strategy to Reduce Chronic Malnutrition. Following complaints by the community, the Development Council analyzed what they had been given and identified five varieties of corn and three of soya, all transgenic.[22]

In Colombia, in line with a study performed in 2002 by the Colombian consumer organization Colombian Consumers (COCO), food based on GM soya from the United States, namely the food supplement Bienestarina, was distributed by the Colombia Institute of Family Welfare.[23] The Colombian government acquired or received GM soya as part of food aid.

RESISTANCE STRATEGIES

Faced with these challenges, civil society and social movements have been mobilizing to protect seeds, the collective heritage of the people. Experiences from Brazil, Ecuador, Colombia, Honduras and Guatemala below illustrate some of the strategies adopted, as well as some achievements and challenges.

CASE STUDY 12.1 Defense and Resistance in Support of the Free Use of Agricultural Biodiversity and Food Sovereignty in Brazil

Fernanda Testa Monteiro, André Dallagnol and Carlos Alberto Dayrell [24]

In Brazil, the refocusing of popular struggles on the construction, adaptation and improvement of public policies made various achievements possible, such as the creation of the National Food Procurement Program (PAA), responsible for setting minimum prices for the marketing of food through institutional purchases; the improvement of the National Program for Stronger Family Farming (PRONAF) to guarantee a line of credit for peasants; the National School Meals Program (PNAE) which ensures, through the transfer of financial resources, school meals for pupils in elementary education; the National Plan for Agroecology and Organic Production (PLANAPO),[25] promoted in response to the demands of the 'March of the Margaritas' demonstration in 2011;[26] and the application of the Seeds Procurement arrangement, which ensures the purchase and distribution of local and native seeds among peasant organizations as a public national policy. The benefits of these advances are undeniable as they were the reason why Brazil was taken off the Hunger Map in

20 Diaz, Juan C. "Lanzan plan productivo de maíz en Comayagua". *El Heraldo*. April 7, 2014. Available in Spanish at: *www.elheraldo.hn/regionales/612817-218/lanzan-plan-productivo-de-maiz-en-comayagua*.

21 One quintal is the equivalent of approximately 100 kg.

22 Via Campesina International, FIAN et al. *El Derecho a la Alimentación y la Situación de Defensoras y Defensores de Derechos Humanos en Guatemala: Informe de Seguimiento*. Guatemala: APRODEV, CIDSE, CIFCA, FIAN International, Via Campesina International, 2011. Available in Spanish at: *www.fian.org/fileadmin/media/publications/2011_09_Guatemala_DuA_Defensores.pdf*.

23 The test was carried out based on an analysis of the C-reactive protein (CRP). Results showed that 90% of soya found in Bienestarina was made from Monsanto's Roundup Ready soybeans. Vélez, Germán. "En Colombia estamos consumiendo soya transgénica". In: Acción Ecológica, RALLT and Instituto de Estudios Ecologistas del Tercer Mundo. *Ayuda alimentaria y transgénicos*. Quito: 2002. p. 60–64. Available in Spanish at: *www.rallt.org/organizaciones/pma/pma8.htm*.

24 Fernanda Testa Monteiro works with HEKS-EPER Brazil and is a member of the Working Group on Biodiversity at the National Articulation of Agroecology. André Dallagnol is a people's lawyer, a legal adviser and the human rights organization Terra de Direitos, a member of the Working Group on Biodiversity at the National Articulation of Agroecology and a civil society adviser at the National Council for Food and Nutrition Security (CONSEA). Carlos Alberto Dayrell works with the Alternative Agriculture Center in the north of Minais Gerais, Brazil, and with the Interdisciplinary Socio-Environmental Research Group, and is a PhD candidate at the State University of Montes Claros (UNIMONTES). Special thanks to Juan Carlos Morales González (FIAN Colombia) and Marcos Arana Cédeño (World Alliance for Breastfeeding Action, WABA) for their support in reviewing this article. This article was originally written in Portuguese.

25 *Decree 7.794/2012*.

26 'The March of the Margaritas' is celebrated every fours years in Brasilia with the aim of giving visibility to women's demands. For more information in Portuguese, please visit: *www.ebc.com.br/cidadania/2015/08/marcha-das-margaridas-entenda-o-que-e-e-quem-sao-elas*.

2014, thanks to the increase in food sovereignty and security while strengthening rural communities, custodians of the country's large agricultural biodiversity.

Advances such as the Seeds Procurement arrangement were only possible through tough civil society battles organized to construct legal exceptions. These include article 48 of *Law 10.711/2003*, which bans any restriction on including local seeds in programs focusing on family farming, and section 3 of article 8 of the same law, which exempts family farmers, beneficiaries of agrarian reform and indigenous peoples from the obligation of registering with the National Register of Seeds and Plants, as well as granting them the freedom to share and use seeds.

In Brazil, organizations and communities develop and disseminate production initiatives and practices on a local level and in line with regional ecosystems and ever more pronounced climate change processes. Meetings with people from rural, wetland and forest areas also play an important role in highlighting Brazilian social biodiversity. These actions have been articulated from the participation of various social networks and movements, such as the National Articulation of Agroecology (ANA)[27] and the Articulation of the Semiarid Region (ASA),[28] with the support of researchers, scientists, lawyers and pastoral organizations, among others, to infiltrate and contribute to the official councils that design public policy such as the National Council for Sustainable Rural Development (CONDRAF), the National Council for Food and Nutrition Security (CONSEA), the National Commission of Sustainable Development of Traditional Peoples and Communities (CNPCT), and the National Commission for Agroecology and Organic Production (CNAPO).

This context of political mobilization and defense of rights in Brazil is currently at a critical point. The reactionary forces of Brazilian society are subject to a political structure governed by the interests of large companies and international capital that now finance, corrupt and interfere with significant sectors of legislative, executive and judicial powers and, through the media, affect their ideological perspectives with the aim of delegitimizing battles won since the Constitution of 1988 and the popular policies implemented by the government of Luiz Inácio Lula da Silva. These forces now focus on legislating, closing off and obstructing the rights and access of people to their seeds and traditional knowledge associated with this wealth of genetic heritage, opposing any political reform and regulation of the media. Brazilian civil society however, is active and continues to fight against them.

CASE STUDY 12.2 Ecuador: Conserving Native Seeds and Agricultural Biodiversity as a Basis for Food Sovereignty

Mario Macías Yela, Germán Jácome López and Nataly Torres Guzmán[29]

The resistance and social mobilization processes of small-scale and medium-sized food producers, peasant and indigenous movements and civil society organizations have played an important role in making room on the national agenda for the urgent need to preserve and recover agricultural biodiversity and ancestral knowledge, as well as constitutional guarantees;[30] conserve ecosystems and the integrity of the country's genetic heritage; and promote agroecology and the free exchange of seeds.

As part of this, important initiatives such as the Seed Custodians Network *(Red de Guardianes de Semillas)*, Austral Seeds Network *(Red de Semillas del Austro)*, National Agricultural Biodiversity Bureau *(Mesa Nacional de Agrobiodiversidad)*,

27 The National Articulation of Agroecology (ANA) is an articulation and convergence space for Brazilian movements, networks and civil society organizations that aims to promote agroecology, strengthen family farming, and build rural development sustainable alternatives. ANA currently articulates twenty-three national and regional networks, bringing together hundreds of groups, associations, and NGOs across the country, as well as fifteen national social movements. ANA's organizations structure consists of an Executive Committee and Working Groups (WGs), made up of organizations and networks that work on the issues and subjects that WGs mobilize on, such as Biodiversity.

28 ASA is a network that defends, disseminates and implements the political project of living in the semi-arid region of Brazil, including through public policies. The network comprises over three thousand civil society organizations from different backgrounds (rural trade unions, farmers' associations, cooperatives, NGOs, civil society organizations in the public interest etc.) and connects people who are organized in groups that defend the rights of peoples and communities across the semiarid region.

29 Mario Macías Yela is an agricultural engineer, a trainer in agroecology and sustainable agriculture, and currently the Executive Director of FIAN Ecuador.
Germán Jácome López is a zootechnical engineer, a trainer in agroecology, a lecturer at the University of Quevedo, and a volunteer at FIAN Ecuador.
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Special thanks to Juan Carlos Morales González (FIAN Colombia) and Marcos Arana Cedeño (World Alliance for Breastfeeding Action, WABA) for their support in reviewing this article. This article was originally written in Spanish.

30 Article 401 of the current constitution declares Ecuador free from GM crops and seeds.

Cotacachi Seed Fair *(Feria de Semillas de Cotacachi)*, Loja Seed Fair *(Feria de Semillas de Loja)*, Annual Seed Fair *(Feria Anual de Semillas)*, National Organic Farming Collective (Colectivo Nacional Agroecológico), and even local policies such as the Sovereign and Agroecological Pichincha Regulation of the Decentralized Autonomous Government of the Pichincha Province, have demonstrated that it is essential and feasible to promote a sustainable agri-food system, focused on food sovereignty, ancestral knowledge, diversity, exchange of knowledge, intercultural awareness and the permanent exchange of genetic resources and associated knowledge.[31]

In this context, Ecuador was a pioneer in creating a *Draft Bill for Agricultural Biodiversity, Seeds and Agroecological Development*.[32] It was developed in 2012 by the Plurinational Intercultural Conference on Food Sovereignty (COPISA) following a participative process involving more than 500 peasant organizations and 3,000 citizens. Four years after its presentation, this proposal has been taken up once more at the plenary session of the National Assembly to be analyzed, debated and finally approved. The most important aspects of this law are: a) to promote the preservation and recovery of agricultural biodiversity and associated ancestral knowledge; as well as the use, conservation and free exchange of seeds (Art. 281, sub-paragraph 6); b) although intellectual property is recognized, all types of appropriation of collective knowledge are prohibited in the fields of science, technology, ancestral knowledge, genetic resources and agricultural biodiversity (Art. 322); and, c) Ecuador is declared free of GM seeds and crops [...]. The application of risky or experimental biotechnologies is prohibited (Art. 401).

Finally, this new legislative framework should reverse the state support given to the agribusiness sector through the promotion of certified industrial seeds and technological packages that contaminate the ground, encourage erosion, affect productivity and impact on peasant economies. A patent example of this is the crisis in the corn sector in Ecuador's coastal region caused by the supply of certified seeds by the Ministry of Agriculture, Livestock, Aquaculture and Fishing (MAGAP), which have caused serious problems in terms of recurring incidents of pests and diseases. In light of this, various groups of farmers established the National Corn Assembly asking the MAGAP to create a program to convert the corn monoculture into diversified systems of sustainable and supportable production. Legislative frameworks must respond to the use of native, local, peasant, ancestral, organic and heritage seeds given that they are resilient and adaptable, respond to the peasant culture and have a high food and nutritional value that is needed to solve the country's problems of hunger and malnutrition.[33]

CASE STUDY 12.3 Colombia's Network of Free Seeds: The Struggle for Seeds, Our Source of Life

Germán Vélez[34]

In response to the privatization, control and dispossession of farmers' seeds, Colombian civil society has been consolidating the Network of Free Seeds (RSL). The network is an open and decentralized space for local social organizations and for peasant, indigenous and Afro-descendent communities to converge with rural and urban small-scale food producers as well as with NGOs, consumers and academic groups that articulate at the local, regional and national level and with international processes.

31 Declaration from the Forum Workshop "Semillas y soberanía alimentaria en riesgo?" Quito: FLACSO Ecuador, July 6, 2016.

32 Plurinational and Intercultural Conference on Food Sovereignty (COPISA). *Un nuevo modelo agrario para el Ecuador: Propuesta de ley orgánica de agrobiodiversidad, semillas y fomento agroecológico*. Ecuador: 2012. Available in Spanish at: www.groundswellinternational.org/wp-content/uploads/Ecuador-COPISA-Agrobiodiversity-Law.pdf.

33 *Supra* note 30.

34 Germán Vélez is an agronomist and director of the Colombian Seeds Group (Grupo Semillas), an environmental NGO that supports indigenous, Afro-descendent and peasant organizations since 1994 in the local protection and control of territories, natural resources, biodiversity and sustainable production systems, and rural peoples' food sovereignty and food autonomy. For more information in Spanish, please visit: www.semillas.org.co. Special thanks to Juan Carlos Morales González (FIAN Colombia) and Marcos Arana Cedeño (World Alliance for Breastfeeding Action, WABA) for their support in reviewing this article. This article was originally written in Spanish.

The goals of the Network of Free Seeds are to strengthen and give visibility to local processes on the recovery, handling, and free circulation of seeds, to disseminate information and to promote advocacy in light of the policies and laws that allow for the privatization of seeds and expansion of corporate agriculture and GM crops, which threaten living seed systems and the food sovereignty and food autonomy of peoples and communities in Colombia.

In this regard, RSL demands the derogation of all laws and norms on seeds as well as the government's strict control on the quality and health of certified seeds. Additionally, RSL promotes a country free of GMOs and aims to halt the import of foods that can be supplied by local production. The network also supports and promotes food sovereignty initiatives and the control of seeds by peoples, such as the GMO-Free Territories; community seed banks; exchange of seeds and knowledges; participatory diagnoses with communities to evaluate the advance of GMOs, especially corn; and agricultural biodiversity in territories, among other initiatives.

Through these initiatives, the network's objective is for the government to not persecute and criminalize farmers, but rather to fulfill its obligation to support agricultural development programs that strengthen local strategies to produce good quality, healthy local native agroecological seeds that are not certified nor transgenic. These local native seeds are produced in accordance with the environmental and socio-economic conditions found in the communities, and they are controlled by farmers themselves within their own economic systems.

CASE STUDY 12.4 Honduras: Threats and Coping Strategies for Traditional Seeds

Claudia Pineda and Octavio Sánchez [35]

None of Honduras' current laws recognize the rights of peasants and indigenous peoples in the traditional handling of their seeds. On the contrary, as mentioned in the article above, the state, in alliance with Monsanto, Syngenta, Bayer and Denace, have positioned themselves to promote 'improved seeds', including GM seeds.

The problems for local native corn began in 1998, when the regulation on biosecurity was issued with a focus on GM plants, which among other aims, promoted the use of 'modern technology' and regulated imports, research and marketing of transgenic crops. In 2003, the Department for Agriculture and Livestock recognized that it had planted 500 'manzanas' (875 acres) with GM corn and it was the first time that the government had admitted that it was sowing GMOs as crops.

Finally, in 2012 the *Law on the Protection of New Varieties of Plants* was approved (known as the 'Monsanto Law'),[36] with none of the affected sectors having been consulted. National legislation established for the first time that keeping or exchanging seeds was prohibited without the owner of the breeder's right having given their authorization and that ancestral practices of handling seeds would be criminalized.

Participants from civil society and social movements have joined in mounting a defense. Their mobilization and awareness actions initially help to consolidate a social base with which to claim the rights of peasants and indigenous peoples to conserve seeds and other means of production.

Work on the seed banks (community reserves) is still being strengthened, as is the exchange of genetic material available in communities as a symbol of resistance to the privatization of seeds, and the development of declarations of municipalities

35 Claudia Pineda is facilitator at the Honduran Alliance against Climate Change (AHCC). Octavio Sánchez is coordinator at ANAFAE, a national network comprising 30 member organizations. For more information in Spanish, please visit: *www.anafae.org*. Special thanks to Juan Carlos Morales González (FIAN Colombia) and Marcos Arana Cedeño (World Alliance for Breastfeeding Action, WABA) for their support in reviewing this article. This article was originally written in Spanish.

36 Diario Oficial de la Republica de Honduras. *Ley para la protección de obtenciones vegetales*. Available in Spanish at: *www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/Ley%20para%20la%20Proteccion%20de%20Obtenciones%20de%20Vegetales%20(3,1mb).pdf*.

free of GM seeds in the indigenous Lenca community—a method of political pressure and self-determination of indigenous communities to manage their environmental heritage.[37]

The systematic incursion of transnational companies represents a significant challenge; however, a social movement that is prepared to defend their land and propose inclusive development is being consolidated. The Lenca Honduras Independent Movement for Peace (MILPAH) claims the right to self-determination of its people, which includes the right to conserve seeds and the ancestral practices linked to their handling. In 2015 they declared their territories to be free of GM seeds.[38]

CASE STUDY 12.5 Threats to Agricultural Biodiversity from the Perspective of Indigenous Women in the Northern Lowlands of Guatemala

Lourdes Gómez Willis [39]

Guatemala, located in the heart of Mesoamerica, boasts a wide cultural diversity as part of the Mayan culture's historical legacy. For thousands of years, Guatemala's peoples have developed myriad varieties of corn and other crops. Women have been at the forefront of resistance to defend life and native seeds for generations—and this is still the case today.

Communities are currently facing a severe socio-environmental crisis, which has dramatically unchained the possibly irreversible loss of ancestral systems of agricultural biodiversity and related traditional knowledge. This is due to the fact that the logic of transnational market economy has strategically guaranteed legal actions of dispossession.

Within the framework of the defense of Guatemala's indigenous peoples' sovereignty, q'eqchie women from the Northern Lowlands are resisting and defending collective rights to protect food sovereignty and agricultural biodiversity in order to safeguard the rural food system. Their struggle translates into the defense of their land tenure rights, in light of the arbitrariness carried out by extractive industries in indigenous territories. In that sense, q'eqchie women question the genuineness of the commitments that the State of Guatemala claims to have made.

In coordination with social and peoples' organizations, the struggles of different women—indigenous, weavers, midwives, farmers, spiritual guides and ancestral authorities—have led to an action of unconstitutionality against the adoption of *Decree 6-2014*,[40] which was adopted in February 2014 to ratify the Nagoya Protocol, an instrument that is associated to the Convention on Biological Diversity (CBD).[42] They believe that this protocol impinges on the sovereignty of indigenous peoples, as it validates mechanisms of 'legalized' dispossession of native local seeds, medicinal plants, and eating habits, etc. The motives behind the action are rooted in the prerequisite for a right of consultation and the respect of all systems of organization, production, safeguarding and defense of community life. Civil society's efforts were successful: *Decree 6-2014* was provisionally suspended by Guatemala's Constitutional Court on June 16, 2016.

In order to defend life and territory, communities have organized actions and peaceful mobilizations at the national level, gaining important achievements, such as the derogation of the *Law for the Protection of New Varieties of Plants*,[43] transposed by *Decree 19-2014*, and more commonly known as the Monsanto Law.[44] This is a clear example of unity in diversity, as there was ample participation of social groups

37 For more information in Spanish on the preservation of seeds, please visit: *www.anafae.org/search/label/Conservaci%C3%B3n%20de%20Semillas*.

38 For more information in Spanish on MILPAH's resistance against transgenic organisms, please visit: *www.anafae.org/2015/01/lenca-de-la-paz-milpah-en-la-serie.html*.

39 Lourdes Gómez Willis is research assistant at IDEAR and assistant at the Coordination of NGOs and Cooperatives (CONGCOOP). Over the last few years, CONGCOOP has promoted and articulated development proposals geared towards equality and justice, and has participated and influenced in important public policy thematic areas. The goal is to enable Guatemala to become a multiethnic, multicultural and multilingual nation that respects gender equity and the environment. For more information in Spanish, please visit: *www.congcoop.org.gt/quienes-somos.html*.
Special thanks to Juan Carlos Morales González (FIAN Colombia) and Marcos Arana Cedeño (World Alliance for Breastfeeding Action, WABA) for their support in reviewing this article. This article was originally written in Spanish.

40 For more information in Spanish on the action of unconstitutionality, please visit: *foodfirst.org/pueblos-indigenas-de-guatemala-rechazan-protocolo-de-nagoya*.

41 The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization was adopted in 2010 at the international level. Available at: *www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf*.

42 Available at: *www.cbd.int/intro/default.shtml*.

43 The *Law for the Protection of New Varieties of Plants* threatened food sovereignty and life itself by allowing for the privatization of local native seeds by private companies, including corn and bean varieties, and for the introduction of GM seeds. This was part of the commitments made by the State of Guatemala within the framework of the Free Trade Agreement between the USA and Central America (DR-CAFTA), signed in 2005.

44 For more information in Spanish, please see: REDSAG. "Lucha por la defense de nuestras semillas, derogación total del decreto 19-2014 (Ley Monsanto)". *REDSAG Boletín* 3. (July–October, 2014). Available at: *www.redsag.net/files/Boletn_tres_versin_final.pdf*.
See also: "Derogado el decreto 19-2014 'ley Monsanto': La lucha por el maíz hoy planta su semilla." *Prensa Comunitaria Km*. 169, September 5, 2014. Available at: *comunitariapress.wordpress.com/2014/09/05/derogado-el-decreto-19-2014-ley-monsanto-la-lucha-por-el-maiz-hoy-planta-su-semilla*.

and women in all their diversity, including peasant, indigenous and environmental movements and organizations, among others.

We, the women, see this action as a way to maintain ancestral systems, thus guaranteeing life and food sovereignty. In Guatemala, the defense of our territory continues, and to this end, q'eqchi women will continue creating ties of solidarity, not as a 'folkloric' or 'statistical' expression of the country, but as the face of the struggle, the resistance and the denunciation of the dispossession of our ancestral and territorial identity as 'aj ral Ch'ooch' (Daughters of Mother Earth).

CONCLUSION

Rural Latin American populations and the rest of the world face great threats to the free use, handling, circulation and exchange of seeds that underpin their productive, cultural and food activities. These threats are related to the role of transnational power and complicit states, which in the context of their desire for greater control over the world's agri-food system see control over seeds as an incalculable source of profit.

Seed laws, implemented in various countries based on the corporate interests included in the UPOV Convention,[45] are one of the main strategies devised for rural populations to lose governance over their seeds and as such, over their ways of life. These strategies are also accompanied by criminalization of rural processes and leaders that oppose this loss of diversity.

Although the threats are great, so too is resistance in Latin America: Not only does it seek to defend the free use and management of seeds, but also articulate the fight with the strategic need to defend and promote food sovereignty and food autonomy. At the moment, these strategies focus on the conservation, recovery, exchange and development of native and local seeds (and associated knowledge) through networks of seed custodians and community seed banks, internal training on the complex world of seeds (basic knowledge on biotechnology and its risks, legal frameworks and international trade agreements, for example), social mobilization, the socialization of complaints, formulation of legal appeals against GM seeds and laws that infringe upon the free use, handling and circulation of seeds.

45 Please also see insight box 1.1 "Farmers' Rights to Seed: Conflicts in International Legal Regimes" in this issue of the Right to Food and Nutrition Watch.

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DOES DIRECT DEMOCRACY SUPPORT THE RIGHT TO FOOD AND NUTRITION IN SWITZERLAND?

Léa Winter and Valentina Hemmeler Maïga [1]

Over the recent years, Switzerland has been confronted with a series of food scandals. On one occasion, horsemeat was found to be labeled as beef [2] and on another IKEA pies were found to contain fecal bacteria.[3] These incidents have shed light on the current lack of controls and deterioration of industrial food production methods. On numerous instances, small-scale farmers also expressed their dissatisfaction with the lack of political support for small-scale agriculture and organized several demonstrations in Bern, the capital of Switzerland. Their goal was to put pressure on the Swiss Parliament and protest against the low market prices, which are insufficient to cover their production costs. In 2016, this led the Federal Council (the Swiss executive power) to halt planned budget cuts. However, the Federal Council continues to turn a deaf ear to price issues, instead giving priority to free trade at the expense of small-scale farmers.[4]

In response, several political and interest groups have launched federal popular initiatives[5] allowing Swiss citizens to vote on a wide range of food-related issues.

INITIATIVES PUT TO THE VOTE

On February 28, 2016, an initiative by Young Socialists Switzerland entitled No speculation on Foodstuffs was unfortunately rejected.[6] The initiative aimed to hamper the financial system that creates price volatility in foodstuffs and consequently makes life even harder for the most vulnerable countries, which have to import food to feed their population.

FIAN Switzerland got involved and published the Action Guide: "Getting Active in the City of Geneva for the Realization of the Right to Food in Countries of the Global South" (2013).[7] A press release was circulated in collaboration with partner organizations;[8] however, deceptive arguments by opponents raised fears of job losses and created deliberate confusion by falsely arguing that normal trade in foodstuffs would be affected by this change to the constitution.[9]

1 Léa Winter is the Co-chair of FIAN Switzerland. For more information, please visit: *www.fian-ch.org*.
Valentina Hemmeler Maïga is the Secretary of Uniterre, a farmers' union and member of La Via Campesina. For more information, please visit: *www.uniterre.ch*.
Thanks to Christophe Golay (FIAN Switzerland and Geneva Academy of International Humanitarian Law and Human Rights) and Bernhard Walter (Bread for the World—Protestant Development Service) for their support in reviewing this article. This article was originally written in French.

2 Nau, Jean-Yves."Viande de cheval: premières leçons d'un 'scandale'." *Revue Médicale Suisse*, (2013): 532-533. Available in French at: *www.revmed.ch/rms/2013/RMS-376/Viande-de-cheval-premieres-lecons-d-un-scandale*.

3 "Ikea a bien écoulé des tartes aux matières fécales en Suisse." *Radio Télévision Suisse*, March 11, 2013. Available in French at: *www.rts.ch/info/suisse/4727217-ikea-a-bien-ecoule-des-tartes-aux-matieres-fecales-en-suisse.html*.

Two other popular initiatives met a similar end:

1. The Food Security Initiative,[10] proposed by the Swiss Farmers' Union (USP), aims to strengthen Swiss food production using diverse and sustainable production methods. The USP has also demanded effective measures notably against the loss of cultivated land in Switzerland and in favor of maintaining a low administrative burden for agriculture. This initiative will affect the orientation of agricultural policy.

2. The Fair Food Initiative,[11] proposed by the Green Party of Switzerland, raises issues related to industrial food production (working conditions and the precarious life of farm workers, loss of soil fertility and biodiversity, the harmful effect on Swiss farmers of the dumping of low-cost food products). It also demands that regulations that are applied to food produced in Switzerland equally be applied to imported food products. This initiative proposes regulating custom rights and giving competitive advantage to regional and seasonal production.

The Federal Council has advised people to reject these initiatives, which will be voted on in the next two to three years, arguing that they would contravene free trade agreements and that Switzerland does not have a food security problem.[12]

A third initiative was submitted in March 2016:

3. Uniterre—a farmers' union and member of La Via Campesina—proposed the Food Sovereignty initiative.[13] It aims to give advantage to Swiss small-scale agriculture—which is both income-generating and diversified—thus guaranteeing young people access to land and supporting local food. It goes further than the Green Party's initiative by proposing to ban genetically modified (GM) foods and to guarantee the rights of small-scale farmers to use, propagate, exchange, and commercialize seeds. It calls for the removal of subsidies for agricultural products for export, specifying that if Swiss social or environmental regulations are not met, it should be possible to withdraw specific custom rights or even ban the import of products under investigation. The initiative asks Switzerland to put in place a framework that allows for the creation of a more transparent market, which prioritizes the management of quality production, while achieving a fair price for producers and fair wages for agricultural workers in Switzerland. It places the concept of food sovereignty at its heart. The aim is for the Swiss people to have control over agricultural and food policies, which it hopes to develop, while respecting other regions.

MAKING THE RIGHT CHOICE FOR EVERYONE'S FUTURE

Switzerland currently loses three farms per day and the agricultural sector has lost 50% of its employees over the last 30 years (from 300,000 to 150,000).[14] The country has chosen to import over half of all foodstuffs consumed nationally. However, the population is slowly starting to understand the downward spiral that the world food

4 For more information, please see the message from Bernard Lehmann, Director General of the Federal Office for Agriculture (OFAG). Available in French at: *www.youtube.com/watch?v=XAL7E3_z6Dk&feature=youtu.be*.
For more information on free trade agreements, please visit the website of the Federal Office for Agriculture (OFAG): *www.blw.admin.ch/index.html?lang=en*.

5 In Switzerland, citizens can demand a change to the Federal Constitution through a popular initiative, which is then subject to a popular vote. For the initiative to succeed, the signatures of 100,000 citizens with the right to vote must be collected during an 18-month period. Popular initiatives are the driver of direct democracy because they do not stem from Parliament nor Government but directly from citizens themselves. Available in French at: *www.bk.admin.ch/themen/pore/vi/index.html?lang=fr*.

6 For more information, please visit: *www.stopspeculation.ch*.

7 Available in French at: *www.fian-ch.org/content/uploads/guide-Agir-pour-le-DAA-dans-les-pays-du-sud1.pdf*.

8 For more information, please see the press release in French by FIAN Switzerland, Centre Europe-Tiers Monde (CETIM), Swissaid and Uniterre: *www.fian-ch.org/fr/medias/communiques-de-presse.html*.

9 For more information, please visit: *www.juso-spekulation-nein.ch*.

10 For more information, please visit: *www.securitealimentaire.ch/fr*.

11 For more information, please visit: *www.verts.ch/gruene/fr/campagnes/initiative_aliments-equitables/initiative.html*.

12 For more information, please see the message from the Federal Council on USP's initiative. Available in French at: *www.news.admin.ch/NSBSubscriber/message/attachments/40070.pdf*.

13 For more information, please visit: *www.souverainete-alimentaire.ch/in/fr*.

14 Bolay, Charles Bernard. "Spéculation: On ne joue pas avec la nourriture." *Journal d'Uniterre*, 2016. Available in French at: *www.viacampesina.org/fr/index.php/les-grands-ths-mainmenu-27/souverainetlimentaire-et-commerce-mainmenu-38/1232-speculation-on-ne-joue-pas-avec-la-nourriture*.

system finds itself in and the negative effects it has on the environment: soil degradation, groundwater pollution, the loss of agricultural biodiversity, and the harmful consequences for our health.

This food system has also had an impact on the human right to adequate food and nutrition in countries of the Global South, which are not able to develop their own local agriculture, as they are flooded with subsidized imports. Small-scale farmers from the Global South are forced to abandon their land and end up adding to the growing slums of megacities. Rural poverty drives urban poverty and is often the very cause of hunger.

CONCLUSION

Small-scale farmers who aim to feed the world's population without destroying the planet are in danger both in Switzerland and elsewhere. The Swiss people have the opportunity to gain from a system of direct democracy that allows them to choose new citizen-led food and agriculture policies that benefit small-scale farmers and preserve the environment for public health. Let's hope they seize the opportunity!

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FROM SLAVE LABOR TO YOUR DINNER TABLE: MIGRANT WORKERS ON ITALY'S FARMS

Paola De Meo, Marco Omizzolo and Piero Confalonieri [1]

Tens of thousands of people were swallowed up by the Mediterranean Sea while attempting to reach Europe between 2008 and 2015.[2] Survivors had to face European Union (EU) authorities, which are more concerned about protecting their borders than addressing the structural violations of human rights that are often at the root of forced migration.[3] The integrated border management system established in the Schengen agreement is not fulfilling its purpose. Instead of ensuring well-regulated movement, EU legislation is paving the way to increased militarization of land and sea borders.[4]

Italy is a bridge between Africa and the European continent. People migrate for many reasons: Some flee from conflict and war, others from socio-economic structural violence. Yet, current integration and protection measures for migrants, asylum seekers and refugees in Europe are clearly inadequate. Many are forced to live in substandard conditions and seek informal and precarious employment. In Italy, agricultural workers' conditions reflect the failure of states to protect migrants' human rights.

The international legal framework for refugees has limited scope of application.[5] Moreover, under present EU rules,[6] asylum seekers have to remain in the country where they first register. Consequently, thousands find themselves unwillingly 'trapped in Italy', awaiting a decision. According to official figures, out of 170,000 people who disembarked in Italy in 2014, 65,000 applied for asylum.[7] The others risked irregularly crossing internal EU borders.

MIGRANT LABOR IN ITALIAN AGRICULTURE: WORKERS DENIED OF THEIR RIGHTS

Italy is home to thousands of migrants and asylum seekers from India, Eritrea, Nigeria, and West Africa, aiming to reach Central and Northern Europe, which is more attractive in terms of integration measures and job opportunities. The state offers shelter, food, legal assistance, and healthcare to asylum seekers until international protection is recognized and granted by a special commission,[8] which, however, does not provide legal authorization to work.[9] Many migrants urgently need to start working: Even a small remittance is vital to supporting themselves and/or their families in their home country. Asylum seekers who receive a final negative verdict, or whose temporary humanitarian protection has expired, rarely return to their home country.

This 'invisible' population of undocumented migrants, devoid of state protection and denied basic human rights, is growing and significantly impacting some sectors of the economy. Undocumented migrants thus enter the labor sector with no bargaining power and *de facto* no rights. They live on the fringe of a system that marginalizes and pushes them into sectors where they fall prey to exploitation.

1 Paola De Meo and Piero Confalonieri are members of Terra Nuova, an NGO working on human rights. For more information, please visit: *www.terranuova.org*. Marco Omizzolo is a sociologist and member of In Migrazione, a cooperative working with asylum seekers. For more information, please visit: *www.inmigrazione.it*.
The authors dedicate this article to Giulio Regeni, a young researcher on trade union movements, who was kidnapped and killed under unclear circumstances in Egypt in early 2016.
Special thanks to Giovanni Lattanzi (Gruppo Umana Solidarietà Guido Puletti), Nora McKeon (Terra Nuova), Judith Hitchman (URGENCI) and Antonio Onorati (Centro Internazionale Crocevia) for their support in reviewing this article. This article was originally written in English.

2 Amnesty International. *Lives Adrift: Refugees and Migrants in Peril in the Central Mediterranean*. London: Amnesty International, 2014. Available at: *www.amnesty.org.uk/sites/default/files/eur050062014en.pdf*.

3 For more information on forced migration, please visit: *www.iom.int/key-migration-terms*.

4 Traynor, Ian. "Is the Schengen dream of Europe without borders becoming thing of the past?" *The Guardian*, January 5, 2016. Available at: *www.theguardian.com/world/2016/jan/05/is-the-schengen-dream-of-europe-without-borders-becoming-a-thing-of-the-past*.

5 Please see: United Nations High Commissioner for Refugees (UNHCR). *1951 Convention Relating to the Status of Refugees and Its 1967 Protocol*. Geneva: UNHCR, 2011. Available at: *www.unhcr.org/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html*.

6 Please see, for instance, regulation *604/2013* (the so-called *Dublin Regulation*) of the European Parliament and of the Council of the European Union. Available at: *eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0031:0059:EN:PDF*.

Many undocumented migrants find work as agricultural day laborers,[10] and are employed in the agricultural sector in both the South[11] and North of Italy. Despite the prohibition of illegal labor intermediation in 2011, they often fall victim to intermediaries who have links with agricultural businesses and the mafia and act almost like ringleaders, retaining their monopoly over local human trafficking.[12] The situation varies according to contract conditions and the legal status of workers (e.g. temporary residence permits, undocumented migrants, asylum seekers waiting for refugee status). Migrants with no residence permit are the most vulnerable.

Exploitation is a permanent feature of much of the agricultural economy in Italy. It is worth highlighting that farmers using migrant labor are also suppliers of the international markets. The exploitation of irregular workers allows large farm owners to increase profit margins and force their competitors out of the market, especially local small-scale farmers.

Migrant seasonal and day laborers often live in precarious conditions due to inadequate wages, which forces them to seek shelter for the night in abandoned farmhouses, camps or uninhabited residential areas. They have insufficient food supplies and often live without electricity, water, sleeping or toilet facilities, frequently becoming targets of xenophobia and violent attacks by the local population, who blame them for the appalling sanitary conditions of their settlements. These human rights abuses are of the utmost severity, especially those that violate the rights to adequate food and nutrition, housing and decent work.[13]

THE PROVINCE OF LATINA: A PRIME EXAMPLE OF SLAVE LABOR

In the Province of Latina (Lazio region, in Central Italy), a community of around 30,000 Indians, mostly Sikhs, work as agricultural day laborers. Their conditions are symptomatic of this kind of labor exploitation, akin to slavery. Many of these migrants are also victims of international human trafficking and illegal recruitment. Several Indian workers consume substances such as methamphetamines, opium and antispasmodics to withstand the rigors they are subjected to.[14] They work 14 hours a day, seven days a week and are paid around €3.50/hour.[15] Indian day laborers are now filing the first ever criminal cases and class action lawsuit against an Italian employer for forging documents, supported by the agricultural trade union of the Italian General Confederation of Labor (FLAI CGIL), and In Migrazione, a civil society organization (CSO).[16] Since 2015 the Italian Parliament is also leading an inquiry into illegal intermediation.

THE RESPONSE OF SOCIAL MOVEMENTS AND TRADE UNIONS

Following the increase of Syrian asylum seekers since 2012, NGOs and human rights groups invest their efforts mostly in their reception process and the day-to-day management of this complex and critical emergency situation. Several social movements and trade unions offer legal advice and support to migrant workers, and/or conduct monitoring, awareness raising and training activities. Some organizations offer Italian language lessons to encourage social inclusion.[17]

New forms of slavery are thriving under our very eyes. And yet, instead of forcing migrants into a hopeless plantation-like slave system, trade unions should recognize the opportunity they represent in helping to repopulate the countryside. For instance, the hill of Sonnino (Lazio) boasts the top three awarded olive oils in the

7 Serughetti, Giorgia. "'Migrants arriving in Italy are mostly economic'—Incorrect." *Open Migration*, December 27, 2015. Available at: *openmigration.org/en/fact-checking/what-is-the-real-number-of-refugees-arriving-in-italy*.

8 For more information on the special commission for recognizing international protection (*Commissioni territoriali per il riconoscimento della protezione internazionale*), please see: *www.interno.gov.it/it/temi/immigrazione-e-asilo/protezione-internazionale/commissioni-territoriali-riconoscimento-protezione-internazionale*.

9 For more information, please visit: *www.asylumineurope.org/reports/country/Italy/asylum-procedure/general/short-overview-asylum-procedure#footnote1_080snk3*.

10 For more information, please visit: *www.istat.it/it/files/2015/09/SPA-2013.pdf?title=La+struttura+delle+aziende+agricole+-+02%2Fset%2F2015+-+Testo+integrale.pdf*.

11 For more information, please see insight box 14.1 "Rising Up Against a System of Near-Slavery" below.

12 According to 2014 data from the Placido Rizzotto Observatory in the FLAI CGIL trade union, there are around 400,000 exploited agricultural day labourers in Italy employed by illegal intermediaries, of which 80% are non-Italian and 100,000 are seriously exploited.

13 Ethical Trading Initiative Norway (IEH), Ethical Trading Initiative (ETI) and Danish Ethical Trading Initiative (DIEH). *Due diligence in agricultural supply chains: Counteracting exploitation of migrant workers in Italian tomato production*. 2015 Available at: *s3-eu-west-1.amazonaws.com/www.ethicaltrade.org.files/shared_resources/italian_tomato_production_report.pdf?C3ONcqtKIkcBGYcgoLAfNJB.JNqpOHul*.

14 In Migrazione. *Doparsi per lavorare come schiavi*. Roma: 2014. Available at: *www.inmigrazione.it/UserFiles/File/Documents/87_DOPARSI%20PER%20LAVORARE%20COME%20SCHIAVI.pdf*.

15 This amount is well below the average monthly wage in Italy. For more information, please visit: *www.tradingeconomics.com/italy/wages*.

16 For more information, please visit: *www.inmigrazione.it*.

17 Please see, for instance, In Migrazione's project entitled *Bella Farnia*: *www.inmigrazione.it/it/attivita-51/centro-polifunzionale-bella-farnia*.

country, yet only 20% of over one million trees can currently be tended. Based on a human rights-based approach, migrants could help rejuvenate an ageing farming population and simultaneously benefit from a revival of rural areas.

THE RIGHT TO ADEQUATE FOOD AND NUTRITION: FROM PRODUCTION TO CONSUMPTION

By applying a food sovereignty lens to the human right to adequate food and nutrition, attention is drawn to the social control of the food system. The question is raised: Who is producing our food and under what conditions?

As seen above, in Italy migrant workers in the industrial food system are denied their basic human rights. It is worth noting, though, that this situation is symptomatic of the conditions that prevail in a large part of the industrial global food system, and that remain invisible to consumers at the end of the food value chain. Unbeknown to consumers who buy low-priced and low quality fruit and vegetables, workers are subjected to extreme conditions.[18] The externalization of costs is generally not on the public radar, reinforcing the common belief that 'cheap food' is possible and concealing the human rights abuses of agricultural workers.

The agricultural system has abandoned a wide range of sustainable agro-ecological practices that are based on small-scale farming systems. Meanwhile, the large-scale exploitation of under-paid workers contributes to forcing our food system into the pace, costs and production methods set by profit-oriented industrial food distribution chains. As long as the full cost of externalities is not included in the price, and as long as states do not fully uphold and enforce human rights standards, including the labor standards outlined in the core International Labour Organization's (ILO) conventions—no one can rest assured that what we are eating is not a product of slave labor.

CONCLUSION

Different trade unions and CSOs are engaged in reversing the negative impacts that the intermediation of migrant employment has had on human rights. The 'grey area' of the illegal economy has expanded, resulting in intensified tensions between disadvantaged social classes, and in turn, strengthening the mafia's presence in agriculture.

The EU needs to define a common legislative framework on migrants' rights that builds on solidarity and human rights. Immigration laws foster demand for marginalized undocumented immigrant workers, lining the pockets of illegal intermediaries through their flourishing business. A fragmented labor market, in addition to poor communication throughout the food chain, keeps the farms' concerns separated from those of consumers. The system hides the bitter truth that many farming systems are based on exploitation and that modern slavery has made its way to our dinner tables.

18 Omizzolo, Marco. "Il movimento bracciantile in Italia e il caso dei braccianti indiani in provincia di Latina", in *Migranti e Territori Lavoro Diritti Accoglienza*. Roma: Saggi Ediesse, 2015.

INSIGHT 14.1 Rising Up Against a System of Near-Slavery
SOS Rosarno[19]

The municipality of Rosarno, in the region of Calabria, is one of the most fertile areas in Italy. The town of Rosarno stands on a terrace overlooking the Plain of Gioia Tauro, where the landscape is cloaked in olive plantations, fruit trees and vineyards. However, large part of the land on the plain has been left fallow, paving the way to the creation of new forms of latifundia and a wave of speculation by legal and illegal enterprises. Work relations in agriculture are shaped by these developments and, undoubtedly, as described in the article above, here too migrant workers face horrendous risks, compounded by their absolute vulnerability.[20]

Against this backdrop, an upsurge of 'itinerant migration' has increased the labor force, ready to battle it out over precarious jobs in agriculture. Thousands of migrants (especially Africans, who are either seasonal or settled workers, as well as immigrants from Eastern Europe) arrive early autumn and remain until early summer to make a living from harvesting citrus and olives, or from whatever job they can find. Concentrated in slums that look like ghettos (such as San Ferdinando, near the town of Rosarno), and grouped in large foul-smelling houses scattered throughout the countryside, they set out on their journey at the crack of dawn, waiting at the crossroads for landowners or intermediaries to take them to the fields to work for outrageously low wages (about € 20 to € 25 a day).

The top-down political and economic choices are determining factors in this situation. Over recent decades, the forced industrialization of the fertile Plain of Gioia Tauro, and the approval of 'environmental plans' such as incinerators, power plants, gas turbines and mega-gas terminals have all led to the degradation of this 'Mediterranean garden'. To add to this, small-scale farmers in the region are also subjugated to market forces and suffer the consequences: Major economic powers, after all, determine the price of citrus fruits. In turn, social conflicts between people living in poverty are intensified: the knock-on effect is all the more visible in a society like ours, which is driven by profit. Thus, the exploited exploit the weak—and migrant workers and asylum seekers, especially Africans, are reduced to cheap labor.

Nevertheless, there are pockets of resistance and solidarity and the region is spotted with some examples of alternative practices. In full compliance with current legislation, the SOS Rosarno Association and the Mani e Terra cooperative have joined forces, underpinned by the respect for human beings and for our planet. These two social, economic and cultural organizations of peasants and migrants in the territory of Rosarno work jointly to denounce and monitor the precarious living and working conditions of agricultural workers. Their main goal is to combat the slave-like conditions that engender a loss of human dignity among migrant crop-pickers.

In order to change the system at its roots, both organizations rent land in the region and grow fruit and vegetables, which are sold directly on the local and regional markets or processed and canned and distributed more widely. This production system guarantees a decent income for peasant farmers and workers as well as fair prices for consumers, especially for those who are most suffering the effects of the economic crisis. It demonstrates that there can be a direct relationship between producers and consumers; they can be players in the same team. Clearly, the local food system, a source of life for all, works perfectly well without labor intermediaries who feed on social deprivation.

19 SOS Rosarno is an association of migrant workers and farmers in southern Italy, whose work is based on solidarity and organic agriculture. For more information, please visit: *www.sosrosarno.org*.
Special thanks to Paola de Meo (Terra Nuova), Judith Hitchman (URGENCI) and Antonio Onorati (Centro Internazionale Crocevia) for their support in reviewing this insight box. This insight box was originally written in French.

20 For more information on the situation of migrant workers in Rosarno, please see: Wasley, Andrew. "How Italy's oranges are linked to modern day story of exploitation." *The Guardian*, February 18, 2016. Available at: *www.theguardian.com/sustainable-business/2016/feb/18/italy-oranges-slavery-coca-cola-exploitation*.
Please also see: Hooper, John. "Southern Italian town world's 'only white town' after ethnic cleansing." *The Guardian*, January 11, 2011. Available at: *www.theguardian.com/world/2010/jan/11/italy-rosarno-violence-immigrants*.

SUMMARY AND CONCLUSION[1]

ENSURING CONTROL OVER NATURAL RESOURCES

What prompted this year's focus on agriculture and biodiversity was the shared feeling amongst members of the Editorial Board, Watch Consortium and Global Network for the Right to Food and Nutrition that access to and control over seeds — but also over water, land, forests and oceans—was at the heart of a considerable number of ongoing struggles and global discussions. Access to and control over seeds and natural resources are directly related to the rising levels of criminalization and killings of human rights defenders. As we are finalizing this issue of the *Watch*, the UN Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz, is condemning the new attacks on the Guarani and Kaiowá indigenous community in Brazil.[2] Global Witness called 2015 the "worst year on record for killings of land and environmental defenders."[3] In its report On Dangerous Ground, the environmental NGO states that in 2015 there were more than three people killed every week defending their land, forests and rivers against destructive industries. The report documents 185 killings across 16 countries, totaling more than twice the number of journalists killed in the same period.[4] The fact that the criminalization of human rights defenders is increasingly associated with environmental struggles gradually blurs the line between environmental and human rights struggles. It also reinforces the need for coordinated 'warning systems' to support victims and activists that are being harassed, criminalized, and imprisoned for defending the commons, as discussed in the case of West Africa in this issue.

ENDING CORPORATE ABUSES AND FINDING REMEDIES

An important number of articles in this *Watch* denounce corporate influence in international processes (such as the SDGs) and corporate capture of public policy-making at all levels—an issue that was also prominent in the 2015 issue. Participation of business enterprises in so-called 'multi-stakeholder' fora continues to increase concurrently with a growing emphasis on multi-stakeholder processes as a way to address the complex challenges that arise from the implementation of newly adopted standards, such as the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (Tenure Guidelines). These trends raise the difficult issue of how to understand inclusiveness in a way that takes into account differentiated roles and responsibilities of each actor as well as power imbalances among them (as fishers' movements powerfully remind us in this issue). Similar challenges also arise when public policies designed by governments are increasingly based on a corporate agenda.

Transnational corporations (TNCs), often with the support of states, are driving processes of environmental degradation, climate change, and biodiversity loss, inducing violence, conflicts, evictions, and displacements. The corporate food regime is leading to the disintegration of small-scale farming and small-scale fisheries as sustainable livelihoods, and to the destruction of collective ways of managing seeds, land and natural resources as commons. We have documented these processes for decades and brought complaints and parallel reports before a wide range of bodies, from the UN human rights systems, to regional and national courts. Alarmingly, we have made very little progress on the issue of providing remedy to victims (and, more broadly, to access to justice). A recent report published by the Center for Economic and Social Rights[5] denounces the fact that less than a fifth of recommendations made to states in the context of the Universal Periodic Review (UPR) focuses on economic,

1 We would like to thank Priscilla Claeys (University of Louvain and French Institute of Pondicherry) for drafting this piece.

2 On June 14, public health worker Clodiodi Achilles Rodrigues de Souza was shot dead and another six indigenous persons were wounded by gunfire, including a twelve-year-old child. The attack took place in the municipality of Caarapó, in the state of Mato Grosso do Sul, on ancestral land which has recently been claimed by the Guarani Kaiowa. Paramilitaries acting on instructions of wealthy land owners *(fazendeiros)* allegedly carried out the attack as a reprisal against the indigenous community for seeking recognition of their land rights. For further information on this attack and the violence against the Guarani and Kaiowá in the region, please visit: *cimi.org.br/massacredecaarapo*.

3 Global Witness. *On Dangerous Ground*. 2016. p. 4. Available at: *www.globalwitness.org/documents/18452/On_Dangerous_Ground.pdf*.

4 *Ibid.*

5 Center for Economic and Social Rights. *The Universal Periodic Review: A Skewed Agenda? Trends analysis of the UPR's coverage of economic, social and cultural rights*. June 2016. Available at: *www.cesr.org/downloads/CESR_SciencesPo_UPR_Briefing.pdf*.

social and cultural rights (ESCR), despite these being enshrined in roughly equal measure as civil and political rights in the core international human rights treaties. Even more worrying, among recommendations that concern ESCR, almost all the attention is given to issues relating to the right to health, education, and labor rights, important in their own right, and almost none to issues pertaining to land, seeds, and the impact of corporate activities on human rights.

This situation of almost complete impunity brings new challenges to the human rights community, as is presented in discussions around the development of a legally-binding instrument on business human rights.[6] On the issue of monitoring, creative thinking is highly welcome on new reporting methods that are participatory, empowering and supportive of ongoing movement struggles, particularly if it enables us to challenge what gets measured and how. The example of Myanmar shows how social movements and civil society are finding ways to claim the implementation of soft law instruments firmly anchored in human rights obligations, such as the Tenure Guidelines, even in contexts with a strong authoritarian legacy. Such efforts create opportunities to assert grassroots-based or 'from below' interpretations of these texts.

The point made in the piece on global fisheries is worth reflecting upon. It is argued that the human rights agenda is being perverted by those defending the privatization and commoditization of resources, all in the name of rights. In the land as well as in the fisheries sector, the push is clearly towards formalized and individual forms of access that can subsequently be easily transferred and exchanged on the markets. Members of the Global Network for the Right to Food and Nutrition oppose this trend and postulate that what we actually need are ways to recognize and protect the various existing collective ways of managing (and looking after) resources that have enabled small-scale food producers, indigenous peoples and local communities to sustain themselves for centuries. A similar tension is palpable in discussions over seeds, where we discover peasant seeds systems endangered by the imposition of intellectual property rights and patents. Faced with these pressures, we need to reaffirm that human rights must prevail.

INJECTING FOOD SOVEREIGNTY AND HUMAN RIGHTS INTO POLICY-MAKING PROCESSES

The aspiration to exercise peoples' sovereignty and human rights is driving the strategic involvement of social movements and NGOs in standard-setting negotiation processes at all levels. This edition of the *Watch* mentions and addresses the CFS, the SDGs, Habitat III, and ongoing processes at the UN Human Rights Council, regional processes such as those under way in West Africa and in the Community of Portuguese-Speaking Countries (CPLP), national processes such as those leading to the adoption of new seed laws, and local and city-level processes such as food policy councils in Detroit and elsewhere. In all these institutional settings, actors of the *Watch* Consortium and Global Network for the Right to Food and Nutrition are present to share their experiences, make deep human rights claims, and demand respect of human rights standards.

The human rights framework is under strong pressure to recognize new stand-alone human rights to seeds, land and biodiversity. The recognition of these rights is key, in our view, because the current international legal framework only partially and inadequately protects these rights to resources as part of other recognized human rights. As is reminded in this year's framework article on seeds, the lack of adequate protection of peasant seed systems is the result of significant contradictions that exist between legal regimes on seeds.

6 For further information on the development of this legally-binding instrument, please see the interview with civil society: "The Treaty on TNCs and the Struggle to Stop Corporate Impunity." *Right to Food and Nutrition Watch* (2015): 39–44. Available at: www.rtfn-watch.org/fileadmin/media/rtfn-watch.org/ENGLISH/pdf/Watch_2015/RtFNWatch_EN_web.pdf#page=39.

However, this legitimate demand is likely to be met with fierce objections. In the last year, we have noted a clear setback in the recognition of human rights in the new global agreements that have been reached. Striking examples are the 2030 Agenda for Sustainable Development and the Paris Agreement on climate change, which do not include a single reference to human rights beyond the preambular paragraphs. Injecting even a reference to human rights in global processes and highlighting the corresponding obligations of states will undoubtedly be an ongoing challenge in the future. In this context, our common task will be to consistently remind states of their existing human rights obligations, while re-thinking the contours of the right to food and nutrition so as to better integrate new challenges with regard to control of, and access to, natural resources.