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**Food Sovereignty:
A Strategy for the Realization of the Right to Food**

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I. THE RIGHT TO FOOD:

The right to food has been universally acknowledged as a fundamental human right. While Article 25 of the Universal Declaration of Human Rights was the first to acknowledge a right to food, Article 11 of the International Covenant on Economic, Social and Cultural Rights codified the right to food in international law and linked the right to food to the “inherent dignity of the human person.”¹ According to the Committee on Economic, Social and Cultural Rights, States have an obligation to ensure that all persons under their jurisdictions have access to food and to be free from hunger. Nonetheless, the right to food is subjected to regular violations in communities around the globe that face food insecurity, undernourishment and hunger. The U.N. Food & Agricultural Organization has reported that more than one billion people in the world go hungry and undernourished.² A significant majority of those that are affected by food insecurity are small food producers and agricultural workers.

Human Rights Advocates (HRA) continues its work on the right to food with a focus on food sovereignty. This report discusses the negative effect that food aid and practices such as large-scale land acquisitions have had on the food sovereignty of recipient or target nations. The report also makes recommendations to the Council and to recipient and donor nations to address the problems that food aid perpetuates, through application of the principles of food sovereignty in the provision of food aid.

¹ Committee on Economic, Social, and Cultural Rights, General Comment 12, E/C.12/1995/5 at para. 4. (12 May 1999)

² Food and Agricultural Organization of the UN, The State of Food Insecurity in the World, Rome, 2009 at p 11, available at: <ftp://ftp.fao.org/docrep/fao/012/i0876e/i0876e02.pdf>

II. FOOD SOVEREIGNTY:

One concept that has been at the forefront of the discourse on the right to food, and has the potential to make the right to food a reality, is food sovereignty. Food sovereignty has been defined as the right of people to healthy and culturally appropriate food produced, to the extent possible, locally, through ecologically sound and sustainable methods.³ The concept also incorporates the right of people to define their own food and agriculture systems by putting those who produce, distribute and consume food at the heart of food systems and policies, rather than the demands of markets and corporations. Food sovereignty prioritizes local and national economies and markets and empowers local producers, distributors and consumers while promoting environmental and economic sustainability.⁴

By seeking to rebuild national and local food systems through the empowerment of small hold farmers, the concept of food sovereignty prioritizes the self-identified needs of recipients of aid instead of the interests of transnational corporations that have dominated international agribusiness in the past century. In its 2008 Resolution, the General Assembly acknowledged food sovereignty as a viable solution to address the issues of food insecurity. The Resolution notes:

“ The need to further examine various concepts such as, inter alia, ‘food sovereignty’ and their relation with food security and the right to food, bearing in mind the need to avoid any negative impact on the enjoyment of the right to food for people at all times. “⁵

Pursuant to the International Covenant Economic, Social and Cultural Rights for the right to food to be realized, food must be physically accessible in adequate

³ Nyelieni Declaration, <http://www.landaction.org>

⁴ *Id.*

⁵ Resolution adopted by the General Assembly on the right to food, A/RES/63/187 at para 14 (December 18 2008)

quantities.⁶ It must be culturally acceptable, nutritious and of good quality.⁷ And lastly, it should be regularly available and sustainable, such that the food security of the beneficiary nation and availability of food to future generations are preserved.⁸ These elements of the right to food were reaffirmed at the World Food Summit where “the right of everyone to have access to safe and nutritious food” was declared to be “consistent with the right to adequate food & the fundamental right to be free from hunger.”⁹

a) Support for Food Sovereignty:

A number of international instruments acknowledge the role of food sovereignty in advancing the realization of the right to adequate food. The Food and Agricultural Organization’s Voluntary Guidelines,¹⁰ dictate that the donor States must provide food aid in such a way that promotes food safety and does not disrupt local food production. Food aid policies must support national efforts by the recipient States to achieve food security.¹¹ This empowers recipient States to direct and inform aid policies.

The Food Aid Convention (FAC), a legal instrument of the International Grains Council¹² echoes the principles set forth by the FAO Guidelines. The purpose of the FAC is to “contribute to the world food security and to improve the ability of the international community to respond to emergency food situations and other food needs of developing

⁶ Committee on Economic, Cultural and Social Rights, General Comment 12, E/C. 12/1999/5 at para. 14 (12 May 1999).

⁷ *Id.*

⁸ *Id.*

⁹ World Food Summit, Rome Declaration on World Food Security (November 1996) Available at: <http://www.fao.org/docrep/003w3548e00.htm>

¹⁰ *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security*, (adopted by the 127th Session of the FAO Council, November 2004), available at <http://www.fao.org/docrep/meeting/009/y9825e/y9825e00.HTM>.

¹¹ FAO Voluntary Guidelines, 15.1

¹² The International Grains Council (IGC) is an intergovernmental organization. Its functions are to oversee the implementation of the Grains Trade Convention (1995); to discuss current and prospective world grain market developments; and to monitor changes in national grain policies and their market implications. The IGC Secretariat, based in London also services the Food Aid Committee, established under the Food Aid Convention (1999).

countries.”¹³ The FAC highlights the importance of a beneficiary focused approach and calls for and underscores the importance of a needs evaluation as a means to enhance food security in recipient countries.¹⁴ While both FAO Guidelines and the FAC are clear in setting forth the principles that should govern the provision of food aid, failure of States to adhere to said principles has resulted in threats to food sovereignty in recipient States.¹⁵

The Cordoba Declaration on the Right to Food and the Governance of Global Food and Agricultural Systems also adheres to the core principles of food sovereignty. It identifies “the lack of protection of small hold farmers and native people against the industrialization of agribusiness.” The Cordoba Declaration encourages States to “revise policies, and practices to guarantee that the food insecure can feed themselves directly from productive land or other natural resources.”¹⁶

The Special Rapporteur on the right to food, Olivier De Schutter, in his December 2009 Report addressed the specific needs of smallholders and identified them as the “single most important group that is food insecure in the world today.”¹⁷ Among the recommendations that he made, the Special Rapporteur called upon States to protect agricultural workers and to reinforce the bargaining power of smallholders.¹⁸ The Special Rapporteur’s recommendations focus on supporting small hold farmers to

¹³ Food Aid Convention, Article I

¹⁴ Food Aid Convention, Article VIII

¹⁵ Sak Vid Pa Kanpe, The Impact of U.S Food Aid on Human Rights in Haiti, available at: www.chrgj.org/projects/docs/sakvidpakanpe.pdf

¹⁶ Cordoba Declaration on the Right to Food and the Governance of the Global Food and Agricultural Systems, available at: www.fao.org/righttofood/download_2008/cordoba_declaration_final.doc (December 2008)

¹⁷ Report of the Special Rapporteur on the right to food, Agribusiness and the right to food, A/HRC/13/33, at para. 28 (December 2009) Available at:

http://www.srfood.org/images/stories/pdf/officialreports/20100305_a-hrc-13-33_agribusiness_en.pdf

¹⁸ *Id.*

produce food for local consumers and tapping into their specific knowledge to get the country to be increasingly food sovereign. Furthermore, a recent study of 286 projects in 57 developing countries showed that the use of small-scale, low external input (resource-conserving) agricultural practices increases yields an average of 79%.¹⁹ Foreign investment should, therefore, be guided by these principles, and should promote sustainable agriculture that “benefits small-holders who are the most in need of support and where the impact to alleviate poverty will be the greatest.”²⁰

In 2008, the same year when the General Assembly included food sovereignty language in its resolution, Ecuador by addition to its Constitution, declared that the State must promote food sovereignty.²¹

III. NOT ALL FORMS OF FOOD AID ARE “EQUALLY BENEFICIAL” TO RECIPIENT NATIONS:

Food aid has become the most significant tool in addressing problems of hunger and undernourishment. While the provision of direct food aid has saved thousands of lives in emergency situations, non-strategically delivered food aid continues to have a significant negative impact on food security. Aid can undermine the livelihood of local farmers and local production and thus in the medium and long-term it can undermine sustainable access to food for the recipient state.

Certain forms of aid are particularly damaging to the local agriculture in recipient nations. Such aid undermines the food sovereignty of the nation and can dis-incentivize

¹⁹ Resource Conserving Agriculture Increases Yields in Developing Countries', Environmental Science & Technology, vol. 40 (2006) Available at: http://www.srfood.org/images/stories/pdf/otherdocuments/20100513_climate-change-and-the-human-right-to-adequate-food_en.pdf

²⁰ Report of the Special Rapporteur on the right to food, Building Resilience: A human rights framework for world food and nutrition security, A/HRC/9/23 at para. 8 (September 2008)

²¹ Constitution of Ecuador, Section I. Article 13, available at: <http://asambleanacional.gov.ec/documentos/Constitucion-2009.pdf>

local production, hence fostering dependency on external sources. Tied aid is one such form of aid. Tied aid is foreign aid that must be spent in the country providing the aid (the donor country) or in a group of selected countries. A developed country can therefore make a loan or a grant to a developing country, but mandate that the money be spent on goods or services produced in the donor country. Untied aid on the other hand has no geographical limitations, and can support or help the development of agricultural systems in the recipient nations by financing infrastructure and other agricultural assistance programs in order to promote robust and sustainable food production within the recipient nation.²²

An OECD report found that the motivations for tying aid were both economical and political. While the national politics of the donors plays a role in such decisions, the economic reasons on their own may sufficiently explain this inclination towards giving tied aid. By tying aid the donor country aims to raise its own exports and support its own agriculture.²³ However, the practice of tying aid prioritizes the needs of the donor country's agribusiness over the needs of the recipient nation and undermines the realization of the right to food by harming the sustainability of food production, and future food security.²⁴

While most major food aid donors have rejected the idea of tied aid as an efficient means to provide food aid, nearly all the food that the United States gives in the form of aid is grown in and sent from the United States to the recipient nations. Out of the three million tons of food that the United States government provided, 95 percent of the aid

²² Organization of Economic Co-operation and Development, The Tying of Aid, available at: <http://www.oecd.org/dataoecd/16/56/29412505.pdf>

²³ *Id.*

²⁴ Sak Vid Pa Kanpe, The Impact of U.S Food Aid on Human Rights in Haiti, available at: www.chrgj.org/projects/docs/sakvidpakanpe.pdf

came directly from the United States. On the contrary, 100 percent of all food aid provided by the Netherlands is acquired through local or regional purchase. This means that none of the food aid that the Netherlands provides is tied.²⁵ Untying aid can make aid more efficient by reducing costs such as transportation of food aid and related costs and by allowing donors to take greater care in aligning their aid programs with the objectives and priorities set by recipient countries, while preserving local agricultural systems.²⁶

Another form of aid that has a chilling effect on the local production is monetized food aid. Certain U.S. NGOs are authorized to sell non-emergency food aid in local markets. The money they raise is used to finance development projects or cover their operational costs in the recipient nations. However this form of aid, much like tied aid floods local markets with highly subsidized and artificially inexpensive food, and inflicts serious damage on local farmers and producers. Although local consumers may benefit in the short-term from cheap food, the practice drives local producers out of business and interferes with the right to food by adversely impacting the sustainability of food production of recipient nations.

Haiti presents a case study of the ill effects of food aid. Haiti has been receiving food aid for over half a century yet more than three-quarters of the population remains unable to fulfill the basic need for food. In 2008 local production amounted to less than 42% of country's food consumption, compared to over 80% thirty years ago.²⁷ Food aid

²⁵ *Id.*

²⁶ Organization of Economic Co-operation and Development, The Tying of Aid, available at: <http://www.oecd.org/dataoecd/16/56/29412505.pdf>

²⁷ World Food Programme; at www.wfp.org/fais/quantity-reporting

to Haiti continues to undermine its food sovereignty since the January 12, 2010 earthquake.²⁸

In Haiti, where 70 percent of the population depends directly on the agricultural sector for their livelihood, the impact of tied food aid has been devastating.²⁹ The influx of food grown in other countries—most notably food exported from the United States—has reduced prices for locally produced food and has discouraged local production.³⁰ Further, the food aid from the United States always comes in the form of in-kind donations and cash donations are rarely made for purchase of food on the local markets. Tied food aid has undermined Haiti’s ability to produce food and to feed its population and has created a dependency on foreign food imports. These patterns were being pointed to even prior to the 2010 earthquake. Since the earthquake 1.3 million Haitians have been reportedly displaced leaving food security in an even more precarious place.³¹

Since 1990 U.S. NGOs that receive food from USAID have been authorized to sell non-emergency aid in local markets. In fact, Congress now requires that 15 % of all non-monetized aid under Title II be monetized. In reality, the amount of food aid that is monetized exceeds this statutory minimum. In 2008, two-thirds of all U.S. non-emergency food aid was monetized.³² A large percent of this non-emergency aid was sold in the Haitian market. The U.S. Government and Accountability Office has called this practice “inherently inefficient use of food aid” because it required NGO’s to divert

²⁸ Miami Rice: The Business of Disaster in Haiti; at <http://www.towardfreedom.com/home/americas/2212-miami-rice-the-business-of-disaster-in-haiti>

²⁹ World Food Programme; at www.wfp.org/fais/quantity-reporting

³⁰ Sak Vid Pa Kanpe, The Impact of U.S Food Aid on Human Rights in Haiti, available at: www.chrgj.org/projects/docs/sakvidpakanpe.pdf

³¹ *Id.*

³² *Id.*

resources from programmatic work to procure, ship, handle, market and sell food.³³

Monetization undermines the ability of local farmers to continue to make a living and thus poses a threat to local agricultural systems.³⁴

Food Aid Programs such as the ones implemented in Haiti have not only been harmful to country's food sovereignty, many have also been ineffective in combating food insecurity in the short-term. Results from a recent study conducted in Haiti by RFK Center for Justice and Human Rights revealed that the provision of food aid has not adequately fulfilled the need for food that families have. A significant number of households in Hinche, Haiti where a focus group was conducted reported that members of the family including children continue to have to go to bed hungry.³⁵ Moreover, the U.S. programs in Haiti have flooded the local markets with heavily subsidized and artificially inexpensive products making local production unviable.³⁶ While emergency situations may be less conducive to local food procurement, food aid even under those circumstances should promote the principles of food sovereignty and should protect the interest of local producers. If the United States continues to provide all the aid that they give to Haiti in the form of tied aid, the future of Haiti's agricultural sector remains under threat.³⁷

Food aid at least in the foreseeable future will play a significant role in the response to food insecurity in Haiti, however, without a change in the how aid is provided, the negative impact of food aid will continue to undermine food sovereignty of

³³ *Id.* citing United States Government Accountability Office, Foreign Assistance: *supra* note 44

³⁴ Monetization of Food Aid: Reconsidering U.S. Policy and Practice, available at: <http://www.worldhunger.org/articles/09/books/simmons.htm>

³⁵ *Id.*

³⁶ *Id.*

³⁷ Miami Rice: The Business of Disaster in Haiti; at <http://www.towardfreedom.com/home/americas/2212-miami-rice-the-business-of-disaster-in-haiti>

recipient nations while barely meeting the immediate need for food in those countries. Food aid, therefore, must be a reliable tool to address the concerns of immediate and long-term food insecurity, and should promote just and sustainable access to food while furthering local production.

IV. APPLICATION OF AID EFFECTIVENESS STANDARDS TO FOOD AID—A MODEL THAT PROMOTES FOOD SOVEREIGNTY:

The 2009 Report of the Special Rapporteur on the right to food emphasizes that States are required to comply with human rights principles when providing food aid, even though food aid is a voluntary commitment.³⁸ It should follow then that provision of food aid should comply with the principles of Aid Effectiveness as set forth in relevant international instruments—the Paris Declaration of 2005 and the Accra Agenda of 2008. These principles seek to ensure that food aid is used as a tool to promote the realization of the right to food. Significantly, the Special Rapporteur underscores that a participatory process should be identified so that the beneficiaries of food aid, including the small hold farmers that are the most adversely affected by food aid policies are able to influence the strategy for the provision of food aid. This would ensure that the needs of the local population are at the forefront of the policies guiding aid delivery.

A needs-based approach is also critical for improving the cultural acceptability and nutrition of the food that is provided. Moreover, in order to ensure that the aid provided is needs based, the Special Rapporteur encourages countries to ask “For whose benefit?” so that the aid is actually benefitting its intended recipients. The Human Rights

³⁸ Report of the Special Rapporteur on the right to food, A/HRC/10/5, at para. 41 (February 2009)

Council has encouraged States to establish processes that will ensure participation of the recipients in designing policies aimed at the realization of the right to food.³⁹

In order to effectively apply the principles underscored by the aforementioned instruments and by the Special Rapporteur on the Right to Food, one framework that is being proposed is the application of aid effectiveness standards to the provision of food aid. This would mean that food aid like all other forms of aid should effectively promote the right that it is aiming to promote. The Paris Declaration on Aid Effectiveness and the Accra Agenda for Action lay out the obligations that countries have in the providing aid.

The Paris Declaration is focused on five mutually reinforcing principles. Donor States committed themselves to recognizing the *ownership of recipient States* over aid; to engaging in *aid harmonization* with other donors such that the efforts of donors are better coordinated and duplication is avoided; to lining up aid behind the priorities outlined by the recipient States and in building *effective partnerships* with local governments; to *tracking and accounting* for results; and to *mutual accountability* of donor and recipient nations to each other achieved by increased transparency in aid.⁴⁰

The Paris Declaration shifts the focus from the donor to the recipient of aid and promotes the core principles of food sovereignty in doing so. Local markets, producers and consumers are empowered and gain ownership of the aid that they are receiving. There is a greater investment in the infrastructure so that the country can sustainably meet its food needs.

The Accra Agenda for Action makes recommendations based on evaluations that were conducted after the adoption of the Paris Declaration. One area where progress was

³⁹ *Id.*

⁴⁰ The Paris Declaration on Aid Effectiveness (March 2005), available at: http://www.oecd.org/document/18/0,3343,en_2649_3236398_35401554_1_1_1_1,00.html

lagging was recipient states' contribution to overall aid strategies and importance of building capacity and infrastructure within developing countries. The Agenda calls upon the developing countries' governments to take stronger leadership on development policies and on donor states to support these efforts by respecting countries' priorities, investing in their human resources and institutions, making greater use of local systems to deliver aid, and by further increasing predictability of aid flows.⁴¹

As such, in the context of food aid, the principles of Aid Effectiveness underscore the key concepts of food sovereignty. Just like food sovereignty places local food producers at the center of decision-making and policy, the Paris Declaration and the Accra Agenda put ownership over aid on recipient nations. Application of these standards to food aid would improve the quality of aid, contribute to the realization of the right to food and also protect human rights as suggested by the Special Rapporteur.

V. LAND GRABBING, INSECURITY OF LAND TENURE & THE IMPLICATIONS ON FOOD SOVEREIGNTY:

Land-grabbing is another practice that undermines food sovereignty. In Madagascar, the concerted actions of public and private actors led to the implementation of policies that were aimed at snatching up farmlands from local farmers for export oriented agricultural activity.⁴² Madagascar is one of the poorest countries in the world where two-thirds of the population lives below the poverty line, one third are malnourished and more than half a million people depend upon food supplies from the international community. The plans for large-scale agro-industrial agriculture for export from existing farmland threatened to dramatically exacerbate the situation. Displacement

⁴¹ Accra Agenda for Action (2008), available at: http://www.oecd.org/document/18/0,3343,en_2649_3236398_35401554_1_1_1_1,00.html

⁴² CGIAR Joins Global Farmland Grab, available at: <http://farmlandgrab.org/7383> (September 2009)

of small hold farmers created fear of rising food prices and hunger. This resulted in a political power struggle and the overthrow of the government that had engaged in the secretive negotiations that would have left the country even more dependent on food aid to feed its people.⁴³

The International Food Policy Research Institute estimates that 15 to 20 million hectares of land—mostly in Africa and Asia, has recently been bought, leased, or are under negotiation.⁴⁴ This acutely impacts the impoverished populations in the target nations who give up control of large tracts of fertile land. These are also the populations that are most food insecure to begin with, and such action undermines their food sovereignty further. As noted above, small landowners fall within this impoverished segment “as the single most important group of those who are food insecure in the world today.”⁴⁵ Although much of the language that is used in these land acquisition agreements is framed in terms of attaining food security, large scale food outsourcing, results in the displacement of small hold farmers, and the perpetuation of industrialized agriculture. The promised benefit to the target nations—in the form of infrastructure improvements—are hardly sufficient to recoup the cost that the country’s population will pay in terms of giving up access to food, for the term of the lease.⁴⁶

Moreover, there is a need to protect small landholders from both foreign action as in Madagascar, and local government action. The Special Rapporteur’s Report on the right to food in China points to the property rights of smallholders as a potential opportunity to further food security. In fact this may be relevant to all states, especially

⁴³ CGIAR Joins Global Farmland Grab, available at: <http://farmlandgrab.org/5661> (June 2009)

⁴⁴ CGIAR Joins Global Farmland Grab, available at: <http://farmlandgrab.org/7383> (September 2009)

⁴⁵ Supra note 17.

⁴⁶ CGIAR Joins Global Farmland Grab, available at: <http://farmlandgrab.org/5661> (June 2009)

ones that unlike China are food insecure.⁴⁷ Lack of legal protection leaves smallholders without security in their ownership of land, and leads to unpredictable agricultural yield from year to year. In fact a small landowner cannot assuredly be food sovereign one year from the next unless they can hold that land the next year. It would therefore further food sovereignty of a state if its government could work to better secure the property rights of smallholders of agricultural lands.

Agrarian reform should be aimed at legitimizing the property and territorial rights of small producers and landless agricultural workers, both men and women. The concentration of agricultural lands and markets in fewer and fewer hands must be reversed, and a concerted effort made to grant, and in some cases to restore land tenure and property rights to indigenous, rural populations.⁴⁸

VI. RECOMMENDATIONS

- A. HRA's Recommends that the Council recognize that:
- Food aid must promote the right to food through the concept of food sovereignty.
 - Provision of food aid should be governed by aid effectiveness standards of the Paris Declaration and the Accra Agenda.
- B. HRA Calls upon Donor Nations to:
- Implement food aid obligations according to the FAO Guidelines, the Paris Declaration and the Accra Agenda.
 - Renew commitment to international agreements on aid effectiveness including ownership and empowerment of recipient States and aid harmonization.
- C. HRA Calls upon Recipient Nations to:
- Ensure that the standards set forth above are followed in food aid strategies.
 - Ensure adequate representation of small farm holders in informing the national food security strategies.
 - Strengthen property rights of small hold farmers as a means to the right to food.

⁴⁷ Report of the Special Rapporteur, at: <http://www.srfood.org/images/stories/pdf/officialreports/de-schutter-china-statement.pdf>

⁴⁸ USAID Report, Land tenure, Property Rights, And Food Security, available at: <http://www.rmportal.net/library/content/land-tenure-property-rights-and-food-security>