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## Book Reviews

Jean Ziegler, Christophe Golay, Claire Mahon and Sally-Ann Way. **The Fight for the Right to Food. Lessons Learned.** Basingstoke, UK: Palgrave Macmillan, 2011. Pp. 440. £74.00. ISBN: 9780230284647.

Olivier de Schutter and Kaitlin Cordes (eds). **Accounting for Hunger. The Right to Food in the Era of Globalization.** Oxford and Portland: Hart Publishing, 2011. Pp. 278. £50.00. ISBN: 9781849462266.

Otto Hospes and Irene Hadiprayitno (eds). **Governing Food Security. Law, Politics and the Right to Food.** Wageningen: Wageningen Academic Publishers, 2010. Pp. 380. €55.00. ISBN: 9789086861576.

Lidija Knuth and Margret Vidar. **Constitutional and Legal Protection of the Right to Food around the World.** Rome: UN Food and Agriculture Organization, 2011. Pp. 36. E-ISBN: 9789251067659.

The right to food has frequently caught headlines in the mainstream media in recent years. An obvious explanation is the considerable rise in food prices, which first peaked in 2008, followed by a decrease, but then peaked again in 2011, with less publicity, and with almost no subsequent decrease.<sup>1</sup> Moreover, the efforts by the two UN Special Rapporteurs on the right to food – though different in how they have approached policies relating to food<sup>2</sup> – have led to considerable debate.

The two Special Rapporteurs, Jean Ziegler and Olivier de Schutter, together with their respective collaborators co-authored two of the books under review: *The Fight for the Right to Food* and *Accounting for Hunger*. The third book included in this review – *Governing Food Security* – emerged from the Law and Governance Group at Wageningen University, which has devoted much attention to food. The fourth publication is an FAO study that identifies how the right to food is recognized in constitutions around the world.<sup>3</sup>

The FAO study is useful as it provides a detailed classification of all countries; its findings are, however, not encouraging from the perspective of the broad recognition of and effective achievement of the right to food. While 140 constitutions recognize rights relating to the environment,<sup>4</sup> only 23 constitutions explicitly recognize the right to food, while an additional 33 include formulations which are generally understood to encompass the right to food, including the right to an adequate standard of living or the right to the means necessary for a dignified

<sup>1</sup> See [www.fao.org/worldfoodsituation/wfs-home/foodpricesindex/en/](http://www.fao.org/worldfoodsituation/wfs-home/foodpricesindex/en/). The price index was 213 in June 2012, with the average price in 2002–2004 = 100.

<sup>2</sup> See report A/62/289, 'The right to food' (Jean Ziegler), at para. 44, calling for a 5-year moratorium on biofuels. At a press conference at the UN in New York on 26 Oct. 2007, Ziegler called the practice of turning crops into biofuel 'a crime against humanity'; see 'Production of biofuels is a crime', *The Independent*, 27 Oct. 2007. The present Special Rapporteur, Olivier de Schutter, has issued reports on intellectual property rights (A/64/170) and agroecology (A/HRC/16/49), which have received criticism from corporate interests.

<sup>3</sup> The publication can be found on the FAO's website at [www.fao.org/righttofood/publi11/constitutional\\_2011.pdf](http://www.fao.org/righttofood/publi11/constitutional_2011.pdf).

<sup>4</sup> Office of the United Nations High Commissioner for Human Rights, 'Analytical study on the relationship between human rights and the environment', HA/HRC/19/34 (2011), at 7.

life (at 21).<sup>5</sup> Moreover, an additional 51 states have legal provisions that give international treaties higher status than national legislation.<sup>6</sup>

None of the books under review attempts to explain this weak legal recognition, which arguably is not in accordance with Article 2.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) demanding the ‘full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures’.

One obvious explanation for the low visibility of the right to food domestically is that issues relating to food are addressed by a number of laws that do not explicitly address food. The same applies, however, to the right to a healthy environment, which nonetheless is recognized six times as frequently as the right to food in domestic constitutions. Another explanation for the weak legal recognition of the right to food is the fear that it may overburden the state. This fear ignores the fact that the right to food *should* not and *must* not be understood by considering the state primarily as a provider of food, and the inhabitants as receivers of food. The state should primarily play a facilitating role for the realization of the right to food, avoiding interfering itself,<sup>7</sup> and preventing others from interfering, so that food can be obtained by production, exchange, or at the markets. It is no coincidence that the now well-accepted typology of human rights obligations: respect, protect, and fulfil (facilitate and provide) was originally developed in a study on the right to food.<sup>8</sup> Only if the state does not comply with the obligations to facilitate and avoid interference or in cases of natural disasters does it have an obligation to provide food.

A third explanation for the neglect of the right to food is that the right was not always seen as inherently linked to effective poverty eradication, including the proper physical and intellectual development of the child. Such links are increasingly being established. The World Bank reports that GDP growth from agriculture is overall twice as effective in reducing poverty as GDP growth derived from other sectors, and that GDP growth originating in agriculture benefits the poorest half of the population substantially more.<sup>9</sup> Even after the publication of these figures, development economists still argue, however, for industrial agriculture, based on large holdings and the introduction of genetically modified crops as the solution to world hunger.<sup>10</sup> The question of how to deal with the more than one billion peasants that as a consequence would lose their jobs, hence moving to the city slums or crossing borders, is not being addressed.

The achievement of the right to food must take place by finding a proper balance in several realms – between food production and distribution; between the exploitation and conservation of natural resources; and between export-led agriculture and domestic food security. Technology, including high-yield seeds, is obviously an element in the solution, but cannot be a panacea, especially in a context where the state has abdicated its former role of providing farmers with seeds, leaving this task to biotechnology companies, which benefit from intellectual property protection and enjoy dominant market positions.

Four characteristics distinguish the right to food from other human rights: First, it is the only human right in the two covenants, the ICESCR and the International Covenant on Civil and Political Rights (ICCPR) that is qualified by the term ‘fundamental’. Secondly, the measures that

<sup>5</sup> Moreover, there are more than 20 framework laws on the right to food. The FAO Study does not attempt to count the number of states that have recognized the right to food in national legislation, only noting on p. 30 that there is an ‘increased interest in the adoption of framework laws on the right to food’.

<sup>6</sup> *Ibid.*, at 33.

<sup>7</sup> State interference has resulted in most tragic famines, like the Ukraine famine in the 1930s, the Ethiopian famine in the 1980s, and the North Korean famine in the 1990s; for more details see Marcus, ‘Famine Crimes in International Law’, 97 *AJIL* (2003) 245.

<sup>8</sup> A. Eide, *The Right to Food*, Human Rights Study Series No. 1, United Nations publication, Sales No. E.89.XIV.2 (1989).

<sup>9</sup> World Bank, *World Development Report 2008: Agriculture for Development* (2007), at 6.

<sup>10</sup> See Collier, ‘Politics of Hunger: How Illusion and Greed Fan the Food Crisis’, 87 *Foreign Affairs* (2008) 67.

are identified in ICESCR Article 11.2 relate to almost all realms of public policy, including how to facilitate the provision of agricultural input and public agricultural extension services, including intellectual property issues (production); food additives and facilities for food storage (conservation); infrastructure, transport, investments, trade, and basic social policies (distribution). Moreover, land reform and land conservation policies are explicitly encompassed by ICESCR Article 11.2. Thirdly, the right to food is to be realized not only through domestic measures, but *also* through international cooperation. Fourthly, its content has been clarified in two inter-governmental processes under the auspices of the FAO, resulting in so-called Voluntary Guidelines, in which even states not parties to the ICESCR took part.<sup>11</sup>

Even as regards those issues relating to the right to food on which there is general agreement, such as the need for land reform and recognition of collective property rights, states do not always agree on the policy measures needed to achieve the agreed objectives. There is enhanced agreement that compliance with human rights principles, which can be termed 'obligations of conduct', is most relevant for compliance with the substantive human rights, termed 'obligations of result'.<sup>12</sup> Human rights principles emphasize the minimum standards of conduct that must be observed in all policy-making.<sup>13</sup>

Disagreement on food policies tends to be strongest with respect to two issues: first, food safety, and in particular the treatment of genetically modified food; secondly, the question of how international institutions and policies affect the right to food. Food safety issues are addressed in the volume edited by Otto Hospes and Irene Hadiprayitno, while the role of international institutions is central in the book by the present and former Special Rapporteurs – the former, Jean Ziegler, presently being the Vice-Chairman of the Advisory Committee of the Human Rights Council, where he continues to work on the right to food.<sup>14</sup> Both Special Rapporteurs have a broad understanding of the right to food and hold it to be impacted upon by a wide range of local, domestic and international actors and policies. Both have emphasized the obstacles to the realization of the right to food that are inherent in the current international system, a perspective that is also represented in the books they co-edited.

Ziegler's book, written together with his former team, has three parts: the first third contains five thematic chapters on international processes, international law, vulnerable people, globalization, and armed conflict; followed by 11 chapters containing slightly updated versions of all the reports from his country missions from 2001 to 2007, in chronological order; in a concluding chapter structural problems, threats and hopes are spelled out. An annex contains three resolutions, namely the resolution establishing the mandate of the Special Rapporteur on the right to food of 2000, and the first and last resolutions responding to his reports, of 2001 and 2008, respectively, as well as the overall message given in his many reports, presented as 18 'main recommendations'. As all his reports are easily accessible online,<sup>15</sup> it is justified to ask why the book includes more than 220 pages that sum up findings from country missions, some of which were conducted more than a decade ago – even if the reports were slightly updated to include more recent developments.

<sup>11</sup> The two most relevant are: FAO, Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, adopted by the 127th Session of the FAO Council (2004); and FAO, Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, adopted at the 38th Special Session of the FAO Commission on World Food Security ('FAO Voluntary Guidelines on land tenure') (2012). The latter are less an elaboration of the right to food as such, but give guidance on policies relating to peoples' rights over their natural wealth and resources (ICESCR Art. 1.2), and reforming agrarian systems (ICESCR Art. 11.2(a)).

<sup>12</sup> Committee on Economic, Social and Cultural Rights, General Comment 3, The Nature of States Parties Obligations (Art. 2, para. 1 of the Covenant), UN doc. E/1991/23, at 83–87 (1991), at para. 1.

<sup>13</sup> FAO 2012, *supra* note 11, principle 3B ('Principles of implementation').

<sup>14</sup> See [www.righttofood.org/new/html/JeanZiegler.html](http://www.righttofood.org/new/html/JeanZiegler.html).

<sup>15</sup> *Ibid.*

The country chapters do provide useful information, however, such as overviews of relevant legal provisions. Yet, as legislation is frequently being amended, such overviews may soon be outdated.

While the book is primarily descriptive, it seeks to identify the main obstacles to the realization of the right to food. Four main explanations are identified: (i) institutions like the World Bank, the International Monetary Fund (IMF), and the World Trade Organization (WTO) that promote liberalization in institutions, trade, and land reform, at both the international and national levels – Ziegler's book is built on the premise that such policies are contrary to poor farmers' interests and human rights enjoyment; on the other hand, other UN agencies are said to be doing 'excellent work' (at 333); (ii) the power of transnational corporations;<sup>16</sup> (iii) local patterns of exclusion and discrimination; and (iv) natural conditions, such as desertification and limited access to and quality of water. The book is not very analytical or critical when presenting the policies or approaches that are endorsed. To give an example: food sovereignty is presented as an 'alternative vision' (at 356), and even if this reviewer is strongly in favour of both more domestic policy space and less emphasis on increased trade as a panacea, the book disappoints since it leaves unclear several issues surrounding the term 'food sovereignty'.<sup>17</sup> Even if the last chapter presents two definitions with *different* rights holders, the first mentioning only 'peoples' and the last adding 'communities and countries' as right-holders, this is not problematized (at 353).<sup>18</sup>

Moreover, much information in the book is outdated. It refers to the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (2003 UN Norms), stating that they have 'not yet received the necessary attention by the Human Rights Council' (at 338), but does not mention the three mandate periods since 2005 of the Special Representative of the UN Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises ('Special Representative on business and human rights'), John Ruggie, whose 'protect, respect, access to remedies' framework was under development as the book was written.<sup>19</sup> The world's population in the book is indicated as over 6.2 billion (at 3), a figure that was correct more than a decade ago. Mongolia is said to be 'the fifth most aid-dependent country in the world ...' (at 227), the book claiming, in a reference, that 20 per cent of Mongolia's GNP comes from official development assistance (ODA). Had the authors referred to the OECD's more reliable 'Aid Statistics, Recipient Aid Charts', which does not cover all ODA – as some major donors are not OECD members – they could nevertheless have corrected this information.

The title of the book, and in particular the terms 'fight' and 'lessons', indicate that the authors intended to focus on policies and not to engage in a detailed analysis of the content of the relevant legal provisions, the most comprehensive being ICESCR Article 11.<sup>20</sup> As a policy-oriented study, the book provides food for thought, and the almost manichean approach of Jean Ziegler – where the evil is represented by the troika of the WTO, the World Bank, and the IMF – is obviously still able to engage with and mobilize crucial actors and movements in the efforts to improve the realization of the right to food.

The book edited by the current Special Rapporteur on the right to food, Olivier de Schutter, and his former advisor and current colleague at Columbia University, Kaitlin Cordes, compiles

<sup>16</sup> For a highly critical study see ETC Group, *The Greed Revolution. Mega Foundations, Agribusiness Muscle In On Public Goods*. ETC Group Communiqué 108 (2012).

<sup>17</sup> Haugen, 'Food Sovereignty – an Appropriate Approach to Ensure the Right to Food?', 78 *Nordic J Int'l L* (2012) 263.

<sup>18</sup> The first is from a La Via Campesina 2001 declaration, while the second is from a 2002 NGO/CSO statement coming out of a forum on food sovereignty taking place parallel to the 2002 World Food Summit. As the latter was a broader forum, it is likely to have higher recognition in the food sovereignty movement.

<sup>19</sup> The Guiding principles, contained in A/HRC/17/31, Annex, were endorsed by A/HRC/RES/17/4, at para. 1, implying that these are currently referred to as the UN Guiding Principles on Business and Human Rights.

<sup>20</sup> See also H.M. Haugen, *The Right to Food and the TRIPS Agreement – With a Particular Emphasis on Developing Countries' Measures for Food Production and Distribution* (2007); the two further detailed studies on the

work by researchers, all with a background in international law, who are or have been at either the Catholic University in Leuven (Louvain) or Columbia University. The title, *Accounting for Hunger: The Right to Food in the Era of Globalization*, give rise to the expectation that the new challenges arising from globalization will be analysed in light of accountability mechanisms. Whether accountability mechanisms that are able to hold strong actors to account actually exist is not, however, a cross-cutting theme in the book.

Accountability is recognized as a human rights principle,<sup>21</sup> defined as 'holding individuals, public agencies and non-state actors responsible for their actions and decisions according to the principles of the rule of law'.<sup>22</sup> Hence, actors' conduct is to be assessed in relation to objective standards and procedures, with the ability to hold them accountable and establish liability for any violations of the right to food. Accountability understood as relating to norms set externally, with the possibility of externally imposed sanctions in cases of non-compliance is obviously stronger than responsibility, understood as relating to internal norms and sanctions. According to the access-to-remedies principle which forms part of the UN Guiding Principles on business and human rights, there are a number of criteria that must be fulfilled before corporate-specific remedies can be considered to constitute an effective non-judicial grievance mechanism.<sup>23</sup>

The book edited by de Schutter and Cordes does not engage in an in-depth assessment of the various forms of accountability mechanisms, even if Anne Sofie Cloots' chapter on biofuels provides some examples of international standards that are applied in order to hold biofuel producers accountable. As the UN Guiding Principles include company-specific non-judicial *grievance* mechanisms, which are also referred to in the FAO Voluntary Guidelines on land tenure,<sup>24</sup> it would be most useful if studies on the right to food critically assessed the growth of such mechanisms in the context of globalization. While the last page of the introductory chapter refers to the 'accountability of domestic and transnational actors', the book does not develop a conceptual framework for assessing accountability. The various chapters, however, identify accountability gaps.

De Schutter's own chapter, 'International Trade in Agriculture and the Right to Food', is 54 pages long and is placed at the centre of the book. It is an outstanding chapter, due to its comprehensiveness and level of detail. De Schutter's analysis benefits from drawing upon other disciplines, such as development studies, political science, plant genetics, and trade, reflecting most recent research. Drawing upon his earlier analyses of the interaction between the right to food and the implementation of the WTO's Agreement on Agriculture<sup>25</sup> – the preamble to the Agreement uses the term 'food security' – he argues that there is no 'level playing field' in the international agricultural trade negotiations, as there are immense differences between farmers' productivity and level of state support. The imbalance results from agriculture subsidies by

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content of ICESCR Art. 11.2 are M. Craven, *The International Covenant on Economic, Social and Cultural Rights – A Perspective on its Development* (1995), and Alston, 'International Law and the Human Right to Food', in P. Alston and K. Tomasevski (eds), *The Right to Food* (1984).

<sup>21</sup> In addition to FAO 2012, *supra* note 11, principle 3B.9, see UN agencies, *The Human Rights Based Approach to Development Cooperation – Towards a Common Understanding Among UN Agencies* (2004), at 2.

<sup>22</sup> FAO 2012, *supra* note 11, Guideline 3B.9 ('Principles of implementation').

<sup>23</sup> See UN 2011, *supra* note 19, at paras 29 and 31.

<sup>24</sup> FAO 2012, *supra* note 11, principle 3.2, reading (extract): '[b]usiness enterprises should provide for and cooperate in non-judicial mechanisms to provide remedy, including effective operational-level grievance mechanisms ...'. Especially regarding land transfers, inadequate mechanisms for solving disputes have been acknowledged by the FAO, the International Fund for Agricultural Development (IFAD), the UN Conference on Trade and Development (UNCTAD), and the World Bank Group: *Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources* (2010), at 12 (ch 4.2.3), referring to three issues that tend to be omitted in contractual arrangements on transfer of land: (i) the nature of the transferred rights; (ii) the mechanisms to protect against speculative land acquisition; and (iii) enforcement capacity.

<sup>25</sup> See A/HRC/10/5/Add.2 (Mission to the World Trade Organization).

industrialized countries, which are still being increased as a result of the 2008 US Farm Bill, and from the enormous productivity gaps between Least-Developed Countries (LDC in WTO terminology) and industrialized countries.

Agriculture in developing countries must undergo structural changes, simply due to the fact that half of the 1 billion hungry in the world are themselves farmers, currently unable to produce enough to provide their families with an adequate income and standard of living. According to De Schutter the current global agricultural system makes the poor farmers lose twice: first they are not able to compete with subsidized imports on their own markets; secondly, the benefits from export-led agricultures primarily accrue to large-scale, mechanized producers. The latter issue is also addressed by Margaret Cowan Schmidt in her contribution to the book.

De Schutter's analysis points to the Guiding principles on human rights' impact assessments of trade and investment agreements which he submitted to the Human Rights Council (HRC) at the end of 2011 in his capacity as Special Rapporteur.<sup>26</sup> The HRC's resolution, adopted without a vote, 'takes note, with appreciation', of de Schutter's report.<sup>27</sup> This acknowledgement does not constitute an endorsement, but is nevertheless remarkable in light of the wording of the Guiding principles, the most important principle being: '[w]here an inconsistency between the human rights obligations of a State and its obligations under a trade or investment agreement becomes apparent only after the entry into force of the said agreement, the pre-existing human rights obligations must prevail'.<sup>28</sup> As the enforcement mechanisms under investment agreements are considerably stronger than enforcement mechanisms under human rights agreements, the actual implementation of these principles in cases of alleged inconsistency will, however, be challenging.

Other chapters of the book also constitute valuable contributions to the debate on the right to food. The first three chapters address the agribusiness system (Kaitlin Cordes), food retail system (Cowan Schmidt), and biofuels sector (Cloots). They provide most useful outlines of the prevailing trends, dominant actors, and overall concerns, but do not apply human rights norms and principles rigorously in the analysis. Cloots provides a fresh analysis of the EU biofuels and bioliquid sustainability criteria. Some relevant information is missing, however. For instance, while it might be correct that 'food aid provides around one-fifth of coarse grain consumption' in Malawi in 2002–2005, the present situation has improved due to a fertilizer subsidy programme initiated in 2006.<sup>29</sup>

Aid and trade are highlighted in the last three chapters which focus on subsidies (Jennifer Mersing), WTO dispute settlement (Boyan Konstantinov), and food aid (Lorretto Ferrer Moreu). The first sets out a long list of measures to improve the small-scale agricultural sector, but without linking these to the content of ICESCR Article 11.2 or the FAO 2004 Voluntary Guidelines.<sup>30</sup> Moreover, it is surprising that a book published in November 2011 should refer to the decrease in food price following the 2008 peak, but then say 'many observers believe that food prices will indeed rise again in the near future', even though prices peaked in the first months of 2011 and the rises were clearly visible in advance.<sup>31</sup> Konstantinov reveals insights into the WTO, but is arguably rather naïve when writing that 'human rights-based approaches are increasingly mainstreamed into IMF and World Bank policies and programmes'. While the International

<sup>26</sup> A/HRC/19/59/Add.5, Appendix. In his chapter, he specifies at 180 that states are prohibited from concluding any agreements that would impose on them inconsistent obligations, stating at 189 that insight into the overall domestic impact of trade obligations can be obtained '[o]nly through such participatory mechanisms ...'.

<sup>27</sup> A/HRC/RES/19/7, at para. 42.

<sup>28</sup> *Supra* note 26, principle 1.3.

<sup>29</sup> S. Holden and R. Lunduka, *Impacts of the Fertilizer Subsidy Programme in Malawi: Targeting, Household Perceptions and Preferences* (2010), available at: [www.umb.no/statisk/noragric/publications/reports/2010\\_nor\\_rep\\_54.pdf](http://www.umb.no/statisk/noragric/publications/reports/2010_nor_rep_54.pdf).

<sup>30</sup> FAO 2004, *supra* note 11.

<sup>31</sup> See *supra* note 1.

Finance Corporation's Performance Standards (PS), operative from 2012, include three references to human rights,<sup>32</sup> this can hardly be called mainstreaming. The chapter on food aid provides a most useful presentation of outcomes of international summits and conferences, but also would have benefited from engaging more with human rights norms and principles, including the many soft-law documents on the right to food.

A more systematic analysis in most chapters of how accountability mechanisms operate – or do not operate – within the various policy realms affecting the right to food would have strengthened most of the chapters. As the book analyses the right to food in an era of globalization, the book could also have been improved by analysing foreign investments with the same rigour as trade. All of the first three chapters relate to investments, including genetic modification and intellectual property protection. A review of how bilateral or plurilateral investment agreements might impact on the right to food is a topic that deserves more attention.

While the chapters in the book edited by de Schutter and Cordes are written by lawyers only, the contributors to the volume edited by Hospes and Hadiprayitno have more diverse backgrounds, including in political science, anthropology, and disaster studies. The book has three main parts: Developing human rights law for food security; Law, science and politics in securing food safety; and Transnational law, resource complexes and food security. Hence, only the first part of the book is predominantly about the right to food. The second part on food safety primarily deals with EU food safety regulation, particularly the 2002 General Food Law.<sup>33</sup> It takes a critical perspective on the too dominant role of scientists, attempts to clarify its provision on risk management – a much wider approach than risk assessment – and reviews case law in which the European Court of Justice (now Court of Justice of the European Communities) has accepted the precautionary principle in the realm of safety consideration. The third part is the most diverse. It contains, however, the only chapter that actually discusses the term governance and the implications of focusing on governance. This is the chapter on food and water security (by Dik Roth and Jeroen Warner). The first chapter, on farmland in the USA (Margaret Grossmann) provides an interesting overview of trends in US policies, but has a notable bias towards national policies, not for instance reviewing the 2008 Farm Bill critically from the perspective of the WTO's anti-subsidy efforts. One chapter stands out, namely Hospes' own chapter on the emergence of a *sui generis* accountability system, the Round Table on Responsible Soy (RTRS). Its principles and criteria were found by the EU Commission to comply with the EU biofuels sustainability criteria, and it was one of seven schemes that were approved by the EU in 2011.<sup>34</sup> The many multi-stakeholder processes on biofuels imply a considerable risk of forum-shopping, as producers will seek to be certified by those schemes that are approved by public bodies in importing states, and are not too demanding. As there will be many more such innovative and fragile multi-stakeholder processes, the story of the RTRS is most interesting, particularly due to the many levels of advocacy that were undertaken during the process of adopting the RTRS Standard, and the fact that the NGOs involved were willing to proceed only if the title of the scheme changed from 'sustainable' to 'responsible'.

Part 1, which focuses on the right to food, starts with two rather lengthy chapters (Bart Wernaart; Bernd van der Meulen) seeking to map the development of the right to food. The first chapter does not succeed in its ambition to present all sources – termed 'wells' – on how the right

<sup>32</sup> PS 1, at para. 3; PS 4, objective 2; and PS 7, objective 1; see also IFC, *The International Bill of Human Rights and IFC Sustainability Framework* (2010); for a brief assessment see IFC, *Human Rights* (undated), available at: [www1.ifc.org/wps/wcm/connect/6b499080498009a2a78cf7336b93d75f/Phase3\\_QCR-HumanRights.pdf?MOD=AJPERES](http://www1.ifc.org/wps/wcm/connect/6b499080498009a2a78cf7336b93d75f/Phase3_QCR-HumanRights.pdf?MOD=AJPERES).

<sup>33</sup> Reg. (EC) No 178/2002, OJ (2002) L31/1.

<sup>34</sup> EU, *Certification schemes for biofuels*. MEMO/11/522 (2011); for an assessment of the social sustainability of all these 7 schemes see L. German and G. Schoneveld, *Social Sustainability of EU-approved Voluntary Schemes for Biofuels: Implications for Rural Livelihoods*, CIFOR Working Paper 75 (2011).

to food is recognized globally, regionally, and nationally, and it suffers from too many errors and omissions, using for example wrong and old titles for people and institutions.

In particular, Wernaart errs when he interprets the MDG 1 ('Reduce by half the proportion of people who suffer from hunger by 2015') as a *reaffirmation* of the ambition expressed in paragraph 2 of the Rome Declaration on World Food Security (WFS), adopted at the 1996 World Food Summit ('reducing the number of undernourished people to half their present level no later than 2015'). Even if one does not problematize whether undernourished and hungry refer to the same group of people, the former is much more ambitious, and MDG 1 on hunger leaves approximately 200 million more people hungry than the WFS goal.<sup>35</sup> Hence the MDG 1 is a *weakening* of the commitment made in 1996.

Finally, the first chapter does not give an exhaustive overview of the various legal recognitions of the right to food, in that it lacks some treaties, such as the 2004 Arab Charter on Human Rights, which entered into force in 2008 and which recognizes the right to food in Article 38.<sup>36</sup> This reviewer disagrees with the argument that the many treaties which recognize the right to food make it difficult to formulate a clear understanding of the right to food. There is no other human right which has been subject to as many intergovernmental processes of clarification as the right to food, including by the 2004 FAO Voluntary Guidelines – which are mentioned in only one sentence – and two annual resolutions, in the Human Rights Council and the General Assembly, both adopted on the basis of extensive reports by the Special Rapporteur on the right to food.

Eide's chapter on state obligations challenges those who seem to believe that it is enough just to declare the right to food, and that such a declaration is the *end* of a process of implementation, when it is rather the *start* of a process of implementation. He argues that the Universal Declaration of Human Rights is not a statement of existing facts or legal rights, but a future-oriented project, calling for clarification, application, and realization. In this endeavour a clearer understanding and recognition of state obligations are also crucial.

Both the chapters on the recognition of the right to food in the Netherlands (Frank Vlemminx) and in Indonesia (Hadiprayitno) provide useful information. They are precise and identify forces driving legislators' and courts' recognition of the right to food in various phases in recent decades. Similar chapters on other regions would have benefited the book more than the present diverse focus of the various chapters, particularly in Part 3.

In conclusion, the books reviewed clearly show that the right to food relates to – and is impacted on by – a wide range of policies. Therefore, the right to food should not be assessed by counting the number of references in national legislation and constitutions. The realities are, however, that the absolute number of hungry people increased by more than 200 million from 1996, when the World Food Summit was held, until the two food price peaks in 2008 and 2011. This is a result of more than two decades which tragically neglected small-scale farming in most developing countries, starting at the beginning of the 1980s. It is too early to assess the results of the increased strong interest in agricultural land in developing countries, but the findings of a World Bank study that 'lower recognition of land rights increases a country's attractiveness for land acquisition ...'<sup>37</sup> are not encouraging.

<sup>35</sup> 400 million if the *number* is the basis (WFS), as the number of undernourished in 1996 was approximately 800 million; 600 million if the *proportion* is the basis (MDG), as the world population increases from 5.1 billion in 1990 to approximately 7.2 billion in 2015, as MDG Target 1C specifies that 1990 is the starting year, when approximately 850 million people were hungry: see [www.fao.org/docrep/012/al390e/al390e00.pdf](http://www.fao.org/docrep/012/al390e/al390e00.pdf).

<sup>36</sup> Ten states have ratified the Charter, but some provisions are considerably weaker than those found in other human rights treaties. Art. 3 refers to equality between men and women 'within the framework of the positive discrimination established in favour of women by the Islamic Shariah ...'.

<sup>37</sup> K. Deininger and D. Byerlee, *Rising Global Interest in Farmland. Can It Yield Sustainable and Equitable Benefits?* (2010), at 55.



Realizing the right to food is about facilitating farmers' and peasants' own investments – as provided for in Article 11.2(a) of the ICESCR and based on the acknowledgement that improved agriculture represents a most effective means of poverty alleviation – which would also promote necessary structural changes and diversification of the rural economy in developing countries.

## Individual Contributions

### *Accounting for Hunger*

- Olivier De Schutter and Kaitlin Y. Cordes*, Accounting for Hunger: An Introduction to the Issues;  
*Kaitlin Y. Cordes*, The Impact of Agribusiness Transnational Corporations on the Right to Food;  
*Margaret Cowan Schmidt*, The Transformation of Food Retail and Marginalisation of Smallholder Farmers;  
*Ann Sofie Cloots*, Biofuels and the Right to Food: An Uneasy Partnership;  
*Olivier De Schutter*, International Trade in Agriculture and the Right to Food;  
*Jennifer Mersing*, How to Phase Out Rich Country Agricultural Subsidies Without Increasing Hunger in the Developing World;  
*Boyan Konstantinov*, Invoking the Right to Food in the WTO Dispute Settlement Process: The Relevance of the Right to Food to the Law of the WTO;  
*Loreto Ferrer Moreu*, Food Aid: How It Should Be Done

### *Governing Food Security*

- Otto Hospes, Han van Dijk and Bernd van der Meulen*, Introduction;  
*Bart Wernaart*, The Plural Wells of the Right to Food;  
*Bernd van der Meulen*, The Freedom to Feed Oneself: Food in the Struggle for Paradigms in Human Rights Law;  
*Asbjorn Eide*, State Obligations for Human Rights: The Case of the Right to Food;  
*Frank Vlemminx*, The Netherlands and the Right to Food: A Short History of Poor Legal Cuisine;  
*Irene Hadiprayitno*, Declared, not Acquired: Claiming Hunger as a Violation of the Right to Food, with a Case Study from Indonesia;  
*Henri Goverde*, Food Politics: Science and Democracy in the Dutch and EU Food Polity;  
*Gerard Breeman and Catrien Termeer*, From Food Security to Food Quality: Spreading Standards, Eroding Trust?;  
*Anna Szajkowska*, Food Safety Governance from a European Perspective: Risk Assessment and Non-Scientific Factors in EU Multi-Level Regulation;  
*Margaret Rosso Grossman*, Farmland and Food Security: Protecting Agricultural Land in the United States;  
*Melanie Wiber*, Intellectual Property Rights and Food Security: The International Legal Battle Over Patenting Staple Crops;  
*Dik Roth and Jeroen Warner*, Food Security as Water Security: The Multi-Level Governance of Virtual Water;  
*Michiel Kohne*, Food Security in a Bolivian Indigenous Territory: Exchange Relations of Subsistence Farming Reproduced in Indigenous Governance;  
*Otto Hospes*, Feed Security Contested: Soy Expansion in the Amazon

*Hans Morten Haugen*

Associate Professor, Diakonhjemmet University College

Email: [haugen@diakonhjemmet.no](mailto:haugen@diakonhjemmet.no)

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