

## B. CASE STUDIES ON TRADE, INVESTMENT AND THE RIGHT TO FOOD

- 40 **III. World Agricultural Trade and Human Rights –  
Case studies on violations of the right to food of small farmers**  
*Armin Paasch*
- 50 **IV. Foreign Investment and the Right to Food**  
*Rolf Künemann*
- 60 **V. Women at the Center of the Global Food Challenge**  
*Alexandra Spieldoch*

Armin Paasch

### III. WORLD AGRICULTURAL TRADE AND HUMAN RIGHTS – CASE STUDIES ON VIOLATIONS OF THE RIGHT TO FOOD OF SMALL FARMERS

The current hunger crisis makes it clearer than ever that global agricultural trade and its underlying rules can have considerable – positive or negative – effects on the human right to food. Although this general recognition has now become virtually uncontested on an international level, opinions differ as to the political conclusions to be drawn. While the UN Special Rapporteur on the right to food warns of the negative consequences of opening the market further, the new UN strategy on the hunger crisis plans radical liberalization on all levels. The debate concerning what kind of trade policy is in accordance with human rights should not solely follow ideological models, but should be conducted on the basis of scientifically verifiable empirical data. This background paper, therefore, summarizes the results of some empirical case studies on the impact of trade policy on the right to food in selected farmers' communities in Ghana, Honduras, Indonesia, Uganda and Zambia. These examples of Human Rights Impact Assessments (HRIA) aim to explore the connection between trade and human rights, to draw some conclusions about how to formulate trade agreements, and to support the development of human rights instruments for the monitoring of trade policy.

#### 1. HUMAN RIGHTS ACKNOWLEDGED AND IGNORED AS CRITERIA FOR TRADE POLICY

There is no doubt on the normative level that human rights obligations continue to be valid when it comes to the regulation of agricultural trade. For instance, General Comment No. 12 of the Committee on Economic, Social and Cultural Rights (CESCR) of the UN states that strategies for the implementation of the right to food at national level “should address critical issues and measures in regard to all aspects of the food system, including the production, processing, distribution, marketing and consumption of safe food”.<sup>1</sup> Each signatory state of the UN Covenant on Economic, Social and Cultural Rights (ICESCR) must therefore as far as possible create a favorable environment in the framework of his trade policy so that domestic small farmers can market their produce and eat appropriately from the proceeds.

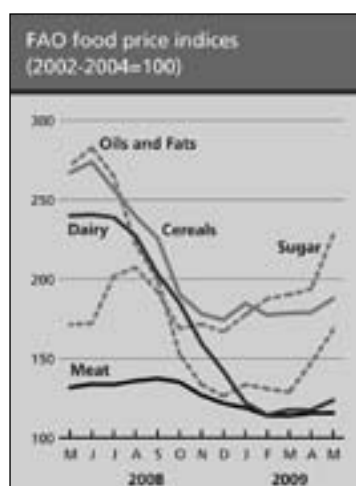
According to the CESCR, the same is also true on an international level: “States parties should, in international agreements whenever relevant, ensure that the right to adequate food is given due attention and consider the development of further international legal instruments to that end”.<sup>2</sup> Making reference to this, in its report on the effects of globalization on human rights

in 2002, the Office of the United Nations High Commissioner for Human Rights (OHCHR) called upon states “to give adequate consideration to human rights in trade rules.” particularly with respect to the rights to food and development.<sup>3</sup> All states, including the industrially developed countries, are hence obliged to make sure that the trade rules which they negotiate, whether on a bilateral or multilateral level, do not lead to violations of the right to food anywhere (see also Windfuhr 2005 and FIDH 2008).

Particularly in the context of the current hunger crisis, this perspective has been confirmed and reinforced several times by UN human rights committees. For instance, on March 26, 2008, the UN Human Rights Council emphasized “that all States should make every effort to ensure that their international policies of a political and economic nature, including international trade agreements, do not have a negative impact on the right to food in other countries”<sup>4</sup>. The fact that the mistaken agricultural trade policies of rich countries share the responsibility, from the point of view of human rights, for the hunger crisis, was acknowledged by the former German Minister of Development Cooperation, Heidemarie Wiecek-Zeul: “If agricultural export subsidies have the effect that in developing countries not enough is grown to feed people in times of crisis, then that is not just a moral problem. It is a violation of the right to food” (Wiecek-Zeul 2008, 3).

In a background paper of May 2, 2008, on the hunger crisis, the new UN Special Rapporteur on the right to food, Olivier De Schutter, pointed out the negative role not only of export subsidies, but also of the liberalization of trade. Particularly in the Least Developed Countries (LDCs) the far-reaching opening of the market had had the effect that not enough was produced in the countries themselves, and that international price increases were directly passed on to the price of foodstuffs in these countries (De Schutter 2008, 10-11). In fact, according to the FAO, 43 states in Asia, Africa, Latin America and the Caribbean further decreased their tariffs or custom fees on import tariffs in 2008 as a reaction to the price increases (FAO 2009a, 7). According to De Schutter, this is a problematic response because it can lead to serious losses in government revenues and, in the medium term, can encourage a further increase in imports at the cost of local producers. FAO and the World Food Programme (WFP) share this preoccupation: “High food prices have prompted the removal of import restrictions. Tariffs on food imports were reduced or eliminated in many low-income, food-

deficit countries (LIFDCs). When such measures are maintained for long periods, there is a risk that they reinforce the import surges that started in the mid-1990s, with negative consequences on long-term domestic food production” (FAO and WFP 2009, 58). In fact this risk is getting higher as agricultural commodity prices have come down considerably since mid-2008 (FAO 2009b).



Source: FAO 2009b, 1

Unfortunately, these objections are wholly excluded in the most recent statements and strategies of governments and international organizations on the hunger crisis. Neither the closing statements of the Food Summit of the FAO in June 2008, nor the G-8 Summit Declarations of 2008 and 2009, nor yet the Comprehensive Framework for Action (CFA) of the UN High Level Task Force on the Global Food Crisis (HLTF)<sup>5</sup> mention a connection between trade and the right to food. And all the papers mentioned demand in unison a hasty conclusion of the Doha Round of the World Trade Organization (WTO) as well as further liberalization of agricultural trade. Even if monitoring of the customs and tax policy in its effects on farmers, consumers and public revenues is indeed demanded within the CFA, the conclusion is already anticipated: the High Level Task Force wants to stand up in particular for the reduction of import tariffs, subsidies and export taxes in the name of combating hunger. No country-specific or situation-specific consideration of the advantages and disadvantages of particular trade policy instruments is anywhere to be found (UN 2008).

The gap between the warnings of UN human rights committees and the orthodox demands for the liberalization of the remaining UN and Bretton Woods organizations indicates two fundamental problems:

1) While the connection between agricultural trade and human rights is normatively acknowledged by states, there is no consensus as to the question of which trade policy is to be seen as being in accordance with human rights. Although the OHCHR recommended analyses on the impacts on human rights as early as 2002, no such study has been carried out on the right to food by a state so far. Equally, to date no scientifically well-founded methodology has been developed to this end.

2) The same governments that acknowledge the connection between human rights and trade policy in the Human Rights Council claim to know nothing about this connection when speaking in other UN or Bretton Woods organizations, or at the WTO. Until now there has been no institutionalized mechanism to gain a hearing for human rights-related objections to trade agreements in the relevant committees for trade policy.

## 2. APPROACH AND QUESTIONS DEALT WITH IN THE CASE STUDIES

The advice on trade policy which international organizations give states in the name of combating hunger should not depend solely on ideological preferences, but should be derived from scientifically verifiable empirical findings in the various countries. At the macro level, many solid studies of Food and Agriculture Organization (FAO) and NGOs such as ActionAid International (AAI), the German Church Development Service (Evangelischer Entwicklungsdienst – EED), Oxfam, Third World Network (TWN), the Institute for Agriculture and Trade Policy (IATP) and others have shown that trade liberalization had caused considerable rises in agricultural imports and a consequent reduction of domestic food production in many countries. These studies had raised serious concerns that food security might be strongly affected or endangered by these import surges. Some of them have also investigated in depth the actual injuries caused rural communities in the importing countries and the impact on small holders at the micro level in terms of income, poverty and food security (Sharma 2005).

One well-documented case is Mexico. When Mexico ratified the North American Free Trade Agreement (NAFTA) in 1994, it committed itself to abolish all tariffs on imports from Canada and the U.S. within 15 years. While implementing NAFTA, Mexico cut tariffs even faster than required. Moreover, while the U.S. government insisted in radical trade liberalization in Mexico, it simultaneously increased its own agricultural subsidies in a way, that U.S. companies were able to export maize at prices 20 percent below its production cost. The consequence of

tariff cuts and dumping was that maize imports tripled and producer prices in Mexico dropped by 50 percent. All in all, about 1.5 million Mexican farmers have given up their farms since 1994 (Wise 2007, 2). The reliance on imports increased and made the country extremely vulnerable for price surges on the world market. Last but not least the Mexican TNC Maseca used its dominant market position in order to turn prices artificially high. To conclude, misled trade policies and the lack of market regulation finally resulted in the tortilla crisis that attracted so much media attention in 2007.

Mexico is not the only case where a concrete negative impact on the livelihoods of smallholders has been demonstrated. Surprisingly however, only very few studies have analyzed such impact out of the perspective of the human right to food. Against this backdrop, and on behalf of the Ecumenical Advocacy Alliance (EAA), Brot für die Welt and the FoodFirst Information and Action Network (FIAN) carried out a study on the effects of trade liberalization on the right to food of individual rice farming communities in Ghana, Honduras and Indonesia (Paasch, Garbers and Hirsch 2007) which also allow important conclusions for the current debate on different trade policy options to overcome the food crisis.

Rice was chosen as an example product because, as an important staple food for half of the world's population and a main source of income for two billion farmers, it has a particular significance for worldwide food security. The period under investigation spanned the years between 1980 and 2005. While a dramatic rise in the price of rice on the world market was observable in 2007 and 2008, before this many developing countries generally had to contend with the opposite problem. Not least because of low world market prices: between 1983 and 2003 the FAO recorded 408 cases of import surges in 102 countries for rice alone, most of the countries being in Africa, the Pacific Islands and Central America (FAO 2007). As will be shown later, it was due in good part to these surges of imports that the high prices of today had such a fatal effect in some countries.

The case studies combine a macro-economic examination with a qualitative inquiry on the level of communities, and evaluate the results from the perspective of human rights. On the macro level analysis is carried out on the available data about the development of the rice imports and domestic rice policy, including border measures to regulate imports. Equally, on the macro level analysis is carried out of potential dumping practices of the countries from which the rice imports originate, along with any pressure which other countries may have placed on Honduras, Ghana and

Indonesia by means of bilateral and multilateral trade agreements or intergovernmental organizations (IGO) to adopt a particular trade policy for rice. In addition to this macro level, the studies contain a qualitative analysis of the effects of increases in rice imports on the income, livelihood and food security of selected rice-producing communities, on the basis of semi-structured interviews. The inquiries close with an evaluation of the behavior of the states from the perspective of the human right to food. The added value of the studies lies primarily in this combination of macro-economic data with the empirical analysis on community level and the evaluation with respect to human rights.

The challenge of the evaluation relating to human rights lies primarily in the examination of possible causal links, firstly between a particular trade or agricultural policy and considerable rises in rice imports, and secondly between these increases in imports and hunger or malnourishment in the communities. Proving these causal links all the way up to a violation of the right to food also requires a careful evaluation of other additional factors that may have impeded the access of the farmers to food, such as natural disasters, violent conflicts or war, any possible changes in land ownership relations or reduced access to infrastructure, means of production, loans or advisory services. A further challenge of the human rights evaluation is to decide the responsibilities of different states for a particular trade policy. In many cases national governments, intergovernmental organizations (IGO) and external state actors share this responsibility.

### **3. PRESCRIBED STARVATION DIET FOR RICE FARMER COMMUNITIES**

All three case studies give clear evidence that the liberalization of trade and the agricultural sector have contributed quite considerably to the violation of the human right to adequate food of the rice farmer communities investigated in Ghana, Honduras and Indonesia. The increased flow of cheap imports reduced rice farmers' access to local town markets across all the communities looked at, and drove down the prices they received. In this way incomes were reduced, poverty was exacerbated and malnutrition and food insecurity among the rice producers increased. Even if it was not reported that people died directly of hunger, the testimonies show quite clearly that many members of the community have no permanent access to adequate food of sufficient quantity and quality as is required for realization of the right

to food. For these families, purchasing food requires increasing financial sacrifices, which limit the realization of other human rights such as the right to health and education. Women and children are the worst affected by this malnutrition.

The negative effects of the liberalization affect a social group of people who in many cases, due to limited access to land, a weak bargaining position vis-à-vis the middlemen, and poor infrastructure, were already marginalized. Natural disasters such as Hurricane Mitch, the tropical storm Michelle and droughts were other important factors that limited the ability of the communities living on rice-farming in Honduras and Indonesia to feed themselves. However, it is important to note that the farmers' access to the market was already weakened by increases in imports, and their incomes had fallen. Because of this, the natural disasters hit them harder than was necessary – largely due to the policy of liberalization.

The case studies show that the opening of the market represents a key factor for increases in imports and import surges. The liberalization of trade took place in Honduras and Ghana at the beginning of the 1990s, and in Indonesia in 1997. In all three countries, liberalization was followed by substantial rises in imports. In Honduras and Ghana, the FAO even registered several "import surges," where the import volume exceeded the yearly average of the last three years by 30 percent. In all three countries the tariff reductions were the result of conditions in the structural adjustment programs that had been imposed by the IMF and the World Bank as a condition for granting the governments loans. It is noteworthy that the governments of all three countries reacted to the increases in imports after 2000 with moderate regulation. These initiatives, which were absolutely necessary (although not sufficient) to protect the right of the rice farmers to adequate food, were, however, thwarted by external actors and/or international agreements. In Honduras, for example, the Dominican Republic – Central American Free Trade Agreement (DR-CAFTA) prescribes that the rice tariffs must be reduced step by step to zero by 2024. In Indonesia, the World Bank exerted great pressure to push for deeper liberalization.

The most noteworthy case of external influence being exerted is that of Ghana. In 2003, as a reaction to the import surges, the government and the parliament decided to increase the tariff on rice from 20 to 25 percent. The implementation of this, however, was stopped

only four days after the corresponding law (Act 641) came into effect. As the IMF report on the consultations on the poverty reduction strategy in Ghana expressly states: “The authorities have committed that these tariff increases will not be implemented during the period of the proposed arrangement” (IMF 2003). On May 9, 2003, the IMF agreed to a three-year credit amounting to 185.5 million Special Drawing Rights (SDR) (\$258 million USD) as well as additional aids within the framework of the Initiative for Highly Indebted Poor Countries (HIPC) amounting to over 15.15 million SDR (around \$22 million USD). And on May 12, only three days later, the directive to repeal Act 641 was published. The same consultations that had led to the granting of the funds “convinced” the Ghanaian government to bring the tariffs back down to the previously applied level.

Other components of the structural adjustment program, such as the privatisation of the agricultural sector and the lending system, the liberalization of the market for production equipment, and the abolishing of price guarantees and state purchasing guarantees, also put a strain on the rice farmers in all three countries. By these measures, the access of the farmers to seed, fertilizer, machines, advisory services and marketing facilities was considerably limited, which led to a massive rise in production costs. In combination with displacement from the markets and a drop in producers’ prices caused by cheap imports, the cuts in production support caused drastic losses in income, and were demonstrably a key cause of malnutrition and food insecurity. The fact that the countries all experienced a rise in cheap imports while they reduced the support for domestic production is tragically ironic, since in many cases it was only through strong subsidies that these imports were possible. In Honduras and Ghana, for instance, dumping by the U.S. in the form of commercial exports and poorly targeted food aid were a significant determining factor for the import surges. Due to government programs, the export price for U.S. rice in the years from 2000 to 2003 was 34 percent below the cost of production in the U.S. (Murphy, Lilliston and Lake 2005 and Oxfam 2005).

On the basis of the empirical findings, the study comes to the result that the human right to adequate food of the rice-farming families in question in all three countries was violated. Both the governments of these countries and external actors disregarded obligations relating to human rights. Ghana, Honduras and Indonesia violated their obligation to protect the right of food – although to different degrees – by opening up the markets to cheap imports and by consenting to international agreements

that ban appropriate import protection. These states also violated their obligation to respect and ensure the right to food by dismantling existing support services for the rice-farming communities, who in any case already belonged to the groups of those endangered by hunger. This also constitutes a violation because no alternative income opportunities existed or were created for the farmers.

At the same time, all three country studies clearly show the sometimes extraordinary pressure to open national markets and to dismantle public services in agriculture that is exercised by external actors (first and foremost by the IMF and the World Bank). The International Financial Institutions (IFIs) have therefore clearly disregarded their responsibility – and the most influential member states their obligation – to respect the right to food of the rice farming communities in the countries investigated.<sup>6</sup> The countries from which the rice imports came also partly disregarded this obligation to respect the right inasmuch as their lower prices were made possible through state intervention. Particularly the United States, through the subsidizing of surplus production, through export credits and through the monetization of food aid, have carried out a practice of export dumping of rice which is partly responsible for the hunger among local rice farmers in Honduras and Ghana.

The policy of liberalization, particularly the tariff reductions, was justified by reference to the interest of low-income consumers in low prices. The case studies do not support the contention, however, that consumer prices decrease as a result of liberalization. In Indonesia the consumer prices even rose at the times of the market being opened. In Honduras, the decreasing import prices and producers’ prices were not reflected in correspondingly low consumers’ prices. The main reason in both cases was the oligopolistic structure of the market, where market power is shared among only a few firms, a fact which is largely neglected by the supporters of liberalization. The cheap imports therefore exercise considerable pressure on the producers’ prices and hence on the income of the farmers, without the consumer prices being reduced to a similar degree. What has increased the most with this change is the profit margin of traders and retailers.

The postulated link between liberalization and the lower prices of foodstuffs is anyway rendered absurd by the exorbitant price increases in 2007 and 2008. It became clear that international price increases are reflected in domestic prices most strongly in those places where do-

mestic production has been given up in favor of imports, i.e., where import dependency is the greatest. While the price increases in Indonesia, which is eager to preserve self-sufficiency, remained modest, in Honduras local rice prices in Honduras climbed by 53 percent between August 2007 and August 2008 (FAO 2009a, 31). The number of rice producers had declined from 25,000 at the end of the 1980s to 1,300 today. These are, needless to say, not at all in a position to increase their production quickly enough in the short term to close the supply gap that has resulted from the lack of affordable rice imports in recent months.

In the case of Ghana, according to a World Bank report, prices for rice and maize have increased by 20 to 30 percent between the end 2007 and spring 2008 (Wodon et al. 2008). Ghanaian rice producers, according to the report, seem to benefit from this increase to some extent. However, after two decades of structural adjustment in this sector, they currently represent only 3.9 percent of the population and only cover 20 percent of the national consumption. The consequence is that domestic prices followed the international ones and food insecurity is sharpened, especially among poor urban consumers. For maize, in contrast, the effects of the price increase are more ambiguous according to the report. Around 28 percent of the population are still maize producers, and most maize is still produced in the country. This means that more people benefit from higher prices, and the country is less vulnerable to external price volatility. All in all, the World Bank recently predicted that, because of the financial and economic crisis, the number of poor people in Ghana might increase by 500,000. Eighty percent of the country's poverty is concentrated in the three northern regions.

These experiences above all make any strategy relying on imports for food security seem highly questionable, not only for producers but for consumers as well.

#### **4. EPAS BETWEEN THE EU AND ACP STATES LIMIT POLICY SPACE TO PROTECT HUMAN RIGHTS**

While it is primarily the U.S. and the IFIs which appeared as external actors in the case studies on the rice trade, in three further recent studies by FIAN, Both Ends, Germanwatch and the UK Food Group, it is primarily the role of the EU which is investigated. Following the methodology outlined above, in 2007 and 2008 they analyzed the effects of the European agricultural and trade policy on small producers of tomatoes and chicken breeders in Ghana, and of

dairy farmers in Zambia and Uganda (for background see Bertow und Schultheis 2007). The objects of the investigation were both the problems which were already visible, and the dangers for the right to food which could emerge from the recently negotiated Economic Partnership Agreements (EPAs.)<sup>7</sup>

The negative consequences of the EU agricultural exports can already be demonstrated, particularly for tomato farmers and chicken breeders in Ghana (Issah 2007 and Paasch 2008). FAO's data show that since the opening of the market in 1992, Ghana, has again and again faced import surges of tomato paste and poultry meat, much as it did with rice, of which a large proportion has come from the EU (FAO 2007). In Ghana this immediately squeezed out the poultry keepers in Ashaiman, close to the port of Tema. While they had formerly earned their living by selling eggs and chickens for meat, the latter mainstay completely disappeared within a few years for all those interviewed, due to the unbeatably cheap imported chickens. While in 2004, according to the FAO, Ghanaians offered their poultry meat for sale at around € 2.60 per kilo, the European meat was sold at a loss for € 1.50 per kilo. In the case of the tomato farmers, the displacement of local producers has taken a more complicated form because it competes with a different product: fresh tomatoes. In the past 10 years, the imported tomato paste has found its way into cooking and eating habits, primarily in the towns, and hence increasingly competes with the domestic fresh tomatoes. Moreover, the cheap imports prevent Ghana from developing its own tomato industry with processing facilities that would be essential for stable sales for the local farmers. The result is that many families of tomato farmers and poultry keepers in the communities concerned have to reduce their meals in number, volume and quality over a number of months, become increasingly indebted, and have therefore become even more vulnerable to external adversities. Their right to food is no longer fulfilled.

Here as well, key factors for this development are the opening of the market and the dismantling of state support as part of the Structural Adjustment Programs (SAPs). On the one hand it was the Ghanaian government who implemented these, but on the other hand this happened primarily because of the corresponding credit conditions of the IMF. Moreover, in 2003 the IMF prevented not only the tariff increase for rice imports from 20 to 25 percent, but also for poultry imports from 20 to 40 percent. Both changes had been part of the same act, Act 641, which was suspended on pressure from the IMF. In addition, any increase in tariffs towards the EU will

generally no longer be possible for Ghana in the future. According to the EPA interim agreement<sup>8</sup> with the EU, which the government initialled on December 13, 2007, Ghana is obliged to reduce the tariffs for over 80 percent of imports to zero by the year 2023. It is probable that tomatoes and poultry will not belong to these 80 percent, but will instead be exempted from the lowering of the tariff because they will be protected as “sensitive products.” But even in the latter case, the farmers are not yet out of trouble. Even for these products, a Standstill Clause in the agreement forbids Ghana to raise the tariff over the level currently applied. In concrete terms this means that while Ghana had the right up until now, according to the rules of the WTO, to increase its tariffs on tomato or poultry imports from 20 to 99 percent (the level at which it bound those tariffs), the government would be forbidden from raising its tariffs on European imports once the Interim EPA is ratified by the EU, its member states and Ghana (unless the Standstill Clause is amended). Ghana would thereby lose freedom of action in its trade policy, freedom it needs to protect the right to food of the tomato and poultry farmers hurt by dumped imports.

Here as well, then, it is the case that obligations relating to human rights are violated, both by the state of Ghana and by external actors, in this case by the member states of the IMF and the EU.<sup>9</sup> The latter first violated its obligation to respect the right to food in Ghana by exerting considerable pressure on the Ghanaian government in the EPA negotiations. Secondly, through unfair export practices it contributed to violations of the right to food in Ghana. For the support of European tomato producers, particularly in Italy, Spain and Portugal, the EU allots a generous budget each year of 300 million Euros and more. Moreover, exports of tomato paste have sometimes been considerably assisted by export subsidies (Bunte und Roza 2007). Export grants were not at all necessary in the case of the exported poultry meat, since they were residual products which the European companies would otherwise have had to dispose of at high expense (Marí und Buntzel 2007). In this way, what had been a liability became a lucrative business for the companies. It is true the EU offered no active export assistance in this case. It should be considered, however, whether, by omission, the EU might have neglected its obligation to protect the right to food of the Ghanaian poultry keepers. For despite numerous complaints about the devastating effects of the cheap exports, the EU did not introduce any effective measures to counteract the export practices of the European companies responsible.

## 5. NEW THREATS THROUGH THE EU AGRICULTURAL REFORM AND GLOBAL EUROPE

In the investigations of milk farmers in Uganda and Zambia (FIAN 2008 and FIAN 2009) no processes of squeezing out have been found to date which are comparable to those found in the cases discussed. No import surges of milk powder from the EU have appeared yet in Uganda and Zambia. However, in both countries there are serious fears that this could still happen in the future. To date, the European milk quota, remains more than ten percent above European consumption, creating a large surplus. In April 2008, the EU increased this quota by a further 2 percent. Furthermore, the EC decided a further annual increase of one percent per year until 2015. The increased quota was decided in spite of the fact that domestic consumption in the EU was flat. The official aim of this measure is to “prepare” European farmers for the price decline that will result from the total abolition of the quota scheduled for 2015. “In general terms,” according to the Commission, “the phasing-out of milk quotas would expand production, lower prices and increase the competitiveness of the sector” (European Commission 2008, 9).

The EU hopes to increase exports not least for skimmed milk powder, which in the past has often been sold in great quantities on African markets. For the milk farmers in Zambia and Uganda this is grim news. Even the last quota increase of April will raise the volume of milk on the world market by an estimated 0.5 percent. As little as 0.3 percent, according to the estimates of the Dutch bank Rabobank, can determine whether the world market price is ruinous or bearable (Reichert 2008). For the Magoye dairy farmers’ co-operative investigated in Zambia, whose producers’ prices are closely oriented to the world market price because of their close connection to the formal sector, this could already have considerable negative effects.

If production increases, the European Commission hopes European milk prices will fall allowing European milk products to find their way onto world markets without requiring export subsidies. Indeed, prices did decline dramatically, putting European dairy farmers under such a price pressure that they repeatedly boycotted the delivery of milk and used it as a fertilizer in protest actions. But even at such a low price level, the hope that the surplus could be exported without subsidies was not realized. In mid-2006, EU export subsidies on milk products were virtually suspended for the first time in 40 years. Due to higher world market prices, they were not

needed. But when prices started to fall again in January 2009, against the backdrop of the still unfolding global economic crisis, the EU decided to re-introduce export subsidies on dairy products. A large part of these subsidized exports are destined for developing country markets, and a considerable part goes to Least Developed Countries (LDCs). For 2010, the EC plans to spend 450 million Euro on export subsidies for dairy products alone. Even in the long run, the EU wants to retain the right to make use of this unpopular instrument, despite its promise in the context of WTO negotiations to put a definite end to all export subsidies by 2013. Now that the WTO negotiations in Geneva are faltering, the EU has put this commitment aside.

Even though subsidies for dairy exports to Zambia and Uganda have not been reported so far, this possibility cannot be ruled out in the future. Furthermore, dairy farmers in both countries suffer the indirect negative impact of export subsidies on world market prices, which, to a large extent, also determine the price they receive from domestic creameries. Against this background, the fact that the EPAs will further restrict freedom to determine trade policy for the protection of the farmers in Uganda and Zambia could have fatal effects in the long term. Even though most agricultural products are listed as sensitive products, the room for maneuver for tariff increases might be affected by the EPAs, if the Standstill Clause remains in the agreements, as the EC had insisted at least until recently. It remains to be seen if the announced flexibility of the EC will be reflected in the final agreements. If not, Uganda and Zambia would no longer be in a position to adequately protect local market access and income for local producers and therefore the right to food of domestic dairy farmers.

The problem is not restricted to dairy farmers, and is not limited to Africa. The economic partnerships with the ACP states are only the beginning. "Global Europe: Competing in the World" is the name of the EU trade strategy that was presented in October 2006 by the Trade Commissioner, and that was waved through by the EU Council without public discussion. This was a decision of far-reaching consequences. The EU plans to make "Global Europe" the basis for all future trade and investment agreements with all regions of the world. The negotiations have already begun with India, South Korea, the Andean Community, the Association of Southeast Asian Nations (ASEAN) and the countries of Central America. Radical tariff cuts in trade in industrial and agricultural goods are to be one component. In fact, after the signing of a Free Trade Agreement between the EU and South

Korea in October 2009, European companies expressed their hope that their dairy and meat products would now find their way to the South Korean market more easily.

The Global Europe Strategy is above all targeting liberalization in those areas which are high on the wish list of European corporate groups: more protection of intellectual property, easier access to energy and raw materials, the opening up of the service sector and of public procurement, as well as the loosening of investment restrictions. The countries of the South had already categorically rejected some of these themes during the WTO negotiations, but the EU has put them back on the agenda. According to the International Federation for Human Rights (FIDH), the liberalization agenda of the EU threatens not only the right to food, but also the right to health, a sufficiently high standard of living, education, work and development (FIDH 2008, 6).

## 6. HUMAN RIGHTS INSTRUMENTS NECESSARY

Even if the impact analyses of the NGOs reveal important differences, nonetheless in most cases very similar problems could be observed. The privatization of public services and the opening of the market in the global South, as well as the dumping of agricultural commodities produced in the U.S. and the EU have, demonstrably and frequently, had negative effects on the right to food of farmer communities. This does not allow the conclusion that liberalization measures are always contrary to human rights. Yet the results of the studies underline that the demand for more liberalization contained in almost all official strategies to overcome the hunger crisis is highly questionable from the point of view of human rights. The lobby work for comprehensive liberalization announced in the CFA of the High Level Task Force on the Global Food Crisis is not acceptable against this background. In particular, following particular formulae in trade policy must not, under any circumstances, become the condition for gaining allowances or loans to combat hunger. The fact that similar practices have still been carried out by the IMF, even in the recent past, and that the IMF, together with the World Bank, is intended to carry out the trade policy consulting for the developing countries in the CFA, certainly gives cause for concern in this respect.

Trade policy advice on combating hunger must not follow solely ideological preferences, but must be based on empirical studies, including those from the perspective of the human right to food. The studies sum-

marized above by Brot für die Welt, the EAA, FIAN, and Germanwatch and others are examples of case-based impact assessments of trade policy from the point of view of human rights, and are intended to provide methodical stimulus for further studies. It is also important that such studies not remain the sole domain of NGOs. What is required instead is an institutionalization in the member states of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The EU already routinely commissions in advance so-called Sustainability Impact Assessments (SIA) for all trade agreements. However, FIDH rightly points out the deficiencies of the studies carried out so far, and also the fact that these studies do not in any way replace an assessment of the consequences from the perspective of human rights (FIDH 2008, 11ff). Analyses from the perspective of human rights not only assess the consequences for living conditions, but also evaluate the extent to which states are fulfilling their obligations with relation to human rights when making trade agreements. Moreover, analyses from the perspective of human rights look much more carefully at the consequences for particular social groups, such as women, ethnic groups or particular regions, instead of solely arguing on the macro level. FIDH therefore demands impact analyses from the perspective of human rights both *ex ante* and *ex post*. A *rendezvous* clause in the trade contracts must allow a monitoring of individual provisions and potential changes to them if so required for the sake of human rights. Only in this way can states ensure that in both the negotiation and implementation of trade agreements the realization of human rights in their own country and in other countries is not impaired, but is promoted.

It is also true that the judgment of trade policies with respect to human rights must not be left solely to the states responsible for them. Active involvement of civil organizations from all states involved is indispensable at a stage as early as the impact analyses. Moreover, it is necessary on UN level to systematically monitor the trade policy of the signatory states of the CE-SCR pact. This already occurs to a rudimentary extent. For instance, in 2006, in its concluding observations on the report on Canada, the Committee on Economic, Social and Cultural Rights (CESCR) indicated some problems related to human rights in the North American Free Trade Agreement (NAFTA). With respect to Germany, too, Brot für die Welt, EED and FIAN dealt with questions of trade policy in a parallel report. In order for the scope of this to be increased, however, states must be called upon to systematically include trade policy in their reports to the CESCR. In the medium term it would be

worthwhile as well to have the same requirement made of the new Universal Periodic Reviews (UPRs) of the UN Human Rights Council.

Finally, the OHCHR should be instructed to play a much clearer role in the monitoring of trade and investment agreements with respect to human rights. Good starting points are provided by the 2002 report mentioned on the effects of globalization with respect to human rights. In order to continue this work and to intensify it, however, considerable increases in the resources devoted to this area would be necessary. At present there is less than half a post available for this topic at the OHCHR. If the trade policy capacities there were lifted to a level that is usual in other UN organizations such as the FAO or even the World Bank the OHCHR could take on an important monitoring function.

It is of course a long way before these or similar measures can be implemented. One sign of hope is that besides those already mentioned, many other international NGOs and networks such as ActionAid International (AAI), EAA, FIDH, the Institute for Agriculture and Trade Policy (IATP), and Misereor now also analyse trade policies from the perspective of human rights. For the UN Special Rapporteur on the Right to Food, Olivier De Schutter, trade is also a clear focal topic. Moreover, with the hunger crisis and the repeated failures of the negotiations at the WTO, the inadequacies of concepts and mechanisms used to date are becoming more and more obvious, and hence the search for new instruments in many areas is becoming more intense.

---

<sup>1</sup> UN Committee on Economic, Social and Cultural Rights (CESCR). 1999. General Comment 12, The Right to adequate Food (Art. 11). Twentieth Session. Para. 25, emphasis in the original. <http://www.unhchr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9?OpenDocument>. (accessed August 20, 2008)

<sup>2</sup> Ibid. Para. 36.

<sup>3</sup> OHCHR. 2002. Globalisation and its impacts on the full enjoyment of human rights. Report of the High Commissioner for Human Rights submitted in accordance with Commission on Human Rights resolution 2001/32. UN doc. E/CN.4/2002/54. January 15. Para. 45.

<sup>4</sup> UN Human Rights Council. 2008. Seventh Session, Agenda Item 3: A/HRC/7/L.6/Rev.1. Para. 17.

<sup>5</sup> The Task Force was formed in April 2008 by UN General Secretary Ban Ki-moon, and consists of representatives of all UN organizations that are concerned with food and agriculture, as well as the World Bank and the IMF. The UNHCHR is not a participant.

## BIBLIOGRAPHY

<sup>6</sup> While "obligations" are spoken of with respect to states, with respect to interstate organisations the somewhat weakened term "responsibility" is used here. On this see the discussions on extraterritorial or international obligation in Windfuhr, 2005 and Hausmann, 2006.

<sup>7</sup> The necessity of the EPAs was justified with the argument that the one-sided trade preferences which the EU had given the ACP states until this time were no longer compatible with WTO law. Since an exemption with the WTO expired by December 31 2007, the EU applied pressure to gain reciprocal free trade agreements by this date.

<sup>8</sup> Originally the EU had insisted on comprehensive EPAs, which would also include areas such as services, investments, intellectual property rights and procuring bodies. However, it was only possible to implement this form of EPA politically with the Caribbean states. Other states, such as Ghana, Uganda and Zambia, could only be persuaded to make agreements on the trading of goods. These agreements are called interim agreements, as they are only seen as a preliminary stage to "comprehensive" EPAs. However, even these agreements have only been initialled so far, in other words neither signed nor ratified. Despite the great political pressure, 43 of the 78 ACP states have not even consented to interim agreements.

<sup>9</sup> The European Court has clarified that the EU must observe general legal principles, including the basic rights in international pacts which are ratified by all member states (see FIDH 2008, 7).

Bertow, K., und A. Schultheis. 2007. *Impact of EU's Agricultural Trade Policy on Smallholders in Africa*. Bonn: Germanwatch, Both Ends, FIAN & UK Food Group.

Bunte, F., and P. Roza. 2007. *Peeling tomato paste subsidies. The impact of a revision of the CMO for processing tomatoes on European horticulture*. Den Haag. [http://library.wur.nl/wasp/bestanden/LUWPUBRD\\_00352565\\_A502\\_001.pdf](http://library.wur.nl/wasp/bestanden/LUWPUBRD_00352565_A502_001.pdf). (accessed August 20, 2008)

European Commission. 2008. *Proposal for a council regulation establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers*. Brussels. May 20. [http://ec.europa.eu/agriculture/healthcheck/prop\\_en.pdf](http://ec.europa.eu/agriculture/healthcheck/prop_en.pdf) (accessed August 20, 2008)

FAO. 2006. *Countries No. 5. Ghana: rice, poultry and tomato paste. Briefs on Import Surges*. Rome. <ftp://ftp.fao.org/docrep/fao/009/ah628e/ah628e00.pdf> (accessed January 11, 2008)

FAO. 2007. *Commodities No. 2. Import Surges in Developing Countries: the Case of Rice. Briefs on Import Surges*. Rome.

FAO. 2009a. *Country Responses to the Food Security Crisis: Nature and Preliminary Implications of Policies Pursued*. Rome. [http://www.fao.org/fileadmin/user\\_upload/ISFP/pdf\\_for\\_site/Country\\_Response\\_to\\_the\\_Food\\_Security.pdf](http://www.fao.org/fileadmin/user_upload/ISFP/pdf_for_site/Country_Response_to_the_Food_Security.pdf) (accessed September 27, 2009)

FAO. 2009b. *Food Outlook. Global Market Analysis*. Rome. June, 2009. <http://www.fao.org/docrep/011/ai482e/ai482e00.htm> (accessed October 27, 2009)

FAO and WFP. 2009. *Responding to the Food Crisis: Synthesis of the medium-term Measures proposed in inter-agency Assessments*. Rome. [http://www.fao.org/fileadmin/user\\_upload/ISFP/SR\\_Web.pdf](http://www.fao.org/fileadmin/user_upload/ISFP/SR_Web.pdf) (accessed October 27, 2009)

FIAN International. 2008. *Right to Food of Milk and Honey Farmers. Report of an Investigative Mission to Zambia*. Heidelberg. <http://www.fian.org/resources/documents/others/right-to-food-of-milk-and-honey-farmers-report-of-an-investigative-mission-to-zambia/pdf> (accessed November 1, 2008)

FIAN International. 2009. *The Right to Food of Milk and Maize Farmers in Uganda. Report of an Investigative Mission to Uganda*. Heidelberg. [http://www.fian.org/resources/documents/others/the-right-to-food-of-milk-and-maize-farmers?set\\_language=en](http://www.fian.org/resources/documents/others/the-right-to-food-of-milk-and-maize-farmers?set_language=en) (accessed October 27, 2009)

FIDH. 2008. *Position Paper. Human Rights Impact Assessment of Trade and Investment Agreements concluded by the European Union*. Brussels. [www.fidh.org/IMG/pdf/positionpaperFIDH-HRIA\\_finalfevrier2008.pdf](http://www.fidh.org/IMG/pdf/positionpaperFIDH-HRIA_finalfevrier2008.pdf) (accessed August 20, 2008)

Hausmann, U. 2006. *Germany's Extraterritorial Human Rights Obligations in Multilateral Development Banks. Introduction and Case Study on three Projects in Chad, Ghana and Pakistan*. Stuttgart/Köln/Bonn: Brot für die Welt, FIAN and EED.

IMF. 2003. *Country Report No. 03/133*. May, 2003. <http://www.imf.org/external/pubs/ft/scr/2003/cr03133.pdf> (accessed August 8, 2008)

Issah M. 2007. *Right to Food of Tomato and Poultry Farmers. Report of an Investigative Mission to Ghana*. Heidelberg: FIAN, Send Foundation, Both Ends, Germanwatch & UK Food Group.

Marí, F., and R. Buntzel. 2007. *Das Globale Huhn. Hühnerbrust und Chicken Wings – Wer isst den Rest?* Frankfurt a. M.: Brandes & Apsel Verlag.

Murphy, S., B. Lilliston, and M. B. Lake. 2005. *WTO Agreement on Agriculture: A Decade of Dumping*. Minneapolis: IATP. <http://www.tradeobservatory.org/library.cfm?RefID=48532> (accessed November 1, 2008)

Oxfam. 2005. *Kicking down the door. Briefing Paper 72*. London.

Paasch, A. (ed.), F. Garbers, and T. Hirsch. 2007. *Trade Policies and Hunger. The impact of trade liberalisation on the Right to Food of rice farming communities in Ghana, Honduras and Indonesia*. Geneva: EAA.

Paasch, A. 2008. *Devastating Floods – Man Made. European Trade Policy violates Right to Food in Ghana – Chicken and Tomatoes*. Bonn: Germanwatch, FIAN, Both Ends and UK Food Group.

Reichert, T. 2007. *Chancen zur ländlichen Entwicklung in Sambia: Wirkungen von Fördermaßnahmen am Beispiel des Milchsektors*. Berlin, Hamm: AbL und Germanwatch.

Schutter, O. De. 2008. *Background Note: Analysis of the World Food Crisis by the U.N. Special Rapporteur on the right to food*. Geneva. May 2.

UN High Level Task Force on the Global Food Crisis. 2008. *Comprehensive Framework for Action*.

Wieczorek-Zeul, H. 2008. *Menschenrechte und Entwicklung. Aufsatzreihe der SPD: Gerechtigkeit durch Recht. 60 Jahre Allgemeine Erklärung der Menschenrechte*. August 21.

Windfuhr, M. (ed.). 2005. *Beyond the Nation State. Human Rights in Times of Globalization*. Uppsala, Sweden: Global Publication Foundation.

Wise, T. A. 2007. *Policy Space for Mexican Maize: Protecting Agro-biodiversity by Promoting Rural Livelihoods*. Working Paper N° 07-01. Medford: Global Development and Environment Institute.

Wodon, Q., C. Tsimo, and H. Coulombe. 2008. *Assessing the Potential Impact on Poverty of Rising Cereal Prices: The Case of Ghana*. Policy Research Working Paper 4740. The World Bank Human Development Network. October, 2008.

Rolf Künnemann

## IV. FOREIGN INVESTMENT AND THE RIGHT TO FOOD

### 1. INTRODUCTION

The food crisis is not over – it is growing. Prices continue at double the pre-crisis level, and the structural violations of the right to food, which led to the crisis, continue as before. As a crucial lesson learnt from the crisis, governments and intergovernmental organizations (IGOs) now unanimously recognize that more money has to be invested in the agricultural sector in developing countries. However, their strategies often ignore the fact that not all kinds of investment will help to reduce hunger. In fact, the crisis has even led to additional threats to the right to food. Against this backdrop, this paper examines the role of foreign investment in agriculture and its relationship to the realization of the human right to food. Based on the examination of concrete cases, the paper indicates that the reaction of foreign investment to the food crisis is in fact “business worse than usual” – due to the negligence of food as a human right for all practical investment purposes.

#### 1.1. THE BASICS

Food is, first of all, a product of nature. There is reason to be grateful to Mother Earth, to the sun and to water. Natural resources (topsoil, water, seeds, fishing grounds and forests) are indispensable for producing food. Those who control the resources, however, control the choice of what is produced – and control the product. This is critical as there are competing uses for the natural resources mentioned: basic foodstuffs or luxury food, food or feedstuffs, fiber, agrofuels, timber. Moreover, space is crucial for industries and urban conglomerates – and space means land.

Natural resources provide the essential ingredients to grow food. In addition to natural resources, food production requires know-how (human experience) and tools. To invest in agriculture is to improve production methods (knowledge systems, methods and tools) so that the existing natural resources have increased sustainable yield.

This paper is about a specific kind of investment: foreign direct investment (FDI). This refers to capital held by private firms that are not based in the country where the investment is made. Most of such investment is currently made among developed countries, but there is also considerable investment, especially in primary industries (including agriculture), that flows from industrialized countries to developing countries. A number of these investments have raised serious human rights concerns.

Political and civil rights, as well as economic, social and cultural rights (including the right to food) are violated in the implementation of projects funded by foreign direct investment.

One of the ways to avoid such human rights abuses is to impose criteria on what kind of investment is acceptable. What can be judged as an improvement to the mode of production? This is a values question and the answer will depend on the value framework used in the economy. According to the human right to food, vulnerable people's sustainable access to food (and food-producing resources) is a fundamental element in the fabric of our societies, economies and legal systems. It is a source of states' obligations to respect, protect and fulfill human rights. The obligation to protect means that states (individually and jointly) have to take the measures necessary to prevent third parties from depriving people of sustainable access to food and resources. Under the obligation to fulfill, states have to make sure that people who are deprived of access to adequate food and resources are provided such access as quickly as possible. And under the obligation to respect, states must not deprive people of their food and resources. These three classes of obligations also apply – in different degrees – to persons outside the state's territories. Moreover the right to food, as other human rights, is meant to be justiciable: persons should be able – in a timely way – to seek legal redress if their rights are violated.

## 1.2. RIGHTS-BASED INVESTMENT VERSUS PROFIT-BASED INVESTMENT

All three types of states' right to food obligations are relevant for foreign investment. The obligation that comes to mind immediately when considering investment as a tool to improve agriculture is the obligation to fulfill. What kinds of investment, into which modes of food production, will best support the fulfillment of the fundamental right to be free from hunger? How can investment conform to the International Covenant on Economic, Social and Cultural Rights (ICESCR) article 11.2(a), which requires "improvement of the methods of production, conservation and distribution making full use of technical and scientific knowledge"? And, of course, states' obligations to protect and respect human rights are also very relevant.

From a human rights perspective, the following criteria are suggested to assess whether an investment in agriculture is an improvement over what went before:

1. After the investment, all project-affected persons have access to adequate food and resources.
2. All project-affected persons have access to natural resources and to knowledge systems and production methods which are ecologically and economically more sustainable than before.
3. The number of people who enjoy access to adequate food or productive resources increases.
4. The resource and food needs of future generations have been taken into consideration.
5. The justiciability of the right to food and resources has been strengthened.

Investment which provides this kind of improvement can be called rights-based investment under one additional condition: the investment must also safeguard the project-affected persons' other economic, social, cultural, civil and political rights, including their right to political participation. In deciding whether to permit a given investment (either in an individual case or through regulation of the sector as a whole), states have to apply a "human rights check"<sup>1</sup> which tells them whether the investment is rights-based. The burden of proof here is on the state. A human rights check has to be transparent, it has to make available all pertinent information and be open to public review.

Investors usually defend their investment with the argument that it will create jobs and add to economic growth. States often use the same arguments to win public support for FDI that has aroused public concern. Sometimes the livelihood rights of the future workers are used to justify breaches of states' obligations to respect and protect the economic, social and cultural rights of the people who stand to lose from the proposed investment. This "balancing" of human rights obligations, however, is flawed. The rule of "doing no harm" cannot be derogated when it comes to the core content of human rights. Nothing can justify a breach of a state's obligations to respect and protect vulnerable persons or communities. For the FDI project to be approved, it should improve the livelihoods of the intended beneficiaries without undermining anyone's enjoyment of their rights. Such investment is decidedly possible, but sadly uncommon.

Can private FDI meet the criteria for rights-based investment? The general understanding of private investment is that it has to make a profit on the capital invested. Profit-based investment does not see its purpose in meeting the criteria defined above for rights-based investment. Rather, profit-based investment usually has only one criterion: to make money. This has far-reaching

consequences for the modes of production pushed by private investors – and for the government and inter-governmental organizations (IGOs) that are often heavily influenced by them. The technology used in such investments has to offer – and maximize – return on investment. Non-monetary criteria, such as maximizing the long-term health of the topsoil or improving the nutritional standing of children under five, are not factored in, though if these are necessary to realize profits down the line, private commercial investors might also pay attention to such concerns.

When profit-based investment dominates policy making, agrarian policies are capital-intensive – even if the short-term yields per hectare under the competing mode of production are the same. Indeed, interest deriving from rights-based investment may be comparatively modest – simply because much of the economic value created benefits the peasants and future generations (through sustainability).

It should also be noted that buying or leasing a productive resource such as land alone is not an investment in itself. It just establishes control over a resource: The money paid gives the investors a right to use this resource in future and to benefit from the often-violent measures of states to uphold investor's control in the face of poor people trying to defend their use of the resource or attain access because they are hungry.

### 1.3. FOREIGN INVESTMENT AND EXTRATERRITORIAL OBLIGATIONS

In human rights circles, obligations towards persons abroad are called extraterritorial obligations (ETOs). Then-UN Special Rapporteur Jean Ziegler analysed ETOs in his 2005 report to the Commission on Human Rights using the three categories mentioned.<sup>2</sup> While the obligations to respect are as valid abroad as they are at home, the extraterritorial dimensions of the obligations to protect and fulfill are qualified whenever they could negatively affect the obligations to protect and fulfill human rights in the government's home state.

The home state of the investor carries obligations to regulate such investment, whenever it deprives people abroad of their access to food and productive resources or intervenes with rights-based investment. Moreover states individually – and the international community of states – are duty-bound to cooperate in the expeditious fulfillment of the right to food for every person in each

country. In doing so it is obliged to start with the most deprived and with the core content of the human right to food – freedom from hunger.

As far as the eradication of hunger is concerned, the performance of economic cooperation has been poor. Over the past four decades, the percentage of the hungry has been decreasing slowly. This was largely the result of trickle down of gains in an unsustainable mode of production. Most of the hungry and malnourished are peasants living in rural areas and more than half of them are smallholder farmers. Nevertheless there was hardly any rights-based investment in agriculture in those regions that needed it most. Agriculture was marginalized within the development context. In many areas, investment was left to agribusiness, which meant that some areas did not get any investment at all, while others saw their agricultural system tilted towards capital-intensive agribusiness beyond the scope of capital-poor peasants. The millennium goal of halving the percentage of the hungry and malnourished by 2015 will be missed by a wide margin. Since 2008-2009 this percentage of the malnourished has started to rise again.

Today's dominant technologies are unsustainable, capital-intensive and biased against the vulnerable peasant farmer. Alternative modes of production are available providing the same yield per hectare, but peasant-friendly and sustainable (Pretty 1995 and CBTF 2008). In 2008, the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD) report "Agriculture at a Crossroads" alerted the international public that agriculture needs radical reform and to be oriented towards peasants and sustainability objectives, to safeguard present and future food security (IAASTD 2008).<sup>3</sup> Peasant-oriented sustainable agriculture produces food under the control of those who need it most – the peasants. Introducing such modes of production usually multiplies yields per hectare on complex terrains by the factor two or sometimes even three. On prime soils with sufficient water, the kind of land preferred by green revolution farmers and plantation owners, peasant-oriented sustainable agriculture can reach the same yields as unsustainable industrialized agriculture.

Peasant-oriented sustainable agriculture is in need of investment. The input to improve the modes of production, however, is very little capital, but a lot of knowledge, skills and some infrastructure. Investment is necessary mainly in capacity building and training to introduce resource conserving and production enhanc-

ing technologies. Investment is necessary to build the respective enabling institutional environment for the peasant communities and their production. Where will this investment come from? States' support for peasant agriculture in the South is minimal (Mahalambe 2008).<sup>4</sup> What could be the role of FDI?

The following case studies will mainly deal with foreign investment in agriculture.<sup>5</sup> The conclusion will make the human rights check on these investments and provide some lessons learned.

## **2. FOREIGN INVESTMENT IN THE CONTEXT OF THE FOOD CRISIS, AGROFUELS: THE TANA CASES IN KENYA**

In December of 2008, the Arab League invited African leaders, scholars and farmers associations to a conference in Riyadh, Saudi Arabia, to discuss the outlook for Arab investment in land and food production in Africa. The report said most of the Arab states have too little fertile land to secure their food security in coming years. The governments of a number of Arab countries are eager to buy or lease land in Africa, where land is abundant and affordable. Many African leaders see foreign investment as a motor for development, a way to ensure technology transfer and a generator of employment.

In November 2008, Kenya's president Mwai Kibaki paid a three-day official visit to the Gulf emirate of Qatar at the end of which he announced that emir Sheikh Hamad bin Khalif Al Thani had promised to invest \$3.5 billion U.S. dollars in the extension of the Lamu port in Coast Province (Daily Nation News 2008). According to Kenyan Planning Minister Wycliffe Oparanya, Qatar would finance the project "without conditionality." However, Qatar, where no more than one percent of the land is arable, had at the same time requested that the Kenyan government lease it 100,000 acres (40,469 hectares) of land in the Tana Delta for farming (Telegraph.co.uk 2008).

Since the Tana deal was reported in the Kenyan press in early December 2008, no further details have been made known. Indeed, even high-ranking public officials have no knowledge from official sources. As the deal is an agreement between two heads of state, the only obligation on the President is to inform the ministers. The law makes no provision for public discussion about the viability of the project or its social and ecological implications.

The Tana River is Kenya's largest river. Its delta on the northern coast has created one of the most fertile agricultural areas in the country. What used to be the Tana River district was divided in 2007 into the Tana River and the Tana Delta districts. Together they have a population of just over 200,000 people. The Bantu ethnic groups, Pokomo, Munyoyaya, Malakote and Mijikenda, engage in farming while the Cushites, Orma, Wardei and Somali, are mainly pastoralists. Some of the farmers also engage in small-scale fishing in the rivers and numerous ponds found in the region.

The pastoralist communities live mainly in the hinterland of the district in villages around watering points, dams, wells and boreholes where there is pasture. During the dry seasons, the pastoralists move with their cattle to the Tana River delta where they frequently get into conflict with Bantu agriculturalists. In the rainy season, they return to the hinterland with their livestock. A recent international report on the impact of pastoralism stresses the importance of pastoral lifestyle to the conservation of the environment (IUCN 2008).

Nearly all the land in the Tana River and Tana Delta districts is trust land and the overwhelming majority of the settlers do not have title deeds to their ancestral lands. This legal situation makes them vulnerable to land grabs by powerful people, who use the district administration and Ministry of Lands and Settlement to acquire title deeds for land occupied and tilled by others. As a result, the farming communities are fighting to obtain title to their land. The pastoralists, who feel their access to land to graze their cattle is more secure under a common land ownership system, oppose this struggle. The common land ownership is recognized by Kenyan law and administered as trust land.

If the project to lease land in the Tana districts goes through, around 40,000 hectares of this highly fertile land will be leased to the emirate of Qatar to provide horticultural produce for the Qataris. It has not officially been made known where in the district this acreage will be located. According to locals, the only place possible is in the middle of the delta where the river divides. Kenyan Mumias Sugar Company Ltd. has earmarked another large portion of the delta for sugarcane monoculture for the production of agrofuels, a project approved by the National Environment Management Authority (NEMA).<sup>6</sup> The land belongs to the Tana and Athi River Development Authority (TARDA). Mumias, which is the largest sugar company in the country and the first to be partly privatized, is the leaseholder and will invest. Both projects

are likely to displace tens of thousands of small farmers, mainly members of the Pokomo tribe, who have settled there and survive on food crops such as maize, cassava, beans, vegetables and mango. The delta has also been used as grazing land for cattle by generations of pastoralist tribes like the Orma and the Wardei. At least 2,000 pastoralists depend on the fertile pastures during the long dry season. For them, the projects spell doom. The grazing land, community land held in trust by the county council, would be fenced off and converted into plantations. Access to the river would be blocked.

There is no law that demands that the social impact of a project be examined. But under Kenya's environmental law, any proposed law or policy is supposed to be subjected to an environmental impact assessment (EIA), which would give all concerned parties a chance to question the proposals. In the case of the Tana River delta projects, the negative aspects of the ecological impact are obvious. NEMA (National Environment Management Authority) can refuse to give permission (it has the ultimate authority before a project is given final approval). The EIA is conducted according to minimum standards laid down in the Environmental Management and Coordination Act (EMCA) of 1999. Under the law, the use of land and land-based resources should adhere to the principles of sustainability and inter-generational equity; the principle of prevention; the precautionary principle; the polluter pays principle; and, should ensure public participation in the project review (Hunter, Salzman and Zaelke 2005, 379-438). In the Tana River delta, no proper public consultation was done. However, the EIA found that the project presented no adverse impacts.

Impact on the right to food is not considered in any Kenyan law. The question of whether compensation is given to people who lose their livelihoods as a result of an investment is at the discretion of the government. The government generally does not feel obliged to give full compensation, particularly if the affected parties do not possess legal title deeds.

The FAO/IFAD/IIED report on the new wave of land lease and purchase agreements says this about the proposed project: "The Qatar-Kenya deal has drawn particular media attention as the project, implying the alienation of land and export of food crops, was revealed just as Kenya had experienced severe droughts and failed harvests, forcing the government to admit it would have to declare a national food shortage emergency" (Cotula et al. 2009).

Kenya Wetland Forum, a platform which groups more than 50 organizations, including government agencies, has launched a petition against the sugar plantations using both social and ecological concerns to express their objections. Kenyan Nobel laureate and environmentalist Wangari Maathai warned: "We cannot just start messing around with the wetland because we need biofuel and sugar" (Miriri 2008). Nature Kenya, a government agency, has filed a court injunction against the project because the ecological changes would threaten bird life in the delta. Moreover, Nature Kenya has carried out a cost-benefit analysis on the alternative development options for the Tana River delta that shows that the income generated by traditional farming, fishing and cattle grazing is almost three times higher than the potential earnings from sugar cane.<sup>7</sup>

### **3. INVESTMENT IN FOREIGN LUXURY: FORCED EVICTIONS AND CHEATING**

Coffee and tobacco are two tropical products that consumers in industrialized, temperate climates have come to take for granted. Yet their production is rife with problems, as the two following examples illustrate.

#### **3.1. PRICE COLLUSION AMONG FOREIGN INVESTORS IN MALAWI'S TOBACCO SECTOR**

Tobacco is the largest foreign exchange earner in Malawi, a country with high levels of poverty and chronic food insecurity. During a right to food assessment in Malawi in 2006, foreign investors were accused of price-fixing. Farmers alleged that despite efforts by the government to set minimum prices (\$1.10 U.S. dollars per kilo), the foreign investors colluded to offer only 60 cents (USD). Tobacco is a key livelihood crop for poor farmers. The farmers' inability to get a fair market price for their crop had a specific impact on the farmers' access to adequate food not only because cash earnings were decreased but also because the investors had previously encouraged local farmers to convert food-producing land to tobacco. Malawi's president, Bingu wa Mutharika, has said that small-farmers are being cheated by an international cartel. His accusation was substantiated in two respected studies (Maereso 2006 and Rights & Democracy 2006). No action has been taken however, and the investor home states have not taken steps to hold the companies accountable through domestic competition regulatory processes.

### 3.2. NEUMANN COFFEE GROUP IN MUBENDE, UGANDA

On August 18, 2001, the Government of Uganda deployed its army to move 392 peasant families (approximately 2,040 persons) by force. The peasants' houses were demolished, their properties destroyed, and staple crops such as cassava and potatoes were confiscated. The victims were pushed off to the forest nearby. Most of them received neither adequate compensation nor social assistance for the lost land. Soon after, the land was handed over by the government in lease to the Kaweri Coffee Plantation Ltd., a subsidiary of the German Neumann Kaffee Gruppe (NKG). The owner of the German company and the president of Uganda, President Museveni, were present at the ceremony marking the granting of the lease. In June 2002, the African Development Bank (ADB) approved a loan of \$2.5 million U.S. dollars to finance the plantation project. According to a press release (No. SEGL3/B/45/02) of the Bank, the project is, "in line with the Bank's vision of developing the private sector in its Regional Member Countries (RMCs), and in the context of ADB support to the agribusiness sector."

The Kaweri plantation is the first large-scale coffee plantation ever established in Uganda. Until recently, coffee has been produced exclusively by small farmers. In 2002, the plantation won the Uganda Investment Authority's (UIA) "Silver Investor Award." The plantation does in fact fit perfectly with the government's strategy to promote export oriented economic growth with the help of foreign investors.

The coffee sector is the mainstay of the formal Ugandan economy, accounting for about 70 percent of its export earnings. In 2003, the country was the seventh largest coffee exporter in the world and the biggest in Africa. Other important export products are fish, tea, cotton and tobacco. The entire agricultural sector has a share of about 46 percent of the gross national product (GNP) and feeds about 90 percent of the population, most of them through subsistence farming. Since the beginning of the 1990s the Ugandan government has pursued a strategy of economic restructuring and privatization according to the tenets of the "Washington Consensus" and in close cooperation with the International Monetary Fund and the World Bank. In 1991, the Investment Code was passed and the UIA was founded to attract foreign direct investors to the country. In 2000, the "Plan for Modernization of Agriculture" (PMA) was established as a strategy for the sector within the "Poverty Eradication Action Plan" (PEAP). It became the basis of the state's

agricultural policy. The aim of the PMA is "poverty eradication through a profitable, competitive, sustainable and dynamic agricultural and agro-industrial sector," which is to be achieved primarily through the conversion of subsistence into commercial agriculture. The government considers the Kaweri plantation to be a key project in this plan.

The displacement of the people resulted in increased cases of illnesses and deaths due to lack of access to clean water and health care. Many of the victims, now living around the edges of the plantation have had to construct makeshift homes. They have lost the land they were farming. As the new owners of the land that had belonged to over 2,000 smallholder farmers, Kaweri took over the local school building to serve as their headquarters, leaving the community's children without a school for one year. One of the evictees was put in prison for his national and international engagement for justice. The violation of the victims' right to feed themselves is still not remedied due to Uganda's refusal to properly rehabilitate and compensate the disposed peasant families. To gain redress for their grievances, the victims first addressed authorities and politicians, but when that failed, they decided in the summer of 2002 to sue the government as well as Kaweri. While the activities in hearing the case were very slow, the court ruled in favor of an application by Kaweri's attorneys demanding a cautionary deposit of the equivalent of € 9,000 Euros from the claimants. By 2009 the case was still pending. Neither Kaweri nor the Neumann group ever addressed the situation of the victims.

### 4. SUBSIDISING FOREIGN INVESTMENT THROUGH "ECONOMIC ZONES": THE LEKKI CASE IN NIGERIA

During a prestigious ceremony on Thursday, May 11, 2006, the Executive Governor of Lagos State, Asiqaju Bola Ahmed Tinubu, announced the plan to compulsorily acquire the lands and coastal areas of communities living in the Nigerian Lekki peninsula, for the purpose of establishing the Lekki Free Trade Zone (LFTZ). The project, a \$260 million (U.S. dollars) joint venture<sup>8</sup> between the Lagos state government and a consortium of Chinese businessmen, was designed to stimulate economic development in the country. The government claimed the project would, amongst other benefits, create many jobs for the unemployed in the affected communities, improve local people's living standards and promote local business. Members of the communities would receive appropriate benefits and advantages upon the imple-

mentation of the project. Those with genuine claims that the project would hurt their economic interests were promised reasonable compensation.

The lack of clear and detailed information on the intent and purpose of the project, however, as well as the failure to include the affected communities in the planning process, triggered fear, mistrust and resistance. Nigeria's history of compulsory acquisition of lands and forced evictions by the government reinforced the concern that thousands of people would be removed from their ancestral homes without compensation, resettlement, restitution or rehabilitation. The communities that would be adversely affected included Tiye, Imobido, Lege, Idasho, Imagbon-Segun, Itoke, Idotun, Lujagba, Elekuru, Olomowewe, Okunraye, Origanringan, Okegelu, Ikegun, Abejoye, Mudano, Eto, Idafa, and Ebute-Kosu. Jointly, these communities risked losing over 16,000 hectares of land, including their homes, ancestral villages, cultural and burial grounds, farmlands, and access to fishing resources (SERAC 2009).

In the same month that the project was announced, nine of the affected communities<sup>9</sup> approached the Social and Economic Action Center (SERAC) for aid. SERAC is a Nigerian human rights group headquartered in Lagos, who had worked on the Ogoni case among others. SERAC took up the task of organizing advocacy and campaigning at the local and international level to ensure that the LFTZ project would be carried out in accordance with due process of law and respect for the human rights of the affected communities. Also, SERAC initiated and facilitated consultations and dialogue with the affected communities, the Lagos state government and the LFTZ project officials. These efforts ultimately led to the successful conclusion of a Memorandum of Understanding (MoU). The MoU ensures that the rights, interests and welfare of the members of the affected villages and communities are protected, and that the LFTZ project complies with the relevant national and international legal standards. The memorandum was signed on Tuesday, March 27, 2007, by the Lagos state government, the Ijuju Lekki Local Government Council, Lekki Worldwide Investment Limited (LWIL), and the accredited representatives of the villages and communities affected by the LFTZ project.

This positive outcome has unfortunately been tempered by the investors' failure to comply with aspects of the MoU. In a meeting in June 2009, the nine affected communities voiced their concerns about the investors' failure to implement a number of clauses in the MoU.

Members of the community have since started partially disrupting implementation of the project by denying the project companies access to the community lands.

## **5. FOREIGN INVESTMENT AND THE BITS: THE PALMITAL AND SAWHOYAMAXA CASES, PARAGUAY**

Foreign investors sometimes claim to offer win-win situations. They seem to suggest that governments have nothing to lose by giving the project a go – that proper human rights monitoring will be enough to prevent violations. Yet it is hard to undo damage once it's done and even once harm is acknowledged, foreign investors can be hard to get rid of. Most of the estimated 3,500 bilateral investment treaties (BITs) that were negotiated and signed in the last 20 years protect the foreign investor much more than the people in the country receiving the investment, or their government. BITs often give foreign investors the right to sue the government before investment arbitration tribunals – many of them secret (Peterson 2009) – should the host government try to interfere with their investment (Anderson and Grusky 2007). Some governments don't even try. BITs hardly ever refer to human rights. The "public interest clause" they normally contain is often disputed if a legal complaint is lodged.

The following two case examples from Paraguay never reached the stage of investor arbitration. They illustrate how the mere existence of Paraguay's BIT with Germany had a chilling effect on agrarian reform (in the Palmital case) and on the implementation of indigenous peoples' rights (in the case of Sawhoyamaxa).

### **5.1. THE PALMITAL CASE**

The population of Paraguay is 47 percent rural. According to the national census of 2002, 48 percent of the population is without food security, and according to the data of Economic Commission for Latin America and the Caribbean (CEPAL) (2004), 50 percent of the rural population lives below the poverty line. An estimated 14 percent of the total population is undernourished (FAO 2004). The main reason for undernourishment in the rural areas is landlessness. Land holdings in Paraguay are profoundly unequal. On the one hand, most peasants and agricultural workers face hunger and malnutrition and have no land of their own. On the other, there is a tiny class of landowners, many of whom bought the land for speculative interests (hoping the value will rise) and who do not even farm it.

Palmital (also known as *Compañía 7 de Agosto*) is located in the district of Carlos Antonio Lopez, in the Department of Itapúa. It is a settlement, home to 120 landless families. More than 10 years ago, these families occupied an estate that had been left idle. They now have their fields, houses and animals on this occupied land. The estate covers 1,003 hectares and is owned by several Germans who live in Germany and have not made any improvements on the land for more than 10 years. The landless peasants of Palmital applied under the agrarian reform provisions of Paraguay for a transfer of title to their names. The law requires that the land be sold by the owners or (if the owners refuse to sell) gives the government the right to expropriate the land. The government of Paraguay refused to expropriate the land on the grounds that the Bilateral Investment Treaty (BIT) between Paraguay and Germany of 1993 prohibits the expropriation of rural property belonging to German citizens and companies under article 4 of the treaty. In 2000, the German Embassy in Paraguay intervened, sending a letter about another case that involved German landowners to the Paraguayan government. The letter said expropriating the German-owned land would violate the BIT.

Once the expropriation was refused, the police violently expelled the Palmital families from their settlement three times, burned down their farms and destroyed their fields. The leaders of the peasants were imprisoned. For several months the entire community (men, women and children) lived without a roof over their heads and without secure access to food. Faced with hunger, disease and homelessness elsewhere, the families always returned to the estate. Eventually, an out of court settlement between the peasants, the owners and the state of Paraguay was reached, allowing the families to return and stay on the land; other similar cases, however, continue. Each time, the Paraguayan Senate has sought to block demands for expropriation if German investors are involved, citing the BIT has their legal obligation.

## 5.2. THE CASE OF THE SAWHOYAMAXA

Another case that exemplifies how a BIT impeded a land transfer, called for on the basis of social legislation passed in Paraguay, is the case of Sawhoyamaxa. Sawhoyamaxa is a settlement of 100 indigenous families who have traditionally inhabited the eastern edge of the Chaco region (called “*el Chaco Paraguayo*” in Spanish). Since the land has been in private hands, significant areas have been deforested and turned into

grazing pastures. By the mid-1970s, the members of the Sawhoyamaxa community were scattered over several settlements in diverse smallholdings, without assured income or means of subsistence. In 1991, the community initiated procedures to gain legal title to a portion of their traditional lands. The land in question (some 14,404 hectares) is part of an estate titled to a German citizen who owns 60,000 hectares in the area. In 1997, the community set up a camp in front of the land they were claiming at the side of the road.

In 2001, after exhausting Paraguayan legal remedies, the community turned to the Inter-American Human Rights Commission, which forwarded the case to the Inter-American court in February 2005. In the meantime, on February 10, 2003, the Paraguayan authorities acknowledged the legitimacy of the people’s claim to Sawhoyamaxa. But they reported that their attempt to buy the land from the German owner so as to return it to the community was refused, and that the authorities would have difficulties expropriating the land, as the bilateral investment treaty between Paraguay and Germany protected the owner’s rights. By 2006, the camp was made up of 407 people living in 83 huts in conditions of extreme poverty. On March 29, 2006, the Inter-American Court on Human Rights issued a judgment in favor of the indigenous community. Moreover, the court found the State of Paraguay guilty of neglect and responsible for the deaths of 18 children from the community. The court ordered the return of the lands to the people of Sawhoyamaxa within a period of three years. In the meantime, the government of Paraguay was to provide food, water, health care and other basic services to the community. The court said in its ruling that a BIT does not release a state from its human rights obligations, which the court claimed created a special class of inviolable obligations.

After three years, however, at end of March 2009, the land was still not handed over despite the court ruling. Nor had the government fully complied with the provisions for providing interim care, and the deaths continue (to date 13 in total), caused by diseases related to lack of basic services.

In 2006, 2007 and again in 2008, German NGOs and representatives from Palmital and from the Sawhoyamaxa community met with officials from German ministries for foreign affairs (AA), economy (BMWI) and for development cooperation (BMZ). The objective of these talks was to persuade the German government to implement its extra-territorial obligation (ETO) to co-operate with the government of Paraguay in the fulfillment of the hu-

man right to food and in particular the right of the communities to feed themselves. The ETO obligations would, at a minimum, require the German government to overrule the letter sent by the German Embassy in Paraguay in 2000, which claimed that expropriation of land owned by German citizens would contravene the provisions of the BIT. In fact, the BIT should have respected the existing domestic legislation that allowed for such expropriations. Even though the German government finally recognized that the BIT should not be interpreted as an obstacle for the land reform based on the Paraguayan constitution, it refused to provide a written statement to this effect, claiming that “investors may get scared” and that “compensation for expropriations in Paraguay is not adequate.” The government effectively refused to acknowledge its extra-territorial obligations.

## 6. CONCLUSION: HUMAN RIGHTS ANALYSIS OF THE CASES PRESENTED, AND LESSONS LEARNED

A human rights lens looks at purported human rights violations at two levels: the systemic (What laws and institutions are in place? How well do they work?), and the specific. In the case of the right to food, the specific often translates into people’s access to the resources they need to grow food, especially land and water.

The implementation of human rights requires that those who work for the government understand their obligations. In the cases discussed above, the home states of the investors (Germany, Qatar and China) displayed an alarming level of indifference to their extra-territorial obligations.

The two Paraguayan cases show how difficult it is to implement the safeguard clause in a BIT, which should in theory safeguard the policy space of states to meet their obligations to fulfill human rights if there is a conflict with the investors’ rights under the investment treaty. This experience is not unusual (Yu and Marshall 2008). Some of the recipient governments involved appear not to question the assertion that FDI is essentially beneficial to all parties concerned.

The micro level failures to respect, protect and fulfill human rights point to the need for systemic change. The definition of rights-based investment offered above, in section one, comes close to what IAASTD and many others have identified as an urgent need. The first step in this direction is for governments to start applying human rights checks to their investment policies and to each

major investment project, whether private or public. For too long, FDI has been promoted as inherently a good thing, a sign of “global economic integration” that improves welfare. A rights-based approach is a reminder that states have an obligation to regulate investment. There is no neutral investment. Investment can create or foreclose options that affect people’s ability to feed themselves and their families, now and in the future.

There is need for profound change. Economic models that unquestioningly promote FDI should not be allowed to survive the crises they have generated. Governments need to take a fresh look at economics in general and at agriculture in particular. It will not be sufficient to just make a few concessions to development and environment, and then to proceed to smooth global investment in agriculture as recently pronounced at the G-8 summit in Italy (Reuters 2009).

The change implied is fundamental. It will require the support of social movements, civil societies and communities. It will take courage to put human rights law before commercial law. In particular states should:

- Assert the primacy of human rights law in the context of each investment treaty;
- Reject the emergence of a system of investment law in parallel with other obligations (Peterson 2009, Anderson and Grusky 2007);
- Insist that alleged breaches of investment treaties be settled publicly in international courts and in secrecy behind closed doors;
- Insist that the domestic legal system is exhausted before disputes are treated before international tribunals;
- Renegotiate or reject current investment treaties;
- Insist all new investment treaties conform to the human rights criteria outlined in section 1 above.

Respect for human rights does not preclude private profit. It simply asserts the primacy of human rights: the human right to adequate and appropriate food for all is the overriding obligation and objective.

---

<sup>1</sup> The term “human rights check” underlines the fact that the investment could also be ruled out as a result of such a check. A human rights check includes a human rights impact assessment .

<sup>2</sup> Ziegler, J. 2005. The Right to Food. Report of the Special Rapporteur. E/CN.4/2005/47. UN ECOSOC. January 24. [www.righttofood.org](http://www.righttofood.org)

<sup>3</sup> IAASTD, the "International Assessment of Agricultural Knowledge, Science and Technology for Development" was set up in 2002 by the World Bank and the FAO. The report mentioned was elaborated by hundreds of scientists over three years, and in 2008 approved by 58 governments.

<sup>4</sup> States overall state expenditure in agriculture as percentage of GDP was in 2004 for Kenya 3.6, Malawi 5.9, Mozambique 4.2, Nigeria 1.1, Uganda 3.5.

<sup>5</sup> Foreign direct investments in mining or petroleum affect the right to food as well, as can be seen by the numerous mining cases worked by FIAN International ([www.fian.org](http://www.fian.org)).

<sup>6</sup> Flourishing wetland sacrificed for sugar and biofuels, Tana Delta Statement by Paul Matiku, given at a press conference on 25th June 2008, [http://www.tanariverdelta.org/tana/press/articles/paul\\_matiku.html](http://www.tanariverdelta.org/tana/press/articles/paul_matiku.html)

<sup>7</sup> Ralf Leonhard, Report of a fact finding mission to Kenya (Interview on May 13th, 2009) FIAN International, to appear

<sup>8</sup> The Chinese company Beyond International Investment and Development Company Limited (CCECC) holds 60 % of the shares. CCECC is a joint venture by and amongst 4 shareholders, i. e., Nanjing Beyond Investment Ltd., Jiangning Economic & Technical Development Corp., China Civil Engineering Construction Corp. and China Railway Construction Corp. The latter two are state-owned. Nigeria's Lekki Worldwide Investment Limited (LWIL) holds the remaining 40 % of the shares. LWIL is a private company incorporated in March 2006 to promote and manage the development of the LFRZ.

<sup>9</sup> The Idasho, Idotun, Ilege, Imobido, Itoke, Okunraiye, Ilekuru, Tiye, and Imagbon-Segun.

## BIBLIOGRAPHY

Anderson, S., and S. Grusky. 2007. *Challenging Corporate Investor Rule*. *food&water watch/IPS*.

CBTF. 2008. *Organic Agriculture and Food Security in Africa*. UNCTAD-UNEP.

Cotula, L., S. Vermeulen, R. Leonard, and J. Keeley. 2009. *Land grab or development opportunity? FAO, IIED and IFAD*. <ftp://ftp.fao.org/docrep/fao/011/ak241e/ak241e.pdf>

Daily Nation News. 2008. *Qatar to fund Lamu port construction*. *Daily Nation News*, December 1, [www.nation.co.ke/News/-/1056/496966/-/tm5rcj/-/index.htm](http://www.nation.co.ke/News/-/1056/496966/-/tm5rcj/-/index.htm)

Hunter, D., J. Salzman, and D. Zaelke. 2005. *International Environmental Law and Policy*. New York: Foundation Press. 2nd ed.

IAASTD. 2008. *Agriculture at a Crossroads*. [www.agassessment.org](http://www.agassessment.org)

IUCN. 2008. *Policies that work for pastoral environments. A six-country review of positive policy impacts on pastoral environments*. Nairobi.

Maeresa, A. 2006. *Fate of Malawi's tobacco farmers goes under the hammer*. *Panos London Illuminating Voices*, August 8, <http://www.panos.org.uk/?lid=19774>

Mahalambe, N. 2008. *Caadp implementation: What difference can 10% make in advancing African agriculture?* ActionAid.

Miriri, D. 2008. *FEATURE – Kenya sugar, biofuel project stirs controversy*, *Reuters alernet*, July 20, <http://www.alertnet.org/theneews/newsdesk/L14523234.htm>

Peterson, L. 2009. *Human Rights and Bilateral Investment Treaties*. *Rights & Democracy*.

Pretty, J. 1995. *Regenerating Agriculture*. Earthscan.

Reuters. 2009. *G8 Backs Japan's Farmland Investment Principle Idea*. *FLEXNEWS*, July 7, [www.flex-news-food.com/console/PageViewer.aspx?page=24786&print=yes](http://www.flex-news-food.com/console/PageViewer.aspx?page=24786&print=yes)

Rights & Democracy. 2006. *The Right to Food in Malawi: Report of an international fact-finding mission*.

SERAC. 2009. *Imminent Forced Eviction of Twenty-six communities under the Lekki Free Trade Zone (LFTZ) Project in Lagos Nigeria*. <http://www.serac.org/pages.asp?id=295> (retrieved July 11, 2009)

Telegraph.co.uk. 2008. *Qatar to lease 100000 acres in Kenya in return for port loan*. *Telegraph.co.uk*, December 3, [www.telegraph.co.uk/news/worldnews/middleeast/qatar/3543887/Qatar-to-lease-100000-acres-in-Kenya-in-return-for-port-loan.html](http://www.telegraph.co.uk/news/worldnews/middleeast/qatar/3543887/Qatar-to-lease-100000-acres-in-Kenya-in-return-for-port-loan.html)

Yu, V., and F. Marshall. 2008. *Investors' Obligations and Host State Policy Space*. IISD/South Centre. *Conference Paper at the Second Annual Forum of Developing Country Investment Negotiators*, November 2-4, Marrakech, Morocco. [www.iisd.org/pdf/2008/dci\\_inv\\_obligations.pdf](http://www.iisd.org/pdf/2008/dci_inv_obligations.pdf)

Alexandra Spieldoch

## V. WOMEN AT THE CENTER OF THE GLOBAL FOOD CHALLENGE

The accounts of the global food crisis continue to trickle in. The overall picture is grim: achievements toward ending hunger and poverty are slow, stagnant or even being reversed. The FAO writes in its report, *The State of Food Insecurity in the World 2008*, that progress to eradicate hunger has been reversed amid the high food prices and in this period the poor have been hardest hit (FAO 2008, 8). The policies in place are simply not working to protect the most vulnerable populations. News coverage includes images that seem hardly imaginable: people eating mud biscuits in Haiti, women and children being shot by warlords in Somalia as they run to get their food aid rations, women and girls being raped multiple times while en route for food, water and fuel in conflict zones. According to the UN High Level Task Force on the Food Crisis, “the world food situation is rapidly being redefined [...] unprecedented increases in the price of food and overall import bills for the poorest countries, coupled with diminishing food stocks and difficulties accessing food by some communities, has created a host of humanitarian, socio-economic, developmental, political and security-related challenges” (HLTF 2008).

It is women and children who bear the brunt of the crisis. Women and children are disproportionately represented among the poorest in all societies. They are not only at risk because of decreased revenue and diminished food supply, they are also at higher risk from sexual violence and in relation to displacement, among other things. Policymakers have much more to do to address the complexity of this crisis from a gender perspective.<sup>1</sup>

Even as governments and international institutions recognize the impact of the food crisis on women, there is still little substantive analysis of why they are at particular risk and even less attention to what can be done about it. Incorporating gender often gets reduced to a conversation about safety nets rather than better rules. While safety nets really matter, the policy dialogue cannot stop here. More radical and sustainable solutions are needed – not only for women but for everyone. Official responses should be building on the existing leadership of women to break out of crisis mode.

This paper makes three points that contribute to the understanding of what has failed and makes proposals for the direction that food and agricultural policies might take from a right-to-food and gender-aware perspective.

The first is that the global food crisis and the long-term decline in agriculture over the last thirty years have worsened the situation for women producers and

food providers globally. While many women have been able to benefit from global markets, too many are left out and/or are hindered from being able to fully benefit due to their social status and unfair rules. Second, governments and institutions must prioritize gender in responding to the food crisis. Clearly, the time is ripe for leaders to increase funding and also to adopt a rights-based approach to food and agriculture that is committed to the empowerment of women. Third, women need the information and space to be able to participate in the formation, and lead in the implementation, of policy directives. Their knowledge and their presence are invaluable. This section offers some examples of successful projects spearheaded by women and recommendations as to what kinds of policy approaches can help to respond to the global food challenge from a gender perspective.

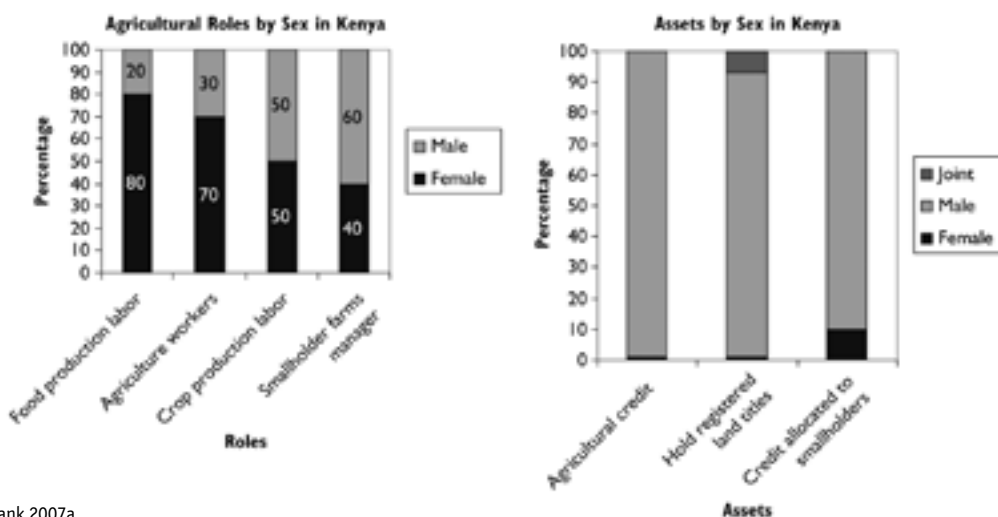
### 1. GLOBAL FOOD CRISIS – HURTING WOMEN DISPROPORTIONATELY

For women, the crisis compounds existing problems that are characterized by their social status and unrealized rights, particularly in agriculture. In times of crisis, they are exposed to more risk (UN 2008). Unfortunately, there is little gender-disaggregated data or media coverage of what women are experiencing. Yet Isatou Jallow, head of the World Food Programme’s gender unit, reports that women are shouldering the heaviest burden in the food crisis as the chief food providers (WFP 2009).

In most developing countries, women are the main food providers and those who take the responsibility for the care of their families in both the rural and urban sectors. In this crisis, they are experiencing increased hunger and other heightened problems such as lack of shelter, medical care and access to other basic needs. They are pushed to the limit.

As the majority of the world’s food producers, their struggle is immense (ILO 2009, 10). The FAO reports that the percentage of women active in agriculture is between 60 and 80 percent in the Least Developed Countries (LDCs) in Asia and Sub-Saharan Africa. Often referred to as the “feminization of agriculture,” the number of women in agriculture has been growing in developing countries.<sup>2</sup> Eighty-five percent of farms that provide agricultural value-added crops to the global market are no more than two hectares and the majority of these are run, though not usually owned, by women (Spielloch 2006) who lack access to land, water and other resources. Other women work as waged laborers. Often these jobs are temporary, low-paid, demand long hours and are not secure. In some cases, their work on the farm or in processing can last as long as 12 to 18 hours a day as is the case in asparagus production in Peru (Ferm 2008). Women workers are often subject to violence and sexual abuse. Historically, women have had more difficulty than men in getting loans, training and access to markets. The graphs below highlight the type of women’s employment in agriculture in Kenya and their lack of access to resources and credit.

#### ROLES AND ACCESS TO ASSETS BY WOMEN AND MEN IN THE AGRICULTURE SECTOR



Source: World Bank 2007a

Existing discrimination against women is exacerbated by the global financial crisis. In many areas the crisis has diminished the already low levels of available capital and the number of women-headed households is growing as men migrate from their rural communities to seek employment in urban centers. Even when they run the household, women are left with the responsibility but not the power to improve their lot. One major hurdle for them is that they do not have formal land rights. This is a serious problem in Africa, one that has proven difficult to reverse due to entrenched discrimination. Women generally have customary rights to land but seldom have formal legal rights and, therefore, no legal recourse when land is taken from them. Because they do not own their land, they have more difficulty obtaining resources or collateral to use as credit to grow their food. This dynamic contributes to the fact that the number of women working in the informal sector is growing. The fact that women do not have land rights means that they end up living on the margins (Kimani 2008, 10). Lack of land title is one of the most pressing issues of the food crisis and one of the biggest barriers for women in this food crisis.

Droughts and floods are negatively affecting food production in different parts of the world and are expected to get worse. The IPCC predicts that agricultural yields could be decreased by 50 percent in Sub-Saharan Africa by 2020 as a result of climate change (IPCC 2007). The UN reports that climate change has a disproportionate impact on women and children in West Africa (Shryock 2009). Women producers are more at risk for a variety of reasons. They bear the cost when weather ruins their crops. They must walk longer distances for water and firewood in times of drought. When they lose their crops, they lose income and often their children must abandon school to help out bring in money. Poverty and hunger decreases their long-term potential.

Agricultural research and development as well as extension programs have reinforced a male bias toward agricultural production (which also dates back to the colonial period), marginalizing women's approaches to farming. "Private sector research concentrates on internationally trade crops, but women tend to farm locally important crops such as sorghum, millet, and leafy vegetables" (Farnsworth and Hutchings 2009). Technological inputs have tended toward mechanized production and high-yielding results while marginalizing women's knowledge of production methods and biodiversity. As governments prioritize solutions to the food crisis, women's knowledge of food production and biodiversity is hardly visible.

## 2. FOCUSING ON GENDER

The international community has indicated that women's needs must be prioritized in order to resolve the food crisis. The FAO Secretariat writes, "to ensure sustainable global food security and promote sustainable management of water, forest and other natural resources, there should be special focus on small farmers, women and families and their access to land, water, inputs and financial services including microfinance and market" (FAO 2009). The World Bank increased its gender lending for agriculture and rural development, economic policy, private sector development and infrastructure – up from 25 percent to 34 percent from 2007-2008 (World Bank 2009). The Bill and Melinda Gates Foundation has developed a Gender Impact Strategy for Agricultural Development that would "mainstream gender into its income-generating activities, increase the quantity and quality of food, highlight gender dynamics in communities and ensure that gender becomes a high investment priority in agriculture" (Bill and Melinda Gates Foundation 2008). The EU and the U.S. have promised more aid for women in agriculture as part of their lending to developing countries.

When developing viable policy options, donors and policymakers need to assess the degree to which investment and trade will have a positive impact on growth and employment for women. They also need to understand where women fit into market practices and decisions. Unfortunately, a lack of available gender-disaggregated data means that women's contribution to agriculture is still poorly understood and this continues to be a major challenge.

Some believe women's empowerment will come from inserting them into global supply chains. For example, the World Bank is supportive of this approach. The notion is that if investors can secure a sound business environment, then they can help develop the capacity small-scale producers to be able to sell their goods to markets, contributing at different points in the chain of production while also contributing to the expansion of global food trade. The difficulty for women in this context is that it is unlikely that they are negotiating the terms of their role in the supply chain. Moreover, if the bottom line is about making more money and one of the simplest ways to do that is to squeeze small producers by not paying a fair price or engaging in unfair labor practices, it is unclear how female small producers would stand to gain.

This approach also has serious limitations in terms of incorporating those aspects of women's work that are underpaid and unaccounted for – in particular, their work as care

providers and the need for comprehensive approaches that are both quantitative and qualitative in nature. Of course, women producers need market access and the necessary resources to be able to participate in production that is sustainable and culturally appropriate. More importantly, they need land rights, information and a central role in the decision-making that affects their lives. Other needs include but are not limited to: affordable, accessible health-care and childcare; education; and freedom from sexual discrimination.

Mainstreaming gender into an already patriarchal system of production cannot be the solution. Women have rights. Adopting a rights-based approach is the appropriate way to rethink policies so that they eradicate hunger and poverty and adequately address gender in the process.

### 3. CONSIDERING A RIGHTS-BASED APPROACH

It is not easy to frame economic policies within a human rights framework. First, governments have favored economic policies over human rights law by establishing rules such as the dispute settlement body at the WTO and the investor to state provision in bilateral investment treaties. Second, human rights law and its interpretations do not specify the measures for implementation (Bill and Melinda Gates Foundation 2008). Governments are free to choose their economic policy, so long as it is supportive of positive outcomes for human rights. Third, many human rights abuses stem from transnational processes that favor corporate rights over national sovereignty and undermine governments' responsibility and capacity.

Nonetheless, human rights law and its implementation should frame policies being reviewed and developed for some of these reasons:

- 1) human rights are universal, indivisible and interdependent;
- 2) they are legally binding;
- 3) they emphasize equality and non-discrimination, with particular attention given to the most vulnerable;
- 4) they are based on participation, accountability and transparency; and
- 5) they are linked with international and extra-territorial obligations (Smaller and Murphy 2008).

The UN Human Rights Declaration<sup>3</sup> is groundbreaking, but is not ratified by member states. In this sense, the International Covenant on Economic, Social and Cultural

Rights has a more legal standing in that 160 states have ratified this Covenant to date (although a number of countries have expressed reservations or different interpretations of its contents).

The ICESCR's Article 11 specifies that everyone has the fundamental right to be free from hunger. This includes improving methods of production, conservation and distribution of food as well as ensuring equitable distribution of food in relation to need.

General Comment 12 is generally considered to be the authoritative interpretation of the right to food, but not all member governments accept it. In it, the Committee on Economic, Social and Cultural Rights (CESCR) stresses the importance of guaranteeing full and equal access to economic resources, particularly for women, including the right to inheritance and ownership of land and other property, credit, natural resources and appropriate technology; measures to respect and protect self-employment and work which provides a remuneration ensuring a decent living for wage earners and their families."<sup>4</sup> Recognizing that land rights and access to resources and decent wages are major barriers for women, this language supports a more equitable distribution of resources.

It also says, "The core content of the right to adequate food implies: the availability of food in a quantity and the quality sufficient to satisfy the dietary needs of individuals free from adverse substances and acceptable within a given culture; the accessibility of such food in ways that are sustainable and that do not intervene with the enjoyment of other human rights."<sup>5</sup> Cultural appropriateness and nutritious value of food cannot be delinked from women's knowledge as the providers of food.

Lastly, it says, "Fundamentally, the roots of the problem of hunger and malnutrition are not lack of food but lack of access to available food, inter alia because of poverty, by large segments of the world's population." While the G-8, the World Bank and private sector actors are proposing to increase food supply, the essential problem is related to poverty and access. These have worsened during this crisis, particularly for women.

The Convention on the Rights of the Child requires countries to recognize the rights of children to the highest attainable standard of health, including the provision of nutritious food. With the numbers of those hungry and with health problems growing the most rapidly among children, it is essential that they be safeguarded. As of December

2008, every country of the United Nations had ratified it except the U.S. and Somalia.

The Declaration on the Protection of Women and Children in Emergency and Armed Conflicts says, “women and children belonging to the civilian population and finding themselves in circumstances of emergency and armed conflict [...] shall not be deprived of shelter, food, medical aid, or other inalienable rights [...]”<sup>6</sup> Because women are so particularly vulnerable to violent crimes in this food crisis, governments and institutions must ensure their protection and that of their children.

The International Covenant on Civil and Political Rights says, “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas.” In most societies, women more than men are left out of decision-making and/or their concerns are not fully taken into consideration. The discrimination ranges from discrimination in the provision of education (to block girls’ access to schools), denial of women’s right to vote or otherwise participate in public life. The International Covenant on Civil and Political Rights has been signed by 174 states; all but 8 of them have ratified the treaty.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) calls on governments to pay special attention to rural women’s needs, to eliminate discrimination in rural areas, and to provide access for women to health, social security, training and education, loans, technology, water, adequate living conditions, sanitation, housing, supply and transport.<sup>7</sup> This language is important. However it is weak. Moreover, there is no reference to women’s right to food in CEDAW. Over ninety per cent of UN members are party to the convention.

The Beijing Platform for Action (BPFA) requires governments to ensure that trade would not have an adverse impact on women’s economic activities (both new and traditional), to make legislative reforms to give women equal rights to economic resources, to measure unpaid work on family farms, and to recognize women’s role in food security and as producers and to support indigenous women and traditional knowledge.<sup>8</sup> As with CEDAW, the BPFA’s language on the global economy is weak, equally so with regard to global food and agricultural markets.

Human rights language could guide policy reform of food and agriculture from a gender perspective. Yet existing language is not strong enough and women’s rights advocates have been not been central players in the international

debates around food and agricultural policy directions. As the FAO writes, “a lack of clarity remains with regard to the understanding of women’s rights and especially women’s right to food” (Rae 2008). This needs to be reversed.

#### 4. ENGAGING WOMEN, CONSCIOUSLY SUPPORTING WOMEN’S RIGHTS

New directions for food and agriculture must support the right to food and women’s rights. This is a challenge for all the known reasons: lack of political will, lack of support for the right to food, limited knowledge about what gender means, lack of data, diminished resources, women’s limited political voice, etc. At the very least, women should be in charge of developing and promoting programs that affect their lives.

The Gender in Agriculture Sourcebook (World Bank, IFAD and FAO 2009) published by the World Bank, IFAD and the FAO provides some examples of some successful projects that are useful for understanding what is needed in terms of hands-on approaches that also build on women’s knowledge and leadership. Out of many provided, here are a few:

*Credit – “A project in Niger (Project de Promotion de L’Utilization des Intrants Agricoles par les Organisations Paysannes) introduced an inventory credit approach that enables women and men to store their harvest in a warehouse until prices rise. The warehoused crops act as a guarantee, allowing farmers to access financial resources before their annual production is sold, or even without selling it. In this project, household well-being has improved in terms of the quantity of food consumption. The project has particularly benefited middle-aged women as social norms prevent younger women from engaging in activities that require movement within or outside the village.” (Box 5.6)*

*Self-Help Groups (SHGs) – In India the IFAD’s North Eastern Region Community Resource Management Project for Upland Areas have used SHGs to achieve a wide array of benefits. Women members make weekly savings used for income earning, health, and education needs of the village. The group acquired a rice and maize de-husking mill to save labor and effort on the part of villagers who had to travel long distances for this. Additionally, the group has revived the local market in Nonglang, which previously opened once a week. Now it opens daily, making the procurement of food and other items much easier for all in the village. (Box 15.5)*

*Homestead production – In the Saturia region of Bangladesh, credit and training were provided for women to grow vegetables on small plots on or near their household compounds. Because the vegetables were cultivated on homestead land, it was easier for landless and land-poor households to participate, and their vegetable consumption increased. Women could coordinate vegetable cultivation relatively easily and flexibly with their many other household tasks and without risking the harassment and loss of reputation they would suffer from working outside it. (Box 12.8)*

*Rural Infrastructure – The Bangladesh Second Rural Roads and Market Project (1996 2003) provided women the opportunity to access labor, product, and financial markets for their own economic empowerment. A social and gender assessment revealed a demand for mechanisms to provide women access to labor and product markets, equal wages, participation, and decision making. In response, the project reserved 30 percent of the road construction jobs, 30 percent of the market management committee positions, 30 percent of the shops, and 100 percent of the tree plantation and maintenance work for women. The project also facilitated the formation of women’s contracting societies, traders’ associations, self-help groups with savings and revolving loan funds, and microenterprises for road rehabilitation. Gender was also mainstreamed in the government agency to ensure sustainability after the completion of the project and to scale up the approach in other sectors, such as water management, urban development, and flood protection. There was a 50 percent increase in women’s employment and equal wages. Girls’ and boys’ enrollment in schools has increased dramatically as well. (Box 9.3)*

In terms of legal approaches to realize the right to food, there are other important approaches. Perhaps the most important are the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food, which were adopted in 2004 (FAO 2005). These guidelines provide more of a basis for countries meet their right to food obligations. They can do so by creating and implementing domestic laws to protect the most vulnerable: women, children and indigenous communities, landless, smallholder producers and waged workers in the food system. Examples include land redistribution laws and entitlement programs such as joint adjudication of land in Latin American countries and affirmative action targeting women landowners in South Africa (FIAN International 2002). As well, countries would need to challenge patriarchal practices that discriminate against women having control over resources.

Countries should also review and revise international trade and investment rules based on whether they contribute or hinder the realization of the right to food from a gender perspective. Women’s groups could be part of monitoring country-level progress and proposing policy solutions. For example, women small-scale producers, including indigenous women, consumer rights advocates, economists and legislators need to be brought into these international debates (their current absence is noted) and become agents in the restructuring process.

In late 2008, the UN General Assembly adopted the optional protocol to the ICESCR. It now needs to be ratified by governments. It essentially creates an international mechanism for filing complaints with regards to right to food violations. It could also be a means of recourse for women who are marginalized and are experiencing discrimination in the food system.

## 5. GENDER AND GLOBAL GOVERNANCE

The UN Special Rapporteur on the right to food, Olivier de Schutter, supports using the Right to Food as a compass to reform international responses to the food crisis.<sup>9</sup> He recommends actions that are helpful and that could be defined and promoted by women leaders.

One is to tackle volatility in international agricultural markets by measures such as establishing food reserves. While much still needs to be sorted out regarding the nature of reserves that are developed, including the level at which they should operate and the best means for their implementation, they are important for stabilizing price fluctuations in markets and for promoting food security. Volatile markets and food insecurity have been crippling for importing countries. Establishing reserves is an important pillar of reform and should be supported as one tool to regulate markets that could also support women’s rights. Reserves could replace inappropriate food aid programs that have contributed to dumping and have undermined small-scale farmers. A fair return to farmers for their produce would lift women producers out of poverty and contribute to food security.

Another is for countries to build and implement social protection schemes for the most vulnerable. Of course, this area is one where women’s concerns tend to have priority, and not without reason. As the providers of social services, even more so in times of crisis, women need the proper support from their governments and international institutions to design and implement needed programs that will

ensure access and distribution of food as well as other basic needs. To be clear, social protections are not just about need. They are basic human rights.

If the food crisis has taught the world community something, it is that things can no longer be business as usual. Macroeconomic policy should support a variety of measures that will help to achieve the right to food. These include, but are not limited to, tariffs and measures to block import dumping, reserves, commodity exchange regulations, and extraterritorial obligations on all states to regulate external activities of transnational corporations such as do no harm policies and mandatory codes of conduct for international investment.

Finally, stronger and more effective institutions should be working together to support a model for food and agriculture that strengthens human rights. A strengthened UN working with other institutions, governments and civil society is best equipped to lead global governance reform in food and agriculture in support of women's rights.

## 6. CONCLUSION

It is to be hoped that what emerges out of this crisis is overarching reform that builds on the positive role of women in food and agriculture but also builds on their struggles to realize their human rights. It is an obvious, common sense response to the global food challenge. Without doubt, women's rights must be the center of any long-lasting reform.

<sup>1</sup> A gender analysis is not just about women but focuses on the social, cultural, economic and political structures that are shaped by different roles played by women and men in the family and the community. Because of the particular challenges that women face due to their social status, the analysis in this paper focuses on women more particularly.

<sup>2</sup> Gender and Food Security. FAO <http://www.fao.org/Gender/en/agri-e.htm>

<sup>3</sup> Note: This list is not exhaustive.

<sup>4</sup> General Comment 12 on the Right to Adequate Food. <http://www.unhchr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9>

<sup>5</sup> Ibid.

<sup>6</sup> <http://www2.ohchr.org/english/law/pdf/protectionwomen.pdf>

<sup>7</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), United Nations, 1979. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

<sup>8</sup> Beijing Platform for Action. "Women and Poverty" chapter from Beijing Platform for Action, United Nations Division on the Advancement of Women (DAW), 1995.

<sup>9</sup> Wordpress.com blog. The Food Crisis Is Not Over Our Obligations Go Beyond Fixing the Financial System. Posted June 30, 2009.

## BIBLIOGRAPHY

Bill and Melinda Gates Foundation. 2008. *Gender Impact Strategy for Agricultural Development*. June, 2008.

FAO. 2005. *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*. Rome. <http://www.fao.org/docrep/meeting/009/y9825e/y9825e00.HTM>

FAO. 2008. *The State of Food Insecurity in the World*. Rome.

FAO. 2009. *Secretariat Contribution to Defining the Objectives and Possible Decisions of the World Summit on Food Security on 16,17, and 18 November, 2009*. FAO Secretariat Draft Declaration. August, 2009.

FAO Secretariat Draft Declaration. August, 2009.

Farnsworth, C., and J. Hutchings. 2009. *Organic Agriculture and Women's Empowerment*. IFOAM.

Fern, N. 2008. *Non-traditional Agricultural Export Industries: Conditions for Women Workers in Colombia and Peru*. International Labor Rights Fund.

FIAN International. 2002. *Land in the Hands of Women? - Agrarian Reform, Land Markets and Gender*.

HLTF. 2008. *Comprehensive Framework of Action*. New York. <http://www.un.org/issues/food/taskforce/Documentation/CFA%20Web.pdf>

ILO. 2009. *Global Employment Trends for Women*. Geneva. March, 2009.

IPCC. 2007. *Climate Change: Synthesis Report*. November, 2007.

Kimani, M. 2008. *Women Struggle to Secure Land Rights: Hard Fight for Access and Decision-Making Power*. *Africa Renewal*, Vol. 22 #1: 10-13.

Rae, I. 2008. *Women and the Right to Food: International Law and State Practice*. Right to Food Unit, FAO.

Shryock, R. 2009. *UN Says Climate Change Hurting African Women*. *Voice of America*, September, 17.

Smaller, C., and S. Murphy. 2008. *Bridging The Divide: A Human Rights Vision for Global Food Trade*. IATP. November, 2008.

Spieldoch, A. 2006. *A Row to Hoe: the Gendered Impact of Trade Liberalization on Our Food System, Agricultural Markets and Women's Human Rights*. IATP and IGTN.

UN. 2008. *Women Hold the Key to Breaking Out of the Global Food Crisis*. UN News Centre, May 1, <http://www.un.org/apps/news/story.asp?NewsID=26536&Cr=food&Cr1=crisis>

WFP. 2009. *Women Shoulder Heaviest Burden in Global Food Crisis*. WFP News, March 5, <http://www.wfp.org/stories/women-shoulder-heaviest-burden-global-food-crisis>

World Bank. 2009. *World Bank Increases Gender Support and Lending in Developing Countries*. News Release No: 2010/004/PREM. July 2.

World Bank, IFAD and FAO. 2009. *Gender and Agriculture Sourcebook*.