

RIGHT TO FOOD
AND NUTRITION
WATCH

Land grabbing
and nutrition

Challenges for
global governance

2010



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LIST OF ABBREVIATIONS

ANoRF	African Network on the Right to Food	EU	European Union
BIT	Bilateral Investment Treaty	FAO	UN Food and Agriculture Organization
CAADP	Comprehensive Africa Agriculture Development Programme	FDI	Foreign Direct Investment
CAP	EU Common Agricultural Policy	GDP	Gross Domestic Product
CESCR	UN Committee on Economic, Social and Cultural Rights	GMO	Genetically Modified Organism
CFA	Comprehensive Framework for Action	GPAFSN	Global Partnership for Agriculture, Food Security and Nutrition
CFS	Committee on World Food Security	GSF	Global Strategic Framework for Food Security and Nutrition
CSO	Civil Society Organisation	HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
EC	European Commission	HLPE	High Level Panel of Experts of the CFS
EPA	Economic Partnership Agreement	HLTF	UN Secretary-General's High-Level Task Force on the Global Food Security Crisis
ESCR	Economic, Social and Cultural Rights		

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IAASTD	International Assessment of Agricultural Knowledge, Science and Technology for Development	ODA	Official Development Aid
ICARRD	International Conference on Agrarian Reform and Rural Development	OECD	Organisation for Economic Co-operation and Development
ICESCR	International Covenant on Economic, Social and Cultural Rights	SCN	UN Standing Committee on Nutrition
IFAD	International Fund for Agricultural Development	UN	United Nations
IFPRI	International Food Policy Research Institute	UNAIDS	Joint United Nations Programme on HIV/AIDS
ILO	International Labour Organization	UNCTAD	UN Conference on Trade and Development
IMF	International Monetary Fund	UNICEF	UN International Children's Emergency Fund
MDG	Millennium Development Goal	USD	United States Dollar
NEPAD	New Partnership for Africa's Development	WFP	World Food Programme
NGO	Non-Governmental Organisation	WHO	UN World Health Organization
		WTO	World Trade Organization

PREFACE

The right to food faces new challenges in a world of energy, food and financial crises. Some remarkable trends have been observed. Member countries of the Organisation for Economic Co-operation and Development (OECD) have spent unprecedented amounts to prevent the collapse of financial institutions. The few billions which were approved by the same countries to foster food security and nutrition are certainly important, but they are nothing compared to what was mobilized for the bailout of the banking system. On the other hand, the various crises provoked a shift in investment trends; since last year, massive amounts of land in developing countries have been bought or leased by foreign entities. While investments in rural areas are desperately needed, such unregulated and marginally controlled investments are often the opposite of what is needed: investment in local communities and smallholder agriculture. These faulty investments often lead to land conflicts, forced evictions and increase in the price of land, water and other natural resources. Such processes contribute to violations of human rights and the increasing difficulties faced by poor and vulnerable people trying to maintain their livelihoods in rural areas. Given the magnitude of these investments, they are undermining the right to food and nutrition of hundreds of thousands of people across the world. Actions and decisions that fail to take human rights obligations into account are among the leading causes of the persistence, and even the rise, of hunger in the world.

Presently, the global governance on food and nutritional security is in transition and is not providing clear guidance for national governments on how to overcome hunger and malnutrition. However, the decision to reform and to modernize the Committee on World Food Security (CFS) seems to be a step in the right direction, especially the decision to expand its membership to include civil society organizations and social movements. These groups play an essential role at the national, regional, and international level, because they witness and report on the realities in the field.

As an international publication, the Right to Food and Nutrition WATCH intends to monitor food security and nutrition policies from a human rights perspective, to detect and document violations and situations that increase the likelihood of violations, as well as the non implementation of human rights obligations and policy failures. At the same time, it strives to offer a collection of the best practices for the realization of the right to food and nutrition by illustrating some of the actions and achievements of the global civil society in the realm of the right to food and nutrition.

By undertaking an annual review of state actions and failures, the WATCH aims to remind policy makers at the national and international levels of their legal obligation to take the human right to food and nutrition into account. Public pressure is a powerful tool for holding governments and intergovernmental bodies accountable for their policies and programs. To be effective, public pressure needs to be evidence based, hence the importance of instruments, such as this WATCH, for monitoring national and international policy and disseminating relevant information to a large audience.

The WATCH provides a platform for human rights experts, civil society activists, social movements, the media, and scholars to exchange experiences on how best to carry out right to food work, including lobbying and advocacy.

The consortium in charge of the Right to Food and Nutrition WATCH publication strives for an open and inclusive process. Two organizations have joined the venture this year. The first is the Ecumenical Advocacy Alliance (EAA), an international network of churches and church-related organizations committed to raising awareness of social justice issues. They are currently carrying out campaigns to overcome hunger and HIV/AIDS. The second is the Observatory - Economic, social and cultural rights, a coalition of organizations based in Barcelona fighting for the realization of social, economic and cultural rights. This publication is a collaborative work. The WATCH Consortium would like to thank everyone who contributed to its success. We deeply appreciate the insights and tireless work of the leading experts in the field and national partner organizations whose participation has been invaluable. We hope to maintain this fruitful relationship in the future. All interested organizations, groups and individuals are invited to join in this process aimed at constructing a global monitoring system for the right to food and nutrition. For further information on how to contribute to future editions of the WATCH, please contact the editorial team at the FIAN International Secretariat.

The Consortium is also proud to announce the launching of an Internet platform that should facilitate the consultation of present and past issues of the WATCH, as well as host forums discussing important, current issues. Please visit www.rtfn-watch.org to access the latest information on the right to food and nutrition. It is our hope that this issue of the WATCH will inspire and motivate you to join the fight - or renew your efforts - for the right to food and nutrition.

Yours sincerely,

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INTRODUCTION

Hunger results from international and national policies that do not secure peoples' access to the natural, financial and public resources necessary to produce or purchase food in ways that respect human dignity. Instead, these policies predominantly rely on markets to guarantee food and nutritional security.

Despite increasing urbanization, the majority of hungry people still live in rural areas. Fifty percent are smallholder farmers. Twenty percent are landless agricultural workers, and ten percent are pastoralists, fisherfolks and forest users whose livelihoods also depend on access to natural resources. The remaining twenty percent live in urban areas. The most vulnerable groups are the rural and urban poor who lack adequate and secure access to natural resources (especially land), to wage labor or to transfer income sources, such as safety nets, and pensions. In addition, widespread forced evictions of rural and urban communities indicate that secure land tenure and access to natural resources is an urgent challenge in the struggle to protect the livelihoods of populations, particularly in light of the ongoing food crisis. Unfortunately, governments are often unwilling to address land grabbing issues or may even be complicit.

As with last year's edition, the Right to Food and Nutrition WATCH is divided into two parts. The first contains a number of articles providing updates on the different policy responses to the world's financial, food and nutritional crises. Special attention is paid to the global governance of the world food system and the practice of land grabbing. The second part of this publication is composed of country examples and vividly illustrates cases of the violation of the right to food and nutrition. This year, it focuses mainly on cases involving land grabbing activities in Asia, Africa and Latin America.

The first article demonstrates the urgent need for new governance mechanisms to reverse the trend of increasing hunger and to stop international and national policies that continue to exacerbate hunger and undernutrition. The development of a rights-based Global Strategic Framework for Food Security and Nutrition (GSF) is expected to be the centerpiece of a process to promote global policy coordination and convergence. The Committee on World Food Security (CFS), whose reform was approved at its 35th session in October 2009 and ratified at the Summit for Food Security one month later, should spearhead this process. It should provide a platform to promote accountability, share best practices and provide support and policy advice to countries and other international stakeholders. Social movements and civil society organizations see the process of elaborating the GSF as a significant opportunity to consolidate the work of the reformed CFS, and they are taking steps to actively participate in the process. The responsibility to overcome the food crisis clearly rests with governments. The CFS, a democratic governance body in which each country has one vote, is therefore, best able to address global and national food security and nutrition issues.

To illustrate regional responses to the food crisis, the second article explains how the African Network on the Right to Food (ANoRF), a network of national coalitions, conducts assessments of national laws and policies and compares them with the Voluntary Guidelines on the right to adequate food of the UN Food and Agriculture Organization (FAO). This process permits the identification of policy gaps to help target reforms. Such policy assessments also require establishing the link between the effects of major shocks, such as soaring food prices, on the food insecurity and malnutrition vulnerability of the most needy. This link along with demands by civil societies worldwide for governments to increase investments in the food system and raise agricultural productivity by improving rural infrastructures and market access for small farmers are discussed in the third article. Increased investment would also address the economic and social determinants of rural poverty through the expansion of social protection schemes, including maternal and child nutrition and healthcare measures.

The realization of the right to food and nutrition is particularly challenging for people living with HIV and AIDS. The fourth article details specific policy measures that, in addition to protecting their access to land, food and social protection, aim at providing them with adequate nutrition through special packages of care.

The fifth paper argues that policy assessments should focus not only on outcomes but also on the processes by which certain policy outcomes are achieved. The new paradigm for applied nutrition should incorporate a human rights approach. However, the current, widely accepted paradigm prioritizes investment in nutrition. This reflects an individual oriented, free market ideology; whereas, a rights-based approach endorses a collective, public health and democratic ideology.

The full extent of land grabbing, violent dispossessions, and of population displacement due to armed conflicts, extractive and agribusiness activities, tourism, infrastructure projects, rapid urbanization and agrofuel production, is not known but is probably substantial. Recent estimates generated by the FAO indicate that over the last three years, twenty million hectares were acquired by foreign interests in Africa alone. Governments should fulfill their obligation to protect the right to food and nutrition by regulating private and corporate activities which contribute to worsening hunger and malnutrition thus leading to violations of human rights. Current initiatives supported by UN agencies establishing codes of conduct for voluntary self-regulation of international land acquisitions by the private sector are deemed wholly inadequate by civil society. Instead, as described in the sixth article, social movements and civil society organizations advocate for mandatory and strict state regulation of investors in financial markets and agriculture.

The next article, by Olivier De Schutter, advances a number of theses for allowing agricultural investments to contribute to poverty reduction and the enjoyment of the right to food and nutrition. These can be summarized as follows: public policies should orient agricultural investment towards generating development and income for the rural poor; agricultural investment should be part of poverty reduction and right to food strategies; the human rights framework should guide agricultural investments and strengthen their sustainability. Every effort should be made to avoid agricultural investments exacerbating competition between large-scale and small-scale agriculture, which always produces negative effects for the latter.

The second part of this edition of the WATCH focuses on the consequences of land grabbing in developing countries. It also provides an assessment of the right to food and nutrition situation in Burkina Faso and Colombia as well as the impacts of the economic crisis on the right to food in Spain.

The members of the Right to Food and Nutrition WATCH consortium hope that readers will use this publication as an effective tool to advocate for the right to food and nutrition of vulnerable communities and to strengthen human rights based strategies for overcoming hunger and malnutrition.

Flavio Luiz Schieck Valente
Secretary General
FIAN International

LAND GRABBING AND NUTRITION: CHALLENGES FOR GLOBAL GOVERNANCE



Global Responses to the
World Food and Nutrition Crisis

IT IS TIME FOR A RIGHTS-BASED GLOBAL STRATEGIC FRAMEWORK ON FOOD SECURITY AND NUTRITION

FLAVIO LUIZ SCHIECK VALENTE¹

The causes for the world food crisis - which are certainly not new, especially for the billions of human beings who went hungry over the last four decades - were thoroughly discussed in the 2009 issue of the Right to Food and Nutrition WATCH. These causes, from a rights-based perspective, can be seen as rooted in international and national public policies which do not prioritize the access to the natural, financial and public resources needed to allow people to adequately feed themselves and their families with dignity. In addition, the aggravation of the crisis in 2007 and 2008 points to the failure of the hegemonic deregulated market development model, which predominantly relies on the market to guarantee food and nutritional security.

The responses of the international community to the crisis also demonstrate that there is broad agreement that new governance mechanisms are needed to reverse the trend and minimally reach the goals set in the first Millennium Development Goal (MDG), even if there is no full consensus either on how to go about it or on the final goals.

Over the past years, several initiatives arose: The High Level Task Force on the Global Food Security Crisis (HLTF), proposed by the UN Secretary General, in May 2008, intended to improve coordination and harmonization of the actions carried out by the UN agencies, the Bretton Woods institutions (World Bank (WB) and International Monetary Fund/IMF) and the World Trade Organization (WTO). Its main tool for coordination is the Comprehensive Framework of Action (CFA), which has recently undergone a revision process.

Concurrently, the Global Partnership on Agriculture, Food Security and Nutrition (GPAFSN), originally proposed by France, in June 2008, and supported by the G8,² was subsequently adopted by the G20.³ Its intention was to establish a multi-stakeholder platform, under the coordination of the G8/G20 to facilitate global governance.

The third initiative, championed by a set of southern and northern countries, within the context of the UN Food and Agriculture Organization (FAO) reform, was the call for a revitalization of the mandate and the work of the Committee on World Food Security (CFS) to transform it into the most relevant multilateral intergovernmental platform on food security and nutrition as the core for the GPAFSN. The reformed CFS, with FAO, World Food Programme (WFP) and International Fund for Agricultural Development (IFAD) as a broadened secretariat, and with social movements, civil society organizations (CSOs) and other social actors as participants, was approved by the member states of FAO in October 2009,⁴ and ratified by the World Summit on Food Security⁵ in Rome in November 2009.

Originally, the HLTF initiative and its document - the Comprehensive Framework for Action (CFA) – were strongly criticized by social movements and CSOs. Not only did the task force include the WB, the IMF and the

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² The Group of Eight includes France, the United States of America (USA), the United Kingdom, Germany, Japan, Italy, Canada and Russia.

³ The G20 is made up of the finance ministers and central bank governors of 19 countries: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, Republic of Korea, Turkey, United Kingdom, and the USA. The European Union (EU) is the 20th member of the G-20.

⁴ FAO, Committee on World Food Security, *Reform of the Committee on World Food Security: Final Version*, UN Doc., CFS, Rev.2, Rome, October 2009, available at: <ftp://fao.org/docrep/fao/meeting/017/k3023e3.pdf>.

⁵ FAO, *Declaration of the World Summit on Food Security*, World Summit on Food Security, Rome, November 2009, available at: www.fao.org/fileadmin/templates/wfs/Summit/Docs/Final_Declaration/WSFS09_Declaration.pdf.

CSOs and social movements understood that the responsibility to overcome the crisis lay with the governments and identified the CFS as the most adequate space to do it since it already had the mandate for food security and was seen as the most democratic governance body, in which each country has a vote. Based on this, they took full advantage of the invitation to participate in the Contact Group instituted by the CFS Bureau in February 2009 to discuss the revitalization of the CFS, and they played an important role in supporting the move to have the CFS as the central governance mechanism for food security and nutrition.

The CFS reform document included among other things the strengthening of the CFS Bureau, the creation of the High Level Panel of Experts (HLPE) and the establishment of an Advisory group, incorporating civil society and other social actors, to support the Bureau in implementing the set of roles foreseen for the CFS. The reformed CFS is expected not to limit itself to hold an annual session, but become an ongoing process towards promoting coordination and policy convergence at global level. It should provide a platform for coordination at national and regional levels, promote accountability, share best practices at all levels, and offer support and advice to countries and regions, as well as other stakeholders. The development of a Global Strategic Framework on Food Security and Nutrition (GSF), as a living document, through a participatory process at national, regional and global level will be a central piece to support and orient this process, as well as to guarantee increased ownership by all stakeholders.

Since December 2009, the reformed CFS has been very active in carrying out the work plan proposed in the reform document. The reformed expanded Bureau and the Advisory Group were put in place according to the plan, and had an effective role in preparing, and providing inputs into the October 2010 CFS session. There was some delay in the negotiation of the composition of the High Level Panel executive committee, but an agreement was reached in the beginning of June, in time for the HLPE to contribute to the preparation of the October meeting.

Towards a Rights-Based Global Strategic Framework on Food Security and Nutrition (GSF)

FIAN International, along with a set of relevant social movements and CSOs, sees the process of elaboration of the GSF as one of the key pillars for the consolidation of the work of the reformed CFS, and welcomes the preliminary proposal presented by the Brazilian government as coordinator of one of the CFS Bureau working groups. Some governments continue to oppose – or would like to delay - the elaboration of the GSF, based on the assumption that promoting food security and nutrition is basically the obligation of national States, and that there should not be international interference in that. From a human rights perspective, it is evident that national States have the main obligation to respect, protect and fulfill the right to adequate food in the context of national food security. However, the analysis of the causes of the chronic food crisis and of its recent aggravation clearly point to the significant impact, in leading to the crisis and making it worse, of decisions and policies made by international organizations, such as the WB, the IMF and WTO, and member countries of the OECD (namely the EU and USA). At the same time, many national States, weakened by the protracted food crisis, will need coordinated support from the international community of States, at the policy, regulatory and even financial level to sustain their national efforts to overcome hunger and undernutrition, and strengthen their agricultural and food and nutritional security policies, to guarantee the realization of the right to adequate food for all. All of this could be guided by the GSF, especially if its elaboration takes the FAO Voluntary Guidelines (VG) on the right to adequate food as its central and guiding document, since the VG are the only complete set of rights-based guidelines to promote food and nutritional security for all.

In order to be effectively inclusive, the elaboration of the GSF should take into account not only the documents mentioned in the CFS reform paper (CFA, VG, and the Comprehensive Africa Agriculture Development Programme/CAADP), but additional documents from different sources, such as the International Assessment of

Agricultural Knowledge, Science and Technology for Development (IAASTD), an intergovernmental document which deals with a critical analysis of agro-industrial model, and *Policies and actions to eradicate hunger and malnutrition*, a document elaborated by CSOs (see box). The proposed consultative process to elaborate the GSF also presents the possibility of placing people at the center of the process, both as subjects and recipients, in a strong position to hold governments accountable for the implementation of the related actions.

It is fundamental to stop international and national policies that continue to produce and reproduce hunger and undernutrition. Governments must fulfill their obligation to regulate private and corporate initiatives at the national and international level which contribute to violations of the right to adequate food. This includes the development of international regulations to stop land grabbing, among other things. Measures, such as the ones described above, are necessary to create an enabling environment within the framework of responsible governance of land tenure and natural resources for the success of policies supporting small farmer agriculture. These regulations, which will encourage the private sector to effectively contribute by developing its activities in line with public interests, should also help shape policies that guarantee adequate jobs and income for rural and urban poor workers, especially for women, who are a majority in these communities. The institution of safety nets is fundamental to guarantee the realization of the right to adequate food to those not reached by the agricultural and job generation policies, but they should not be seen as an alternative to them. The obligations of the States, under the right to adequate food are broad as described above, and must not be reduced to providing food assistance or cash transfer to those in emergency situations, which is important but not sufficient. A rights-based Global Strategic Framework on Food Security and Nutrition could help both countries and international agencies meet these challenges.

01 Policies and Actions to Eradicate Hunger and Malnutrition⁶

This working document is built on the experiences and political work of social movements, CSOs and experts from all over the world. It is based largely on the food sovereignty framework⁷ that embraces the human right to adequate food. It underlines that it is crucial to secure the involvement of the women and men, peasants and small-scale family farmers, fisherfolks, pastoralists, indigenous peoples, forest dwellers and other small-scale food providers, workers as well as the urban and rural poor who are actually suffering from hunger and malnutrition, in order to realize the necessary changes in policy and practice to eradicate hunger and malnutrition in the long term. The document offers an analysis and proposals for policies and actions that could solve the problems, based on their realities and needs. In preparing the document, the greatest care has been taken to capture the views of a wide range of social movements and CSOs representing or working with these small-scale food providers, workers and the urban and rural poor. The proposals in the document are designed to inform governments, national, regional and international institutions, and other actors committed to eradicating hunger and malnutrition. They should facilitate discussions on hunger and malnutrition within and between governments, institutions, social movements and NGOs. Social movements, organizations and individuals in all regions can also use this document in developing their own proposals for concrete actions and policies at local, national, regional and global levels.

⁶ The text presented in this box had the contribution of Aksel Naerstad, Senior policy adviser in the Development Fund (Norway), International coordinator of the More and Better campaign and member of the drafting committee for the following document: *Policies and Actions to Eradicate Hunger and Malnutrition*, Working Document, November 2009. The full document as well as its summary and an open letter are available on the enclosed CD and at: www.eradicatehunger.org. On this webpage, you will also find the list of the members of the drafting committee and the lists of organizations and individuals who have signed on to the summary and the open letter.

⁷ Food sovereignty puts the right to sufficient, healthy and culturally appropriate food for all individuals, peoples and communities at the centre of food, agriculture, livestock and fisheries policies, rather than the demands of markets and corporations that give priority to internationally tradable commodities and edible components. It focuses on local food systems and values the knowledge and skills of small-scale food providers, and works in harmony with nature. For more information on food sovereignty, please consult the documents from the Nyéléni World Forum for Food Sovereignty held in Mali in 2007 at: www.nyeleni.org.

THE AFRICAN NETWORK ON THE RIGHT TO FOOD IN ACTION

HUGUETTE AKPLOGAN-DOSSA¹

The recent international financial crisis has largely overshadowed the food crisis, which has run rampant since 2007. As food security decreases for a large majority of Africans, the African Network on the Right to Food (ANoRF) is committed to leading Africa in the fight for a world free from hunger.

The ANoRF, a pan African network founded on 11 July 2008 in Cotonou, Benin, is devoted to the realization of the right to adequate food in Africa.² In order to achieve this goal, the ANoRF has formulated the following objectives:

- Inform decision makers and communities about the economic, social and cultural rights (ESCR), particularly the right to adequate food, as well as the obligations they impose.
- Support and strengthen the ability of decision makers and communities to achieve the realization of the right to adequate food.

The Coordination of the ANoRF has established its permanent secretariat in Cotonou, Benin. Its role is to coordinate the activities of the national coalitions present in each member country. These coalitions bring together civil society organizations (CSOs) and farmers' organizations working to promote the right to adequate food and implement the network's regional action plans. Members of the Network, particularly those acting as focal points in each member country, must have certain qualities, including sustained involvement and a culture of voluntary service. They must also share the fundamental values and principles of the ANoRF. Additionally, they must be familiar with issues relating to the right to food and an aptitude for the implementation of the action plans and the drafting of quarterly reports for the Regional Coordination. Finally, members must be free of any political appointments.

In every country on the continent, civil society must play an important part in the defense and promotion of the right to adequate food. Fact-finding missions, rights-based analyses of national and local budgets, lobbying for the adoption of legislative frameworks concerning the right to adequate food, systematic documentation of ESCR violations, and assisting victims during legal proceedings are all strategies employed by the ANoRF.

The Implementation of the Voluntary Guidelines in Benin and Uganda

In 2009, Benin and Uganda published reports on the implementation of the Guidelines.³ To support their efforts, the ANoRF undertook several activities and initiated several processes. On November 8 and 9, 2009, a training workshop was organized in Lusaka, Zambia, on how to assist and document the realization of the right to adequate food based on the *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (the Guidelines) of the FAO.

The purpose of the workshop was to strengthen the ability of Network members to analyze and monitor the state of the right to adequate food in their countries. National coalitions as well as feedback workshops were organized to disseminate the new methods and strategies. Additionally, an analysis of the implementation of the recommendations contained in the reports on the realization of the Guidelines in Benin and Uganda provided participants with actual examples of the Network's activities. The ANoRF organized this meeting in order to help

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² The ANoRF has 21 member countries: Benin, Burkina Faso, Gambia, Mali, Niger, Togo, Democratic Republic of the Congo, Republic of the Congo, Zambia, Cameroon, Kenya, Sudan, Ivory Coast, Sierra Leone, Central African Republic, Nigeria, Senegal, Uganda, Malawi, South Africa, Mauritania. However currently, only the national coalitions of Benin, Burkina Faso, Gambia, Mali, Niger, Togo, Democratic Republic of the Congo, Republic of the Congo, Zambia, Cameroon, Kenya, Sudan, Ivory Coast, Sierra Leone, and Central African Republic are set up and functioning. For more information, please visit the Network's official website, www.rapda.org.

³ These documents were published in the *Right to Food and Nutrition Watch 2009*.

Benin and Uganda's continued efforts at popularizing the Guidelines.

The Benin national coalition is actively engaged in the process of rural land reform, the planning, alongside farmers' organizations, of agricultural reactivation initiatives, and the improvement of women's access to land. The coalition also makes radio broadcasts to inform the Beninese population on the right to adequate food and to provide recommendations based on the coalition's research.

In Uganda, the national coalition constantly monitors the government's actions and its legislative and institutional policies in order to evaluate their impact on the right to adequate food and to lobby for their updating. Its priority is to advocate for sanctions in cases of right to food violations. The Uganda national coalition also supports and coordinates the efforts of CSOs in their fight against hunger and violations of the right to adequate food and in their struggle for the betterment of vulnerable and marginalized communities.

The State of the Right to Food in Africa

Encouraged by the work being done in Benin and Uganda, the ANoRF recently initiated an analysis of the state of the right to food in eight other countries: Burkina Faso, Cameroon, Republic of the Congo, Mali, Niger, Togo, Democratic Republic of the Congo and Zambia.⁴ These analyses will provide a baseline for all future activities aimed at strengthening the right to adequate food in Africa.

The national coalitions analyzed current policies, laws and initiatives in their respective countries and compared them to the FAO Guidelines. They based their report on information compiled through research and individual or group interviews with targeted communities. These reports describe the state of the right to food, taking into account each country's particularities, following the model laid out in the *Voluntary Guidelines*.

A workshop on how to conduct such analyses and train focal points on lobbying and advocacy strategies was held in Brazzaville, Republic of the Congo, on June 4 to 6, 2010. The meeting provided an opportunity to reflect on the results of this process and to highlight the difficulties the national coalitions encountered. It also allowed a list of institutions and potential regional and international partners with whom network members could establish active partnerships to be compiled. Consequently, the ANoRF is considering applying for observer status among some decision-making institutions, such as the African Commission on Human and Peoples' Rights, the African Union Commission, and several United Nations agencies.

The Network's next step will be to encourage the implementation of the recommendations contained in the country reports. They will be used to develop national and regional action plans as well as lobbying and advocacy strategies. Member countries that have not yet conducted an analysis on the state of the right to adequate food in their country will be encouraged to do so as well. At the same time, the ANoRF will continue to monitor each country's national response to the food crisis, especially the agricultural, land and natural disaster response policies. The governmental budgets, along with those of decentralized communities and collectivities, will be meticulously scrutinized. The access to and management of natural resources, as well as the pricing and commercialization of agricultural products, will also be examined regularly. In addition, the Network is already planning to undertake an analysis of the effect of agrofuel production, the strain on land, and climate changes have on the right to adequate food. A one-year study of the relation between gender and the right to adequate food will also be carried out in 2010 and 2011.

Conclusions

The efforts of the still young ANoRF are focused on strengthening the capacities of its members. With the help of its partners and the expertise of its members, the ANoRF hopes to become a key actor in the fight against hunger in Africa. Its rights-based approach will enable human rights and human rights obligations, particularly those regarding the right to adequate food, to be more widely publicized.

⁴ Summaries of the reports on the state of the right to food in Burkina Faso and in Zambia are available in the second half of this publication. The other reports are available on the enclosed CD and on the ANoRF website: www.radpa.org.

GOVERNMENTS IN TIMES OF CRISIS: NEGLECTING TO UPHOLD THE HUMAN RIGHT TO NUTRITION?¹

CLAUDIO SCHUFTAN²

Let's face it, elites are not really interested in the development of rural infrastructures that can and will eventually lead to local and national food security. Expressing such an inconvenient truth may be unpopular, but it is indispensable if there is to be a call for change. The sense of urgency over the growing hunger and malnutrition situation has to sink into the heads of still unwilling leaders. The time for declarations of intent is over. Ultimately, what we have to tackle is the lack of democratic structures, which is putting both remedial and preventive actions on hold. Considering the dire consequences, the question is not whether the needed solutions are too expensive, but whether it will be too expensive not to do anything. Governments have to protect, respect and fulfill the human right to nutrition³ of their own citizens - and they are not going to do so without some mechanism to hold them accountable.

The Roots of the Crisis

The latest and ongoing concomitant financial and food crises are the result of an economic and political system that favors economic growth over equitable social and economic development. They highlight some of the most shameful contradictions of our time: The year 2008 saw more than 854 million poor people living in hunger at a time of record global harvests and profits for the world's major agribusiness corporations. To date, more than a billion people do not have enough to eat.⁴

The still lingering global food crisis is not being caused by actual food shortages, but is more a crisis of food-price inflation that has exacerbated already existing hunger and poverty and has created new vulnerabilities. The soaring prices of staple food hit not only the urban poor, but also the numerous poor farmers who are net food buyers as well

Contrary to what one might think, higher prices have not benefited small farmers. They are in no position to respond to market signals and will face new challenges as the value of land rises and competition increases. Further investments in agriculture have always been asked for, but purely speculative investments are hardly what the development community had in mind.

Several causes of this ongoing trend can be identified: the protectionist strategy imposed in Europe and the United States incorporating massive subsidy payments to their agribusiness corporations, the emergence of a middle class in India and China, which has led to a significant change in diets, including more meat consumption, on a large scale. Other causes include: the increase in oil prices, which are passed on to consumers and make agricultural inputs and production more expensive, the growing demand for agrofuel, water scarcity, the loss of arable land, and the speculation in food markets.

1 This article in its original length is available on the enclosed CD.

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3 For more information on the right to nutrition, please consult: UN General Assembly, *Convention on the Rights of the Child*, Art. 24, 2 September, 1990, General Assembly Resolution 44/25, 1989, available at: www2.ohchr.org/english/law/pdf/crc.pdf; UN General Assembly, *Convention on the elimination of all forms of discrimination against women*, Art 12, available at: www.un.org/womenwatch/daw/cedaw/text/econvention.htm; and UN Committee on Economic, Social and Cultural Rights, *General Comment 12*, Art. 11, para. 9., Geneva, 1999, available at: www.unhcr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9.

4 FAO, *Economic crises – impacts and lessons learned*, The State of the Food Insecurity in the World, Rome, 2009, available at: [ftp://fao.org/docrep/fao/012/i0876e/i0876e.pdf](http://fao.org/docrep/fao/012/i0876e/i0876e.pdf).

Impact on the Lives of Poor Families

The food crisis is generating reallocations in household spending, which are having a cascading effect, especially, on the lives of poor families. Vulnerable groups like children, women and minorities are particularly affected. Their access to food, health services and education is compromised. Some other probable consequences could involve damage to the social fabric due to the effect of the crisis on family support systems, increased domestic violence, child neglect, as well as abandonment of children by families no longer able to cope.⁵

Rising food prices lead to low household food purchasing power and reduce households' dietary diversity. This results in increased micronutrient malnutrition. Consumers are forced to spend a much larger share of their income on food. The same is true for the numerous developing countries that import a sizeable part of their grain needs. This higher expenditure affects their national budget and consequently the supply of services to the poor segments of the population. These countries' options are restricted by their limited access to foreign financing, low reserve cushions and high external or public debt burdens. However, only insignificant external financing which could help them adjust has been made available. This is further exacerbated by the cuts in funding of food aid agencies, which has forced them to reduce their activities. This has had very serious nutrition and public health implications and is clearly a threat to the right to nutrition.

The food crisis has had widespread detrimental effects on the health of many individuals worldwide. Reduced micronutrient and calorie intake have resulted in well-known problems, such as iron deficiency, anemia, low birth weights, stunted growth of children, and their consequences on wellbeing. The consequences are strongest for breastfeeding mothers, resulting in declines in maternal nutrition. It is important to note that the adequacy of nutrition of young children cannot be separated from the adequacy of their mother's diet.

The Crisis Seen Through a Human Rights Perspective

The global food crisis must be treated, not as a natural disaster, but as a threat to the right to nutrition for millions of individuals. It is thus essential to focus on the root causes underlying the lack of access to food and inadequate nutrition, as well as pay more attention to the negative repercussions of the current situation on specific groups, not only children, but the elderly, the marginalized, minorities, and people living with disabilities.

The human rights framework compels us to identify the most vulnerable groups in society by studying patterns of discrimination, as well as the relevant actors (rights holders and duty bearers, including those in the private sector) and the gaps in their authority and resources. It also requires us to analyze the underlying social determinants of vulnerability (exclusion from policy formulation, no access to land, to property and to inheritance; lack of productive and economic resources; unemployment; no access to credit; gross social protection gaps; etc.), as well as the programs in place that either enable or constrain the realization of one's right to food.

This process calls on us to strengthen the capacity of duty bearers, so that they can fulfill their obligations to respect, protect and fulfill the right to nutrition of their citizens. On the other hand, rights holders have to be empowered to claim their rights. This requires monitoring progress on the implementation of *ad-hoc* interventions using clear, targeted indicators and benchmarks that ensure the accountability of all duty bearers and access to remedies for victims of violations of this right.

To address the looming crisis, governments must be responsible for their citizens and their taxpayers. They cannot act on the basis of charity or isolated interventions, since these do not really fulfill their obligations. National

5 Gordon, J., and al. (Center for International Economics), *Impact of the Asia crisis on children: Issues for social safety nets*, A report sponsored by the Australian Government for Asia-Pacific Economic Cooperation (APEC), Australia, August 1999, available at: www.ausaid.gov.au/publications/pdf/impact-asiacrisis-children1999.pdf

governments have a major role to play and should not pass the responsibility on to foreign aid. They need to increase their investments in the food and nutrition system, not only to raise agricultural productivity (by improving rural infrastructures and market access for small farmers), but also to act on the economic and social determinants of rural poverty and malnutrition. They can do this by expanding social protection interventions, especially in relation to maternal and child nutrition, to health and to care. Seeking international loans and grants can seem attractive in this emergency, but it will ultimately increase the debt burden, which will prevent governments from providing social protection in the future.

The Time to Act Is Now

A myriad of concrete responses for preventing hunger and malnutrition can be found in the literature, for example, supporting the poorest people via cash transfers or vouchers, risk mitigation and insurance schemes to help farmers dealing with unpredictable price drops, reviewing the debts of food importing countries so as to provide them with budget support, scrapping food import tariffs, targeting food price subsidies, facilitating access to credit, and creating employment. Furthermore, some measures are specifically designed to improve nutrition, for example, food supplementation during the last trimester of pregnancy and during lactation, promotion of breastfeeding to 24 months (exclusively, for the first six months), complementary feeding for the age group 6-24 months, a higher number of daycare centers with child feeding capacity, access to primary health care and to clean water, public awareness campaigns (especially on immunizations and sanitation issues), mechanisms to reduce existing gender imbalances especially in intra-household access to food, subsidized vitamin, mineral supplements and food fortification (support for the distribution systems of iodine, iron, vitamin A and zinc), and school feeding programs.

These measures should be embedded in a human rights framework. For example:

- School feeding programs should rely more on locally produced foods, building on the strengths of local farmers;
- Fortified products should be produced and distributed locally, contributing to local economic development;
- Day care centers should be set up to address the specific needs of women and should be properly monitored;
- Women should be able to enjoy the right to breastfeed their babies at the work place.

The question is, which of these strategies are politically feasible in each country? There is no quick fix to these problems, but it is no longer tolerable, and it is even criminal, to simply carry on in the same old way, tackling only the immediate crises, when in fact, these feed on chronic, well known situations of macro and micro nutrition deficiency.

Therefore, to safeguard the principle of concomitantly acting on food, health and care, and to reestablish the rights of family members, which have now been further violated by the crisis, governments should urgently implement the following - keeping in mind that each country's situation is unique:

- Subsidize public health care to help alleviate the impact of the crisis on mothers, children and minorities;
- Restore commensurate family income flows - especially the income of female household members, which is more directly linked to better nutrition;
- Ensure that private investments neither displace communities from their land nor degrade natural resources, but instead promote small-scale farmers, sustainable and agro-ecological production systems and develop effective accountability systems at national and international level in order to curtail the growing corporate control over the food system;
- Develop food markets in a way that rewards sustainable practices by applying special safeguard measures to

- protect consumers from price volatility, as well as in ways that favor the adoption of healthy dietary patterns instead of falling into monotonous and fast food diets of high energy and low nutrient density;
- Revise local and national policies to protect customary land tenure, women's access to land, communal use of land and peasant-based production;
 - Focus investments on food, health and care interventions following local priorities identified through participatory and transparent processes; the communities themselves are best able to identify the most vulnerable and the best able help to address their needs;
 - Continued monitoring and analysis of the evolving global food security and local nutrition situation;
 - Seek partnerships with local and foreign actors as well as NGOs in the implementation and monitoring of food, health and care programs;
 - Provide information and adequate institutional mechanisms to strengthen the ability of civil society organizations to effectively participate in nutrition related policy decision making and to challenge decisions that threaten their rights;
 - Implement recourse mechanisms to which people can resort in cases where their right to nutrition is not being guaranteed;
 - Set up needed support mechanisms for children without family support (orphanages, safe houses for refugees), and other general social supports (e.g., for domestic violence mitigation) and supports for overall child protection (e.g., programs against child exploitation);⁶
 - Implement the key recommendations made in the World Health Organization (WHO) report on the social determinants of health.⁷

Conclusions

All levels of government have legally binding obligations to fulfill the right to nutrition of their citizens and to implement policies that respond to needs while, at the same time, protecting the environment. It is also the duty of the rights holders (citizens) to demand accountability and enforcement of their right to nutrition. This is the only way we can ensure that governments live up to their responsibilities. Only strong popular pressure will enable the changes needed to eradicate hunger, malnutrition and poverty. Growing mobilization efforts and strong pressure from civil society, including labor unions, farmer and fisherfolk organizations, indigenous people, and women, as well as other broad-based social movements, are indispensable for changing the prevailing power structures and policies that dominate today's decision making.⁸

As readers of this article, we are counting on you to become involved proactively in advocacy by demanding that the measures discussed here be implemented. You are best able to judge what your governments and national civil society organizations are doing or not doing, and you must act.

6 Gordon, J., and al. (Center for International Economics, *Impact of the Asia crisis on children: Issues for social safety nets*, A report sponsored by the Australian Government for Asia-Pacific Economic Cooperation (APEC), Australia, August 1999, available at: www.aid.gov.au/publications/pdf/impact-asiacrisis-children1999.pdf.

7 Commission on Social Determinants of Health (CSDH), *Closing the gap in a generation: Health equity through action on the social determinants of health*, Final report, WHO, August 2008, available at: whqlibdoc.who.int/publications/2008/9789241563703_eng.pdf.

8 For more information on the civil society initiatives, see the collaborative report, *Policies and actions to eradicate hunger and malnutrition*, Working Document, November 2009, available at: www.eradicatehunger.org/pdf/Anti_Hunger_EN.pdf.

THE RIGHT TO FOOD FOR PEOPLE LIVING WITH HIV AND AIDS

MANYARA ANGELINE MUNZARA¹

The right to food is interlinked and interrelated in a number of ways to the right to life and enjoyment of good health. These rights are the responsibility of governments. They must ensure a good standard of living for their citizens. The relations between the right to food and the right to health and life can also be linked to nutrition, access to food and access to comprehensive treatment, in particular for people living with HIV and AIDS. The right to food is, therefore, currently expanded to address the special needs of those living with HIV and AIDS.

Related Impacts on Food Security, Nutrition and the Right to Food

The link between nutrition and HIV and AIDS is complex and has direct impacts on the realization of the right to food. HIV and nutrition are linked not just because adequate nutrition is essential to an individual's physical health; HIV can also affect the ability of individuals to work and provide sufficient income and resources for their household.

Adequate nutrition is vital to maintaining the immune system, improving the body's response to medical treatment, managing opportunistic infections, slowing the progression of the disease and giving optimal quality of life for people living with HIV. There is increasing evidence that malnutrition combined with HIV directly influences morbidity and mortality rates. Significant weight loss in people living with HIV has been associated with increased risk of opportunistic infections, complication and early death.²

By affecting the individual nutritional status of people living with HIV and AIDS and thus their capacity to work, the disease also reduces the ability of households to maintain their socio-economic status and, consequently, the nutritional status of every household member.³ Time and household resources are consumed in an effort to care for sick family members thus increasing the burden on the woman, who in most cases takes charge of caring for the sick within a household.⁴ A review of cost-impact studies reveals that the multiple consequences of HIV and AIDS can consume 50 percent of the annual income of poor households.⁵ In rural areas the disease generally leads to a decline in agricultural production.⁶

Access to adequate nutrition is even more essential for pregnant and breastfeeding mothers living with HIV. If a woman is undernourished, the health of her child is affected. It is therefore essential to include adequate nutrition in the care for people living with HIV and AIDS, especially for mothers. At the same time, the access to land and social protection for people living with HIV and AIDS has to be protected in order for them to enjoy their right to food.

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² Greenaway, K., *Food by Prescription: A landscape Paper*, GAIN Working Paper Series No. 2, October 2009, available at: www.gainhealth.org/sites/default/files/Working%20Paper%202.pdf.

³ Information gathered in 2010 during an interview with Mr. Jean Mutamba, local representative of the Lutheran World Federation/ Department for World Service (LWF/DWS) in Mozambique.

⁴ For more information, please consult: FAO, WHO, *Living Well with HIV/AIDS*, A manual on nutritional care and support for people living with HIV/AIDS, 2nd chapter, Rome, 2003, available at: www.fao.org/docrep/005/y4168e/y4168e04.htm#P105_15855.

⁵ Russell, S. "The Economic Burden of Illness for Households in Developing Countries: A Review of Studies Focusing on Malaria, Tuberculosis, and Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome" in *The American Journal of Tropical Medicine and Hygiene*, 71(suppl 2), 2004, p. 149, available at: www.ajtmh.org/cgi/reprint/71/2_suppl/147 and International Labour Organization, *Socio-economic Impact of HIV/AIDS on People Living with HIV/AIDS and Their Families*, Delhi Network of Positive People, Manipur Network of People Living with HIV/AIDS, Network of Maharashtra People Living with HIV/AIDS, Positive Women's Network of Southern India, New Delhi, 2003.

⁶ Information based on the presentation by Astrid Berner-Rodoreda, Advisor on HIV/AIDS for Brot für die Welt (Bread for the World) at the HIV and Food Security Workshop in Kisumu, Kenya, which was held from September 29 to October 2, 2009. This presentation was based on the findings presented in Gillespie, S. and Kadiyala, S., "HIV/AIDS and Food and Nutrition Security: From evidence to action" in *Food Policy Review 7*, International Food Policy Research Institute (IFPRI), 2005, available at: www.ifpri.org/sites/default/files/publications/pv07.pdf.

Impacts at country level

The right to food of people living with HIV and AIDS is more threatened in developing countries where social protection facilities are limited. In Uganda, the National Community of Women Living with HIV/AIDS, which promotes positive living for women with the virus, has warned that HIV-positive patients in Eastern Uganda are abandoning their antiretroviral (ARV) treatment "in droves" because of a lack of food (ARVs need to be taken with food, otherwise there can be severe side effects).⁷ In Zimbabwe, James Mudari⁸ is only able to cultivate a small piece of land at his homestead due to his health condition. Looking at his food pack from Christian Care, he said, "I need to be saved from my starvation." In Mozambique, the present national HIV and AIDS prevalence is estimated at 15 percent.⁹

The main gaps in addressing the right to food of people living with HIV and AIDS observed: the lack of consistency and low coverage of food aid programming (only 5.8 percent of people on ARVs are currently benefiting from food aid, and no attention is paid to the specific nutritional needs and family environment of the beneficiaries); the insufficient knowledge and education about basic nutrition, care and hygiene in food preparation and conservation; the lack of capacity of health and field workers to respond adequately to the challenge of HIV related nutrition problems at community and household levels.¹⁰ In Rwanda, Kenya and Namibia, the death of the head of household resulted in less cultivated land and a reduction of production of 40 percent to 120 percent.¹¹

Recommendations

The third section of the *FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* insists on focusing on impediments to food security such as HIV and AIDS.¹² Article 8.3 of the Guidelines demands specific attention for people living with HIV and states that governments, "[...] should take measures to protect all people affected by HIV/AIDS from losing their access to resources and assets." In June 2006, the United Nations Member States under the *Political Declaration on HIV/AIDS* decided to integrate, as part of a comprehensive response to this pandemic, the access to sufficient safe, and nutritious food to enable people living with HIV and AIDS to live an active and healthy life.¹³

In order to respect, protect and fulfill the right to food of people living with HIV and AIDS, governments should implement without delay the following recommendations:¹⁴

- Use poverty reduction strategies, social policies and sector, district and local plans -including disaster preparedness plans - to sustain livelihoods and to integrate approaches to food security and nutrition with responses to HIV.
- Incorporate nutrition indicators into HIV monitoring and evaluation activities, including monitoring and evaluation of the national AIDS strategy.
- Work across sectors, with civil society and people living with HIV to reach the most vulnerable, ensuring that food and nutrition assistance is appropriate and does not fuel stigma and discrimination.
- Ensure that agricultural policies and programs are HIV responsive, for example, integrating HIV information into agricultural extension programs.
- Integrate HIV, food and nutrition programs by expanding nutritional support, including for pregnant and lactating women, as well as children, and emphasizing appropriate infant feeding methods as part of the prevention of mother-to-child transmission of HIV.

7 Malinga, J. & Ford, L., "Uganda Food Crisis Undermining Efforts to Fight HIV/Aids" in the *Guardian*, 21 October 2009, available at: www.guardian.co.uk/katine/2009/oct/21/food-crisis-hiv-aids.

8 This is an assumed name. This story was recounted by the Family AIDS Caring Trust (FACT) Zimbabwe in 2010.

9 Information gathered during an interview on February 13th, 2010 with Mrs. Eva Pinto, Project Manager Urban Projects from LWF/DWS Mozambique.

10 Id.

11 For more information, please consult the studies in Rwanda (2003), Kenya (2004) and Namibia (2000) realized by Brot für die Welt (Bread for the world) on their website: www.brot-fuer-die-welt.de.

12 FAO, *The Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, Section III and article 8.3, Rome, 2004, available at: www.fao.org/docrep/meeting/009/y9825e/y9825e00.HTM.

13 UN General Assembly, *Political Declaration on HIV/AIDS*, 87th plenary meeting, 2 June 2006, paragraph 28, available at:

data.unaids.org/pub/Report/2006/20060615_HLM_PoliticalDeclaration_ARES60262_en.pdf

14 These recommendations are drawn from WFP, WHO, UNAIDS, *HIV and AIDS, Food and Nutrition*, UNAIDS Policy Brief, expanded version, May 2008, available at: data.unaids.org/pub/Manual/2008/JC1515_policy_brief_nutrition_en.pdf.

COMPETING PARADIGMS IN APPLIED NUTRITION: IT IS NO LONGER ABOUT SCIENCE; IT IS ABOUT IDEOLOGY AND POLITICS¹

URBAN JONSSON²

Introduction

New approaches to solve the problem of child malnutrition in developing countries have repeatedly replaced each other during the last 60 years. A particular approach has dominated for some time but then has been replaced by another new approach, which in turn has dominated for the next period of time, influencing or even 'controlling' research and practise in applied nutrition.³

These approaches represent paradigms, a concept introduced by Thomas Kuhn in his famous book *The Structure of Scientific Revolutions*.⁴ Kuhn defines a paradigm as a set of practises that define a scientific discipline during a particular period of time. A paradigm defines (1) what is to be observed and scrutinized, (2) the kind of questions to be asked, (3) how these questions are to be structured, and (4) how the results of scientific investigations should be interpreted. A paradigm is somewhat similar to 'groupthink', 'mindset' or 'discourse'. During each period of a dominating paradigm, 'normal science' characterises what the majority of researchers do. 'Normal science' can be seen as 'thinking inside the box'. 'Thinking outside the box, according to Kuhn, means 'revolutionary science'.

During the period of a particular paradigm there are often one or several competing parallel paradigms, most often, although not always, incommensurable with the dominating paradigm. The dominating paradigm is also called the mainstream paradigm, while the parallel competing ones are called counterpoint paradigms.⁵

The work of reducing child malnutrition in developing countries represents a very good example of the changes described above or paradigm shifts as Kuhn called them. A paradigm shift takes place when the mainstream paradigm is replaced by one of the counterpoint paradigms. Such a shift occurs when the old paradigm increasingly fails to explain phenomena or causes of a problem in that particular research field. A paradigm shift means "to enlarge, renew, and give new meaning to what is already known."⁶

Paradigm shifts are most often the result of either new scientific discovery and/or a changing 'ethical climate', influenced by changing political and ideological positions. Sometimes both take place.

Although most observers would agree on the consecutive paradigm shifts in applied nutrition over the years, there would be much less agreement on when exactly these shifts took place. The periodization suggested below is therefore very approximate and should be seen as indicative only.

- The period before 1950
- The Protein Deficiency Paradigm (1950-1974)
- The Multisectoral Nutrition Planning Paradigm (1974-1980)
- The National Nutrition Policy Paradigm (1980 – 1990)
- The Community-Based Nutrition Paradigm (1985-1995)
- The Micronutrient Malnutrition Paradigm (1995-2005)
- A period of Paradigm Crisis (2005-present)

This article is only focusing on the last period after 2005.

1 This article is an extract of the paper *Paradigms in Applied Nutrition* presented in October 2009 at the International Congress of Nutrition of the International Union of Nutritional Sciences (IUNS) in Bangkok. The paper in its original length is available on the enclosed CD and in the July 2010 issue of *World Nutrition*, the Journal of the World Public Health Nutrition Association available on their website at www.wphna.org.

2 Former regional director of the United Nations International Children's Emergency Fund (UNICEF) for East and Southern Africa (ESARO), Urban Jonsson is now the Executive Director of an international consultancy group, The Owls, which provides support to multilateral and bilateral agencies, governments and non-governmental organisations (NGO) in the area of human rights approaches to development.

3 Use of British English reflects author's original spelling.

4 Kuhn, T., *The Structure of Scientific Revolutions*, Second Ed., University of Chicago Press, 1970.

5 Hettne, B., *Development Theory and the Three Worlds*, Longman Scientific & Technical, 1995.

6 Fleck, L., *Genesis and Development of a Scientific Fact*, University of Chicago Press, 1981.

A Period of Paradigm Crisis

Confusion and Competing Paradigms

From around the mid 1990s, applied nutrition had been dominated by the Micronutrient Malnutrition Paradigm, emphasizing the detrimental effects of deficiencies in iodine, vitamin A and iron, and the existence of preventive health interventions with very high cost effectiveness. The decline of the Micronutrient Deficiency Paradigm was caused by several factors. First, there was a general increased interest and commitment among donors and some developing country governments to reduce young child mortality rates, and there was agreement that protein energy malnutrition (PEM) significantly increased the risk of dying of common childhood diseases like measles, diarrhea and malaria. Second, the actual results and effectiveness of many micronutrient control programmes had become increasingly questioned. Third, as in earlier periods, the World Bank had decided to give a much higher priority to PEM than before, and this influenced many countries to change their priorities, at least on paper.⁷

The emerging consensus that controlling micronutrient malnutrition would not solve the problem of child malnutrition in developing countries, however, was not the result of the emergence of any new mainstream paradigm. Instead a period of confusion and competing parallel paradigms started. In early 2008 The Lancet launched a series of well prepared nutrition review papers covering all aspects of maternal and child undernutrition.⁸ These first four papers are very thorough reviews of current knowledge, despite sometimes being author-biased. The fifth paper, however, has a very different purpose. In this paper the 'international nutrition system' is severely criticized for being "fragmented and dysfunctional". The authors recommend a better system for producing normative evidence-based guidance in applied nutrition. They conclude that, "the international community needs to identify and establish a new global governance structure that can provide greater accountability and participation for civil society and the private sector".

Instead of recognizing, reviewing and analysing the obvious current paradigm crisis in applied nutrition, the best known medical journal in the world chose to criticize the structure and function of organizations working in the field of nutrition. It is clear that the journal favored a much stronger influence of the private sector in dealing with the survival and development of young children in poor households.

Although there are a number of ideas and pre-paradigms floating around at present, two of them have reached a level of counterpoint paradigms, and it is very likely that one of them in due course will be the next mainstream paradigm in applied nutrition. These two are (1) The Investment in Nutrition Paradigm, and (2) The Human Rights Approach to Nutrition Paradigm.

In order to be in a better position to compare these two paradigms, a construct of development will be presented and discussed next.

*Development as Outcome and Process*⁹

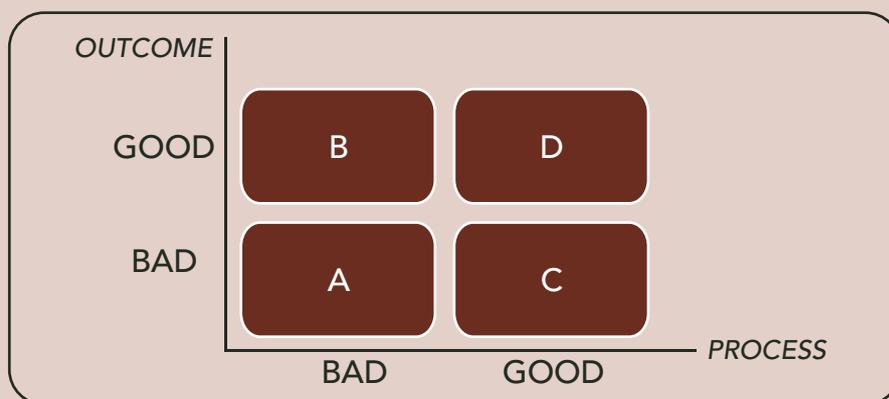
Development requires the satisfaction of at least two conditions: the achievement of a desirable outcome and the establishment of an adequate process to achieve and sustain that outcome. Most of the health, education, and nutrition goals set at the World Summit for Children or reflected in the Millennium Development Goals (MDG), for example, represent specific, desirable outcomes. Effective (human) development demands a high-quality process to achieve such outcomes. In most development approaches cost-effectiveness, participation, local ownership, empowerment, and sustainability have been seen as essential characteristics of a high-quality process in achieving (human) development goals.

⁷ Schuftan, C., Ramalingaswami, V., and Levinson, J., "Micronutrient Deficiencies and Protein-energy Malnutrition" in The Lancet, Vol.351, Letter to the Editor, June 13, 1998, p.1812.

⁸ *The Lancet Series on Maternal and Child Undernutrition No. 1-5, The Lancet*, January 17, 2008. (1) Global and regional exposures and health consequences, (2) Consequences for adult health and human capital, (3) What works? Interventions for maternal and child undernutrition and survival, (4) Maternal and child undernutrition: effective action at national level, and (5) Effective international action against undernutrition: why has it proven so difficult and what can be done to accelerate progress?

⁹ Jonsson, U., *Human Rights Approach to Development Programming*, UNICEF, Nairobi, 2003, pp.45-46.

Level of outcome and quality of process define a two-dimensional space for development, as illustrated below.



Most development starts at A, and the ideal, final stage is D. Unfortunately, many development programmes move into one of the two areas represented by B or C. The former represents a good outcome at the expense of, for example, sustainability (an aspect of a good process), and is as ineffective as C - a good process without a significant outcome.

Outcome-focused approaches have been favoured by many economists and development agencies. A good example is the current almost universal focus on the achievement of the MDGs without any serious discussion about the quality or legitimacy of the process.

Process-oriented approaches have been favoured by NGOs. Many small, local programmes have established high quality processes, but at a relatively high cost per person. Few have expanded to a markedly larger scale with significant outcomes.

The lack of more ethically and politically derived criteria in development planning and implementation was acknowledged by the United Nations Development Programme (UNDP) in their Human Development Report 2000, in which they admitted that “Although human development thinking has always insisted on the importance of the process of development, many of the tools developed by the human development approach measure the outcome of social arrangements in such a way that it is not sensitive to how these outcomes were brought about”.¹⁰

The two competing paradigms will now be discussed.

The Investment in Nutrition Paradigm

During the last couple of years there are signs of a revival of the interest in nutrition in general, and in the prevention of protein-energy malnutrition in particular. The economic rationale for 'investing in nutrition in developing countries' has been supported by many scholars and practitioners over the years, in particular by the development banks.¹¹

Few areas have been more carefully investigated than the impact of malnutrition of very young children on their later cognitive and productivity abilities. More recently it has been confirmed that the timing of the intervention is absolutely crucial. Control of malnutrition is most important before the age of three years. The 'window of opportunity' is the period from conception to the age of three years. After that age the damage of malnutrition at the earlier age are often irreversible.¹² This fact has provided a powerful argument that investing in child

¹⁰ UNDP, *Human Development Report 2000*, New York, 2000.

¹¹ Behrman, J.B., "The Economic Rationale for Investing in Nutrition in Developing Countries" in *World development*, Vol. 21, No. 11, 1993, pp.1749-1771; Hunt, J. M., *The Potential Impact of Reducing Global Malnutrition on Poverty Reduction and Economic Development*, Asia Pac Clinical Nutrition 14(S), 2005, pp.10-38 and Mason, J., Hunt, J., Parker, D. and Jonsson U., "Investing in Child Nutrition in Asia" in *Asian Development Review*, Vol. 17, No. 1, 2, Asian Development Bank, 1999.

nutrition at a very young age results in great later returns. Recently the Organisation for Economic Co-operation and Development (OECD) promoted the same strategy for industrialised countries.¹³

In recent years no organisation has argued stronger for 'investment in nutrition' than the World Bank. In 2006 the World Bank launched its new nutrition initiative, summarized very well in the report, "Repositioning Nutrition as Central to Development: A Strategy for Large-Scale Action".¹⁴ Several World Bank economists and nutritionists had participated in the formulation of the Copenhagen Consensus two years earlier, where it was concluded that productivity losses from malnutrition were of three types: (1) direct losses in physical productivity, (2) indirect losses from a poor cognitive function losses and loss in schooling, and (3) losses in resources from increased health care costs.¹⁵

In summary, seen in the perspective of the Outcome/Process construct, the Investment in Nutrition Paradigm is definitely 'outcome' focused, in the sense that priority is given to the achievement of the MDGs. Process criteria are limited to sustainability, cost-effectiveness and cost-efficiency.

The major reason why the Investment in Nutrition Paradigm is likely to become the next mainstream paradigm in applied nutrition is primarily the fact that it was launched and will be promoted and supported by the World Bank. Second, and to some extent following from the first, the fact that this paradigm, by focusing on investment, avoids the sensitive social and political causes and consequences of malnutrition. Thirdly, and finally, this paradigm reflects well the currently dominating free-market economy and ideology.

The Human Rights Approach to Nutrition Paradigm

A human right is a relationship between one individual (or a group of individuals) who has a right and therefore has a valid claim and another individual (or group of individuals) who has correlative duties or obligations. The first individual enters into the role of a claim-holder (or the subject of the right) and the second individual enters into the role of a duty-bearer (or the object of the right). It is very important to note that claim-holders and duty-bearers are roles, into which individuals (or groups of individuals) may enter. This means that the same individual may be both a claim-holder and a duty-bearer at the same time.

From this perspective claim-duty relationships in society are linked and form a pattern of human rights. The identification and analysis of such patterns form the core of a Human Rights-Based Approach to Programming (HRBAP). The identification of duty-bearers and a determination of the extent of their accountability are crucial in a human rights-based approach to programming.

In human rights treaties, human rights standards and human right principles are explicitly codified. Seen from the perspective of the Outcome/Process construct, human rights standards define benchmarks for desirable outcomes, while human rights principles represent conditions for the process. Human rights standards include desirable outcomes such as access to food, basic health care and basic education; adequate nutrition and access to water etc. All MDGs represent important desirable outcomes. Human rights principles are normally seen as including equality and non-discrimination, participation and inclusion, and accountability and the rule of law. The most important characteristics of this paradigm are the following:

First, in a human rights-based approach to nutrition, children are recognized as subjects of rights to adequate nutrition and they are no longer seen as 'beneficiaries' or 'targets' of interventions. Preventing young child malnutrition can no longer be a voluntary act of charity or benevolence, but must be an obligation.

Second, a human rights-based approach aims at empowering claim-holders to claim their rights. Often people who are poor have valid claims as claim-holders on people who are less poor and much more

12 Ruel, M., J. Hoddinott, "Investing in Early Childhood Nutrition" in *Policy Briefs*, No.8, IFPRI, 2008.

13 OECD, *Doing Better for Children*, 2009, available at: www.oecd.org/els/social/childwellbeing.

14 World Bank, *Repositioning Nutrition as Central to Development: A Strategy for Large-Scale Action*, Directions in Development Series, World Bank, Washington DC, 2006.

15 Behman, J. R., Alderman, H., and Hoddinott, J., *Hunger and Malnutrition*, Challenge Paper for the Copenhagen Consensus Panel 2008, 2004.

powerful, who are the duty-bearers. This is why in a human rights-based approach, power can be challenged, impunity rejected, corruption exposed and access to justice ensured much more effectively than in any other development approaches.

Third, a human rights-based approach gives more attention to exclusion, discrimination, disparities and injustice in society than most other approaches. Equality through the reduction of disparities allows for actions to redistribute resources from the richer to the poorer, something that most economics-based development approaches reject or avoid considering. A HRBAP aims at empowering people as claim-holders individually and collectively. The strengthening of civil society is a pre-requisite for democratisation.

Reasons for the Human Rights-Based Approach becoming the next mainstream paradigm in nutrition include first of all the fact that in this approach clear accountabilities are explicitly identified and monitored. Over the last several decades, governments have regularly agreed and committed themselves to achieve nutrition goals and targets.¹⁶ These commitments have been nothing more than promises, with absolutely no accountability or penalty for non-performers. The voluntary ratification of a UN human rights covenant or convention has dramatically changed things in the sense that countries in principle are legally bound to act.

A second reason for this paradigm to take over is the trend towards increasingly normative driven development thinking, which leads to the position that continued high prevalence of young child malnutrition is simply morally unacceptable in a rapidly richer world. Human rights provide both moral and legal arguments for such a position.

Different Policy Implications

A major difference between the Investment in Nutrition Paradigm and the Human Rights Approach to Nutrition Paradigm is their significantly different policy implications. These differences can be explained by the different ways each of the paradigms gives attention to 'outcome' and 'process'.

While the Investment in Nutrition is very outcome-focused, the Human Rights-Based Paradigm gives equal attention to both outcome and process. The differences in policy implications are summarized below.

The Investment in Nutrition Paradigm

Interventions most often in the form of 'packages' to be 'delivered' to 'beneficiaries'

The Human Rights Approach to Nutrition Paradigm

Interventions mainly aim at building capacities for empowerment. Components of capacity includes acceptance of responsibility, authority and power; access to resources, capability to take rational and informed decisions, and capability to communicate.

16 For example, the World Food Conference (1974), the World Summit for Children (1990), the FAO/WHO International Conference on Nutrition (1992), the World Food Summit (1996), and the Millennium Summit (2000).

Often very 'top-down'. Most multi-lateral and bilateral development agencies use very top-down planning and implementation practices. The planning of poverty reduction programmes, for example, very seldom include people who are poor

Strongly promotes a combination of both 'bottom-up' and 'top-down'. It is the synergy between top-down advocacy and social mobilization and the response and support of bottom-up initiatives that makes a difference

Planning 'for' rather than planning 'with'. Top-down planning implies planning 'for'

Planning 'with' rather than planning 'for'. Bottom-up planning implies planning 'with'

Power structures seldom addressed. Often actions that threatens existing exploitative power structures are deliberately avoided

Addresses power structures, exclusion and injustice, through more 'activist' type of strategies

Accepts many trade-offs, for example the acceptance of increased income disparities in the short time, in order to achieve high economic growth in the longer time

Accepts very little trade-offs, because in the human rights perspective it is not morally acceptable to sacrifice one child today in order to make two survive tomorrow.

Charity is a most welcome contribution. Most money does not 'smell'

“Charity is obscene in a human rights perspective” (I. Kant)

Promotes the achievement of the MDGs out of context of the Millennium Declaration (MD), i.e. does not recognize that the MD stipulates that the MDGs should be achieved through a process characterized by democracy and human rights

Promotes the achievement of the MDGs only within the context of the Millennium Declaration, i.e. recognizes the condition of a democratic and human rights-based process

Promotes privatisation of health and education services, which always results in disparities between children in different socio-economic groups

Promotes health and education services as a public good, which can ensure that all children receive the same level and quality of services

Supports poverty reduction, but not necessarily disparity reduction, i.e. accepts the position that there is nothing wrong in some getting much better off as long as nobody gets worse off (Pareto Optimum)

Promotes poverty reduction through disparity reduction, which reflects the position that disparities per se are undesirable or even unacceptable. Resources should be transferred from people who are richer to people who are poorer

Conclusions

During the last fifty years different paradigms to understand and to prevent malnutrition have replaced each other as mainstream paradigms. Most often the 'mainstream' paradigm has been replaced by a former counterpoint paradigm as a result of new and better scientific knowledge and/or changing political (ethical) climate. Proponents of the mainstream paradigm have always tried to oppose the change, both by providing scientific counter arguments and through political pressures and lobbying. Ethics, often translated into ideological and political arguments, has been used in both accelerating change, and in delaying or avoiding change.¹⁷

Over the years, approaches to understand and to prevent child malnutrition have also reflected changes in general development theories. The trend towards increasingly normative approaches to development has influenced approaches to malnutrition. 'Sustainable Human Development', for example, does incorporate good child nutrition as a necessary component of development.

The current paradigm crisis in applied nutrition manifests itself in many different ways. First the absence of any mainstream nutrition paradigm reduces the natural emergence of internationally recognized and respected leaders in nutrition, in spite of the several cries about the need for 'nutrition champions'. Second, the mushrooming of new organisations, alliances and partnerships in nutrition, including GAIN, REACH, Alliances Against Hunger, Partnership for maternal, newborn and child health, and now most recently The Lancet. This reflects that almost 'anything goes', which is very common during a period of paradigm crisis.¹⁸ The competition for scarce resources among these groups, once again reflects that 'it is the piper who calls the tune'. Third, the systematic attack on and weakening of the UN Standing Committee on Nutrition (SCN) has become apparent now.

In a recent Donors' Meeting on Nutrition, organised by the EU, different options were discussed for a new international leadership and coordination for nutrition in developing countries. One of the four options agreed upon at the meeting recommended that the World Bank would be "given an official mandate to lead the nutrition agenda through the Global Action Plan for nutrition".¹⁹

It is very likely that one of the two competing paradigms will soon take over to become the next mainstream paradigm in applied nutrition. Arguments for the Investment in Nutrition paradigm to ascend to this position includes the sound conceptual basis, recognizing the importance of food, health and care; strongly targeting the very young children; supported by the World Bank with a likelihood of significant funding; and the avoidance of sensitive political causes and consequences of malnutrition – in other words the approach has low political risk and is therefore 'do-able'.

Arguments for the Human Rights Approach to Nutrition paradigm to take the position of the next mainstream paradigm includes the general trend of development approaches of becoming increasingly 'normative'; the increased recognition of economic and social rights in general and of children's rights in particular; the fact that this approach explicitly promotes the rule of law, addresses impunity, corruption and social access to justice; and that it implies clear accountabilities, not just plans and promises.

The current competition between the Investment in Nutrition Paradigm and the Human Rights Approach to Nutrition Paradigm is unique in the history of nutrition, because the two paradigms have the same scientific basis. Their differences lie in different ethical and ideological principles embedded in the two paradigms. The Investment in Nutrition Paradigm reflects an individualistic-oriented, free market ideology, while the Human Rights Approach to Nutrition Paradigm reflects a collective, public health and democratic ideology. The Investment Paradigm is seen too technical by some; while the Human Rights Paradigm is seen too political by others. It is therefore likely that the factors that ultimately will determine which of the two will be the next 'mainstream' paradigm in applied nutrition are based more on power politics and ideology than based on new scientific discoveries.

17 Grant, J.P.G., *Nutritional Security: An Ethical Imperative of the 1990s*, Address by Mr. James P. Grant at the International conference on Nutrition, Rome, December 1992 and Schuftan, C., "Ethics, Ideology and Nutrition" in *Food Policy*, Vol.7, Issue 2, May 1982, pp.159-164.

18 Shrimpton, R., *The Galaxy of UN Nutrition Players and Their Mandates*, UN Standing Committee on Nutrition, September 2008.

19 European Commission, *Report on Donors' Meeting on Nutrition*, Brussels, 15th June 2009.



LAND GRABBING AND NUTRITION: CHALLENGES FOR GLOBAL GOVERNANCE

II

Land Conflicts

Land: Not For Sale!

Sofia Monsalve Suárez¹

The lack of adequate and secure access to land and natural resources for the rural and urban poor is one of the key causes of hunger and poverty in the world. According to the Hunger Task Force of the Millennium Project, about half of the people suffering from hunger in the world live in smallholder farming households, while roughly two-tenths are landless. Smaller groups, perhaps one-tenth, are pastoralists, fisherfolks, and forest users. The remainder, around two-tenths, live in urban areas.²

The highly unequal distribution of land ownership in many countries remains an issue of concern, from Latin America to sub-Saharan Africa via South East Asia. In rural areas, the trend towards the reconcentration of land ownership and the reversal of redistributive agrarian reform processes can be observed even in countries with traditionally more egalitarian patterns of access to land, such as China, some states in India and in West Africa. The former Special Rapporteur on the Right to Housing, Miloon Kothari, estimated that an average of 71.6 percent of rural households in Africa, Latin America and Western and Eastern Asia (excluding China) are landless or near landless.³ In urban areas in the South, a similarly unequal distribution of land is emerging with almost no pressure for any form of land reform – in some African cities, 65 percent of the population live on 5 percent of the city's total area.

The precise extent of land grabbing, violent dispossession and displacement from armed conflicts, extractive and agribusiness industries, tourism, industrial and infrastructure projects, accelerated urbanization and last, but not least, the promotion of agrofuel remains unknown. Indigenous peoples, fisherfolks and other traditional rural communities are further threatened by deforestation, monoculture plantations, wildlife and environmental conservation projects, water pollution and depletion of the oceans. More recently rich countries which depend on food imports are seeking to outsource their domestic food production by gaining control of farm land in other countries as a long-term measure to ensure their food security. At the same time, private investors have discovered foreign farmland as a new source of profit.⁴

A global process is underway whereby powerful foreign private and public investors conclude agreements with States to take possession of or control large surfaces of land (many involving more than 10,000 hectares and several more than 500,000 hectares), which is relevant for current and future food sovereignty in the host countries. The FAO estimates that in the last three years twenty million hectares have been acquired by foreign interests in Africa alone. These agreements most commonly known as “land grabbing” will have a severe impact on the enjoyment of the human rights of the local population, particularly on their right to adequate food.

Widespread forced evictions of rural and urban communities have been documented by human rights organizations.⁵ Thus, ensuring land and natural resources tenure security remains an urgent issue to be tackled

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2 For more information, please consult: UN Millennium Project, *Halving Hunger: It can be done*, Summary version of the report of the Task Force on Hunger, The Earth Institute at Columbia University, New York, USA, 2005, available at: www.unmillenniumproject.org.

3 For more information, please consult: Commission on Human Rights, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, E/CN.4/2005/48, para. 40, 2005, available at: daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/117/55/PDF/G0511755.pdf?OpenElement

4 For more information, please consult: GRAIN, *Seized! The 2008 Land Grab for Food and Financial Security*, Grain Briefing, October 2008, available at: www.grain.org/briefings/?id=212.

5 For more information, please consult: Amnesty International, *The State of the World's Human Rights*, London, 2008; COHRE, *Forced Evictions: Violations of Human Rights*, COHRE, Geneva, 2006; UN-HABITAT, *Forced Evictions – Towards Solutions?*, Second Report of the Advisory Group on Forced Evictions (AGFE) to Executive Director of UN-Habitat, UN-HABITAT, Nairobi, 2007; Human Rights Council, *UN Basic Principles and Guidelines on Development-based Evictions and Displacement*, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/4/18, 2007; UN-HABITAT (AGFE), *Finding Solutions to Forced Evictions Worldwide: A priority to meet the MDGs and implement the Habitat Agenda*, Executive Summary Report of AGFE to the Executive Director of UN-HABITAT, Nairobi, 2007; FIAN & La Via Campesina, *Annual Report on the Violations of Peasants' Human Rights*, Heidelberg, Jakarta, 2004, 2005, 2006.

in order to immediately secure the livelihoods of the populations, particularly in light of the current food crisis. Unfortunately, the policy responses to address the food crisis, particularly the Common Framework for Action (CFA) presented by the UN High-Level Task Force on the Global Food Crisis (HLTF), have so far neglected to properly deal with these issues or adopt a human rights based response.⁶

Land issues are also at the center of the climate crisis. Land use and land use changes are responsible for greenhouse gas emissions and play a key role in policy responses to climate change.⁷ Desertification, defined as land degradation in arid, semi-arid and dry sub-humid areas, results from various factors, including climatic variations and human activities, which directly affects an estimated 250 million people worldwide. Sea levels are also rising, affecting the lives of coastal communities. Thus, climate change is likely to lead to an increase in the frequency and severity of sudden disasters and physical water scarcity, triggering an increase in short-term, internal and regional displacement, particularly in Asia and Africa. It is estimated that one billion people could be forced to migrate because of climate change by 2050 which will most likely lead to more conflicts over land and water.⁸

Voluntary Guidelines for Responsible Governance in Land and Natural Resource Tenure

Since 2005, the FAO has been working on raising awareness of the importance of good governance of land and natural resource tenure. Recently the FAO launched an initiative to adopt *Voluntary Guidelines for Responsible Governance in Land and Natural Resource Tenure* (the Guidelines). They are meant to become a broad agreement jointly shared by governments, civil society and international organizations and approved by FAO member nations and other interested parties.⁹ The Guidelines are meant to set out principles and internationally accepted standards for responsible practices. They provide a framework that States can use when developing their own strategies, policies, legislation, programs and activities.

The FAO's initiative to adopt guidelines for land and natural resources tenure is timely, and it will fill a serious policy gap which currently exists. As a multilateral exchange forum and specialized UN agency working on normative issues related to food and agriculture, the FAO is well placed to take the lead. The International Conference on Agrarian Reform and Rural Development (ICARRD), organized by the FAO in close collaboration with the Brazilian government, in Porto Alegre in March 2006, has raised great expectations among civil society organizations about the renewed commitment of the FAO and its member states to better governance of land and natural resources for the purpose of combating poverty and hunger. These Guidelines entail the opportunity to develop a systematic and comprehensive interpretation of existing international human rights and environmental law provisions protecting the rights to land and natural resources of all rural constituencies. So far, only indigenous peoples have received direct international recognition of their rights to land and natural resources. Other rural groups, like peasants, pastoralists and fisherfolks, see the international recognition of their rights to land and natural resources scattered among various instruments and lacking systematic interpretation. Thus, these Guidelines are expected to provide guidance on the national implementation of the provisions of international human rights law, which protect the rights to land and natural resources of all rural communities, as well as the ICARRD principles. These Guidelines will also be highly relevant to guide international organizations and

6 For more information, please consult: Human Rights Council, Report of the Special Rapporteur on the Right to Food, Olivier De Schutter, *Building Resilience: A Human Rights Framework for world food and nutrition security*, A/HRC/9/23, 2008, available at: daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/155/08/PDF/G0815508.pdf?OpenElement and FIAN, *Time for a Human Right to Food Framework of Action*, FIAN Position on the Comprehensive Framework of Action (CFA) of the High Level Task Force (HLTF) on the Global Food Crisis, Heidelberg, 2008, available at: www.fian.org/news/press-releases/fian-challenges-comprehensive-framework-of-action-cfa-adopted-by-the-high-level-task-force-on-global-food-crisis

7 For more information, please consult: IPCC, *Land Use, Land Use-Change and Forestry*, Cambridge University Press, 2000 available at: www.ipcc.ch/ipccreports/sres/land_use/

8 For more information, please consult: Christian Aid, *Human Tide: The real migration crisis*, A Christian Aid Report, May 2007, available at: www.christianaid.org.uk/Images/human-tide.pdf.

9 For more information about this process, see: www.fao.org/nr/tenure/voluntary-guidelines/en/.

harmonize international cooperation related to land and natural resources issues. This process can complement and strengthen parallel efforts, for instance, on the development of a code of conduct on small-scale fisheries and of a UN convention on the rights of peasants,¹⁰ and on how to implement the UN Declaration on the Rights of Indigenous Peoples.

The FAO is conducting a participatory process leading up to the adoption of these Guidelines. Rural peoples' organizations and other civil society organizations are actively engaged in this process. It will allow them to continue the multi-constituency dialogue started in the Parallel Forum to the ICARRD and in the Nyéléni Forum for Food Sovereignty held in Mali, in 2008, on land, agrarian and aquatic reforms and territory and its relationship with nature to produce food and sustain their livelihoods, communities and societies in the context of food sovereignty. They regard this process as a great chance to further develop concrete proposals on the governance of land and natural resources, for instance, those discussed in Cochabamba during the World Peoples conference on Climate Change and the Rights of Mother Earth, and offer solutions to the current food and climate crisis.

This initiative can contribute to a more democratic global governance of food and agriculture based on the UN system, the subsidiarity principle and the institutionalized participation of social movements and other civil society organizations. In the last decades, agenda setting and decision making related to land and natural resources were heavily influenced by international financial institutions, with disastrous consequences. The FAO, as a multilateral exchange forum and specialized UN agency with a mandate to work on normative issues related to food and agriculture, and the current process of reform of the Committee on World Food Security (CFS) offer a more democratic arena to achieve a multilateral agreement on land and natural resources governance. These Guidelines are part of the ICARRD follow up which is considered by social movements, other civil society organizations and some governments as one of the most promising initiatives in the field of land and natural resources of the last years.

The ongoing debate on land grabbing

Currently there is an international debate about what should be the response to the new wave of land grabbing. Different institutions like the World Bank, the government of Japan, the International Food Policy Research Institute (IFPRI) have proposed the adoption of principles or codes of conduct which would make these deals a “win-win opportunity” for all parties involved, including local communities. The *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources* jointly promoted by the World Bank, the International Fund for Agricultural Development (IFAD), the United Nations Conference on Trade and Development (UNCTAD) and the FAO is the most advanced initiative in this respect.¹¹ These Principles, which are meant to be voluntary and self-regulated by the private sector, distract from the fact that what is needed is mandatory and strict state regulation of investors in several policy fields, such as financial markets and agriculture. This is necessary in order to overcome the multiple crises in the fields of food, agricultural sustainability and climate, which are generated by the very same vested interests. In the discussion and drafting of these principles only international organizations and some donor countries have been involved. It is not clear in which institutional setting these principles will be discussed and adopted and if this process will be an intergovernmental negotiation process with participation of all governments and civil society. Some peasant farmers and pastoralists organizations and other civil society organizations have expressed strong opposition to this process (see box).

10 The Fourth Session of the Advisory Committee of the UN Human Rights Council, which met in Geneva on 25-29 January 2010, adopted the report titled *Preliminary study on discrimination in the context of the right to food*. This report describes the marginalization of peasants, rural women and traditional fishing, hunting, and herding communities. It also explains the work of La Via Campesina in establishing the rights of peasants and fully adopts La Via Campesina's *Declaration of Rights of Peasants*, including it in the report's annexes. Last March 2010, the UN Human Rights Council requested the Advisory Committee to continue to work on the issue of discrimination in the context of the right to food and, in that regard, to undertake a preliminary study on ways and means to further advance the rights of people working in rural areas, including women, in particular smallholders engaged in the production of food and/or other agricultural products, including from directly working the land, traditional fishing, hunting and herding activities, and to report to the Council at its sixteenth session.

11 For more information on this process, please visit: www.responsibleagroinvestment.org/rai/.

Conclusions and Recommendations

In FIAN's opinion, the Principles for responsible investment in agriculture are not an adequate answer to current developments. They are rather a move to try to legitimize land grabbing. Facilitating the long-term corporate (foreign and domestic) takeover of rural people's farmlands is completely unacceptable no matter which guidelines are followed. Land grabbing takes away land from local communities, destroys livelihoods, reduces the political space for peasant oriented agricultural policies and distorts markets towards increasingly concentrated agribusiness interests and global trade, rather than sustainable peasant agriculture for local and national markets and for future generations. It will also accelerate ecosystem destruction and climate change. For all these reasons, land grabbing violates human rights. Therefore, FIAN strongly calls for governments to concentrate on the FAO Voluntary Guidelines at the upcoming session of the CFS and finalize them through an intergovernmental process of negotiations. This will lead to the adoption of an internationally accepted standard of governance on land and natural resource in order to combat poverty and hunger. The FAO Voluntary Guidelines can become an important instrument in the fight against land grabbing, but it is by no means the only necessary step to prevent land grabbing. Other initiatives, like mandatory and strict state regulation of investors in key policy fields for food security, must be developed.

02 Stop Land Grabbing Now!¹ Say NO to the principles of “responsible” agro-enterprise investment promoted by the World Bank

State and private investors, from Citadel Capital to Goldman Sachs, are leasing or buying up tens of millions of hectares of farmlands in Asia, Africa and Latin America for food and fuel production. This land grabbing is a serious threat to the food sovereignty of our peoples and the right to food of our rural communities. In response to this new wave of land grabbing, the World Bank (WB) is promoting a set of seven principles to guide such investments and make them successful. The Food and Agriculture Organisation (FAO), International Fund for Agricultural Development (IFAD) and United Nations Conference on Trade and Development (UNCTAD) have agreed to join the WB in collectively pushing these principles.² Their starting point is the fact that the current rush of private sector interest to buy up farmland is risky. After all, the WB has just finalized a study showing the magnitude of this trend and its central focus on transferring rights over agricultural land in developing countries to foreign investors. The WB seems convinced that all private capital flows to expand global agribusiness operations where they have not yet taken hold are good and must be allowed to proceed so that the corporate sector can extract more wealth from the countryside. Since these investment deals are hinged on massive privatization and transfer of land rights, the WB wants them to meet a few criteria to reduce the risks of social backlash: respect the rights of existing users of land, water and other resources (by paying them off); protect and improve livelihoods at the household and community level (provide jobs and social services); and do no harm to the environment. These are the core ideas behind the WB's seven principles for socially acceptable land grabbing.

These principles will not accomplish their ostensible objectives. They are rather a move to try to legitimize land grabbing. Facilitating the long-term corporate (foreign and domestic) takeover of rural people's farmlands is completely unacceptable no matter which guidelines are followed. The WB's principles, which would be entirely voluntary, aim to distract from the fact that today's global food crisis, marked by more than one billion people going

¹ This statement was launched by La Via Campesina, FIAN, Land Research Action Network (LRAN) and GRAIN in April 2010. More than 120 organizations endorsed it. Their names are listed at the end of the original text that can be consulted on the enclosed CD or at: www.fian.org/resources/documents/others/stop-land-grabbing-now/pdf.

² FAO, IFAD, UNCTAD and the World Bank Group, *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources*, A discussion note to contribute to an ongoing global dialogue, January 25, 2010, available at: www.donorplatform.org/component/option,com_docman/task,doc_view/gid,1280

hungry each day, will not be solved by large scale industrial agriculture, which virtually all of these land acquisitions aim to promote.

Land grabbing has already started to intensify in many countries over the past ten or fifteen years with the adoption of deregulation policies, trade and investment agreements, and market oriented governance reforms. The recent food and financial crises have provided the impetus for a surge in land grabbing by governments and financial investors trying to secure agricultural production capacity and future food supplies as well as assets that are sure to fetch high returns. Wealthy governments have sought to lease agricultural lands for long periods of time to feed their populations and industries back home. At the same time, corporations are seeking long term economic concessions for plantation agriculture to produce agrofuel, rubber, oils, etc. These trends are also visible in coastal areas, where land, marine resources and water bodies are being sold, leased, or developed for tourism to corporate investors and local elites, at the expense of artisanal fishers and coastal communities. One way or the other, agricultural lands and forests are being diverted away from smallhold producers, fishers and pastoralists to commercial purposes, and leading to displacement, hunger and poverty.

With the current farmland grab, corporate driven globalization has reached a new phase that will undermine peoples' self-determination, food sovereignty and survival as never before. The WB and many governments see land and rights to land, as a crucial asset base for corporations seeking high returns on capital since land is not only the basis for producing food and raw materials for the new energy economy, but also a way to capture water. Land is being revalued on purely economic terms by the WB, governments and corporations and in the process, the multi-functionality, and ecological, social and cultural values of land are being negated. It is thus more important than ever that these resources are defended from corporate and state predation and instead be made available to those who need them to feed themselves and others sustainably, and to survive as communities and societies.

Land grabbing – even where there are no related forced evictions - denies land for local communities, destroys livelihoods, reduces the political space for peasant oriented agricultural policies and distorts markets towards increasingly concentrated agribusiness interests and global trade rather than towards sustainable peasant/smallhold production for local and national markets. Land grabbing will accelerate eco-system destruction and the climate crisis because of the type of monoculture oriented, industrial agricultural production that many of these “acquired” lands will be used for. Promoting or permitting land grabbing violates the International Covenant on Economic, Social and Cultural Rights and undermines the UN Declaration on the Rights of Indigenous Peoples. Land grabbing ignores the principles adopted by the International Conference on Agrarian Reform and Rural Development (ICARRD) in 2006 and the recommendations made by the International Assessment of Agricultural Science and Technology for Development (IAASTD).

Land grabbing must be immediately stopped. The WB's principles attempt to create the illusion that land grabbing can proceed without disastrous consequences to peoples, communities, eco-systems and the climate. This illusion is false and misleading. Farmer's and indigenous peoples organizations, social movements and civil society groups largely agree that what we need instead is to:

1. Keep land in the hands of local communities and implement genuine agrarian reform in order to ensure equitable access to land and natural resources.
2. Heavily support agro-ecological peasant, smallhold farming, fishing and pastoralism, including participatory research and training programs so that small-scale food providers can produce ample, healthy and safe food for everybody.
3. Overhaul farm and trade policies to embrace food sovereignty and support local and regional markets that people can participate in and benefit from.
4. Promote community-oriented food and farming systems hinged on local people's control over land, water and biodiversity. Enforce strict mandatory regulations that curb the access of corporations and other powerful actors (state and private) to agricultural, coastal and grazing lands, forests, and wetlands.

No principles in the world can justify land grabbing!

RESPONSIBLY DESTROYING THE WORLD'S PEASANTRY: LAND GRABBING'S GRIM REALITY¹

OLIVIER DE SCHUTTER²

I am worried. A consensus is emerging among the international institutions about the need to guide investment in agriculture in order to ensure that it shall proceed responsibly, but at the same time, many civil society groups and farmers' organisations,³ including the most representative among them, denounce "land-grabbing." Indeed, they denounce the very idea of adopting a code of conduct. They see this as legitimising what, in their view, should not be allowed: depriving the poorest from their access to land, and increasing concentration of resources in the hands of a minority.

They see that all too often, notions such as "reserve agricultural land" or "idle land" are manipulated out of existence – as the *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources* rightly notes, "that there are few areas truly 'unoccupied' or 'unclaimed,' and that, frequently, land classified as such is, in fact, subject to long-standing rights of use, access and management based on custom." They see that the requirement that evictions take place only for a valid "public purpose," with fair compensation, and following consultation of those affected is honoured more in the breach than in the observance. They live on the frontline: in countries in Africa where land is considered to be State-owned, and treated by governments as if it were their own; in Latin America, where agrarian concentration is on the rise; or in South Asia, where many populations are being driven off their land to make room for large palm oil plantations, for special economic zones, or for reforestation projects.

If it is to be responsible, agricultural investment must take these concerns seriously, and it must address them. It must be an investment that benefits the poor in the South, rather than leading to a transfer of resources to the rich in the North. It must be an investment that truly reduces hunger and malnutrition rather than aggravating them. It is my belief that we have been moving both too slowly and too fast: too slowly, because a phenomenon – the increase of commercial pressures and speculation over land – has been developing on a very broad scale without the international community acting in a truly coordinated way to guide this development; and yet too fast, because we have focused on how to promote responsible investment when investment can only be seen in a much wider context and as one small part of a much broader strategy.

Whether investment in agriculture can be channelled towards poverty-alleviating aims depends not just on how it proceeds at the project level, but also on how it fits into a broader development strategy. I offer seven theses about this relationship between the micro and the macro, between the project level and the broader aim of human development. The suspicion of civil society actors and farmers' organisations stems, to a large extent, from the inability of many actors involved in this discussion to articulate this relationship.

Thesis # 1. The public policies that aim at guiding investment should be primarily focused not on the need to boost production, but on the urgent need to contribute to rural development and to the increase of incomes in rural areas

Over the past twenty years, food production has increased by an annual two percent while population growth has increased by an annual average of 1.2 percent, and is now situated around 1.09 percent. Hunger and malnutrition

¹ An extensive report of the Rapporteur on this matter is available on the enclosed CD. Please see: De Schutter, O., *Agribusiness and the Right to Food*, Report to the Human Rights Council, Geneva, 22 December 2009, available at: www.srfood.org/images/stories/pdf/officialreports/20100305_a-hrc-13-33_agribusiness_en.pdf.

² Olivier De Schutter was appointed the UN Special Rapporteur on the Right to Food in March 2008 by the United Nations Human Rights Council. He is independent from any government or organization, and he reports to the Human Rights Council and to the UN General Assembly. For more on the work of the Special Rapporteur on the Right to Food, visit: www.srfood.org or www2.ohchr.org/english/issues/food/index.htm.

³ Use of British English reflects author's original spelling.

are not primarily the result of too little food being produced; they are the result of poverty and inequality, particularly in the rural areas, where 75 percent of the world's poor still reside.

That is not to deny that needs must be met: global population increases by some 75 million individuals each year; diets evolve, demanding greater amounts of animal protein. But these facts matter only to the extent that, combined with the unsustainable levels of consumption in rich countries –the demand for meat and the thirst for agroenergy, in particular–, they lead to increased pressures on natural resources, encouraging in turn speculation over land and large-scale dispossessions of the poorest and the most vulnerable, particularly smallholders and indigenous communities that lack adequate protection and political support. It is not by producing more that we will effectively combat hunger: it is by protecting those who are hungry today, hungry because they are disempowered and marginalised.

This indeed, is one often overlooked lesson from the Green Revolution of the 1960s through the 1980s in Latin America and South Asia. Even though the overall production was boosted, studies showed that the switch to more capitalised forms of agriculture, which many small farmers could not benefit from and which bypassed many woman-headed households, increased inequality and the number of hungry people instead of reducing them.

Thesis #2. Agricultural investment must fit into a broader poverty reduction strategy, including a strategy for the realisation of the right to food

There is a risk that, instead of being an instrument for development and poverty alleviation in rural areas, agricultural investment will become an end in itself –and that the end goal of human development and the realisation of the right to food will be sacrificed for the sake of the short-term objective of attracting investors.

This should not be allowed to happen. States should be encouraged, instead, to prepare national strategies for the realisation of the right to food that include a mapping of food insecurity and vulnerability; an identification of the obstacles the poor face in the realisation of the right to food; the definition of the measures that should be taken to remove these obstacles, by whom, when, and with which budgetary resources; and that provide for a monitoring of progress in the implementation of the strategy. The policies related to foreign investment should fit into such a strategy in order to ensure that investment will be channelled to the most poverty-reducing uses. One of the benefits of the adoption of such strategies is that they are, in principle, adopted with the active participation of the communities affected, including farmers' organisations: this not only ensures that the choices will be made in accordance with the needs of those directly affected, but it also increases the accountability of the government to those involved in such mechanisms.

Thesis #3. A human rights framework is vital to the sustainability of agricultural investment

The Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources do not even refer to human rights. As a result, the dimension of government and private actor accountability and of control by independent bodies is lost. However, this dimension is crucial: if hunger and malnutrition are the result of social injustice and inequality, rather than simply a failure to produce enough food, protecting the legal entitlements of the poor is essential.

The human right to adequate food, in particular, has a central role to play in this discussion. When the International Covenant on Economic, Social and Cultural Rights was drafted in 1966, governments accepted a duty to further the realisation of the right to food, inter alia, “by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources” (Art. 11, § 2, a). Also the Guidelines 8.1 and 8.2 described in detail States' obligations regarding the access and utilisation of resources, including land.⁴ These are not just words. They are commitments by the international community. They are based

⁴ In 2004, the 127 Member States of the FAO adopted the Voluntary Guidelines aimed at promoting progressive realisation of the right to adequate food in a context of food security, a set of concrete recommendations that all governments have accepted.

on a diagnosis of hunger as stemming from the violation of human rights, and not simply from a lack of technology and capital. I fear that, in certain respects, we may have been moving backwards since then.

Thesis #4. The arrival of investment in agriculture may exacerbate the competition between two types of farming – a competition that is deeply unequal

Currently, the competition between small and large producers is intensifying, and it is biased. The large and mechanised farms are highly competitive, in the sense that they can produce for markets at a lower cost. Smallholders, in contrast, unless they are effectively supported by the supply chains which they join, produce at a higher cost. They are often very productive by hectare, since they maximise the use of the soil, and since they seek to achieve the best complementary use of plants and animals. But, they practice a form of agriculture that is both labour-intensive and makes little use of external inputs. If they compete on the same markets as the large farms, they lose. Yet, the services they render are invaluable in terms of preservation of agro-biodiversity, resilience of local communities to price shocks or weather-related events, and environmental conservation. In contrast, while large plantations produce at highly competitive prices, they also produce a number of social costs that are not accounted for in the price of the produce they sell on the markets.

The arrival of investment in agriculture exacerbates this competition. If governments remain passive, small-scale agriculture will be driven out, and with it the important positive externalities it delivers to communities. Certain governments have experimented with policies that can support small-scale, or “family” farming, and allow it to coexist, more or less peacefully, with other types of farming, including large-scale commercial farms. Among these policies are preferential access to support schemes, including below-market-rate access to credit, the use of public procurement schemes to support small-scale farming, for instance for school-feeding programme, the development of farmer field schools and extension services, storage facilities, or incentives for the creation of cooperatives. Whether such tools are sufficient to equalise the competition between smallholders and large producers remains to be seen; but, I have no doubt that such policies urgently need to be implemented or scaled up to protect small farmers from the trends we are witnessing.

Indeed, there is a strong risk that the wave of land investments, seen as an opportunity, will lead public authorities in one direction, devoting most attention and resources to it, with comparatively fewer resources and attention directed at policies promoting smallholder farming. Resources are scarce; they need to be more focused on the priorities of hunger and poverty alleviation. We should keep in mind the conclusions reached in 2008 by the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD), which noted that, “Technologies such as high-yielding crop varieties, agrochemicals and mechanisation have primarily benefited the better resourced groups in society and transnational corporations, rather than the most vulnerable ones. To ensure that technology supports development and sustainability goals, strong policy and institutional arrangements are needed [...]”⁵ The IAASTD calls for a fundamental paradigm shift in agricultural development. Its conclusions underline the pitfalls of productivity centred approaches and suggests, instead, more integrated approaches, including agro-ecological farming approaches.⁶

Thesis #5. In order to protect the rights of land users, “tilling” schemes are both insufficient and potentially damaging

It has been fashionable in recent years to present the clarification of rights over land, in the form of property rights recognised through 'titles', as a core ingredient of market-based development. However, while the legal protection of land users has clearly been insufficient, explaining many of the abuses both past and present, land policies should prioritise the protection and realisation of the right to food above the creation of a market for land rights.

⁵ IAASTD, *Global Summary for Decision Makers*, 2008, p. 23.

⁶ The conclusions presented in the IAASTD are the result of a three years process initiated by the FAO and the World Bank which included 400 experts from all regions of the globe.

The legal protection of access to productive resources, particularly land and water, is vital for the rural poor. In numerous cases, smallholders or indigenous communities have been driven off the land they depended on for their livelihoods, whether as a result of the arrival of investors using land for large-scale plantations, particularly related to agrofuel production, or as a result of the building of dams, tourist resorts, or other large-scale infrastructure or industrial projects. In this context however, enhancing security of land tenure, while necessary, is not sufficient. Where improving security of tenure takes the form of individual titling, it results in the transposition of Western-style property rights over land, which may negate the function that land fulfils in many rural communities across the global South, not to mention the special relationship of indigenous peoples to land. In time, it can lead to a counter-agrarian reform (i.e., re-concentration of land ownership) unless measures are taken to support the viability of smallholder agriculture, and unless communal rights over land are recognised and institutionalised.

Indeed, it would be naïve to think that the sequence from security of tenure to improved production and to increased incomes for the land users is an automatic one. Rather, if not carefully managed, security of land tenure through titling schemes can mean that land will be increasingly subject to speculation and to commercial pressures, and that in time, the poorest and cash-strapped farmers will lose the land on which they depend. Even when compensation is offered to them for the land they cede, they may not be able to find alternative means of securing a decent livelihood, and food insecurity can increase as a result.

In addition, there is clearly a tension between ceding land to investors for the creation of large plantations, and the objective of redistributing land and ensuring more equitable access to land as governments have committed to do, for instance, when they adopted the *Final Declaration at the International Conference on Agrarian Reform and Rural Development* (Porto Alegre, 7-10 March 2006). This tension can only be overcome if we put our efforts not only into monitoring and guiding investments in land, but also into exploring other business models linking investors to producers which can ensure stability of supply for the buyers while at the same time improving access to markets and better revenues for the farmers. In general, other schemes, referred to as outgrower schemes or contract farming, may have fewer long-term implications and present fewer risks than the transfer of land-users' rights necessarily entails. If contractual arrangements do not result in a disproportionate portion of the value going to the buyer and in all the risks linked to production being shifted to the producer, they may be the preferable solution, better suited to the needs of all parties.

Thesis #6. Sequencing is crucial: appropriate conditions must be created in the receiving country before investment flows in

Public policies, such as support for small-scale farming or the improvement of security of tenure through the recognition of land users' rights, will be more difficult to launch once the agricultural sector has been transformed by the emergence of a highly capitalised sector, competitive on both the domestic and the global markets. Indeed, once such developments have taken place, it will often be too late to protect those whose livelihoods may be impacted as a result. By then, the veto points will be many, and they will be difficult to overcome. For this reason, it is important to improve governance structures and the policy environment prior to the arrival of large amounts of investment in agriculture: in all likelihood, later will be too late.

Thesis #7. Both receiving States and States where investments originate have a responsibility to ensure that investments in agriculture proceed responsibly

Much emphasis has been placed on the responsibility of the receiving State to channel investments wisely, to protect the rights of the local communities affected by the investment, and to make transparent use of the revenues earned by the State from the investment. But international investment is typically an area where both Foreign Direct investment (FDI)-exporting and FDI-receiving States have a responsibility. This is true, of course, as far as public investment is concerned, including when it takes the form of sovereign wealth funds being part of larger investment projects. But, it is also true of private investment flows. In particular, private investment funds which played an important role in the increased speculation over land during the past few months should be appropriately monitored by their State of origin. States have a duty under international law to protect the human

rights that may be affected by the activities of private actors which they are able to influence. I am actively cooperating with the OECD on the revision of the Guidelines for multinational enterprises. It is my hope that clearer guidance will be given to the private sector regarding the issue of agricultural investment specifically in the next version of these guidelines.

* *

These are the challenges we are facing. The challenge is not just to ensure that agricultural investment will develop “responsibly.” It is also to create a policy environment that will ensure that these investments will not produce the disruptive effects that, all too often, they have led to in the past. We cannot afford more dispossessed, greater inequalities in rural areas, and more smallholders driven off their land because farming is no longer viable for them. We cannot allow pastoralists to lose access to their grazing areas and more fishermen to be cut off from their fishing grounds. We cannot tolerate more indigenous peoples being victims of the destruction of the forests they depend on, or being fenced off from these forests as a result of carbon sequestration projects. There is no time to lose.



NATIONAL AND REGIONAL REPORTS: MONITORING THE HUMAN RIGHT TO FOOD AND NUTRITION

EUROPEAN INVOLVEMENT IN LAND GRABBING¹

Introduction

The UN Food and Agriculture Organization (FAO) estimates that in the last three years foreign interests have acquired twenty million hectares in Africa.² Land leases, rather than purchases, predominate, with durations ranging from a short term to 99 years. Host governments tend to play a key role in allocating land leases, not least because they formally own all or much of the land in many African countries. Even though it is reported that the major current international investors in this field are the Gulf States, China and South Korea, the European Union (EU) is also involved in land acquisition in Africa, and EU member States are responsible for implementing policies that have increased demand for land acquisition. Given the fact that six European countries (in descending order Italy, Norway, Germany, Denmark, the United Kingdom, and France) are among the largest investors in terms of outwards foreign direct investment (FDI) stock in agriculture, their role cannot be ignored and deserves closer examination.

Facts and Findings

European Direct or Indirect Involvement in Land Grabbing

A number of different factors have increased demand for land, including the demand for agrofuel and the food and financial crises. European involvement in land grabbing is first due to the policies of both the EU and individual member States which are directly and indirectly stimulating these factors, and hence this increased demand for land. Moreover, in some cases, there is direct state involvement in the corporations acquiring foreign land.

EU energy policies are fuelling amongst EU countries and elsewhere the demand for overseas agrofuel investment. Government consumption targets for this type of fuel are creating an unprecedented and artificial demand for cash crops used in this process. This demand is likely to persist beyond the usual length of a “commodity boom” cycle. The European development cooperation is actively supporting the introduction of agrofuel policies in African countries. European banks are also involved in promoting agrofuel production in Africa. European governments in some cases directly own enterprises that are investing in land for agrofuel this kind of production.

The food price crisis of 2007-2008 led to a proliferation of farmland acquisition in developing countries by other countries attempting to boost the security of their food supply. The food crisis, combined with the financial crisis, is considered to be the second main driver of this global demand for land in developing countries. To guarantee the food security of their own populations, a number of food-importing nations have started to purchase or lease land in developing countries, sometimes through sovereign wealth funds, to actually outsource their own food production. Most reports have highlighted the “treasure hunt” that countries such as Saudi Arabia, Japan, China, India, Korea, Libya and Egypt amongst others are conducting for fertile farmland. However, EU countries and European private corporations are also involved.

Following the recent financial crisis, actors within the finance sector are turning towards land as a source of

¹ This article is a summary of the following report: Graham, A., Aubry, S., Künnemann, R., and Monsalve Suárez, S. - FIAN, *Land Grab Study*, CSO Monitoring 2009-2010 “Advancing African Agriculture” (AAA): The Impact of Europe’s Policies and Practices on African Agriculture and Food Security, 2010. This report is available on the enclosed CD.

² Many involving more than 10,000 hectares and several more than 500,000 hectares.

solid financial returns. Traditionally, land acquisition has not been a typical investment for investment funds due to political instability and the lack of short-term returns. However, the food crisis and the demand for agrofuel have turned land into a new strategic asset. Indirectly, by increasing demand for agrofuel production, recent EU directives have increased the demand for land by private financial institutions. Throughout 2008, many investment firms, private equity funds, hedge funds and others had been buying up farmland throughout the world. European private finance actors are also investing in land in Africa.

Policy Fields Influencing Land Grabbing

In order to properly assess what policies are intentionally or unintentionally fostering land grabbing, it is necessary to look at other policy fields, such as land policies, investment protection regimes, and trade policies. The EU has been actively promoting the reform of some of these policies. The extent to which these reforms have promoted land grabbing needs further research.

Some governments and intergovernmental organizations have been pushing poorer countries to reduce perceived risks and create favorable conditions for private investors to step in. Land policy reforms are a case in point. EU member states have been promoting different land policies in the Official Development Aid (ODA), with varying emphasis on market led land reform. Following the lead of international financial institutions, market-led land reform was most prominent in the 1980s and early 1990s, but it continues even nowadays to shape development policies.

To further encourage FDI and protect investors, an array of investment and trade agreements has been developed between home and host countries. The agreements aim at protecting foreign investors (both corporations and individuals) from arbitrary treatments by the host government, such as expropriation or nationalization of investments. They strengthen the legal value of individual contracts by making their violation a breach of international law, and give investors direct access to international arbitration in case of disputes with the host government. The past two decades have witnessed a boom in the number of Bilateral Investment Treaties (BIT). In 2008 only, African countries signed twelve new BITs, eight of them were concluded with European countries. BITs usually include provisions that strengthen the legal power of the investors. However, they subsequently weaken the policy space of national States and the power of local communities. The Economic Partnership Agreements (EPAs), heavily promoted by the EU, provide further incentives for land grabbing by reducing States' options to protect their resources and markets for domestic use.

Towards a Common Policy

Although the EU has not reached a common position on the issue, EU officials and member States are increasingly recognizing that foreign land investment is not necessarily a “win-win” situation. In January 2009, the EU re-activated the EU Working Group on Land Issues. The core Working Group is currently composed of representatives from the Directorate General for Development and Relations with African, Caribbean and Pacific States of the European Commission (DG DEV) and member States (Denmark, France, GTZ/Germany, Great Britain, Netherlands and Sweden). Meetings are open to non-EU European countries (for example Switzerland, Norway), development agencies, international organizations and financial institutions that are active in land-related interventions in developing countries. The reinstated EU Working Group will share relevant information and

experiences, observe, monitor and analyze local, regional, continental and global initiatives on land issues; coordinate current efforts of the European Commission and member States; and develop common EU positions and recommendations on land policy and reform initiatives in developing countries. So far, the Working Group has been discussing land grabbing mainly with the intention of developing a common position. Moreover, the EU is currently planning to support the implementation of the African Union Land Policy Guidelines.

Land Grabbing Impacts on the Right to Food

African farmers' organizations, like the West African Network of Peasants and Agricultural Producers (ROPPA for its French abbreviation), and other African civil society actors have already expressed strong opposition to the massive sell out of African lands. The Eastern African Farmers Federation (EAFF) has cautioned that leasing farmland to multinationals could precipitate a food crisis in the region.

Land grabbing directly interferes with the right to feed oneself. Land grabbing forecloses landless or land-scarce communities to access land of which they can make alternative and better use. Future national policy decisions to make this land available for local food production by and for local communities and nearby urban areas will have to face the well-known difficulties associated with expropriating large scale lands for the benefit of landless communities – even when these lands are not in use. Moreover BIT or trade regulations can make it difficult for a national government to implement its obligations under the right to food, to facilitate people's access to resources and put a stop to foreign land grabbing. Many African countries have a large population of unemployed rural and urban youth and a high rate of population growth. Land resources are necessary to offer opportunities for labor intensive food production. For this matter, even when foreign companies acquire land that is not currently, fully utilized, the human right to food is affected. In fact, people may be deprived of their future means of subsistence in an open violation of the first article of both Human Rights' Covenants.

Since foreign land acquisition is profit oriented and largely for exports, it will foster an industrial agricultural mode of production in the host countries. There is abundant literature indicating that this mode of production is ecologically destructive and non-sustainable. It implies massive loss of topsoils, destroys biodiversity and releases large amounts of CO₂. It displaces local producers, who often have the knowledge to produce sustainably, and would be in a position to do so with even higher yields if they were provided with an enabling agricultural policy environment and with proper learning and communication networks.

Increased agricultural production does not mean that local communities will have better access to food – even if more food is produced. In fact, the expansion of cash crop monocultures has a severe impact on local availability of food as it diverts food producing resources and labor to cash crop production. As a result, communities are forced to depend on the market and on commercialization networks from outside the region for their basic provisions, putting them at the mercy of volatile food prices. The lack of local food availability and the high level of dependence on food from elsewhere also reduce the quality and variety of the diet of communities and alter their food customs. This constitutes yet another

threat to their enjoyment of the right to food, as this right implies that food must be adequate and culturally appropriate.

The UN Special Rapporteur on the Right to Food, Mr. Olivier De Schutter, has stated that foreign land investment is only permissible under certain conditions and has formulated a number of criteria which have to be met in this context. The needed regulations to meet these criteria are quite complex, since land grabbing interacts with a series of other policies fields like international investment protections, international capital flows, agriculture, trade and ODA. Proper national and international regulations would, thus, take considerable time to elaborate. Even when these regulations will be in place, it is not guaranteed that all host governments will be able to enforce them. In light of these caveats and given the plausible concerns identified, it is more appropriate to apply the precautionary principle and prevent large-scale land acquisitions in order to safeguard the human rights of the rural populations.

Both the African States and the EU member States are duty-bound to respect the human right to food in Africa. Therefore, the EU must never facilitate any reduction in the use of African countries' lands used for food production by and for local malnourished populations. Under the International Covenant on Economic, Social and Cultural Rights (ICESCR), all state parties, “individually and through international cooperation,” must respect, protect and fulfill the right to food to the maximum of their available resources. Respecting the right to food also means that EU member States must not encourage (and facilitate) the lease of lands by foreign companies in already food insecure countries to produce food or other agricultural products intended for foreign markets at the expense of the local food production. According to the FAO, 43 of the 53 African countries do not produce enough food for their own population.

The obligation to protect and fulfill the human right to food and related economic, social and cultural rights in Africa falls especially, but not exclusively, on African States. EU countries have complementary extraterritorial obligations towards hungry and malnourished populations in Africa and elsewhere. EU member states are duty-bound to protect the right to food in these countries through active measures (including regulation, monitoring and due diligence in their sphere of influence) to prevent land grabbing.

Conclusions and Recommendations

In light of the available evidence on the current land grabbing trend, and according to the precautionary principle and their due diligence obligation under international human rights law, the EU and its member countries are called upon to:

1. Prevent large-scale land acquisitions. Initiate as soon as possible, elaborate the needed international regulations to prevent such land acquisitions. This includes a legally binding agreement related to the proper regulation of financial actors active in agricultural investment. At an international level, discussions on how to develop such an initiative could be conducted through the FAO Committee on World Food Security and with the participation of peasant farmers' organizations.

2. Ensure that in the current process of adopting a new EU investment framework, clauses making clear reference to international human rights law and its supremacy are included. Consequently, no part of these agreements could ever be understood as reducing the obligation of States or the EU to address possible human rights abuses committed by investors or States. Moreover, the regulatory space of sovereign States to implement anti-discrimination measures and affirmative action policies in favor of discriminated sectors of society should be safeguarded.
3. Discard the energy based target for renewable energy (agrofuel), and freeze all policies which encourage the use of agrofuel in the transport sector until the regulations mentioned in (1) and (2) are in place. Otherwise these policies are major incentives for land grabbing. Develop policies that limit the use of energy, and promote non agrofuel renewable energy sources for the transport sector.
4. Strengthen the implementation of human rights based land policies in ODA, particularly by supporting the implementation of the African Union Land Policy Guidelines. Involve African farmers and pastoralist organizations in the design of these policies. EU support for the African Union Guidelines should under no circumstance be used to promote large-scale investment in farmland.
5. Support the upcoming process of the FAO *Voluntary Guidelines on responsible governance of land and natural resources tenure*, which are meant to guide the implementation of the principles contained in the final declaration of the International Conference on Agrarian Reform and Rural Development (ICARRD) and in provisions of international human rights law which protect the right of all rural communities to land and natural resources.

03 How Foreign Direct Investment Will Restructure the Agricultural Sector in Ethiopia¹

Ethiopia is a very poor country with grave problems of hunger and food aid dependency. Agriculture is a key sector of the country's economy, as it represents half of the gross domestic production.

The country's large regions of fertile land have attracted the attention of foreign investors; consequently, over the last ten years Ethiopia has developed a very investor friendly environment through radical changes in its national policy framework. Investments in the agricultural sector, where regulations have been significantly reduced, have increased from USD 135 million in 2000 to USD 3.5 billion in 2008. The European Union (EU) was the second largest investor in Ethiopia from 2000 to 2008, averaging 21 percent of total foreign investment.² European Union countries invest mainly in meat, agrofuel production, and horticulture. Additionally, Ethiopia has signed bilateral investment treaties with Italy, Denmark, the Netherlands, and others. In exchange for investments, the government of Ethiopia requires no minimum capital and has exempted foreign agricultural projects from paying customs duties and taxes on imports of capital goods. There are also no employment limits on foreign staff or on the repatriation of profits. The Ethiopian government also offers investors protection by having signed the Convention of the International Centre for Settlement of Investment Disputes (ICSID) and by being a member of the Multilateral Investment Guarantee Agency (MIGA) and of the World Intellectual Property Organization

¹ This article is a summary of a chapter of the following report available in the enclosed CD: Graham, A., Aubry, S., Künnemann, R. and Monsalve Suárez, S. - FIAN, *Land Grab Study, CSO Monitoring 2009-2010 "Advancing African Agriculture" (AAA): The Impact of Europe's Policies and Practices on African Agriculture and Food Security*, 2010, pp.42-47. This chapter is mostly based on Weissleder, L., *Foreign Direct Investment in the Agricultural Sector in Ethiopia*, EcoFair Trade Dialogue: Discussion paper No 12 by, University of Bonn, Heinrich Boll Stiftung, Misereor, Germany, October 2009, available at: www.ecofair-trade.org/pics/en/FDIs_Ethiopia_15_10_09_c.pdf.

² Only investing EU countries are considered as part of the EU aggregate: Austria, Belgium, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Finland, Ireland, Italy, Netherlands, Sweden, and UK.



»» (WIPO). However, the latter only cover investors' rights. They do not provide opportunities for those negatively affected by these investments to appeal for adequate compensation.

According to various sources,³ up to 528,000 hectares of land have been bought or leased by foreign investors in Ethiopia since 1996. Furthermore, over the same period of time, more than 9,200 investors, 1,300 from abroad, received licenses for commercial farms in Ethiopia. Recently, the government announced that between 2.7 million⁴ and 3 million hectares⁵ will be made available to foreign investors in the coming years. The majority of investments originate in India, but others also originate from Chinese, European and Middle Eastern firms operating in Ethiopia. India has invested nearly USD 4 billion in the country, including in agriculture, flower growing and sugar estates.⁶

This would mean that the equivalent of up to twenty percent of arable land and permanent crops of Ethiopia will be exploited by foreign entities. Although estimating the impact of foreign land acquisition is difficult because of varying figures and definitions, it is certain that massive foreign investment is substantially modifying land ownership structures and the related social structures and cultural practices. Authorities do not seem to take into account the rights of the land users. For example, the ministry of agriculture declared that when land used for pasture would be given to foreign investors, the pastoralists who used this land would not be compensated, and that “they should go somewhere else.”⁷

There is little information about which kind of land is given to investors, whether it is vacant land or whether it is in use by peasant farmers or pastoralists. The reality is probably a bit of both. Whichever it may be and assuming that foreign investments are all made for large scale plantations, the proportion of large scale exploitations (>10 hectares) in Ethiopia could increase from 1.4 percent (census 2001-2002) to somewhere between 17 and 20 percent in the next few years if the government's plan is fully implemented.

As it has been seen, the move towards large-scale agriculture is hardly synonymous with better access to food for local populations. This is all the more true since foreign companies usually invest in short-term profits by selling to countries that will pay the most, or in long-term market development by exporting to high income countries that are having growing food demands.

Under these circumstances, it is worth wondering how Ethiopia will meet its obligation to progressively achieve the full realization of its people's right to food.

3 See the tables at the end of the 2009-2010 CSO Monitoring report on AAA.

4 See the interview of Abera Deressa, Ministry of agriculture in Zaugg, J., “Ethiopie: L'heure de la moisson a sonné” in *L'Hebdo*, 3 September 2009, p.50, available in French at: www.landcoalition.org/cpl-blog/wp-content/uploads/lhhp2009_36_0046_0050_faim_ethiopie_gop.pdf

5 See the interview of Esayas Kebede, Director of the government's Agricultural Investment Agency, in Malone, B., “Ethiopia targets 3 million ha for commercial farms” in *Reuters Africa*, 5 November 2009, available at:

af.reuters.com/article/topNews/idAFJ0E5A40OB20091105?pageNumber=1&virtualBrandChannel=0&sp=true.

6 *Ibid.*

7 See the interview of Abera Deressa, Ministry of agriculture in Zaugg, J., “Ethiopie: L'heure de la moisson a sonné” in *L'Hebdo*, 3 September 2009, p.50, available in French at: www.landcoalition.org/cpl-blog/wp-content/uploads/lhhp2009_36_0046_0050_faim_ethiopie_gop.pdf

04 Libyan Land Grabbing in Mali¹ La Via Campesina Africa²

The expropriation of small land owners in Mali by large domestic and foreign companies is an increasingly common and revolting phenomenon. Without the public's knowledge, the Malian government recently granted a Libyan company, Malibya, 100,000 hectares of arable land in Macina, in the Ségou region, for fifty years. According to project directors, the endeavor, which began in October 2008, will allow partner countries to produce food self-sufficiently as well as develop their agriculture and ranching industries. In fact, most of the land will be used to grow a hybrid rice variety for export to Libya. The agreement gives foreign investors control over agricultural lands that are already in use. Moreover, the entire project is unfolding behind closed doors without the participation of affected communities, who are unaware of what is being decided. Many observers fear that the expropriation will be permanent if the Libyan company is granted the title to the land.

Following a request by local farmers' associations, the National Coordination of Farmers' Organizations in Mali (CNOP for its French abbreviation) sent a fact-finding mission from July 7 to 10, 2009, to investigate the extent of the development of the project and its affect on the local population.

Without any preliminary study of the potential social and environmental impacts, a forty-kilometer irrigation canal with an access road alongside was built to irrigate the rice paddies even though disputes with local inhabitants had taken place from the start of the project. A survey, in June 2009, led by regional administrators and representatives of Malibya identified 150 families whose houses and vegetable gardens would be affected by construction. A month later, the same commission, under pressure from Malibya, adjusted its findings. They no longer took into account the vegetable gardens, so they concluded that only 58 families deserved compensation. These 58 families whose property was destroyed in April 2010 received a lump sum compensation payment. The possibility of finding work on the Libyan plantation is far from guaranteed, and it is certainly not fair compensation. It was also discovered that several cemeteries would be razed during construction. This information sparked numerous conflicts between inhabitants, local authorities, and the Chinese company hired by Malibya to undertake the construction.

In 2009, French and Malian firms jointly conducted a study of the social and environmental impacts. The study published a series of recommendations to help ensure the preservation of local living spaces, fauna, and environments. It clearly showed that project directors did not follow any measures to safeguard the area. For example, the results of the study suggested that to prevent pollution and disturbances the worker's living compound should be built away from villages and at least 200 meters from any body of water; however, the compound was built in the village of Bokiwèrè over a path used by migratory animals. The study also noted that quarrying or mining operations must obtain permits from the Ministry of energy, mines and water as well as from village authorities. The company is currently operating several quarries without any authorization or taxation by local communities.

In addition, local producers have suffered reduced access to water from the Niger River, the main source of irrigation water in the region, after Malibya negotiated an agreement with the government that grants them



¹ All the facts described in this box are drawn from the following article: Coulibaly, L., Monjane, B., *La Libye s'accapare de 100'000 hectares dans la zone Office du Niger (Libya Takes over 100,000 Hectares in the Office du Niger Region)*, Bamako, 17 August 2009. This article in its full length is available in French on the enclosed CD and at: www.cnop-mali.org/spip.php?article91.

² Lamine Coulibaly is a spokesperson for the National Coordination of Farmers' Organizations in Mali (CNOP) and Boaventura Monjane is an active member of La Via Campesina.

»» priority access to water during the dry season, when water levels are low.

The CNOP is worried about the effect this hybrid rice variety will have on local markets. Not only does it not reflect traditional agricultural and nutritional preferences, but it is not particularly tasty. Even more troubling, this variety cannot be replanted the following year. Thus, producers who may be tempted to grow this variety for its high yields will be forced to buy new seed every year. This violates their most basic rights and will significantly reduce their autonomy. Farmers' organizations also fear the disappearance of the multitude of local rice varieties. Since Mali voted in November 2008 to authorize the introduction of genetically modified organisms (GMO) in all sectors, including agriculture, they are also afraid that this project will introduce genetically modified rice into the region.

The village has set up a commission to inform village authorities of problems caused by the project and to make local inhabitants aware of decisions that have been made. At the moment, many people are unaware of the commission's existence, and its legitimacy must be bolstered.

At a national level, a commission to protect the rights of rural populations affected by the project has been formed with the support of state institutions and NGOs. Its first action will be to confront the ministers of agriculture and of the environment during a session of the National Assembly in order to clarify project details and guarantee the rights of all the parties involved.

In July 2010, the CNOP, in conjunction with national and international media outlets, is planning a march from Macina to Bamako to focus the government's attention on the issue of land grabbing and on the possibility of the introduction of GMOs in Mali.

05 Hunger and Land Grabbing in Sierra Leone¹ Mankind's Activities for Development Accreditation Movement (MADAM)²

Sierra Leone is one of the poorest countries in the world. Hunger is rampant in every corner of the country. However it is here, of all places, that Addax Bioenergy, headed by Swiss oil magnate and financier Jean-Claude Gandur, has sublet land from communities in the northern part of the country. In December 2009, the government of Sierra Leone signed a memorandum of understanding with Addax regarding the leasing of over 20,000 hectares of land to grow sugar cane and cassava plants – the most important basic food in Sierra Leone, second only to rice – to produce ethanol destined for export to Europe. Members of Sierra Leone's Council of Churches along with a human rights activist visited affected communities to find out if the northern area benefits from such investments. They were accompanied by MADAM, a local non-governmental organization.

¹ All the facts described in this box are drawn from the following mission report: Mankind's Activities for Development Accreditation Movement (MADAM), *Land-acquisition Shows Many Faces*, Advocacy Campaign against Landgrabbing in Sierra Leone, Freetown, 2010. The mission report is available on the enclosed CD and at: www.madam-sl.org/?Projects:Right_to_Food.

² MADAM is a national NGO working with the most vulnerable, disadvantaged and marginalized people in Sierra Leone. The organization is a member of the African Network on the Right to Food (ANoRF). They carry out advocacy campaigns against land grabbing in Sierra Leone.

The delegation visited Lungi, the village which has sublet its land to Addax for the next fifty years. They found a community that feels betrayed. The villagers reported that they had not agreed to lease the swamplands, which are the best land for growing cassava and rice. However, this land is now part of Addax's lease agreement with the chiefdom council, which was signed on February 2010, but was never submitted to the community for review.³ Other members of the community complained about the destruction of their fields and forced Addax to pay for the loss of their food crops. However, the compensation was three times below what the villagers would have earned by selling their crops. In addition, these farmers now have to walk four kilometers to reach their allocated farmland. The community has protested this situation without any success.

Though it sold the deal with promises of development, including secure jobs, advanced payment, and help improving the local agriculture, Addax has not live up to its commitments. Young people are hit particularly hard. They had hoped for jobs, but only very few were hired to work on the plantation, mostly as temporary workers. A young man reported that he worked for fifteen days but was paid for only three days of work. In addition, women reported that the Rokel River – which runs very near Lungi – can no longer be used for drinking water, because it is too muddy. To irrigate their plants, Addax uses pumps that have scared the fish away. The company also applies herbicides and fertilizer on the land. The farmers, used to rotating crops and natural fertilizers, fear that they will no longer be able to grow anything on their land after Addax's departure, because the land will be totally exhausted.

In the chiefdom of Malal Marah, in the Tonkolili district, in exchange for land, Addax has promised to build a hospital and a secondary school, create jobs, bring electricity to the village, and pave the streets. For every acre of land, the company will pay five dollars. The individual land user will receive only USD 1.60 while the remaining money will go to the government, the district authorities, and the landowners. One young villager said, "because we are poor, we give our land away." Nevertheless, villagers still hope that Addax will bring progress. However, if problems arise, the villagers do not know to whom they could turn with their grievances. Those who own the land live either abroad or far outside the village. Addax has promised them legal advice, but whose interests will the lawyers represent?

Land acquisition is not a new development in Sierra Leone. The huge amount of unused arable land has been attracting investors for decades. The case involving Addax is just one example among many others. However, recent trends show the massive acceleration of this phenomenon. Presently, leases for close to 1.5 million hectares of land are being negotiated in Sierra Leone. This represents 27.7 percent of all arable land in the country and more than doubles the land surface currently being cultivated.

³ According to land laws in Sierra Leone, the chiefdom council is authorized to sign land leases on behalf of landowners.

A STATUS REPORT ON THE RIGHT TO FOOD¹

Introduction

The runaway prices of food in 2007 and 2008 hit developing countries very hard. In Burkina Faso, a precarious food situation is nothing new. Indeed, the country suffered large-scale famines in the 1970's and 1980's, and nearly half the population has never had access to adequate food. The food crisis is not only a consequence of climatic factors or war; above all, it is a result of political choices favoring commercial interests over the needs of the population.

Civil society actors did not simply stand by in the face of this crisis. The African Network on the Right to Food (ANoRF) is currently engaged in a regional study on the right to food. The analysis of the state of the right to food, primarily based on the recommendations of the *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* (the Guidelines) of the FAO is part of this study. Interviews with individuals took place in four villages of the Kadiogo province. Interviewees included state officials, civil society leaders, private sector actors, and members of at-risk populations.

Facts and Findings

Economy

The social and economic situation in Burkina Faso is shaped by harsh natural conditions, a rapidly growing and highly migrant population, an economic expansion hobbled by poverty (almost one in three households is unable to provide for its basic needs), and a society ravaged by the spread of HIV/AIDS. Burkina Faso's economy is dominated by primary sector activities. Agriculture, ranching and forestry employ over 80 percent of the active population, generate 33 percent of GDP, and represent 90 percent of the total value of exports. Agriculture is almost entirely rain-fed and is mainly practiced on small family farms. Cash crops (mostly cotton, nuts, sugarcane, sesame...) are grown on 14 percent of cultivated lands. Sugarcane is almost exclusively grown by a single company in the Cascades region, while other cash crops are grown alongside subsistence crops. However, about 250,000 farms, some as small as 2 hectares, others over 60 hectares, are devoted to growing cotton.

Political and Legal Framework

Structural adjustment policies initiated in the 1990's led to a decline of public investment in the primary sector. Following revisions to the strategic framework for the fight against poverty (CSLP for its French abbreviation) in 2003, a new rural development strategy (SDR for its French abbreviation) aimed at coordinating all rural development efforts was introduced. In order to strengthen the primary sector and improve food security in Burkina Faso, a national food security strategy (SNSA for its French abbreviation), which includes a plan for dealing with emergency situations and a system tracking information on food stocks, was adopted in 2000. A land security policy was also voted in 2007, but it does not include any measures for agrarian reform or land redistribution. There is, however, no umbrella act which could bring

¹ This article is a summary of the following report: National Coalition ANoRF-Burkina Faso (Maurice Sanwidi and Amadou Barry), *Rapport de l'étude sur l'état des lieux du droit à l'alimentation au Burkina-Faso (Report on the State of the Right to Food in Burkina Faso)*, Ouagadougou, April 2010. These two consultants work in institutions that are member of the ANoRF and enjoyed the support of the association, Songui Manegre Development (ASMADE), as well as the Centre Ecologique Albert Schweitzer – Burkina Faso (CEAS). The complete report is available in French on the enclosed CD and on the ANoRF website: www.radpa.org.

together and harmonize these various policies dealing with the right to food. Indeed, the right to food is neither explicitly mentioned in the constitution, or any legislation or national strategy (such as, for example, the SNSA). Therefore, there is no mechanism to evaluate relevant state actions. Moreover, field studies have shown that the concept of a right to food is unknown to most people living in rural areas. Incidentally, NGOs refer more commonly to food sovereignty or security than to the right to food.

Governance and Access to the Justice System

In the past few years, the public administration has undergone decentralization and judicial institutions have been strengthened. However, in the absence of legal tools, the justiciability of human rights, in general, and of the right to food, in particular, is problematic. In fact, in instances of violation, it is difficult to obtain reparation in court. Currently, seven by-laws have been proposed and are on the verge of being adopted. They will permit the establishment of mechanisms for rural populations to seek legal redress when their right to natural, productive resources has been violated. However, in the field no measures have yet been taken to guarantee the rights of pastoralists or indigenous and nomadic people to lands where they are not the exclusive users, but which they have traditionally relied upon for subsistence and traditional activities. More and more frequently, investors purchase and obtain titles to large tracts of land, which may sometimes contain houses or farms, without consultation, simply by acquiring a traditional leader's approval.

Access to Land

In a country where eighty percent of the population depends on agriculture, access to land is a crucial part of the realization of the right to food. Due to the growing phenomenon of land grabbing, the country is experiencing numerous conflicts in rural areas. Because of the deterioration of arable lands and extremely difficult conditions, small-scale producers are often forced to sell off their land and go on the road. In 2009, to halt this trend, irrigation projects, production of organic manure, and distribution of fertilizer, local seed, and farming machinery was organized in order to assist vulnerable groups, especially women-headed households and youth.

Food Safety and Consumer Protection

The institutions charged with inspecting food quality do not possess the human or material resources to systematically inspect commercial food products in Burkina Faso. Consequently, fraudulent food products find their way onto markets, and clandestine food producers and slaughterhouses are common.

Support for Vulnerable Groups and Food Safety Nets

The most vulnerable groups are mainly found among unemployed and farmers. In rural areas, over half of households state that they face food related problems. Although at-risk areas are regularly surveyed and their needs evaluated, the State does not seem to prioritize the improvement of conditions for vulnerable groups. Indeed, no mechanism for lodging a complaint or seeking compensation exists when handout programs are ineffective or inexistent. Additionally, existing programs (food stamps and school feeding programs) do not satisfy the need for a coordinated action plan on the right to food (sustainability, cultural and nutritional adequacy, targeting of beneficiaries...).

Obstacles to Achieving the Right to Food

The deterioration of the environment through intensive farming and livestock raising practices, soil erosion, diminishing rainfall, or natural disasters reduces agricultural output and, therefore, reduces the availability of food. Strong local, traditional land laws in many regions of Burkina Faso also limit access to land for women, youths and migrants. In addition, when the best tracts of land are used for the production of agrofuel rather than food the realization of the right to food in affected communities can be jeopardized. To avert this danger, civil society actors are closely following the development of such agriculture in the country's northeast.²

Conclusions and Recommendations

The right to food for all Burkinabe people is still far from a reality. Although institutional mechanisms to guarantee food security have been established, the most vulnerable segments of the population still rely primarily on assistance programs sponsored by para-governmental institutions and NGOs for food. However, Burkina Faso is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) since 1999. It is also party to several other international and regional conventions guaranteeing human rights, in particular the respect, protection and the progressive realization of the right to food. As per these conventions, encouraged by the civil society, and in order to guarantee the justiciability of the economic and social rights, the State should inscribe the right to food in the national constitution. A coordinated and transparent agricultural production which prioritizes small-scale farms, agricultural research, the consuming of local products, and the reactivation of agricultural extension services must be a governmental priority. Improving access to markets, in order to reduce prices to acceptable levels and to better target vulnerable groups in need of food aid, is also recommended. Finally, it's time for the State to incorporate a rights-based approach in its development and assistance programs.

Since the return of democracy in 1991, civil society organizations have increasingly been participating in the management of public programs, particularly in the implementation and monitoring of public policies. These organizations must commit to improving methods of participation in this process. They should also organize campaigns to inform farmers', women's and youth organizations operating in rural areas on the key documents relating to the right to food.

² See Oudet, M., "Le Jatropha: un cancer!" (Jatropha: A cancer) in *abc Burkina*, n° 381, SEDELAN, Koudougou, on 15 June 2010, available in French at: www.abcburkina.net/content/view/763/1/lang,fr/

10

CAMBODIA

LAND GRABBING AND THE FEAR OF DEVELOPMENT¹

Introduction

In developing countries, access to natural resources is the most elementary necessity for the realization of the human right to food for the rural population. The global increase in the dispossession of land, known as land grabbing, is a massive threat to human rights. Land grabbing is mainly discussed from an African perspective; but in Asia for example, there are also land grabbing “hot spots” such as the Philippines and Cambodia.

In April 2010, FIAN Germany organized a research visit to Cambodia, where more than 80 percent of the population depends on the access to natural resources for their livelihoods, to gather information from local groups affected by land grabbing. The mission members investigated the role of the international donor community – especially the German development cooperation – in land conflicts. They also looked at the implementation process for the national land policy in order to assess whether the policy complies with the government's obligation to fulfill the human right to food of its people.

Facts and Findings

Land Grabbing in the Name of Development

In Cambodia, conflicts over land and eviction of peasants are increasing at an alarming rate. The Cambodian League for the Promotion and Defense of Human Rights (LICADHO for its French acronym) calculates that between 2003 and 2008 more than 250,000 Cambodians were affected by human rights violations related to land, including land grabbing, forced evictions and the destruction of property.² It is also striking that land grabbing by elites and investors even happens in plain sight in the capital, Phnom Penh, where media, NGOs and donors can easily observe eviction and human rights violations.³ This indicates how easily land can be taken away in more remote, rural areas.

The three main instruments facilitating land grabbing in rural areas of Cambodia are the allocation of Economic Land Concessions (ELC), mining rights and the creation of Special Economic Zones (SEZ). All of these are government promoted instruments that, under the guise of promoting general economic development, actually encourage the violation of human rights, especially of the right to food.⁴

Sugar Cane Monocultures in Kampong Speu

In the province of Kampong Speu, vast tracks of land have been designated as ELCs, especially in the north of the province, where only narrow corridors have been left open to the local population. In 2007, two adjacent ELCs of 8,343 and 10,000 hectares were given to the companies Phnom Penh Sugar and Kampong Speu Sugar. A Cambodian senator owns the first and the second is formally registered under his wife's name.⁵ Together with an investor from Thailand, they are planning to develop sugar cane monoculture on the almost 20,000 hectares.

1 The article was written by Roman Herre. He is the coordinator of the program 'Access to Natural Resources' at the German section of FIAN International. He organized a research visit to Cambodia in April 2010. The full report of the research visit will be available in September at www.fian.org and www.fian.de.

2 LICADHO, *Land Grabbing and Poverty in Cambodia: The Myth of Development*, 2009, available at: www.licadho-cambodia.org/reports/files/134LICADHOREportMythofDevelopment2009Eng.pdf. This number refers only to the 13 of 25 provinces and cities where LICADHO is active.

3 The most prominent cases are the eviction of the, so-called, Group 78 and the ongoing conflict at Lake Boeung Kak.

4 For detailed documentations, see LICADHO, *Land Grabbing and Poverty in Cambodia: The Myth of Development*, 2009.

5 This makes it also look like an illegal 'backdoor' 18,343 hectares concession since the Land Law limits ELCs to 10,000 hectares.

The company stated that the ELCs will not affect the villagers and their farm land.

The reality on the ground is very different. Large parts of the concession area are, in fact, the ancestral land of the peasant communities of Omlaing Commune.⁶ Parts of their villages, roads and houses, are within the boundaries of the concession. The area also includes their rice fields and community forests, which are used for cattle grazing and collecting fruits and medicine plants. Access to this land is essential for the realization of their right to food.

The communities have not been informed, let alone consulted, on the establishment of the ELCs. In 2007, after the national government had granted the concessions, company representatives⁷ approached the villagers and asked them to sign an agreement validating the companies' activities. The villagers, as well as the village chiefs and the commune council, refused to sign. The villagers then started to organize and collected over one thousand votes (in the form of thumbprints) against the establishment of the ELCs. They went to the company's headquarters and to the seat of the provincial government to protest. They also tried to stop the bulldozers from clearing their lands. This strong resistance and the solidarity among the villagers were certainly part of the reasons that explain why the companies remained relatively inactive until the end of 2009. However, at the end of 2009, the companies began to behave differently. They started to undertake massive clearings, leveling the area and entirely changing the course of streams and rivers. Now, all these actions were taken under the surveillance of soldiers. Rice fields were destroyed and the ones that were left untouched were cut off from access to water. In spite of the strong legal claims of possession rights under the national Land Law, the communities face the loss of their access to land without compensation or any alternatives.⁸

Furthermore, refugees used to live within the confines of the concession. The companies offered them USD 50 as compensation for the destruction of their houses and planted palm trees without leaving them any alternative. For the refugees, the situation is even worse since their status does not afford them rights on the land under the national Land Law.

By allocating these land concessions, which undermine the access to land and water of local communities, and by using its own soldiers to further the companies' interests, the government of Cambodia has breached its obligation to protect human right to food of its citizens.⁹

The Role of Donors

The national Land Law was designed in 2001. From 2002 to 2009, the donors' communities supported its implementation through the multi-donor Land Management and Administration Project (LMAP).¹⁰ Despite the reduction in land conflicts being the central aim of the project, conflicts have increased and civil society at the national and international levels is questioning the donors' activities.¹¹ One example of this questionable support is the titling process (the issue of private land titles), which is supported by the German Technical Cooperation (GTZ for its German abbreviation). Apart from the common problems involving the issuance of private land titles in an economic setting like Cambodia,¹² where the demand for land by investors is huge, the

⁶ Villagers talked of some 3,000 hectares affected by the concession.

⁷ The two companies used the same representatives.

⁸ In 2009 the companies offered USD 100 to 200 "compensation" per hectare for the rice fields. This "compensation" is nothing compared to the annual earnings of up to USD 1000 per hectare of rice and has been rejected by all the villagers.

⁹ For more information on the State's obligations, please consult UN Committee on Economic, Social and Cultural Rights, *General Comment 12*, Art. 11, Geneva, 1999, available at: www.unhcr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9

¹⁰ World Bank, *LMAP Project Appraisal Document*, 2002.

¹¹ *Ibid*, p.2

¹² Such activities can result in increased loss of land by poor and vulnerable groups caused by distress sale and migration to urban slums.

titling process actively excludes the most vulnerable groups by a simple mechanism. Whenever the ownership or use of a land is contested or its “status is unclear”¹³ no title will be issued to communities. It means that the communities would not receive a title legitimizing their utilization of land when investors will covet their land. Furthermore titles for indigenous communities have not been issued until now¹⁴ and an overall evaluation of the titling especially regarding its impact on vulnerable groups has not been conducted so far. Therefore, the human rights approach is turned upside down by preventing the most vulnerable groups from obtaining official land titles; when instead, the focus of this process should be on improving their security of land tenure.

Conclusions and Recommendations

Land conflicts in Cambodia are commonplace. The government, responsible for the allocation of concessions, argues that these concessions and the investments that follow will encourage development and, thus, benefit the people – especially rural communities – by creating higher paying jobs and infrastructure. This stands in sharp contrast to the findings of the research mission. All the communities visited that were affected by ELCs and SEZs have experienced a painful loss of access to natural resources, such as agricultural lands, forests and fishing grounds. Frightened by these experiences, many rural communities now perceive every infrastructure project, like the upgrading of a road, as a starting point for conflict over land. An activist reported, “with the road came the company's heavy machinery. Now we are afraid whenever we hear 'development'.”

In light of the current initiative on “Responsible Agricultural Investment” (RAI) promoted by the World Bank and G8 countries, the cases in Cambodia clearly show that a voluntary code of conduct for investors is not an adequate answer by the international community to the ongoing phenomenon of land grabbing.¹⁵ Since neither the government nor the companies involved respect the existing rights of local inhabitants, either under the national Land Law or under international human rights laws, it is improbable that they can follow a voluntary code of conduct. Furthermore, if they manifest any interest in this kind of procedure, it is only to divert the public's attention from their existing and binding human rights obligations.

13 The reference document, the project appraisal document of the multi-donor-program LMAP talks of “areas where disputes are likely” and “areas of unclear status.” For detailed discussion on access to titling, see BABSEA, COHRE, JRS, *Untitled: Tenure Insecurity and Inequality in the Cambodian Land Sector*, 2009 available at: www.cohre.org/store/attachments/090930%20UNTITLED%20-%20Tenure%20Insecurity%20and%20Inequality%20in%20the%20Cambodian%20Land%20Sector.pdf.

14 This has also been remarked with concern by the Committee on Economic, Social and Cultural Rights in 2009 in its Concluding observations: daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/430/56/PDF/G0943056.pdf?OpenElement.

15 For detailed discussion on the initiative on Responsible Agricultural Investment (RAI), see: Borras, S. and Franco, J., *From Threat to Opportunity? Problems with the Idea of a “Code of Conduct” for Land-Grabbing*, 2010, available at: capacity4dev.ec.europa.eu/system/files/c4d/Yale-April-2010-Borras_Franco-CoC-paper1.pdf.

HUNGER AND VIOLATIONS OF THE RIGHT TO FOOD¹

Introduction

Colombia is facing a food crisis. Hunger rates are increasing and the rural sector is becoming more vulnerable in the absence of any kind of State protection. The Colombian Platform for Human Rights, Democracy and Development (PCDHDD for its Spanish abbreviation) works to empower rights holders in Colombia so they can monitor the extent to which the right to adequate food is being realized and alert public authorities about gaps in public policy. Their work is focused particularly on identifying areas where existing policies and their impacts are inconsistent with international human rights obligations and the enjoyment of human rights. The following analysis applies a monitoring tool developed by FIAN international together with experts and practitioners that is based on the provisions contained in the *Voluntary Guidelines for the progressive realization of the right to adequate food in the context of national food security* (the Guidelines). Therefore, the findings are reported in relation to the various sections of the Guidelines.

Facts and Findings

Democracy, Good Governance, Human Rights and the Rule of Law

The long-term armed conflict has had an extremely negative impact on the effective realization of human rights, particularly of the economic, social and cultural rights (ESCR). The right to adequate food is undoubtedly one of the most often and severely violated rights. The Colombian Constitution contains specific norms related to the right to adequate food, but little progress has been made in bringing about the structural, economic and policy changes necessary to guarantee both the full realization of the right to adequate food and, its justiciability. Colombia still lacks a comprehensive and explicit normative framework to guide the State in its realization of the obligation to respect, protect and fulfill the right to food.

Strategies

The Food and Nutritional Security Policy of 2006-2015 lacks coherence with respect to human rights. State obligations are not mentioned nor are judicial remedies in case of failure by the State to respect or protect the right to adequate food. A legal and budgetary framework for policy implementation is lacking. Programs and state initiatives providing food assistance are mostly short-term, and their impact is not monitored or evaluated. No adequate mechanisms for citizens' participation and social control have been established. The absence of public policies consistent with the protection of the right to adequate food reflects the lack of a genuine commitment by the State to this right.

Market Systems

Recent development plans implemented and consolidated a strategy on the social management of land ("*El manejo social del campo*") that promotes export-oriented production chains, consolidation of competitive regional agreements, private rural projects, and the expansion of lands devoted to cash crop cultivation. The

¹ This article is a summary of the following report: Colombian Platform for Human Rights, Democracy and Development (PCDHDD), *Hunger and Violations of the Right to Food in Colombia*, Second Report on the Situation of the Right to Food in Colombia, Bogota, March 2010. The report received methodological and research support from a number of collaborating organizations. The full report (available in Spanish) can be found on the enclosed CD along with an executive summary in Spanish and in English. These documents can also be found at: www.fian.org/recursos/publicaciones/documentos/hambre-y-vulneracion-del-derecho-a-la-alimentacion-en-colombia-1/pdf (full report) and at: www.fian.org/resources/documents/others/hunger-and-violations-of-the-right-to-food-in-colombia/pdf (executive summary in English).

overall aim is to improve the country's competitiveness in global markets. This strategy has resulted in a lack of protection for the traditional rural sector and has created a high dependency on imports of basic foods. Governmental measures have also prohibited (for public health reasons) the marketing and distribution of low cost nutritious foods, such as raw milk and chickens for meat consumption, that are important parts of the basic diet of low income Colombians. Their production also represented an important source of work and income for many rural people. Therefore, the recent development in domestic markets constrain the production and exchange conditions for rural households and reduce food access for both rural and urban poor households.

Stakeholders

Due to the lack of state commitment to human rights, the coordination amongst stakeholders necessary to the formulation of a joint strategy on the right to adequate food is nonexistent. As there are no real democratic consultation mechanisms for the design, implementation and monitoring of public policies, proposals made by social actors are not taken into account. Consequently, regulations concerning food are imposed without a constructive preliminary dialogue, and they are based on biased information or on information that few outside the government have access to.

Access to Resources and Assets

Rural population and especially food producers need the access to four types of resources to maintain their livelihood: income, land, credit and genetic resources. In Colombia, income inequality is high, with the richest twenty percent of the population receiving 62.7 percent of the national income, and the poorest twenty percent receiving barely 2.5 percent. A significant proportion of the Colombian population does not have adequate access to assets and services. With only 0.06 percent of landholders owning 53.5 percent of land in rural areas, the Gini coefficient concerning land concentration is 0.85. Such a high concentration of land ownership negatively affects the production opportunities of small-scale rural economies and the access to productive resources. Rural credit policies favor the export-oriented strategy and promote production schemes that do not prioritize the national food needs. The State does not protect the traditional knowledge of rural communities and their inalienable right to access and use resources. Rather, it pursues an extractive, profit-oriented strategy and has been reluctant to adopt effective measures to control the use, sale and marketing of genetically modified products. In consequence, the population traditionally responsible for domestic food production faces growing obstacles to access and autonomous control of the resources necessary for their productive activities.

Food Safety and Consumer Protection

The implementation of the existing normative framework for the protection of consumers is deficient and favors the importation and consumption of genetically modified foods. The State implements measures aimed at regulating food production and market access rather than promoting consumer protection. In 1998, Colombia adopted the *Codex Alimentarius* obligating authorities to monitor nutritional quality, food safety and the origin of food products. However, the advertising industry and other large lobbies promote the consumption of food of doubtful nutritional quality that does not meet the test of cultural adequacy.

Nutrition

The nutritional status of the Colombian population is extremely poor with 41 percent of all households suffering from food insecurity. Recent figures show a high level of inequality in the prevalence of malnutrition. Indeed it affects 58.3 percent of rural households, 51.9 percent of households composed of internally displaced people, and 67.4 percent of households composed of internally displaced people of indigenous origin. Between fifteen

and forty thousand people die each year from hunger related causes. Forty-five percent of women of reproductive age and 33 percent of children under the age of five suffer from anemia. In spite of this evidence the State refuses to admit that Colombia is experiencing a food crisis and has not adopted the necessary public policies to allow for the realization of the right to food of its citizens.

Education and Raising Awareness

No specific policies exist to raise awareness of economic, social and cultural rights, and there is no measurable progress in the promotion of the right to adequate food. The result is a poor understanding of human rights by civil society and of human rights obligations and responsibilities by public officials.

Support for Vulnerable Groups

Vulnerable groups such as indigenous, Afro-Colombian and displaced communities are subject to increasing restrictions on their right to adequate food and are affected by armed conflicts, land grabbing and state neglect. The State has refused to formulate strategies to protect and promote the rights of these communities in spite of article thirteen of the Constitution that states the equality between all individuals and their entitlement to be protected from discrimination. The appropriate government authorities are slow to implement rulings by the Constitutional Court concerning the State's human rights obligations.

Natural and Human-made Disasters

The capacity of the State to respond to natural disaster has improved and now includes food assistance as part of its emergency relief programs. However, there is no action plan in place to address human-made disasters, often caused by the State itself, such as imposing food blockades, failing to protect displaced populations, and violating land rights and the rights of rural communities to natural resources.

Monitoring, Indicators and Benchmarks

Colombia lacks specific, reliable objectives, indicators and information systems to monitor the realization of the right to food. However, the nutritional status of populations is monitored by the Colombian Institute for Family Welfare ("*Instituto de Bienestar Familiar*"). A 2005 national survey of the nutritional situation (which will be repeated this year) conducted by the Institute provides important information to assess the population's nutritional status.

Conclusions and Recommendations

The right to food not only implies satisfying nutritional needs, but it involves the whole process of production, transformation and distribution of food. The right to food also includes cultural, social and environmental dimensions. Thus, more detailed assessments of each are required. The report also highlights the importance of ensuring that the principles of food sovereignty, autonomy and security cease to be only theoretical concepts and become demands by social movements in their struggle. They should be steps towards the realization of the right to food.

On 3 May 2010, the complete report on the situation of the right to food in Colombia prepared by the Colombian Platform for Human Rights, Democracy and Development was presented in Geneva to the Committee on Economic, Social and Cultural Rights (CESCR). In response, the Committee adopted several concluding observations particularly relevant to the right to food. For example, it recommended that the State, "implement

programs that protect national food production with incentives for small producers; and ensure the restitution of lands taken from indigenous and Afro-Colombian peoples, as well as peasant communities.” (para. 22) Another point suggested that the State should, “adopt an effective national food policy to combat hunger and malnutrition, in particular among children, women, internally displaced persons and persons living in rural areas.” (para. 21) Concerning participation, the CESCR advised the State to, “adopt legislation in consultation and with the participation of indigenous and Afro-Colombian people, that clearly establishes the right to free, prior and informed consent in conformity with ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, as well as the relevant decisions of the Constitutional Court.” (para. 9) Additionally, in paragraph 10 the Committee encourages the State to, “take effective measures to ensure that economic, social and cultural rights are taken into account in all free trade agreements and bilateral and multilateral trade agreements, and develop effective policies to protect the rights of the population, in particular of the marginalized and disadvantaged groups, against the negative impact of such agreements.”²

This process illustrates the role that, as a tool for advocacy, a national report based on a field study can play at the international level. Encouraged by this great achievement and the backing of the CESCR, the Colombian Platform for Human Rights, Democracy and Development will now monitor the application of these recommendations by the government of Colombia.

² All the CESCR Concluding observations on Colombia's report are available at: www2.ohchr.org/english/bodies/cescr/docs/co/E.C.12.COL.CO.5_AUV.doc

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GUATEMALA

REPORT OF A FACT-FINDING MISSION ON THE RIGHT TO FOOD¹

Introduction

Despite strong legal developments concerning the right to adequate food and broad institutional state structures, Guatemala not only presents the highest rate of malnutrition in Latin America but also one of the highest in the world. In view of the critical situation of hunger and poverty in the country, the various state actors, civil society and international cooperation agencies continue to endeavor for a peace without hunger and a democracy based on the full respect of all human rights. The fact-finding mission carried out in 2009 aimed to publicize and document violations of the right to food and related human rights in Guatemala, as well as, threats, attacks and acts of harassment against human rights defenders.

The fact-finding mission studied, visited and documented twelve cases of violation of the right to food. Most of the cases stemmed from the mounting pressures exerted on rural communities, in particular indigenous peoples, rural women and peasant communities, to dispossess them of their lands in order to exploit local natural resources. This pressure also has a direct impact on their rights to water, land and territory. The mission members also paid special attention to the increasing criminalization of those who are fighting for the defense of human rights.

Facts and Findings

Responses to the Recent Food Crisis

Guatemala presents the highest rate of chronically undernourished children in Latin America, and fifteen percent of its population is food insecure. Hunger particularly affects rural and indigenous populations, more than eighty percent of whom suffer from chronic malnutrition. At the time of the mission, the country was undergoing a grave food crisis, and the government declared a “state of public calamity” in response to the food emergency. According to the National Secretariat for Food and Nutritional Security (SESAN for its Spanish abbreviation), between May and August 2009 the number of identified vulnerable communities had increased from 1,901 to 4,059. This increase is mostly due to massive food production losses following adverse climatic conditions, such as landslides. The new, inadequate minimum wage is another factor. Implemented in 2009, it falls far short of providing the average Guatemalan family with sufficient money to purchase a basic food basket and a basic needs basket.

To address this food emergency, the government has initiated several programs. A Commission on Food Security was established with the goal of streamlining short and long-term activities and coordinating international assistance. Rural solidarity bags² were distributed to communities in the dry zones at high risk of food insecurity. The Ministry of public health and social assistance installed 43 centers to treat and rehabilitate malnourished children in the dry zones. In September 2009, the government solicited the international community for assistance in tackling the food emergency. It asked for anthropometric measurement tools, food

¹ This article is a summary of the report of an international fact-finding mission on the right to food carried out in Guatemala in November 2009 by a broad coalition of international organizations. FIAN International, la Via Campesina, the European Network Copenhagen Initiative for Central America and Mexico (CIFCA), the Coalition of Catholic Agencies for Development (CIDSE), the International Federation for Human Rights (FIDH), the World Organization Against Torture (OMCT), and the Observatory for the Protection of Human Rights Defenders (OBS), *The Right to Food in Guatemala*, Guatemala, March 2010. The fact-finding mission also received support from the Association of World Council of Churches related Development Organisation in Europe (APRODEV) especially from Brot für die Welt (Bread for the World) and the Swiss Interchurch Aid (HEKS). The full report is available in English and Spanish on the enclosed CD and at: www.fian.org/resources/documents/others/the-right-to-food-in-guatemala/pdf.

² One rural solidarity bag contains: 20 lbs. corn, 10 lbs. beans, 10 lbs. fortified flour, 2 bottles of 900 ml oil, 2 tins of 800 g chicken, 10 lbs. sugar, and 10 lbs. rice.

and micronutrients, as well as medicine for undernourished children. It also requested staff (in the fields of health, education and social mobilization), means to fight dengue fever, and resources to prevent landslides and to support the production and storage of food. According to the government, the principal challenges for future food security are helping boys and girls with acute malnutrition recover and organizing food distributions for families facing food insecurity.

State Obligations to Respect, Protect and Fulfill the Right to Food

Forced evictions of peasant and indigenous communities, expanded agrofuel production and mega-projects promoted by the State, which were witnessed by the fact-finding mission, indicate that the State is not complying with its obligation to respect the right to food. Based on the cases of violations of labor rights taking place on farms and in private enterprises analyzed in the mission report and the clear lack of protection of the ancestral rights of indigenous people, it appears that the obligation to protect the right to food is not being realized either. The supply of food aid and the transfer of financial resources, to allow needy families to purchase food, have been increased by the current government, but the response to the larger problem of acute and chronic malnutrition, especially of children and women, is not sufficient. Human rights principles should govern the provision of food assistance, notably, through the participation of communities in decision regarding adequate food and through the application of the principle of transparency. The obligation to realize progressively the right to food currently requires strong governmental and legislative actions in at least three fields: rural development, agrarian policy and minimum wages.

The Situation of Human Rights Defenders

In spite of the broad institutional and legal framework regarding the protection of human rights and of human rights defenders, the situation of the latter is extremely critical. Popular activists, unionists, indigenous or peasants leaders, and other promoters and defenders of human rights are directly attacked and criminalized, especially those who denounce and fight against impunity. The most common types of assaults are written or telephone threats, wrongful or arbitrary detentions, murder attempts, and assassinations. . . Failed attempts at negotiation lead to social protests over land ownership conflicts and to the abusive exploitation of resources by multinational companies. These protests are increasingly being outlawed and repressed. Considering the enormous power and influence companies and the police hold in the judiciary system, human rights violations are rarely investigated, and here is little institutional will to support the work of human rights defenders. However, one of the most important civil society initiatives has been the creation and consolidation of a Unit for the Protection of Human Rights Defenders in Guatemala, which monitors, protects and provides security for men and women who defend human rights.

Methodology

The following criteria were applied in the selection of the twelve cases studied by the fact-finding mission: the cases had to be monitored and followed by national organizations, and they had to represent clear examples of the systematic violation of the economic, social and cultural rights (ESCR), especially, of the right to food of indigenous, peasant and rural populations. Most of these violations result from a lack of water and adequate food, the breach of labor rights, the unchecked expansion of agrofuel production, and large scale environmental destruction caused by the mining industry. In studying these cases, special attention was paid to threats, criminalization, intimidation in the courts, and attacks on the physical and moral integrity of ESCR defenders. One of these twelve cases is detailed in the box below.

06 Impact of the Agrofuel Expansion in Ocós and Coatepeque, Guatemala

This case reflects how the right to food, to water and to a healthy existence of 21 communities has been affected by the diversion, excessive use and contamination of the rivers Pacayá, Talpope, Mopa and Talticuz as well as the lower basin of the river Ocosito, in the municipalities of Coatepeque (department of Quetzaltenango) and Ocós (department of San Marcos).

Problems in communities in Ocós began in 2005 when dams were constructed to protect the nearby banana and palm oil plantations. As a result, the communities suffered severe and regular flooding of their lands and crops. They were also heavily affected by hurricane Stan in 2005. In the following years, they were only able to harvest once a year instead of twice, because the flooding destroyed the second harvest. They maintain that the main cause of the problem is the high dams, which cause downstream floods and prevent river waters from settling in the lower areas of the Pacayá River during heavy rains. These floods have caused heavy losses for which they have not received any compensation. Moreover, the inhabitants of the communities are permanently endangered by the risk of tropical storms, which pose an imminent threat to their rights to housing and to life and could lead to a humanitarian disaster. Indeed, in May 2010, six months after the mission's visit, tropical storm Agathe again caused terrible damage in the communities. They lost almost all of their harvest.

In Coatepeque, the access to water has been severely affected by the vast oil palm plantations implanted in the region. The irrigation of these plantations has led to overuse and rerouting of water resources. Many communities reported that several wells have already dried up, and that it is increasingly difficult to have access to clean water during the dry season. They are outraged that there is water for palm trees but not for local inhabitants.

Additionally, the communities of Coatepeque and Ocós are both affected by the same problem: rivers are being contaminated by toxic substances and waste from the plantations and sugar refineries which pose serious health risks to people who bath, wash clothes and fish in these rivers. The lack of water and the high level of contamination of available water particularly affect women since they are the ones who have to walk long distances to gather water from wells, and who are in direct contact with the contaminated water when washing clothes. As a result, they have a higher workload and their health is more severely affected.

Conclusions and Recommendations

The food crisis represents a serious and ongoing threat to the development of the country and the well-being of its population, in particular the well-being of indigenous and peasant communities. With the assistance of international cooperation, the government's response to the food crisis has entailed unprecedented public expenditures to combat the consequences of acute malnutrition in the short term. However, state policies have neither considered nor implemented a broader application of the right to food. They are therefore not complying with their obligations to respect, protect and fulfill this right. Forced evictions, numerous cases of labor rights violations and land dispossession of peasant and indigenous communities by the expanding agrofuel industry and State promoted megaprojects all point to a State failure to respect and protect the human rights of its citizens.

In order to meet its obligation to fulfill the right to food, the government must implement policies on agriculture and rural development, including an integrated agrarian reform. The minimum wage should be adjusted to cover the basic living costs of families. Special effort should be made to fight against discrimination of women, a reality that was often witnessed by the fact-finding mission.

The State must use all available resources to progressively achieve the realization of the economic, social and cultural rights. This must include a tax reform which would increase public revenue available for this process. The immense challenge of effectively fighting the causes of hunger in Guatemala require a greater rationalization of resources, better inter-institutional cooperation, greater coordination between various state bodies, and strong partnerships with civil society.

There are serious concerns about the increasing violence and threats directed at the indigenous and peasant communities and union leaders who promote and defend human rights. The government lacks clear policies for the protection of human rights defenders and the coordination of inter-institutional measures for investigating harassment, intimidation and attacks on individuals and organizations. Offenders are rarely held responsible. Although enshrined in the Constitution, the political will to place the realization of human rights above private interests does not exist. Institutions violate human rights with impunity, and criminality is gaining ground. It is essential to end the criminalization and persecution of social protests and attacks against human rights defenders. Both governmental and judicial agents must promote the recognition, acceptance, respect and protection of human rights defenders.

RURAL LAND CONFLICTS¹

Introduction

In 1998, after the fall of Suharto's authoritarian regime and a long struggle to institute true freedom, regain rights, and establish social justice the Indonesian people had hoped for the institutionalization of their aspirations. However, the consolidation of democracy demanded by the people was not achieved. The new government failed to protect farmers, especially with respect to their land rights. There are still, at present, incidents of unlawful arrest, detention and acts of violence against poor farmers who have resettled on idle lands that were originally theirs until plantation companies took them over. These farmers cultivate the lands for their subsistence. To put an end to this criminalization of rights' holders and to provide social justice for all people in Indonesia is an enormous task and a never-ending challenge for the National Program for Land Reform.

Facts and Findings

Land Reform Program

The National Program for Land Reform started in mid 2006 with a noble cause: to redistribute land to poor farmers and to strengthen food sovereignty. However, the program quickly encountered resistance from other land-based sectors, such as the plantation, water and forestry industries. It also suffered from political inconsistency. As its first move, the government should have officially declared the end of all land conflicts and instructed police forces, the army, and the government departments managing land resources to put a halt to conflicts in the field. But on the contrary, the authorities kept delaying the drafting process for a new Land Law supporting agrarian reform and showed a biased backing of the private sector in land use disputes. Against this backdrop, small-scale farmers, women's groups and affected communities have taken several measures to facilitate the ratification and implementation of the land reform. They established a continuous, participatory monitoring system and advocate for settlements and the end of violence in conflict areas.

Legal Framework

Law No.18/2004 on Plantation has been used as a tool to legalize seizure of land from the farmers, to privatize land resources and to maintain the colonial era style of land management - maintaining peasants in a slave-like state with no means to claim their rights. The law favors large plantations at the expense of local small-scale farmers by providing exclusive rights on land utilization. Also by giving the mandate to maintain security and order to police forces, this law gives legal grounds for the criminalization and use of force to pressure local communities to surrender their land.. The law also legitimates fines and imprisonment for anyone claiming land that is part of a plantation. The state police sometimes exercises power beyond its mandate under criminal law. It has been reported that they arrest or raid farmers, while denying their obligation to protect the rights of suspects, defendants and prisoners. Some field reports showed involvement of paramilitary units in using violence against farmers, and when it occurred, the state police often did not take any action against the perpetrators.

The Law on Plantation contravenes the Act. No. 5 of 1960 concerning Basic Regulations on Agrarian Principles (or Basic Agrarian Law) which states that land use rights may be taken away if the land is left idle for some

¹ This article is drawn from Bina Desa, *Observation Report on Rural Land Conflict*, Executive Summary, Indonesia, 2010. The executive summary in its full length is available on the enclosed CD. The full report is only available in Bahasa but the authors can be contacted for more information at the following email addresses: binadesa@indo.net.id ; dwiastuti@binadesa.or.id.

period of time (article 34, e), or when the right holder no longer submits application for the prolongation of his/her right (article 34, a). In both cases, the land automatically becomes state owned. These provisions clearly establish a strong legal basis for farmers to cultivate idle lands. It also recommends that land users receive priority in obtaining legal rights. However, no implementing legislation referring to the Act has yet been issued despite the repeated demands of the civil society. Existing implementing regulations are even in conflict with the Act in favoring private sector interest over those of the people. Besides, these regulations are sector-based (i.e. regulation on plantation, water, forestry), when in fact, what is needed is one implementing legislation covering all aspects of a comprehensive agrarian reform.

Participatory Monitoring

Participatory monitoring focuses on the victims' interest as well as on the strengthening of their awareness and capacity for reaction. It combines field observations, evidence collection, research results, in depth interviews with stakeholders, and community empowerment through critical education.

Lawyers of the Indonesian Human Rights Committee for Social Justice and the NGO Bina Desa carried out this process from October 2008 to February 2009. They reached the conclusion that the principal duty-bearers, including the National Land Affair Agency, the State police force, and the Human Rights National Commission of Indonesia (known as Komnas HAM), have failed to stop violence and to find settlement in many cases of land conflict. Furthermore, their findings indicated that land conflicts which occurred in plantation areas often had their origins in the colonial era. Local farmers have claimed and tried to occupy land that they believed to be theirs for generations. They cultivated these lands that were idle or not registered by the State for decades, until plantation companies occupied the land and evicted the farmers. The conflicts between farmers and the local authority are therefore often old land conflicts which the State had failed to settle in the past.

The monitoring team reported farmers' rights violations and violence in West Java (Sumedang and Cianjur), North Sumatra (Langkat) and Central Sulawesi (Bohotokong). This article focuses on a case of land dispute in Banjaran, Langkat, North Sumatra.

07 Land dispute in Banjaran, Langkat, North Sumatra, Indonesia²

In June 1982, PT. Buana Estate, a plantation company, obtained a land cultivation rights title from the Ministry of internal affairs for 70.3 hectares of land located in Banjaran, Langkat, North Sumatra. Shortly after, violence and harassment against the farmers began and many families living in Banjaran were forced to leave their land. Several farmers were even apprehended and put in prison. In 1986, PT. Buana Estate, without any court ruling and with the help of the army, evicted all the families who were still living in Banjaran and destroyed their houses. The area was turned into a palm oil plantation and only the graveyard where the farmers' ancestors were laid to rest remains of the hamlet of Banjaran.

In 2000, the head of Langkat district together with the district level of the National Land Agency issued a letter recognizing the boundaries of the Banjaran village and demanded the revision of the concession rights of PT. Buana Estate. The review recommended that the land be redistributed to the farmers. In the absence of further action, farmers rose to reclaim their land. They met with the relevant agencies at district and provincial levels to plead for their cause, but it was in vain.

In June 2006, they established a local farmers' association (KTMIM for its abbreviation in Bahasa) and were received by the Parliament, the Indonesian Human Rights Commission, the Ministry of internal



² All the facts described in this box are drawn from Bina Desa, *Observation Report on Rural Land Conflict*, Executive Summary, Jakarta, 2010.

»» affairs and the National Land Agency; however, none of these hearings brought the expected results. In July 2007, KTMIM decided to reoccupy the land.

After a year of repetitive but failed dialogue to settle the situation, the farmers decided to build a fence on the boundary of the farmland they claimed was theirs to separate it from the PT. Buana Estate. The next day, four police officers carrying rifles came to the village and commented on the boundary. One of them started to ask around, “Which one of you is the field coordinator? I want to take his photograph.” One of the villagers bravely replied: “If you want to photograph us, take photographs of all of us. We are all coordinators”. The police officer said; “I represent the State; I can shoot and kill you all now.” One of the villagers stepped forward, exposed his chest, and said; “Shoot me now. You, policeman, who pays you? You are paid by our tax money.” The four policemen left the location without further ado.

The villagers prevented PT. Buana Estate vehicles from entering the area and demanded that no fresh fruit be taken out from the plantation area before compensation to local farmers was paid. Later that day, the representatives of KTMIM and PT. Buana Estate agreed on the following four resolutions: 1) PT. Buana Estate is allowed to harvest ripe palm oil fruit; 2) Before any negotiation between locals and PT. Buana Estate can reach a resolution to the land dispute, both parties must cease any activity on the land; 3) Local farmers want financial compensation from PT. Buana Estate for the harvest; 4) The next negotiation meeting shall take place in the local house of representatives in Langkat.

However, the day after the negotiations, PT. Buana Estate deployed hundreds of workers and security forces in the village perimeter to collect ripe fruits. Sensing the danger and considering that this development clearly violated the agreement reached the previous day, around ninety villagers formed a barricade preventing workers from entering the disputed area. As a truck tried to breach into the barricade some villagers laid down in the road to stop it. Instead of placating the situation, the police beat the village men and women indiscriminately, rounded them up and loaded them into a police truck. In the midst of the chaos, 46 villagers of Banjaran, two of them women, were taken away. At the police office in Langkat, the farmers were interrogated and beaten again under the accusation of carrying sharp weapon into the property of the company, destroying a bridge, and burning down a transportation truck. The police threatened to burn the village if the other farmers still hiding within the plantation did not surrender. The 46 villagers stayed in detention under very poor conditions. They received almost no food and their cell phones were seized by the police. Three women suffered serious injuries following the attack. One of them lay in a coma for several days. After the arrest, the remaining Banjaran people were re-evicted from their land and lost a place to stay and live.

In December 2008, four people were charged with violating the Law No.18/2004 on Plantation by performing actions resulting in damage to the plantation area and leading to disruption of the plantation business. They were sentenced to fourteen months of prison by the Stabat District Court. The four farmers objected to the court's decision and appealed to the High Court of Medan. In April 2009, the High Court of Medan decided to extend the sentence to seventeen months of imprisonment. They objected again and appealed to the Supreme Court. Today, the Banjaran people and the farmers of KTMIM continue the fight and support their fellow companions by advocating for justice, complaining to the Judicial Court, and monitoring the follow-up of their appeal in the Supreme Court. At present, they are still waiting for a decision from both courts.

Conclusions and Recommendations

As the above case shows, land conflict has victimized local farmers, especially women, and violated their human rights. Land conflicts occurring in plantation areas take root in the colonial era, and when local farmers reclaim a land it is not only because their grandparents already cultivated it, but also because the land had been vacant and idle for years before they resettle it.

The current legal framework is an obstacle to the fair resolution of land disputes between local farmers and plantation companies because it perpetuates land ownership structures inherited from the colonial era. Every state body, by favoring the interests of the plantation companies rather than those of the small farmers, has failed to stop the violence, to settle land disputes, and to protect and guarantee the rights of farmers. To reverse this situation, the State should be reminded of the importance of including a historical and social justice perspective in the settlement of land conflicts. It should revoke the Law on Plantation, implement a fair land reform, and organize the rehabilitation, restitution, and compensation of the victims of the conflicts.

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KENYA

HUNGER CRISIS, RIGHT TO FOOD VIOLATIONS AND LAND GRABBING¹

Introduction

Research missions to Kenya were undertaken in 2009 with the aim to investigate the ongoing drought, identify underlying causes of the widespread famine, and analyze and understand the patterns of land grabbing in Kenya and its impact on local communities. An additional focus of one of the missions was to assess right to food problems in famine relief programs. It has been suggested that drought alone should not necessarily lead to hunger and famine when effective measures are put in place to respect, protect and fulfill the rights of vulnerable groups and to prevent vulnerability to hunger. Land grabbing represents an example of failure by government and private actors to respect and protect the human rights of vulnerable people.

Facts and Findings

Background to the Current Famine

Eighty percent of the Kenyan population lives in rural areas and depends on land for livelihood. Smallholder farming units dominate agriculture. The sector employs two-thirds of the population and produces raw materials for local industries and exports. Major food crops are maize, wheat, rice, pulses and potatoes. Agricultural production is mainly rain-fed, making it highly vulnerable to drought and other natural disasters. People living in agricultural areas are affected by insecure land tenure systems, continuous fragmentation of holdings and by land grabbing. Only an estimated twenty percent of the land has high to medium agricultural potential while the remaining areas are arid or semi-arid. Current population pressures are forcing people to move into marginal agricultural areas with low productivity, leading to conflicts between communities and posing a threat to pastoralist livelihoods.

Poverty is endemic with 56 percent of the population living in absolute poverty. Slightly over half of the poor live in rural areas. Income distribution is extremely unequal. The top ten percent of households receive 42 percent of total income while the bottom ten percent receive less than one percent. Inequality is exacerbated by corruption and amounts to serious violations of economic, social and cultural rights, including the right to food. Severe resource mismanagement and misappropriation has characterized governments since independence. Official statistics, in September 2009, suggested that ten million Kenyans face hunger and starvation.

The hunger situation in Kenya has been seriously exacerbated in recent years. The main reasons for this increase are inadequate rainfall in parts of the country, post election violence and high agricultural input prices. In the past, major droughts used to occur approximately every ten years, but now drought is experienced almost every other year. Over five million Kenyans rely permanently on relief aid and the number increases to ten to fifteen million during times of human-made or natural disasters. Crops have now failed several years in a row. Corruption and failure to adhere to policy guidelines have contributed to deforestation. Government measures have reportedly led to the destruction of forests which has reduced rainfall distribution and led

¹ This article is a combination of the findings of two reports on Kenya prepared in 2010. One is the report of FIAN International, *Land Grabbing in Kenya and Mozambique*, Heidelberg, April 2010. The section on Kenya was written by Ralf Leonard with the support of Yifang Tang and Mariana Rocha. It describes a research mission on land grabbing carried out in May 2009 by FIAN International with the financial support of Brot für die Welt (Bread for the World) and Misereor. It is available on the enclosed CD and at: www.fian.org/resources/documents/others/land-grabbing-in-kenya-and-mozambique/pdf.

The second is a report of a joint international mission on the hunger crisis carried out by the African Network on the Right to Food (ANoRF) and FIAN International, *Kenya's Hunger Crisis – The Result of Right to Food Violations*, Heidelberg, February 2010. The full report is available on the enclosed CD and at: www.fian.org/resources/documents/others/kenyas-hunger-crisis-the-result-of-right-to-food-violations/pdf.

perennial rivers to dry up, even though government policy is very specific on forest conservation and clearly lays out forest reserves which should not be interfered with.

Pastoralists have perhaps been most affected by the drought as well as by land grabbing practices. Traditional pastoralist livelihoods rely on large grazing areas with herders migrating between wet and dry season grazing lands. The enduring drought, coupled with increased population pressure on the land, means that dry season grazing lands are not left fallow during the wet season and are not sufficient to sustain the herds. Pastoralists have been pushed to migrate further and further in recent years in search of fodder. Cattle are sold at reduced prices or die from lack of food and water during migration.

A contributing cause of the current hunger is the post 2007 election violence. Violent clashes were concentrated in rich agricultural areas and led to over 1,000 deaths and displaced more than 350,000 people as crops were burned or were left to rot in the fields. The shortfall in agricultural production, in 2008, led to higher costs of food at markets, a situation exacerbated by the global rise in food prices and increases in costs of agricultural inputs.

Legal, Institutional and Policy Frameworks for the Right to Food

Kenya adheres to a dualist system whereby human rights treaties are not automatically incorporated in domestic legislation. Judicial officials are often unaware of Kenya's international treaty obligations. The previous Constitution did not include any right to food provisions and the national legislation that could serve to protect and promote the right to food is fragmented and at times contradictory. However, on August 4th, 2010 a new Constitution was adopted. It contains only one article for all the economic, social and cultural rights, but it mentions the right to be free from hunger and the right to have access to adequate food. Also, the importance of the National Commission on Human Rights, a semi-autonomous body mandated to protect and promote human rights and to investigate complaints of rights violations, is emphasized. Although the Commission has not yet received any complaints of violations of the right to food, the new Constitution will possibly change this situation.

The institutional and policy framework most relevant for the right to food is fragmented. Several ministries have a mandate related to agriculture and related issues, but an inter-sectorial coordination process to ensure long-term food security is missing. Resources allocated to the agricultural sector are far below the ten percent of public expenditures agreed upon by the countries of the African Union in the Maputo Declaration in 2003. Draft policies take a long time to be approved. An example is the Draft National Food and Nutrition Policy that was developed through a participatory process, in 2007, that refers explicitly to human rights, especially the right to food, and outlines financial measures to enable implementation and the establishment of a monitoring framework, that has not yet been approved. Additionally, policies in place often lack clear implementation strategies or budgetary allocations.

Identification of Vulnerable Groups

Distinct areas, ranging from fertile lands on the shores of Lake Victoria to the semi arid district of Machakos, were visited during the missions. These areas are not among the most food insecure and are relatively close to urban centers thus benefiting from above average infrastructure. Nevertheless, food insecurity was widespread. A pervasive threat to food security is corruption and nepotism within food aid and agricultural support programs, which siphon off resources at all levels. Also, people are not being adequately informed about government policies and directives. The common violation of the right to information results in most people not having heard of the right to food. The gendered division of labor and decision making in relation to food production and purchasing discriminates against women. Children and youth have traditionally little decision-making power, and youth are marginalized within the agricultural sector partly because of the land inheritance

system. The right to food of children is seriously threatened by detrimental effects on the realization of other fundamental rights, such as the right to education, which in turn may increase future inequalities and negatively affect social participation. Besides, it has been noticed that HIV and AIDS have negative impacts on livelihoods and on food production. Difficulty in accessing water is also one of the most serious causes of the hunger situation, even though water is recognized as a human right. The staple food in Kenya is maize, which is not indigenous to Africa. Therefore, maize production is not suitable in many areas due to lack of rainfall, which often leads to crop failure. In addition, deficient infrastructure results in poor access to markets and market information, especially for peasant farmers.

08 Land Grabbing in the Tana River Delta, Kenya²

The case of the Tana River Delta links land grabbing to access to water. Several ethnic groups engage in small-scale farming, fishing or pastoralist activities in the Tana River Delta. The pastoralist communities live mainly in the hinterland in villages around watering points, dams, wells and boreholes where there is pasture. During the dry season, the pastoralists move with their cattle to the Tana River Delta where they frequently get into conflict with Bantu agriculturalists. Nearly all land in this area is held in trust by the county council and most settlers do not have the title to their ancestral land, making them vulnerable to land grabbing by powerful entities. While farming communities demand land titles, the pastoralists favor common land ownership allowing them to freely graze their cattle.

Three major irrigation schemes in the area have negatively influenced employment and sources of income for local communities, by displacing a significant number of persons. There was no resettlement plan, no timetables and no evaluation of the adequacy of compensation.

In addition, a semi-secret deal between the governments of Kenya and Qatar is said to provide for the exchange of 40,000 hectares of land in the Tana River area, a loan of USD 2.5 billion to construct a second deepwater port. The project, to be located in an as yet undisclosed area, is a clear case of land grabbing for export production. Moreover, this is taking place at a time when Kenya is experiencing severe droughts, crop failures and national food shortages.

Another project is aiming to convert 20,000 hectares of the Tana River Delta for sugarcane and agrofuel production. The land in question is trust land and any change in the land tenure must be done in consultation with affected communities. Instead these communities were only informed after the land was leased out. Local communities are deeply concerned, because the grazing land, held in trust by the county council, will be fenced off and converted into plantations. Over 25,000 people living in thirty villages are to be evicted from their ancestral land.

The Yala Swamp on the northeastern shore of Lake Victoria is a huge wetland ecosystem that has major ecological and hydrological functions and is an important source of livelihoods for neighboring communities. It is by far the largest papyrus swamp on the Kenyan side. It acts as a natural filter for several biocides and other agricultural pollutants and effectively removes silt from waters entering Lake Victoria. The area is densely populated. The swampland is trust land held by county councils. In 2003, Dominion Farms Ltd. made a proposal to convert part of the swampland into rice plantation. At the time, the land was used to grow cereals, pulses and horticultural produce. Dominion promised jobs, schools, clinics, infrastructure upgrading and a general upsurge in the local economy. County councils granted lands to Dominion on the basis of a memorandum of understanding. However, this document did not even make reference to the people living on the land. Moreover, employment on a large scale did not materialize. Pay levels were low and working conditions very poor. Villagers even reported that workers were subjected to insecticide

² All the facts described in this box are drawn from FIAN International, *Land Grabbing in Kenya and Mozambique*, Heidelberg, April 2010.

spraying. Fields were flooded and crops destroyed to force residents to relocate. The Dominion estate has changed the ecological and social balance of the area by blocking access to river and canal water previously used by local communities. People are barred from fishing in the river and fish ponds have disappeared. People had also made a living by raising goats and cows, small-scale farming, and papyrus and sisal harvesting in the swamps. Most of these activities are no longer possible. The ongoing expansion of the company interferes with the communities' land rights.

Impediments to the Realization of the Right to Food

The pervasive economic and social inequalities and political exclusion of people suffering from food insecurity in the country are a serious impediment to the realization of their right to food. Over the past years, the divide between rich and poor has been growing. Glaring inequality between men and women exist throughout the country. It is estimated that 96 percent of rural women work on family smallholdings, provide 75 percent of the labor and are directly responsible for the management of two-fifths of smallholder farms. Yet, they often have no right to own land and usually do not participate in making decisions about family production and income expenditures. Women are not able to claim their rights to use land or other resources to ensure their families' food security and their own. Inequality is exacerbated by endemic corruption at all levels of government in spite of a zero-tolerance policy towards corruption. In particular, the land sector has been characterized by corrupt practices for decades, leading to the current land crisis. Land is crucial for the livelihoods of the majority of Kenya's population and is essential to their enjoyment of the right to work and the right to food. Much of the land that has been illegally grabbed lies in water catchment areas, thus negatively affecting water access. The majority of the land is still in the hands of a wealthy elite. Land registration is inefficient, and land ownership for the poor is insecure. The politicization of land and the economic interests of the elite have resulted in a lack of political will to provide long-term solutions to the food security situation in the country. Inadequate infrastructure, the decrease in public investment in rural development in the last decades, and poor access to information for peasant farmers make access to markets difficult and hinder efficient distribution of relief aid in times of emergency.

Conclusions and Recommendations

The severity of the current famine is exacerbated by the lack of rainfall and the after effects of the post election violence in 2007. A number of structural problems have caused droughts and human-made disasters to lead to famine. These structural problems include (a) the high level of inequality, (b) social, economic and political exclusion of vulnerable groups, (c) widespread corruption and nepotism, (d) lack of investment in sustainable agriculture, and (e) fragmented and contradictory legislative and policy agenda. These structural problems mean that the Kenyan government is not adhering to its obligation to respect, protect and fulfill the right to food as required under international law.

The following violations related to the right to food have been identified in Kenya: (a) no national strategic plan for the right to food is in place, (b) budget allocations for the right to food are insufficient, (c) no decisive action is undertaken to fight corruption, (d) the right to information and to political participation is not implemented, (e) agrarian reform, including land redistribution and institutional support to sustainable peasant agriculture, is not carried out, (f) no provision of free primary education and school meals, and (g) rights of peasant farmers and pastoralists are not recognized. Extra-territorial violations include: (a) failure by industrialized countries to curb causes of climate change, (b) design and implementation of food relief programs that are not human rights based, and (c) inadequate assistance to Kenya in establishing income systems that ensure food security for all.

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MOZAMBIQUE

A REPORT ON LAND GRABBING¹

Introduction

Over the past years, vast tracks of agricultural land have been taken over by foreign firms mostly in African countries. FIAN has been working for more than twenty years against the forced eviction of rural communities from their agricultural and grazing lands, their forests, and their fishing grounds. In August and September 2009, FIAN investigated the Massingir case of land grabbing in Mozambique through a human rights framework.

Facts and Findings

Human Rights Framework

Land grabbing affects agricultural land in rural areas, where the majority of hungry people still live. Thus, it is particularly relevant to consider international standards related to the right to adequate food, specifically, Mozambique's obligation to ensure that, at all times, every person has physical and economic access to adequate food or the means for its procurement. This includes the use of productive land or other natural resources to obtain food and income, as well as the creation of functional processing and distribution systems. The ability to individually or communally cultivate land (on the basis of ownership or other forms of tenure) is, therefore, at the root of the right to adequate food, a right which must be respected, protected and guaranteed by States. Considering the interrelatedness of all human rights, land grabbing is likely to have an impact on other human rights as well. It can endanger the right to adequate housing, the right to an adequate standard of living, including by limiting the access to resources, the right to work, and the rights to information and political participation. In addition, the rights of indigenous peoples, the right to self-determination, and the right not to be deprived of one's means of subsistence can also be affected.

Legal Framework

Although Mozambique has not ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), it recently adopted a National Food Security Strategy which refers to the human right to adequate food and the need to apply approaches that focus on the realization of economic, social and cultural rights (ESCR).

Additionally, the 1995 National Land Policy recognizes the complex circumstances surrounding land distribution due to the internal displacement of the population during the civil war. The policy aims to reinvigorate food production in order to achieve production levels necessary for self-sufficiency and to create the appropriate conditions for family-based agriculture. Under this policy, access to land is guaranteed to both investors and the population. It also mandates that the ancestral rights of the rural population must be respected. Along with the Land Policy, the Agrarian Policy incorporates the objectives of food security and the reduction of unemployment rates and poverty. These objectives are to be achieved through the increase of agricultural production, the creation of food surpluses, and an expansion of export-oriented trade. With agriculture as the basis for economic and social development, the government aims to: a) insure food security through self-sufficiency; b) increased agricultural productivity; c) improve the competitiveness and sustainability of agricultural activities; d) promote the sustainable exploitation of natural resources.

¹This article is a summary of the section on Mozambique of the report of FIAN International, *Land Grabbing in Kenya and Mozambique*, Heidelberg, April 2010. The contributors to the Mozambique section are Sofia Monsalve Suárez, Saturnino Borras Jr. and Mariana Rocha. This report received the financial support of Brot für die Welt (Bread for the World) and Misereor and is available in its full length in English (www.fian.org/resources/documents/others/land-grabbing-in-kenya-and-mozambique/pdf) and French on the enclosed CD as well as a report in Portuguese on the impact of development projects on rural peoples' social rights in Mozambique.

International influences

European Union (EU) energy policies are fuelling overseas agrofuel investment by EU countries. European development cooperation is actively supporting the introduction of agrofuel policies in African countries. In Mozambique's case, following a study sponsored by the World Bank and the Embassy of Italy in Maputo showing the favorable conditions for agrofuel production in the country, the government adopted in May 2009 a new Policy and Strategy for Bio-fuels. The adoption of this policy was justified by the instability of the international oil markets. A regulatory framework ensures that the energy sector will promote ethanol and bio-diesel produced from agricultural raw materials suited to Mozambique's agricultural and climatic conditions. However, the authorities acknowledge that allocating land for agrofuel production without generating conflicts with local communities and with proper management of natural resources will be a challenge. Six principles to guide policy implementation are stated: inclusion, transparency, environmental and social protection, gradual implementation, fiscal sustainability, and innovation. The government's duty to support rural communities in the development of their own projects and to guarantee clear and transparent communication between all involved parties was also emphasized.

09 The Massingir Case, Gaza Province, Mozambique²

The Massingir case relates to a projected sugar cane plantation of 30,000 hectares with a fifty-year lease to produce ethanol, mainly for markets in South Africa. The British company BioEnergy Africa bought 94 percent of the project (also referred to as ProCana) in 2008 and 2009 from other investors. The lands affected by this project are the main source of livelihood for Massingir communities and are used for raising livestock, producing charcoal, and subsistence farming. The Massingir case presented additional complexities because part of the land requested by the project was also claimed by Limpopo National Park, which intended to use the area for the resettlement of members from nine communities who were living inside the park. Due to this complex situation, some families started to identify alternative locations but lacked sufficient support from park authorities. Others preferred to stay in the park and wanted the government to change the park boundaries.

In late 2009, BioEnergy Africa announced suspension of its investment in ProCana, and recent information indicates that the government has subsequently cancelled the project. However, prior to this decision, the project initiators had already obtained guarantees from the government enabling them to use up to 750 million cubic meters of water from the Massingir dam to irrigate their sugarcane plantation. Such (re)allocation of water resources would have undermined the capacity of adjacent communities to produce food and therefore their autonomy. Consequently, the right to water and to adequate food of these communities would have been compromised. The project would also have affected the pastoralist communities by interfering with their livestock grazing practices. As a result, it is likely that these communities would have lost their land and livelihood without proper compensation. Only informal commitments regarding resettlement were discussed. Some consultations with the affected communities took place but significant irregularities were reported by community groups: only local elites and elders were actually consulted and some of them had personally endorsed the project over the widespread objections of community members, and consultations did not inquire into whether or not the local communities accepted the ethanol project or under what conditions. It was also reported that the ProCana project extended beyond the appointed boundaries, ignoring original agreements with the communities.

The government could authorize similar initiatives with other parties in the future. If the necessity for broad and effective consultations continues to be disregarded, these communities will, most likely, again be exposed to violations of their human rights.

² All the facts described in this box are drawn from FIAN International, *Land Grabbing in Kenya and Mozambique*, Heidelberg, April 2010.

Conclusions and Recommendations

Had it been carried out, the ProCana project would have had a serious negative impact on the livelihood and the pastoralist lifestyle of local communities. The extensive water rights granted ProCana by the government would have severely undermined the current and future potential for irrigated agriculture by smallholder families in the area. The autonomy and capacity of local communities to produce food for their own consumption would have been significantly weakened. Therefore, the ProCana project would have amounted to a series of violations of the rights of these communities, including their right to adequate food, adequate housing, and adequate standards of living, as well as, their right to water. The project also violated the policy implementation principles of the Policy and Strategy for Bio-fuels and impaired the right of local communities to have access to information and to participate in decisions that affect their lives.

Land grabbing constitutes a human rights violation and generates multiple threats to rural communities. Since land grabbing is a long-term activity which destroys ecosystems and runs counter to rights-based rural policy options, such as agrarian reform, the human rights of future generations are also likely to be affected.

As demonstrated by scientists, large-scale industrial agriculture is not needed to increase soil productivity and food production. Productive and sustainable rights-based agricultural technologies for farming communities already exist, and relevant policies need to be implemented urgently.

States and the international community are under a human rights obligation not to promote or permit land grabbing. Countries in which transnational corporations are based should be reminded that they have clear extraterritorial obligations. These extraterritorial obligations to prevent land grabbing should also be monitored by inter-governmental institutions.

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SPAIN

THE ECONOMIC CRISIS AND THE RIGHT TO FOOD¹

Introduction

Recently, several reports on Spain have shed light on the severe imbalances in the Spanish economy. Among the various data quoted, the massive loss of jobs is the fact which most harshly expresses the depth and scope of the crisis sweeping the country. The unemployment rate has increased for the third consecutive year, reaching 19.1 percent in March 2010, an all-time high which is double the European average and is also the highest among the countries of the Organisation for Economic Co-operation and Development (OECD).²

The current crisis has exposed the systemic problems of the Spanish socioeconomic model, which began long before the global financial crisis and the bursting of the real estate bubble. In fact, during the years of the so-called “Spanish economic miracle,” the poverty rate remained unchanged around twenty percent (the second highest among countries of the European Union/EU),³ which shows that poverty is a structural problem in Spain.⁴ However, the current crisis is aggravating the situation, and the poverty rate is on the rise. As a result, calls for help are soaring, but it has been noticed that the type of help demanded as well as the profile of the people in need (“new poor”) is changing. Currently, the most widespread and intense demand for help is for food, followed by aid to cover housing costs (poor households allocate 84.2 percent of their incomes to housing costs). As for the profile of people relying on aid, before the crisis, they used to be predominantly immigrants, pensioners and persons at risk of social exclusion, but now they include whole middle-class families who have lost at least one of their wages.

Facts and Findings

Three main entities provide food aid in Spain: the Spanish Federation of Food Banks (*Federación Española de Bancos de Alimentos*), Caritas and the Red Cross. These are not-for-profit entities which distribute food through volunteer-based social and religious organizations, and administer both private and public funds (mainly from the Aid Program for the neediest people of the Spanish Agricultural Guarantee Fund – *Fondo Español de Garantía Agraria*). These entities, which estimated that more than 1.5 million people suffered from hunger in Spain in 2008,⁵ have warned that due to the crisis the demand for food increased by fifty percent in 2009.⁶ The insufficient capacities and resources of the public administrations to meet basic needs in the current emergency situation and the lengthy procedures of the existing social security services lead people in need to turn to social organizations, whose ability to respond is accordingly diminished in times of crisis. This situation gives evidence for the severe deficit of social protection, a responsibility of the State, caused by the lack of adequate response by public services in emergency situations. The role of social organizations such as Caritas must be complementary to the work of public social services and must in no case substitute State obligations.⁷

1 The article was written by Rica García. She is responsible for programs on the right to food and food sovereignty at the Observatory - Economic, social and cultural rights, a platform of twelve human rights and cooperation organizations created in 1998 with the goal of promoting social justice through a comprehensive human rights vision. The Observatory is a member of the International Network for Economic, Social & Cultural Rights (ESCR-Net) and of Habitat International Coalition (HIC). It also participates in national networks and campaigns. For more information, please visit: www.observatoridesc.org/en

2 OECD, *Economic Outlook* No. 87, 26 May 2010, see: www.oecd.org/document/4/0,3343,en_2649_33733_20347538_1_1_1_1,00.html

3 European Commission, *Joint Report on Social Protection and Social Inclusion 2007*, 12 September 2007, available at: ec.europa.eu/employment_social/social_inclusion/docs/2006/joint_report_en.pdf

4 Fundación FOESSA, “Desigualdad, pobreza y privación” (“Inequality, Poverty and Deprivation”) in *VI Informe sobre exclusión y desarrollo social en España 2008* (VI Report on Social Exclusion and Development in Spain 2008), 2008, available in Spanish at: www.foessa.org/Componentes/ficheros/file_view.php?MTAxNDA%3D

5 *Ibid.*, p.60 (indicator 23 “Have frequently suffered hunger in the past ten years or currently suffer hunger”: 2.6 percent of the population).

6 Caritas, *La respuesta de Caritas ante la crisis: Impacto, diagnóstico y propuestas* (*Caritas Response to the Crisis: Impact, assessment and proposals*), June 2009, available in Spanish at: www.caritas.es/Componentes/ficheros/file_view.php?MTI4MTC%3D, and

Federación Española de Bancos de Alimentos, www.fesbal.org.

7 Caritas, *op. cit.*

The most urgent action needed is a profound reform of the social protection system to respond to the social emergency caused by the crisis. Furthermore, the current Spanish production and economic model needs a structural change. Since Spain joined the EU in 1986, the employment and gross domestic product (GDP) distribution by sector have changed substantially. Between 1985 and 2005, employment in the services sector increased by fifteen percent including by 5 percent in the construction sector. However, employment in the agricultural sector experienced a sharp decrease, falling from 25 to 17 percent. This trend is also reflected in the evolution of participation of those sectors in GDP: the output of services and construction increased, while there was a decline in industry (from 28 to 18 percent) and agriculture (from 6 to 3 percent).⁸ Due to this model, Spain has become the country with the third highest trade deficit, following the United States and Great Britain.

It is thus not surprising that the current social and food crisis is accompanied by a major crisis in the Spanish agrarian sector. Since 1975, the active population in agriculture decreased from 25 to 4 percent of the current population, representing a loss of more than 1.5 million jobs. In the countries of the South, violations of the right to food are to a large extent linked to the dismantling of family agriculture. In the countries of the North, this correlation does not seem to be so evident. However, in the wake of the severe deterioration of the Spanish economy, the destruction of rural employment and the high vulnerability of the food system are critically affecting the realization of the right to food and the enjoyment of other human rights. In addition to the loss of agrarian activities, the lack of sustainability of the current Spanish agro-industrial system becomes evident because of its dependence on external supplies, its high energy and environmental costs, and its vulnerability to speculative attacks in financial markets. Its struggle to remain competitive causes rising food prices for consumers.

This situation is the result of the changes brought about by the EU Common Agricultural Policy (CAP) over the past 25 years, which have progressively dismantled the mechanisms of regulation of the internal European market and enhanced trade liberalization for products from non-member countries. As a result, a strategic sector, the food sector, has been exposed to massive imports with no controls on quality, safety and origin. It also suffers extreme price volatility. While the initial objectives which guided the CAP until the 1980s were to increase agricultural productivity, to stabilize markets, to secure stable food supplies at affordable prices and to ensure a fair standard of living for the agricultural community, later reforms shifted away from these objectives and gradually introduced a market-oriented approach. In this context, it is worth mentioning the central reforms carried out in 2003, which clearly favored the interests of the large-scale food distribution companies and agro-industries. Oligopolistic practices have already been denounced in the European Parliament in March 2009, when measures to fight financial speculation in the food supply chain were also requested.⁹ Moreover, the concentration of large retail outlets has risen sharply in the past years, together with collusive behavior¹⁰ resulting from their dominant position in the Spanish market. As a consequence, the difference between producer and consumer prices increased by 490 percent in 2009.¹¹ One of the strong regulation mechanisms which has been practically eliminated in practice involved interventions for the maintenance of public food stocks, as foreseen in the program for food aid of the CAP. The objective of stabilizing internal agricultural

8 Miró i Ardèvol, Josep (director), *Crecimiento económico, desigualdad social y crisis (Economic Growth, Social Inequality and Crisis)*, Instituto de Estudios del Capital Social (INCAS), February 2008.

9 European Parliament, *EU must guarantee reasonable food prices for consumers and decent income for farmers say MEPs*, Press release, 26 March 2009, available at: www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+IM-PRESS+20090325IPR52632+0+DOC+XML+V0//EN.

10 "Collusive behaviors" are defined as parallel agreements or actions which restrict competition and consequently have negative effects for producers and consumers. These behaviors are described in the following report, which establishes that they are abuses outlawed by article 2 of the law on protection of competition (Ley de Defensa de la Competencia - LDC) and/or of anti-competitive agreements which are contrary to article 1 of this law. For more details, please see, Basque Court for Competition Protection (Tribunal Vasco de Defensa de la Competencia), *La distribución de bienes de consumo diario: competencia, oligopolio y colusión táctica (The Distribution of Convenience Goods: Competition, oligopoly and tactical collusion)*, April 2009, available in Spanish at: www.ogasun.ejgv.euskadi.net/r51341/es/contenidos/informacion/imformes_mercados/es_infomerc/adjuntos/090420%20DISTRIBUCION%20COMERCIAL%2020%20ABRIL%202009%20FINAL.pdf.

11 Coordinadora de Organizaciones de Agricultores y Ganaderos (COAG), Unión de Consumidores de España (UCE) and Confederación Española de Organizaciones de Amas de Casa, Consumidores y Usuarios (CEACCU), *Balance 2009 Índice de precios en origen y destino de los alimentos (IPOD)*, available at: www.coag.org/index.php?s=2&id=7ba0e8d30e4add7ccc8e402df8acf93.

markets through food stocks has been neglected in recent years, resulting in a significant decline of public stocks and the bulk of food products being purchased on the free market (85 percent in 2008).¹²

The policy pursued with regard to genetically modified organisms (GMOs) is another area of increasing concern and social opposition. Spain is the only EU Member State which cultivates GMOs on a large scale. Farmers as well as environmental and consumer organizations have repeatedly denounced the socio-economic impacts currently caused by GMOs,¹³ the non-fulfillment by the State of the right to environmental information¹⁴ and the non-respect of the precautionary principle with regard to the risks of genetically modified foods. While the Government responds with complete indifference to the claims and mobilization of these actors, there is more and more evidence of the direct influence exerted by the biotechnology industry on the decision-making bodies of the Spanish government on this matter, as exposed in the report, *Bad Companies: Who decides the government's policy on genetically modified organisms? (Las Malas Compañías: ¿Quién decide la política del Gobierno sobre transgénicos?)*.¹⁵

Conclusions and Recommendations

The structural dependence of the current Spanish food system will generate ever more serious food crises due to price volatility. With respect to its international human rights obligations, the Spanish government should adopt strong structural policies to transform this model. The UN Committee on Economic, Social and Cultural Rights (CESCR) specifically establishes in its General Comment No. 12 the mandatory legal ground for the development of policies and laws which respect, protect and fulfill the right to adequate food. In this sense, it is imperative to carry out a reform of the food sector as soon as possible in order to put in place market regulatory mechanisms and promote a social and sustainable agricultural model which prioritizes agro-ecological production and the development of local markets.

12 European Court of Auditors, *European Union Food Aid for Deprived Persons: An assessment of the objectives, the means and the methods employed*, Special Report No. 6, 2009, available at: eca.europa.eu/portal/pls/portal/docs/1/2962291.PDF.

13 Amigos de la Tierra, CECU, COAG, Ecologistas en Acción and Greenpeace, *Implicaciones socio-económicas de la introducción de OMGs en el mercado para su cultivo (Socio-economic Effects of the Introduction of GMOs in the Market for Cultivation)*, presented at the European Parliament on 24 March 2010, March 2009, available in Spanish at: www.coag.org/rep_ficheros_web/6cb3c46ad43fe6b7c8aea5ed07637d75.pdf.

14 Right to environmental information, enshrined in the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)*, adopted on 25 June 1998 and ratified by Spain on 29 December 2004, available at: www.unece.org/env/pp/documents/cep43e.pdf.

15 Amigos de la Tierra, *Las Malas Compañías: ¿Quién decide la política del Gobierno sobre transgénicos? (Bad Companies: Who decides the government's policy on genetically modified organisms?)*, 2009, available in Spanish at: www.tierra.org/spip/IMG/pdf/Las_malas_companias_II.pdf.

A STUDY ON THE RIGHT TO FOOD¹

Introduction

Zambia ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1984, and is thus legally bound to implement the treaty through domestic laws and policies. It requires that the government make use of all available resources to progressively achieve the full realization of the economic, social and cultural rights (ESCR) of its population, including the right to food, and to do so without discrimination of any kind. However, ESCR in Zambia, such as the rights to health, housing, food, education, water and sanitation, are treated as “second class” rights even though the Universal Declaration of Human Rights gives them the same importance as civil and political rights.

Facts and Findings

Governance and Legal Frameworks

Despite constitutional and policy recognition of the importance of a healthy and nutritious diet for human development, a number of gaps exist in realizing the right to food in Zambia. The current Zambian Constitution does not extensively recognize the ESCR, especially the right to food, as human rights. In Part IX of the Constitution, *Directive Principles of State Policy*, it clearly states that these ESCR are not justiciable and therefore it is very difficult to enforce them legally in any national court of law.

On the other hand, the government has made tremendous efforts to improve food security by monitoring food price shocks, nutritional status, and food availability. It also established new structures to this end. However, these measures faced a number of challenges, especially with regard to their implementation and coordination. Furthermore, the institutions mandated to oversee the food system are not fully committed to prioritizing the access of the most vulnerable populations to adequate food and resources.

Food Security at the Household Level

In Zambia, a high proportion of both rural and urban households are vulnerable to food insecurity. Both chronic and transitory food insecurity is prevalent. For rural households, food entitlements are linked to agriculture. Therefore, insufficient food production capacity, lack of income diversification and unfavorable climatic conditions are the main causes of food insecurity in rural areas. Urban households, on the other hand, depend on wage income to purchase their food. Consequently, they are more vulnerable when their wage earnings decrease and prices for food and other basic necessities, such as fuel and housing, increase. In recent years, there has been a rise in urban malnutrition as food consumption and nutritional levels are severely affected by the food price crisis.

Food Production

Over the last twenty years, data on food production trends indicate that the production of maize, the main staple crop in Zambia, has almost always been below national requirements. Recently, maize production suffered from the lack of support to smallholder farmers, the removal of subsidies on agricultural inputs and the recurrent unfavorable climatic conditions. As a result, large quantities of maize have had to be imported to fill this deficit. Moreover, the liberalization of the economy and privatization of state owned institutions, like NAMBOARD, which was in charge of buying and marketing maize and distributing fertilizer to farmers, have negatively impacted maize stocks. Food production at the household level has also been affected by the impacts of

¹ This article is a summary of the following report: National Coalition ANoRF-Zambia (Simon Ng'ona), *Right to Food Study: A Case Study Report on Zambia*, Lusaka, 2010. This report is available on the enclosed CD and on the ANoRF website www.rapda.org.

HIV/AIDS, which is affecting the working capacity of the most productive age group. High post harvest losses, due to poor preservation, processing and storage practices, further aggravate the situation. The limited number of markets also constrains food availability and accessibility; and so, the majority of rural households exhaust their food stocks before the next harvest.

On the other hand, it has been noticed that urban agriculture is a simple and cheap coping mechanism that can provide significant amounts of food at small scales as well as generate employment and income. By growing their own food, urban dwellers lower their food deficits and obtain a significant source of fruits and vegetables.

Food Consumption

Food consumption is related to access and availability. In Zambia, the main methods of food acquisition are through production, transfers and purchases. The FAO Food Balance Sheet shows a steady decline in per capita food availability, from 1969 through 1994, due to lower productivity of food production, which in turn was caused by high production costs related to high oil prices. Additionally, the national nutritional status has been below the recommended calorie allowance since it was first calculated in the 1970s. Nutritional habits in Zambia are unhealthy. Generally, limited daily food intake (usually one to two meals per day), a lack of variety in the daily diet (about 70 percent of caloric energy is derived from maize) and a significant consumption of nutrient poor foods have been observed.

Vulnerable Groups

Income is a major indicator of the availability of access to food, especially in urban areas. For a majority of people in Zambia, real incomes have declined over the past two decades due to inflation, while prices for essential goods and services, including food, have risen and continue to do so. This has affected people's ability to procure food. Low-income groups have been most affected since the food component of the Consumers Price Index increased by more than 44 percent between 1985 and 1994.

In 1991, 55 percent of Zambians lived below the poverty line. By 1996, this figure had risen to 66 percent. In urban areas the corresponding figures were 29 percent and 44 percent. Currently, over four fifths of the population lives on less than one dollar per day. Inequality has grown to the extent that the share of per capita income for the poorest twenty percent of households is now barely two percent of the total. Rising unemployment, due to cutbacks in the wake of economic restructuring, further aggravates food insecurity. Yet, with little human or financial capital, the poor are forced to take temporary and insecure jobs. The government has supported programs to increase the food accessibility of vulnerable rural and urban groups, but these programs do not reach all who are entitled because the number of low-income groups continues to rise. Because people living with HIV and AIDS often face food insecurity and discrimination, they are also vulnerable.

10 Displaced Farmers in Munkonchi, Zambia²

In 2006, the villagers in Munkonchi, Kapiri Mposhi District, Central Province, lost their main source of livelihood after a South African electricity company, Eskom, claimed ownership of the land they had been living on for decades.

Eskom got the land from a company that was formerly state-owned and displayed legal documents supporting its claim. The claim of land purchase made by Eskom came in the middle of the busy farming season.

At first, the village chief resisted Eskom's demand but soon became less defensive as evictions started. The villagers accused their chief, invested with decision-making powers over customary land laws, of being

2 All facts described in this box are drawn from: National Coalition ANoRF-Zambia (Simon Ng'ona), *Right to Food Study: A Case Study Report on Zambia*, Lusaka, 2010.



»» corrupt and taking bribes from the company. However, this outrageous situation rapidly drew the attention of civil leaders and CSOs. The Zambia Social Forum intervened in late 2006 to try to have Eskom reconsider its decision to evict villagers from their land. Considering that it was the middle of the farming season, Eskom accepted to hold off on the evictions.

After the farming season the farmers were harshly evicted from the land. Those who had built infrastructure on their land were given little in the way of financial compensation. Resistance by some courageous farmers who sought to fight for their land rights still continued, but Eskom's harsh tactics coupled with the acquiescence of their chief undermined their efforts. Some houses were burned and people's resistance ultimately waned. The alternative land that was given to the farmers was rocky and mountainous and not suitable for farming. Starvation ensued and farmers started relying on food handouts.

Government authorities had previously been approached in the hope that they would intervene, but in vain. As a villager said, "We have no land and the MP³ is nowhere to be seen. We were born here, and our parents and parents' parents were born and lived here. How can a caring government sell our land to an investor? Where can we go?"

The Social Forum tried to follow up on the situation and organized workshops on rights and transparent land acquisition procedures. However, the Forum has limited capacities and needs other interests groups to take up the cause. Some more research should be done on the exact compensation farmers received, on the activities that Eskom developed on the land and on how, if at all, the community benefited from this investment.

This case shows the failure of state authorities to protect the people of Munkonchi from eviction even though the president could have intervened in the matter and reversed the decision made by the traditional chief. It is ultimately the government's responsibility to provide better alternatives for both the people of Munkonchi and Eskom.

3 MP stands for Member of Parliament, or the local State Representative.

Conclusions and Recommendations

There is a need for the government to implement proper measures to ensure that undernourishment and poverty levels are reduced. For now, state policies and actions do not show any signs of the progressive realization of the ESCR. The government offers the excuse that Zambia has few resources. Without further delay, authorities should take steps to make ESCR justiciable and legally enforceable by properly defining and including them in its Bill of Rights. As Zambia is in the process of reviewing and revising its Constitution, this is a good opportunity to do so. The establishment of a separate court for ESCR should also be discussed. With respect to the domestic production of food, small producers should receive more support from the authorities, starting with simplifications in the procedures for acquiring subsidies.

The government should also formulate, with the participation of civil society organizations (CSO), a National Food and Nutrition Strategy that could harmonize all current relevant policies and programs, especially those concerning agricultural production and land, and define a clear road map for the promotion of the right to food. Civil society has a key role to play in monitoring the State's actions, right to food violations, and the deprivation of marginalized and vulnerable communities. The capacity of CSOs should be strengthened, and the opening of an African Network on the Right to Food (ANoRF) office in Zambia could help harmonize the work and the responsibilities of all non-state actors working on food related matters.

Zambia should focus on the empowerment of duty bearers, so they can fulfill their obligations. It should also empower vulnerable rights holders to give them the capacity to demand public actions concerning their right to food and other ESCR. The participation of CSOs is essential in this process.

CONCLUSION

In 2010 the global situation of the right to food and nutrition is dire. The consequences of the climate, energy, financial and food price crises have been felt around the world. These crises are closely related and have had adverse impacts on the enjoyment of the right to adequate food and nutrition. In 2009, for the first time in history, the number of undernourished people surpassed the one billion mark, and there is no sign that this unacceptably high number will be reduced any time soon. At the current pace, it will be impossible to achieve the first of the Millennium Development Goals, to halve the percentage of undernourished people in the world by 2015, without a profound change in national and global policies and governance.

The key responsibility for the realization of the right to food and nutrition at the national level remains with governments as they shape laws and public policies that, among other things, govern the access to productive resources, wages and transfer incomes. They are also responsible for establishing the international framework conditions and agreements that direct policies on trade, foreign investment and agricultural prices. In order to ensure that the implementation of the right to food and nutrition is not threatened by these policies, it is essential to increase the accountability of international actors.

The international community's response to the food and nutrition crisis demonstrates that there is a broad consensus that new governance mechanisms are needed to fight hunger. The reform of the Committee on World Food Security (CFS) has created new opportunities for addressing key causes of hunger and for guiding international actions towards more inclusive and effective strategies for food security and nutrition.

However, the reform of the CFS will become a success only if:

- (a) The committee is effectively perceived by governments, international organizations and civil society as the designated platform for policy coordination and decisions – as a kind of World Food Security Council;
- (b) Governments implement the decision to elaborate a Global Strategic Framework for Food Security and Nutrition (GSF) through a participatory process at the national, regional and global levels and based on the human rights framework;
- (c) The principle of accountability is endorsed by establishing a monitoring mechanism at the CFS that will assess national policies and international cooperation using indicators proposed by the FAO Voluntary Guidelines on the right to adequate food;
- (d) The civil society organizations (CSOs) mechanism is put in place in October 2010 with proper funding and an inclusive participatory process.

Profound and necessary policy changes should also embody a new way of mainstreaming nutrition into global strategies to overcome hunger. Problems related to food security, nutrition, and health must be seen and tackled in a comprehensive and integrated way. The need for an approach involving nutrition becomes evident when addressing the right to food and nutrition of people living with HIV and AIDS. The best way to address this challenge is to strengthen the UN Standing Committee on Nutrition (SCN) and to ensure that nutrition remains

high on the agenda of the CFS. Moreover, the current paradigm debate over a human rights or investment-based approach in applied nutrition should help to clarify concepts and to change practices. Certainly, the adoption of a human rights framework for nutrition would ensure that children, women and men are recognized as rights holders and are no longer seen as beneficiaries of aid.

Due to the appeal of agrofuel, the skyrocketing price of food, and the collapse of the financial markets, land has become a lucrative investment. Those taking part in this modern day gold rush too often resort to hasty land deals without considering their effects on local communities. This land grabbing must be stopped. The ongoing participatory process aimed at developing Voluntary Guidelines on land and natural resource tenure, which are guided by human rights standards and principles, is a promising initiative. However, a process of intergovernmental negotiations similar to the drafting procedure for the Voluntary Guidelines on the right to adequate food is still required. The opposite approach, which is based on the illusion of functional self-regulation by investors, is certainly not appropriate. Such a proposal was made by Japan at the G8/G20 meetings and is discussed in the document *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources*. But, as the UN Special Rapporteur on the Right to Food, Olivier De Schutter, states: “[These] Principles [...] do not even refer to human rights. As a result, the dimension of government and private actor accountability and of control by independent bodies is lost.”

In the end, the current debates on governance, accountability, paradigms, participation and land issues are expressions of a growing awareness of the need to change power relations in the global food system. There is a clear challenge to democratize the governance of the food system and to hold governments, international organizations and the private sector accountable to their human rights commitments. First steps have been taken, but proof of real political determination for change and for success of the new CFS is still lacking. Many governments still refuse to be monitored by their citizens and by the international community or to be held accountable under human rights laws. We must effect change by strengthening the capacity of people to use the human rights framework for monitoring governmental, intergovernmental and private sector actions which worsen hunger, as well as those which alleviate hunger and reduce inequality.

A true reconfiguration of power relations in the global food system certainly requires sustained strengthening of global civil society networks and their participation in decision making. Significant progress has already been made in the past years. The International Planning Committee on Food Sovereignty has been a key actor in the ongoing governance reform by making space for all the constituencies such as smallholder and peasant farmers, indigenous peoples, fisherfolks, pastoralists, rural workers, women, urban poor and youth. The country reports included in this WATCH offer another encouraging sign of the growth in national and regional civil society groups and networks dealing with the human right to food and nutrition. People are becoming increasingly aware that they have rights and are organizing themselves in order to hold their governments and intergovernmental organizations accountable to their obligations to respect, protect and fulfill the right to food and nutrition. Accordingly, the Right to Food and Nutrition WATCH, is a fundamental tool for increasing visibility on right to food practices and further strengthening civil society initiatives designed to meet these challenges.

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For more information, see:
· *Policies and Actions to Eradicate Hunger and Malnutrition*, Working Document, Summary and Open Letter, November 2009. (Available in English, French and Spanish)
- 02 The African Network on the Right to Food in Action
Huguette Akplogan-Dossa
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· National Coalition ANoRF-Togo, CREAT, *État des lieux du droit à l'alimentation adéquate au Togo (The State of the Right to Food in Togo)*, Lomé, 2010. (Available in French)
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- 07 Responsibly Destroying the World's Peasantry: land grabbing's grim reality
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- Full report** (available in English): Graham, A., Aubry, S., Künnemann, R., and Monsalve Suárez, S. - FIAN, *Land Grab Study*, CSO Monitoring 2009-2010 "Advancing African Agriculture" (AAA): The Impact of Europe's Policies and Practices on African Agriculture and Food Security, 2010.
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17 ZAMBIA

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In addition to the documents, you will find the current as well as previous issues of the WATCH in PDF format on the CD.



2010

In 2010 the global situation of the right to food and nutrition is dire. The consequences of the climate, energy, financial and food price crises have been felt around the world. In 2009, for the first time in history, the number of undernourished people surpassed the one billion mark, and there is no sign that this unacceptably high number will be reduced any time soon. At the current pace, it will be impossible to achieve the first of the Millennium Development Goals, to halve the percentage of undernourished people in the world by 2015, without a profound change in national and global policies and governance.

The Right to Food and Nutrition WATCH intends to monitor food security and nutrition policies from a human rights perspective, to detect and document violations and situations that increase the likelihood of violations, as well as the non implementation of human rights obligations and policy failures. The WATCH provides a platform for human rights experts, civil society activists, social movements, the media, and scholars to exchange experiences on how best to carry out right to food work, including lobbying and advocacy.