

# FOOD SOVEREIGNTY IS A GENDERED ISSUE

MAGGIE ELLINGER-LOCKE, J.D. 2011

Maggie Ellinger-Locke received her J.D. from City University of New York School of Law in 2011, and her B.A. in ecofeminism from Antioch College. She is admitted into the Missouri Bar where she is a practicing criminal defense attorney. She would like to thank Professors Andrea McArdle and Rebecca Bratspies, and the Buffalo Environmental Law Journal, for their assistance with this article. This article is dedicated to her family.

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*Abstract:*

“Food sovereignty is about ending violence against women.” This slogan of La Vía Campesina’s, an international movement of peasant farmers, offers a perspective on the power dynamics of the food system from farm to fork. Transforming power imbalances is the work of food sovereignty, or democratic control over the food system, and this article offers a way forward for policy makers, regulators, and eaters everywhere.

## I. INTRODUCTION

For the first time in history, more than one billion people on the planet are living with hunger.<sup>1</sup> Of these, 75% live in rural areas,<sup>2</sup> mostly earning their livelihoods from farming.<sup>3</sup> While they work in agriculture, they are hungry.<sup>4</sup> There is irony in the juxtaposition of agriculture and poverty, in the lack of access to food by the people who grow it. In June 2008, the World Bank reported that global food prices rose 83% over the last three years<sup>5</sup> and the United Nation’s Food and Agriculture Organization (FAO) cited a 45% increase in just nine months.<sup>6</sup>

While global food prices were at an all time high, agribusiness was experiencing booming profits. In the last quarter of 2007, as the food crisis was just beginning, Archer Daniels Midland realized an earnings increase of 42%, Monsanto of 45%, and Cargill of 86%.<sup>7</sup> Cargill’s subsidiary, Mosaic Fertilizer, saw a profit increase of 1,200%.<sup>8</sup>

As capitalist agriculture has grown, hunger and poverty have increased. There is a tendency to see hunger connected to agricultural output and population. This is only a small part

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<sup>1</sup> U.N. Food & Agric. Org. [FAO]. *The State of Food Insecurity in the World 2009: Economic Crises—Impacts And Lessons Learned*, 11 (2009), available at <ftp://ftp.fao.org/docrep/fao/012/i0876e/i0876e.pdf>.

<sup>2</sup> *Who Are the Hungry?*, WORLD FOOD PROGRAM (2010), <http://www.wfp.org/hunger/who-are>.

<sup>3</sup> *Id.*

<sup>4</sup> *1.02 Billion People Hungry*, FOOD AND AGRIC. ORG., FAO MEDIA CENTER (June 19, 2009), <http://www.fao.org/news/story/en/item/20568/icode/>.

<sup>5</sup> *Rising Food Prices: Policy Options and World Bank Response*, WORLD BANK (2008), [http://siteresources.worldbank.org/NEWS/Resources/risingfoodprices\\_backgroundnote\\_apr08.pdf](http://siteresources.worldbank.org/NEWS/Resources/risingfoodprices_backgroundnote_apr08.pdf).

<sup>6</sup> *Urgent Measures Required to Reduce Impact of High Food Prices on the Poor*, FAO NEWSROOM (Apr. 9, 2008), <http://www.fao.org/newsroom/en/news/2008/1000823/index.html>.

<sup>7</sup> Eric Holt-Gimenez, *From Food Crisis to Food Sovereignty: the Challenge of Social Movements*, MONTHLY REV., 2009, <http://www.monthlyreview.org/090831holt-gimenez.php>.

<sup>8</sup> *Id.*

of the truth. In fact, according to the FAO, there actually was enough food to feed everyone on the planet in 2008 due to the record grain harvests of 2007;<sup>9</sup> the amount of food produced was 150% of current demand. Over the course of the last twenty years, the rate of population growth has dropped to 1.14% a year, yet food production has increased by over two percent per year.<sup>10</sup> Demand is not exceeding supply; people are simply too poor to afford enough food.

While rapid population growth can create a larger demand than supply, this version of events misses the bigger picture. It is the concentration of power and profits in the global North that has left the global South hungry. Fifty years ago the global South had an agricultural trade surplus of \$1 billion; today it has a deficit of \$11 billion.<sup>11</sup> This imbalance of power between agribusiness and the growing numbers of hungry has led to the world food crisis.

According to the World Food Summit of 1996, food security exists when all people, at all times, have access to sufficient, safe, and nutritious food to meet their dietary needs and food preferences for an active and healthy life.<sup>12</sup> La Vía Campesina,<sup>13</sup> the Peasant Way, an international federation of peasant farmers, looked at this concept and saw limitations in its failure to address the power dynamics and imbalances within the food system, such as who controls how food is produced and distributed, and the question of power in turn implicates

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> World Food Summit, Nov. 13–17, 1996, *Rome Declaration on World Food Security and World Food Summit Plan of Action*, ¶ 1, U.N. Doc. WFS/96/3 (Nov. 13, 1996), available at <http://www.fao.org/docrep/003/w3613e/w3613e00.HTM>.

<sup>13</sup> La Vía Campesina is a “transnational agrarian movement made up of organizations of peasants, small- and medium-scale farmers, rural women, farm workers and indigenous agrarian communities throughout Asia, the Americas, Europe and Africa. These groups all share an intimate connection to the land and a collective will to work together to build a more humane world... The growing visibility of La Vía Campesina as a key social actor has attracted the attention of many rural organizations seeking alternatives. La Vía Campesina now includes 149 progressive organizations from 69 countries, making it the largest transnational rural social movement to have emerged in recent times. Through its primary strategy of “building unity within diversity,” the movement continues to build solidarity across gender, race, and class lines.” Luis Hernández Navarro & Annette Aurélie Desmarais, *Feeding the world and cooling the planet: La Vía Campesina’s Fifth International Conference*, BRIARPATCH, Jan.-Feb. 2009, available at <http://briarpatchmagazine.com/2009/01/16/la-via-campesinas-fifth-international-conference/>.

gender. This focus on power frames the question as one of food sovereignty rather than food security. Food sovereignty is defined as “the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems.”<sup>14</sup> Food sovereignty penetrates much deeper than food security and is the subject of this article. Moreover, the use of gender as a lens to understand the global food system, based on the similarities between patriarchy’s control over the agricultural system and its control over women’s bodies and reproductive capacity, creates a perspective that has not been sufficiently offered elsewhere.

In 2008 in Maputo, Mozambique, La Vía Campesina held its fifth international conference called “Feeding the World and Feeding the Planet.” At this conference a policy letter was drafted called “An Open Letter from Maputo,” which included a call for a new program of action under the slogan “food sovereignty is about an end to violence against women.”<sup>14</sup> That statement is the inspiration for this paper. The power of this statement is perhaps not immediately recognized, yet there is profundity in what it can offer. In not only building a food secure world, but also, by changing relationships on an interpersonal level between individuals sitting across a table, food sovereignty offers an alternative to our current food system and a more profound analysis of power than food security. Food sovereignty, literally people’s self-government over the food system, argues for a complete transformation of society, or nothing less than food revolution. This article demonstrates the key role that the set of practices known as food sovereignty can play in rebuilding democratic systems of food production. Food

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<sup>14</sup> *Declaration of Nyèlèni*, FORUM FOR A NEW WORLD GOVERNANCE, AGRICULTURE, AND FOOD SECURITY AND SOVEREIGNTY (Feb. 27, 2007), [http://www.world-governance.org/IMG/pdf\\_0072\\_Declaration\\_of\\_Nyeleni\\_-\\_ENG.pdf](http://www.world-governance.org/IMG/pdf_0072_Declaration_of_Nyeleni_-_ENG.pdf).

<sup>14</sup> Raj Patel, *Food Sovereignty*, 36 J. PEASANT STUD. 663 (2009); *Open Letter from Maputo: Peasant Agriculture and Food Sovereignty are Solutions to the Global Crisis*, AGENCIA LATINOAMERICANA DE INFORMACION (2008), <http://alainet.org/active/27096&lang=es>.

sovereignty is also a feminist issue and applying a gendered lens to the food system reveals the failings of food security as a goal for food system transformation. This article will examine the role of social movements, such as La Vía Campesina, in changing the framework governing food production, and advocates looking to these movements for leadership.

As explained above, the economics and power dynamics of the current food system exacerbates hunger and poverty. Part II explores the relevant legal regimes that form the foundation of the current system. Part III explains the concepts of food security, the right to food, and food sovereignty; it will explore why food security is a limited concept and must be broadened to ensure democratic control over the food system. Part IV will explore gender and ecofeminism,<sup>15</sup> explaining how a gendered lens can transform the way food is produced and distributed. Part V discusses some of the work that food sovereignty is accomplishing and suggests that these efforts provide a path forward for the current food system towards one organized around food sovereignty. And finally the conclusion, Part VI, explains how La Vía Campesina, which some claim to be the world's largest social movement,<sup>16</sup> offers the vision of how legal regimes must be guided by the principles of food sovereignty, and emphasizes the need for urgency in restructuring the global food system in light of the climate crisis.

## II. LEGAL REGIMES

*Seeds are the ultimate symbol of food security... Free exchange among farmers goes beyond mere exchange of seeds; it involves exchanges of ideas and knowledge, of culture and heritage. It is the accumulation of tradition, of knowledge of how to work the seed. Farmers learn about plants they want to grow in the future by watching them grow in other farmers' fields. –Vandana Shiva<sup>17</sup>*

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<sup>15</sup> Ecofeminism will be explored in depth later but it involves the overlap of feminism and environmentalism.

<sup>16</sup> See Rajeev Patel, *Transgressing Rights: La Via Campesina's Call for Food Sovereignty*, 13 FEMINIST ECONOMICS 89 (2007).

<sup>17</sup> VANDANA SHIVA, *STOLEN HARVEST: THE HIJACKING OF THE GLOBAL FOOD SUPPLY* 8, (South End Press 2001).

To sum up world history rather quickly: ten thousand years ago humans began planting seeds, which enabled them to stay in one place year after year, no longer subjected to the whims of migrating animals. Thus simply put, through seed, civilization was born.

Cultures organized around seed cultivation are attractive to nations lacking in natural resources. Colonialism is based on the extraction of natural resources that belong to colonized nations to profit the colonizer.<sup>18</sup> As a result, many self-reliant subsistence nation-states were transformed into economic satellites of imperial powers.<sup>19</sup> Many colonies were rendered dependent on the export of raw materials and the import of manufactured goods. This left them in poverty, politically unstable, and dependent on imported food to meet domestic consumptive needs. Then the “Green Revolution,” which relied on artificial inputs to increase agricultural production, emerged ostensibly to repair the damage caused by the colonial era.<sup>20</sup> Yet today development regimes continue to perpetuate the same unfair practices of the empires of the past.

#### **A. THE GREEN REVOLUTION**

The Green Revolution was a post-World War II philanthropic effort aimed at reducing hunger through the increase of crop yields.<sup>21</sup> Through the support of such organizations as the Ford and Rockefeller Foundations, international crop breeding institutions developed new varieties of rice, wheat, and corn that were designed to thrive under the application of industrial agricultural inputs such as synthetic fertilizers, petroleum-based pesticides, and irrigation equipment.<sup>22</sup> These varieties and the accompanying inputs were presented to farmers, who were

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<sup>18</sup> Carmen G. Gonzalez, *Genetically Modified Organisms and Justice: The International Environmental Justice Implications of Biotechnology*, 19 GEO. INT'L ENVTL. L. REV. 583, 595 (2007).

<sup>19</sup> *Id.* at 595-596.

<sup>20</sup> RAJ PATEL, STUFFED AND STARVED: THE HIDDEN BATTLE FOR THE WORLD FOOD SYSTEM 125 (2007).

<sup>21</sup> Gonzalez, *supra* note 18, at 596-97.

<sup>22</sup> *Id.* at 597.

encouraged to use them without consideration of the possibly prohibitive costs or consequences.<sup>23</sup>

What came next is more controversial. From the point of view of certain scientists,<sup>24</sup> the Green Revolution was a success as it more than doubled food production.<sup>25</sup> Fear of a Malthusian catastrophe brought on by over-population left the world looking for new technologies as the answer to the growing problem of hunger.<sup>26</sup> However, as Nobel Laureate Amartya Sen argues, hunger is not an issue of food production being in proportion to population, but rather a social problem stemming from poverty.<sup>27</sup> The complexity of the problem cannot be overstated and simple fixes are not capable of addressing it. However unintentionally, the Green Revolution has increased hunger and inequality in many ways, even as it increased the food supply that was available to those who could afford to buy food.<sup>28</sup> It benefited wealthy farmers who could afford the expensive inputs over poor farmers.<sup>29</sup> The flood of crops on the market drove down prices, leaving many small farmers poverty-stricken.<sup>30</sup> When farmers abandoned traditional low-input ecologically sustainable practices in favor of industrial agriculture, they harmed their environment.<sup>31</sup>

Meanwhile, agribusiness, much of it based in the United States, was prospering as never before. Agribusiness heralded the idea that “one seed feeds the world.”<sup>32</sup> Rather than adapting

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<sup>23</sup>*Id.*

<sup>24</sup> Norman Borlaug is the best known of these. See Justin Gillis, *Norman Borlaug, Plant Scientist who Fought Famine, Dies at 95*, N.Y. TIMES (Sept. 13, 2009), available at <http://www.nytimes.com/2009/09/14/business/energy-environment/14borlaug.html>.

<sup>25</sup> Gonzalez, *supra* note 18 at 597.

<sup>26</sup> KEITH AOKI, *SEED WARS: CONTROVERSIES AND CASES ON PLANT GENETIC RESOURCES AND INTELLECTUAL PROPERTY* 23 (Carolina Academic Press 2008).

<sup>27</sup> AMARTYA SEN, *DEVELOPMENT AS FREEDOM* 206 (Alfred A. Knopf ed., 2000).

<sup>28</sup> Gonzalez, *supra* note 18 at 946.

<sup>29</sup> *Id.* at 597.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 598.

<sup>32</sup> AKOI, *supra* note 26, at 23.

seeds to different locales, they were selling whole systems that adapted the locales to the industrial agriculture model. In this way agribusiness operated similarly to colonial powers; the companies were profiting off the former colonies and making record profits, while the farmers, the people, and the land, continued to suffer.<sup>33</sup> This is notable also for the racial dimensions that operate both historically and currently in the global food system. Those without food are disproportionately people of color and those who control the means of production are disproportionately white. This is a leftover remnant of an agricultural system built on enslavement.<sup>34</sup>

Part of the Green Revolution was the creation of the Consultative Group on International Agricultural Resources (CGIAR), which controls an international network of agricultural research centers (IARCs).<sup>35</sup> This network grew out of the efforts of the Ford and Rockefeller Foundations in collaboration with the U.S. and the World Bank.<sup>36</sup> This system was used to collect and store genetic material world wide, which, until the mid-1980s, was considered the common heritage of humankind. Then the U.S. placed conditions on the board of the CGIAR that stated the U.S. would house and store the germplasm<sup>37</sup> only if it would then “become the property of the U.S. government.”<sup>38</sup>

Criticism fell on CGIAR, alleging that “common heritage” was a vestige of colonialism,<sup>39</sup> where the material did not belong to the world but rather to the peoples that created them,<sup>40</sup> and

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<sup>33</sup> Gonzalez, *supra* note 18, at 597; see Bekah Mandel, *Defining Race: Cultivating Race: How the Science and Technology of Agriculture Preserves Race in the Global Economy*, 72 ALB. L. REV. 939, 944 (2009).

<sup>34</sup> *Id.* at 943.

<sup>35</sup> AKOI, *supra* note 26 at 66.

<sup>36</sup> *Id.* at 64.

<sup>37</sup> Germplasm is the genetic material of an organism. *Germplasm Definition*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/germplasm> (last visited Sept. 25., 2011).

<sup>38</sup> AKOI, *supra* note 26 at 68, n 41.

<sup>39</sup> *Id.* at 68.

<sup>40</sup> *Id.* at 68, n 43.



led to the “tragedy of the commons.”<sup>41</sup> Further, the IARCs created a flow of genetic material from the global South to the global North, continuing the legacy of colonialism, and denying the former colonies their own resources.<sup>42</sup> NGOs and others have widely criticized these moves, and a call for farmers’ rights has begun.<sup>43</sup>

The Green Revolution resulted in a loss of democratic control over the food system and a loss of biodiversity on a vast scale.<sup>44</sup> Indeed it is these social, economic, and ecological changes that people have seen impact their communities, as well as limitations within the current regulatory framework, which have fueled the Global Justice Movement and groups such as La Vía Campesina.

## **B. UNITED STATES**

### **1. History**

In the early 20<sup>th</sup> Century, plant geneticists began to unlock the code of DNA and began experimenting with hybrid corn.<sup>45</sup> This work was conducted in the United States at Land Grant Colleges and by private companies.<sup>46</sup> But by the end of the 1920s, this work began to shift away from the public sector and into the private sector with Pioneer Hi-Bred being the first to successfully market hybrid corn.<sup>47</sup>

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<sup>41</sup> *Id.* at 68. The “Tragedy of the Commons” refers to an influential article by Garret Harden published in the *Journal Nature* in 1968. In it he convincingly argues that exploitation of natural resources will lead to the collapse of common areas such as grazing land for cattle caused by overuse. The phrase is widely used in modern discussion to speak to the ecological dangers facing the planet today, even as the essay itself has fallen out of vogue.

<sup>42</sup> Gonzalez, *supra* note 18 at 596.

<sup>43</sup> Laura Winter, *Cultivation Farmers’ Rights: Reconciling Food Security, Indigenous Agriculture, and TRIPs*, 43 *VAND. J. TRANSNAT’L L.* 223, 235 (2010).

<sup>44</sup> See VANDANA SHIVA, *THE VIOLENCE OF THE GREEN REVOLUTION: THIRD WORLD, AGRICULTURE, ECOLOGY, AND POLITICS* 62 (1992).

<sup>45</sup> AOKI *supra* note 26, at 3.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

In 1930, Congress passed the Plant Protection Act (PPA), which allowed for the patenting of asexually produced plants such as grafts and clones.<sup>48</sup> However, Congress did not provide for the patenting of sexually produced plants.<sup>49</sup> In 1970, under the Plant Variety Protection Act (PVPA),<sup>50</sup> Congress created a certificate of protection for sexually produced plants.<sup>51</sup> This act also provided an exemption for farmers to save seed,<sup>52</sup> and the evolution of perspective on treating a living thing as an invention. This exemption would be removed in 1994 by amendment.

A landmark decision by the Supreme Court, *Diamond v. Chakrabarty*,<sup>53</sup> held that patents could be obtained on living organisms that had been altered by human beings, i.e., genetic manipulation of a plant by a human being was patentable. This extension of intellectual property rights (IPRs) to plant genetic resources (PGR) effectively takes PGRs out of nature and turns them into a commodity. This has led to a “devaluation of life.”<sup>54</sup> Another case, *Ex Parte Hibberd*,<sup>55</sup> opened the door even wider to the patenting of life. In this case a scientist had applied for a patent on the tissue culture, seeds, and whole plant of a maize line. The Patent and Trademark Office (PTO), an administrative agency, denied Dr. Hibberd’s patent application on the grounds that the PPA and PVPA prevented Hibberd from obtaining the patent. Hibberd

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<sup>48</sup> *Id.* at 4.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 34.

<sup>51</sup> Although the PVPA does not officially provide for patenting, the protection it provides to breeders is comparable. The Plant Variety and Protection Act, 7 U.S.C. §§2321-2582 (1970).

<sup>52</sup> The practice of seed saving is as old as agriculture itself. Farmers collect the seeds from plants that performed the stronger or that were particularly favorable to the growing conditions to plant the next year. It is this process of continual improvement that has made it possible to have any and all of the crops that we rely on today. It is also the knowledge of ancient farmers that is under attack when such varieties are patented under intellectual property rights regimes, to be discussed infra. *See Winter, supra* note 43, at 227.

<sup>53</sup> 447 U.S. 303, 309-10 (1980).

<sup>54</sup> *Winter, supra* note 43, at 227 (describing the process of reducing plants to their genes, turning them into commodity products. This reductionism strips the value intrinsic in the plants themselves as well as the additions that farmers have made through plant breeding for centuries, thus, devaluing life).

<sup>55</sup> 227 U.S.P.Q. 443, 443-44 (1983).

appealed and the Board of Patent Appeals reversed the PTO's decision, holding that his maize culture did meet the requirements of novelty, non-obviousness, and usefulness.<sup>56</sup> The significance of this decision is that an administrative agency made a policy decision that properly should have been the province of the legislature.<sup>57</sup> However, this decision was upheld by the U.S. Supreme Court in *J.E.M. Ag Supply, Inc., v. Pioneer Hi-Bred International, Inc.*<sup>58</sup> As Keith Aoki has pointed out, "there is an irony that the U.S. Patent Office, which in the 19<sup>th</sup> century was responsible for starting germplasm collection, propagation, and distribution until the time of the USDA's creation, is today a key institutional actor in promoting laws and practices that prohibit seed saving."<sup>59</sup>

## 2. Regulatory Framework

In 1986, the White House's Office of Science and Technology Policy issued the Coordinated Framework for the Regulation of Biotechnology.<sup>60</sup> This Framework declared that the existing regulatory agencies concerned with food and farming, the EPA, FDA, and USDA, were adequate to ensure the safety of genetically engineered products, and that no additional regulation would be necessary.<sup>61</sup> The Framework also established the presupposition that genetically engineered products pose no new risks to human health.<sup>62</sup> This assumption is at the core of the reasoning for not creating new regulatory regimes.

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<sup>56</sup> *Id.*

<sup>57</sup> AOKI, *supra* note 26, at 43.

<sup>58</sup> 534 U.S. 124 (2001).

<sup>59</sup> AOKI, *supra* note 26, at 60.

<sup>60</sup> White House Office of Science and Technology Policy, Coordinated Framework for Regulation of Biotechnology, 51 Fed. Reg. 23302 (June 26, 1986).

<sup>61</sup> Rebecca Bratspies, *Symposium: Genetically Modified Organisms: Philosophy, Science, and Policy: Some Thoughts on the American Approach to Regulating Genetically Modified Organisms*, 16 KAN. J.L. & PUB. POL'Y 393, 406 (2007).

<sup>62</sup> *Id.*

The Coordinated Framework has only been judicially reviewed once, when the Washington D.C. District Court granted a motion to dismiss a challenge to the Framework.<sup>63</sup> Since that time the Framework has been implicitly upheld because neither agencies nor the legislature has sought to provide additional regulation of genetically engineered products. The most recent case that supports this understanding of the law is *Geertson Seeds v. Monsanto*,<sup>64</sup> where the Supreme Court overturned a Ninth Circuit Court of Appeals decision to place an injunction on the planting of genetically engineered alfalfa until an environmental impact statement could be completed. Thus, the Coordinated Framework controls.

Under the Coordinated Framework, the end product is regulated, not the process that led to the product's creation.<sup>65</sup> This focus on results and the ignoring of process perpetuates a patriarchal system that seeks to control fertility and reproduction, patriarchy has long used reproduction to exert control over women and their bodies.<sup>66</sup> This focus eclipses reproduction by shifting attention onto the production of products. The end commodified product is given value but everything that went into its creation is ignored, and not awarded value.

Through placing nature in the same position as women, patriarchy,<sup>67</sup> along with a capitalist system of production, has been able to exert dominance over the earth. Exploring this women/nature connection is the exact work that ecofeminism seeks to perform.<sup>68</sup> Power over

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<sup>63</sup> *Found. on Econ. Trends v. Johnson*, 661 F. Supp. 107, (D.D.C. 1986).

<sup>64</sup> 130 S.Ct. 2743 (2010).

<sup>65</sup> Bratspies, *supra* note 61 at 406.

<sup>66</sup> CAROLYN MERCHANT, *ECOLOGY: KEY CONCEPTS IN CRITICAL THEORY* 11 (1999).

<sup>67</sup> Patriarchy is a set of social relations among men, which have a material base, and which, though hierarchical, establish or create interdependence and solidarity among men that enable them to dominate women. Heidi Hartmann, *The Unhappy Marriage of Marxism and Feminism: Towards a More Progressive Union*, in *Feminist Theory Reader: Local and Global Perspectives* 206, 211 (Carol McCann & Seung-kyung Kim eds., 2003).

<sup>68</sup> It should be noted that women are not the only group that has been associated with nature; people of color have long suffered from such notions as being more "animalistic" than white people.

birth and the harvest lies at the very center of patriarchy, and ecofeminism seeks to critique exactly this.<sup>69</sup>

Thus, an ecofeminist critique of the Coordinated Framework is necessary to understand how the law has been shaped by patriarchy. The same power system that has sought control over agriculture, has sought control over women's bodies.<sup>70</sup> These important connections are too interlinked to ignore. Similarly the solution, which will invariably include a new regulatory framework, must take into account these connections. Thus, ecofeminist jurisprudence can offer innovative and novel solutions to write a more promising chapter in the history of agriculture.

### C. INTERNATIONAL REGIMES

Food production has been regulated through a series of international agreements. In 1961, global North countries initiated the first international regime for the protection of plant varieties called the International Union for the Protection of New Varieties of Plants (UPOV).<sup>71</sup> This convention, which has been amended several times, provides for plant breeders' rights (PBRs), giving plant breeders the sole right to create, reproduce, commercialize, and sell protected plant varieties.<sup>72</sup> In order to qualify for a PBR, a plant variety must be new, distinct, uniform, and stable.<sup>73</sup> Whether the variety qualifies as new depends not on whether it existed previously, but rather if it had been previously commercialized—that is, sold or marketed.<sup>74</sup> The 1991 amendment to the UPOV made optional a “farmers’ privilege” exception that had been mandatory before and allowed farmers to save and exchange seed with other farmers.<sup>75</sup> Making

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<sup>69</sup> Heather McLeod-Kilmurray, *An Ecofeminist Legal Critique of Canadian Environmental Law: the Case Study of Genetically Modified Foods*, 26 WINDSOR REV. LEGAL & SOC. ISSUES 129 (2009).

<sup>70</sup> *Id.*

<sup>71</sup> Winter, *supra* note 43, at 230.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 231.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 232.

this provision optional amounts to forbidding this practice by farmers in countries that choose to eliminate it, abandoning 10,000 years of farming practices.

Following these first regulatory efforts, the oil crises of the 1970s caused the price of oil to spike beyond the reach of global South countries.<sup>76</sup> These price spikes forced such countries to procure loans from domestic banks so they could pay for the fuel and petroleum-based agricultural inputs.<sup>77</sup> Then, agricultural commodity prices fell just as interest rates on these loans spiked upward and these countries were unable to pay their debts.<sup>78</sup> By the mid-1980s, two-thirds of African countries and three-quarters of Latin American countries had accepted the structural adjustment programs commanded by the International Monetary Fund to restructure their existing economies and acquire new loans.<sup>79</sup> Structural adjustment required countries to increase agricultural exports to create revenue that would be used to pay for their debt.<sup>80</sup> However, this only further flooded the market, driving down prices even more and continuing the cycle of poverty.<sup>81</sup>

In 1983, the United Nations Food and Agriculture Organization (FAO) promulgated the International Undertaking on Plant Genetic Resources (IUPGR),<sup>82</sup> the first international instrument that dealt with PGRs. The IUPGR declares that PGRs are part of the “heritage of mankind” and as such should be freely available. It also recognized the concept of farmers’ rights, meaning rights that arise “from the past, present and future contribution of farmers in conserving, improving, and making available plant genetic resources, particularly those in the

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<sup>76</sup> Gonzalez, *supra* note 18, at 600.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> AOKI, *supra* note 26, at 69-70.

centers of origin/diversity.”<sup>83</sup> While this lip service was paid to the concept of farmers’ rights, in effect it had little impact.<sup>84</sup> However, it set the agenda for later international agreements.

The Convention on Biological Diversity (CBD)<sup>85</sup> was adopted at the 1992 United Nations Conference on Environment and Development (the Rio Earth Summit).<sup>86</sup> The CBD described PGRs as “sovereign national property”<sup>87</sup> ending the “common heritage” regime. It also stated that “informed consent” should be the standard for bilateral trade agreements pertaining to bio-resource extraction to achieve “equitable benefit sharing.”<sup>88</sup> The CBD was innovative in recognizing the rights of subnational groups, such as indigenous peoples, to partake in “benefit sharing.”<sup>89</sup>

However, such gains of the CBD are tempered by its commitment to market-place solutions. The CBD takes the position that economic incentives are necessary to encourage global South countries to conserve their biodiversity rather than seeking out short-term solutions such as clear cutting for the creation of grazing land.<sup>90</sup> The purpose of encouraging this conservation was to enable corporate interests to exchange cash for bioresources.<sup>91</sup> The contract regime would occur between private actors or private actors and government.<sup>92</sup> This profit-driven formula necessarily takes decision making power out of the hands of the poor. Nonetheless, CBD has provided a framework on which a future agreement can be built.

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<sup>83</sup> Winter, *supra* note 43 at 235.

<sup>84</sup> Aoki, *supra* note 26 at 77.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* at 79.

<sup>88</sup> *Id.* at 81.

<sup>89</sup> *Id.* at 80, n. 94.

<sup>90</sup> *Id.* at 79.

<sup>91</sup> *Id.* at 79, n. 90.

<sup>92</sup> *Id.* at 81.

Many of the gains by farmers and the global South in the CBD were soon under attack by the Agreement on Trade-Related Aspects of Intellectual Property (TRIPs), stemming from the General Agreement on Trade and Tariffs (GATT), which took effect January 1, 1995.<sup>93</sup> TRIPs extend the intellectual property regimes of the United States to the whole world and do so at the expense of the global South. Economist Joseph Stiglitz writes, “TRIPs reflected the triumph of corporate interest in the United States and Europe over the broader interests of billions of people in the developing world. It was another instance in which more weight was given to profits than to other basic values—like the environment, or life itself.”<sup>94</sup>

The next instrument of note is the 2001 International Treaty on Plant Genetic Resources (ITPGR).<sup>95</sup> The ITPGR reaffirmed the FAO’s burgeoning commitment to farmers’ rights and granted farmers the right to participate in national-level decision-making on matters related to PGR use and genetic conservation.<sup>96</sup> However, the right to use, exchange, and sell farm-saved seeds remained in the discretion of national governments.

An analysis of these major agreements paints a picture deeply unfair to the global South, yet still holds out some promise. Notably, of all these international agreements only TRIPs have enforcement powers. TRIPs have a set of detailed and substantive rules that are linked to the World Trade Organization’s (WTO) Dispute Settlement Body (DSB), which decides the outcome of trade disputes within WTO member countries, and uses a decision-making procedure known as “reverse consensus.” It requires that unless there is a consensus against a specific trade

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<sup>93</sup> This date also marks the one-year anniversary of the beginning of the Global Justice Movement (known in the mainstream media as the “anti-globalization movement”) when the Zapatistas of Chiapas, Mexico, rose up in protest to the North American Free Trade Agreement (NAFTA). This paper argues that the Global Justice Movement is the key to eliminating such regimes, which is why this date is highlighted here. Liz Highleyman, *Global Justice Movement*, in THE ENCYCLOPEDIA OF AMERICAN SOCIAL MOVEMENTS VOL. 1 xxix (Immanuel Ness ed., 2004)

<sup>94</sup> Joseph Stiglitz, MAKING GLOBALIZATION WORK 105 (2007).

<sup>95</sup> AOKI *supra* note 26 at 86.

<sup>96</sup> *Id.* at 86-7, n. 113.



policy or recommendation, the decision, no matter how harmful, will stand. However, it would be highly unlikely that a nation involved in a dispute would ever reach a consensus against itself, and, in fact, reverse consensus has never been applied to a trade policy. Once it has ruled on a case, the DSB can direct the losing party to take action to bring its law, regulations, or policies into congruence with WTO Agreements. This is the only direction that emerges from a WTO dispute. Unfortunately, the dispute resolving process does not provide for punishment or restitution to an injured party.

#### **D. FARMERS' RIGHTS**

What makes the above-mentioned agreements hopeful are the farmers' rights scenarios, particularly as outlined in the ITPGR, which encourage countries to protect such rights through national legislation. Regine Andersen of the Farmers' Rights Project offers the following definition of farmers' rights as the "lowest common denominator:"<sup>97</sup>

Farmers' rights consist of the customary rights that farmers have had as stewards and innovators of agro-biodiversity since the dawn of agriculture to save, grow, share, develop, and maintain plant varieties; and of their legitimate rights to be rewarded and supported for their contribution to the global pool of genetic resources as well as to the development of commercial varieties of plants, and to participate in decision making on issues that may affect these rights.<sup>98</sup>

She goes on to describe two approaches to understanding farmers' rights, the ownership and the stewardship approach. The ownership approach:

... refers to the right of farmers to be rewarded for genetic materials obtained from their fields and used in commercial varieties and/or protected with IPRs. The idea is that such a reward system is necessary to ensure equitable sharing of benefits arising from the use of agro-biodiversity and to establish an incentive structure for continued maintenance of this diversity.

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<sup>97</sup> Regine Andersen, *Realising Farmers' Rights under the International Treaty on Plant Genetic Resources for Food and Agriculture, Summary of Findings from the Farmers' Rights Project (Phase I)*, FNI REPORT (The Fridtjof Nansen

Institute, Nov. 2006) available at <http://www.eldis.org/vfile/upload/1/document/0708/DOC10293.pdf>.

<sup>98</sup> *Id.*

This approach creates a “disincentive to share”<sup>99</sup> as it may lead to farmers hoarding resources in anticipation of receiving benefits from them. The ownership approach places owners and buyers of PGRs at the center of a mutually agreed upon transaction.

The stewardship approach, by contrast,

... refers to the rights that farmers must be granted in order to enable them to continue as stewards and innovators of agro-biodiversity. The idea is that the legal space required for farmers to continue with this role must be upheld and that farmers involved in the maintenance of agro-biodiversity—on behalf of our generation, for the benefit of all humankind—should be rewarded and supported for their contributions.<sup>100</sup>

Under this approach the goal is to create a “legal space” that allows farmers to continue to be rewarded for their maintenance of PGRs. Stewardship also does not require the determination of who should be rewarded for their efforts in communities where plant varieties are shared communally.

The stewardship model is more holistic than the ownership model. Under the stewardship approach farmers who are properly the stewards of PGRs are given the legal protection to ensure recognition of their past contributions to the genetic pool and their continued stewardship of it. This is contrasted with the ownership approach, which only extends protection to the two parties involved in a single transaction. The stewardship approach is a more appropriate model for interpreting what “farmers’ rights” means in multilateral agreements that have adopted this language.

There remain many unanswered questions. Why is the law regulating genetically modified foods governed by patent law and not environmental or health law? Why does the law encourage capitalism to prosper at the expense of natural resources and the environment? In what

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<sup>99</sup> *Id.*  
<sup>100</sup> *Id.*

way does law contribute to taking humans out of nature rather than viewing the two as interconnected? Ecofeminism can help to answer these and other questions and will be explored in detail further in Part IV.

### **III. FOOD SECURITY, THE RIGHT TO FOOD, FOOD SOVEREIGNTY**

The legal regimes discussed above are not the only entities impacting the global food system. The concepts of food security, the Right to Food, and food sovereignty, are also shaping the food production and consumption landscape. The Commodities and Trade Division of the United Nation's Food and Agriculture Organization (FAO) discusses food security as a technical concept, Right to Food as a legal concept, and food sovereignty as a political concept.<sup>101</sup> This will be the departure point for discussion on these three issues.

#### **A. FOOD SECURITY**

As defined above, food security exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food to meet their dietary needs, and food preferences for an active and healthy life.<sup>102</sup> An example of food security is embodied in the UN's International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD).<sup>103</sup> This groundbreaking assessment, sponsored by five UN agencies and the World Bank, and authored by over 400 scientists and development experts from more than eighty countries, concluded that there is an urgent need to increase and strengthen further research and adoption of locally appropriate and democratically controlled agro-ecological

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<sup>101</sup> Thomas Harmon, *The Right to Food*, FOOD & AGRIC. ORG., [http://www.fao.org/righttofood/kc/downloads/vl/docs/Thomas%20Harmon%20\\_%20FS%20Rt%20Food%20Sovereignty.ppt](http://www.fao.org/righttofood/kc/downloads/vl/docs/Thomas%20Harmon%20_%20FS%20Rt%20Food%20Sovereignty.ppt).

<sup>102</sup> World Food Summit, *supra* note 1.

<sup>103</sup> *Agriculture at a Crossroads*, INTERNATIONAL ASSESSMENT OF AGRICULTURAL KNOWLEDGE, SCIENCE AND TECHNOLOGY FOR DEVELOPMENT (Apr. 7-12 2008), available at <http://www.agassessment.org/>.

methods of production.<sup>104</sup> The assessment relies on local expertise and farmer-managed, local seed systems,<sup>105</sup> and concluded that this local control of the direction of the global food system is critical to the process of increasing food security, decreasing poverty, and reaching the UN's Millennium Development Goals.<sup>106</sup>

However, this assessment fails to mention the process of bringing food to plate, something which is fundamental to food sovereignty. Food security, while a laudable goal in itself, does not encompass the deeper analysis being offered by social movements of power.

Author, activist, and academic Raj Patel states,

You can have food security under a benevolent dictator. Your dictator can provide you with meals and McDonalds and a little bag of vitamins to compensate your body for the nutrition that McDonalds will not provide. But that will be a situation of food security. In other words, what food security fails to talk about is control and power. And that's what food sovereignty does.<sup>107</sup>

From a policy perspective, 2009, was an optimistic year for food security. In April, for the first time, Agriculture Ministers from the Group of Eight and the Group of Five, representing the richest countries on the planet, met in Italy with food security at the top of the agenda.<sup>108</sup> Further, the actual G8 summit in June produced the "G8 Joint Statement on Global Food Security – L'Aquila Food Security Initiative" (AFSI).<sup>109</sup> This twelve-point initiative commits \$20 billion over three years for agricultural development,<sup>110</sup> much higher than was expected.

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<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> Raj Patel, *Raj Patel on Food Sovereignty and Women's Rights*, DIGIN CANADA'S CHANNEL (Jan. 15, 2009), [http://www.youtube.com/watch?v=cI\\_F9n\\_c4yY](http://www.youtube.com/watch?v=cI_F9n_c4yY).

<sup>108</sup> G8 AGRICULTURAL MINISTERS' MEETING, <http://www.g8agricultureministersmeeting.mipaaf.com/en/index.php?pL1=g8agricolo> (last visited Sept. 25, 2011).

<sup>109</sup> "L'Aquila" Joint Statement on Food Security, L'AQUILA FOOD SECURITY INITIATIVE, July 10, 2009, [http://www.g8italia2009.it/static/G8\\_Allegato/LAquila\\_Joint\\_Statement\\_on\\_Global\\_Food\\_Security%5B1%5D,0.pdf](http://www.g8italia2009.it/static/G8_Allegato/LAquila_Joint_Statement_on_Global_Food_Security%5B1%5D,0.pdf).

<sup>110</sup> Associated Press, *G8 Pledges \$20 Billion to Target Hunger*, MSNBC, July 10, 2009, <http://www.msnbc.msn.com/id/31843056/>.

This raises world aid back to 1980 levels.<sup>111</sup> Since that time investment in agricultural development had not exceeded \$5 billion.<sup>112</sup>

Concerns have been raised about the source of funding for these development agendas, which has not been identified. This causes some to suggest that money may merely be redirected from other areas that have already been promised aid. Also, many fear that the money simply will not materialize, as with the \$50 billion pledged to fight world poverty in the 2005 G8 summit.<sup>113</sup> In the words of Eric Holt-Gimenez, Executive Director of Food First, an agricultural research institution based in Oakland, California, “This is getting ridiculous. Every time the G-8 gets together, we get new pledges and they never come through. At best, it will bring them up to prior obligations.”<sup>114</sup>

Nonetheless, there is reason to be cautiously optimistic. The AFSI contains encouraging language about biodiversity, sustainability, and localism. This shows a growing awareness on the part of the G8 that food security is tied to the ecological dimensions of the planet and not an empty vacuum of agricultural inputs, as had been the language of development experts for decades. Further, the document represents a real shift from mere food aid to actual agricultural investment. It demonstrates a growing recognition that the world’s hungry are not going anywhere and acknowledges that actions on the part of the world’s richest countries are necessary to address this life and death issue.

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<sup>111</sup> *Faltering agriculture investment leaving two-thirds rural poor behind*, OXFAM INT’L., June 30, 2009, <http://www.oxfam.org/en/pressroom/pressrelease/2009-06-30/faltering-agriculture-investments-leaving-rural-poor-behind>.

<sup>112</sup> Peter Baker & Celia W. Dugger, *Obama Enlists Major Powers to Aid Poor Farmers With \$15 Billion*, N.Y. TIMES, July 8, 2009, available at [http://www.nytimes.com/2009/07/09/world/europe/09food.html?\\_r=1&ref=global-home](http://www.nytimes.com/2009/07/09/world/europe/09food.html?_r=1&ref=global-home).

<sup>113</sup> Phil Stewart & Daniel Flynn, *G8 Pledges \$20 Billion in Farm Aid to Poor Nations*, REUTERS, July 10, 2009, available at <http://www.reuters.com/article/idUSTRE5662VJ20090710>.

<sup>114</sup> Samuel Knight, *Op-Ed: G-8 nations ante up food aid, but for Africa or Monsanto?*, OHMYGOV (Jul. 23, 2009, 6:53AM), [http://ohmygov.com/blogs/general\\_news/archive/2009/07/23/op-ed-g-8-nations-ante-up-food-aid-but-for-africa-or-monsanto.aspx](http://ohmygov.com/blogs/general_news/archive/2009/07/23/op-ed-g-8-nations-ante-up-food-aid-but-for-africa-or-monsanto.aspx).

However, the document is not without limitations. Land grabbing<sup>115</sup> is not mentioned and biomass and land speculation are given only cursory attention. Further, it focuses on increased production, which is code language for genetically modified organisms (GMOs),<sup>116</sup> and other non-natural inputs such as chemical fertilizers and pesticides. The initiative fails on these points, prompting critics to question what role agribusiness has played in the drafting.<sup>117</sup>

The AFSI and other such initiatives have no avenues for accountability. If the \$20 billion does not materialize there is no international court to indict the G8 and demand the funds. This is a major and predictable weakness in the document. The initiative does take some welcome steps forward but it has not and arguably cannot address the underlying issues related to establishing food security.

Food security as a policy objective simply does not take the necessary steps to look at the production of food and the socioeconomic conditions that transport food from farmer to plate. Building a food secure world will not achieve the democratic participation offered by food sovereignty, as food security sets the bar too low.

## **B. THE RIGHT TO FOOD**

The right to food is founded in the United Nation's Universal Declaration of Human Rights (Article 25) and the International Covenant on Economic, Social and Cultural Rights (Article 11). The ICESCR is an international convention that entered into force in 1977 and has 160 signatories. This convention also uses the term "right to adequate food." In 2002, the UN

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<sup>115</sup> Land grabbing refers to the purchasing or leasing of vast tracts of land in the global South for the purpose of exporting crops to economically richer and food insecure countries. ERIC HOLT-GIMÉNEZ AND RAJ PATEL WITH ANNIE SHATTUCK, *FOOD REBELLIONS! CRISIS AND THE HUNGER FOR JUSTICE* 96-97 (2009).

<sup>116</sup> While a discussion on GMOs is beyond the scope of this paper, this issue is clearly related to food policy and incompatible with food sovereignty.

<sup>117</sup> Paula Crossfield, *G8 Promises \$20 Billion in Agricultural Aid: Real Change or Business As Usual?*, CIVIL EATS, July 10, 2009, <http://civileats.com/2009/07/10/g8-promises-15-billion-in-agricultural-aid/>.

Special Rapporteur on the right to food defined the right to adequate food as a human right, inherent to all people:

...to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of people to which the consumer belongs, and which ensures a physical and mental, individual and collective fulfilling and dignified life free of fear.<sup>118</sup>

This definition entails all normative elements explained in detail in General Comment 12 of the ICESCR, which states that, the “right to adequate food is realized when every man, woman and child, alone or in community with others, has the physical and economic access at all times to adequate food or means for its procurement.”<sup>119</sup>

In 2004, after two years of discussion and negotiation in the working group, the FAO Council adopted by consensus the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security.<sup>120</sup> The Voluntary Guidelines are not legally binding, but draw upon international law and provide guidance on the implementation of existing obligations. They are directed towards parties to the ICESCR, but they are also intended for interested parties working for better implementation of the right to food at national level.

The United States is a signatory to this convention but attached a reservation to its vote stating:

The United States believes that the issue of adequate food can only be viewed in the context of the right to a standard of living adequate for health and well-being, as set forth in the Universal Declaration of Human Rights... Further, the United

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<sup>118</sup> Commission on Human Rights, *Economic, Social and Cultural Rights, The Right to Food*, ¶26, U.N. DOC. E/CN.4/2002/58 (Jan. 10, 2002).

<sup>119</sup> U.N. CESCR, 20<sup>th</sup> Sess., Art. 11 at 6, U.N. DOC. E/C.12/1995 (May 12, 1999), available at <http://www.unhchr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9>.

<sup>120</sup> U.N. Food & Agriculture Organization, *The Right to Food Guidelines: Information Papers and Case Studies*, U.N. FOOD & AGRICULTURE ORGANIZATION (2007), available at <ftp://ftp.fao.org/docrep/fao/010/a0511e/a0511e01.pdf>.

States believes that the attainment of the right to an adequate standard of living is a goal or aspiration to be realized progressively that does not give rise to any international obligation or any domestic legal entitlement... the United States understands the right of access to food to mean the opportunity to secure food, and not a guaranteed entitlement.<sup>121</sup>

### C. FOOD SOVEREIGNTY

There is a large and growing global movement focusing on the concept of food sovereignty, also described as self-government of the food system. La Vía Campesina views food sovereignty as “people’s right to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems.”<sup>122</sup> This idea is broader than food security because it focuses not just on access to food but on all of the processes involved from planting to plate such as land use, farmworker rights, urban agriculture, cooking, and nutrition.

The FAO offers another definition of food sovereignty:

...the right of peoples, communities, and countries to define their own agricultural, labor, fishing, food and land policies which are ecologically, socially, economically and culturally appropriate to their unique circumstances. It includes the true right to food and to produce food, which means that all people have the right to safe, nutritious and culturally appropriate food and to food-producing resources and the ability to sustain themselves and their societies.<sup>123</sup>

This definition articulates well the very surface of the concept of food sovereignty, but misses the forest for the trees. It excludes the interpersonal dynamics involved in producing and sharing a meal. This definition ignores the history of agricultural production as a tool for social

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<sup>121</sup> U.N. Food & Agriculture Organization, *Report of the World Food Summit Five Years Later*, Annex II: Explanatory Notes/Reservation (June 13, 2002), available at <http://www.fao.org/docrep/meeting/005/y7106e/y7106e03.htm>.

<sup>122</sup> La Vía Campesina, *Declaration of Nyeleni*, LA VÍA CAMPESINA, Feb. 27, 2007, [http://viacampesina.org/en/index.php?option=com\\_content&task=view&id=282&Itemid=38](http://viacampesina.org/en/index.php?option=com_content&task=view&id=282&Itemid=38).

<sup>123</sup> Harmon, *supra* note 100.



control.<sup>124</sup> One of food sovereignty's particularly powerful points is the very crux of its dealing with food. Everybody has to eat, and therefore everyone has an interest in agricultural production. This point alone is remarkable because it demonstrates what hope for food system transformation lies in being able to motivate and mobilize people, and build social movements. The power of food sovereignty exists in this possibility, and more.

The Oxford-trained economist Raj Patel, quoted earlier, expresses this sentiment well.

Food sovereignty is about power in the food system. It's about who gets to control how food is distributed in a society and an economy... [Food sovereignty] says look we need an international discussion, a national discussion, a municipal, a regional discussion. But it also means having a discussion even at the level of the household. I think that is what is really one of the most important elements of food sovereignty is that it takes relations around power even at the household level and tries to make them level. That's the project of food sovereignty. [One of La Vía Campesina's slogans is this]— *Food sovereignty is about an end to violence against women*. Now that doesn't sound like it has anything to do with food but of course it has everything to do with food. Because of women's role in the food economy, because of the relations of power that exist even across the table. Food sovereignty aims to level those power relations from right at home all the way to an international level. And that is the great promise of food sovereignty.<sup>125</sup> [Emphasis added.]

When La Vía Campesina coined the term food sovereignty in 1996, the goal was the transformation and democratization of the food system. It places those who produce and eat food, not agribusiness and economics, at the center of decision-making about food and agriculture. This is a radical departure from the way global food policy is currently managed. Food sovereignty demands recognition of the social connections and relationships people and communities have to food, its production, consumption, and sharing.

In its Maputo Declaration, La Vía Campesina states:

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<sup>124</sup> Here I am referring to the way many economies have been built on the backs of slaves that spent their day toiling in the fields. But such a discussion is beyond the scope of this paper.

<sup>125</sup> DIGIN CANADA, *supra* note 106.

The principal theses of neoliberalism are being stripped of their legitimacy in public opinion, and the . . . international financial institutions (World Bank, International Monetary Fund, World Trade Organization) are proving to be incapable of administering the crisis (in addition to being among the cause[s] of the same crisis). This creates the opportunity to eliminate them, and create new institutions to regulate the global economy that serve public interests. [I]t is clearer every day that the global corporate food regime is not capable of feeding the great majority of people on this planet, while food sovereignty based on peasant agriculture is more needed than ever.<sup>126</sup>

Food sovereignty privileges local peasant production over agribusiness and concludes that this model is the only model capable of feeding the world. Small-scale farming will not only improve food security but will also fight climate change. Experts disagree on the exact number, but some estimate as much as 37% of climate change gasses can be traced to the food system.<sup>127</sup> In the United States, that percentage is 19%.<sup>128</sup> This makes pollution caused by the food system in the United States the second highest source of pollution from the world's biggest polluter, just after cars.<sup>129</sup> The clearing of land for agriculture, particularly industrial agriculture, releases large amounts of carbon into the atmosphere.<sup>130</sup> The use of chemical fertilizers (derived from natural gas), pesticides (made from petroleum), farm machinery, modern food processing, packaging, and transportation are also direct contributors to global climate change.<sup>131</sup> Such inputs are rarely discussed, but are just as responsible for the increase in greenhouse gases as the oft-cited direct burning of fossil fuels. Switching to small-scale farming and abandoning industrial agriculture as

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<sup>126</sup> Luis Hernández Navarro & Annette Aurélie Desmarais, "Feeding the World and Cooling the Planet": *La Vía Campesina's Fifth International Conference*, Oct. 15, 2009, available at [http://www.viacampesina.org/en/index.php?option=com\\_content&view=article&id=796:feeding-the-world-and-cooling-the-planet-la-vcampesinas-fifth-international-conference&catid=45:5-maputo-2008&Itemid=68](http://www.viacampesina.org/en/index.php?option=com_content&view=article&id=796:feeding-the-world-and-cooling-the-planet-la-vcampesinas-fifth-international-conference&catid=45:5-maputo-2008&Itemid=68).

<sup>127</sup> Michael Pollan, *Farmer in Chief*, N.Y. TIMES, Oct. 9, 2008, available at <http://nytimes.com/2008/10/12/magazine/12policy-t.html?pagewanted=all>.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

called for by food sovereignty is one of the major steps to mitigating the impact of global climate change.

#### **IV. GENDER AND ECOFEMINISM**

##### **A. HOW GENDER IMPACTS FOOD SOVEREIGNTY**

Women produce between 60% to 80% of the food in the global South and are responsible for half of the world's food production,<sup>132</sup> yet their role as food producers and their critical contribution to household food sovereignty receives scant attention. While women represent 51% of the world's population they own less than 2% of the world's titled land, largely because they have few legal rights to land.<sup>133</sup> FAO studies show that although women are the foundation of small-scale agriculture, they have more difficulties than men in gaining access to resources such as land, credit, and other productivity-increasing inputs and services.<sup>134</sup> Women have limited access to resources due to economic, cultural, traditional, and sociological factors. For example, in many countries women are excluded from land entitlements and thus are prevented from providing the collateral required by lending institutions. Thus, any attempts to strengthen global food security must address women's agricultural roles and their access to financial infrastructure, as well as social obstacles to block access to resources.

Development efforts targeted at women have been shown to reduce poverty more significantly than efforts aimed at both men and women, which often only positively impact men. "Women, Still the Key to Food and Nutrition Security," a 2005 research project conducted by the International Food Policy Research Institute, (which is incidentally one of the CGIAR centers) rearticulated the necessity to address gender and women's issues in the fight against

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<sup>132</sup> Food & Agriculture Organization of the U.N., *Women and Sustainable Food Security*, U.N.'s F.A.O., available at <http://www.fao.org/FOCUS/E/Women/Sustin-e.htm>.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

poverty.<sup>135</sup> The IFPRI report emphasizes that the importance of women's status relative to men's in their households, communities, and nations is highly predictive of children's nutrition.<sup>136</sup> The higher the status of women, the better nutritional status they have themselves and thus the better able they are to provide higher quality care for their children.<sup>137</sup>

The study estimates that equalizing gender status in South Asia could reduce the rate of underweight children under three by approximately 12%, meaning that 13.4 million fewer children would face malnourishment in this age group alone.<sup>138</sup> In Burkina Faso, reallocating access to fertilizer and non-household labor for farm plots from men to women could increase agricultural output by as much as 20%.<sup>139</sup> Women spend more of their income on food for the family than men.<sup>140</sup> Their money is also more likely to be spent on inputs for furthering household food production.

Educating women is the key to improving food sovereignty across the global South. Women and girls make up two thirds of the world's illiterates.<sup>141</sup> In Kenya, if all women attended primary school, simulations indicate that crop yields could increase by 25%.<sup>142</sup> Also, the more educated women are, the fewer children they are likely to have, thus perhaps easing the demand for food in the future.

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<sup>135</sup> International Food Policy Research Institute, *Women: Still the Key to Food and Nutrition Security*, INTERNATIONAL FOOD POLICY RESEARCH INSTITUTE, (2005), available at <http://www.ifpri.org/sites/default/files/publications/ib33.pdf>.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> F.A.O. Corporate Document Repository, FOOD FOR ALL, WORLD FOOD SUMMIT AGRICULTURAL MACHINERY WORLDWIDE, 1996, available at <http://www.fao.org/docrep/x0262e/x0262e16.htm>.

<sup>141</sup> See *Women At a Glance*, U.N. DEPARTMENT OF PUBLIC INFORMATION (May 1997), available at <http://www.un.org/ecosocdev/geninfo/women/women96.htm>.

<sup>142</sup> International Food Policy Research Institute, *Women: Still the Key to Food and Nutrition Security* (2005), <http://www.endelea-energy.com/downloads/publications/ifprifoodfuelpaper.pdf>.

In Sub-Saharan Africa, the HIV/AIDS epidemic, which is particularly devastating to women, is also threatening food sovereignty. High-risk behaviors such as transactional sex,<sup>143</sup> put whole communities at risk from the ravages of the disease.<sup>144</sup> Solutions such as targeting food aid directly to women and the provisioning of lightweight plows in addition to education could help address these problems.

Women's roles as farmers are often overlooked when companies create technology that can lead to labor displacement or increased workload. For example, in Western Java in the 1970s, mechanical hullers replaced traditional hand-pounding for rice milling.<sup>145</sup> Consequently, each mechanical huller displaced an estimated 3,700 laborers, implying that 7.7 million part-time workers, mostly women, lost this source of income in 1971 alone.<sup>146</sup>

## **B. ECOFEMINISM**

Like feminism, ecological feminism or “ecofeminism,” has many definitions. As discussed here, ecofeminism is considered the study of the oppression of women, the study of the degradation of the Earth, how they are interrelated and, more importantly, what steps can be taken to change this situation.<sup>147</sup> Ecofeminist theory and practice, or praxis, have been linking these twin systems of power for years, and it appears that La Vía Campesina and other social movements have also made the connection. While certainly not without serious criticism, ecofeminism can provide policy and law makers with the tools needed to reform the food system. Ecofeminist and law professor Heather McLeod-Kilmurray states that “[f]eminist legal analysis

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<sup>143</sup> The term “transactional sex” is a broader classification than just prostitution, encompassing all transactions of sex for something of value and may be performed by people not classified as prostitutes. For example, when a woman has sex with her landlord in place of paying rent.

<sup>144</sup> UNAIDS, UNFPA AND UNIFEM, *Women and HIV/AIDS: Confronting the Crisis*, 2 (2004) available at [http://www.unfpa.org/hiv/women/docs/women\\_aids.pdf](http://www.unfpa.org/hiv/women/docs/women_aids.pdf).

<sup>145</sup> Women in Development Service, *Women and Sustainable Food Security*, SUSTAINABLE DEVELOPMENT DEPARTMENT FOOD & AGRIC. ORG., <http://www.fao.org/SD/fsdirect/fbdirect/FSP001.htm>.

<sup>146</sup> *Id.*

<sup>147</sup> Definition provided by the author.

has shown that the framework and underlying concepts of law have tended to be part of the problem rather than the solution in resolving inequality and discrimination... an ecofeminist analysis can do the same for environmental law.”<sup>148</sup>

Another ecofeminist legal scholar, Elaine Hughes, explains the purpose of ecofeminism: “ecofeminists take the radical feminist critique of male/female relationships and use it to illuminate the character of human/nature relationships. In so doing, they reveal both the causes and characteristics of, and the interconnections between, the objectification of women and the environment.”<sup>149</sup>

There are two main and one emerging branch of ecofeminism. The first is the cultural branch embraced by such activists as Starhawk and exemplified by the women’s action at the Pentagon in 1980.<sup>150</sup> These ecofeminists believe that the women/nature connection is a good thing, something to be valued and honored. They see women’s differences as sources of power and believe that women are closer to the earth than men.<sup>151</sup> The second main branch is social ecofeminism that rejects the essentialism of the cultural ecofeminist approach, arguing that viewing women as so connected to nature is dangerous and reinscribes the power dynamics that feminists seek to escape.<sup>152</sup> Both of these branches have been critiqued by poor women and women of color as not being inclusive enough of their identities and experiences.<sup>153</sup> Thus, the emerging third way, as exemplified by third wave feminism, takes these analyses into account

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<sup>148</sup> McLeod-Kilmurray, *supra* note 69 at 132.

<sup>149</sup> Elaine Hughes, *Fishwives and Other Tails: Ecofeminism and Environmental Law*, 8 CAN. J. WOMEN L. 502, 503-04 (1995).

<sup>150</sup> This refers to an event on November 17, 1980, when 2,000 women encircled the Pentagon to protest imperialism and militarism, among other things. Over 150 arrests were made. Elizabeth Carlassare, *Essentialism in Ecofeminist Discourse*, in *ECOLOGY: KEY CONCEPTS IN CRITICAL THEORY*, 220 (Carolyn Merchant ed., 1999); *The Women’s Pentagon Action: November 17, 1980*, WOMEN AND LIFE ON EARTH, <http://wloe.org/women-s-pentagon-action.77.0.html> (last visited Sept. 25, 2011).

<sup>151</sup> *Id.* at 225.

<sup>152</sup> Carolyn Merchant, *Introduction*, in *ECOLOGY: KEY CONCEPTS IN CRITICAL THEORY*, 1 (Carolyn Merchant ed., 1999).

<sup>153</sup> Carlassare, *supra* note 150 at 221.

and rejects the privileging of one identity over the others.<sup>154</sup> Third wave ecofeminism embraces strategic uses of essentialism<sup>155</sup> for the purposes of organizing, and recognizes how careful one must be in this regard. Third wave ecofeminism is an approach that, if embraced, will mitigate the damage being wrought across the globe to women, children, and all living things.

For example, Vandana Shiva is representative of this new approach. She writes:

The feminist perspective is able to go *beyond* the categories of patriarchy that structure power and meaning in nature and society. It is broader and deeper because it locates production and consumption within the context of regeneration... by making these links, ecological feminism creates the possibility of viewing the world as an active subject, not merely a resource to be manipulated and appropriated... That search and experience of interdependence and integrity is the basis for creating a science and knowledge that nurtures rather than violates nature's sustainable systems.<sup>156</sup> [emphasis in original]

Applying a feminist lens to the global food system illuminates the unequal power dynamics inherent in the current global food system, both in terms of production and consumption. Using the ecofeminist principles of food sovereignty can provide guidance towards constructing new policy proposals for law makers and regulators.

## V. A WAY FORWARD

In 1996, at its conference in Tlaxcala, Mexico, La Vía Campesina issued seven principles of food sovereignty. These are announced at every international conference.<sup>157</sup> While La Vía

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<sup>154</sup> Val Plumwood, *Ecosocial Feminism as General Theory of Oppression*, in *ECOLOGY: KEY CONCEPTS IN CRITICAL THEORY* 207, 210-211 (1999).

<sup>155</sup> Strategic essentialism is a controversial term coined by the postcolonial academic Gayatri Spivak, and pertains to the strategic use of essentialism to combat the very problems that essentialism creates. For example gender and race are socially constructed but employing these categories to combat oppression can build social movements. See Gayatri Chakravorty Spivak, *Subaltern Studies: Deconstructing Historiography*, in *IN OTHER WORLDS* 197, 221 (1987).

<sup>156</sup> MARIA MIES & VANDANA SHIVA, *ECOFEMINISM* 33-34 (1993).

<sup>157</sup> Raj Patel, *What Does Food Sovereignty Look Like?*, in *FOOD SOVEREIGNTY: RECONNECTING FOOD, NATURE AND COMMUNITY* 186, 193 (2010).

Campešina itself is very heterogeneous, everyone involved must adhere to these principles.<sup>158</sup>

They are:

1. *Food: A Basic Human Right*: Everyone must have access to safe, nutritious and culturally appropriate food in sufficient quantity and quality to sustain a healthy life with full human dignity. Each nation should declare that access to food is a constitutional right and guarantee the development of the primary sector to ensure the concrete realization of this fundamental right.
2. *Agrarian Reform*: A genuine agrarian reform is necessary which gives landless and farming people –especially women– ownership and control of the land they work and returns territories to indigenous peoples. The right to land must be free of discrimination on the basis of gender, religion, race, social class or ideology; the land belongs to those who work it.
3. *Protecting Natural Resources*: Food sovereignty entails the sustainable care and use of natural resources, especially land, water, and seeds and livestock breeds. The people who work the land must have the right to practice sustainable management of natural resources and to conserve biodiversity free of restrictive intellectual property rights. This can only be done from a sound economic basis with security of tenure, healthy soils and reduced use of agrochemicals.
4. *Reorganising Food Trade*: Food is first and foremost a source of nutrition and only secondarily an item of trade. National agricultural policies must prioritize production for domestic consumption and food self-sufficiency. Food imports must not displace local production nor depress prices.
5. *Ending the Globalisation of Hunger*: Food Sovereignty is undermined by multilateral institutions and by speculative capital. The growing control of multinational corporations over agricultural policies has been facilitated by the economic policies of multilateral organizations such as the WTO, World Bank and the IMF. Regulation and taxation of speculative capital and a strictly enforced Code of Conduct for TNCs is therefore needed.
6. *Social Peace*: Everyone has the right to be free from violence. Food must not be used as a weapon. Increasing levels of poverty and marginalization in the countryside, along with the growing oppression of ethnic minorities and indigenous populations, aggravate situations of injustice and hopelessness. The ongoing displacement, forced urbanisation, repression and increasing incidence of racism of smallholder farmers cannot be tolerated.
7. *Democratic Control*: Smallholder farmers must have direct input into formulating agricultural policies at all levels. The United Nations and related organisations will have to undergo a process of democratization to enable this to become a reality. Everyone has the right to honest, accurate information and open and democratic decision-making. These rights form the basis of good governance, accountability and equal participation in economic, political and social life, free

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<sup>158</sup> *Id.*



from all forms of discrimination. Rural women, in particular, must be granted direct and active decision making on food and rural issues.<sup>159</sup>

Of note is the careful attention paid to gender and the role of women in these principles. Noteworthy too, is the concrete nature of these suggestions, including a constitutional right of access to food; giving the people who work the land control and ownership of it; returning occupied land to indigenous peoples; an enforced code of conduct over transnational corporations; regulation and taxation of speculative capital; and democratizing international organizations, such as the United Nations, to allow input on all levels of agricultural policies by farmers. These are real regulatory changes that, if implemented, would set the stage for meaningful change of the food system worldwide. The problem lies with political will.

There are other regulatory programs that can be used to foster change. The Bolivarian Alliance for the Americas (ALBA) was proposed by the Venezuelan government in 2001 as an alternative to the Free Trade Area of the Americas.<sup>160</sup> In 2004, Venezuela and Cuba signed the first exchange agreement.<sup>161</sup> Since that time seven other countries have joined the alliance, bringing the total to eight: Antigua and Barbuda, Bolivia, Dominica, Ecuador, Honduras, Nicaragua, and St. Vincent and the Grenadines.<sup>162</sup> Notably, ALBA has a three-tiered council structure: presidential, ministerial, and social movements.<sup>163</sup> The advisory council of social movements serves to provide direction and oversight for the other two councils.<sup>164</sup> Venezuela,

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<sup>159</sup> MICHEL PIMBERT, BOUKARY BARRY, ANNE BERSON & KHANH TRAN-THANH, DEMOCRATISING AGRICULTURAL RESEARCH FOR FOOD SOVEREIGNTY IN WEST AFRICA 12 (2010), available at <http://pubs.iied.org/pdfs/14603IIED.pdf>.

<sup>160</sup> Mark Hibben, *Transformative Politics of Transformismo? Latin America's Populist Challenge to Neoliberal Supremacy*, International Studies Association Conference, 13 (2008).

<sup>161</sup> *Id.*

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*

<sup>164</sup> Martin Hart-Landsberg, *Learning from ALBA and the Bank of the South: Challenges and Possibilities*, MONTHLY REVIEW (Sept. 2009), available at <http://monthlyreview.org/2009/09/01/learning-from-alba-and-the-bank-of-the-south-challenges-and-possibilities>.

Nicaragua, Ecuador, Bolivia, Honduras, and Dominica have established a food production company that seeks to build food sovereignty.<sup>165</sup>

In 2008, under the leadership of Bolivian President Evo Morales, ALBA countries approved the People's Trade Agreement (PTA), which seeks to establish an integrated economic and monetary zone complete with its own currency, the Sucre. The PTA has ten principles;<sup>166</sup> number five is apropos of the discussion in this article: “[t]he PTA recognizes the right of the people to define their own agriculture and food security policies; to protect and regulate national agricultural production, assuring that the internal market is not inundated by surpluses from other countries.”<sup>167</sup>

The PTA seeks to build development and production methods based on complementary relationships instead of competitive ones. It seeks to live in harmony with the environment and believes in state regulation. It believes that most basic services are public goods that cannot be turned over to the market. And while it seeks regional integration, it acknowledges and takes into account national differences.

The PTA is an example of a regulatory alternative to the current neo-liberal model dominating much of the rest of the world. Its privileging of social movements and grassroots organizations holds promise for policy makers and government actors considering reshaping the food system. By looking at these movements for leadership, building food sovereignty is possible.

There are other examples of regulatory change, rooted in an ecologically sustainable approach, such as Ecuador's Food Sovereignty Law of 2009. To oversee its implementation the

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<sup>165</sup> *Id.*

<sup>166</sup> *Ten Principles of the PTA*, ALLIANCE FOR RESPONSIBLE TRADE, available at <http://www.art-us.org/content/ten-principles-pta> (last visited Dec. 21, 2010).

<sup>167</sup> *Id.*

law establishes a permanent Consultative Body for Food Sovereignty.<sup>168</sup> The law explicitly privileges smallholders and agroecology, and declares the nation free of genetically engineered crops except in very limited circumstances.<sup>169</sup>

On March 8, 2011, the current United Nations Special Rapporteur on the Right to Food, Olivier De Schutter, released a groundbreaking report titled “Agro-Ecology and the Right to Food”<sup>170</sup> which he presented to the United Nation’s Human Rights Council. This report consists of an assessment recent scientific literature and demonstrates that agroecology, if adequately provided for, can double food production within ten years while assuaging the ravages of climate change and the effects of rural poverty.<sup>171</sup> Agroecology, which mimics nature instead of industry,<sup>172</sup> is based on the convergence of both agronomy<sup>173</sup> and ecology.<sup>174</sup> Thus, drawing on principles of ecology and applying them to agronomy “agroecological practices can simultaneously increase farm productivity and food security, improve incomes and rural livelihoods, and reverse the trend towards species loss and genetic erosion.”<sup>175</sup> The report ends with specific policy proposals that the United Nations, nation-states, and private actors can implement to rebuild agricultural practices with agroecology at its core.<sup>176</sup> The report also draws

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<sup>168</sup> Holt-Giménez and Patel *supra* note 115 at 180.

<sup>169</sup> *Id.*

<sup>170</sup> U.N. Special Rapporteur on the Right to Food, *Agro-Ecology and the Right to Food*, ¶ 1, U.N. Doc. A/HRC/16/49 (March 8, 2011) (by Olivier De Schutter), *available at* <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/16/49>.

<sup>171</sup> *Id.* at 8.

<sup>172</sup> *Id.* at 6.

<sup>173</sup> Agronomy is a branch of agriculture dealing with field-crop production and soil management. WEBSTER’S NEW COLLEGIATE DICTIONARY 24 (1977).

<sup>174</sup> Ecology is a branch of science concerned with the interrelationship of organisms and their environments. *Id.* at 360.

<sup>175</sup> Schutter, *supra* note 167 at 6.

<sup>176</sup> *Id.* at 20-21.

attention to the specific impact of the global food system on women<sup>177</sup> and calls for engagement by donors with groups such as La Vía Campesina.<sup>178</sup>

Reform can come from the bottom up as well. The Coalition of Immokalee Workers<sup>179</sup> (CIW) is a group of over 4,000, mostly Latino, farmworkers based in Southwest Florida who have been fighting to improve their working conditions since 1993.<sup>180</sup> They utilize numerous tactics in their successful campaigns including work stoppages, hunger strikes, marches, and savvy use of the media. Because the companies that employ many of the farmworkers are family owned, and not publicly traded, they cannot be shamed into paying better wages to their workers. As a result, CIW began putting pressure on the companies that purchase agricultural products from the grower employers. The hugely popular “Boot the Bell” campaign against Taco Bell led the company to agree to stop working with growers that paid their workers “slave wages.”<sup>181</sup>

The Restaurant Opportunities Center United<sup>182</sup> began after 9/11 when the workers at the fine dining Manhattan restaurant, Windows on the World, were left without jobs after the collapse of the World Trade Center. They first organized themselves, and later went on to launch many successful campaigns, improving the working conditions of restaurant workers across the borough. They have also opened their own worker-owned restaurant in Manhattan called Colors. Another Colors restaurant will soon be opening in Detroit, and the organization has spread to eight other cities.

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<sup>177</sup> *Id.* at 19.

<sup>178</sup> *Id.* at 21.

<sup>179</sup> *Coalition of Immokalee Workers*, <http://www.ciw-online.org> (last visited Dec. 21, 2010).

<sup>180</sup> *Id.*

<sup>181</sup> *See generally* Coal. Of Immokalee Workers, *Boycott the Bell*, <http://www.ciw-online.org/slavery.html> (last visited Dec. 21, 2010).

<sup>182</sup> RESTAURANT OPPORTUNITIES CENTERS UNITED, <http://www.rocunited.org> (last visited Sept. 24, 2010).

Slow Food<sup>183</sup> began in 1986, in Piedmont, Italy, by Carlos Patrini. Slow Food is now an international organization with members in over 150 countries. Using the symbol of a snail, Slow Food argues for alternatives to fast food and is concerned with the pleasure of food in addition to its political dimensions. The Movimento dos Trabalhadores Rurais Sem Terra (MST), begun in 1984, also is transnational, but based in Brazil, and uses direct action to occupy land and seek equitable redistribution.<sup>184</sup>

These examples of self determination by grassroots groups are representative of the work of people involved with food sovereignty globally. Further examples include the International Planning Committee for Food Sovereignty, composed of over 500 rural social movements and NGOs.<sup>185</sup> There is also the Community Food Security Coalition<sup>186</sup> representing almost 300 different organizations from around North America working on the various issues of food sovereignty. These grassroots reform efforts hold the potential to create an alternative regulatory framework that would build up food sovereignty region by region, country by country.

## **VI. ENVIRONMENTAL IMPLICATIONS**

Ecofeminism is the key to rebuilding a democratic food system. In the context of increasing global climate change, the perspective of groups like La Vía Campesina offers guidance. Global climate change has the potential to destroy agricultural production as we know it. To date, human fossil fuel use has raised the global temperature by nearly one degree

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<sup>183</sup> SLOW FOOD, <http://www.slowfood.com> (last visited Dec. 21, 2010).

<sup>184</sup> Brenda Baletti, Tamara M. Johnson, and Wendy Wolford “Late Mobilization” Transnational Peasant Networks and Grassroots Organizing in Brazil and South Africa, *in* TRANSNATIONAL AGRARIAN MOVEMENTS: CONFRONTING GLOBALIZATION 123, 124 (2008).

<sup>185</sup> Saturnino M. Borras Jr, Marc Edelman, and Cristobal Kay, *Transnational Agrarian Movements: Origins and Politics, Campaigns and Impact*, *in* TRANSNATIONAL AGRARIAN MOVEMENTS: CONFRONTING GLOBALIZATION 1, 2 (2008).

<sup>186</sup> COMMUNITY FOOD SECURITY COALITION, <http://www.foodsecurity.org/aboutcfsc.html> (last visited Sept. 24, 2011).

Celsius.<sup>187</sup> This means that it is becoming too hot to grow plants.<sup>188</sup> The heat wave that killed tens of thousands in Europe the summer of 2003 could become normative.<sup>189</sup> Heat waves ravage crops. By 2100, there's a ninety percent chance in the tropics and subtropics that temperatures during the growing season will be hotter than any date ever recorded.<sup>190</sup> Once that point is reached, crops cannot fertilize and will not grow.<sup>191</sup> These same conditions will make work for farmworkers unbearable.

These events are now unfolding; evaporation is increasing because warm air holds more water vapor than cold air, which condenses in the upper atmosphere, and then washes down in violent thunderstorms that wash away topsoil and leave crops decimated in the fields.<sup>192</sup> This cyclical pattern of evaporation which loosens the soil, atmospheric concentration of the water from the soil, and then thunderstorms that wash the soil away is repeated. Increasing amounts of fertile land is washed away.

Seventy percent of the water that the United States uses goes to irrigation and these irrigated fields provide forty percent of the world's food supply.<sup>193</sup> Many of the world's rivers are fed by glacial melt. As glaciers melt, rivers begin to dry up. Steven Chu, the U.S. Secretary of Energy and Nobel prize winning physicist says, "I don't think the American public has gripped in its gut what could happen... We're looking at a scenario where there's no more

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<sup>187</sup> INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE CLIMATE CHANGE, CLIMATE CHNAGE 2007: THE PHYSICAL SCIENCE BASIS, Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate, 103 (Susan Solomon et al. eds., Cambridge University Press 2007) *available at*, <http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-faqs.pdf>.

<sup>188</sup> BILL MCKIBBEN, EAARTH: MAKING LIFE ON A TOUGH NEW PLANET, 154 (Times Books 2010).

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> *Id.* at 154-155.

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

agriculture in California.”<sup>194</sup> In 2007, half of Australia’s farmland was in drought.<sup>195</sup> Every four days a farmer there committed suicide.<sup>196</sup>

Australia is not alone in having to grapple with farmer suicides. On September 10, 2003, at the WTO Ministerial meeting in Cancun, Lee Kyung Hae, a South Korean farmer and peasant organizer, climbed a fence near the barricades behind which the trade meetings were taking place.<sup>197</sup> He took out a red penknife, shouted “The WTO kills farmers!” and stabbed himself in his chest.<sup>198</sup> He was dead soon after. A few days later, thousands of protestors marched in solidarity all over the world, from Bangladesh, South Africa, and Chile, chanting “Todos somos Lee” (“We are Lee”) and “Lee no murio OMC lo mato” (“Lee didn’t die, the WTO killed him”).<sup>199</sup>

The general public has yet to connect farmer suicide with economic policy.<sup>200</sup> In 2008, when world food prices reached their highest peak since the early 1970s, deadly food riots occurred in over thirty countries.<sup>201</sup> These riots were not the hungry poor storming the streets, but were organized by community groups such as La Vía Campesina to protest high food prices in countries that are on the losing end of international trading schemes. The sources of outrage are the same as the sentiment of those in the Global Justice Movement, an international

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<sup>194</sup> Jim Tankersley, *Chu: ‘Economic Disaster’ from Warming*, L. A. TIMES, Feb. 7, 2009, available at <http://latimesblogs.latimes.com/greenspace/2009/02/chu-economic-di.html>.

<sup>195</sup> Joe Romm, *Australia Faces the Permanent Dry - As Do We*, CLIMATE PROGRESS, Sept. 6, 2007, available at <http://climateprogress.org/2007/09/06/australia-faces-the-permanent-dry-as-do-we/>.

<sup>196</sup> *Id.*

<sup>197</sup> Patel, *supra* note 20, at 35.

<sup>198</sup> *Id.*

<sup>199</sup> *Id.*

<sup>200</sup> The growing problem of farmers’ suicides is taking place all over the world. In India alone according to India’s National Crime Records Bureau, a governmental agency of India responsible for collecting and analyzing crime data, in the past ten years India has seen over 200,000 such suicides. Malika Chopra, *1,500 Farmers in India Committ Suicide: A Wake-Up Call for Humanity*, HUFFINGTON POST, April 16, 2009, available at [http://www.huffingtonpost.com/mallika-chopra/1500-farmers-in-india-com\\_b\\_187457.html](http://www.huffingtonpost.com/mallika-chopra/1500-farmers-in-india-com_b_187457.html).

<sup>201</sup> *Riots, Instability spread as food Prices Skyrocket*, CNN, April 14, 2008, available at <http://www.cnn.com/2008/WORLD/americas/04/14/world.food.crisis/>.

collection of diverse people organizing under the slogan “Another World is Possible.” Food sovereignty locates itself in the crux of movements seeking socioeconomic justice.

As the planet warms, agribusiness will offer new technologies that historically have failed. The solutions will not likely be found in corporate technologies, but in groups such as La Vía Campesina with its focus on reinvigorating peasant agriculture that relies on traditional small-scale farming, not heavy inorganic inputs, and reverence for women’s rights.

Organizations such as La Vía Campesina have demonstrated the timeliness of food sovereignty as the fulcrum of a global reform movement and alternative framework to the existing regimes that control food production and distribution. By adopting food sovereignty as a policy goal, such an alternative can be built.