

Distr.: Restricted
22 December 2010

English only

Human Rights Council

Advisory Committee

Sixth session

17 – 21 January 2011

Item 2 (a) (i) of the provisional agenda

Requests addressed to the Advisory Committee

stemming from Human Rights Council resolutions:

Reports currently under consideration by the

Advisory Committee: right to food

Study on discrimination in the context of the right to food

Prepared by the drafting group of the Advisory Committee on the right to food

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–6	3
II. The international legal framework on the right to food and non-discrimination.....	7–16	4
III. Discrimination in the context of the right to food.....	17–53	6
A. Discrimination in terms of region, markets, prices, subsidies, resources and infrastructure services.....	17–26	6
1. Regional inequalities and the increasing marginalization of the most vulnerable groups.....	17–20	6
2. Markets, prices, resources and infrastructures services.....	21–22	7
3. The role of agriculture trade, subsidies and international companies in the context of the right to food.....	23–26	7
B. Discrimination against people working in rural areas.....	27–28	8
C. The right to food and the urban poor.....	29–32	9
D. Discrimination against women.....	33–39	10
1. Rural women, access to land, production and markets.....	34–37	10
2. Women and access to education, employment and health care.....	38–39	11
E. Discrimination against children.....	40–44	11
F. Discrimination against refugees.....	45–48	13
G. Other vulnerable groups.....	49–53	13
IV. Anti-discriminatory policies and strategies.....	54–75	14
A. Increased congruence of development efforts and trade with human rights law.....	54–56	14
B. Concepts and instruments promoting the right to food of people working in rural areas.....	57–59	15
C. Legal and social protection of the urban poor.....	60–63	15
D. Legal and social protection of women.....	64–69	16
E. Legal and social protection of children.....	70–73	17
F. Legal and social protection of other vulnerable groups.....	74–75	18
V. Good practices.....	76–90	18
A. Good practices in respect to people working in rural areas.....	76–80	18
B. Good practices relating to the urban poor.....	81	20
C. Good practices in respect to women.....	82–85	20
D. Education systems, school meals and other practices for combating hunger malnutrition among children.....	86–90	21
VI. Conclusion.....	91–93	22

I. Introduction

1. While governments have pledged to fulfill the Millennium Development Goals (MDGs), notably to reduce extreme poverty and hunger, the bleak reality shows that an infamous record has been broken in 2009: 1 billion people suffered of undernourishment¹. Many of the hungry are in the impossibility to realize their right to food because of underlying patterns of discrimination. For example, article 139 of the Labour Code of Guatemala describes rural women as “helpers” of the male agricultural workers, rather than as workers entitled to receive their own salary.² Such *de jure* discrimination of Guatemala’s rural women significantly affects their capacity to feed themselves and their families. At the same time, children living in extreme poverty throughout sub-Saharan Africa, in parts of Asia and Latin America are affected by noma, a disease which “devours” the human face and is fatal in 70-90% of cases. This dreadful disease, last encountered in Europe in Nazi concentration camps, has malnutrition and poor sanitation as key risk factors. Children with noma are victims of *de facto* discrimination in the context of the right to food (A/HRC/AC/3/CRP.3).

2. In its resolution 10/12 of 26 March 2009, in response to such situations, the Human Rights Council mandated the Advisory Committee to undertake a study on discrimination in the context of the right to food, including identification of good practices of anti-discriminatory policies and strategies.

3. At its first session, the Advisory Committee established a drafting group on the right to food, consisting of José Bengoa Cabello, Chinsung Chung, Latif Hüseyinov, Jean Ziegler and Mona Zulficar³ and mandated it with the drafting of the study on discrimination in the context of the right to food. The drafting group had several drafting meetings and prepared working papers such as A/HRC/AC/3/CRP.5 and A/HRC/AC/3/CRP.3. The Preliminary study on discrimination in the context of the right to food⁴ was endorsed by the Committee during its fourth session and submitted to the Council for its consideration at its thirteenth session (A/HRC/13/32).

4. In its resolution 13/4 of 19 March 2010, the Human Right Council welcomed the submission of the Committee’s Preliminary study and requested the Office of the High Commissioner for Human Rights to collect the views and comments of all States, all relevant United Nations special agencies and programmes and all other relevant stakeholders on the good practices of anti-discriminatory policies and strategies set out in the Preliminary study, so that the Advisory Committee take them into account for the conclusion of the study.

5. The present study on discrimination in the context of the right to food is the outcome of a thorough research process and consultations among the members of the Advisory Committee. The study takes into consideration the comments and suggestions made by States, United Nations special agencies, international organizations (IOs) and other relevant stakeholders, including national human rights institutions and non-governmental organizations (NGOs).

¹ FAO, *1.02 billion people hungry*, Rome, 19 June 2009.

² FIAN, *The Right to Adequate Food of Rural and Indigenous Women in Guatemala*, Written Submission to CEDAW, 7th Periodic Report of Guatemala. See also E/CN.4/2006/44/Add.1.

³ The members of the drafting group on the right to food would like to thank Christophe Golay and Ioana Cismas from the Geneva Academy of International Humanitarian Law and Human Rights for their important inputs during the drafting of this study.

⁴ Henceforth, the Committee’s Preliminary study.

6. The first part of the study will lay out the international legal framework on the right to food and non-discrimination. Second, examples of discrimination in the context of the right to food will be put forward by appeal to structural aspects and vulnerable groups. The third part will focus on anti-discriminatory policies and strategies, which are or could be pursued in order to address discrimination. Lastly, the study addresses good practices that are currently being implemented by States and other actors to address discrimination and inequalities.

II. The international legal framework on the right to food and non-discrimination

7. The right to adequate food is a human right that protects all human beings' right to live in dignity, free from hunger. It is recognized under international humanitarian law and human rights, including in the Fourth Convention Relative to the Protection of Civilian Persons in Time of War (arts. 6 and 59), the Protocol Additional (I) to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (arts. 54 and 69), the Protocol Additional (II) to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts (arts. 5.1.b., 14 and 17.1), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (art. 12), the Convention on the Rights of the Child (CRC) (arts. 24 and 27) and the Convention on the Rights of Persons with Disabilities (arts. 25.f. and 28.1).

8. Being protected by such a vast array of international documents does not only confirm the status of the right to food as unequivocally universal in times of peace, as well as of armed conflict, but also speaks to the interdependence with other civil, political, economic, social and cultural rights. To state the obvious, the right to water and sanitation, the right to health, the right to education and indeed the right to life are intimately bound to the realization of the right to food (see A/HRC/12/24).

9. The international instrument most often cited as the main legal source of the right to food is the International Covenant on Economic, Social and Cultural Right (ICESCR) (art. 11). The Committee on Economic, Social and Cultural Rights, the treaty body monitoring States' implementation of the ICESCR, has authoritatively defined in its general comment No.12 (1999), that

“the right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement (para 6).”

10. Food should be available in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture. (para 8, 12). In connection to both economic and physical accessibility, the Committee highlights the importance to give particular attention to vulnerable groups, (para 13), an approach embraced by States in the 1996 Rome Declaration on Food Security and Plan of Action and renewed in the 2009 Five Rome Principles for Sustainable Global Food Security.⁵

11. Under international law, Governments are bound to respect, protect and fulfil the right to food. As part of their obligations to protect people's resource base for food, States

⁵ FAO, *Rome Declaration on World Food Security and the World Food Summit Plan of Action*, 13-17 November 1996; FAO, *Declaration of the World Food Summit on Food Security*, 16-18 November 2009.

must ensure that activities of the private business sector and civil society organizations (CSOs) are in conformity with the right to food (para 27).

12. In elaborating the obligations related to the right to food, the Committee on Economic, Social and Cultural Rights draws on one of the cardinal principles of international law, the prohibition of discrimination. Stipulated in the UN Charter the principle of non-discrimination was set out in 1945 to govern the post-WWII world.⁶ The all-encompassing stipulation “without any discrimination” of the Universal Declaration of Human Rights receives a strong echo in virtually all human rights instruments at international and regional level. The non-discrimination principle has been enshrined in identical provisions in the International Covenant on Civil and Political Rights and the ICESCR. According to article 2, paragraph 2, of the latter instrument, each State party is obliged to guarantee that the rights enunciated in the Covenant are exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. In article 14(2) of the CEDAW, States bound themselves to take measures

“to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development [...]”

13. In its general comment No. 20, on non-discrimination in economic, social and cultural rights, the Committee on Economic, Social and Cultural Rights defined discrimination as any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Covenant rights (para 7).

14. The Committee insisted on the obligation for State parties to eliminate all discrimination, both formally and substantively. In the context of the right to food, it obliges States to revise their legislation, in particular laws dealing with access to food, social assistance or productive resources, to ensure that they do not include any discriminatory provision.⁷

15. Merely addressing formal discrimination will not ensure substantive equality as envisaged and defined by article 2(2) of the ICESCR. The effective enjoyment of Covenant rights is often influenced by whether a person is a member of a group characterized by the prohibited grounds of discrimination. Therefore, strategies addressing discrimination, including in respect to the right to food, ought to take a vulnerable and disadvantaged groups approach, as the Committee points out.⁸ Eliminating discrimination in practice requires paying sufficient attention to groups of individuals who suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. States parties must therefore immediately take the necessary measures to prevent, diminish and eliminate the conditions and attitudes that cause or perpetuate substantive or *de facto* discrimination.

16. For example, States must ensure that all individuals have equal access to adequate food and to the means of its procurement, including women and girl children, landless people or indigenous people.⁹ While one of the comments received recommended to

⁶ M. Nowak, *U.N. Covenant on Civil and Political Rights. CCCP Commentary*, NP Engel, Strasbourg, 2005, p. 599.

⁷ See General comment No.12 on the right to food, *E/C.12/1999/5*, para. 18.

⁸ *Ibid.*, para 13, para 28; see also text above.

⁹ *Ibid.*

eliminate peasant farmers or the urban poor¹⁰ from the list of vulnerable groups, the current study clearly shows that these are categories which suffer substantive and *de facto* discrimination. Hence this is the appropriate *locus* to address the underlying causes of and factors contributing to discrimination – including economic ones – in relation to these groups and the existing best practices on how to remove or mitigate discrimination. Moreover, numerous States and NGOs have commended the inclusion of the mentioned categories and/or the attention paid to structural causes.¹¹

III. Discrimination in the context of the right to food

A. Discrimination in terms of regions, markets, prices, subsidies, resources and infrastructure services

1. Regional inequalities and the increasing marginalization of the most vulnerable groups

17. There is little, if any, improvement in the situation of the poorest regions of the world in terms of poverty and hunger reduction. Overall, prior to the economic and food crisis peaking in 2008, the number of people in developing regions living in extreme poverty – on less than \$1.25 a day at 2005 prices – decreased from 1.8 billion in 1990 to 1.4 billion in 2005. Once the data have been disaggregated on regions, this encouraging development reveals less ground for optimism. The decline in the number of people living in extreme poverty is largely attributable to China.¹² More than half of the population of sub-Saharan Africa remains below the poverty line. Similarly, Southern Asia, while registering certain progress, still has 39% of its population living in extreme poverty.¹³

18. Although an amelioration relative to the record hunger statistics of 2009, the figure for 2010 remains staggering: a total of 925 million people are still estimated as undernourished today.¹⁴ The Asia and Pacific region had the largest number of hungry people (578 million), followed by sub-Saharan Africa (239 million).¹⁵ The latter had the largest prevalence of undernourishment relative to its population size (30%).¹⁶ As an effect of the escalating food prices, which peaked in 2008, four regions of the world have seen percentage increases in undernourishment in relation to 2004-2006, namely sub-Saharan Africa, Oceania, Southern Asia (India excluded) and Eastern Asia.¹⁷

19. Since July 2010 a new spike in food prices can be witnessed. The FAO Food Price Index has reached its highest level since September 2008 and prices of wheat on international markets have increased with 70% since 2009. Food riots, such as the one in Mozambique in fall 2010, are illustrating the food insecurity and utter despair of people.¹⁸

¹⁰ Comments by Canada on the Committee's Preliminary Study, 14 July 2010.

¹¹ For instance, Views/Comments on the Committee's Preliminary study by the Republic of Mauritius, 8 October 2010; Portugal, 4 August 2010; Switzerland, 6 July 2010; Human Rights Advocates (not dated); FIAN, 4 October 2010; Speech by Henry Saragih, general coordinator of Via Campesina, 4th session of Advisory Committee, 27 January 2010.

¹² World Bank, *Global Monitoring Report 2009: A Development Emergency*, p. 19.

¹³ UN, *The Millennium Development Goals Report 2009*, pp. 6-7.

¹⁴ FAO, "The State of Food Insecurity in the World 2010", Rome, 2010, p. 4.

¹⁵ *Ibid.*, p. 9.

¹⁶ *Ibid.*, p. 10; see also "More people than ever are victims of hunger", FAO Background Note, 2009.

¹⁷ UN, *The Millennium Development Goals Report 2009*, p. 10.

¹⁸ "Food riots: 'Predictable crisis, unprepared governments' - UN expert", Geneva, 7 September 2010;

20. The environmental crisis cannot be neglected from any discussion related to food security. Climate change is expected to affect the poorest regions with the highest level of chronic hunger worst.¹⁹ It is asserted that climate change and biofuels development will affect the four dimensions of food security: availability, accessibility, stability and utilization, in particular in sub-Saharan Africa and Southern Asia.²⁰

2. Markets, prices, resources and infrastructures services

21. According to the market economy model, higher food prices should represent an incentive for farmers, including those from the developed world, and trigger an increase in production. In reality, however, the developing world increased cereal production by less than 1% in 2008 and production actually decreased in most developing countries.²¹

22. As FAO and the International Fund for Agricultural Development (IFAD) point out in recent studies higher output prices are not sufficient to trigger an expansion in food supplies.²² Smallholders, the majority of farmers in developing countries, have limited market participation. Decades of structural adjustment policies and declining investment in agriculture have resulted in a lack of access to resources – agricultural inputs and credit, marketing and transport infrastructure, technology, rural services and institutions – thus posing serious limitations to market participation of small farms. In addition, while higher food prices do not trickle down to the farm gate where smallholders often have to sell their products, higher input costs do. Those that reap the benefits of higher food prices are large commercial farmers in developed and food-exporting countries.²³

3. The role of agricultural trade, subsidies and international companies in the context of the right to food

23. It would appear that the international trade regime as it functions today favours developed countries and creates disadvantages for developing States, particularly in the agriculture sector.²⁴ A report of the International Assessment of Agricultural Knowledge, Science and Technology for Development, for example, “asserts that small-scale farmers and rural livelihoods are negatively affected by agricultural trade and that the poorest developing countries are net losers under most trade liberalization scenarios.”²⁵

24. The World Trade Organization notes in its comments to the Committee’s Preliminary study that a reform process was launched during the Uruguay Round Agreement on Agriculture and furthered in the Doha negotiations aimed at reducing “trade-distorting domestic agricultural subsidies”, in addition to the existing flexibilities for the agriculture sector of developing countries²⁶

25. Support to producers in the Organization for Economic Co-operation and Development (OECD) countries remains high. In 2008, it was estimated at EUR 182

see also <http://www.fao.org/worldfoodsituation/FoodPricesIndex/en/>.

¹⁹ FAO, “2050: Climate change will worsen the plight of the poor”, 30 September 2009.

²⁰ High-Level Expert Forum - How to Feed the World in 2050, *Climate change and bioenergy challenges for food and agriculture*, Rome, 12-13 October 2009.

²¹ FAO, “The State of Agricultural Commodity Markets 2009”, p. 29.

²² FAO *ibid.*; IFAD, “Food prices: smallholder farmers can be part of the solution”, 9 July 2009.

²³ M.D. Anderson, *A Question of Governance: To Protect Agribusiness Profits or the Right to Food?*, 2009.

²⁴ GTZ, *The human right to food and agricultural trade*, Paper commissioned by the German Federal Ministry for Economic Cooperation and Development, Eschborn, 2008.

²⁵ IAASTD, *Agriculture at a Crossroads, Synthesis Report*, 2009, p. 65.

²⁶ WTO’s Comments on the Committee’s Preliminary study, not dated.

billion, equivalent to 21% of aggregate gross receipts of OECD farm producers.²⁷ Subsidized food and agriculture products arrive on the markets of developing states as cheap imports with which local products cannot compete. As a consequence of dumping practices, smallholders have less income and fewer resources to buy seeds and fertilizers, which in turn affects their agricultural production, and consequently their livelihood. Subsidies also produce long-term sectorial distortions in developing countries. Given the availability of cheap subsidized products obtainable through trade, there is a general disincentive to invest in agriculture. Undeniably, the past 30 years have witnessed serious underinvestment in the agricultural sector of developing countries because of the growing perception of the unprofitability of agriculture.²⁸

26. Linked to the serious human rights challenges posed by dumping practices is the market domination of a few large transnational corporations in all sectors of the food chain: production, trade, processing, marketing, retail (E/CN.4/2004/10). For example, in the United States the beef and the pork packing industries are dominated by four firms (Tyson, Cargill, Swift & Co., the National Beef Packing Co. and Smithfield Foods, Tyson Foods, Swift & Co. and Cargill, respectively) with a market concentration ratio of 83.5% and 66% respectively.²⁹ There is a trend towards the reproduction in the markets of developing countries of the oligopoly structure observable in the United States and the European Union.³⁰ The Special Rapporteur on the right to food asserts that only competition law regimes, which are designed in consistence with States' obligation to protect the right to adequate food, can combat abuses of buyer power.³¹

B. Discrimination against people working in rural areas

27. Hunger, like poverty, is still predominantly a rural problem, and among the rural population it is the peasant farmers, small landholders, landless workers, fisherfolk, hunters and gatherers who suffer disproportionately. The United Nations Millennium Development Project Task Force on Hunger (Task Force on Hunger) has shown that 80% of the world's hungry live in rural areas.³² Some 50% of the world's hungry are smallholder farmers who depend mainly or partly on agriculture for their livelihoods, but lack sufficient access to productive resources such as land, water and seeds. Another 20% of those suffering from hunger are landless families who survive as tenant farmers or poorly paid agricultural labourers and often have to migrate from one insecure, informal job to another. Another 10% of the world's hungry live in rural communities from traditional fishing, hunting and herding activities.³³

28. People living in the rural areas, including smallholders, landless workers and people living from traditional fishing, hunting and herding activities, face a number of impediments in realizing their right to food, which in turn places them in the above described situation of vulnerability in respect to hunger. Some of these impediments are environmental or geographically-related such as draught, floods or infertile lands. Others

²⁷ OECD, *Agricultural policies in OECD countries. Monitoring and evaluation*, 2009, p. 5.

²⁸ IFAD, "Food prices: smallholder farmers can be part of the solution", 9 July 2009.

²⁹ M. Hendrickson and W. Heffernan, *Concentration of Agricultural Markets*, April 2007, <http://www.nfu.org/wp-content/2007-heffernanreport.pdf>

³⁰ J. Wilkinson, "The Globalization of Agribusiness and Developing World Food Systems", *Monthly Review*, September 2009.

³¹ O. de Schutter, "Addressing Concentration in Food Supply Chains", *Briefing Note 03*, December 2010.

³² Task Force on Hunger, "Halving hunger, it can be done", UNDP, 2005.

³³ *Ibid.*

are of social or human-caused origin, such as an inequitable distribution of land to be traced to colonial times or to corrupt regimes of the present. New developments such as the building of dams, or the new phenomenon of large-scale land acquisitions by foreign Governments or companies in developing food insecure countries may force smallholders and other rural people to leave their lands and hence lose their primary base of food and their way of life. Other causes of vulnerability are: the difficulty to acquire seeds or access credits; the impossibility to connect to markets given the centralization of the agribusiness chains or the lack of investment in infrastructure; the restrictions to unionize, including criminalization of such attempts; and the vulnerability in front of powerful third parties such as private actors or companies. The obstacles and causes for exclusion have been detailed in the Committee's Preliminary study (A/HRC/13/32) and in the background paper "Peasant farmers and the right to food: a history of discrimination and exploitation" (A/HRC/AC/3/CRP.5). Acknowledging the importance of the matter, the Human Rights Council has granted the mandate to the Advisory Committee to undertake a separate Study on ways and means to further advance the rights of peasants and other people working in rural areas.

C. The right to food and the urban poor

29. With the size of urban population continuing to rise, the absolute number of urban poor and undernourished also continues to increase. Intra-urban differences reveal levels of inequalities and malnutrition rather than an average that provides one single estimate of poverty.³⁴ Trends have shown that, for the poor living in urban areas, a dependence on cash-based incomes increases together with a decrease in reliance on surrounding natural resources.³⁵

30. Countries continue to assume that food security is equivalent to food shortage. African states, for example, continue to spend a large share of resources on meeting the needs of the urban poor rather than investing in productive sectors, such as agriculture and the generation of off-farm and urban employment.³⁶

31. The pursuit of social goods should not be separated from the management of public expenditures and the eradication of corruption. It is important to note the responsibility of Governments to distribute food aid in a non-discriminatory manner. A recent report by an international NGO alleges that in Ethiopia food aid has been channelled towards political supporters of the Government, while groups of the population supporting the opposition are excluded from either subsidized or emergency food.³⁷ Moreover, State provision of food aid through social safety nets rarely addresses discrimination stemming from inequalities within the households.

32. The recent food crisis affected the urban poor disproportionately. Nezahat Salihu-Ramadani, director of SOS Children's Villages Kosovo, comments that the increase in food prices has meant "an unbearable decrease in purchasing power" for the urban poor in Kosovo. "Most products have become unaffordable, especially for those who live on state

³⁴ M. T. Ruel et al., "Urban challenges to nutrition security: a review of food security, health and care in the cities", IFPRI, 1998.

³⁵ L. Haddad, "Are urban poverty and undernutrition growing? Some newly assembled evidence", 27 *World Development* 11, 1999.

³⁶ S. Fan et al., "Investing in African agriculture to halve poverty by 2015", *ReSAKSS Working Paper No. 25*.

³⁷ Human Rights Watch, *Development Without Freedom: How Aid Underwrites Repression in Ethiopia*, p. 53 ff.

benefits. People now really have to prioritise their needs. There is a notable shift in what people are buying and eating.”³⁸ The skyrocketing prices have made the tragedy of reductions in caloric intake and nutritious food, followed by a drop in expenditure on education, health and sanitation, the reality of many households throughout the world.³⁹

D. Discrimination against women

33. The intersection between women’s rights and the right to food provides a rich overview of a number of interrelated dimensions of discrimination against women related to access to land, property and markets, which are inextricably linked to access to education, employment, health care and political participation. On a global scale, women cultivate more than 50% of all food grown.⁴⁰ Women nonetheless account for 70% of the world’s hungry and are disproportionately affected by malnutrition, poverty and food insecurity. Governments are not living up to their international commitments to protect women from discrimination, as the gap between *de jure* equality and *de facto* discrimination continues to persist and resist change.

1. Rural women, access to land, production and markets

34. Women’s access to control and ownership of land or property are crucial for the purpose of strengthening their security and livelihood. It is important to understand the multiple factors - laws, inheritance, marital status and agrarian reform policies - that impede women’s equal access to land and the way these affect women by virtue of their gender at the level of individual, community and nation.⁴¹ FAO estimates that *de facto* female-headed households form around 25% of total rural households, signalling the multiplicity of women, from single parents, widows, wives of migrant workers to women migrant workers.⁴² Despite representing the majority of the agricultural workforce and production, women are estimated to have access to/control 5% of land globally.⁴³

35. The right to control, access, and manage land is tied to a woman’s right to exercise financial independence, earn a livelihood, and subsequently provide a livelihood for herself and her household. Agrarian reform policies which are ‘gender-blind’ continue to exclude women from entitlements to land.⁴⁴ States undergoing agrarian reform or land redistribution schemes must uphold the equal right of women to land, regardless of marital status.

36. In 2005, Meaza Ashenafi, Executive Director of the Ethiopian Women Lawyers Association (EWLA) commenting on the situation in Ethiopia concluded:

³⁸ <http://www.sos-childrensvillages.org/focus-areas/emergency-relief/children-in-catastrophes/global-food-crisis/pages/kosovos-urban-poor-hard-hit-by-food-crisis.aspx>

³⁹ I. Sanogo, “The global food price crisis and household hunger: a review of recent food security assessments”, 42 *Humanitarian Exchange Magazine*, 2009; FAO, *The State of Food Insecurity in the World 2010*, Rome, 2009.

⁴⁰ See www.globalissues.org/article/166/womens-rights#LackofProgress.

⁴¹ FAO, *Gender issues in land tenure*, “High level consultation on rural women and information”, Rome, 4-6 October 1999.

⁴² *Ibid.*

⁴³ Cited in Post-ADF Consultation on Securing Women’s Access to and Control Over Land in Africa through the African Union’s Africa Land Policy Framework and Guidelines, Addis Ababa, 21-22 November,.

⁴⁴ FAO, *Gender Food Security: Synthesis Report of Regional Documents*, Rome, 2004.

“Women don’t have the right to inherit, and the only option is to get married and have a husband. But when the husband dies, they are also kicked off their land”. (E/CN.4/2005/47/Add.1)

To date, the reality continues to confirm the appalling observation. Many rural women, documented systematically in Sub-Saharan Africa, envisage the legal difficulty that they cannot hold title to land, although they are given the right to till the land and erect a home on a piece of land allocated to the household head.⁴⁵

37. Family law that restricts a married woman’s capacity to inherit equally, and succession law that restricts women’s inheritance rights – mostly of customary nature, to be found today in much of Africa, some parts of Asia and of Latin America – are two sets of laws and practices producing discriminatory effects in excluding women from claiming land rights.⁴⁶ Rural households continue to acquire land through inheritance laws that emanate from customary legal regimes currently premised on reaffirming women’s unequal access to and control over land. Because land is mediated through husbands, fathers, brothers or sons, women’s land rights are negotiated within unequal power relationships and are not assumed to be general entitlements. This underscores the importance of legal and cultural reform to restore the balance of power relationships within the family.

2. Women and access to education, employment and health care

38. Women’s role in the economy has often been underestimated and their work in agriculture has long been invisible. While policymakers have targeted population, health and nutrition programmes to women in their reproductive roles, they have neglected women as productive agents.⁴⁷

39. Rural women have the world’s lowest levels of schooling and the highest rates of illiteracy in all developing regions; twice as many women suffer from malnutrition as men, and girls are twice as likely to die from malnutrition as boys. Numerous studies underscore the social costs of rural women’s lack of education and assets, linking them directly to high rates of malnutrition, infant mortality and, in some countries, HIV/AIDS infection. There are also high economic costs: wasted human capital and low labour productivity that stifle rural development and progress in agriculture, and ultimately threaten food security. Discrimination against women in the context of the right to adequate food is a culmination of all other aspects of discrimination that stifle women’s rights to equality and empowerment.

E. Discrimination against children

40. More than one third of child deaths worldwide are attributed to malnutrition.⁴⁸ In 2008, 8.8 million children born across the world died before their fifth birthday. Most of

⁴⁵ See T. Tekle, *Women's Access to Land and Property Rights in Eritrea. Towards Good Practice: Women's Land and Property Rights in Situations of Conflict and Reconstruction*, 2004; A. Sebina-Zziwa, R. Kibombo, et al, *Patterns and Trends of Women's Participation in Land Markets in Uganda*, Makerere, 2002; L. L. Rose, “Women’s Strategies for Customary Land Access in Swaziland and Malawi: A Comparative Study”, *Africa Today* 49(2): 123-149, 2002.

⁴⁶ FAO, *Gender and law – Women’s rights in agriculture*, FAO Legislative Study Rev. 1.

⁴⁷ IFPRI, *Women: The key to food security*, Food Policy Report, August 1995.

⁴⁸ WHO Fact File: <http://www.who.int/features/factfiles/nutrition/facts/en/index.html>

these children lived in developing countries and died from a disease or a combination of diseases that could easily have been treated with the proper nutrition and health care.⁴⁹

41. Noma, the disease, which devours the face of children, is the brutal impersonation of severe malnutrition and extreme poverty. It affects children in many countries in Africa, including Mauritania, Senegal, Mali, Niger, Nigeria, Chad, Sudan, Ethiopia, parts of Asia and Latin America. The absence of noma cases in well-nourished African children, associated with the occurrence of the illness in the Nazi concentration camps of Auschwitz and Bergen-Belsen where malnourishment was rampant, strongly supports the evidence that malnutrition plays a significant role in the development of this disease.⁵⁰ Noma was eradicated from Europe and North America at the beginning of the 20th century due to improved diets as a result of economic progress (A/HRC/AC/3/CRP.3).

42. In its early stages, noma can be treated in a manner that is “simple, effective, low-cost”, with disinfecting mouthwashes, nutritious food and antibiotics.⁵¹ In the advanced stages, the death rate is spectacular high, up to 90%. Survivors suffer threefold: disfigurement, functional impairment and strong social stigma and discrimination. Without reconstructive surgery, tragically, “[a] child who survives is unlikely ever to be able to speak or eat normally again.”⁵² Improving the diet of malnourished children in risk areas could considerably lower the death rate and occurrence of this disorder. However, it is almost exclusively NGOs and charities that work towards the prevention of noma and reconstructive surgery. States appear to have abdicated their responsibilities in respect to the realization of the right to food of the children at risk of noma, as well as in respect to their right to a dignified life free from discrimination once they have been affected by this atrocious disease.

43. As a result of the financial and economic crisis, the World Food Programme (WFP) has been confronted with a dramatic lack of funding and has been seriously hampered in its mission to ensure adequate food for the most food insecure people worldwide. Among the hardest hit, tragically, are children who were benefitting of school feeding programmes or of fortified blended food. In 2010, in Côte d’Ivoire, the WFP was forced to halve the size of school meals for almost 430,000 children from regions where malnutrition rates were already above the WHO critical threshold⁵³, as such condemning these children to the deplorable consequences of malnutrition.

44. Child labour is a phenomenon closely related to discrimination in the context of the right to food. Children are forced into various labour most often as a result of extreme poverty and the need to provide for food. 158 million children, or one child in six, aged 5 to 14 years, are involved in child labour.⁵⁴ Eradicating this noxious phenomenon also requires dealing with issues affecting adult workers, since child labour is linked to adult poverty and with the promotion at conceptual and practical level of decent work.⁵⁵

⁴⁹ See www.childinfo.org/mortality.html.

⁵⁰ C.O. Enwonwu et al, “Noma (cancrum oris)”, *The Lancet*, p. 151.

⁵¹ K. Bos, K. Marck, *The Surgical Treatment of Noma*, 2006, p.18.

⁵² E.Barnes, et al, “The need for action against oro-facial gangrene (noma)”, *Tropical Medicine and International Health*, 2 (12), 1997.

⁵³ WFP, “WFP Reduces Rations for 460,000 Children in Cote D’Ivoire”, 5 March 2010.

⁵⁴ UNICEF, *Child labour*, http://www.unicef.org/progressforchildren/2007n6/index_41846.htm

⁵⁵ ILO, “Future Harvest Without Child Labour”, 61 *ILO World of Work*, December 2007.

F. Discrimination against refugees

45. Confronted with a dramatic shortage in funding, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the WFP are struggling to assure food for refugees and internally displaced persons (IDPs). Despite the important efforts, which are being made by European States, the United States and other countries to provide assistance and food aid in emergencies, the serious funding shortfalls are threatening the lives of millions of people, in particular in Africa and Asia.

46. The problem is by no means new (A/HRC/4/30 and A/HRC/7/5). But it has become dramatically worse with the explosion of world market prices for staple foods in the last years, in particular for rice, maize and wheat and the economic downturn. Reduced food ratios or the risk of halting food programmes altogether in camps already haunted by malnutrition and a lack of alternatives is the grim reality for refugees and IDPs such as in Chad and the Central African Republic.⁵⁶

47. In recent decades, millions of people have crossed international borders and many have tried to reach developed countries to escape pervasive hunger, especially people living in sub-Saharan Africa (see A/HRC/7/5). Most people fleeing from hunger are refused entry and protection in other countries because they do not qualify as refugees in the traditional and legal sense. Most of them are detained and held in processing or detention centres, before being forcibly repatriated to their own countries.

48. But refugees from hunger are not migrants. They do not move voluntarily, but out of a state of necessity (A/62/289). Especially when famine strikes a whole country or a whole region (for example, the 2005 famine in the Sahel zone of sub-Saharan Africa), individuals have no other choice but to flee across international borders. Hunger is an immediate threat to their lives and those of their families. They should therefore be protected and have the right to temporary non-refoulement. The need to strengthen protection for people forced to leave their homes and land because of hunger was recognized by the General Assembly in its resolution 62/164 on the right to food.

G. Other vulnerable groups

49. Hunger and malnutrition are largely explained by unequal power relations that systematically disadvantage minorities.

“From the beginning of time, in the history of humankind, minorities (political, ethnic or religious) have always been the first to suffer from hunger, in the same way that all populations, victims of a status considered inferior, find themselves placed on the bottom rung of the social ladder.”⁵⁷

50. Indigenous people face exclusion and discrimination that have an impact on their right to food. In Guatemala, for instance, progress in lowering chronic malnutrition rates for indigenous children has been slower than for non-indigenous children. Between 1987 and 2002, the rate for non-indigenous children decreased by 13%, compared to just 2% for

⁵⁶ “WFP suffers funding shortfall”, 1 August 2009; “Lack of Funds May Force UN Agency to Cut Food Aid”, 24 August 2010, <http://allafrica.com/stories/201008240880.html>; “WFP raises concern over food shortage at refugee camp”, <http://www.irinnews.org/Report.aspx?reportid=32621>.

⁵⁷ S. Brunel, “La Faim dans le monde; comprendre pour agir”, 1999, p. 11.

indigenous children. It was the predominately indigenous regions of the north and northwest, which experienced a deterioration in the situation from 1999 onwards.⁵⁸

51. The right to food of indigenous people often depends closely on their access to and control over their lands and other natural resources in their territories. Of great relevance in this context is the jurisprudence of the Inter-American Commission and Court of Human Rights and the African Commission on Human and Peoples' Rights stressing the interdependence of indigenous peoples' right to land, their right to food and to life.⁵⁹

52. Physical accessibility – part of the core content of the right to food – in respect to people with disabilities is insufficiently addressed by Governments. As underlined by comments to the Committee's Preliminary study⁶⁰, the perspective of accessibility changes with each disability and the corresponding measures for the realization of the right to food of people with disabilities ought to be appropriately implemented. In addition, elder people with disabilities are often subjected to multiple discrimination, in respect to the physical and economic accessibility and the particularities related to a changed nutrition regime.

53. Other vulnerable groups in respect to the realization of their right to food can be elder people, especially women, people living with HIV/AIDS and other chronic diseases, people deprived of their liberty and those living in conflict areas.

IV. Anti-discriminatory policies and strategies

A. Increased congruence of development efforts and trade with human rights law

54. The fact that nearly a billion people remain hungry even after the recent food and financial crises have largely passed indicates a deeper structural problem that gravely threatens the ability to achieve internationally agreed goals on hunger reduction. It is also evident that economic growth, while essential, will not be sufficient in itself to eliminate hunger within an acceptable period of time.⁶¹

55. The Special Rapporteur on the right to food, Olivier de Schutter⁶², and the Joint Statement of the Chairpersons of the UN human rights treaty bodies⁶³ provide the key to reading the above observation. The current report of the Advisory Committee strongly supports the view that in order to eradicate hunger and achieve other MDGs, patterns of discrimination, which push certain groups in a vulnerability circle, must be eliminated. Development efforts – including those of IOs and UN agencies – must take a human rights approach and in particular use a right to food framework. Hence, national action plans for the implementation of the MDGs must be guided by human rights, including the right to food and the principle of non-discrimination. Moreover, national strategies must go beyond

⁵⁸ CESR, Fact Sheet No. 3, Guatemala, <http://www.cesr.org/downloads/Guatemala%20Fact%20Sheet.pdf>

⁵⁹ See C. Golay and I. Cismas, *Legal Opinion on the Right to Property from a Human Rights Perspective*, Right & Democracy, 2010.

⁶⁰ Comments of El Salvador to the Committee's Preliminary study, 6 July 2010 and by Light for the World, 9 July 2010.

⁶¹ FAO, *The State of Food Insecurity in the World 2010*, Rome, 2010, p. 4.

⁶² O. de Schutter, "Democratizing the Millennium Development Goals", September 2010, <http://www.project-syndicate.org/commentary/odeschutter1/English>.

⁶³ Joint Statement of the Chairpersons of the UN human rights treaty bodies, 20-22 September 2010.

the MDGs and reflect the legal obligations States have under international human rights treaties to realize all human rights for all.

56. Today's web-like world cannot afford to act as if trade is insulated from development and both are dissociated from human rights. The world is governed by international law and congruence among branches of law must be sought – including trade, financial and human rights law – if the ultimate purpose is an equal opportunity world. Proposals towards regulating speculation on international food markets⁶⁴ or trade negotiations which are built on the acknowledgement that food as the product of agriculture is and cannot be treated like it were “socks or tires”⁶⁵, are thus steps towards such a world without discriminated groups.

B. Concepts and instruments promoting the right to food of people working in rural areas

57. The Human Rights Council has signaled the key importance which it attributes to the rights of people working in the rural areas by mandating the Advisory Committee to undertake a Study identifying ways and means to further advance their particular rights. In the view of the forthcoming study, the current report will merely highlight important areas and strategies adopted by different stakeholders relevant to the topic.

58. The question of land and agrarian reforms that assure access to land and security of tenure is closely linked to the right to food of people from the rural areas, in particular landless workers, smallholders and rural women. The interlinkage has been reasserted on a recent occasion by world leaders.⁶⁶ Land reforms in several countries have had a significant impact on reducing poverty and hunger and increasing economic growth (see A/HRC/7/5/Add.3, E/CN.4/2006/44/Add.2, A/HRC/7/5/Add.2).

59. To address increasing inequalities, CSOs are promoting new forms of cooperation and association. One of the most important associations in this field is the movement for food sovereignty, La Via Campesina, with members from 69 countries from all regions of the world. In June 2008, after more than seven years of consultation with its member organizations, La Via Campesina adopted the Declaration of the Rights of Peasants – Men and Women and presented it as a response to the world food crisis before the Human Rights Council and the General Assembly in 2009.⁶⁷ The declaration is an important example of an anti-discriminatory strategy that could improve the protection of the right to food.

C. Legal and social protection of the urban poor

60. The circle of vulnerability of the rural impoverished continues often in the urban setting, where members of rural families migrate.⁶⁸ Limited employment opportunities, casual employment, uncertain daily wages, lack of social safety nets and lack of appropriate housing are increasing the food insecurity of the urban poor. As such, strategies aimed at empowering the urban poor to realize their right to food must comprise employment and

⁶⁴ O. de Schutter, “Food Commodities Speculation and Food Price Crises”, *Briefing Note 02*, September 2010.

⁶⁵ Discourse by P.Lamy, Director-General of the WTO during the *Confronting the Global Food Challenge Conference*, Geneva, 24-26 November 2008.

⁶⁶ International Conference on Agrarian Reform and Rural Development. Final Declaration, Porto Alegre, 7-10 March 2006.

⁶⁷ See La Via Campesina's statement to the General Assembly of 6 April 2009, www.viacampesina.org.

⁶⁸ A. Eide, *The Human Right to Food and Contemporary Globalization*, October 2008.

social security policies – which include just employment and minimum wage components – so as to allow these individuals to earn on a sustainable basis enough to access food. Land tenure and adequate housing legislation is needed to guarantee a stable environment with access to sanitation and safe drinking water.

61. Discrimination of the socially impoverished from the urban areas often overlaps with discrimination based on gender, ethnicity, religion, caste or age⁶⁹. Governmental strategies aimed at improving the access to food, health care, and education of the urban poor must thus remove the multiple layers of discrimination.

62. The recent food crisis has shown a need to avoid the negative impact on local production and consumer prices of imported food aid by reducing dependency on the latter and by providing a mechanism to manage price volatility and to encourage the distribution of crops from surplus regions to deficit regions.

63. There is a gap in the legal protection of the urban poor at international level. An international instrument that offers guidance for how domestic legislation and strategies ought to address the plight of the urban poor is missing. In the absence of international guiding principles, more often than not the urban poor are forgotten by national legislatures and thus further marginalized. There exists thus, a great need for international guidelines to address the specific needs of the urban poor and the ways in which their right to food should be best realized.

D. Legal and social protection of women

64. Highlighted by the Committee on Economic, Social and Cultural Rights in its general comment No. 12 is the particular attention that Governments must pay to prevent discrimination in access to food or resources for food in particular in respect to women (para 26). In addition, Article 12 of the CEDAW refers to the obligation of States to ensure “adequate nutrition during pregnancy and lactation.”

65. Countries that have adopted CEDAW have strengthened the legal framework of equality by repealing laws deemed discriminatory to women, such as family and succession legislation. However, elimination of discrimination against women requires not only changes in laws, regulations and institutions, but more importantly cultural practices that are part of the process that creates and perpetuates such discrimination. Governments must show political will to enforce the rule of law and bridge the gap between *de jure* equality and *de facto* discrimination, including by affirmative action.

66. A 2010 study by the OHCHR shows that action is required to eliminate forms of gender discrimination that occur in practice at the local level and in the private sphere, “for example, limits on women’s access to nutrition and food, clean water and sanitation, and education, limits which in turn can increase risks of preventable mortality and morbidity” (A/HRC/14/39). Similarly, a 2009 FAO report calls for a focus on “cultural food habits, which in many countries hamper women’s right to food on an equal footing with men.” For instance, in contexts where women eat last or are not allowed to eat certain foods, available only to men.⁷⁰ A focus on food habits and cultural practices become particularly important in cases where States parties entered reservations to CEDAW, on grounds of culture and custom with the effect of annulling much of the protection guaranteed by the Convention. The protection of culture and diversity is significant, but the persistence of gender discrimination under the justification of cultural relativism is deplorable.

⁶⁹ See M.S. Swaminathan Research Foundation and WFP, *Food Insecurity in Urban India*, 2010.

⁷⁰ FAO, *Women and Right to Food: International Law and State Practice*. Rome, pp. 12-14.

67. A rights-based approach to trade liberalization, focusing on protecting vulnerable individuals and groups is important to lead Governments to engage in public consultations with stakeholders including women farmers and those most affected by food insecurity. Governments, in their mandates to respect, protect and fulfil must ensure that women without purchasing power are enabled to face episodes of high prices or market disruptions without continuing chronic hunger or asset shedding that would erode their future productivity and jeopardize their livelihoods (and the livelihoods of those who depend on them).

68. According to the World Health Organization (WHO), the health of women and girls is of particular concern because, in many societies, they are disadvantaged by discrimination rooted in socio-cultural factors. Since women play an essential role in food security, it is widely known that the health of women is important for the health of their societies. Underweight and malnourished mothers are more likely to give birth to underweight babies who end up having mental or physical disorders. To enhance women's right to food and right to health in order to break the vicious circle, all barriers depriving women from proper health care, housing, potable water, sanitation and healthy food must be removed.

69. Studies also show that income earned and managed by women is positively correlated to economic and nutritional well-being for the entire household.⁷¹ Women are more likely to spend their incomes on food and children's needs. In fact, research has shown that a child's chances of survival increase by 20% when the mother controls the household budget.⁷² Thus, affirmative strategies and policies must be adopted that enhance the access to income-generating activities for women and to technologies designed to meet women's needs and shorten physically demanding labor.⁷³ For instance, equitable rights to land for women in both developed and developing countries facilitate the success of rural and urban small businesses run by women – compared to male counterparts – so much that banks and service industries actively support women's entrepreneurial initiatives. Also, alternative sources of cooking fuels have proven to shorten preparation and storage of foods and decrease the need for daily firewood collection by women, and thus increase the food security of their households.

E. Legal and social protection of children

70. Among the most vulnerable groups to hunger and malnutrition are children. It is not surprising that their extreme vulnerability has led States to increase their legal protection at the international, regional and national levels. In addition to the ICESCR, the CRC establishes the international protection and care framework for children. Seen in line with food, health and care, as three conditions to achieve nutritional security, the Convention includes provisions that protect the right to nutrition. While exemplary in terms of ratification, an important strategy would be to implement the CRC appropriately at national level and to assure that policies are designed so as to realize the right to food of children, a group with particular nutritional needs.

⁷¹ IFPRI, *Women: The Key to Food Security*, 1995, p. 9.

⁷² M. Walsh, "Women in Food Aid Interventions: Impacts and Issues", *Time for Change: Food Aid and Development*, WFP, Rome, 2008.

⁷³ T. Paris et al., "Assessing the impact of participatory research in rice breeding on women farmers: a case study in eastern Uttar Pradesh, India", 44 *Experimental Agriculture* 1, 2008; T. Paris and T.T. Chi "The impact of row seeder technology on women labor: a case study in the Mekong Delta, Vietnam", 9 *Gender, Technology and Development* 2, 2005.

71. The Task Force on Hunger has recommended continued breast-feeding until age of two as one of the three pillars expected to reduce malnutrition in children under the age of five.⁷⁴ The State obligation to fulfil the right to food includes the essential component of education and provision of education. Governments are thus bound to develop information strategies and campaigns explaining the advantages of breast-feeding.

72. School meals programmes in developing countries constitute a recommended strategy that provides better nutrition and improves access to education for children.

73. The Advisory Committee has identified children suffering of noma to be in a particularly vulnerable situation: at risk of death or perpetual discrimination. International guidelines addressed to the States with incidence of noma and to donor Governments and IOs could help stop the occurrence of this disease – brutal, but preventable – and reduce discrimination in the case of noma survivors. Such guidelines could follow the established model of the *Principles and guidelines for the elimination of discrimination against persons affected by leprosy and their family members* (A/HRC/AC/5/2) developed by the Committee and endorsed by the Human Rights Council.

F. Legal and social protection of other vulnerable groups

74. Until recently, the only international instrument offering specific protection to indigenous people was the ILO Convention No. 169. Addressing the continued vulnerability of indigenous people, the Human Rights Council adopted the UN Declaration on the Rights of Indigenous Peoples, which was subsequently adopted by the General Assembly in September 2007. The declaration is particularly relevant to the right to food. It recognizes that indigenous peoples have the right to self-determination and rights over land and resources, acknowledging the historical injustices of colonization but also addressing the contemporary threats posed by economic globalization, offering protection of traditional knowledge, biodiversity and genetic resources, and setting limits to the activities of third parties on the territories of indigenous communities without their consent. This new instrument, even if it is not a treaty, represents an important tool that indigenous peoples can use to claim their rights, including their right to food, and seek appropriate remedies in case of violations. Since its adoption in 2007, it has inspired new constitutions in Bolivia and Ecuador; the whole declaration, or part of it, has been incorporated in national laws.

75. Ratification and implementation at national level of the Convention on the Rights of Persons with Disabilities would represent a step forward in acknowledging the needs of persons with disabilities and realizing their right to food.

V. Good practices

A. Good practices in respect to people working in rural areas

76. The global fight against hunger has mobilized various relevant actors and has touched upon different aspects of the work in the rural areas. The international movement of peasants, La Via Campesina, defends the rights of peasants and rural women by “promoting gender parity and social justice in fair economic relations; the preservation of land, water, seeds, and other resources; food sovereignty; and sustainable agricultural

⁷⁴ P. Sanchez et al, *Halving Hunger: It Can Be Done*, Task Force on Hunger, 2005.

production based on small- and medium-sized producers.”⁷⁵ Legal groups such as the Permanent People’s Tribunal on the Right to Food and the Rule of Law in Asia investigate the protection of food and water rights.⁷⁶

77. The Food and Cash Transfer project of Concern Worldwide distributed packages to recipients in rural Malawi, half in cash and half in food - the food package being provided since the supply shortages in local markets had made food inaccessible to cash transfer recipients. The project registered a success in providing nutritional support and a temporary safety net to targeted households which were overlooked by other emergency schemes and that were coping with the food crisis in the country by resort to destructive coping strategies (educing meals, selling livestock and assets). The success raised the issues of a potential application of the Food and Cash Transfer scheme as a cash-based “seasonal safety net” for vulnerable households that expands or contracts each year, according to the severity of the annual hungry season.⁷⁷

78. Two Indian women developed organic farming methods that do not make use of irrigation or chemical fertilizers and pesticides, yet still delivered surplus produce. In addition to training women in over 70 villages to employ this type of farming, they worked with the Deccan Development Society to help women form women’s sanghams (associations) “that decide their own crops, set up community grain banks that collect surplus produce and sell it at lower than market rates to below-poverty-level members who have no lands, or have not managed to grow enough food.”⁷⁸

79. Efforts are also being made to distinguish the use of genetically modified organisms (GMO) from food ensuing from more traditional seeds. Such control empowers individuals to make the ultimate decision in respect to the products they wish to consume. Japan made health testing of genetically modified foods mandatory by April 2001⁷⁹. In 2010, the European Commission adopted a Directive, which gives the freedom to European Union member States to decide upon the cultivation, restriction or prohibition of GMO in their territory.⁸⁰ Hundreds of leading food brands and dozens of leading retailers in Europe now offer meat, fish, eggs, poultry eggs and dairy produce made without the use of GM feedstuffs.⁸¹

80. In respect to toxic food, it is notable that parties to the Stockholm Convention on Persistent Organic Pollutants agreed to limit the use of harmful chemicals to “environmentally sound” purposes⁸² and prevent the production and use of pesticides or industrial chemicals with Persistent Organic Pollutants.⁸³ International networks such as the Pesticide Action Network⁸⁴ and the International Persistent Organic Pollutants Elimination

⁷⁵ La Via Campesina, “The International Peasant’s Voice”, www.viacampesina.org.

⁷⁶ See www.foodjustice.net/about.

⁷⁷ S. Devereaux et al, *After the FACT: An Evaluation of Concern Worldwide’s Food and Cash Transfers Project in Three Districts of Malawi*, 2006.

⁷⁸ See K. Acharya, “Good food, Indian-Style,” *India Together*, 2009, www.indiatogether.org/2009/mar/agr-ddsfood.htm.

⁷⁹ D. Whitman, “Genetically modified foods: harmful or helpful?”, *ProQuest*, 2000.

⁸⁰ “GMOs: Member States to be given full responsibility on cultivation in their territories”, Press Release, 13 July 2010.

⁸¹ Ireland adopts GM-free zone policy”, GM Free Ireland, 13 October 2009. See also www.nongmoproject.org.

⁸² Such as using DDT only for malaria control.

⁸³ See www.pops.int/documents/convtext/convtext_en.pdf

⁸⁴ See www.pan-international.org.

Network⁸⁵ have had a tremendous impact on curtailing the use of chemicals that harm the world's food supply.

B. Good practices relating to the urban poor

81. Below Horizonte is the fourth largest city in Brazil; estimates from the early 1990s concluded that 38% of families⁸⁶ and 44% of children⁸⁷ live under the poverty line. The city government created the Municipal Secretariat of Supplies to tailor an integrated policy addressing malnutrition and hunger. Programmes cover (a) policies that assist poor families and individuals at risk by supplementing their food intake; (b) partnering with private food suppliers to bring food to areas previously neglected by commercial establishments; and (c) increase food production and supply through technical and financial incentives given to small-scale producers to link rural producers and urban consumers.⁸⁸ A 20-member council with representatives from the government sector, labour unions, food producers/consumers, and NGOs advised the Secretariat on project directions. Much of the Secretariat's success is also due to the decentralization of social programmes that were previously managed at a federal level (school meals were provided in this manner, for example). Decentralization allows for savings (for example, transportation costs) and opens up space for production by local suppliers. Finally, ensuring local participation and commitment conveys a sense of ownership to the communities of Belo Horizonte.

C. Good practices in respect to women

82. The African Women Food Farmer Initiative of the Hunger Project was the first microfinance programme in Africa developed to target women food producers, and the first to result in officially recognized rural banks owned and operated by rural women. A total of 18 Rural Banks now operate as independent, community-owned and women-led rural financial institutions. The Project has disbursed nearly \$7.9 million to various communities, 42% of which has been distributed by the rural banks.⁸⁹

83. The Kenya Women Finance Trust Ltd., established in 1981 as the largest and only microfinance institution exclusively for women, ensures that women entrepreneurs have access to credit and promotes savings mobilization among its 100,000 members from seven of Kenya's eight provinces. By December 2008, it was responsible for 247,538 active loans.⁹⁰ Al Tadamun Microfinance Foundation in Egypt provides group guaranteed microfinance exclusively for women. By December 2009, it had 91,000 active borrowers and a portfolio of US\$ 10.9 million.⁹¹

84. Kiva is a person-to-person microlending website that links individual lenders to rural entrepreneurs around the world, especially in Africa. Lenders browse through profiles

⁸⁵ See www.ipen.org.

⁸⁶ J. R. B. Lopes and S. M. S. Telles, "Caracterização das populações pobres no Brasil e de seu acesso à programas sociais", in Galeazzi, M.A.M., ed., *Segurança Alimentar e Cidadania*, 1996.

⁸⁷ CMCA, *Diagnóstico: Criança e Adolescente em Belo Horizonte*, PHB, 1994.

⁸⁸ See also C. Rocha, "An integrated program for urban food security: The Case of Belo Horizonte, Brazil", 2000.

⁸⁹ The Hunger Project, *Microfinance Program in Africa*, 2009, www.thp.org/what_we_do/key_initiatives/microfinance/overview.

⁹⁰ www.kwft.org

⁹¹ www.altadamun.org

of entrepreneurs and women farmers that are uploaded to the Kiva website, and lend them funds using their credit cards. Kiva then provides the funds to the beneficiaries.⁹²

85. The WFP, through its scheme Purchase for Progress (P4P), is attempting to promote smallholders' agricultural production and access to markets so as to address food insecurity and poverty. Implemented in 21 countries over a period of five years (2009-2013), new procurement modalities will shift a percentage of WFP's overall local and regional procurement from the higher levels of the marketing chain – large-scale traders and processors – to the lower levels, such as farmers' organizations and small and medium-scale traders. P4P is a market development programme that seeks to connect smallholder farmers to markets. It offers a unique opportunity to target women, acknowledged as the majority of smallholder farmers, to increase women's agricultural productivity and economic returns and promote their integration in various aspects of the agricultural value chain. Over the five year lifespan of the pilot, P4P aims to reach at least 500,000 smallholder farmers, increasing their incomes by at least US\$ 50 per annum. At least half of these farmers are expected to be women.⁹³

D. Education systems, school meals and other practices for combating hunger and malnutrition among children

86. School meal programmes in developing, as well as developed countries provide healthy food and improve access to education for children, improve rural economies and help local farmers. In addition, they relieve parents, usually mothers, from assuring the midday meal and thus provide them with the possibility to seek employment during the day.

87. In 2009, the Partnership for Child Development at Imperial College London launched a project aimed at helping Governments "to run school meal programmes using locally-sourced food, providing regular orders and a reliable income for local farmers" in Mali, Nigeria, Ghana, Malawi and Kenya.⁹⁴

88. The Food and Nutrition Service of the United States Department of Agriculture administers the National School Lunch Program, which provides daily "nutritionally balanced, low-cost or free lunches" to more than 30.5 million children in over 101,000 schools.⁹⁵ Some Governments, including those of Italy, France and South Africa have made efforts to ensure that their schools offer organic food to their students.⁹⁶

89. As part of its commitment to the Convention on the Rights of the Child, in 2007 Bolivia launched the Zero Malnutrition National Programme to combat malnutrition, monitor the nutrition and health of the children and distribute food supplements. As part of the initiative, Plan International, based in the United Kingdom, trained roughly 1,500 women as *madres vigilantes*, who then returned to their respective communities to monitor child nutrition and educate other women about better eating and cooking habits.⁹⁷

⁹² www.kiva.org

⁹³ WFP's Comments on the Committee's Preliminary study, not dated.

⁹⁴ Imperial College London, *Local Farmers in Africa to Benefit from School Meal Programmes*, 2009, www3.imperial.ac.uk/newsandeventspggrp/imperialcollege/newssummary/news_15-10-2009-12-20-4.

⁹⁵ USDA, *Factsheet: The National School Lunch Program*, 2009, www.fns.usda.gov/cnd/lunch/AboutLunch/NSLPFactsheet.pdf.

⁹⁶ J. Meldrum, "Organic Canteen Food for Better Kids", *Australian Organic Journal*, 2006, www.bfa.com.au/_files/x06aoj_008-9.pdf.

⁹⁷ J. Velasco Parisaca and W. Medina, "Bolivia: mothers teaching mothers to combat malnutrition", *IPS*

90. An exemplary practice in respect to the right to food of children and children's rights more general is the Proposed Rights of Children and Young Persons Measure adopted in 2010 in Wales. The purpose of the Measure is to place a duty on Assembly Government Ministers to have due regard in taking strategic decisions to the rights and obligations of children enshrined in the CRC. The Measure is expected to strengthen the existing rights-based approach for children and young people in policy making in Wales and to reinforce their position in Welsh society.⁹⁸

VI. Conclusion

91. **The food crisis, the economic crisis and the environmental crisis have deepened already existing inequalities between the world's regions and the vulnerability of the poorest members of developing countries. In 2009, for the first time in history, more than 1 billion people were undernourished worldwide. The people most vulnerable to hunger and malnutrition include people working in the rural areas, the urban poor, women, children, refugees, indigenous people, disabled people, elderly, and other minorities. Most of these people are hungry because they suffer from many forms of discrimination.**

92. **The current study has addressed discrimination in the context of the right to food faced by these vulnerable groups and has outlined some strategies and best practices to combat discrimination.**

93. **The Committee considers that more focused attention must be paid to the identified vulnerable groups, in order to highlight the specific protective international legislation and mechanisms, the normative and *de facto* discrimination, as well as to put together a substantive collection of strategies and best practices in respect to each vulnerable group in part. As such the Advisory Committee proposes to undertake focused work on the following:**

(a) **Comprehensive Study on the right to food of the urban poor, including their legal protection and best practices;**

(b) **Comprehensive Study on the right to food of women – legal protection, patterns of discrimination, in particular at substantive/non-formal level and identification of best practices;**

(c) **Comprehensive study on noma, the child disease caused by severe malnutrition, and developing of guidelines to prevent noma and discrimination of children and people affected by noma;**

(d) **Comprehensive study on the right to food of hunger refugees, and developing of guidelines to strengthen the protection of people forced to leave their homes and land because of hunger.**

News, 2009, <http://ipsnews.net/news.asp?idnews=45348>. See also T. Delvigne-Jean, “‘Model mothers’ work to combat malnutrition in Mozambique”, 2008, www.unicef.org/infobycountry/mozambique_45308.html.

⁹⁸ See Welsh Assembly Government,

<http://new.wales.gov.uk/newsroom/childrenandyoungpeople/2010/100614legislation/?lang=en>