

*Droit à la alimentation*

*Right to Food*

*Derecho a la alimentación*

**2018**

# CIVIL SOCIETY REPORT

ON THE USE AND IMPLEMENTATION OF THE RIGHT TO FOOD GUIDELINES



## IMPRESSUM

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## La mujer sin rostro

(The faceless woman)

There is a peasant woman  
faceless, nameless  
who feeds the world.  
Who is reborn every dawn  
in Uganda, Myanmar  
Colombia or Palestine.  
Her name tattooed  
on the callouses of her hands,  
she is nude  
veiled in seeds of red  
black, yellow and white.  
She does not care about SDGs, the CFS  
or hundreds of acronyms.  
Landless woman  
painted with color,  
she is bamboo,  
the smoke of fire-fallow,  
she is a cloud, water,  
tree woman,  
plant woman,  
fire woman.  
The faceless woman  
is assassinated a thousand times  
in Mexico, Argentina  
Nigeria and all of Europe,  
but she is reborn in Brazil, in Honduras  
or in Sierra Leone.  
Having a thousand spirits  
she is a peasant, fisherwoman,  
urbanite, a rainbow,  
she feeds the world with beans,  
corn, rice, yucca.  
She fights for the land,  
the water, for life and  
sovereignty.  
The faceless woman  
has a face and has a name.

Manigueueigdinapi Jorge Stanley Icaza  
Pueblo Kuna  
República de Panamá  
23/03/2018



## CONTENTS

<b>LA MUJER SIN ROSTRO</b>	<b>•3</b>
<b>ACRONYMS</b>	<b>•5</b>
<b>MEMBER ORGANIZATIONS OF THE CSM MONITORING WORKING GROUP</b>	<b>•6</b>
<b>EXECUTIVE SUMMARY</b>	<b>•9</b>
<b>I. INTRODUCTION</b>	<b>•12</b>
<b>II. ENRICHING THE NORMATIVE FRAMEWORK</b>	<b>•15</b>
a) <i>A Holistic Approach</i>	<i>•15</i>
b) <i>Democratic Control and Accountability</i>	<i>•16</i>
c) <i>Protracted Crises, Conflict and Natural Disasters</i>	<i>•18</i>
d) <i>Peoples' Sovereignty Over Natural Resources and Right to Livelihood</i>	<i>•19</i>
e) <i>Healthy and Sustainable Food Systems and Diets</i>	<i>•20</i>
f) <i>Workers' Rights</i>	<i>•22</i>
g) <i>Rights-Based Approaches to Social Protection, Development Aid, Trade and Investment</i>	<i>•22</i>
h) <i>Women's Rights</i>	<i>•24</i>
<b>III. IMPLEMENTATION OF THE RIGHT TO FOOD GUIDELINES</b>	<b>•26</b>
a) <i>Constitutional Recognition</i>	<i>•27</i>
b) <i>Framework Laws</i>	<i>•27</i>
c) <i>National Policies and Strategies</i>	<i>•28</i>
d) <i>Sectoral Laws</i>	<i>•28</i>
e) <i>Judicial Recognition</i>	<i>•29</i>
f) <i>Regional Approaches</i>	<i>•29</i>
g) <i>Global Governance</i>	<i>•30</i>
<b>IV. ONGOING STRUGGLES FOR AND VIOLATIONS OF THE RIGHT TO FOOD</b>	<b>•32</b>
<i>Struggles Linked to Violations of the Right to Food: Thematic Topics</i>	<i>•33</i>
a) <i>Democratic Control and Accountability</i>	<i>•33</i>
b) <i>Protracted Crises, Natural Disasters, Climate Related Shocks and Conflicts</i>	<i>•36</i>
c) <i>Peoples' Sovereignty Over Natural Resources and Right to Livelihood</i>	<i>•37</i>
d) <i>Healthy and Sustainable Food Systems and Diets</i>	<i>•39</i>
e) <i>Workers' Rights</i>	<i>•40</i>
f) <i>Rights-Based Approaches to Social Protection, Development Aid, Trade, and Investment</i>	<i>•40</i>
<i>Marginalized Groups</i>	<i>•41</i>
a) <i>Women</i>	<i>•42</i>
b) <i>Indigenous Peoples</i>	<i>•43</i>
<b>V. RECOMMENDATIONS</b>	<b>•43</b>



## ACRONYMS

**CEDAW:** Committee on the Elimination of Discrimination Against Women  
**CESCR:** Committee on Economic, Social and Cultural Rights  
**CFS:** Committee on World Food Security  
**CNOP:** Coordination Nationale des Organisations Paysannes  
**CSM:** Civil Society Mechanism  
**CS:** Civil Society  
**CSOs:** Civil Society Organizations  
**CRC:** Convention on the Rights of the Child  
**ESCRs:** Economic, Social and Cultural Rights  
**ETOs:** Extraterritorial Obligations  
**FAO:** Food and Agriculture Organization of the United Nations  
**FFA:** Framework for Action for Food Security and Nutrition in Protracted Crises  
**FIES:** Food Insecurity Experience Scale  
**FPIC:** Free, Prior and Informed Consent  
**FSN:** Food Security and Nutrition  
**GMOs:** Genetically Modified Organisms  
**GSF:** Global Strategic Framework for Food Insecurity and Nutrition  
**GTE:** Global Thematic Events  
**HLPF:** High Level Political Forum  
**IACHR:** Inter-American Commission on Human Rights  
**ICESCR:** International Covenant on Economic, Social and Cultural Rights  
**IFAD:** International Fund for Agricultural Development  
**IGOs:** Intergovernmental Organizations  
**ILO:** International Labour Organization  
**ITPGRFA:** International Treaty on Plant and Genetic Resources for Food and Agriculture  
**OAS:** Organization of American States  
**OEWG:** Open Ended Working Group  
**PSS:** Protocol of San Salvador  
**RBA:** Rome-Based Agencies  
**RTF Guidelines:** Voluntary Guidelines to support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security  
**RtFN:** Right to Food and Nutrition  
**SDGs:** Sustainable Development Goals  
**SOFI:** State of Food Insecurity and Nutrition in the World  
**SSF Guidelines:** Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication  
**TGs:** Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security  
**ToR:** Terms of Reference  
**UN:** United Nations  
**UNDRIP:** United Nations Declaration on the Rights of Indigenous Peoples  
**UNICEF:** United Nations Children's Fund  
**VNR:** Voluntary National Reviews  
**WFP:** World Food Programme  
**WHO:** World Health Organization



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- Biovision
- Bread for All
- Brot für die Welt – BfdW
- Caritas International
- CCFD Terre Solidaire
- Centro Internazionale Crocevia
- CIDSE International Alliance of Catholic Development Agencies
- Collectif Stratégies Alimentaires – CSA, Belgium
- Conseil National de Concertation et de Coopération des Ruraux – CNCR, Senegal
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## EXECUTIVE SUMMARY

The right to food is a fundamental pillar to the right to life. Yet it is also arguably the most violated human right globally. Today, hundreds of millions of individuals – some 821 million – remain food insecure. They lack consistent physical and economic access to sufficient, safe and nutritious food to meet their dietary needs. They face obstacles to securing an adequate income to purchase the food needed to feed their families in a dignified manner, and to acquiring rights and access to the resources – water, land, seeds, biodiversity – necessary to produce food. Many laws and policies support industrial, mono-culture modes of agricultural and food production that feed corporate supply chains and harm the environment, while rates of malnutrition continue to soar with massive impacts on the health and wellbeing of populations across the globe. Many who seek to defend their own right to food, and that of their communities and peoples, face retaliation, criminalization, persecution and – all too often – death. **These and many other violations of the right to food occur daily, in all corners of the planet, most often in the absence of any possibility of recourse, of access to justice, or of enforcing state accountability.**

Although these violations occur, there is a deepening awareness that the realization of the right to food is foundational for achieving food security, poverty eradication, sustainable livelihoods, social stability, peace and security, economic growth, and rural and social development. Right to food realization will also be necessary to meet the ambitious targets set forth in the Sustainable Development Goals (SDGs) for 2030. Just as the importance of the right to food is acknowledged, there is also growing normative consensus on the scope and content of the human right to food, of states' corresponding obligations to ensure its realization, and of the steps states can take to meet these obligations.

**The Voluntary Guidelines to support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (the RTF Guidelines) have played a critical role in establishing consensus on how to implement the right to food.** Spurred by a determined alliance of governments, civil society organizations (CSOs) and UN offices, the *RTF Guidelines* were negotiated through a participatory process in the Committee on World Food Security (CFS) and adopted unanimously by all member states of the United Nations Food and Agriculture Organization (FAO) in 2004. Since their adoption, the *RTF Guidelines* have been used to create tool kits and policy guidance to assist states with national implementation. They have also been used, particularly by the Right to Food Unit, now Team, at the FAO, to assist governments in adopting national strategies and legislation aimed at right to food realization.

**The *RTF Guidelines* remain a foundational and ever relevant text, providing critical guidance on right to food implementation. Over the last decade, however, the international community has expanded and deepened its understanding of the steps states should take to realize the right to food, enhancing the recommendations laid out in the *Guidelines*.** The challenge that remains is to translate this understanding into concrete actions on the ground.

This synthesis report summarizes the results of broad consultation amongst social movements, Indigenous peoples, small-scale food producers, non-governmental organizations (NGOs), and other CSOs on the use and implementation of the *RTF Guidelines*, as well as the main challenges that negatively impact the realization of the right to food and nutrition. It is a contribution from the Civil Society Mechanism (CSM) to the Global Thematic Event on the *RTF Guidelines* to be held during the 45<sup>th</sup> session of the CFS in October 2018. As such, it aims to contribute to promoting learning from experience and accountability in the CFS, the foremost inclusive international and intergovernmental platform on food security and nutrition, and to reinforcing the important role of monitoring at the CFS.

### ***Importance of Monitoring the Right to Food***

The CFS' monitoring of the use and application of the *RTF Guidelines* comes at an important moment. The protection, promotion and realization of human rights – including the right to food – is now at a critical juncture. Human rights spaces are under threat with the rise of authoritarian governments, xenophobic and nationalistic forces, and the trend towards declining authority of public sector policy-making to the benefit of private sector entities and interests. The CFS, too, is experiencing resistance to its human rights mandate. References to the right to food and human rights in the context of the CFS' normative work are consistently challenged by some states. The CFS rules and practices that underlie its legitimacy by privileging the voice of those most affected by the policies under discussion are in danger of being eroded. Avowed concern for efficiency and cost-control, risk de-politicizing the CFS' work and weakening its impact.

Compounding the political struggles, for the first time in a decade, the number of food insecure has increased – with rates moving from 784 million in 2015 to an alarming 821 million in 2017. Mainstream reports cite the increasing number of conflicts and climate-shocks as the main driver of rising levels of hunger and malnutrition, together with growing rates of unemployment and the deterioration of social protection nets. However, this analysis fails to also fully address the root causes of hunger and malnutrition linked to gender, race, class, and access to resources, as well as the increasing influence of corporations at all levels, including in food production and consumption habits, pricing, and marketing.



It has never been so important to reflect on the space and significance of human rights and the right to food. Monitoring in the context of the CFS provides an opportunity to consider how the normative understanding of the right to food has advanced since the adoption of the *RTF Guidelines*, to document success in right to food implementation and to critically assess where (and why) violations of the right to food persist. It also provides an opportunity to establish spaces of accountability, to give voice to those most affected by violations of the right to food and nutrition, and to plan for the future.

### ***Enriching the Normative Framework of the Right to Food***

The negotiation and adoption of the *RTF Guidelines* in 2004 was a historic event. Since then, **progress has been made in elaborating on the recommendations contained in the *RTF Guidelines* through a number of internationally negotiated instruments and authoritative interpretations.**

These international instruments and interpretations have contributed to an emphasis on holistic approaches to the realization of the right to food. A holistic approach requires analyzing the underlying and structural causes of food insecurity and right to food violations, responding to these in a multi-pronged and coordinated approach, and building policy coherence. It also requires recognizing that all human rights are universal, indivisible, interdependent, and interrelated, and that realization of the right to food cannot be achieved in isolation, nor can other human rights be enjoyed when violations of the right to food persist. In particular, it is increasingly acknowledged that the promotion and protection of women's rights are fundamental to the realization of the right to food.

These international instruments and interpretations have further highlighted the importance of participation, monitoring, and access to remedies. Today it is widely understood that active, free, effective, meaningful, and informed participation of affected communities should occur at all stages of law and policy development; that States need to repeatedly review and monitor policy, legislation, and programs to maintain their effectiveness and assess their contribution to right to food realization; and that accountability should be ensured through monitoring, access to courts, and the provision of remedies for violations. In the context of protracted crises, conflict, natural disasters, and climate change related shocks, new instruments and interpretations stress the importance of integrating human rights-based approaches into policy-making before, during, and after such events, and of supporting local food systems and right to food realization. They also assert that protecting the rights of human rights defenders and those working throughout the food chain is essential.

In line with a holistic approach, international instruments and interpretations have also united areas of policy once

treated as disparate. They are increasingly connecting people's sovereignty over natural resources to the right to livelihood, and the realization of the right to food and food sovereignty (the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems). Since small-scale producers feed the world, yet are often the most food insecure, they need rights to access and control over productive resources (water, seeds, land, forests, biodiversity etc.) and access to infrastructure (markets, roads, extension services etc.). The interconnections between sustainable food systems, healthy diets, and adequate nutrition have also been increasingly acknowledged. Promoting small-scale agroecology and sustainable production practices can increase diversity of diets, and assist in addressing undernutrition and over-nutrition as well as related micronutrient deficiencies, while also mitigating climate change. Markets embedded in local, national and regional territories need to be recognized and supported as they channel 80 percent of all food consumed worldwide.

Finally, international instruments and interpretations have increasingly stressed the importance of taking a rights-based approach – one that recognizes people as rights holders and stresses the importance of participation, rule of law, transparency and non-discrimination – in all areas of law and policy. This includes developing rights-based social protection schemes that move away from charity-based models, as well as ensuring that development projects, and trade and investment agreements contribute to right to food realization and do not result in human rights violations. Regarding the latter, both home states and foreign states, pursuant to their extraterritorial human rights obligations, are required to ensure rights protection and realization.

### ***National and Regional Implementation***

In the years following the adoption of the *RTF Guidelines* progress has been made in right to food recognition. A significant number of countries (Kenya, Mexico, Nepal, Bolivia, Egypt, Ecuador and others) have enshrined the right to food and/or food sovereignty in their constitutions, providing directives to policy-makers and an opportunity for redress to those whose right to food is violated. Similarly, great progress has been made in legislative protection of the right to food, with an increasing number of countries (Brazil, Cabo Verde, Dominican Republic, Ecuador, Nepal, Nicaragua, Mali, Venezuela, India and others) adopting right to food and/or food sovereignty legislation. Building on this foundation, many states have established policies and strategies, or adopted sectoral laws in a vast number of areas, from seed regulation to tenure laws, that contribute towards right to food realization.

Advancements in regional and global governance mechanisms have furthered the normative development of the right to food, the sharing of best practic-

es and accountability. At the regional level, initiatives under the Protocol of San Salvador (PSS) and through the Inter-American Commission on Human Rights have increased right to food monitoring and accountability within the Americas, while the Community of Portuguese Speaking Countries (CPLP) have made strides in building solidarity and cooperation towards right to food recognition and implementation among member states. Similarly, the regional agricultural policy (ECOWAP) adopted by the Economic Community of West African States (ECOWAS) enshrines food sovereignty and family farming among its objectives.

At the global level, the FAO and the CFS continue to play a critical role in advancing the right to food. The CFS constitutes the primary forum for policy guidance on how to realize the right to food and ensure participation of those most affected by hunger and malnutrition in the discussion. It is also the space best positioned to feed into global debates on food security and nutrition, including the SDG review process. The role of FAO in supporting the implementation of the right to food at the national level cannot be underestimated, despite concerns about the shrinking dedicated support to this work within the institution. The UN Human Rights bodies, and in particular the UN Special Rapporteur on the Right to Food and the UN High Commissioner on Human Rights, have also played a critical role in the normative advancement of the right to food and in holding states accountable. A close and enhanced collaboration between the CFS, the FAO, and the UN Human Rights bodies is essential. Indeed, collaboration with all other relevant UN bodies and CFS participants will be needed for joint, substantial, UN-wide efforts towards the progressive realization of the right to adequate food worldwide. Without these efforts, the SDG commitment to end hunger will not be reached.

Civil society has played an important role in all instances, engaging in food policy spaces and advocating for their rights. Though progress has been achieved with respect to right to food *recognition* and *understanding*, there is still much work to be done in *implementing* and *realizing* the right.

#### *Struggles for and Violations of the Right to Food*

Even with the progress made, violations of the right to food remain a daily occurrence in both the Global North and Global South. While the range and types of ongoing struggles for, and violations of, the right to food differ, they share many common characteristics. They largely concern the failure of the state to ensure that individuals, families, groups, and communities live in conditions that allow them either to produce food or to buy it and to feed themselves and their families sustainably, healthily, and in dignity.

Struggles also often concern the state's failure to meet procedural requirements, such as ensuring non-discrimination, transparency, accountability, access to

justice and recourse for violations of the right to food, participation of rights-holders in policy and law making, and monitoring. Inadequate government accountability impacts all areas of right to food realization, as does failure to ensure participation of rights-holders. This latter threat is particularly preoccupying given the current climate of multi-stakeholder platforms which fail to distinguish among the roles, responsibilities, and interests of actors or to guard against power imbalances and conflicts of interest, thus opening the door to corporate capture of policy making fora. Similarly, the rise in criminalization and violence against human rights defenders threatens right to food progress and justice.

Finally, women experience particular sets of struggles. Women play a crucial role in feeding the world and maintaining the earth, yet discrimination and violence against them remains pervasive in all areas of life, with adverse impacts on the realization of the right to food as well as other human rights. Denial of women's rights to land is a significant issue prevalent in many regions and often entrenched not only in historical practices and customs, but in law and policy as well. Furthermore, women workers are often denied access to even the most basic of rights covered in the core conventions of the International Labour Organization (ILO). The situation of rural women workers is particularly dire as their jobs are usually seasonal, part-time, low-wage, dangerous, isolated, and unregulated. Discrimination against women also hinders their ability to make and enact decisions related to their bodies, sexual health, and nutrition as well as the nutrition of their children and families, with intergenerational and community-wide repercussions on the right to food. Further, realizing the rights of indigenous women and girls is central to poverty reduction, food security and nutrition, and the protection of traditional knowledge as well as respect for human dignity and self-determination.

#### *Conclusions*

While space for human rights is shrinking, the number of food insecure is on the rise, **demonstrating** that business as usual is not working. **The rise in food insecurity presents a sobering warning: unless we change course, right to food violations will continue to increase.** Yet every day, all across the globe, people resist and fight back in small and big ways and demand their right to food. They take to the streets, they self-organize, they bargain collectively, they produce and trade food, they file court cases, they engage in peoples' monitoring, they participate in government processes and seek seats at the table, they assert their voices, they tell their stories, and they hold their governments accountable to realizing the right to food.

Indeed, the right to food remains an indispensable tool for ensuring a world free from hunger and malnutrition, with sustainable food systems that respect human dignity. The right to food defines rights-holders and duty-bearers, focuses on the most marginalized, takes a



holistic approach, sets out clear state obligations, requires the participation of those most impacted in decision-making, and ensures food systems that are fair, equitable, just, and sustainable. **The RTF Guidelines and the enhanced normative framework provide clear directions to states on how to make the right to food actionable. Now is the time for right to food realization – to take these instruments and implement them – and to build food systems that serve everyone today, and in the future.**

## I. INTRODUCTION

The right to food is a fundamental pillar to the right to life. Yet it is also arguably the most violated human right globally. Today, hundreds of millions of individuals – some 821 million<sup>2</sup> – remain food insecure. They lack consistent physical and economic access to sufficient, safe and nutritious food to meet their dietary needs. They face obstacles to securing an adequate income to purchase the food needed to feed their families in a dignified manner, and to acquiring rights and access to resources – water, land, seeds, biodiversity – necessary to produce food. Many laws and policies support industrial, mono-culture modes of agricultural and food production that feed corporate supply chains and harm the environment, while rates of malnutrition continue to soar with massive impacts on the health and wellbeing of populations across the globe. Many who seek to defend their own right to food, and that of their communities and peoples, face retaliation, criminalization, persecution and – all too often – death. **These and many other violations of the right to food occur daily, in all corners of the planet, most often in the absence of any possibility of recourse, of access to justice, or of enforcing state accountability.**

**Although these violations occur, there is a deepening awareness that the realization of the right to food is foundational for achieving food security, poverty eradication, sustainable livelihoods, social stability, peace and security, economic growth, and rural and social development. Right to food realization will also be necessary to meet the ambitious targets set forth in the Sustainable Development Goals (SDGs).** Just as the importance of the right to food is acknowledged, there is also growing normative consensus on the scope and content of the human right to food, of states' corresponding obligations to ensure its realization, and of the steps states can take to meet these obligations.

**The Voluntary Guidelines to support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (the RTF Guidelines) have played a critical role in establishing consensus on how to implement the right to food.** Spurred by a determined alliance of governments, civil society organizations (CSOs) and UN offices, the *RTF Guidelines* were negotiated through a participatory process in the Committee on World Food Security (CFS) and adopted unanimously by all member states of the United Nations

Food and Agriculture Organization (FAO) in 2004. Since their adoption, the *RTF Guidelines* have been used to create toolkits and policy guidance to assist states with national implementation. They have also been used, particularly by the Right to Food Unit at the FAO, to assist governments in adopting national strategies and legislation aimed at right to food realization.

**The RTF Guidelines remain a foundational and ever relevant text, providing critical guidance on right to food implementation. Over the last decade, however, the international community has expanded and deepened its understanding of the steps states should take to realize the right to food, enhancing the recommendations laid out in the Guidelines.** Yet the challenge remains in actualizing the right to food – turning, through participatory processes, the consensus on how to realize the right to food into concrete actions around the globe.

This synthesis report summarizes the results of broad consultations amongst social movements, Indigenous peoples, small-scale food producers, and other civil society organizations (CSOs) around the globe on the use and implementation of the *RTF Guidelines*, as well as the main challenges that negatively impact the realization of the Right to Food and Nutrition. It is a contribution from the Civil Society Mechanism (CSM) to the Global Thematic Event on the *RTF Guidelines* to be held during the 45<sup>th</sup> session of the CFS. This Global Thematic Event will be the second one held to share experiences in applying CFS decisions and recommendations,<sup>3</sup> as a contribution to the CFS' monitoring function. This report constitutes an important step towards promoting accountability in the CFS as the foremost inclusive international and intergovernmental platform on food security and nutrition and reaffirming the important place of right to food and human rights-based approaches to tackling food insecurity. **This event will also be the first international exercise monitoring the RTF Guidelines since the adoption in 2004 and the first global exercise of right to food monitoring.** It is an opportunity to assess where we stand, and how to move forward in the design and implementation of public policies for the right to food.

### *Human Rights Regression and Increasing Hunger*

The monitoring of the *RTF Guidelines* comes at an important moment. The protection, promotion, and realization of human rights – including the right to food – is now at a critical juncture. In 2014, on the occasion of the ten-year anniversary of the adoption of the *RTF Guidelines*, civil society groups and social movements identified an emerging paradigm shift in food system governance whereby international actors and stakeholders were beginning to recognize “the interconnectedness of food systems”, understand “the relationship between abuses of power, social exclusion, displacement, political powerlessness, hunger and malnutrition”, and demand “that rights holders be placed at the center of

policy and engaged in decisions that impact their lives."<sup>4</sup>

However, in the interceding years, there has been increasing adverse pressure against this paradigm shift and the human rights approach more broadly. These increasing pressures include the rise of authoritarian governments, and xenophobic and nationalistic forces, which pose threats to right to food advancements and human rights generally at national level, as well as in international spaces. For example, Zeid Ra'ad Hussein, UN High Commissioner for Human Rights, announced in December 2017 that he would not seek another term – citing concern<sup>5</sup> that his voice would be silenced in an age when world powers are retreating from their historical commitment to human rights. Other pressures include increasing corporate power and influence within policy-making processes at all levels and the continued patterns of natural resource exploitation that undermine our sources of life, manifesting in climate change, eco-destruction, displacement, and environmental degradation.

Within international institutions, the battle for human rights coherence has reached increased barriers. This is clearly illustrated by the prospective reduction of the Human Rights Council's budget, the ongoing budget crisis in the Inter-American Human Rights system, and the potential of some African countries to withdraw from the Rome Statute establishing the International Criminal Court. References to the right to food and human rights in the context of CFS' normative work are also constantly challenged. And after several years of limited funding, the 2018 loss of the FAO Right to Food team, is another huge barrier towards the creation of public policies for the right to food and the realization of the right to food at national levels, as this team provided much needed technical support to states in translating human rights commitments in the *RTF Guidelines* into national legislation and policy.

**While space for human rights is shrinking, the number of food insecure is on the rise, indicating that business as usual is not working.** For the first time in a decade, the number of food insecure increased from 784 million in 2015 to an alarming 821 million in 2017.<sup>6</sup> Mainstream reports cite the increasing number of conflicts and climate-shocks as the main driver of rising levels of hunger and malnutrition, together with growing rates of unemployment and the deterioration of social protection nets. While this is true, this analysis needs to go further in assessing the broader structural causes of food insecurity and malnutrition linked to gender, race, class, access to resources, as well as the increasing influence of corporations at all levels, including in food production and consumption habits, pricing, and marketing. **The rise in food insecurity also offers a sobering warning: unless we change course, right to food violations will become ever more present.**

*Why a CSO report on the RTF Guidelines?*

Reflecting on the space and importance of human rights and the right to food has never been so important. We are now at the ten-year mark of the food price crises that rocked the world from 2007 to 2009, and have seen little in the way of achievements and progress for right to food realization and human rights more broadly. **Given the current global climate and the hundreds of millions of people around the globe who endure food insecurity and daily violations of their right to food, it is time to step up commitments rather than to retreat, and to move from recognition of human rights to realization.** Monitoring in the context of the CFS also provides the opportunity to reflect on normative understandings of the right to food, to build comprehension on how the right to food is being violated, to enhance spaces of accountability, and to give voice to those most affected by violations of the right to food and nutrition.

In this context, this synthesis report addresses the following objectives:

- Document progress on actual implementation of the Right to Food, looking beyond the existence of laws and policy frameworks;
- Make visible the policies and practices of governments, third parties and international organizations which give rise to violations, or prevent the realization of the Right to Food; and
- Outline an enriched normative framework of the Right to Food, which has developed from and since the *RTF Guidelines*.

### *Methodology*

The report is based on broad consultations among social movements, Indigenous peoples, small-scale food producers, and other CSOs around the globe on the use and implementation of the *RTF Guidelines*. The outline and structure of the report was defined and agreed upon through discussions at CFS 44 and at a global consultation held in March 2018 organized by the CSM Working Group on Monitoring. Information was also collected through participation and outcomes from the CSO preparatory meetings towards the FAO regional conferences in Latin America and the Caribbean, Africa, Near East and North Africa, and Europe. Global consultations were also held at the World Social Forum (Brasilia, March 2018), the Commission on the Status of Women (NY, March 2018), and the High-Level Political Forum assessing the progress of the SDGs (NY, July 2018). All consultations provided opportunity for groups and individuals to share their views on the implementation of the *Guidelines* and their experiences in using them, as well as challenges faced at the national level.

In addition to group consultations and inputs, the report utilizes inputs from individuals and communities, including inputs on right to food realization in over 60 coun-



tries,\* in all geographic regions, as well as numerous regional, multi-country, and global submissions. These inputs were collected through a call for open input from CSOs published on the CSM website<sup>7</sup>, and information gathered through several interviews with key informants to ensure the inclusion of as many voices as possible, particularly those of the social movements who represent the most affected and marginalized groups.

Following a human rights-based approach on monitoring, the report takes the reality on the ground as the basis of analysis of the use of the *Guidelines*. We believe that participatory qualitative monitoring methods are essential and constitute one of the added values of this report. Such methods enrich and deepen results obtained through quantitative surveys designed to show statistical significance. A group of recognized academic experts on the Right to Food as well as CSOs supported by reviewing the process used to consult with the aim of ensuring its methodological soundness, providing inputs in all stages of the report drafting as well as offering comments to draft versions of the present report.

### CSM Perspective on Monitoring

*Since the CFS reform in 2009, the CSM has worked to develop a strong focus on the role and vision of monitoring generally, and specifically with regards to CFS decisions. The first CSM report monitoring the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (2012) (the Tenure Guidelines/the TGs), presented in the first Global Thematic Monitoring Event in 2016, carefully elaborated the CSM position on monitoring. An excerpt of this is provided here (internal citations deleted):<sup>8</sup>*

Even though decisions and recommendations of the CFS are voluntary, accountability is vital, connecting what happens at the local and national level with decisions made at the global level. ... Generally speaking, monitoring can be described as a continuous activity that systematically uses information in order to measure achievement of defined targets and objectives within a specified time frame. In doing so, it provides feedback on implementation processes and implementation problems. Monitoring also tracks resource acquisition, allocation and expenditures and the delivery of services.

\* Algeria; Angola; Argentina; Austria; Bangladesh; Belgium; Bolivia; Brazil; Burkina Faso; Canada; Cabo Verde; China; Colombia; Costa Rica; Cote d'Ivoire; Ecuador; Egypt; El Salvador; France; Germany; Ghana; Greece; Guatemala; Guinea-Bissau; Haiti; Honduras; India; Indonesia; Iran; Italy; Jordan; Kenya; Lebanon; Malawi; Mali; Mexico; Nepal; Nicaragua; Nigeria; Pakistan; Palestine; Panama; Paraguay; Philippines; Portugal; Romania; Sao Tome and Principe; Senegal; Sierra Leone; Spain; Sri Lanka; Sudan; Switzerland; Syria; Thailand; Timor-Leste; Togo; Tunisia; Uganda; United Kingdom; United States of America; Venezuela; Western Sahara; Yemen; Zambia

In the Global Strategic Framework (GSF), the CFS approved five principles of monitoring and accountability which have played a central role in CSM's proposals, and are part of the agreed ToR for monitoring events. According to these principles consistent with Civil Society perspectives, monitoring and accountability systems should: 1) be human rights based, with particular reference to the progressive realization of the right to adequate food; 2) make it possible for decision makers to be accountable; 3) be participatory and include assessments that involve all stakeholders and beneficiaries, including the most vulnerable; 4) be simple, yet comprehensive, accurate, timely and understandable to all, with indicators disaggregated by sex, age, region, etc., that capture impact, process and expected outcomes; and 5) not duplicate existing systems, but rather build upon and strengthen national statistical and analytical capacities. In addition, they should be linked to human rights reporting mechanisms.

[The CFS] should take into account the diversity of monitoring approaches privileged by different actors, and aim at bringing them into a conversation. The monitoring exercise should be a space allowing for non-consensual views to be expressed, thus implying that a range of actors participate by producing their independent assessments. In the understanding of the CSM, the ToR for organizing monitoring events provides for such a space.

CFS evaluation discussions in 2018 have developed a common understanding of the CFS' innovative monitoring mechanism to promote accountability and share best practices at all levels, including through: follow-up and review of both global and country/region specific food security and nutrition situations, trends, progress, challenges, and sharing lessons; assessing the effectiveness of the CFS and voluntarily monitoring the use and application of its policy products and recommendations; and facilitating advice regarding recommended approaches to country/regional review and follow-up of food security and nutrition objectives.<sup>9</sup>

Finally, while regional and global mechanisms are discussed, the focus of this report is on state accountability and monitoring of state actions (and inactions). While all actors – from rights-holders, to states, to international/intergovernmental institutions – can take important steps towards the realization of the right to food, states remain the primary duty bearers under international human rights law, with concrete obligations recognized in law to respect, protect and fulfill the right to food. Furthermore, the *RTF Guidelines*, whose implementation is the focus of the Globe Thematic Event, are themselves geared at steps states can take at the national level to realize the right to food.

### Outline of the Report

The report is divided into four parts. Following this introduction, Part II introduces an enriched normative framework for the progressive national realization of the right to adequate food in the context of national food security. This section builds on the *RTF Guidelines* by accounting for advancements made since their adoption concerning how states can and should implement the right to food in the national context. It draws from international agreements, declarations, treaties, CFS products and other state negotiated instruments, as well as legally authoritative interpretations of such instruments, such as treaty body general recommendations and comments. Part III provides a brief overview of successes in right to food recognition at the national level since the adoption of the *RTF Guidelines*. Part IV details how right to food violations manifest regularly across the globe in a wide variety of different countries and contexts. These violations were identified through the consultation process as the main right to food violations that hinder the full realization of the right to food for individuals, families, communities and groups across the globe. Finally, Part V details key recommendations flowing from the monitoring exercise.

## II. ENRICHING THE NORMATIVE FRAMEWORK

The elaboration, negotiations and adoption of the *RTF Guidelines* by all 187 member states of the FAO in 2004 was an historic event. The *RTF Guidelines* were intended “to support Member States’ effort to achieve the progressive realization of the right to adequate food in the context of national food security”<sup>10</sup> by providing detailed recommendations on how to implement the right to food at the domestic level and meet the state obligations laid out by the CESCR in General Comment No. 12. CSOs played an active and important role in the negotiation and elaboration process, and were the first to demand and campaign for the *Guidelines*. The *RTF Guidelines* were and remain a fundamental pronouncement on the wide scope and reach of the right to food, the obligations it places on states, and the system wide approach necessary to ensure its realization. In the past 14 years, however, progress has been made in elaborating how states can and should take action to realize the right to food, enhancing those recommendations found in the *RTF Guidelines*. In this section, we provide a broad strokes picture of this enriched normative elaboration outlining steps states can and should take in their efforts to progressively realize the right to food.

This normative elaboration is built on two sets of sources. First, international agreements and instruments achieved through consensus or voting procedures, such as resolutions, conventions, declarations, treaties and CFS outputs are relied on. These are referred to hereinafter as “instruments”. Second, authoritative legal interpretations of international instruments, such as general recommendations and general comments

from treaty bodies and reports of the UN Human Rights Council special procedures mandate holders, such as the Special Rapporteurs on the right to food, are also used. These are referred to hereinafter as “interpretations”. In addition, reference is made to relevant SDG targets and indicators. The SDGs represent an internationally agreed upon framework addressing several interconnected issues which in many cases seek similar outcomes as the *RTF Guidelines*. Each goal includes targets and a set of indicators, for which data is to be collected annually to measure progress. However, it is important that these targets and indicators are not seen in isolation from a broader human rights analysis and the importance of qualitative information.

The updated framework on the *RTF Guidelines* is organized by theme rather than by individual Guideline. These themes were discussed and chosen through a participatory process, as outlined in the methodology section above, in order to better situate the *Guidelines* within the main struggles faced by those most affected by violations of the right to food, and to better represent the way issues and sectors relate. They also reflect an effort to think systematically and holistically about right to food implementation and the interconnected and mutually dependent areas of policy-making that impact right to food realization.

### a) A Holistic Approach

In the fourteen years since the adoption of the *RTF Guidelines*, international instruments and interpretations have continually focused on addressing holistic responses to the realization of the right to food. A holistic response requires looking at the underlying and structural causes of food insecurity and right to food violations, and responding to these in a multi-pronged and coordinated manner. In the years following the global food crisis, it has become increasingly clear that smallholder producers in the Global South feed the majority of the world, yet are the most food insecure. Addressing right to food realization thus requires investing in smallholders to ensure they can contribute to food security and environmental resilience,<sup>11</sup> while also realizing their right to food. However, it should be noted that food insecurity exists in all countries and all states are to collect data on the demographics and causes of food insecurity within their borders, to be able to address right to food realization in a holistic manner for their population.

### Policy Coherence

As detailed in international instruments and interpretations, a holistic approach also includes working towards policy coherence. Policy coherence seeks to connect national legislation across different areas impacting the realization of the right to food,<sup>12</sup> international human rights law, and other international agreements, to build a comprehensive strategy.<sup>13</sup> Through policy coherence, states can address the interconnected reasons for food insecurity and the social, cultural, economic and envi-



ronmental significance of food, land, agricultural, and food production.<sup>14</sup> Policy coherence can also ensure that various parts of government work together towards the realization of the right to food.<sup>15</sup> Policy coherence should be advanced through increased international, regional, and sub-regional cooperation,<sup>16</sup> and take into account the primacy of human rights.<sup>17</sup> The SDGs also note the importance of policy coherence.<sup>18</sup>

### *Procedural Elements*

A holistic approach also focuses on the procedural elements of right to food implementation. Since the adoption of the *RTF Guidelines*, instruments and interpretations have expounded on the procedural elements of the human rights-based approach. The FAO has compiled these into the "PANTHER Framework", which draws from the UN Common Understanding on a Rights Based Approach to recognize Participation, Accountability, Non-discrimination, Transparency, Human Dignity, Empowerment and Rule of law as key principles of right to food implementation.<sup>19</sup> Olivier De Schutter, former UN Special Rapporteur on the right to food, has described these elements as follows:<sup>20</sup>

*Participation* means that every person and all peoples are entitled to active, free and meaningful participation in and contribution to decision-making processes that affect them. *Accountability* requires that elected representatives, government officials and other duty-bearers be held accountable for their actions through judicial procedures or other mechanisms, ensuring effective remedies where rights are violated. *Non-discrimination* prohibits arbitrary differences of treatment and requires a focus on the most marginalized segments of the population. *Transparency* requires that people be able to know processes, decisions and outcomes. *Human dignity* requires that people be treated in a dignified way and that they are not forced to sacrifice their human rights in order to satisfy basic needs, while *empowerment* requires that they are in a position to exert control over decisions affecting their lives. Lastly, *rule of law* requires that every member of society, including decision-makers, must comply with the law.

Many of these elements are discussed elsewhere in this report, but together they ensure that the process of implementing a law, policy or program and the general governmental approach centers on rights-holders and that human rights have primacy over other interests, such as commercial interests.<sup>21</sup>

### *Extraterritorial Human Rights Obligations*

A holistic approach means being consistent with human rights obligations both within and beyond a state's borders. While extraterritorial human rights obligations

(ETOs) in the area of economic, social and cultural rights, and in particular the right to food, are not new,<sup>22</sup> in the past decade there have been efforts to better consolidate and delineate these obligations. ETOs are the obligations of a state to respect, protect and fulfil the right to food outside of its own territory. While both General Comment No. 12<sup>23</sup> and the *RTF Guidelines*<sup>24</sup> detail states' ETOs and steps they can take to ensure they are compliant with obligations, the *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights* are the most comprehensive accounting of these obligations.<sup>25</sup>

ETOs are relevant in several contexts. States should ensure their conduct as well as the conduct of those corporations registered in their territory, do not harm right to food realization abroad.<sup>26</sup> As an example of the obligations to respect and protect the right to food abroad, ETOs are relevant in the context of land grabs,<sup>27</sup> land investments,<sup>28</sup> and the regulation of corporations engaging in activities abroad.<sup>29</sup> Similarly, when states act as development partners, they should ensure they support right to food realization and "that their development assistance policies focus on the specific needs of rural women."<sup>30</sup> In the context of international trade, states should ensure that their international trade agreements "do not have a negative impact on the right to food in other countries."<sup>31</sup> With respect to the obligation to fulfil the right to food abroad, states should ensure their food assistance policies are rights-based.<sup>32</sup> The CFS and others<sup>33</sup> have noted that states should use "national and local social safety nets and local purchase mechanisms, whenever appropriate, for the delivery of food aid, while taking time, market, production, institutional and other relevant factors into account, in accordance with the rules of the multilateral trading system."<sup>34</sup> This bolsters the right to food of people by ensuring local production systems and markets are not harmed by food assistance.<sup>35</sup>

### *Indivisibility of Human Rights*

Finally, a comprehensive and holistic approach recognizes that all human rights are universal, indivisible, interdependent, and interrelated, and that realization of the right to food cannot be achieved in isolation, nor can other human rights be enjoyed when violations of the right to food are ongoing.

### **b) Democratic Control and Accountability**

The *RTF Guidelines* lay out important steps for states to ensure democratic control of the food system and state accountability. Here we highlight four areas – participation, monitoring, access to remedies, and the rights of human rights defenders – in which subsequent international instruments and interpretations have provided further guidance to states on steps to take in implementing and realizing the right to food.

### Participation

While the *RTF Guidelines* address the importance of participation of the poor, civil society, women, and farmers broadly speaking in law and policy design, subsequent instruments and interpretations have been more explicit. Today it is widely understood that participation of affected communities should occur at all stages of law and policy development – from designing and drafting, to conducting human rights assessments prior to implementation, and monitoring.<sup>36</sup> Within this, women's full and equal participation is to be guaranteed at all levels of decision-making.<sup>37</sup> More generally, participation at all stages is to be active, free, effective, meaningful, and informed. In order to ensure participation of this nature, states must take active steps such as providing support for communities, addressing unequal power relations, and establishing quotas and targets, particularly for women's participation.<sup>38</sup> Participation of rights-holders and affected communities are to be prioritized over other stakeholders whose human rights will not be affected by laws and policies. The SDGs also make note of the importance of participation in general,<sup>39</sup> and of women in particular,<sup>40</sup> as well as of affected peoples.<sup>41</sup>

### Monitoring

In the years since the adoption of the *RTF Guidelines*, international instruments and interpretations have reinforced the importance of Guideline 17 on monitoring.<sup>42</sup> States are to review and monitor policy, legislation and programs to maintain their effectiveness and assess their contribution to right to food realization.<sup>43</sup> However, existing monitoring systems of food insecurity are largely based on quantitative measuring of calories intake, income or food related expenditures, agricultural production, etc., focusing on outcomes at the individual and household level, rather than addressing the structural and procedural issues of discrimination linked to class, race, gender, access to natural resources, socio-economic status, among others. Within these highly technical methodologies, such as the dominant indicators in the annual State of Food Security and Nutrition (SOFI), those affected by food insecurity and malnutrition are often positioned as objects to be monitored instead of subjects who should have a say in defining what should be monitored and how, or the policy interventions designed with the gathered data.<sup>44</sup> Yet creating spaces for participatory monitoring at local, national, regional, and global levels is fundamental to ensuring the voice of those who are most impacted by malnutrition and hunger are heard. The inclusion of a right to food monitoring chapter into the SOFI could be an opportunity to address this missing dimension. The SDGs also comment on monitoring in the context of reviewing legislation<sup>45</sup> and measuring food insecurity.<sup>46</sup>

### Access to Remedies

Though the *RTF Guidelines* provide detailed instructions to states on implementation of the right to food, they

provide less guidance on how to address and remedy violations of the right to food, and on measures to ensure accountability other than monitoring and using national human rights institutions. The CESCR outlined in General Comment No.12 that states should adopt right to food framework laws that include recourse measures as part of accountability, and that "any person or group who is a victim of a violation of the right to adequate food should have access to effective judicial or other appropriate remedies".<sup>47</sup> International instruments and interpretations have stressed the importance of access to justice for right to food violations.<sup>48</sup> In order to ensure access to justice and judicial remedies, states are to address the challenges faced by rural communities in accessing police services, courthouses, and lawyers, and are to support affordable legal aid, including for remote communities and mobile peoples.<sup>49</sup> Courts should be empowered to provide remedies and prompt enforcement.<sup>50</sup> In the context of tenure rights violations, for example, such remedies could include just compensation in the form of money and/or alternative parcels or holdings, restitution, indemnity, and reparation.<sup>51</sup>

### Human Rights Defenders

As noted above, a holistic approach to the realization of the right to food addresses the interconnectedness of all human rights, including civil and political rights.<sup>52</sup> The *RTF Guidelines* suggest that states should ensure the progressive realization of the right to adequate food for human rights defenders, but do not provide states with further direction. International instruments and interpretations have been clear that those who defend their or their communities' right to food, particularly women human rights defenders,<sup>53</sup> should not be criminalized and should be protected.<sup>54</sup> Individuals and communities are to be permitted to engage in protest, to engage in non-violent occupation, and to defend and promote their rights.<sup>55</sup> States are to take proactive steps to protect human rights defenders by developing and putting "in place sustainable public policies or programs that support and protect human rights defenders at all stages of their work",<sup>56</sup> by ensuring "that all legal provisions, administrative measures and policies affecting them, including those aimed at public safety, public order and public morals, are minimally restrictive, clearly defined, determinable, non-retroactive and compatible with the obligations and commitments of States under international human rights law",<sup>57</sup> and by taking "all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly and association".<sup>58</sup> In addition, states are to ensure that registration regulations for civil society organizations are "transparent, non-discriminatory, expeditious, inexpensive, allow for the possibility to appeal and avoid requiring re-registration" as part of a broader commitment to accountability and freedom of expression/association.<sup>59</sup> The SDGs also express concern for human rights defenders and reassert the importance of protecting fundamental freedoms.<sup>60</sup>

### c) *Protracted Crises, Conflict and Natural Disasters*

While Guideline 16 on Natural and Human-made Disasters provides some direction to states, overall the *RTF Guidelines* provide little guidance on realizing the right to food during times of conflict, occupation, protracted crises,<sup>61</sup> and natural disasters, particularly in the face of climate change. Though protracted crises, conflict, occupation, and natural disasters are distinct occurrences, and different areas of law apply to governing each, we address them here together as they all concern emergencies or areas of rights enforcement in times of limited government. We similarly address responses to climate change as they relate to right to food realization in this section, as addressing climate change's impact on right to food realization poses similar challenges to states. Normative advancements on extraterritorial obligations, including the provision on international food assistance, will be addressed in subsection II(g).

Since 2004, international instruments and interpretations, including the SDGs,<sup>62</sup> have urged states to put in place strategies, plans, and legislation in advance *prior* to conflicts and natural disasters, as well as protracted crises, to be able to ensure rights realization (or at the very least minimize violations) during such events.<sup>63</sup> Recommended steps range from ensuring tenure rights to land, fisheries, and forests are respected and protected in laws and policies before emergencies or conflicts occur,<sup>64</sup> to preparing food stocks and establishing robust social protection schemes. They also concern addressing gendered aspects of disaster risk reduction<sup>65</sup> and developing emergency and disaster preparedness responses for agriculture and fisheries.<sup>66</sup> In the area of climate change, numerous instruments and interpretations address steps states should take in terms of adaptation and mitigation strategies for agriculture and food system governance, as well as preparedness to address populations whose realization of the right to food is most likely to be impacted by climate change.<sup>67</sup> States are also encouraged to integrate climate change concerns in food security policies and programs themselves, in an effort to increase the resilience of marginalized groups,<sup>68</sup> and to conduct research on mitigation and adaptation, including farmer lead research.<sup>69</sup> These instruments and interpretations stress the importance of ensuring all responses to climate change are grounded in human rights and are gender responsive.<sup>70</sup>

Several instruments and interpretations have also detailed steps to be taken by states to ensure the right to food and food security more broadly *during* a crisis. The CFS's *Framework for Action for Food Security and Nutrition in Protracted Crises* (FFA) is perhaps the most robust and thorough in this context. The FFA seeks "to improve the food security and nutrition of populations affected by, or at risk of, protracted crises in a way that addresses underlying causes, thus contributing to the progressive realization of the right to adequate food in the context of national food security."<sup>71</sup> The FFA outlines principles

for state and other stakeholder action in response to a protracted crises, as well as preventative measures, based around three pillars: i) address critical manifestations and build resilience; ii) adapt to specific challenges; and iii) contribute to resolving underlying causes of food insecurity and undernutrition in protracted crises.<sup>72</sup> Within these pillars, states are to meet immediate humanitarian needs and build resilient livelihoods, focus on nutritional needs, protect those affected by or at risk from protracted crises, promote effective financing, contribute to peacebuilding through food security and nutrition, manage natural resources sustainably, reduce disaster risks, and promote effective national and local governance.<sup>73</sup> Other instruments and interpretations speak to protecting small-scale producers to ensure they can continue to both provide food to others and receive an income. For example, in the context of fisheries, the SSF directs states to protect the rights of small-scale fishers in situations of armed conflicts, including by allowing them to pursue their traditional livelihoods, access customary fishing grounds, and preserve cultural ways of life.<sup>74</sup> Additionally, the CFS recommends that "[w]hen conflicts arise, States and other parties should strive to respect and protect existing legitimate tenure rights and guarantee that these are not extinguished by other parties."<sup>75</sup>

International instruments and interpretations have also provided guidance on what states should do *following* a conflict, protracted crisis, or other emergency.<sup>76</sup> There is widespread agreement that documenting violations of the right to food and ensuring accountability of perpetrators, access to justice, and timely remedies are required to realize the right to food and other human rights.<sup>77</sup> Following from this, where tenure rights to land, fisheries, and forests have been acquired forcefully or by violent means, states are not to recognize new tenure arrangements.<sup>78</sup> Whether individuals, families or communities are forcefully displaced or displaced as a result of a crisis or natural disaster, states should strive to restore access to traditional fishing grounds, as well as coastal and agricultural land.<sup>79</sup> States should facilitate a return to farming or fishing as a means of reintegrating ex-combatants and victims in post-conflict situations.<sup>80</sup> In this post-crisis period, priority should be given to ensuring the availability, accessibility, and adequacy of food for marginalized populations, including internally displaced persons, refugees, and any victims of war crimes.<sup>81</sup>

Finally, international instruments and interpretations have been clear that states must ensure the participation in law- and policy-making of affected or potentially affected rights-holders, including women and girls (rural and urban),<sup>82</sup> displaced persons,<sup>83</sup> small-scale food producers,<sup>84</sup> Indigenous peoples, and other marginalized people and groups. This includes all phases from engaging in preparedness, addressing the right to food during crisis, or realizing rights post-conflicts, disasters, and climate change related shocks (including mitigation and adaptation programs).

#### d) *Peoples' Sovereignty Over Natural Resources and Right to Livelihood*

The *RTF Guidelines* provide directions to states on the importance of democracy and rule of law, and highlight how states should engage in regulating many of the resources necessary for producing food, such as land, water, and genetic resources for food and agriculture. In the years since their adoption, there has been movement on two fronts connecting these sets of Guidelines. First, there has been growing recognition of the connection between right to food realization and food sovereignty. Second, following the food price crises of 2008, there has been a greater recognition that small-scale producers need access to productive resources (water, seeds, land etc.) and infrastructure (markets, roads, extension services etc.) in order to sustain their livelihood and ensure their right to food. As a result, international bodies, like the CFS, have increasingly targeted policy outcomes directed at ensuring the livelihood of small producers as part of right to food realization.<sup>85</sup> We discuss the normative advancements in these areas here.

In the years since the adoption of the *RTF Guidelines*, there has been growing international agreement on the interrelated and interdependent connection between the realization of right to food and food sovereignty.<sup>86</sup> Food sovereignty has been described as a right, and more specially the "right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems."<sup>87</sup> It has been widely recognized in domestic contexts and increasingly forms part of discussions in the global arena, including the UN Human Rights Council.<sup>88</sup> The Committee on the Elimination of Discrimination Against Women (CEDAW) has indicated that state parties to the CEDAW "should ensure the realization of the right to food and nutrition of rural women within the framework of food sovereignty and ensure they have the authority to manage and control their natural resources."<sup>89</sup>

An increased focus on livelihoods for small-scale producers has led to a number of instruments and interpretations building on the *RTF Guidelines* by recommending that states should develop laws, policies and programs to support small-scale producers.<sup>90</sup> The CFS has recommended that states "build or further develop a country-owned vision for smallholder agriculture, in the context of broad-based national, and agricultural development, that positions smallholder agriculture firmly within integrated policies and strategies" articulated through participatory processes, and all within the context of sustainable development and transparent rights-based processes.<sup>91</sup> Many of these instruments and interpretations specifically focus on increasing right to and access to resources and infrastructure to improve small-scale producer livelihoods and realization of the right to food. Rights and access to land play an important role in these instruments and interpretations.<sup>92</sup> The TGs, for example, provide an extensive set

of recommendations to states on ensuring their tenure systems support food security as well as right to food realization.<sup>93</sup> States are to "recognize that policies and laws on tenure rights operate in the broader political, legal, social, cultural, religious, economic and environmental context";<sup>94</sup> and are to set up tenure systems in this context that ensure fair transfer of land,<sup>95</sup> protection of tenure rights,<sup>96</sup> respect for customary tenure,<sup>97</sup> protection of the commons,<sup>98</sup> non-discrimination, no forced evictions,<sup>99</sup> and remedies for violations of tenure rights.<sup>100</sup> The FAO's Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) also provide further details on tenure issues for fisheries, including on protecting customary rights to aquatic resources.<sup>101</sup> The SDGs address access (and not rights) to marine resources for small-scale artisanal fishers.<sup>102</sup> The CFS has also provided guidance on access to land and commons for pastoralists, stressing their mobility rights.<sup>103</sup> These and other international instruments and interpretations suggest that states should facilitate access to such things as training,<sup>104</sup> credit,<sup>105</sup> technical and extensions services,<sup>106</sup> productive assets,<sup>107</sup> insurance,<sup>108</sup> markets,<sup>109</sup> financial services,<sup>110</sup> and investments in agriculture and activities beyond the farm.<sup>111</sup> The CFS has stressed that these investments, in addition to supporting smallholder's own investments, should focus on, among other things, "water management, sustainable management of genetic resources for food and agriculture, soil conservation, forests, transport and infrastructure such as feeder roads, energy, post-harvest handling infrastructure, rural electrification and telecommunication grids."<sup>112</sup>

In recognizing the connection between food sovereignty and smallholder livelihood, an increasing number of international instruments and interpretations recommend that states recognize rights over productive resources, instead of mere access. In addition to a right to land (discussed above), instruments and interpretations have recognized a right to water for drinking and urged recognition of a right to water for agriculture as "essential for the progressive realization of ... the right to adequate food".<sup>113</sup> They have also recognized the right of farmers to seeds, including to save, use, exchange and sell farm-saved seeds and other propagating material, to traditional knowledge relevant to plant genetic resources for food and agriculture, "to equitably participate in benefit sharing arising from the utilization of plant genetic resources for food and agriculture", and to "participate in making decisions, at the national level, on matters related to the conservation and sustainable use of plant genetic resources for food and agriculture",<sup>114</sup> in particular women's rights in this area.<sup>115</sup> Additional instruments and interpretations have recognized a right to biological diversity,<sup>116</sup> a right to social protection,<sup>117</sup> a right to education and training,<sup>118</sup> a right to traditional knowledge,<sup>119</sup> and so on. The SDGs note the importance of maintaining genetic diversity, without reference to associated rights for small-scale producers.<sup>120</sup>

In the years since the adoption of the *RTF Guidelines*, there has also been increased understanding and recognition of the rights of Indigenous peoples to productive resources and to the right to determine how to use their land and resources. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007, details the consensus of states, at the time of adoption, as to the scope, reach, and content of the rights of Indigenous peoples, as well as steps to be taken by states to ensure the realization of these rights.<sup>121</sup> The UNDRIP acknowledges the "right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development".<sup>122</sup> It also recognizes rights to productive resources and traditional knowledge.<sup>123</sup> Other instruments and interpretations call on states to "recognize and respect appropriate traditional practices and the contribution of Indigenous peoples",<sup>124</sup> obtain prior informed consent and involvement of Indigenous communities before engaging in projects that impact Indigenous territories<sup>125</sup> or accessing Indigenous-held genetic resources,<sup>126</sup> and recognize a right to benefit sharing from exploration or exploitation of natural resources on the lands of Indigenous peoples.<sup>127</sup>

Additionally, pending adoption at the UN Human Rights Council, the *UN Declaration on the Rights of Peasants and Other Peoples Working in Rural Areas* represents further advancements in a holistic approach to right to food realization, as well as a fundamental pronouncement on the connection between peoples' sovereignty over natural resources and their right to livelihood. The current draft recognizes peasants' and other people working in rural areas' rights – including collective rights – to *inter alia* natural resources, work, a decent income and livelihood, the means of production, land and other natural resources, a safe, clean and healthy environment, seeds, biological diversity, and water and sanitation.<sup>128</sup>

### e) *Healthy and Sustainable Food Systems and Diets*

In General Comment No. 12, the CESCR sets up a clear connection between sustainable food systems and diets, and nutrition. In defining the scope of "adequacy", the CESCR notes that "sustainability is intrinsically linked to the notion of adequate food or food security, implying food being accessible for both present and future generations".<sup>129</sup> The Committee notes further that the meaning of adequacy is "to a large extent determined by prevailing social, economic, cultural, climatic, ecological and other conditions" and cannot "be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients."<sup>130</sup> Since the adoption of the *RTF Guidelines*, the scope and reach of the sustainability element of the right to food has been further delineated, including the ways in which it is intertwined with healthy diets and adequate nutrition.

That states must work towards sustainable food systems, is front and center in international instruments and interpretations, whether they concern the right to food and food security or not. In particular, in recent years efforts have been made to connect climate change and right to food realization. International instruments and interpretations clearly recognize that climate change is a threat to functioning food systems and right to food realization.<sup>131</sup> As discussed above, recommendations to states regarding climate change mitigation and adaptation, as well as preparedness for climate shocks, are now a central part of right to food discussions. There is also increased recognition that industrial forms of agriculture and deforestation are major contributors to greenhouse gas emissions, and that as a result, states should support alternative forms of agriculture and highly regulate deforestation.<sup>132</sup>

In recent years, a number of instruments and interpretations have begun to urge states to implement policies, programs and laws that support agroecological forms of food production as key to transformations towards more sustainable food systems that also support small-scale producers.<sup>133</sup> Agroecology refers to "ancestral production systems ... developed over millennia" and relies on a number of production practices, "such as intercropping, traditional fishing and mobile pastoralism, integrating crops, trees, livestock and fish, manuring, compost, local seeds and animal breeds, etc. ... based on ecological principles like building life in the soil, recycling nutrients, the dynamic management of biodiversity and energy conservation at all scales."<sup>134</sup> As agroecology has many benefits,<sup>135</sup> states are to support transitions to agroecology by *inter alia*, making reference to agroecology and sustainable agriculture in right to food and climate change policies, investing in water management and irrigation,<sup>136</sup> reorienting public spending in agriculture by "prioritizing the provision of public goods, such as extension services, rural infrastructures and agricultural research, and by building on the complementary strengths of seeds-and-breeds and agroecological methods, allocating resources to both, and exploring the synergies, such as linking fertilizer subsidies directly to agroecological investments on the farm"<sup>137</sup> and by "improving the ability of producers practicing sustainable agriculture to access markets, using instruments such as public procurement, credit, farmers' markets, and creating a supportive trade and macroeconomic framework."<sup>138</sup>

In addition to transitions to agroecology, international instruments make a number of complimentary recommendations to states with respect to improving the sustainability of food systems to better achieve the right to food. Several international instruments and interpretations stress the importance of agricultural policies and public investment in food production and nutrition that address the "resilience of local and traditional food systems and biodiversity, with a focus on strengthening sustainable smallholder food production".<sup>139</sup> Others stress the importance of addressing water manage-

ment,<sup>140</sup> increasing the use of renewable energy,<sup>141</sup> leveraging the proximity of resources,<sup>142</sup> engaging in sustainable forest management,<sup>143</sup> halting deforestation,<sup>144</sup> restoring degraded lands,<sup>145</sup> improving soil quality,<sup>146</sup> promoting organic approaches,<sup>147</sup> strengthening the integration of livestock with crops,<sup>148</sup> encouraging crop rotation and intercropping,<sup>149</sup> reviewing and improving bio-fuel subsidies, programs and regulation,<sup>150</sup> and adopting measures for long-term conservation and sustainable use of fisheries resources (including avoiding policies and financial measures that lead to over fishing and recognizing "the role of small-scale fishing communities and Indigenous peoples to restore, conserve, protect and co-manage local aquatic and coastal ecosystems)."<sup>151</sup> As part of sustainability discussions, instruments and interpretations have also increasingly referenced steps states should take to address food loss and waste throughout the supply chain.<sup>152</sup> It should be noted that these instruments and interpretations focus on improving the food system and supply chain, not addressing food waste by distributing wasted food to the food insecure as a form of charity.

With the move to agroecology and the recognition that diverse farming systems are important to sustainability, further connections between production practices and nutritional outcomes have been made, with recommendations to states following suit. International instruments and interpretations recommend that states promote sustainable diets, *i.e.* "diets with low environmental impacts which contribute to food and nutrition security and to healthy life for present and future generations. Sustainable diets are protective and respectful of biodiversity and ecosystems, culturally acceptable, accessible, economically fair and affordable; nutritionally adequate, safe and healthy; while optimizing natural and human resources."<sup>153</sup> Sustainable diets are not only those that care for the earth, but international instruments and interpretations highlight that they are also more nutritious and offer better nutritional outcomes to individuals, households and communities. As stressed by former UN Special Rapporteur on the right to food "there are strong environmental arguments in favor of agroecology. But agroecology also provides other social and health benefits. Diverse farming systems contribute to more diverse diets for the communities that produce their own food, thus improving nutrition".<sup>154</sup>

International instruments and interpretations on right to food implementation since the *RTF Guidelines* stress a holistic approach to nutrition that addresses both food production and its impact on diverse and healthy diets, as well as the entire food system and its impact on nutritional outcomes. Recommendations include that states adopt a national strategy for the right to food that integrates the adequacy element and improved nutrition throughout,<sup>155</sup> redirects subsidies that encourage the agrifood industry "to sell heavily processed foods" towards making fruits and vegetables available at lower prices,<sup>156</sup> adopts a life-course approach to combat the different faces of malnutrition,<sup>157</sup> introduces regulations

for foods high in saturated fats, trans-fatty acids, sodium and sugar,<sup>158</sup> increases support for the production and manufacturing of foods that contribute to a healthy diet,<sup>159</sup> increases support for farmers' markets and urban and peri-urban agriculture,<sup>160</sup> and ensures collaboration across different sectors, including agriculture, finance, health, education, housing, water, sanitation, social protection and trade.<sup>161</sup> Numerous references are made in these international instruments and interpretations to preserving and respecting the cultural elements of food, including acceptability and adequacy, when addressing nutrition through law and policy.<sup>162</sup> Finally, the importance of participation in nutrition policy of impacted rights-holders is stressed, given the increased possibility of conflicts of interest when industry is involved in nutrition discussions and policy-making.<sup>163</sup>

Most instruments and interpretations give special attention to marginalized and disadvantaged groups and groups most affected by malnutrition. Special attention is given to infant and child nutrition, with specific directions to states to eliminate child malnutrition through the protection and promotion of breastfeeding, including through regulating the marketing of breast-milk substitutes,<sup>164</sup> creating universal school meal programs,<sup>165</sup> providing prenatal and post-natal health care for mothers and infants, particularly during the first 1000 days,<sup>166</sup> addressing childhood obesity and related disease,<sup>167</sup> and limiting marketing to children,<sup>168</sup> all with particular attention to marginalized children, such as Indigenous children.<sup>169</sup> Special attention is also given to women, especially during pregnancy and when breastfeeding,<sup>170</sup> as well as women throughout their life cycle,<sup>171</sup> with recommendations such as introducing gendered analysis in nutritional impact assessments and disaggregated data collection more broadly,<sup>172</sup> addressing unequal gender roles, ending discrimination and violence against women as key factors in malnutrition among women,<sup>173</sup> addressing women's hidden hunger or micronutrient deficiencies as well as obesity in laws, policies and programs,<sup>174</sup> and overall ensuring women's right to adequate food and nutrition, including rural women.<sup>175</sup> Finally, special attention is given to other marginalized groups, such as the elderly, people with disabilities, and those with communicable and non-communicable diseases.<sup>176</sup>

The SDG targets and indicators reference sustainability in the context of agriculture, including broadly on implementing resilient agricultural practices<sup>177</sup> and engaging in conservation, restoration and sustainable use of land and water resources<sup>178</sup> as well as more specifically on adopting sustainable procurement practices,<sup>179</sup> and addressing food waste.<sup>180</sup> Targets and indicators also address nutritional outcomes.<sup>181</sup> However, these targets and indicators do not connect sustainable production with nutrition.

## f) *Workers' Rights*

The *RTF Guidelines* only briefly turn attention to work-

ers' rights within the food system (Guideline 8A) as a key component to achieving the right to food, but international instruments and interpretations in the years since have closely linked workers' rights with the realization of the right to food. Workers' rights within the food system are seen as essential to realizing the right to food because workers' in the food system tend to be among the most marginalized and ironically are often food insecure themselves. More fundamentally, however, the right to food for all cannot be said to be achieved, when its realization is dependent on the marginalization and subjection of others. Ensuring workers' rights in the food system is thus part and parcel of achieving the right to food and a society built on respect for human rights.

The focus of human rights-based instruments and interpretations concerning workers' rights in the food system, have largely been on detailing steps states should take when regulating business, and in particular agribusiness, and agricultural labor.<sup>182</sup> First and foremost, states are to ensure that agricultural workers, including migrant and seasonal workers,<sup>183</sup> and other laborers in the food system are not excluded from legislative protections as is often the case in many countries. Legislated exclusions leave these workers "unable to exercise their fundamental rights to associate or assemble, and without access to remedies when their rights are violated."<sup>184</sup> All workers, in both the formal and informal sector, should benefit from legislative protections, including protections to organize collectively and form unions.<sup>185</sup> Second, states are to prevent and eradicate forced labor<sup>186</sup> and child labor.<sup>187</sup> Third, states are to set minimum wages at a living wage standard,<sup>188</sup> to address the downward trend towards precarious employment, and to ensure women's rights to equal pay for equal value.<sup>189</sup> Fourth, states are to ensure safe and decent working conditions<sup>190</sup> in all sectors by legislating in the area of occupational health and safety, including regulations of pesticide use.<sup>191</sup> Fifth, states should address laws, policies, and practices that limit women's access to workplaces.<sup>192</sup> They "should review relevant laws, regulations and policies which limit rural women's access to decent employment and eliminate practices which discriminate against women in rural labor markets, such as not hiring women for certain jobs."<sup>193</sup> They should also address other working conditions for women, such as paid maternity leave, violence, prevention of sexual harassment and exploitation in the workplace, access to child care and so on.<sup>194</sup> Finally, states should ensure mechanisms are in place for monitoring workplace conditions, including for migrant workers, and that labor and employment laws are enforced.<sup>195</sup>

SDG targets and indicators also reference areas relevant to employment, including achieving full and productive employment for men and women,<sup>196</sup> labor rights,<sup>197</sup> pesticide regulations<sup>198</sup> and migration.<sup>199</sup>

### g) *Rights-Based Approaches to Social Protection, Development Aid, Trade and Investment*

General Comment No. 12 details how states should take a rights-based approach to a variety of areas of legislation and policy and more fundamentally elucidates what a rights-based approach is. The *RTF Guidelines* built on this foundation laying out in further detail the rights-based approach to regulation in a variety of areas. Today, the rights-based approach is understood as having both a procedural and substantive component. The substantive component sees a move away from charity based models or ad hoc systems of governance, to enshrining entitlements in law and recognizing people as rights-holders and states as duty bearers. The procedural elements concern how states go about implementing the right to food and governing the food system, and the values that should underlie this. This procedural element, as captured partly in the PANTHER principles, was highlighted above in the section II(a). In this section, we address normative developments in the rights-based approach as it applies to a number of areas of food system governance and right to food realization.

#### *Social Protection*

When "people are not able to feed themselves with their own means ... the State must provide food directly."<sup>200</sup> This is the obligation to *fulfil* the right to food.<sup>201</sup> There is now general agreement that one of the ways to fulfil the right to food for marginalized populations who are unable to meet their own food needs is through rights-based social protection.<sup>202</sup> Social protection "alleviates human beings from being exposed to existential fears connected to the risk of illness, accident, loss of income, parenthood, old age and other situations they cannot meet solely with their own resources. It aims to make poor people less vulnerable and to provide the stability and resources needed to develop capabilities and to make choices about their lives and futures."<sup>203</sup> Article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires States to recognize social security as a human right,<sup>204</sup> rather than a form of charity. The CESCR has described the right to social protection as encompassing "the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents."<sup>205</sup> Further, the right to social protection "includes the right not to be subject to arbitrary and unreasonable restrictions of existing social security coverage, whether obtained publicly or privately, as well as the right to equal enjoyment of adequate protection from social risks and contingencies."<sup>206</sup>

The *RTF Guidelines* provide some direction to states on the implementation of the concept of social protection, but significant advancement has been made in the normative elaboration of what constitutes rights-based social protection since 2004.<sup>207</sup> A particularly noteworthy advancement, has been the introduction of social protection floors by the International Labour Organization (ILO). Social protection floors are nationally defined sets of basic social security guarantees that should "ensure at a minimum that, over the life cycle, all in need have access to essential health care and to basic income security which together secure effective access to goods and services defined as necessary at the national level."<sup>208</sup> Social protection floors should comprise at minimum the following four guarantees: i) access to health care, including maternity care, ii) basic income security for children, including access to nutrition, education, care and other necessary goods and services, iii) basic income security for persons of active age "who are unable to earn sufficient income, in particular in the cases of sickness, unemployment, maternity and disability", and iv) basic income security for older persons.<sup>209</sup> The CFS has adopted the concept of social protection floors,<sup>210</sup> as has the Commission on the Status of Women,<sup>211</sup> CEDAW<sup>212</sup>, and the UN Special Rapporteurs on the right to food and extreme poverty.<sup>213</sup> The concept is also included in the SDGs.<sup>214</sup>

Other instruments and interpretations further elaborate that states are to devote their maximum available resources to ensure the right to social protection<sup>215</sup>; to design social protection schemes "in such a way that they can respond quickly to shocks such as droughts, floods and food price spikes"<sup>216</sup>; to foster "integrated programs which directly support agricultural livelihoods and productivity for the poor, particularly smallholder farmers and small-scale food producers"<sup>217</sup>; to design social security schemes that allow individuals to "seek, receive and impart information on all social security entitlements in a clear and transparent manner"<sup>218</sup>; and to provide social protection reliably and predictably "to all those in need at any time of the year"<sup>219</sup>, especially for marginalized and vulnerable populations.<sup>220</sup> They also highlight the particular importance of ensuring women's rights to social protection as part of right to food realization, noting for example, that universal social protection schemes give "women and girls protection against risks and vulnerabilities",<sup>221</sup> promote "their social inclusion and full enjoyment of all human rights"<sup>222</sup> and take all "measures to progressively achieve higher levels of protection, including facilitating the transition from informal to formal work".<sup>223</sup> The obligation to assist, for example after catastrophes or disasters, is not about perpetuating dependency, and states should establish middle and long-term strategies to ensure that – when possible – people can feed themselves again.<sup>224</sup>

### *Development Projects*

When engaging in domestic development projects, states should take a human rights-based approach.<sup>225</sup>

Generally, international instruments and interpretations are clear that States should promote through law and policy "inclusive and sustainable economic development", that gives particular attention to women's rights.<sup>226</sup> Development policies and strategies should also give priority to local and traditional food systems, with a focus on strengthening smallholder agriculture.<sup>227</sup> Decisions over which development projects to engage in should be transparent and involve participation of target communities or those who will be impacted.<sup>228</sup> Instruments and interpretations are clear that throughout development project decision-making and planning, target communities or those who will be impacted have a right to participation.<sup>229</sup>

International instruments and interpretations have also been clear that prior to engaging in projects, states should conduct rights-based impact assessments, and hold "effective and meaningful consultations with ... communities".<sup>230</sup> If a development project will impact tenure rights, states are to identify all existing tenure rights and rights-holders, whether recorded or not, this includes the tenure rights of Indigenous peoples and other communities with customary tenure systems. Prior to evictions or when shifts in land use will result in depriving individuals and communities from their productive resources, states should "explore feasible alternatives in consultation with the affected parties ... with a view to avoiding, or at least minimizing, the need to resort to evictions."<sup>231</sup> If expropriation and evictions are absolutely necessary and justified as meeting an important public purpose,<sup>232</sup> then "States should conduct such evictions and treat all affected parties in a manner consistent with their relevant obligations to respect, protect, and fulfil human rights"<sup>233</sup> and any process engaged in must be transparent and participatory,<sup>234</sup> as well as ensure fair valuation and prompt compensation.<sup>235</sup> Human rights based assessments should also be done prior, during, and after development projects, and remedies should be afforded where rights are violated.<sup>236</sup>

### *Trade and Investment Deals*

States also have human rights obligations concerning the right to food when negotiating trade and investment agreements.<sup>237</sup> When engaging in trade or investment agreements concerning land, fisheries and forests, international instruments and interpretations detail that states should ensure these agreements "support broader social, economic and environmental objectives" and right to food realization more broadly.<sup>238</sup> At a minimum, states are to ensure that trade and investment agreements do not adversely affect the nutritional needs of local people<sup>239</sup> and that the benefits of trade and investment are fairly distributed.<sup>240</sup>

International instruments and interpretations detail that states are to pay attention to women's right to food realization, particularly for small-scale producers, when negotiating trade or investments agreements.<sup>241</sup> They stress that states should address the negative and dif-



ferential impacts of "general trade liberalization, privatization and commodification of land, water and natural resources, on the lives of rural women and fulfilment of their rights"<sup>242</sup> and in general work to ensure that agreements "conducive to the promotion of gender equality and the empowerment of women and the human rights of women and girls".<sup>243</sup>

With international investments in land on the rise, a number of instruments and interpretations have sought to outline steps host states (those states where the land in question is located) can use to ensure right to food realization when engaging in deals. Many of these recommendations are described in the TGs, already discussed above, and in the previous subsection on development projects. Generally speaking, international instruments and interpretations detail that states should adopt participatory approaches, avoid displacement of smallholders, and ensure just compensation when rights are violated or people are displaced.<sup>244</sup> While states should always conduct human rights, environmental and social impact assessments throughout projects,<sup>245</sup> including monitoring after projects are complete,<sup>246</sup> where large-scale transactions of tenure rights are at issue, states should use impact assessments by independent parties.<sup>247</sup> Finally, states must ensure that investments work towards right to food realization, as defined through participatory processes with those most affected, do not violate human rights, entail strong regulatory frameworks of private actors, safeguard against dispossession of legitimate tenure rights, ensure no environmental damage, and respect human rights.<sup>248</sup>

Beyond the general recognition of free, prior and informed consent (FPIC) for Indigenous communities, with respect to women's tenure rights under investment deals, states are to obtain the free and informed consent of women prior to the approval of projects with impacts on land<sup>249</sup> and to ensure that "land acquisitions, including land lease contracts, do not violate the rights of rural women or result in forced eviction, and protect them from the negative impacts of acquisition of land by national and transnational companies, as well due to development projects, extractive industries and megaprojects".<sup>250</sup> If acquisitions occur, women are to be adequately compensated.<sup>251</sup> More boldly CEDAW recommends that states "adopt and effectively implement laws and policies that limit the quantity and quality of rural land offered for sale or lease to third States or companies".<sup>252</sup>

## h) Women's Rights

The *RTF Guidelines* are limited in their approach to women's right to food and nutrition: they only outline that right to food laws and strategies should take into account the special needs of women. This includes ensuring that poverty reduction and nutrition security programs and projects address women; that efforts are made to ensure women's access to productive resources, including land; and that women's full and equal par-

ticipation in democracy and the economy is promoted.<sup>253</sup> However, no single Guideline is dedicated to achieving women's right to food and no systemic approach to addressing women's right to food realization nor the power imbalance inherent in gender relations and within food systems is imagined or integrated into the *Guidelines*. In the years since the adoption of the *RTF Guidelines*, significant progress has been made in understanding the root causes of violations of the right to food of women, and the steps to be taken by states to both address the underlying structural causes of these violations in a systemic manner and to remedy them. Furthermore, normative elaborations on the right to food have moved away from accounting simply of women's needs, gender equality and women's empowerment, and towards firm acknowledgement and pronouncements of women's rights and the recognition that the realization of women's right to food requires addressing the unequal power relations that exist within food systems.

The CEDAW, the Special Rapporteurs on the right to food, and various CSOs around the globe have led the way detailing how to both mainstream women's rights, in addition to gender equality and women's empowerment, in all areas of policy related to the right to food, as well as to give specific focus to women's right to food. The CEDAW General Recommendation No. 34 on Rights of Rural Women is especially noteworthy, providing detailed, comprehensive, systemic, and rights-based recommendations for addressing discrimination against rural women, particularly in relation to their right to food. Furthermore, CEDAW General Recommendation No. 34 explicitly recognizes the right to food and nutrition in the context of food sovereignty,<sup>254</sup> thus implicitly seeking to address the social and political configurations around power over food that particularly affect women.

Advancements in realizing women's rights have come in a number of areas. First, international instruments and interpretations, including those from the CFS, have repeatedly stressed the importance and necessity of mainstreaming women's rights in all policies and laws that touch on the right to food, and ensuring gender-sensitive legislation and policy.<sup>255</sup> To mainstream women's rights, states should uphold the principle of non-discrimination<sup>256</sup> by both recognizing that women continue to suffer from historic discrimination and by reviewing legislation for discriminatory content as well as discriminatory impact (where the law or policy on its face is not discriminatory, but through implementation has a discriminatory result).<sup>257</sup> States should develop multi-sectoral strategies that move towards substantive equality<sup>258</sup> for women by compensating for the differences, disparities, and disadvantages afflicting women in the realization of their right to food.<sup>259</sup> Progress should be monitored by independent bodies, relying on gender-disaggregated data, and incentives should be considered to reward "public administrations which make progress in setting and reaching targets in this regard".<sup>260</sup> In mainstreaming women's rights, international instruments and interpretations have also been clear

that additional focus is needed on particularly marginalized women, such as rural women,<sup>261</sup> Indigenous women,<sup>262</sup> migrant women,<sup>263</sup> landless women,<sup>264</sup> seasonal migrant farmworkers in the agricultural sector,<sup>265</sup> and those women affected by conflict situations.<sup>266</sup>

In mainstreaming women's rights, states are to look broadly at laws and policies that impact the food system and to address women's rights within those. In this respect, states should ensure women's rights to participate in and benefit from rural development<sup>267</sup> and address the "multiple and intersecting factors contributing to the disproportionate impact of poverty on women and girls over their life cycle, as well as intra-household gender inequalities in the allocation of resources, opportunities, and power".<sup>268</sup> They should also "implement agricultural policies which support rural women farmers, recognize and protect the natural commons, promote organic farming and protect rural women from harmful pesticides and fertilizers".<sup>269</sup> They should ensure that rural women have "effective access to agricultural resources, including high quality seeds, tools, knowledge and information, as well as equipment and resources for organic farming".<sup>270</sup>

Mainstreaming women's rights also involves specific targeted laws and policies. Significant progress has been made in detailing states responsibility to address women's economic access to the resources necessary to realize the right to food, including both income for purchasing food, as well as resources needed for agriculture, fishing, gathering, and the raising of livestock. With respect to income, a number of international instruments and interpretations have detailed recommendations to states to address inequality for women, particularly with respect to pay equity and equal work for equal value.<sup>271</sup> As discussed above, recommendations for living wages also impact women and their right to food, as do social protection schemes and floors, established through a gendered lens.<sup>272</sup> With respect to productive resources, international instruments and interpretations detailing state obligations under the IC-ESCR have stressed the importance of access to/rights to land for women.<sup>273</sup> These instruments and interpretations have recommended establishing inheritance laws that treat men and women equally,<sup>274</sup> and tenure systems that do not differentiate between men and women, as well as addressing particular obstacles faced by women and girls with regard to tenure and associated rights.<sup>275</sup> They have also encouraged states to "prioritize rural women's equal rights to land when undertaking land and agrarian reforms".<sup>276</sup>

With respect to other resources necessary for food production, international instruments and interpretations have encouraged states to recognize rights and/or access to transportation,<sup>277</sup> water and sanitation,<sup>278</sup> markets,<sup>279</sup> technology,<sup>280</sup> information technology,<sup>281</sup> extension services,<sup>282</sup> pensions,<sup>283</sup> credit, insurance, and financial loans, regardless of whether women lack formal tenure rights or a male guarantor.<sup>284</sup> States are to

support women-led farms, women farmers, including small-scale producers,<sup>285</sup> and traditional women's farming practices,<sup>286</sup> as well as to address "existing gaps in and barriers to trading their agricultural products in local, regional and international markets."<sup>287</sup> Instruments and interpretations have given special attention to the state obligations to respect and protect women's rights to traditional agricultural knowledge, particularly the right to preserve, use, and exchange traditional and native seeds,<sup>288</sup> as well as the right to high quality seeds more generally.<sup>289</sup> This includes preventing "patenting by national and transnational companies to the extent that it threatens the rights of rural women" and prohibiting "contractual requirements on the mandatory purchase of sterile (*i.e.* terminator) seeds, which prevent rural women from seed saving".<sup>290</sup> In addition to support for women engaged in agriculture, international instruments have detailed steps for ensuring women's right to food for those engaged in fisheries,<sup>291</sup> gathering in forests, animal husbandry, as well as other areas.

Realizing women's right to food cannot be separated from realizing women's rights more generally. A number of international instruments and interpretations have provided detailed accounts of steps states can take to ensure women's right to food through an intersectional approach. These instruments stress the importance of rights to and access to health care,<sup>292</sup> education,<sup>293</sup> decent working conditions,<sup>294</sup> and "gender-responsive, universally accessible, available, affordable, sustainable and high-quality services and infrastructure", including child care and parental benefits.<sup>295</sup> Furthermore, the CEDAW General Recommendation No. 34 advances the interpretation of women's right to food by explicitly mentioning women's right to food *and nutrition* and thus recognizing the nutritional dimension as integral to the concept of the right to food of women and tackling the nutritional issues of mothers and children through the lens of women's fundamental human rights throughout their life cycle.<sup>296</sup> Special attention is to be given through policies and programs to address women and child nutrition including nutritional education,<sup>297</sup> access to clean water, protection from interference from for-profit or commercially-motivated non-State actors in women's nutrition and that of their children,<sup>298</sup> and extra food provisions where needed during pregnancy and lactation,<sup>299</sup> all while simultaneously addressing women's and girls' access to the full range of sexual and reproductive health services, including family planning, emergency contraception, and safe abortion and quality post-abortion care.<sup>300</sup> These instruments and interpretations also highlight the necessity of realizing and protecting civil and political rights, including remedying systemic and structural discrimination against women human rights defenders.<sup>301</sup> They also highlight the need to ensure women's labor rights, including to prevent sexual harassment and exploitation of women in the workplace, addressing the informal work sector, and ensuring occupational health.<sup>302</sup>

Realizing women's right to food also requires address-



ing women's security more broadly. Gender-based violence entrenches itself across generations as an under-examined barrier to women's right to food and their participation as autonomous and participatory members of efforts to address hunger and malnutrition.<sup>303</sup> Since the adoption of the *RTF Guidelines* there have been advancements in addressing women's security in a number of forms. In 2012, Olivier De Schutter, former UN Special Rapporteur on the right to food, introduced a the concept of a cycle of discrimination that results in women's compromised self-determination within both private and public spheres, hampering women's access to decent work, productive resources, and social protection.<sup>304</sup> In 2017, the CEDAW Committee adopted General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19. General Recommendation No. 35 expands the scope of gender-based violence against women throughout their lifecycle and recognizes the impact of the degradation of natural resources on gender-based violence, such as crimes against women human rights defenders.<sup>305</sup> Nevertheless, General Recommendation No. 35 fails to comprehensively incorporate food related violence against women, such as "food deprivation, forced sex for food, punishment related to food work expectations"<sup>306</sup> among others. In order for states to implement adequate measures in the areas of prevention, protection, prosecution, punishment, and redress that address all form of gender-based violence against women, governments must first and foremost create and maintain spaces for civil society, in particular for those women whose rights have been violated, to participate in the design and implementation of those measures. More specifically concerning women's right to food, governments must recognize the specific connections between gender-based violence and food and include measures to address these in national policies and legislation.

Foundational to mainstreaming women's rights and realizing the right to food more broadly, is ensuring women's engagement in politics and participation in policy- and law-making.<sup>307</sup> In defining how states should fulfill the obligation to ensure that in practice women enjoy their economic, social and cultural rights on a basis of equality, the CESCR says states should promote "equal representation of women in public office and decision making as well as in development planning, development of all programs related to realization of economic, social and cultural rights".<sup>308</sup> Beyond holding public office, the CFS itself has been clear that women's meaningful participation must be ensured in "all decision making processes related to achieving women's progressive realization of the right to food in the context of national food security, and nutrition".<sup>309</sup> Lastly, encouraging women's participation also means ensuring their ability to hold the government accountable for violations of the right to food. Recommendations have been made for states to support access to legal aid and access to justice more broadly as part of realizing the right to food.<sup>310</sup>

Finally, ensuring the realization of women's right to food requires that states uphold their extraterritorial obligations. Business-related human rights abuses occur within a context of power inequalities, patriarchal systems and entrenched discrimination that collude to have a disproportionate impact on women.<sup>311</sup> General Recommendation No. 34 calls states to "regulate the activities of domestic non-State actors within their jurisdiction, including when they operate extraterritorially" and to take "regulatory measures to prevent any actor under their jurisdiction, including private individuals, companies and public entities, from infringing or abusing the rights of rural women outside their territory".<sup>312</sup> Furthermore, the CEDAW Committee recommends state parties ensure "that international cooperation and development assistance, whether bilateral or multilateral, advance the rights of rural women outside their territory" and for "effective remedies [to] be available to affected rural women when a State party has violated its extraterritorial obligations." Similarly, it calls on state parties to "address the negative and differential impacts of economic policies, including agricultural and general trade liberalization, privatization and commodification of land, water and natural resources, on the lives of rural women and fulfilment of their rights [and] also ensure that their development assistance policies focus on the specific needs of rural women".<sup>313</sup> Finally, General Recommendation No. 34 calls on State parties to establish enabling institutional, legal and policy frameworks that ensure an adequate implementation of the above understanding of rural development and more specifically calls on states to ensure that these are in line with the TGs, the SFF, CEDAW General Recommendation No. 23, and the SDGs.<sup>314</sup>

Though not consistently framed in the language of women's rights – or more specifically women's human rights – but rather in the context of gender equality and women's empowerment,<sup>315</sup> the SDGs set targets in ending discrimination,<sup>316</sup> including in access to resources,<sup>317</sup> in providing universal access to sexual and reproductive health-care services,<sup>318</sup> and in eliminating violence against women.<sup>319</sup> Indicators also repeatedly stress the importance of collecting disaggregated data by sex.<sup>320</sup>

### III. IMPLEMENTATION OF THE RIGHT TO FOOD GUIDELINES

Since the adoption of the *RTF Guidelines* in 2004, significant progress has been made in national implementation of the right to food. This progress can be directly attributed to civil society and social movement struggles. Civil society organizations and social movements, "representing various constituencies of rights-holders – peasants, fisherfolk, pastoralists, Indigenous peoples, rural women, food and agricultural workers, urban workers, consumers and others – have mobilized in their territories, on the streets, and in their workplaces and engaged in food policy spaces at all levels, advocating as or together with other rights holders".<sup>321</sup> As a result,

today, a growing number of states have recognized the right to food in a domestic context via constitutional provisions, framework legislation, strategies and policies, and/or judicial pronouncements and have taken some corresponding steps to respect, protect, and fulfill this right. Similarly, advancements have been made at the regional level to build solidarity and cooperation towards right to food recognition and implementation, and at the global level to further elaborate and elucidate the scope and content of right to food and how to implement it.

In this section, we highlight some of the success in national recognition of the right to food, as well as in regional and global fora. It is important to highlight that right to food frameworks, strategies, and recognition at national level (or any level) are long processes, which can take several years of political groundwork, lobbying, and consultations. Thus, we also give space to ongoing right to food recognition processes. At all levels, though progress has been achieved in the *recognition* of the right to food, there is still much work to be done in *implementing* and *realizing* the right. In this context, we highlight mainly recognition of the right to food here, as an extremely important first step in achieving accountability, participation, and right to food realization.

### a) *Constitutional Recognition*

Guideline 7 of the *RTF Guidelines* calls on states to recognize the right to food in law. A primary means of doing so is constitutional recognition. Constitutional enshrinement of the right to food is a significant achievement as it elevates the right to food to a fundamental right within a country, directs policy towards food system governance, and enables courts and other monitoring bodies to hold governments accountable to their obligations to respect, protect, and fulfill the right to food.

Over the past twenty years, the number of countries with right to food recognition in their constitutions has grown substantially. South Africa was the first country to ensure constitutional protection of the right to food in a domestic constitution, including the right in its 1996 post-apartheid constitution.<sup>322</sup> To date, numerous other states have adopted constitutional amendments to directly protect the right to food, including Bolivia, Ecuador, Kenya, Mexico and Nepal.<sup>323</sup> Several other countries, like Sri Lanka<sup>324</sup> and Indonesia<sup>325</sup> have implicit constitutional recognition of the right to food through the enshrinement of the right to an adequate standard of living or the minimum conditions of life. Further still, countries like Uganda recognize the right to food as a directive principle for governments.<sup>326</sup> Advocacy on the part of civil society has been critical to many of these legal reforms. For example, the insertion of the right to food in the Constitution of Mexico in 2011 was the culmination of 20 years of advocacy by Mexican civil society.<sup>327</sup>

A number of states, like Bolivia, Venezuela, Nepal and Ecuador, have also adopted food sovereignty as a con-

stitutional provision.<sup>328</sup> The 2014 Egyptian Constitution now provides that “[e]ach citizen has the right to healthy and sufficient food and clean water. The state shall ensure food resources to all citizens. The state shall also ensure sustainable food sovereignty and maintain agricultural biological diversity and types of local plants in order to safeguard the rights of future generations.”<sup>329</sup> Though not at the national level, an approved amendment to the constitution of the state of Maine in the United States, provides “[e]very individual has a natural and unalienable right to food and to acquire food for that individual’s own nourishment and sustenance by hunting, gathering, foraging, farming, fishing or gardening or by barter, trade or purchase from sources of that individual’s own choosing, and every individual is fully responsible for the exercise of this right, which may not be infringed.”<sup>330</sup>

### b) *Framework Laws*

Another legal means for right to food protection, is through legislative protection. Legislative protection recognizes the right to food, though without the fortitude of constitutional protection. Right to food framework laws can provide legal protection for the right to food in a more systematic and detailed fashion than constitutional protection and can serve to coordinate the actions of different policymakers to produce consistent outcomes.

Since the adoption of the *RTF Guidelines*, there has been significant advancement in legislative recognition of the right to food. Latin America has lead the way in this respect. Within the last 15 years, Argentina, Brazil, Ecuador, Cabo Verde, Dominican Republic, Guatemala, Honduras, Mexico, Nicaragua, and Venezuela have all adopted food and nutrition laws with right to food elements, in some cases by way of participatory processes.<sup>331</sup> The success in Latin America has been a result of combined efforts by civil society, social movements, parliamentarians, and national human rights institutions who have all pushed to take a rights-based approach.<sup>332</sup> The former FAO Right to Food Unit, now Team, and the Office of the High Commissioner for Human Rights also contributed to the progress.<sup>333</sup>

Elsewhere right to food legislation has also been passed. India passed the *National Food Security Act* in 2013, which legally entitles roughly two-thirds of the population to a fixed amount of rice, wheat and cereals every month.<sup>334</sup> There has been some criticism from civil society that the *Act* is at “best a food entitlement law not in line with the more holistic approach of the right to food”.<sup>335</sup> Though not at a national level, the right to food framework law of Zanzibar also marks an important milestone in the recognition of the right to food. The law outlines government obligations in the realization of the right to food, and establishes a National Food Security and Nutrition Council to monitor the realization of the right.

A number of countries also have promising processes underway to pass legislation protecting the right to food. Bangladesh is one such country. Following a regional right to food conference held in 2016 in Dhaka, Bangladesh as well as years of advocacy from civil society organizations, the government has begun to draft a *Food Security Bill*, with the first draft circulated in 2017. Civil society organizations have held consultations on the law and provided collective feedback particularly in the areas of support for small-scale food producers, healthy diets, women's rights, rights of agricultural workers, and accountability mechanisms. Other processes are underway in Malawi, Uganda, Nepal, Costa Rica, and El Salvador.

While no countries in the Global North have explicit legal protection for the right to food, there are emerging laws and frameworks being discussed in many countries. In 2016, the government of Scotland introduced legislation on the right to food – known as the *Good Food National Bill* – which seeks to link up agriculture, planning, social security, or public health policies. In Belgium, a proposal for a framework law, *Instaurant l'obligation d'une mise en œuvre effective du droit à l'alimentation par la Belgique*,<sup>336</sup> has been filed within the Federal Parliament, though still needs to be discussed. This framework law would introduce a participatory space, through the creation of a National Food Policy Council, as well as a holistic food chain/systems approach.

Like the right to food, food sovereignty has been adopted into legislative frameworks around the globe.<sup>337</sup> A number of municipal councils have also adopted food sovereignty into local ordinances, mostly to protect local food systems and food distribution.<sup>338</sup> In 2009, following lobbying by food sovereignty movement organizers, Nicaragua passed the *Law of Food and Nutritional Sovereignty and Security*.<sup>339</sup> The law was negotiated and elaborated through a participatory process, and emphasizes making Nicaragua self-sufficient in food production, supporting small and medium-sized farmers, strengthening coordination across government agencies, and creating "institutions at various levels of jurisdictions to expand opportunities for citizens to effect policy."<sup>340</sup>

Nepal is also working on right to food and food sovereignty legislation. The Nepal Law Commission initiated the elaboration of the right to food bill in 2016. Through a consultative process, in which CSOs actively engaged and even submitted proposed text, a draft bill was published and circulated in early 2017 for further consultation among stakeholders. Today, the most recent draft includes provisions on both right to food and food sovereignty, the latter of which ensure the rights of farmers to agriculture production and compensation in case of violations of farmers' rights. The right to food is to be implemented through national plans with regular monitoring and supervision of food availability, reserve, supply and distribution systems, and an emphasis on nutrition security. Provisions for remedial measures against viola-

tions of the right to food are however, limited. The bill is yet to be enacted.

### c) *National Policies and Strategies*

Guidelines 2 and 3 of the *RTF Guidelines* focus on the implementation of national strategies to achieve the right to food realization. National right to food strategies and policies allow for the coordination of a whole-of-government approach over a multi-year period. Some states have achieved success in developing strategies and policies focused on the state obligation to *fulfil* the right to food, either through providing food assistance or assisting with the means of acquiring food.<sup>341</sup> Though currently under threat, Brazil's Zero Hunger strategy had been successful in reducing hunger, through the deployment of a variety of initiatives by different government ministries and participatory processes. Part of the success of this strategy was due to its impressive participatory process of involving civil society in the design and implementation of the policies. Uganda has also implemented rights-based national strategies to address food insecurity.<sup>342</sup>

In Canada, after years of lobbying by CSOs, the government recently charged the Department of Agriculture and Agrifood with leading the development of a national food policy. The policy is expected to support Canada's ambitious economic growth targets, but there are hopes that it will also address critical food security issues, health and safety, and environmental sustainability in a rights-based manner. Civil society organizations are strongly lobbying for the policy to recognize the right to food<sup>343</sup> and create a national food policy council,<sup>344</sup> to ensure ongoing participatory governance.

### d) *Sectoral Laws*

States can work towards right to food recognition and realization through sectoral laws across the governance of the food system and the provision of social services that support right to food. Where there is a holistic approach, policy coherence, and rights-based processes, a web of sectoral laws can support harmonious governance of the food system and ensure that states meet their obligations to respect and protect the right to food. The majority of struggles addressed in Part IV concern how regulation in a variety of areas through sectoral laws is needed to achieve right to food realization. Here we highlight examples of sectoral laws.

Mali has adopted some of the most note-worthy sectoral laws supporting right to food realization. In 2006, Mali adopted the *Agricultural Orientation Law* (Loi d'Orientation Agricole) in the context of extreme precariousness of agro-silvo-pastoral production systems. The National Coordination of Farmer Organizations of Mali (Coordination Nationale des Organisations Paysannes or CNOP) canvassed the viewpoints of producers to identify proposals to be included in agricultural policy and its underlying law. The law explicitly refers to the

right to food (Art. 8), to food security, and above all to food sovereignty (Art. 3). The law covers all rural activities and modes of food production, and reaffirms the objectives of poverty reduction, social equity, food security, sustainable management of natural resources, and protection of the environment (Art. 10). More recently, in 2017, as a result of the established multi-actor platform on the TGs, the country adopted a landmark land law recognizing community ownership of agricultural lands, establishing mechanisms for certifying collective ownership of these lands at the village and family levels and for favoring women's access to developed lands. The law represents a key advancement stemming from grassroots advocacy in Mali as well as within the West African region. The CNOP has also led a process, which resulted in a multi-actor round table on peasant seeds (Cadre de concertation multi-acteurs sur la reconnaissance des droits des agriculteurs et des semences paysannes au Mali), whose members are representatives of different ministries, peasant organizations, and CSOs, as well as research institutions. This platform provides a space to develop concrete proposals for the recognition and implementation of farmers' rights in national policies and laws, linked also to Article 9 of the *International Treaty on Plant and Genetic Resources for Food and Agriculture*. The government has indicated openness to include a chapter on peasant seeds and farmers' rights in the existing seed law.

In Colombia, civil society organizations and human rights defenders, including FIAN Colombia, Red PaPaz, Educar Consumidores, and DeJusticia y académicos de la Universidad Javeriana, have been pushing legislative proposals within the Colombian Congress aimed at addressing high obesity rates through i) regulating the advertising and marketing of ultra-processed food products directed at children and adolescents (Bill 022/2017) and ii) introducing front of package labeling and health warnings (Bill 019/2017). Unfortunately, Bill 022 has been shelved by the House of Representatives and Bill 019 has been coopted as a result of pressure from industry, media, and advertisement agency associations. On another front, Colombia is also working towards the realization of the right to food under the Peace Accords, which outline significant structural reforms and social investments that have the potential to transform the country into a more democratic and rights-based society, and support right to food realization. The Peace Accords include the "reforma rural integral", which would narrow the gap between Colombia's urban centers and the impoverished and neglected countryside, as well as provisions that guarantee the right to food of the rural populations at national and sub-national levels, and support strong local and regional production and markets. The Colombian government has designated several parties, including La Via Campesina, the European Union, the FAO, and the United Nations Development Programme, to support the "reforma rural integral" and monitor its implementation, though this monitoring has not yet begun.

In Switzerland, there are two national campaigns for legislative changes regarding mandatory human rights due diligence of transnational corporations (the Responsible Business Initiative) and the inclusion of food sovereignty in the Swiss constitution (popular initiative for food sovereignty). This legislation would assist Switzerland in meeting its extraterritorial right to food obligations.

### e) *Judicial Recognition*

National judiciaries have also played a significant role in the progressive realization of the right to food since the adoption of the *RTF Guidelines*. We highlight just a few examples here. In the case of *People's Union for Civil Liberties v Union of India and Others*, the Supreme Court of India recognized the right to food as a part of the constitutionally-protected right to life and over a ten year period ordered a number of interim remedies *inter alia* identifying several food schemes as legal entitlements, determining a basic nutritional floor and providing directives for the creation, preservation and proper implementation of various programs such as a guaranteed mid-day meal scheme for children and a public grain distribution program.<sup>345</sup> In 2006, the High Court of South Africa ordered a revision on the *Marine Living Resources Act* to ensure equitable access to marine resources for small-scale fishers.<sup>346</sup> In order to prevent the eviction of a group of small-scale farmers, the Sectional Court of Appeal in San Pedro Sula, Honduras granted a constitutional remedy in the *Brisas del Bejuco* case, citing the government's obligation to protect the right to food.<sup>347</sup> Beyond the national context, the right to food has been upheld in regional human rights courts including the African Commission on Human and Peoples' Rights,<sup>348</sup> the Inter American Court of Human Rights,<sup>349</sup> and the Court of Justice of the Economic Community of West African States.<sup>350</sup>

### f) *Regional Approaches*

Since the adoption of the *RTF Guidelines*, there have been a number of regional efforts to address right to food realization. These regional instruments or networks take a variety of forms. However, they all facilitate the sharing of best practices and increased monitoring, offering a new approach to right to food realization and international solidarity. We highlight some of these regional efforts here.

#### *Latin America: Protocol of San Salvador*

Adopted in 1988 and signed by 19 countries,<sup>351</sup> the Protocol of San Salvador (PSS) is an additional protocol to the American Convention on Human Rights which further ensures economic, social and cultural rights, under the auspices of the Organization of American States (OAS). In particular, the PSS recognizes rights to work; just, equitable and satisfactory conditions of work; to engage in a trade union; social security; to health; healthy environment; food; education; and to the benefits of culture, among other rights. The Working Group of the PSS<sup>352</sup> is

tasked with monitoring the implementation of the economic, social and cultural rights enshrined in the PSS, as well as examining the periodic reports that States parties are required to submit. Though not officially regulated, civil society organizations may participate in meetings and consultations with the Working Group.<sup>353</sup>

In 2017, the working group on the PSS began a systematic examination of right to food realization<sup>354</sup> in several American countries using indicators developed to serve the regional context and be consistent with international norms for the right to food, and in particular the *RTF Guidelines*. The process seeks to assess the progress of social policy and legal frameworks in each country, recognizing the principle of the progressive realization of economic, social and cultural rights. Financial and budgetary commitment, state capacity, equality and non-discrimination, access to justice, access to information, and participation are all monitored.<sup>355</sup> To date, four countries have submitted reports on the right to food – El Salvador, Ecuador, Peru, and, Paraguay – which are available for public view.<sup>356</sup> The exercise provides opportunity for building a human rights assessment of social policies at national level, feedback from the technical experts in the working group, and political space to discuss the outcomes in a constructive manner. Additionally, as the indicators used were designed to also be relevant for other contexts, these outcomes can feed into discussions on the SDGs, and other UN Human Rights bodies, including specialized bodies such as the CFS.

#### *Latin America: Inter-American Commission on Human Rights*

In 2017, the Inter-American Commission on Human Rights (IACHR) instituted a Special Rapporteurship on Economic, Social, Cultural and Environmental Rights, in order to support the Commission's mandate to promote and protect economic, social, cultural, and environmental rights throughout the Americas. This also includes making specific recommendations to the IACHR on urgent situations, to monitor rights in the region and to provide assistance to OAS Member States in the adoption of legal, judicial and administrative measures, in order to realize economic, social and cultural rights and to advise bodies of the OAS.<sup>357</sup> The position is important as it provides the opportunity to decentralize human rights competences into the regional bodies, as well as ensure regional-specific recommendations and support to governments. In the first mandate, the right to food has been identified as a priority issue, along with environmental issues and women's rights. While this position has been applauded by the international community, the limited financial resources available to ensure the future of this work prevent the mandate from developing into the strong technical function that was foreseen at the outset of its creation.

#### *Community of Portuguese Speaking Countries*

The Community of Portuguese Speaking Countries

(CPLP)<sup>358</sup> have made significant advancements in creating participatory right to food spaces at national and regional level in the past years. National Food Security and Nutrition Councils, which have clear modes of participation of civil society, have been created in 7 of the 9 Portuguese Speaking Countries: Brazil, Cabo Verde, Guinea-Bissau, Mozambique, Portugal, Sao Tome and Principe, and Timor-Leste.

This impressive institutional advancements in the majority of Portuguese Speaking Countries reflects the significant efforts undertaken by the CPLP in the discussion and approval of the CPLP Regional Strategy on Food and Nutritional Security, by the Chiefs of State and Governments of all CPLP countries in 2012, and the operationalization of the regional CPLP Council on Food and Nutritional Security (CONSAN-CPLP), in place since 2012. The institutionalization of the CONSAN-CPLP, based in a human rights approach, is profoundly inspired by the CFS reform process, specifically with regard to civil society participation, in particular those most affected by hunger and malnutrition, the centrality of the human right to food, and multi-sectoralism.

These relevant achievements were possible thanks to the advocacy and lobbying role of civil society, organized in networks (REDSAN-CPLP and MSC-CONSAN), who have been struggling for public policies for food and nutrition security at national and regional levels, as well as support provided by FAO at CPLP and country level. An excellent example of this is the recent approval of the CPLP regional Guidelines for Family Farming, based on a process of discussion and negotiation with strong participation of civil society. The MSC-CONSAN is facilitating monitoring of the regional strategy implementation in CPLP, in order to make visible the achievements and the challenges concerning food and nutritional security and violations of the right to food in the CPLP region and countries. In 2018, this exercise was also combined with the CFS monitoring of the RTF Guidelines to ensure that CFS members could benefit from the learning experience in the CPLP countries.

#### **g) Global Governance**

Global governance mechanisms play an important role in right to food realization. These mechanisms can serve as venues for the exchange of best practices, norm development and the establishment of clear and enforceable laws. State parties to the International Covenant on Economic, Social and Cultural Rights are to "recognize the essential role of international cooperation and comply with their commitment to take joint and separate action to achieve the full realization of the right to adequate food".<sup>361</sup> This includes working jointly and cooperatively within the UN system, to ensure UN institutions and policy spaces fulfill their mandate, and work towards right to food realization. While there is an array of global governance mechanisms that impact the right to food, we discuss the Rome Based Agencies (RBAs) and the CFS here.

#### *Rome Based Agencies*

The RBAs – FAO, World Food Programme (WFP), and International Fund for Agricultural Development (IFAD) – have direct responsibility over issues of food system governance within the UN system. As parties to the UN system, these institutions all have human rights mandates,<sup>362</sup> and the role of each, in particular the FAO, in supporting the development of a normative framework on the right to food, as well as assisting in implementation and monitoring, cannot be underestimated.

During the 1996 World Food Summit, the FAO was the primary institution calling on states to recognize food as a human right and was one of the key drivers behind the development and negotiation of the *RTF Guidelines*. Upon the adoption of the *RTF Guidelines* by all FAO member states, FAO shifted toward a rights-based framing, as evidenced by the direct support provided by FAO staff to drafting many framework laws at national level. A dedicated unit within the FAO has been a critical source of practical and technical advances over the years, including the development of numerous technical instruments on national implementation and monitoring of the right to food,<sup>363</sup> supporting all actors to better understand the contents of the right to food and to better apply these standards in a variety of contexts. In addition to direct support to member states, the FAO, including the Right to Food Team, has been crucial in important standard setting processes, as well as in the implementation and monitoring of policy documents, such as the SSF and the TGs.

However, despite this initial shift, today there is a widening gap between the organization's rhetoric and practices, with the dedicated funding to support the Right to Food Unit now Team operating on a minimal extra-budgetary funding and a lack of consistent support to ongoing national policy processes, despite increasing demand from member states.<sup>364</sup> Treating food as a human right within the FAO means adopting a normative and analytical framework that can better diagnose and correct issues in food systems at every level, and employing a human rights-based approach in all its work. It means having a specific, dedicated unit of technical expertise on the right to food, something that does not exist in the new FAO Strategic Framework. While the FAO does assert that it is moving towards "mainstreaming the right to food," this move remains under-supported, not fully or clearly institutionalized, and with no internal champion or monitoring/enforcement mechanism.<sup>365</sup>

Within this process of monitoring the *RTF Guidelines*, there has emerged some renewed commitment on the behalf of a group of member states through the organization of Friends of the Right to Food Group, towards strengthening right to food work within the CFS and RBAs.<sup>366</sup> Through dialogues initiated with this group, there is now clear acknowledgement of the role that FAO and CFS both have in supporting states in implementing the right to food. It is also clear that member states have a role in ensuring that explicit right to food work is fully funded within the FAO, including the need for a "permanent multidisciplinary team for the right to food financed by FAO within the regular budget in order

to ensure that member states and specialized departments and staff at country level of the RBAs can request such support, which can create a longer-term support process."<sup>367</sup>

As the governing body of FAO, and the other RBAs, it is up to member states to ensure that the agencies prioritize right to food work, as well as ensure that dedicated and consistent funding is available in order to provide the support to states and policy processes. While the other RBAs, IFAD, and WFP, have not explicitly taken up the right to food or the *RTF Guidelines* as a guiding framework in their work, their role in the realization of the right to food for marginalized groups globally is critical. Thus, it is also important that member states ensure these agencies comply with the human rights framework of the UN Charter, as well as commitments under the SDGs and CFS, and use them to guide their work.

### CFS

The CFS has the ability – and mandate<sup>368</sup> – to bring together technical expertise on issues of relevance for the right to food and issue policy guidance towards right to food realization. This mandate has been fundamental to achieving standards that better articulate how to realize and implement the right to food. The reform of the CFS in 2009, stimulated by the global food crisis, moved the CFS from a closed "talk shop", towards a space that strives "for a world free from hunger where countries implement the voluntary guidelines for the progressive realization of the right to adequate food in the context of national food security."<sup>369</sup> Along these lines, the CFS seeks to be the foremost inclusive intergovernmental and international platform within the UN on food security and nutrition, and to promote coordination, convergence, cooperation, and accountability towards the progressive realization of the right to adequate food. However, in recent years this vision has been challenged as support for strong human rights commitments and normative language is waning by member states, and even directly attacked and suppressed by some governments.

Despite challenges, the CFS continues to provide technical support on meeting right to food obligations. The High-Level Panel of Experts (HLPE) plays an important role in this, as the science-policy interface of CFS, which seeks to improve the strength of policy-making by providing independent, evidence-based analysis and advice at the request of CFS.<sup>370</sup> The *Global Strategic Framework for Food Insecurity and Nutrition* (GSF) adopted by the CFS in 2012 also reinforces the CFS's right to food mandate.<sup>371</sup> It outlines the guiding frameworks of the CFS, placing the *RTF Guidelines* and the right to food more broadly at the center, as well acknowledging the role and relevance of other normative instruments such as the ICESCR, CEDAW, and CRC.

The important policy guidance and recommendations that have emerged from the CFS contribute to further-



ing the technical guidance on the implementation of the *RTF Guidelines* and build linkages between the right to food and other human rights such as the right to water and sanitation and women's rights.<sup>372</sup> Alongside these policy outputs, the ongoing development of the innovative monitoring mechanism is a key advancement in creating strong policy coherence and accountability for the right to food and furthering the assessment of the use and implementation of the *RTF Guidelines*. Two aspects of this monitoring are particularly important. First, the adoption of the *Terms of Reference to share experiences and good practices in applying CFS decisions and recommendations through organizing events at national, regional, and global levels*<sup>373</sup> (CFS Terms of Reference), is of critical importance to right to food implementation. The CFS Terms of Reference provide clear guidance on how to organize human rights-based multi-actor spaces for monitoring. Second, the Global Thematic Events, which bring together national, regional and global analysis, along with technical experts and communities most impacted by hunger and malnutrition, provide important opportunities for sharing of best practices and addressing accountability. It is critical that the CFS continues to develop this mechanism and to share the outcomes of collective monitoring processes, as well as the policy outcomes, at global level as it relates to other policy spaces.

#### *SDGs and CFS Monitoring*

The 2030 Agenda for Sustainable Development (SDGs) represents an internationally agreed upon framework committed to eradicating poverty in all its forms. The framework also represents international consensus to take real action on addressing food insecurity, with the ambitious commitment in SDG 2 to end hunger and malnutrition by 2030. However, there are also risks, as the SDGs are being used to promote a shift towards problematic and dangerous "multistakeholderism" over rights-holders, and away from the state as a duty bearer in upholding human rights obligations. The implementation of the SDGs also risks promoting corporate led "development" schemes and an over-reliance on quantitative data across all goals, including food insecurity, without political space given to discuss, assess, and reflect on what the data indicates.

The *RTF Guidelines* offer important guidance on how to meet the goals of SDG 2, however the right to food alone is not in and of itself "a solution to global hunger, it requires political will and accountability in order to fulfill State obligations".<sup>374</sup> With the global number of persons facing hunger, malnutrition, and violations of their right to food on the rise,<sup>375</sup> "ending all forms of hunger and malnutrition by 2030 will require not only 'technical expertise' and tracking of data, but the solutions and alternatives from the lived experiences of those most impacted by food insecurity."<sup>376</sup>

The SOFI issued annually by FAO, WFP, IFAD, UNICEF, and WHO, is now positioned to be the primary refer-

ence for progress on SDG 2, and while the report has taken on a revised format including new indicators and institutional authorship, it still falls short from shedding light on the root causes of hunger, giving voice to the most affected by food insecurity and malnutrition, and assessing right to food realization.<sup>377</sup> The addition of the Food Insecurity Experience Scale (FIES) as an indicator to the SDGs and the SOFI report is a positive development, as it provides a qualitative measurement of food insecurity. However, as witnessed in the 2017 and 2018 SOFI process, the FIES data is not being released at country level and is not taking into account moderate food insecurity, as mandated by SDG 2 indicators. This perpetuates a false narrative that food insecurity issues are only found in the Global South, and in particular in situations of conflict and disaster.

The space for a meaningful discussion on the outcomes of the SOFI report and progress on SDG 2, do not lie in the High Level Political Forum (HLPF, the annual review of the SDGs) alone, but must be embedded in a space which facilitates monitoring and accountability, as well as the necessary technical specifications for corrective measures and guidance for national-level policies.<sup>378</sup> The CFS is such a space. The CFS' innovative monitoring mechanism, which includes human rights-based approaches and clear terms of reference for monitoring events that prioritizes and give space to those most affected by hunger and malnutrition, as discussed previously, creates a framework for how national reviews can take place. This is lacking within the framework of the SDGs. The monitoring mechanisms also has a clear connection to policy spaces where specialized knowledge and technical guidance from such events can be fed, something that cannot be done at the HLPF.

The CFS monitoring mechanism terms of reference – which provide a clear framework for meaningful participation – would also enhance Voluntary National Reviews for the SDGs, which have received criticism for lack of transparency and participation in many national contexts. The CFS right to food as doing so promotes peaceful monitoring exercise has resulted in much greater levels of participation than the previous exercise in 2016. In addition to the CFS receiving a greater number of inputs, there has also been a significant increase of multi-actor monitoring events at national, regional, and global levels. This increase indicates the interest that many member states have in participating in such monitoring exercises

## **IV. ONGOING STRUGGLES FOR AND VIOLATIONS OF THE RIGHT TO FOOD**

Despite a growing understanding of what steps states must take to realize the right to food, the right to food today remains arguably the most violated human right, and a key focus of civil society struggles around the globe. Indeed, every day in all corners of the globe, civil society organizations in small and big ways resist and

fight back. Together and in groups they struggle against the forces in their way to achieve realization of the right to food for themselves, their families, their communities and their people. They take to the streets, self-organize, bargain collectively, use agroecological production methods, file court cases, engage in peoples' monitoring, participate in government processes and seek seats at the table, assert their voices, tell their stories, and hold their governments' accountable. However, violations continue to persist as we witness the gap between international obligations and commitments, and experiences on the ground, expand.

While the range and type of ongoing struggles for, as well as violations of, the right to food differ, they share many common characteristics. They largely concern the failure of the state to ensure that individuals, families and groups live in conditions that allow them to either produce food or to buy it to feed themselves and their families sustainably, healthily, and in dignity. The right to food "requires States to provide an enabling environment in which people can use their full potential to produce or procure adequate food for themselves and their families"<sup>379</sup> and to ensure they can do so with dignity,<sup>380</sup> sustainably,<sup>381</sup> and in a manner that meets their nutritional needs and serves their health.<sup>382</sup> Failure to ensure this enabling environment both serves as the driving force behind many struggles, while also constituting a violation of the right to food. Struggles also often relate to the failure of states to meet procedural requirements, such as failures to ensure non-discrimination, transparency, accountability, including access to justice and recourse for violations of the right to food, and participation of rights-holders in policy and law making as well as monitoring.

This section addresses the everyday and persistent violations of the right to food at the hands of states, against which CSOs continue to struggle. It details violations of the obligation to respect, protect, and fulfill the right to food, as well as the obligations of the state to ensure non-discrimination, transparency, accountability, participation, rule of law, and human dignity. The violations identified are linked to the primary struggles of rights-holders, in particular those groups, movements, communities, and organizations who are most impacted by hunger and malnutrition. They were identified through a consultative process with civil society representatives from a variety of backgrounds and locations around the globe. They represent those areas in which social movements, Indigenous peoples, families, communities, and individuals most frequently focus their struggles to realize the right to food and face the most resistance.

This section is divided into two sub-sections: the first addresses some of the main struggles around violations of the right to food, while the second looks at violations experienced by marginalized groups. Throughout we focus on intersectionality, marginalized groups, and women's rights as cross-cutting and deeply relevant

themes to right to food realization. Through the consultations and in submissions received, social movements and CSOs provided concrete information on the everyday struggles to realize the right to food and on cases of right to food violations. While experiences were collected from several countries to inform this report (see note on methodology in Part I), this section will neither list nor refer to specific cases or name countries. Rather, it will give an overview of tendencies regarding widespread struggles towards achieving full realization of the right to food and the frequent violations of the right to food that make realization so challenging.

## ***Struggles Linked to Violations of the Right to Food: Thematic Topics***

### ***a) Democratic Control and Accountability***

On the 10 year anniversary of the *RTF Guidelines* in 2014, civil society groups were resoundingly in agreement that the major challenges to right to food realization lay in the failure of states to recognize the right to food, weak political will to ensure human rights, frequent disconnects between policies on the books and experiences on the ground, a lack of accountability, access to justice and recourse for human rights violations, discriminatory laws, policies and practices, and a failure at all levels to ensure deep and meaningful participation of rights-holders in policy/law making, implementation and monitoring.<sup>383</sup> These continue to be some of the main concerns of civil society groups around the globe and a major cause of right to food violations.

#### *Accountability*

A lack of government accountability impacts all areas of right to food realization. Although the right to food has been recognized in international law since its inclusion in the Universal Declaration of Human Rights in 1948,<sup>384</sup> and despite the rise in national right to food recognition and the fact a large majority of states are signatories to the International Covenant on Economic, Social and Cultural Rights,<sup>385</sup> the reality is that the majority of states around the globe do not recognize the right to food in domestic constitutions or legislation. Without at least recognition of the right to food, ensuring government accountability is extremely challenging. However, even when laws and policies exist which enshrine the right to food or rights-based approaches, they are rarely implemented or enforced. Where there are avenues for implementation, civil society groups need capacity building, lawyers, financial resources, time, and accountability mechanisms to hold governments accountable. A lack of transparency also remains a huge barrier to right to food realization, as states are not transparent in their dealings, whether on domestic policy-making or when it comes to development aid or international development, allowing for increasing corporate capture and a rejection of human rights-based approaches in the shadows.

### *Participation*

Participation of rights-holders is key to accountability and democracy. Participation should be ensured in the design, drafting, implementation and monitoring of laws and policies that impact rights-holders. Participation should be meaningful and civil society groups should be provided support to ensure their meaningful participation. Yet meaningful participation of rights-holders in policy-making spaces remains largely elusive, and is an enormous struggle for right to food defenders around the globe. For example, inputs indicated a growing trend of investment and development projects, in mining and extractive industries, as well as palm oil plantations, being undertaken without meaningful community consultations.

There is today a common trend towards restrictions on and the closing of civic spaces across all regions, resulting in serious limitations on the exercise of the rights to freedom of peaceful assembly and association. These restrictions severely hamper or make impossible meaningful participation of rights-holders. The UN Special Rapporteur on the rights of freedom of peaceful assembly and association has identified eight trends impacting meaningful participation: 1) Use of legislation to suppress the legitimate exercise of freedom of peaceful assembly and association; 2) Criminalization, indiscriminate and excessive use of force to counter or repress peaceful protest; 3) Repression of social movements; 4) Stigmatization of and attacks against civil society actors; 5) Restrictions targeting particular groups; 6) Limitations of rights during electoral periods; and 7) Negative impact of rising populism and extremism and 8) Obstructions encountered in the digital space.<sup>386</sup>

### *Human Rights Defenders*

The past decade has seen an alarming backlash against human rights defenders, with increased criminalization of and acts of violence against those who seek to promote and defend the right to food, as well as the right to land, water, and seeds. As detailed in the submissions from civil society groups, the backlash comes in many forms. In some countries, laws that restrict speech or freedom of association, including some anti-terrorism legislation, result in limitations on human rights defenders' freedom to defend. Other states use defamation laws to restrict free speech of human rights defenders, as well as journalists and opposition, or have sought to criminalize human rights defenders, by prosecuting community leaders on charges of sedition and terrorism for raising their voices. Further still, in many states repressive legal frameworks curb the work of civil society organizations by refusing recognition of groups out of favor with the government, claiming they are engaging in anti-national propaganda. Without formal recognition, civil society organizations can face challenges renting office space, organizing events, obtaining permission to peacefully protest, or securing funds from foreign donors.

All too often, human rights defenders face violence, at the hands of the state or third parties, for defending the right to food and livelihoods. Civil society groups provided devastating examples of human rights defenders experiencing intimidation, fear, and physical violence as well as false imprisonment for their work. States often fail to address threats against human rights defenders or violence perpetuated by third parties and government officials. When a human rights defender disappears or is murdered, the state frequently does little to investigate and pursue justice. Examples were provided by civil society of failures to investigate or prosecute, delays in making arrests or pursuing prosecution, and other disruptions to access to justice. Where states fail to properly investigate and prosecute, they further attack human rights defenders and create a culture of impunity and human rights violations. These acts and omissions by states can constitute violations of the right to food, and other interrelated and mutually dependent human rights. Furthermore, it was reported that when human rights defenders are criminalized, organizations - in and outside their community - invest significant human and economic resources in their defense, impeding their mandate to defend human rights and furthering weakening the struggle for human rights, including the right to food.

### *Corporate Power Concentration*

In the last decade, there has been an unprecedented concentration of corporate players in the food and agriculture industries.<sup>387</sup> Along with economic power concentration, firms have gained increasing influence and political power.<sup>388</sup> This has led in many cases to corporate capture of policy spaces - whereby corporations or those with a financial interest in the outcomes of policy gain significant influence in policy spaces, often to the detriment of rights-holders. Corporate capture of a policy space can occur in a variety of ways, and manifest in a pro-industry and anti-regulation agenda, which favors the interests of large corporate actors increasing their window of opportunities for profit, while right holders lose the capacity to influence relevant political decisions.

One way that corporate capture manifests is the direct participation of corporate representatives in negotiation processes, undercover advocacy work in legislative or judicial processes, philanthropic funding of institutional budgets, or even the so called "revolving door" (in which corporate employees become decision-makers in public institutions). The change from public led governance to corporate capture, can result in a move away from policy in the public interest, to policy aimed at private party profits. For example, in the context of seeds, experiences shared indicate that in some countries law makers have passed legislation that limits the rights of small farmers to trade, sell, grow and develop local or indigenous seeds, while favoring multinational seed corporations, by giving them power to manipulate, control and gain intellectual property rights over

them. Corporate capture of policy-making spaces can silence rights-holders and is a threat to democracy, accountability, and human rights realization. Inputs from civil society also noted that many states lack effective rules to prevent conflicts of interests and participation of corporate representatives with vested interests in decision-making in very sensitive sectors such as the extractive industries or nutrition.

There is a current trend towards establishing multi-stakeholder policy platforms, that treat all stakeholders, regardless of whether their human rights are at stake or not, as equal players. These multi-stakeholder platforms can pose barriers to meaningful participation of CSOs, particularly for CSOs representing those most affected by food insecurity and malnutrition.

### CSM Perspective on Multi-Stakeholder Platforms

*The CSM has expressed its position on multi-stakeholder platforms on many occasions. Quoted and paraphrased below is a summary of this position as stated in the Tenure Guidelines Synthesis (internal citations removed).<sup>389</sup>*

The mere existence of dialogue spaces or platforms (including multi-actor platforms) alone does not automatically generate an inclusive, equitable, transparent and accountable process ... nor does it automatically produce outcomes geared towards human rights-based governance of tenure and natural resources. The rise of "multi-stakeholder platforms" has many risks ... [including] confusion of the roles of states, intergovernmental organizations (IGO), civil society and the private sector. For example, the generalization of corporations and private investors, on the one hand, and communities and the social movements, which represent them, on the other, as "stakeholders" that negotiate on equal terms on as crucial an issue as the control over natural resources is unfounded and will generate injustice. It also ignores the power and resource asymmetries that exist between the groups.

- The lack of a clear distinction between public and private interests, which ignores the fundamental differences in the nature, and consequently the roles and responsibilities, of states and, for example, corporations. States draw their legitimacy from the people who confer on them a mandate to serve the public interest based on the principle of human dignity and human rights. States are accountable to the people. Companies, on the contrary, have no legitimate public governance function, because they represent solely particular interests and are only accountable to their shareholders or owners.
- The risk of existing asymmetries of powers between different actors leading to the cooptation of some actors and to the corporate capture of global governance on natural resources, food

and nutrition. This can undermine the rights of the most vulnerable groups further and threatens the realization of human rights as well as people's and food sovereignty.

- The provision of legitimacy to powerful actors who are lacking it but need it to pursue their particular interests.
- The creation of artificial spaces, which risk limiting the role of existing, more legitimate decision-making spaces (where such spaces exist) as well as diverting time, energy, and money away from such spaces.

Presenting "multi-stakeholder platforms" as a good/best practice as such ignores fundamental differences between different forms of spaces for dialogue and engagement, which impact directly on whether they can/will contribute in a legitimate way to the right to adequate food, as well as other human rights, development, or other issue-based spaces. Under these circumstances, it is an illusion that all "stakeholders" can develop a "common strategy and vision" on these issues, as many proponents of "multi-stakeholder platforms" want to make believe. Better elaboration for criteria for participation are seen in the Terms of Reference to share experiences and good practices in applying CFS decisions and recommendations through organizing events at national, regional and global levels" (ToR for monitoring events) which were developed by the CFS OEWG on Monitoring and approved during the 43<sup>rd</sup> session of the CFS.

### Impunity and Lack of Recourse

When human rights are violated, there are often few recourses available to individuals, and even where recourses do exist, they are often inaccessible or non-functioning. Recourse mechanisms come in many forms, but should include human rights-based fact-finding, providing remedies and holding human rights violators accountable. One key accountability mechanism is a functioning court system. While there has been significant advancement in right to food justiciability over the past two decades, with courts increasingly finding right to food violations and ordering remedies,<sup>390</sup> access to courts remains a challenge for many communities. In many countries, the right to food is not recognized in the constitution or in laws, and as a result, there is no judicial recourse for right to food violations. Even where the right to food is recognized in law, people, particularly in rural areas, often do not have access to a lawyer, courthouses are too far away, and judicial systems are confusing, slow, inefficient, expensive and/or unjust. Further still, even where judgments are reached, enforcement may be elusive resulting in no realized remedy or the non-payment of damages.



## b) *Protracted Crises, Natural Disasters, Climate Related Shocks and Conflicts*

Protracted crises,<sup>391</sup> natural disasters, climate related shocks, and conflicts all too often result in right to food violations, through both state actions as well as acts of omission. Though these types of events are different in nature, the violations that flow from them are similar. These violations concern, *inter alia*, the inability of people to purchase food and to sustain livelihood during a crisis or emergency, the unavailability of food for purchase and the functioning of food distribution services, the destruction of food stocks (from agriculture, to livestock to fisheries), the displacement of people both in and out of their country of origin, poor planning by governments to ensure systems are in place to respond to emergencies, and weak governments during emergencies, unable to meet their obligations under international human rights law. Though these are regular occurrences, violations of the right to food in these situations are not inevitable. General Comment No. 12 makes clear that the importance of distinguishing states' inability to comply with their obligations to respect, protect and fulfill the right to food, and a general unwillingness to do so is different. Where a state is unable to comply with their obligations under the right to food, the state bears the burden of proving that every effort has been made to provide access to food for those who are unable to themselves. In this way, the right to food requires states to progressively realize the right to food before, during, and after crisis situations. As outlined above, international instruments and interpretations have clearly laid out steps states can take to ensure right to food violations do not occur and that recourse is available when they do. This section outlines some of the reoccurring and common right to food violations during or after protracted crises, natural disasters, climate related shocks, and conflicts. It is important to remember that right to food violations are not inevitable consequences of crises.

### *Food Insecurity*

Food insecurity is a first and overarching result of protracted crises, natural disasters, climate related shocks, and conflicts. The impact of these events on food insecurity rates has become particularly apparent in the last two years, when, after close to a decade of declining globe food insecurity rates, the number of food insecure grew to 821 million in 2017, up from 784 million in 2015, with some countries reaching a near-famine state.<sup>392</sup> Most notably, this deterioration in the state of food security has been observed in situations of conflict and/or drought or floods.<sup>393</sup> While protracted crises, natural disasters, climate related shocks, and conflicts exacerbate food insecurity, in particular for already marginalized groups, many common occurrences during these events are the immediate causes of right to food violations.

### *Poor Government Preparation and Response Planning to Emergencies*

First, states are often unprepared for emergencies. Without effective government preparation and response planning for emergencies, the likelihood of right to food violations occurring during such an emergency vastly increases. Civil society provided experiences where despite the prevalence of food insecurity, states failed to strengthen local agricultural production or the protection of natural resources during non-emergencies, resulting in devastating impacts during natural disasters and climate related events. Similar concerns were raised for donor organization and donor countries, who fail to prioritize these areas in their support, thus weakening the ability for local responses.

Further complicating this, emergency responses all too often focus on short-term solutions to hunger, that push local producers further into the margins, entrenching extreme poverty, high levels of income inequality, and food insecurity. Unless states adopt effective policies and legislation to strengthen local agricultural systems, increase rural investment, address food stocks, ensure emergency systems are in place, and engage in other emergency preparedness measures, they will remain vulnerable to rising food insecurity and violations of the right to food during natural disasters and climatic shocks, which will likely increase in regularity due to ecological and climate destruction.

### *Economic and Humanitarian Crisis*

Second, economic crises can accompany other types of emergencies and protracted crises, diminishing the population's ability to access and procure food on their own, and often resulting in violations of the right to food. Economic crises can have devastating effects on the livelihoods and nutrition of populations by leading to disruptions to the economy, massive inflation and high rates of unemployment. Where individuals and families cannot meet their own food needs, the state is obligated to ensure the realization of the right to food through providing food or the means for its procurement, generally through rights-based social protection. However, economic crises can also result in states being unable to provide social protection. Civil society groups provided accounts of collapsed social safety nets, affecting millions of people in conflict ridden countries. The culminating effect of these factors can be both reduced food availability, where markets no longer function, as well as reduced food accessibility, as a result of drastic reductions in consumer purchasing power. Without access to salaries or social protection, and with incredibly heightened food prices, families and individuals are unable to purchase what food is available.

### *Displacement*

A third occurrence with major implications for right to food realization during times of protracted crises, nat-

ural disasters, climate related shocks, and conflicts, is displacement. Displacement – whether as a result of violence, political turmoil, economic need or environmental disaster – is a major threat to right to food realization. Examples provided indicate that where populations have been displaced from their homes, employment, and farms, it is extremely challenging for them to earn a living to purchase food or grow food for their own consumption. In the context of pastoral people, experiences were provided of traditionally nomadic communities suffering massive displacement and restriction in movement, which, in turn, has impacted their ability to utilize and access the territory's productive resources for their own food production, resulting in complete dependency on international food aid to meet basic nutritional needs. Once displaced, in particular in long-term situations, individuals and families often become reliant on food aid, which can also have negative implications on right to food realization. There are currently large numbers of displaced peoples around the world, leading to heightened rates of global food insecurity.

#### *Destruction of Natural and Productive Resources*

Fourth, destruction of natural and productive resources during protracted crises, natural disasters, climate related shocks, and conflicts can exacerbate food insecurity and hinder right to food realization in a number of ways. Food crops and stocks, land, and waterways may be destroyed. Destruction of resources can also displace people and wipe out sources of livelihood. It is important to note that the destruction of natural and productive resources is not just a result of disaster or climate related shock – there are occasions where states and third parties use food insecurity *itself* as a weapon of collective punishment, by targeting the destruction of agricultural infrastructure and stocks during times of conflict. Civil society provided examples of direct crop destruction during conflict, as well as long lasting destruction as a result of pollution, entrenching food insecurity, hunger, and malnutrition.

#### *Restriction of Humanitarian Aid and Import Blockades*

Finally, food insecurity and right to food violations during emergencies, are further exacerbated where states or third parties impose blockades, including preventing access to humanitarian aid. The prevention of access to humanitarian food aid in internal conflicts or other emergency situations is a direct, and yet all too common, violation of the right to food, as outlined by the CESCR in General Comment No. 12. Experiences were provided of government officials and military forces blocking access to humanitarian assistance. Other forms of blockades – land, sea and air – including blockades on imports and exports, can further exacerbate food insecurity during crises, in particular where there is already conflict-induced dependency on food imports. Right to food violations in such situations are often furthered when the international community fails to perform up-to-date assessments on aid and development, and fails to de-

mand access to besieged communities. These actions also illustrate violations of ETOs.

### **c) Peoples' Sovereignty Over Natural Resources and Right to Livelihood**

The right to food ensures an enabling environment in which people can purchase food and/or produce food for their families. In order to achieve this enabling environment, individuals and families must have a living wage or the resources and infrastructure – water, seeds, land, boats, markets, etc. – necessary to procure food. When it comes to natural resources however, simple access is not enough to realize the right to food. Small-scale food producers – those who feed the world, and yet are the most food insecure – must have access to, control of, and decision-making over natural resources for the realization of right to food, in order to ensure their survival and livelihood. In other words, in order to achieve the right to food, food sovereignty must also be achieved. Here we discuss experiences of violations linked to the struggles for sovereignty over three resources (land, water, and seeds) in more detail as well as access to markets.

#### *Land*

Without land, small-scale producers are unable to grow food to feed their families or earn an income. Land is not only where food is grown – it is also where people build roots, celebrate and pass on culture, connect with Mother Earth, and engage in environmental protection and climate change mitigation. Where small-scale producers do not have rights to or control over land, or where they are displaced as a result of protracted crises, climate shocks, conflicts or land grabs, their ability to meet their food needs and earn a livelihood is severely hindered. Today small-scale producers struggle against a number of factors which threaten their rights to and control over land.

First, the lack of political will to implement existing laws and standards, and the absence of or weak tenure arrangements for small-scale producers, including a lack of full legal recognition of customary tenure, threatens rights to land and places many people and communities in precarious positions. Civil society raised particular concerns about weak tenure systems and recognition of customary tenure in states with ambitious agro-industrial targets. Turning to export-oriented large-scale commercial agriculture as the driving engine of a national economy, in a context where land protection is weak, can result in small-scale producers who are dependent on the land for their livelihoods being displaced, negatively impacting their right to food as well as the right to food of those who depend on their supplying food to domestic markets.

Second, inequality in access to land, and resources generally, remains a huge threat to the realization of the right to food – a threat that is felt acutely by wom-

en. As noted by civil society organizations, even where there are no legal barriers to women's land ownership, customary law can still privilege male family heads of households, resulting in unequal distribution of land and incomes between men and women. Unequal access to land is not only felt by women or farmers in the Global South. Inequality in access to land is an issue felt also in the Global North, as access to land for small-scale food producers is seen as a lower priority by states, who instead focus policies on supporting speculation, commodification, and large-scale industrial production. In many countries, as noted by civil society organizations, despite being the main agents of food production, peasants, and small- and medium-scale farmers are increasingly being pushed away from their land due to land grabs and the intensification of land concentration of actors both inside and outside their borders. An absence of clear regulation to prevent land speculation can aggravate the problem. Additionally, processes of urbanization and urban focused development create pressures on agricultural lands, in particular peri-urban areas, resulting in farmers losing their lands and livelihood due to processes of urbanization.

Third, in many countries, land and resource grabbing, and the privatization of natural resources result in forced evictions, mass displacement, food insecurity, and human rights abuses. Land grabbing further aggravates unequal distribution of land tenure, impacting the realization of human rights of affected communities, in particular their right to food. In the context of food sovereignty and the right to food, land grabbing is understood as "the control – whether through ownership, lease, concession, contracts, quotas, or general power – of larger than locally-typical amounts of land by any persons or entities – public or private, foreign or domestic – via any means – 'legal' or 'illegal' – for purposes of speculation, extraction, resource control or commodification at the expense of peasant farmers, agroecology, land stewardship, food sovereignty and human rights."<sup>394</sup>

An added element, which poses further threats to protecting access to land and land rights particularly in the context of land grabs, is the increasing financialization of land and food systems more broadly.<sup>395</sup> The increased financialization of land and land-based investments highlights that "land grabbing is not only about the direct control over land and other natural resources, but also about the finance mobilized for control, acquisition and exploitation."<sup>396</sup> It also makes addressing land grabs particularly challenging, as those opposing a land grab, are faced with an interconnected web of actors engaged in the design, financing and implementation of land-based investments, rather than a single corporate entity. Land grabbing can lead to widespread displacement, violence, loss of livelihoods and contamination of natural resources. In these cases, holding actors accountable becomes difficult as those promoting and financing the violation are further distanced from clear lines of accountability.

## Water

Just as land is a necessity for production, so is water. While increased international attention has focused on the right to potable water, less attention has been directed on the right to water for irrigation or for the livelihood of fisherfolk and pastoralists. Like land, a number of common occurrences are impacting people's rights and control over water resources.

Water resources are also currently being grabbed, impacting rights-holders' ability to produce or acquire food. Water is a critical driver and target of grabbing. Water is also a determining factor shaping which lands are attractive for investment and which are not, as an investors' control over land often comes with a corresponding control over water. If prior and independent impact assessments are not carried out and local people's water uses, management systems, and future needs are not adequately recognized, a danger exists that these land investments may negatively appropriate water resources, particularly in contexts marked by significant power inequalities. The need for careful land use planning, rigorous assessments of the impacts of land use changes and the transfer of user rights, and the application of human rights-based principles such as non-discrimination, participation, and transparency are paramount.

Water and ocean grabbing from mass tourism projects, energy generation projects, expansions of port infrastructure, industrial aquaculture, and conservation projects displacing fishing communities are also a growing concern, with implications for food security and nutrition at all levels. A particular concern raised by civil society is the long lasting environmental impacts of such projects. Waste and contamination of water can result in a serious decline in fish, impacting fisherfolk and fish workers/sellers, and the health of agricultural crops. In some contexts, it can also reduce much needed tourism where waters are too polluted to swim in. Increasing competition for access to and use of coastal and aquatic resources, is also leading to privatization of these resources and access/ user rights, to the detriment of the food security and nutrition of the people who have traditionally and sustainably used and depended on these resources.

## Seeds

Agricultural biodiversity is a fundamental requirement for the realization of the right to adequate food, as well as the right to an adequate standard of living. Despite this, the right to seeds is repeatedly violated and existing trends in the protection and promotion of intellectual property rights threaten the rights of small-scale producers. The right to save, sell, and exchange seeds is protected in the *International Treaty on Plant and Genetic Resources for Food and Agriculture (ITPGRFA)*. However, in many countries these rights are not being realized, as states focus on the regulation of intellectual property rights of genetic material, which includes the privatiza-

tion and regulation of peasant seed varieties, as well as the introduction of commercial seeds, including genetically modified organisms (GMOs).

Increasingly, peasant communities are criminalized for saving, selling, or sharing their seeds, as laws are introduced in several countries that promote and protect commercial seeds. Numerous examples of national legislation were provided that prohibit the possession or exchanging of seeds, essentially criminalizing ancestral practices of handling seeds and protecting biodiversity, while favoring and strengthening commercial seed system based on intellectual property rights-protected varieties. The forced creation and promotion of such systems, through programs and subsidies targeted at the distribution of commercial seeds, threatens peasants' rights to and use of seeds by creating economic, technological, and legal barriers to access. Human rights obligations require states to recognize, protect and support peasant seed systems, including by preserving biodiversity and effectively protecting people from the risks of biotechnology.

### *Markets*

Policies that limit market access, create unfair pricing, and impose inappropriate regulations prevent small-scale production from thriving, and in some cases criminalize it, as well as limit the possibility to create sustainable, short food chains. Today, 80 percent of food globally is channeled through markets linked to local, national and regional food systems (or territorial markets).<sup>397</sup> The problem faced by small-scale food producers is that the kinds of markets that they are engaged in are not prioritized or visible to policy-makers. Some inputs received revealed how policies support and prioritize export markets, while domestic markets for the national population go largely under developed and often rely heavily on imported foodstuffs which are more vulnerable to global price shocks and volatility, putting at risk domestic food security. Inputs also indicated that industrial food markets prevent direct connection between consumers and producers, and create heavy reliance on multiple layers of intermediaries within the food system, driving up the price for consumers and lowering the profit for producers.

### **d) *Healthy and Sustainable Food Systems and Diets***

That the current and dominant models of food system governance around the globe have led to unsustainable food systems with negative health outcomes, is now well established. The combined impacts of under-nutrition and over-nutrition/obesity and related micronutrient deficiencies are wreaking havoc on the health and well-being of communities around the world and on the ability of people to flourish and enjoy their human rights. As already noted 821 million people<sup>398</sup> are currently food insecure, while data suggests that more than 1.9 billion adults and 38.3 million children under the age of five are overweight<sup>399</sup> and billions suffer from mi-

cronutrient deficiencies, particularly children and women.<sup>400</sup> Other health impacts from the dominant industrial food system include exposure to pesticides and over use of antibiotics in animal production.<sup>401</sup> Recent studies indicate the danger of pesticide exposure to lactating mothers and children, influencing child neurodevelopment and growth.<sup>402</sup>

At the same time, our current food systems are destroying the environment and fueling climate change. In 2011, the agriculture sector was the second largest emitter of greenhouse gases, contributing 13 percent of total global emissions, with large-scale livestock cultivation (namely cattle) and the addition of natural and synthetic fertilizers or waste to soils as the largest contributors.<sup>403</sup> Meanwhile, land use conversion for agriculture, "remains the main cause of global deforestation, accounting for 70-80 percent of total forest loss", negatively impacting "the environment and millions of Indigenous peoples and local communities and smallholders."<sup>404</sup> While both environmental degradation and poor nutritional outcomes are results of the dominant industrial food system, the promotion of agroecology and the consumption of diverse diets of locally and agroecologically produced food, can lead to sustainable diets that realize the right to food through improved environmental and nutrition outcomes.

Despite this, states continue to pursue policies that support unsustainable diets – including supporting industrial food production of meat and an increasingly limited number of food items, like corn, soy and wheat. Civil society organizations noted that rather than support small-scale agroecological farms and producers, many countries are attempting to transform the agriculture sector to be an economic driver, by boosting agricultural exports, incentivizing foreign investment and pursuing large-scale industrial agriculture. Nutrition interventions targeting small-scale food producers tend to be centered on integrating these to markets (e.g., big supermarket chains) and the dissemination of biofortified seeds rather than protecting and promoting their rights. The increasing reliance on agrofuels, and government support for agrofuels, has also led to land conversion and the displacement of small-scale producers, with subsequent impacts on sustainability and nutrition. The impacts of these policies are not only felt through the displacement of small-scale producers, as already noted above, but also on the environment, through the promotion of large scale resource intensive agriculture, and on nutritional outcomes, by changing the diets of those who lived on the land previously, by moving away from diverse crops to mono-crop agriculture, and by focusing on export oriented agriculture versus agriculture for domestic consumption. Women have been particularly affected by the transition to industrial, commercial and export farming – with women struggling to sustain their families after losing access to fertile land, potable water, and hunting/foraging grounds.



While many movements are enacting change on the ground towards transitions to agroecology, and in some cases this work is supported with public policies, there are ongoing corporate and institutional attempts to grab agroecology as a means to promote GMOs and other false solutions, as well as dangerous new technologies. As experiences have indicated, these solutions do not meet the human rights of those who are producing the world's food, but rather expose the private interests behind approaches such as climate-smart agriculture, sustainable intensification, and refining industrial aquaculture.<sup>405</sup> Agroecology is not a mere set of tools to pick and choose from, nor is it simply "organic production" – it requires a holistic, food systems approach that works with and for the environment and the people.

Similarly, in the field of nutrition, technical, corporate-led approaches, which in essence promote the same industrial food system at the heart of malnutrition, are promoted as solutions to malnutrition. Examples include the promotion of bio-fortified (including GMO) seeds and foods, "nutrient-enriched" fertilizers, or fortified industrially-produced foods, rather than the adoption of a comprehensive strategy aimed at diversifying diets based on local foods.

### e) *Workers' Rights*

Agricultural work accounts for approximately 30 percent of global employment,<sup>406</sup> and over 22 million workers are employed in just food and drink manufacturing.<sup>407</sup> While a significant portion of the global workforce is engaged in work across the food system and up and down the food supply chain, this work is some of the most undervalued work and often lacking the same legal protections provided to workers. As is noted above, until workers' rights in the food system are realized, the right to food for all cannot be said to have been achieved. In this section, we highlight some of the common violations faced by workers in the food system, with a particular focus on agricultural work.

Right to food violations and human rights violations more broadly are rampant in agricultural work. Agricultural work is infamously dirty, dangerous, and difficult, with employees working with dangerous equipment, fluctuating and extreme temperatures, severe weather conditions, rampant dehydration due to lack of access to water, exhaustion, and exposure to pesticides. Employees also tend to be secluded in rural areas, without access health care, education for their children, housing, markets and so on, leaving them highly dependent on their employers. Rural living also leaves workers far away from workers' actions centers, legal aid, and labor inspectors, making access to justice extremely challenging. Other sources of violations, as identified by civil society organizations, stem from *inter alia* informality of the workforce, the use of child labor, lack of access to sanitation facilitates, a lack of a minimum living wage, a lack of social security and safety nets, sexual harassment of women in the workplace, discrimination against women in the workplace, including in pay, lack of ac-

cess to parental benefits, fewer promotional opportunities for women than their male counterparts, poor living conditions for rural workers, and lack of access to child care.

There are other systemic challenges resulting from current practices that marginalize workers in the food system, and make them more vulnerable to human rights abuses. One such practice, which is common throughout the globe, is that agricultural workers are afforded different and lower employment and labor protections than workers in other industries and sectors. As highlighted by civil society organizations, workers in agricultural may have no minimum wage, no maximum hours of work, and no overtime, while workers in other areas do. Further entrenching their marginalization, agricultural workers are often excluded from labor protections, and as a result they are not provided robust protections if they form a union and seek to bargain collectively. This marginalization however, is not inevitable, but rather a product of law and policy.

Forced labor also remains a problem up and down the supply chain, indenturing workers and further marginalizing the poor. Though forced labor is generally not permitted under law in any state, poor labor protection, a lack of monitoring, and corruption result in ongoing cycles of forced labor around the globe.

Another common source of right to food violations in the food system, is the precarious immigration status of many agricultural workers who come seasonally or permanently to work on farms, but do not have permanent residency, a path to citizenship or even any immigration status at all. Migrant workers face many forms of discrimination and rights violations. In addition to unfavorable employment terms and working conditions, migrant workers often face abuses and coercion at the various stages of the recruitment, migration, and employment process, despite protections in law. Some workers are the victims of trafficking, recruited through fraud and deception, while many others with valid work permits are permitted entrance attached only to one specific employer, making the situation of migrant workers wishing to report cases of abuse, or leave their employment as a result of abuse, precarious as termination of employment results in the cancellation of working permits, depriving them of the right to stay and work lawfully.

### f) *Rights-Based Approaches to Social Protection, Development Aid, Trade, and Investment*

Despite obligations to respect, protect and fulfil the right to food, states often negotiate bilateral and international agreements, plan development and infrastructure projects, solicit investment and development assistance, and construct social protection schemes (or fail to), without regard to their human rights obligations. Yet rights-based approaches and realization of right to food and other economic, social and cultural rights should be

at the center of these. At the national level, states are responsible for ensuring rights-based approaches and respecting, protecting and fulfilling the right to food when making domestic policy and when negotiating development aid and regulating foreign investments. Internationally, foreign states are responsible for respecting, protecting, and fulfilling the right to food abroad (including by regulating transnational corporations). In this section, we outline some of the major struggles of groups to ensure that states use rights-based approaches in their law- and policy-making as well as international and bilateral agreements.

### *Charity-based Social Protection*

In a number of countries, particularly in the Global North, reliance on food banks and charity-based models as a response to food insecurity has reached epic proportions. As noted by civil society organizations, states' responses to solving food insecurity are largely ineffective because they do not focus on the root causes of hunger, such as poverty, inadequate incomes, and entrenched discrimination. Instead, they rely on private charitable organizations to supplement gaps left by inadequate government assistance programs. But this approach is not sustainable. In placing the burden upon third parties, this approach absolves states from their duty to create and implement food and nutrition policy that respects, protects, and fulfills the right to food, and instead forcing rights-holders to rely on charity to meet their food needs. Though food banks often attempt to provide local, fresh, and culturally appropriate food and respect the dignity of recipients, the charity-based model cannot achieve the steady, reliable, rights-based, and income oriented social protection schemes that allow people to live securely, with stability, dignity, and autonomy.

### *Economic Reforms*

Human rights-based approaches should be at the center of economic reforms. In this context, austerity economic reforms threaten right to food realization. From experiences of austerity measures in the Global North and Global South, it is evident that they often lead to unprecedented levels of unemployment, violations of workers' rights, large cuts in social protection schemes, a lowering of living standards, and tax reforms that contribute to deepening poverty, as well as increases in food insecurity. These outcomes have cumulative effect of undermining the enjoyment of the right to adequate food and nutrition.

### *Trade, Investments and Domestic Development Projects*

Human rights-based approaches should also form the framework in which states negotiate trade and investment agreements, and seek out development projects. States should ensure these deals and agreements are to the benefit of small-scale producers and food insecure

populations, and emphasize right to food realization and environmental protection. States should also consult with those likely to be impacted in the decision-making about such agreements. Civil society groups report struggles to ensure these agreements and deals are to the benefit of the people, and to ensure that consultation and participation is ensured. Many of the impacts of investment and development projects are discussed above and in other sections of this report – they include *inter alia* displacement and evictions of producers, loss of livelihood and access to productive resources, including to grow food for subsistence, land conversion away from food production for domestic markets, transitions to industrial agriculture or less environmental and sustainable production models, and other forms of environmental degradation. All these affect right to food realization, as well as realization of a host of other economic and social rights.

### *ETOs*

States regularly violate ETOs with almost complete impunity, as very few mechanisms exist to hold states accountable for right to food violations beyond their borders. The extent and reach of ETO violations is beyond the scope of this report, but a few examples will be highlighted. In the context of the ETO to *fulfil* the right to food, states have an obligation to provide food assistance (or other emergency support), but this must be done with a human rights-based approach. Civil society organizations reported incidents of foreign food assistance being based on nutritionally-unbalanced food baskets, legacies of dependency and programs that fail support local food systems, often in fact harming them. In the context of the ETO to *respect* the right to food, civil society raised concerns about struggles to ensure foreign states also respect right to food when negotiating terms for investments or development aid, particular in the context of tied development assistance. Concerns around agrofuel subsidies that lead to land grabs abroad were also raised. Finally, in the context of the ETO to *protect* the right to food, numerous concerns were raised about the failure of states to regulate the actions of corporations registered under their laws, when those corporations engage in activities abroad. In this respect, the mining industry was indicated, with examples of violence perpetuated towards human rights defenders, evictions, and environmental degradation.

### *Marginalized Groups*

Right to food realization requires giving attention through law and policy to those most marginalized in society and likely to have their right to food violated. Deep and long histories of structural discrimination, have left many peoples, groups, social classes, and communities in situations of social exclusion, poverty, and political marginalization. Structural marginalization impacts the ability of Dalits, people of color, racialized communities, people with disabilities, the elderly, children, youth<sup>408</sup> and many others to realize the right to food. In this sec-

tion however, we highlight the struggles of women and Indigenous peoples in right to food realization, and the reoccurring right to food violations they endure.

### a) *Women*

Women play a crucial role in feeding the world and maintaining the earth, yet discrimination and violence against women remains pervasive in all areas of life with negative impacts on the realization of the right to food, as well as other human rights. Women cultivate more than 50 percent of all food, but account for 70 percent of the world's food insecure.<sup>409</sup> Women work the same jobs as men but are paid significantly less,<sup>410</sup> and still predominately carry the burden of unpaid work.<sup>411</sup> Women represent the majority of the agricultural workforce, yet are estimated to have access to or control of only 5 percent of land globally.<sup>412</sup> Women play "a crucial role in maintaining and or improving rural livelihoods and strengthening rural communities",<sup>413</sup> but they are more likely to live in poverty, face social exclusion, and be affected by malnutrition than men.<sup>414</sup> As noted by the CEDAW, rural women in particular "continue to face systematic and persistent barriers to the full enjoyment of their human rights and that, in many cases, conditions have deteriorated."<sup>415</sup>

The challenges women face are not a result of a lack of recognition of women's rights or poor international standards. There is significant legal protection in international law,<sup>416</sup> and often in domestic constitutions and legislation, recognizing women's rights and equality rights. It is in spite of these protections that "the gap between de jure equality and de facto discrimination continues to persist and resist change"<sup>417</sup> and realization of women's rights continues to be elusive, while regression of women's rights at national level is growing. There is a trend towards mainstreaming a gender analysis, or in many cases simply "women's empowerment" on its own, which tends to water down the content of women's rights or relegates women's issues to an afterthought. This report makes the explicit choice to treat women's rights both as a cross cutting issue and an independent issue. In this section, we highlight only some of the most pervasive violations of women's rights and women's right to food that are endemic and systemic around the globe.

#### *Violence Against Women*

Violence against women manifests in many forms, and acts as a significant and fundamental barrier to the realization of the right to food for women. Violence happens intra-household through physical and emotional abuse, with impacts on women's health, employment, livelihood, independence, security, and food security. States are responsible for addressing violence against women – the duty to protect – but this form of violence persists. Violence against women also happens in a number of more insidious ways, with both poverty and food insecurity being particularly pervasive, structural, and entrenched forms of violence against women, their

bodies, and their spirits. Addressing violence against women and women's rights requires an intersectional approach that addresses power relations at all levels. Further, it is an approach that ensures women's rights and self-determination, not just equality and empowerment.

#### *Land and Livelihoods*

Women's rights to land is a significant issue prevalent in many regions and often entrenched not just in historical practices and customs, but in law and policy itself. One noted challenge to ensure women's rights to and access to land are inheritance practices, which are both culturally defined and embedded in law and policy. Addressing inheritance practices comes with challenges, as reform puts into question many of the foundations of property law and family law, as well as the general frameworks of societies. Inheritance reforms alter the foundations of wealth distribution "in our communities in the context of gender, and the role women play in economic life."<sup>418</sup> Civil society organizations provided many examples of struggles over women's access to land, including the right to inherit land. Their exclusion from rights to land is a pernicious violation of the right to food. Women's rights to land become even more precarious as a result of increased exploitation of natural resources and growing competition of private actors for land. In many cases, discrimination in inheritance practices and women's rights to land persist, despite constitutional guarantees and legislative protections for equality. This lack of rights to land and resources contributes to the ever-growing feminization of poverty globally.

At the same time, women workers are often denied access to even the most basic of rights covered in the core conventions of the ILO, with the situation of rural women workers being particularly dire as rural women's jobs are usually seasonal, part-time, low-wage, dangerous, isolated, and unregulated. As reported by civil society organizations, this can be seen throughout the globe, where women are relegated to low-paid positions without any promotional opportunity, and are disproportionately in "informal" positions without benefits. The unequal division of care work<sup>419</sup> is a result of the patriarchal norms and practices that discriminate against women. It continues to serve as the backbone of the formal economy without any of the needed social and legal protection systems in place that would enable rural women to adequately care and provide for their children, families, and communities.<sup>420</sup>

#### *Nutrition and Health*

Discrimination against women also results in difficulties in their ability to make decisions and enact those decisions related to their bodies, sexual health, and nutrition as well as the nutrition of their children and families, with intergenerational and community-wide repercussions for the right to food.<sup>421</sup> The influence on diets by commercial and private actors lead to non-communi-

cable diseases, and pushes the corporate-driven narrative that emphasizes medicalized technical solutions to structural problems.

### *Indigenous Women*

Realizing the rights of Indigenous women and girls is central to the reduction of poverty, food security and nutrition, access to land and natural resources, and the protection of traditional knowledge as well as respect for human dignity and self-determination. The realization of women's rights as laid out in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) is not sufficiently up to speed with needs, as Indigenous communities continue to suffer higher rates of poverty, discriminatory support policies, and health services. Further, without respect for Indigenous women's rights more broadly, Indigenous women's rights to food will continue to be violated.

### **b) Indigenous Peoples**

Violations of Indigenous peoples' right to food are often a result of the failure of states to uphold Indigenous peoples' rights to sovereignty over land and natural resources, as well as decision-making, despite a growing body of international law enshrining these rights. These rights are primarily enshrined in the UNDRIP<sup>422</sup> and the recently adopted American Declaration on the Rights of Indigenous Peoples,<sup>423</sup> as well as the International Labour Organization's Convention n. 169, approved in 1989, which has been the most relevant legally-binding instrument on the issue (although it has only been ratified by 22 States).

Free, prior and informed consent (FPIC)<sup>424</sup> is a right of Indigenous peoples recognized in the UNDRIP. This principle provides the right of Indigenous communities to "give or withhold consent to a project that may affect them or their territories. Once they have given their free, prior and informed consent, they can withdraw it at any time. Furthermore, FPIC enables them to negotiate the conditions under which a project will be designed, implemented, monitored and evaluated."<sup>425</sup> According to standards set in the CFS' TGs, states should respect and promote customary approaches used by Indigenous peoples and other communities with customary tenure systems to resolving tenure conflicts within communities.<sup>426</sup> However, as reported by civil society organizations, this is not the case for many communities who struggle for their rights to decide and assert control over their territories. Governments have failed to ensure the meaningful participation, both through consultation and representation, of Indigenous peoples in decision-making that has the potential to affect their rights, including their rights to land and water. Governments have yet to systematically implement FPIC in domestic laws and policies, and often inconsistently apply their duty to consult, particularly in relation to development and extractive activities. Further, governments often outright disregard land rights and natural resource rights of In-

igenous peoples, particularly in the context of large-scale development projects or when taking in foreign investment projects.

Indigenous peoples have historically maintained a holistic and organic relationship with their ancestral territory and traditional lands, which are at the core of their identity. Producing food is not just an act of food security, but a part of their cultural identity, thus the right to food cannot be seen in isolation from control and sovereignty of their territories, as well as access to food that is culturally appropriate.<sup>427</sup> According to the TGs, "States should recognize and protect Indigenous customary tenure rights to ancestral lands – and should not be forcibly evict people from such ancestral lands."<sup>428</sup> However, as reported by CSOs, these principles are not practiced, challenging self-determination as well as cultural identity.

Indigenous communities globally are also often found to be in conditions of poverty, marginalization, and systematic discrimination, which violates their basic human rights, including the right to food. In many countries, Indigenous peoples have the highest rates of food insecurity of any population. Government programs often fail to meet their food needs, particularly where communities live in areas far from urban centers.

## **V. RECOMMENDATIONS**

Many recommendations emerged from this exercise as the RTF Guidelines cover a wide scope of areas necessary for right to food realization. The recommendations found here focus on immediate needs to better integrate right to food coherence and convergence at national, regional, and global levels towards building strategies and public policies to realize the right to adequate food for all.

### **TO THE CFS:**

- Ensure the right to adequate food forms the basis of and informs the elaboration of the CFS' policy convergence and coherence work, in particularly, the processes to build policy guidance for food security and nutrition;
- Contribute, as a joint action of Member States, RBAs, participants and all relevant UN bodies, towards a UN-wide effort to strengthen the progressive realization of the right to adequate food as a fundamental pillar to achieve the SDGs, particularly SDG 2;
- Create a permanent space in the annual CFS plenary sessions for the Special Rapporteur on the Right to Food to present his or her thematic report on the state of the right to food, and provide space for the Special Rapporteur (or his/her representative) to take part in the CFS Bureau, Advisory Group and open working groups' meetings;
- Strengthen the use and application of all CFS policy



outcomes, including the more comprehensive policy guidelines and the more specific policy recommendations for an enhanced implementation of the right to adequate food;

- Implement and strengthen the CFS' innovative monitoring mechanism and seek synergies with other UN national reviews taking place within the human rights system in Geneva, the SDG reviews in New York, and regional processes (such as CPLP right to food monitoring processes in the scope of the CONSAN-CPLP), in order to create policy convergence and coherence at all levels;

- Respect, protect, and fulfill women's rights as a pre-requisite for food security and nutrition in all CFS decisions, including promoting the elimination of any form of violence and discrimination against women;

- Promote, in collaboration with the UN High Commissioner on Human Rights and other relevant UN bodies, a specific initiative to contribute to the protection of human rights defenders including those who defend the rights of Indigenous Peoples, small-scale producers, and women;

- Ensure that the CFS builds on emerging normative right to food interpretations by drawing from other instruments, including in particular, CEDAW General Recommendation 34, UNDRIP and upon adoption, the Declaration on the Rights of Peasants and Other People Working in Rural Areas and the Legally Binding Instrument to Regulate, in International Human Rights Law the Activities of Transnational Corporations and other Business Enterprises, both under negotiation at the UN Human Rights Council.

#### TO THE FAO:

- Strengthen the leading role of FAO in supporting right to food realization, including inter alia by ensuring increased and continuous political and financial support for a long-term establishment of a specialized team in FAO headquarters and the regional offices to support right to food work at national and regional levels;

- Strengthen the collaboration with the UN Office of the High Commissioner for Human Rights, the UN Special Rapporteurs on the Right to Food and on the Rights of Indigenous Peoples, regional human rights commissions, and national human rights institutions, in order to consolidate mainstreaming of the right to food and human rights in all FAO programs and policies and to encourage building on the normative elaboration of the right to food;

- Include a chapter assessing the realization of the right to adequate food in the annual SOFI report;

- Continue to and increase support for transitions to agroecology as a fundamental component of achieving the progressive realization of the right to food today and

in the future;

- Promote the use and application of CFS policy outcomes for strengthening right to food realization.

#### TO IFAD AND WFP:

- Include right to food principles in the design, implementation, monitoring, and evaluation of all programs;
- Include specific programs on the right to adequate food in work streams;

- Promote the implementation of all CFS policy outcomes.

#### TO CFS MEMBER STATES:

It is the responsibility of CFS members to respect, protect, and fulfil the right to food of those living within their borders, as well as those beyond. It is in fact in their interest to realize the right to food as doing so promotes peaceful, prosperous, equitable, and sustainable societies. In order to implement the right to food, the following recommendations are made:

In *general*, states should:

- Promote and/or strengthen the use and application of the RTF Guidelines in the context of the updated normative framework and continue to build upon and learn from successes that have been achieved in some countries;

- Include the right to food in constitutions and legislation, including providing for recourse mechanisms where rights are violated, and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

- Promote and/or strengthen policy coherence and ensure compliance with respective international standards and human rights principles, including women's rights and Indigenous peoples' rights;

- Promote and/or strengthen multi-actor platforms at the national level, with the full and meaningful participation of those most affected by hunger and malnutrition, including small-scale producers, to develop, implement, and monitor policies towards the realization of the right to adequate food;

- Audit all laws and policies to ensure compliance with the respective international standards and human rights principles, including gender justice and Indigenous peoples' rights, and ensure participatory monitoring mechanisms are in place and operational to monitor right to food realization;

- Ensure extraterritorial obligations to respect, protect, and fulfil the right to food are complied with;

- Respect, protect, and fulfill the human rights of hu-

man rights defenders working on issues relating to the right to food and protection of natural and productive resources, by inter alia (i) protecting the rights of association, of peaceful assembly, and of freedom of speech, (ii) ensuring mechanisms to protect human rights defenders against all forms of violence, (iii) reviewing and amending existing legal frameworks which allow for repression and criminalization of social protest and the work of human rights defenders, and (iv) ensuring access to justice when rights are violated;

- Gather qualitative data on hunger and malnutrition – including, but not limited to, the collection and release of Food Insecurity Experience Scale data for all countries – as per agreements in the 2030 agenda.

With respect to **women's rights**, states should:

- Recognize first and foremost women as human beings with their own rights, and not just as mothers and care givers with the responsibility for the food security and nutrition of the households and others;
- Protect, promote, and support breastfeeding and ensure women's right to choose if and how to breastfeed;
- Guarantee basic rights of women such as the right to land, territories, seeds, water, and traditional knowledge, which they own and preserve as their own knowledge;
- End violence against women in all its forms;
- Address the root causes of women's inequalities and the imbalance of power relations to increase women's right to food realization, by inter alia naming and addressing patriarchy, capitalism, racism, and feudalism;
- Implement policies that are coherent with CEDAW General Recommendation 34 on the Rights of Rural Women.

In situations of **protracted crisis, conflict and natural disasters**, states should:

- Combine emergency humanitarian, development, and human rights approaches to address the root causes of violations of the right to adequate food and nutrition by making use of and supporting the implementation of the CFS' FFA, including specific measures for the realization of the right to food and nutrition of women;
- Design policy responses and interventions with the full and meaningful participation of communities living in the most-affected territories including Indigenous communities, pastoralists, small-scale food producers, landless, children, orphans, and peoples with disabilities as well as refugees, internally displaced peoples, and with particular attention paid to women's rights.

With regard to **peoples' sovereignty over natural resources and right to livelihood**, states should:

- Respect, recognize, and where possible strengthen customary, collective, and informal systems of land, water, and other natural resources tenure;
- Respect rights of Indigenous communities, including FPIC;
- Respect the right to and enact legal frameworks and regulations to guarantee the right to FPIC to smallholders and women;
- End the practice of resource grabbing affecting farming, fisheries, forests, and pastoralist communities, and move towards an equitable management of these resources (natural, material, financial) by strengthening community rights, benefit sharing policies, and enacting strong and binding legislations;
- Adopt the TGs and the SSF, as well as all CFS policy documents, into domestic law, policy, and regulation;
- Respect and ensure smallholders' rights to seeds, including the rights to: i) the protection of traditional knowledge; ii) access and benefit sharing; iii) save, use and exchange seeds; and iv) FPIC before any laws, policies or projects that would impact rights to seeds;
- Invest in and promote Indigenous and local level seed production and distribution, and projects that contribute to biodiversity conservation, and introduce stricter regulation of corporate control of seed resources.

With respect to **workers' rights**, states should:

- Set minimum wage laws at living wage rates that allow for the enjoyment of the right to food and other human rights;
- Ensure basic rights of working people – including inter alia the right to decent and safe working conditions, non-discrimination, a workplace free of sexual harassment, parental benefits, and maximum hours of work – up and down the supply chain, whether in formal or informal work, and regardless of immigration status, consistent with relevant ILO Conventions;
- Create and allow for the conditions for agricultural workers to organize themselves freely and autonomously, as well as providing them with the necessary conditions for legal registration of their organizations to fulfill their union and development missions.

With respect to **healthy and sustainable food systems and diets**, states should:

- Support and invest in producer led transitions to agroecology;
- Shift public spending (subsidies, procurement, etc.) away from industrial farming and implement procurement policies in public institutions that prioritize produce from local, small-scale agroecological farms and



sustainable fisheries;

- Regulate the promotion and marketing of junk food and highly processed foods for children and adolescents;
- Recognize that markets embedded in local, national, and regional territories channel 80 percent of the food consumed in the world and provide the best guarantee for the right to food of small-scale producers and consumers – women and young people in particular – and privilege public policy and investment support to them as indicated in CFS 43 recommendations;
- Recognize the role of local governments and local communities as frontline responders to the impacts of climate change, by ensuring their participation in decision-making and response.

With respect to ***ensuring rights-based approaches to social protection, development aid, trade and investment***, states should:

- Respect, protect, and fulfill extraterritorial human rights obligations, including the right to food, in all development, trade, and investment activities, including through participation of affected communities in all decision-making about these activities and in monitoring these activities as they are implemented and following implementation to ensure that they support and do not harm right to food realization;
- Ensure that social protection supports right to food realization, is guaranteed in law, and is based on human rights based approaches and not on charity-based models.



## Endnotes

- 1 The terms "right to food", the "right to adequate food" and the "right to adequate food and nutrition" refer to the same right. The term "right to adequate food and nutrition" highlights the importance of adequacy and nutrition as fundamental elements of the right to food. Although the importance of adequacy and nutrition cannot be overstated, for reasons of readability, and as adequacy is inherent in the definition of the right to food, the "right to adequate food and nutrition" will be referred to as simply the "right to food" in this report.
- 2 UN Food and Agriculture Organization (FAO) et al., *The State of Food Security and Nutrition in the World 2018: Building Climate Resilience for Food Security and Nutrition* (2018), a p. 5 [hereinafter "SOFI 2018"].
- 3 The first Global Thematic Monitoring Event concerned national implementation of the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests* (TGs). Civil society groups also produced a report monitoring implementation of the TGs. Civil Society Mechanism (CSM), *Synthesis Report on Civil Society Experiences Regarding Use and Implementation of the Tenure Guidelines and the Challenge of Monitoring CFS Decisions* (2016) [hereinafter "TG Synthesis Report"].
- 4 Global Network for the Right to Food and Nutrition, *10 Years of the Right to Adequate Food Guidelines: Progress, Obstacles and the Way Ahead* (2014), at p. 8.
- 5 Colum Lynch, "U.N. Human Rights Chief to Leave, Citing 'Appalling' Climate for Advocacy", *Foreign Policy* (Dec. 20, 2017), available at <https://foreignpolicy.com/2017/12/20/u-n-human-rights-chief-to-leave-citing-appalling-climate-for-advocacy/>.
- 6 See SOFI 2018, *supra* note 2.
- 7 CSM, *Share Your Experience on the Right to Food!* (2017), available at <http://www.csm4cfs.org/share-experiences-right-food/>.
- 8 TG Synthesis Report, *supra* note 3.
- 9 UN Committee on World Food Security (CFS), *CFS Evaluation: Implementation of the Response to the Evaluation*, Doc. No. BurAG/2018/07/23/03b (2018).
- 10 FAO, *Declaration of the World Food Summit: Five Years Later* (2002), at para. 10.
- 11 CFS, *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (2012), at para. 12.2 [hereinafter "CFS, TGs"].
- 12 CFS, *Making a Difference in Food Security and Nutrition: Report*, UN Doc. CFS 2017, 44/Report (2017), at para. 26(III)(a) [hereinafter "CFS 44"].
- 13 CFS 44, *supra* note 12, at para. 26(III)(a); FAO, *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication* (2015), at para. 10.1 [hereinafter "SSF Guidelines"]; UN General Assembly, *Resolution Adopted by the General Assembly on 23 December 2016, New Urban Agenda: Quito Declaration on Sustainable Cities and Human Settlements for All*, UN Doc. A/RES/71/256 (2017), at para. 88 [hereinafter "Quito Declaration"].
- 14 For example, as noted by the CFS, "Frameworks should reflect the social, cultural, economic and environmental significance of land, fisheries and forests. States should provide frameworks that are non-discriminatory and promote social equity and gender equality." CFS, TGs, *supra* note 11, at para. 5.3.
- 15 For example, in the TGs, state parties to the CFS recognize that the interconnected relationships between land, fisheries and forests and their uses, and recommend that states should "establish an integrated approach to their administration." CFS, TGs, *supra* note 11, at para. 5.3.
- 16 See e.g. SSF Guidelines, *supra* note 13, at para. 10.8.
- 17 United Nations, *Charter of the United Nations* (1945), at art. 103 [hereinafter "UN Charter"].
- 18 See SDG target 17.4 "Enhance policy coherence for sustainable development" and associated indicator 17.14.1.
- 19 FAO, *Guide on Legislating for the Right to Food* (2009), at p. 29.
- 20 Olivier De Schutter, *From Charity to Entitlement: Implementing the Right to Food in Southern and Eastern Africa*, Briefing Note 05 (2012), at p. 6 [hereinafter "From Charity to Entitlement"].
- 21 UN Charter, *supra* note 17, at art. 103; Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 24 on State Obligations under the ICESCR in the Context of Business Activities*, UN Doc. E/C.12/GC/24 (2017) [hereinafter "CESCR, General Comment No. 24"].
- 22 In 2004, the UN General Assembly noted that "... all Governments have a responsibility to ensure that their activities do not have negative impacts on the right to food of people in other countries". UN General Assembly, *The Right to Food: Note by the Secretary-General*, UN Doc. A/59/385 (2004), at para. 61(f). See also: UN General Assembly (72<sup>nd</sup> Session), *Resolution Adopted by the General Assembly on 19 December 2017: The Right to Food*, UN Doc. A/RES/72/173 (2018), at para. 29.
- 23 CESCR, *General Comment No. 12: Right to Adequate Food* (art. 11), UN Doc. E/C.12/1995/5 (1999), at para. 36



[*hereinafter* "CESCR, General Comment No. 12"].

24 FAO, Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (2004), at Guideline 19 [*hereinafter* "RTF Guidelines"].

25 ETO Consortium, Maastricht Principles on Extraterritorial Obligations of States in Areas of Economic, Social and Cultural Rights, (2013). The Special Rapporteur on the Right to Food has recommended that the Human Rights Council adopt "a resolution to draw attention to the Maastricht Principles". Hilal Elver, Report of the Special Rapporteur on the Right to Food: Access to Justice and the Right to Food: the Way Forward, UN Doc. A/HRC/28/65 (2014), at para. 72(k) [*hereinafter* "Elver, 2014"].

26 For example, ETOs require States to "refrain from implementing any policies or programmes that might have negative effects on the right to food of people living outside their territories", including "through their decisions taken under their roles within WTO, IMF and the World Bank." Jean Ziegler, The Right to Food: Report of the Special Rapporteur on the Right to Food, UN Doc. E/CN.4/2005/47 (2005), at para. 60(f); Jean Ziegler, The Right to Food: Report of the Special Rapporteur on the Right to Food, UN Doc. E/CN.4/2006/44 (2006), at paras. 52(f), (h) and (i).

27 CFS, TGs, *supra* note 11, at para. 12.15.

28 Olivier De Schutter, The Right to Food, UN Doc. A/65/281 (2010), at para. 43(c) [*hereinafter* "De Schutter 2010"].

29 *See e.g.* CESCR, General Comment No. 24, *supra* note 21; Committee on the Rights of the Child, General Comment No. 16 on State Obligations Regarding the Impact of the Business Sector on Children's Rights, UN Doc. CRC/C/GC/16 (2013), especially at paras. 43, 44.

30 Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 34 on the Rights of Rural Women, UN Doc. CEDAW/C/CG/34 (2016), at paras. 54 and 11 [*hereinafter* "CEDAW No. 34"].

31 UN General Assembly, The Right to Food: Note by the Secretary General, UN Doc. A/62/289 (2007), at para. 64(b).

32 CESCR, General Comment No. 12, *supra* note 23, at paras. 36-41; De Schutter 2014, *supra* note 43, at para D(5).

33 United Nations, Food Assistance Convention, UN Doc.C.N.215.2012.TREATIES-XIX.48 (2012), at art. 2(a) [*hereinafter* "Food Assistance Convention"].

34 CFS 37, *supra* note 42, at para. 50(l). *See also* Food

Assistance Convention, *supra* note 33, at art. 2.

35 The general principles of food assistance, including "provid[ing] food assistance in a way that does not adversely affect local production, market conditions, marketing structures and commercial trade or the price of essential goods for vulnerable populations". Food Assistance Convention, *supra* note 33, at art. 2(a)(v).

36 *See e.g.* CESCR, General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Culture Rights, UN Doc. E/C.12/2005/4 (2005), at para. 21 [*hereinafter* "CESCR, General Comment No. 16"]; UN General Assembly, Convention on the Rights of Persons with Disabilities and Optional Protocol, UN Doc. A/RES/61/106 (2006), at art. 29 [*hereinafter* "Convention on the Rights of Persons with Disabilities"]; CFS, TGs, *supra* note 11, at paras. 4.10 and 20.4; CFS, Fortieth Session: Report, UN Doc. CFS 2013/40 REPORT (2013), at para. 27 [*hereinafter* "CFS 40"]; CFS, Forty-First Session: Report of the 41<sup>st</sup> Session of the Committee on World Food Security, UN Doc. CFS 41 Final Report (2014) [*hereinafter* "CFS 41"]; SSF Guidelines, *supra* note 13, at para. 5.11; CEDAW, General Recommendation No. 34, *supra* note 30, at para. 54.

37 CEDAW, General Recommendation No. 26 on Migrant Workers, UN Doc. CEDAW/C/2009/WP.1/R (2008), at para. 23(b); Commission on the Status of Women, Challenges and Achievements in the Implementation of the Millennium Development Goals for Women and Girls: 2014 Commission on the Status of Women Agreed Conclusions (CSW 58, 2014), at para. 42(iii) [*hereinafter* "CSW 58"]; UN General Assembly, Outcome Document of the High-level Plenary Meeting of the General Assembly known as World Conference on Indigenous Peoples, UN Doc. A/RES/69/2 (2014), at para. 17 [*hereinafter* "World Conference on Indigenous Peoples"]; Commission on the Status of Women, Women's Economic Empowerment in the Changing World of Work: 2017 Commission on the Status of Women Agreed Conclusions (CSW 61, 2017), at para. 40(tt)-(aaa) [*hereinafter* "CSW 61"]; CEDAW, General Recommendation No. 37 on Gender-related dimensions of disaster risk reduction in the context of climate change, UN Doc. CEDAW/C/GC/37 (2018), at para. 26(b) [*hereinafter* "CEDAW No. 37"].

38 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 54; CFS, TGs, *supra* note 11, at para. 20.4.

39 *See* SDG target 17.16 "Enhance the global partnership for sustainable development, complemented by multi-stakeholder partnerships that mobilize and share knowledge, expertise, technology and financial resources, to support the achievement of the sustainable development goals in all countries, in particular developing countries" and associated indicator 17.16.1. *See also* SDG target 17.17 "Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships" and associated indicator 17.17.1. *Note from authors:* these indicators should be seen as indicative

of the presence and use of multi-stakeholder spaces, as well as how budgets are used to ensure participation, and not of the quality of participation ensured. The assessment of whether or not a space is human-rights based should be assessed in light of the analysis in Part II(a) and (g) of this report.

40 See SDG target 5.5 "Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life" and associated indicators 5.5.1 and 5.5.2.

41 See SDG target 6.B "Support and strengthen the participation of local communities in improving water and sanitation management" and associated indicator 6.B.1. See also SDG target 11.3 "By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries", and associated indicator 11.3.2.

42 See e.g. Jean Ziegler, Report of the Special Rapporteur on the Right to Food, Jean Ziegler, UN Doc. A/HRC/4/30 (2007), at para. 69(a) [hereinafter "Ziegler 2007"]; Olivier De Schutter, Report of the Special Rapporteur on the Right to Food: Building Resilience: a Human Rights Framework for World Food and Nutrition Security, UN Doc. A/HRC/9/23 (2008), at para. 54; CFS, Thirty-Seventh Session: Final Report, Gender, Food Security and Nutrition, UN Doc. CFS:2011/FINAL REPORT (2011), at paras. 41, 42 [hereinafter "CFS 37"]; Olivier De Schutter, Interim Report of the Special Rapporteur on the Right to Food, UN Doc. A/67/268 (2012), at para. 61(g) [hereinafter "De Schutter 2012"]; UN General Assembly (68<sup>th</sup> Session), Right to Food: Note by the Secretary General, UN Doc. A/68/288 (2013), at para. 58(g); SSF Guidelines, *supra* note 13, at para. 13.4.

43 CFS, TGs, *supra* note 11, at para. 5.8; CFS, Principles for Responsible Investment in Agriculture and Food Systems, UN Doc. CFS 2014/41/4 (2014), at para. 43 [hereinafter "Principles for Responsible Investment"]; Olivier De Schutter, Final Report: The Transformative Potential of the Right to Food, Annex: Overview of Key Recommendations, UN Doc. A/HRC/25/57 (2014), at para C(2) [hereinafter "De Schutter 2014"].

44 For more, see *Peoples' Monitoring* initiative of the Global Network for the Right to Food and Nutrition available at <https://www.righttofoodandnutrition.org/peoples-monitoring-right-food-and-nutrition>.

45 See SDG target 16.7 "Ensure responsive, inclusive, participatory and representative decision-making at all levels" and associated indicator 16.7.2.

46 See SDG target 17.18 "By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by

income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts" and associated indicators, 17.18.1, 17.18.2, and 17.18.3. See also SDG target 17.19 "By 2030, build on existing initiatives to develop measurements of progress on sustainable development that complement gross domestic product, and support statistical capacity-building in developing countries" and associated indicators 17.19.1 and 17.19.2.

47 CESCR, General Comment No. 12, *supra* note 23, at paras. 29 and 32

48 See e.g. UN Special Rapporteur on Extreme Poverty and Human Rights, Extreme Poverty and Human Rights, UN Doc. A/67/278 (2012), at para. 28; CFS, TGs, *supra* note 11, at para. 4.9.

49 CFS, TGs, *supra* note 11, at para. 6.6; UN Special Rapporteur on Extreme Poverty and Human Rights, *supra* note 48, at para. 28.

50 CFS, TGs, *supra* note 11, at para. 4.9.

51 CFS, TGs, *supra* note 11, at paras. 4.9, 14.1 and 14.2.

52 See e.g. CFS, TGs, *supra* note 11, at para. 4.8.

53 UN General Assembly, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: Protecting Women Human Rights Defenders, UN Doc. A/RES/68/181(2014); CSW 58, *supra* note 37, at para. 42(f).

54 See e.g. UN Human Rights Council, Protecting Human Rights Defenders, UN Doc. A/HRC/22/L.13 (2013); CFS, TGs, *supra* note 11, at para. 4.8.

55 UN General Assembly, *supra* note 53, para. 6; UN Human Rights Council, *supra* note 54, at para. 6; De Schutter 2010, *supra* note 28, at para. 40(b).

56 UN General Assembly, Human Rights Defenders in the Context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Freedoms, UN Doc. A/RES/70/161 (2016), at paras. 2 and 12 [hereinafter "Human Rights Defenders"].

57 Human Rights Defenders, *supra* note 56, at para. 10(b)

58 Human Rights Defenders, *supra* note 56, at paras. 2 and 12.

59 UN General Assembly, Promotion of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. A/RES/66/164 (2012), at para. 5.



60 See SDG target 16.10 “Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements” and associated indicator 16.10.1 and 16.10.2.

61 The CFS has noted that while there is no agreed upon definition of protracted crises, they generally include *inter alia* “disruption of livelihoods and food systems; increasing rates in morbidity and mortality; and increased displacements. Food insecurity and undernutrition (e.g. stunting, wasting, underweight and micronutrient deficiencies) are the most serious and common manifestations”. CFS, Framework for Action for Food Security and Nutrition in Protracted Crises (2015), at para. 2 [*hereinafter* “FFA”]. And while each protracted crisis is different, most have “some combination of conflict, occupation, terrorism, man-made and natural disasters, natural resource pressures, climate change, inequalities, prevalence of poverty, and governance factors are often underlying causes of food insecurity and undernutrition.” *Ibid.* at para. 4.

62 See SDG target 1.5 “By 2030, build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters” and associated indicator 1.5.3; SDG target 3.D “Strengthen the capacity of all countries, in particular developing countries, for early warning, risk reduction and management of national and global health risks” and associated indicator 3.D.1; SDG target 13.1 “Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in all countries” and associated indicator 13.1.3.

63 For example, Special Rapporteur on the Right to Food, Hilal Elver, recommends states “develop national laws and monitoring systems on disaster management (prevention, response and recovery) to incorporate a human rights-based approach”. Hilal Elver, Report of the Special Rapporteur on the Right to Food, UN Doc. A/HRC/37/61, at para. 111(a).

64 CFS, TGs, *supra* note 11, at section 6 generally, and in particular para. 23.1.

65 CEDAW No. 37, *supra* note 37.

66 SSF Guidelines, *supra* note 13, at para. 9.7.

67 For examples on agriculture, see CFS, Thirty-Ninth Session: Final Report, UN Doc. CFS 2012/39 Final Report (2012), at para. 11(c) [*hereinafter* “CFS 39”]; on fisheries, see SSF Guidelines, *supra* note 13, at para. 9.2.

68 CFS 39, *supra* note 67, at para. 11(a).

69 CFS 39, *supra* note 67, at para. 11(d).

70 CEDAW No. 37, *supra* note 37, at para. 26.

71 FFA, *supra* note 61, at para. 8.

72 FFA, *supra* note 61.

73 FFA, *supra* note 61, at principles 1, 2, 4, 8, 9-11.

74 SSF Guidelines, *supra* note 13, at para. 6.18.

75 CFS, TGs, *supra* note 11, at para. 25.4.

76 See e.g. UN General Assembly, Sendai Framework for Disaster Risk Reduction 2015-2030, UN Doc. A/RES/69/283 (2015).

77 For example, the CEDAW, recommends that states “ensure that all women and girls whose rights have been directly and indirectly affected by disasters and climate change are provided with adequate and timely remedies”. CEDAW No. 37, *supra* note 37, at para. 26(c). See also, CFS, TGs, *supra* note 11, at para. 25.4.

78 CFS, TGs, *supra* note 11, at para. 25.4.

79 SSF Guidelines, *supra* note 13, at para. 5.12; CFS, TGs, *supra* note 11, at para. 25.4, 25.5, and 25.6. See also UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: Resolution adopted by the General Assembly, 21 March 2006, UN Doc. A/RES/60/147, at para. 19.

80 Hilal Elver, Interim Report of the Special Rapporteur on the Right to Food, UN Doc. A/72/188 (2017), at para. 93 [*hereinafter* “Elver 2017”].

81 Jean Ziegler, The Right to Food: Report of the Special Rapporteur on the Right to Food, UN Doc. E/CN.4/2006/44 (2006), at para 52(d); UN General Assembly, New York Declaration for Refugees and Migrants, UN Doc. A/RES/71/1 (2016), at para. 80; Elver 2017, *supra* note 80, at para. 96(e).

82 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 54(f). See also CSW 58, *supra* note 37, at para. 42(tt); CSW 61, *supra* note 37, at para. 40(hh).

83 CFS, TGs, *supra* note 11, at para. 23.2.

84 CFS, TGs, *supra* note 11, at para. 23.3; CFS 39, *supra* note 67, at para. 11(e).

85 CFS 39, *supra* note 67, at para. III(A)(8)(a).

86 E.g. UN General Assembly (72<sup>nd</sup> Session), *supra* note 22, at para 23.

87 Forum for Food Sovereignty, Declaration of Nyéléni (2007), available at <https://nyeleni.org/spip.php?article290> [*hereinafter* “Nyeleni”].

- 88 UN Human Rights Council, Revised Draft United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, UN Doc. A/HRC/WG.15/5/2 (2018).
- 89 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 64. *See also* Jean Ziegler, Report of the Special Rapporteur on the Right to Food on Food Security and Food Sovereignty, UN Doc. E/CN.4/2004/10 (2004) [*hereinafter* "Ziegler 2004"]; UN Human Rights Council, Debates on the Declaration on the Rights of Peasants, UN Doc. A/HRC/21/39 (2012); Magdalena Sepúlveda Carmona, Final Draft of the Guiding Principles on Extreme Poverty and Human Rights, UN Doc. A/HRC/21/39 (2012), at para. 75.
- 90 Olivier De Schutter, Agribusiness and the Right to Food, UN Doc. A/HRC/13/33 (2009), at paras. 52(c) and (d); CFS 37, *supra* note 42, at para. 29. The SDGs also make reference to this. *See* SDG target 2.3 "By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, Indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment" and associated indicator 2.3.2.
- 91 CFS 40, *supra* note 36, at para. 31.
- 92 *See e.g.* Office of the High Commissioner for Human Rights, Women's Equal Ownership, Access to and Control over Land and the Equal Rights to Own Property and to Adequate Housing, UN Doc. E/CN.4/RES/2005/25 (2005); CEDAW, General Recommendation No. 34, *supra* note 30, at para. 57; Commission on the Status of Women, Challenges and Opportunities in Achieving Gender Equality and the Empowerment of Rural Women and Girls: Agreed Conclusions, UN Doc. E/CN.6/2018/L.8 (CSW 62, 2018), at para 46(e) [*hereinafter* "CSW 62"]; Special Rapporteur on Adequate Housing as a Component on the Right to an Adequate Standard of Living, Miloon Kothari, Implementation of General Assembly Resolution 60/251 of 15 March 2006, UN Doc. A/HRC/4/18 (2007), at para. 33(e).
- 93 CFS, TGs, *supra* note 11.
- 94 CFS, TGs, *supra* note 11, at para. 5.9.
- 95 CFS, TGs, *supra* note 11, at para. 11.1.
- 96 CFS, TGs, *supra* note 11, at para. 3.1(1); Quito Declaration, *supra* note 13, at para. 35.
- 97 CFS, TGs, *supra* note 11, at para. 8.2; CEDAW, General Recommendation No. 34, *supra* note 30, at para. 58.
- 98 CFS, TGs, *supra* note 11, at para. 8.3; De Schutter 2010, *supra* note 28, at para 40(c).
- 99 CFS, TGs, *supra* note 11, at para. 3.1(2).
- 100 CFS, TGs, *supra* note 11, at para. 3.1(4).
- 101 SSF Guidelines, *supra* note 13, paras. 5.1, 5.3 and 5.4.
- 102 *See* SDG target 4.B "Provide access for small-scale artisanal fishers to marine resources and markets" and associated indicator 14.B.1.
- 103 CFS, Forty-Third Session: Marking a Difference in Food Security and Nutrition", UN Doc. CFS 2016/43 Report (2016), at para. 19(IX)(b) [*hereinafter* "CFS 43"].
- 104 SSF Guidelines, *supra* note 13, at paras. 6.2-6.5; CFS 40, *supra* note 36, at para. 32.
- 105 SSF Guidelines, *supra* note 13, at paras. 6.2-6.5; "Connecting Smallholders to Markets-Recommendations" (Doc. CFS 2016/43/5) in CFS 43, *supra* note 103, at para. 10(x).
- 106 CFS 37, *supra* note 42, at para. 29(iii); CFS 40, *supra* note 36, at para. 32.
- 107 CFS 40, *supra* note 36, at para. 32.
- 108 CFS 37, *supra* note 42, at para. 29(iii).
- 109 CFS 37, *supra* note 42, at para. 29(iii); CFS 40, *supra* note 36, at paras. 32 and 47; "Connecting Smallholders to Markets- Recommendations" (Doc. CFS 2016/43/5) in CFS 43, *supra* note 103, at paras. 2 and 10; CEDAW, General Recommendation No. 34, *supra* note 30, at para. 66.
- 110 CFS 40, *supra* note 36, at para. 48.
- 111 CFS 40, *supra* note 36, at paras. 46 and 49.
- 112 CFS 40, *supra* note 36, at para. 42.
- 113 UN General Assembly, Resolution Adopted by the General Assembly on 28 July 2010, The Human Right to Water and Sanitation, UN Doc. A/RES/64/292 (2010), at para. 1; CFS, Forty-Second Session: Making a Difference in Food Security and Nutrition, UN Doc. CFS 2015/42 Report (2015), at para. 15 [*hereinafter* "CFS 42"]; CESCR, General Comment No. 15 on the Right to Water, UN Doc. E/C.12/2002/11 (2003), at paras. 7, 12, and 29.
- 114 FAO, International Treaty on Plant Genetic Resources for Food and Agriculture, (2009), art. 9.2; Secretariat of the Convention on Biological Diversity, Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity, (2010), arts. 5 and 9.3 [*hereinafter* "Nagoya Protocol"]; Principles for Responsible Investment, *supra* note 43, at principle 7; Convention on Biological Diversity (1992), art. 8(j); Olivier De Schutter, The Right to Food: Seed Policies and the Right to Food: Enhancing Agrobiodiversity and Encouraging



Innovation, UN Doc. A/64/170 (2009).

115 CFS 40, *supra* note 36, at para. 40.

116 The Convention on Biological Diversity (1993), art. 8(j); Nagoya Protocol, *supra* note 114, art.5.

117 UN General Assembly, International Covenant on Economic, Social and Cultural Rights (1966), at art. 9 [*hereinafter* "ICESCR"]; CESCR, General Comment No. 19 on the Right to Social Security (Art. 9), UN Doc. E/C.12/GC/19 (2008) [*hereinafter* "CESCR General Comment No. 19"].

118 ICESCR, *supra* note 117, art. 13(1); The International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD), Global Report (2008), at p.58, para. 4.

119 CESCR, General Comment No. 21: Right of Everyone to Take Part in Cultural Life (art. 15, para. 1(a), of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/GC/21 (2009), at para. 13.

120 *See* SDG target 2.5 "By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, as internationally agreed" and associated indicators 2.5.1 and 2.5.2.

121 UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples, UN Doc. A/RES/61/295 (2007) [*hereinafter* "UNDRIP"].

122 UNDRIP, *supra* note 121, at preamble.

123 UNDRIP, *supra* note 121, at art. 31. *See also*: UN General Assembly, The Right to Food: Note by the Secretary-General, UN Doc. A/60/350 (2005), at para. 55(f); CESCR, General Comment No. 24, *supra* note 21, at para. 24.

124 CFS 44, *supra* note 12, at para. 26(l)(b).

125 International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, No. 169 (1989).

126 Nagoya Protocol, *supra* note 114, at arts. 6 and 7.

127 ILO, Indigenous and Tribal Peoples Convention, No. 169 (1989).

128 UN Human Rights Council, *supra* note 88.

129 CESCR General Comment No. 12, *supra* note 23, at para. 7.

130 CESCR General Comment No. 12, *supra* note 23, at paras. 6-7.

131 UNFCCC, Paris Agreement, UN Doc. FCCC/CP/2015/10/Add.1 (2015).

132 Olivier De Schutter, Report Submitted by the Special Rapporteur on the Right to Food, Olivier De Schutter, UN Doc. A/HRC/16/49 (2011); CFS 44, *supra* note 12, at paras. 20-26.

133 *See generally* Olivier De Schutter, *supra* note 132; CFS 43, *supra* note 103, at para. 19(V)(a); UN Human Rights Council, Resolution Adopted by the Human Rights Council on 23 March 2016, UN Doc. A/HRC/RES/31/10 (2016), at para. 18; De Schutter 2012, *supra* note 42, at para. 61(e); De Schutter 2014, *supra* note 43; Hilal Elver, Right to Food, UN Doc. A/70/287 (2015), at paras. 87 and 89(l) [*hereinafter* "Elver 2015a"]; Right to Food, UN Doc. A/71/282 (2016), at para. 99(h) [*hereinafter* "Elver 2016"]; Hilal Elver, Report of the Special Rapporteur on the Right to Food, UN Doc. A/HRC/34/48, at paras. 106(c) and 107(o) [*hereinafter* "Elver 2017"].

134 Declaration of the International Forum for Agroecology, Nyéléni, Mali (February 27, 2015).

135 Benefits to agroecology, include better health and nutrition outcomes as a result of farmers eating more diverse diets, as well as both climate change mitigation and adaptations. Further "[b]ecause agroecology reduces the cost of farming by minimizing the use of expensive inputs, it improves the livelihoods of farming households, particularly the poorest households. And it supports rural development: because it is knowledge-intensive and generally more labour-intensive, it creates employment opportunities in rural areas. Though easier to implement on smaller-sized farms, agroecological techniques can be disseminated on a large scale, and should also inspire reforms in how large production units operate". De Schutter 2014, *supra* note 43, at para.17.

136 UN Human Rights Council, Resolution Adopted by the Human Rights Council on 23 March 2016, UN Doc. A/HRC/RES/31/10 (2016), at para. 18.

137 Olivier De Schutter, Report Submitted by the Special Rapporteur on the Right to Food, Olivier De Schutter, UN Doc. A/HRC/16/49 (2011), at para. 44. *See also* Elver 2016, *supra* note 133, at para. 99(h).

138 Olivier De Schutter, *supra* note 137, at para. 44.

139 CFS 37, *supra* note 42, at para. 29(ii); CFS 42, *supra* note 113, at para. 15; Olivier De Schutter, Report Submitted by the Special Rapporteur on the Right to Food, Olivier De Schutter, UN Doc. A/HRC/19/59 (2011), at paras. 4-5 and 49 [*hereinafter* "De Schutter 2011"]; Elver 2016, *supra* note 133, at paras. 92, 98 and 99(h).

- 140 CFS 42, *supra* note 113, at para. 15. *See also* CFS 43, *supra* note 103, at para. 19(V)(b).
- 141 CFS 40, *supra* note 36, at para. 26.
- 142 Quito Declaration, *supra* note 13, at para 70.
- 143 CFS 44, *supra* note 12, at para II(a).
- 144 CFS 43, *supra* note 103, at para. 19(V)(b).
- 145 CFS 43, *supra* note 103, at para. 19(V)(b).
- 146 CFS 43, *supra* note 103, at para. 19(V)(b).
- 147 CFS 43, *supra* note 103, at para. 19(V)(a).
- 148 CFS 43, *supra* note 103, at para. 19(XI)(a).
- 149 CFS 43, *supra* note 103, at para. 19(XI)(a).
- 150 CFS 37, *supra* note 42, at para. 50(i); CFS 40, *supra* note 36, at para. 23.
- 151 SSF Guidelines, *supra* note 13, at paras. 5.5, 5.13 and 5.20.
- 152 CFS 41, *supra* note 36, at paras. 11-14; CFS 43, *supra* note 103, at para. 19(V)(f); Quito Declaration, *supra* note 13, at para. 123.
- 153 FAO, Report of the International Scientific Symposium on Biodiversity and Sustainable Diets (2011), at p. ix.
- 154 De Schutter 2011, *supra* note 139, at para. 50(a).
- 155 De Schutter 2011, *supra* note 139, at para. 49(a).
- 156 De Schutter 2011, *supra* note 139, at para. 48. In this respect states should "review the existing systems of agricultural subsidies, in order to take into account the public health impacts of current allocations, and use public procurement schemes for school-feeding programmes and for other public institutions to support the provision of locally sourced, nutritious foods, with particular attention to poor consumers". *Ibid.* at para. 49(e).
- 157 De Schutter 2011, *supra* note 139, at para. 49.
- 158 UN General Assembly, Political Declaration of the High-Level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases, UN Doc. A/RES/66/2 (2012), at para. 43(g) [*hereinafter* "Prevention and Control of Non-communicable Diseases"]. De Schutter 2011, *supra* note 139, at paras. 49(c) and (f).
- 159 Prevention and Control of Non-communicable Diseases, *supra* note 158, at para. 43(h).
- 160 De Schutter 2011, *supra* note 139, at para. 49(g).
- 161 De Schutter 2011, *supra* note 139, at para. 49; Elver 2016, *supra* note 133, at para. 96. The CFS has also recommended that states address the role of fish and meat as part of a healthy diet. CFS 41, *supra* note 36, at para. 19; CFS 43, *supra* note 103, at paras. 19(II)(a) and (b).
- 162 CESCR, General Comment No. 21: Right of Everyone to Take Part in Cultural Life (art. 15, para. 1(a), of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/GC/21 (2009), at para. 16(e).
- 163 Elver 2016, *supra* note 133, at paras. 94-95.
- 164 Prevention and Control of Non-communicable Diseases, *supra* note 158, at paras. 43(i) and 44(b); Ziegler 2007, *supra* note 42, at para. 69(b); Committee on the Rights of the Child, General Comment No. 7 on Implementing Child Rights in Early Childhood, UN. Doc CRC/C/GC/7/Rev.1 (2006), at para. 27(b) [*hereinafter* "CRC General Comment No. 7"]; Committee on the Rights of the Child, General Comment No. 15 (2013) on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health, UN Doc. CRC/C/GC/15 (2013), at para. 44 [*hereinafter* "CRC General Comment No. 15"]; FFA, *supra* note 61, at para. 23(ii); CEDAW, General Recommendation No. 34, *supra* note 30, at para. 39(g).
- 165 Ziegler 2007, *supra* note 42, at para. 69(b); CRC General Comment No. 15, *supra* note 164, at para. 44.
- 166 CRC General Comment No. 7, *supra* note 164, at para. 27(b); CFS 39, *supra* note 67, at para. 8(c); FFA, *supra* note 61, at para. 23(i).
- 167 CRC General Comment No. 15, *supra* note 164, at para. 44.
- 168 CRC General Comment No. 15, *supra* note 164, at para. 44; Prevention and Control of Non-communicable Diseases, *supra* note 158, at para. 44(a).
- 169 Prevention and Control of Non-communicable Diseases, *supra* note 158, at para. 43; Committee on the Rights of the Child, General Comment No. 11 on Indigenous Children and Their Rights under the Convention, UN. Doc CRC/C/GC/11 (2009), at para. 5; CFS 37, *supra* note 42, at para. 40.
- 170 *See e.g.* CRC General Comment No. 15, *supra* note 164, at para. 44.
- 171 CEDAW, General Recommendation No. 24: Article 12 of the Convention (Women and Health) (1999), at para. 7.
- 172 CFS 37, *supra* note 42, at para. 41 (ii); CEDAW, General Recommendation No. 34, *supra* note 30, at para. 39(d).
- 173 CEDAW, *supra* note 171, at para. 12.
- 174 CFS 37, *supra* note 42, at para. 36.



175 CSW 62, *supra* note 92, at paras. 46 (v) and (w); UN General Assembly (72<sup>nd</sup> Session), *supra* note 22, at para. 7; CEDAW, General Recommendation No. 34, *supra* note 30, at para. 65; CESCR General Comment No. 16, *supra* note 36, at para. 28; Elver 2016, *supra* note 133, at para. 99(j).

176 FFA, *supra* note 61, at paras. 23(i); UN Human Rights Council, Resolution 7/14: The Right to Food, UN Doc. A/HRC/RES/7/14 (2008), at para. 20; ILO, HIV and AIDS Recommendation, 2010 (No. 200), (2010), at para. 19(c).

177 See SDG target 2.4 "By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that progressively improve land and soil quality" and associated indicator 2.4.1.

178 See SDG target 15.1 "By 2020, ensure the conservation, restoration and sustainable use of terrestrial and inland freshwater ecosystems and their services, in particular forests, wetlands, mountains and drylands, in line with obligations under international agreements" and associated indicators 15.1.1 and 15.1.2; SDG target 15.3 "By 2030, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation-neutral world" and associated indicator 15.3.1.

179 See SDG target 12.7 "Promote public procurement practices that are sustainable, in accordance with national policies and priorities" and associated indicator 12.7.1.

180 See SDG target 12.3 "By 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses" and associated indicator 12.3.1.

181 Standard international nutrition outcome indicators can be seen in: SDG target 2.1 "By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round" and associated indicators 2.1.1 and 2.1.2; SDG target 2.2 "By 2030, end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women and older persons" and associated indicators 2.2.1 and 2.2.2.

182 Of particular relevance to rural employment and the right to food are ILO conventions: No. 99 (1851) on Minimum Wage Fixing Machinery in Agriculture; No. 110 (1958) on Conditions of Employment of Plantation Work-

ers; No. 129 (1969) on Labour Inspection in Agriculture; No. 141 (1975) on Organisations of Rural Workers and Their Role in Economic and Social Development; No. 184 (2001) on Safety and Health in Agriculture; and No. 188 (2007) on Work in Fishing.

183 CESCR, General Comment No. 18 on the Right to Work, UN Doc. E/C.12/GC/18 (2006), at para. 18 [*hereinafter* "CESCR, General Comment No. 18"]; CEDAW, General Recommendation No. 26 on Migrant Workers, UN Doc. CEDAW/C/2009/WP.1/R (2008), at para. 26(b); SSF Guidelines, *supra* note 13, at para. 6.10.

184 UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Rights to Freedom of Peaceful Assembly and of Association, UN Doc. A/71/385 (2016), at para. 10.

185 CESCR, General Comment No. 18, *supra* note 183, at para. 10; De Schutter 2012, *supra* note 42, at para. 62(a); De Schutter 2014, *supra* note 43, at para. B(5); CESCR, General Comment No. 23 on the Right to Just and Favourable Conditions of Work (Article 7 of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/GC/23 (2016), at para. 47(h) [*hereinafter* "CESCR General Comment No. 23"]; CSW 61, *supra* note 37, at para. 40(ww).

186 CESCR, General Comment No. 18, *supra* note 183, at para. 23; SSF Guidelines, *supra* note 13, at para. 6.13; ILO Protocol of 2014 to the Forced Labour Convention, 1930 (No. 029).

187 ILO Minimum Age Convention, 1973 (No. 138). Employment; ILO Worst Forms of Child Labour Convention, 1999 (No. 182); CESCR General Comment No. 18, *supra* note 183, at para. 24.

188 Olivier De Schutter, *supra* note 90, at para. 52(a); CESCR, General Comment No. 23, *supra* note 185, at paras. 4 and 18.

189 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 50; CESCR General Comment No. 23, *supra* note 185, at para. 53; CSW 61, *supra* note 37, at para. 40(f); CSW 62, *supra* note 92, at para. 46(bb).

190 "Decent work" is defined as "work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety". CESCR General Comment No. 18, *supra* note 183, at para. 7.

191 See CFS 41, *supra* note 36, at para. 19(f); SSF Guidelines, *supra* note 13, at paras. 6.6 and 6.10; Quito Declaration, *supra* note 13, at para. 43; CSW 61, *supra* note 37, at para. 40(nn); Elver 2017, *supra* note 133, paras. 101-107.

192 CESCR General Comment No. 18, *supra* note 183, at paras. 25, 27, 44; CEDAW, General Recommendation No. 34, *supra* note 30, at paras. 50-52; CSW 61, *supra* note 37,

at para. 40(w).

193 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 51.

194 CSW 58, *supra* note 37, at para. 42(A)(z); Hilal Elver, Report of the Special Rapporteur on the Right to Food, UN Doc. A/HRC/31/51 (2015), at para. 90(c) [hereinafter "Elver 2015b"]; CEDAW, General Recommendation No. 34, *supra* note 30, at para. 50-52; CSW 62, *supra* note 92, at para. 46(bb).

195 SSF Guidelines, *supra* note 13, at para. 6.6; UN General Assembly, The Right to Food: Note by the Secretary General, UN Doc. A/66/262 (2011), at para 52(a); Olivier De Schutter, *supra* note 90, at para. 52(b)

196 See SDG target 8.5 "By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value" and associated indicators 8.5.1 and 8.5.2.

197 See SDG target 8.8 "Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment" and associated indicator 8.8.2.

198 See SDG target 2.4 "By 2020, achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment" and associated indicators 12.4.1 and 12.4.2.

199 See SDG target 10.7 "Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies" and associated indicator 10.7.2.

200 UN Office of the High Commissioner for Human Right, The Right to Adequate Food: Fact Sheet No. 34 (2010), at pp. 3-4, available at <http://www.ohchr.org/Documents/Publications/FactSheet34en.pdf>.

201 CESCR General Comment No. 12, *supra* note 23, at para. 15.

202 Social protection refers "to systems by which benefits are provided, in cash or in kind, to protect individuals against risks such as the loss of work-related income (or insufficient income), caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; lack of access or unaffordable access to health care; insufficient family support, particularly for children and adult dependants; or more generally, poverty and social exclusion." Olivier De Schutter & Magdalena Sepúlveda, Underwriting the

Poor: A Global Fund for Social Protection, Briefing Note 07 (2012), at p. 4. See also CESCR General Comment No. 19, *supra* note 117, at para. 28; Elver 2014, *supra* note 25, at para. 72(f).

203 De Schutter & Sepúlveda, *supra* note 202, at p. 2.

204 ICESCR, *supra* note 117, at art. 9. See also: CESCR General Comment No. 16, *supra* note 36, at para. 26; UN General Assembly (68<sup>th</sup> Session), *supra* note 42, at para. 58(h); De Schutter 2014, *supra* note 43, at para. C(4)

205 CESCR General Comment No. 19, *supra* note 117, at para. 2; Convention on the Rights of Persons with Disabilities, *supra* note 36, art. 28 at para. 2.

206 *Ibid* at para. 9.

207 CESCR General Comment No. 19, *supra* note 117. Though not an official UN document, former UN Special Rapporteur on Extreme Poverty, Dr. Magdalena Sepúlveda, and Ms. Carly Nyst, provided a detailed assessment of what constitutes rights based social protection in: Magdalena Sepúlveda, and Carly Nyst, The Human Rights Approach to Social Protection (2012).

208 ILO, Social Protection Floors Recommendation, 2012, No. 202 (2012), at para. 4.

209 *Ibid.* at para. 5.

210 CFS 39, *supra* note 67, at para. (III)(A)(8)(d).

211 CSW 58, *supra* note 37, at para. 42(ff).

212 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 41(b).

213 De Schutter & Sepúlveda, *supra* note 202, at p. 2; Elver 2015b, *supra* note 194, at para. 90(b).

214 See SDG target 1.3 "Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable" and associated indicators 1.3.1; as well as indicators 8.B.1 and 10.4.1.

215 CESCR, General Comment No. 19, *supra* note 117, at para. 62.

216 CFS 39, *supra* note 67, at para. (III)(A)(8)(c). See also Elver 2015a, *supra* note 133, at para 89(k).

217 CFS 39, *supra* note 67, at para. (III)(A)(8)(b); CESCR General Comment No. 19, *supra* note 117, at para. 28.

218 CESCR, General Comment No. 19, *supra* note 117, at para. 26.

219 CFS 39, *supra* note 67, at para. (III)(A)(8)(c).

220 CFS 37, *supra* note 42, at 50(K); CESCR General



- Comment No. 19, *supra* note 117, at para. 28.
- 221 CSW 58, *supra* note 37, at para. 42(ff).
- 222 CSW 58, *supra* note 37, at para. 42(ff).
- 223 CSW 61, *supra* note 37, at para. 40(u).
- 224 Sepúlveda, *supra* note 89, at para 76(h).
- 225 For e.g. UN General Assembly, The Right to Food: Note by the Secretary General, UN Doc. A/66/262 (2011), at paras. 33,46; De Schutter 2014, *supra* note 43, at para. B(1).
- 226 CEDAW, General Recommendation No. 34, *supra* note 30, *supra* note 36, at para. 17 and 36; CFS 37, *supra* note 42, at para. 41(iii); SSF Guidelines, *supra* note 13, at para. 6.7; Elver 2015b, *supra* note 194, at para. 89; CSW 62, *supra* note 92, at paras. 46 (m), (n) and (t).
- 227 CFS 37, *supra* note 42, at paras. 29 and 50(a); CFS 40, *supra* note 36, at para. 31.
- 228 Olivier De Schutter, The Role of Development Cooperation and Food Aid in Realizing the Right to Adequate Food: Moving from Charity to Obligation, UN Doc. A/HRC/10/5 (2009), at para. 43(a) [*hereinafter* "De Schutter 2009"]; Principles for Responsible Investment, *supra* note 43, at para. 36.
- 229 Principles for Responsible Investment, *supra* note 43, at para 36.
- 230 See e.g. SSF Guidelines, *supra* note 13, at para. 5.10.
- 231 CFS, TGs, *supra* note 11, at para. 16.8.
- 232 CFS, TGs, *supra* note 11, at para. 16.1.
- 233 CFS, TGs, *supra* note 11, at para. 16.7.
- 234 CFS, TGs, *supra* note 11, at para. 16.2.
- 235 UN Charter, *supra* note 17, at art. 55C; CESCR General Comment No. 12, *supra* note 23, at paras. CFS, TGs, *supra* note 11, at para. 16.3.
- 236 De Schutter 2009, *supra* note 228, at para. 43(a); CFS, TGs, *supra* note 11, at paras. 3.2, 12.10 and 15.7.
- 237 Ziegler 2004, *supra* note 89, at para. 54(b); Principles for Responsible Investment, *supra* note 43, at para. 33; De Schutter 2014, *supra* note 43, at section (D)(2).
- 238 CFS, TGs, *supra* note 11, at para. 12.1.
- 239 On fisheries, see e.g. SSF Guidelines, *supra* note 13, at para. 7.7.
- 240 On fisheries, see e.g. SSF Guidelines, *supra* note 13, at para. 7.8.
- 241 As stated by CEDAW, "States parties should ensure that macroeconomic policies, including trade, fiscal and investment policies, as well bilateral and multilateral agreements, are responsive to the needs of rural women and strengthen the productive and investing capacities of small-scale women producers." CEDAW, General Recommendation No. 34, *supra* note 30, at para. 11. See also CSW 58, *supra* note 37, at para. 42(jj).
- 242 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 11.
- 243 CSW 58, *supra* note 37, at para. 42(jj).
- 244 See generally CFS, TGs, *supra* note 11.
- 245 SSF Guidelines, *supra* note 13, at para. 7.9.
- 246 CFS, TGs, *supra* note 11, at para. 12.14.
- 247 CFS, TGs, *supra* note 11, at para. 12.10.
- 248 CFS, TGs, *supra* note 11, at paras. 12.4 and 12.8.
- 249 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62(d).
- 250 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62(c).
- 251 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62(d).
- 252 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62(e).
- 253 RTF Guidelines, *supra* note 40, at para. 3.9.
- 254 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 64.
- 255 See e.g. CFS 37, *supra* note 42, at para. 32; CFS, TGs, *supra* note 11, at para. 14.4; Olivier De Schutter, Women's Rights and the Right to Food, UN Doc. A/HRC/22/50 (2012) [*hereinafter* "De Schutter 2012"].
- 256 United Nations General Assembly, Convention on the Elimination of All Forms of Discrimination against Women (1979), at art. 1 [*hereinafter* "CEDAW 1979"].
- 257 CFS 37, *supra* note 42, at para. 34; De Schutter 2012, *supra* note 255.
- 258 CEDAW 1979, *supra* note 256, at preamble.
- 259 De Schutter 2012, *supra* note 255, at para. 50.
- 260 De Schutter 2012, *supra* note 255, at para. 50.
- 261 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 14.

- 262 SSF Guidelines, *supra* note 13, at para. 11.7.
- 263 CEDAW, General Recommendation No. 26 on Migrant Workers, UN Doc. CEDAW/C/2009/WP.1/R (2008).
- 264 CEDAW, General Recommendation No. 34, *supra* note 30., at para. 14.
- 265 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 90.
- 266 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 14.
- 267 UNDRIP, *supra* note 121: CEDAW, General Recommendation No. 34, *supra* note 30, at paras. 35-36.
- 268 CSW 58, *supra* note 37, at para. 42(k). Olivier De Schutter recommends that states "make the investments required to relieve women of the burden of the household chores they currently shoulder" and "recognize the need to accommodate the specific time and mobility constraints on women as a result of their role in the "care" economy, while at the same time redistributing the gender roles by a transformative approach to employment and social protection". De Schutter 2012, *supra* note 255, at para. 50.
- 269 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62.
- 270 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62.
- 271 CSW 58, *supra* note 37, at para. 42(k).
- 272 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 41; CSW 61, *supra* note 37, at para. 40(nn); CSW 58, *supra* note 37, at para. 42(k); CSW 61, *supra* note 37, at para. 40(w).
- 273 CEDAW, General Recommendation No. 34, *supra* note 30, at paras. 57-59; CFS 37, *supra* note 42, at paras. 32 and 34.
- 274 CSW 58, *supra* note 37, at para. 42(k).
- 275 CFS, TGs, *supra* note 11, at para. 5.4.
- 276 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 78.
- 277 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 87.
- 278 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 85; CFS 37, *supra* note 42, at para. 32; CSW 58, *supra* note 37, at para. 42(k).
- 279 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 71; CFS 37, *supra* note 42, at para. 34.
- 280 CSW 58, *supra* note 37, at para. 42(vv); CFS 37, *supra* note 42, at para. 34.
- 281 CEDAW, General Recommendation No. 34, *supra* note 30., at paras. 75-76.
- 282 CEDAW, General Recommendation No. 34, *supra* note 30, at paras. 45-47.
- 283 CSW 61, *supra* note 37, at para. 40(v).
- 284 CEDAW, General Recommendation No. 34, *supra* note 30, at paras. 68-69.
- 285 CSW 58, *supra* note 37, at para. 42(vv).
- 286 CEDAW, General Recommendation No. 34, *supra* note 30., at para. 91.
- 287 CSW 58, *supra* note 37, at para. 42(vv).
- 288 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62(a).
- 289 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62.
- 290 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 62(b).
- 291 SSF Guidelines, *supra* note 13, at paras. 7.2, 8.1-8.4, and 11.7.
- 292 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 39(a)-(d); CFS 37, *supra* note 42, at para. 32.
- 293 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 43; CFS 37, *supra* note 42, at para. 32; CSW 58, *supra* note 37, at para. 42(k).
- 294 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 49-52.
- 295 CSW 58, *supra* note 37, at para. 42(dd); CFS 37, *supra* note 42, at para. 40. Elver 2015b, *supra* note 194, at para. 89.
- 296 CEDAW, General Recommendation No. 34, *supra* note 30, at para. 64.
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317 See SDG target 5.A "Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws" and associated indicators 5.A.1 and 5.A.2; SDG target 1.4 "By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance" and associated indicator 1.4.2.

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319 See SDG target 5.2 "Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation" and associated indicators 5.2.1 and 5.2.2; SDG target 5.3 "Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation" and associated indicators 5.3.1 and 5.3.2; SDG indicator 11.7.2.

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