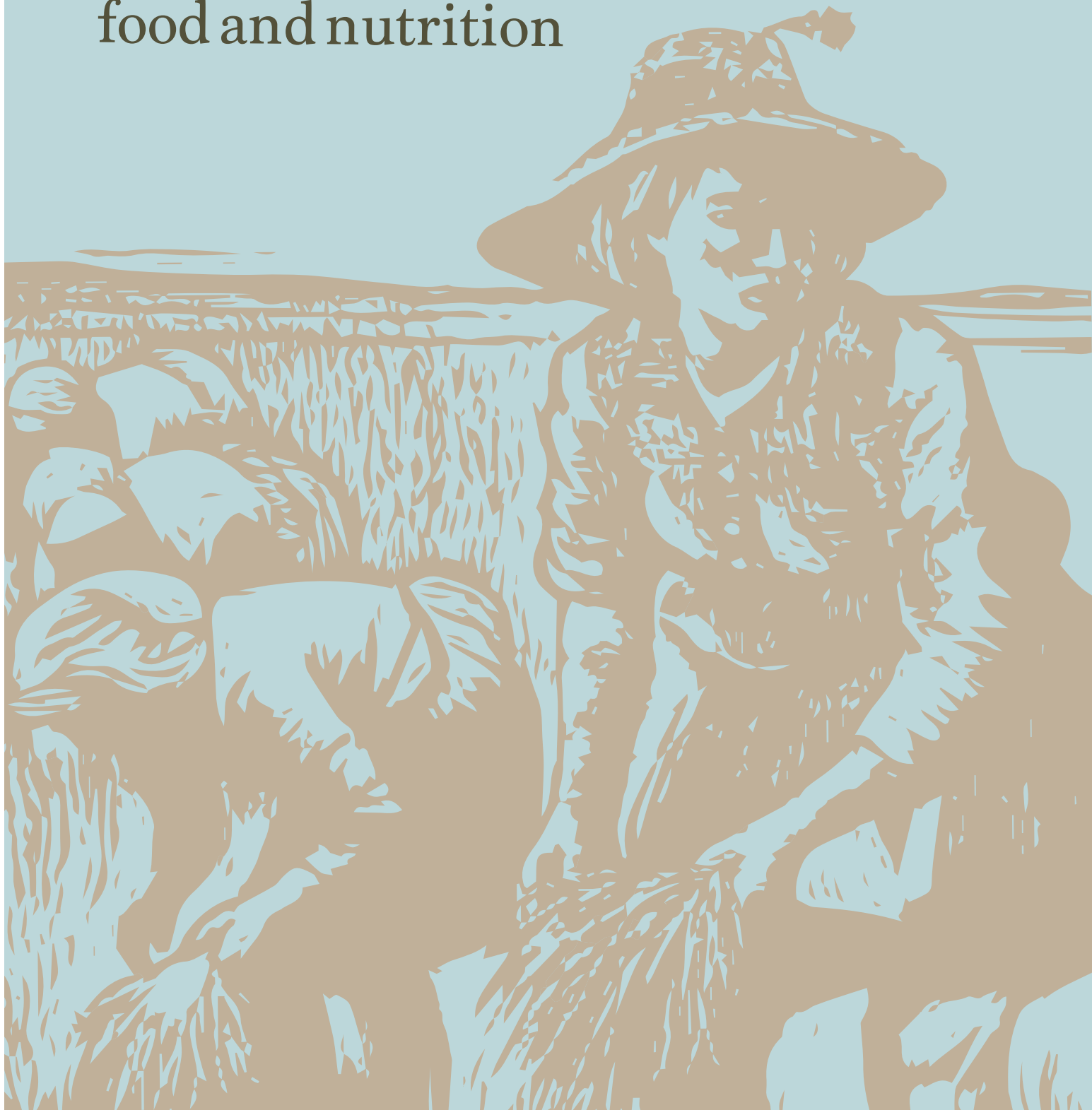




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Women agricultural workers and the right to adequate food and nutrition



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2014

This FIAN publication was largely written by Denisse Córdova and Cornelia Helmcke, with contributions from Philip Seufert, Flavio Valente and Yifang Slot-Tang. Sue Longley from the International Union of Food Workers (IUF) also made significant contributions through the provision of relevant information and materials and the review of a first draft. FIAN Nepal, FIAN Philippines, FIAN Colombia and the World Forum of Fish Harvesters and Fish Workers (WFF) were also involved in the provision of information during the research stage.

Published by FIAN International
for Hands off the Land Alliance

FIAN is an international human rights organization that has advocated for the realization of the right to adequate food for more than 25 years. FIAN's mission is to expose violations of people's right to food wherever they may occur. We stand up against unjust and oppressive practices that prevent people from feeding themselves. The struggle against gender discrimination and other forms of exclusion is integral part of our mission. We strive to secure people's access to the resources that they need in order to feed themselves, now and in the future.

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The **Hands off the Land** project aims to raise awareness about land grabbing amongst the European public, politicians, policy makers, students and professionals. The project presents case documentation, fact sheets and thematic studies of transnational land grabs in Mali, Mozambique, Zambia, Colombia and Cambodia.

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Cover: original illustration by Lima de Freitas

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Produced with financial support from the European Commission. The views expressed herein are those of TNI/FIAN/IGO/FDCL and not of the EC. Made possible in part with financial support from the Dutch Ministry of Foreign Affairs.

HANDS OFF THE LAND

TAKE ACTION AGAINST LAND GRABBING

a joint project of TNI, FIAN International, FIAN Netherlands, FIAN Germany, FIAN Austria, IGO in Poland and FDCL in Germany.



Introduction

Women and girls play an essential role towards the food and nutrition security of their families and communities through infant and young child feeding, the selection and preparation of food for their families, and the production of food for family consumption and for the market. While their precise roles and activities vary considerably among and within regions, women and girls often have one thing in common: the continuing threat of structural violence and discrimination that impedes the full realization of their human right to adequate food and nutrition, with broader implications not only for women and girls, but also for men, boys and their communities.

Many countries are experiencing a “feminization of agriculture” or substantial increases in the female share of the agricultural sectors¹ in great part caused by the present agribusiness-dominated food system which is often accompanied by land grabbing, displacement, destruction of livelihoods and rural-to-urban migration of male heads of households. As a result, women and girls are increasingly left to carry the full burden of agricultural work in addition to their disproportionate load of unpaid care responsibilities at home. Women work as farmers in their own farms, as unpaid workers on family farms and as paid or unpaid laborers on the farms and plantations of others. In addition, while women are increasingly responsible for the production

and processing of food as farmers, fisherwomen, forest gatherers and waged agricultural workers, they do so with very little legal protection in their access to natural and productive resources and in the workplace.

While the key role of smallholder farmers in food and nutrition security, the constraints they face and the impact of these on the realization of the right to adequate food and nutrition have been increasingly recognized over the years,² the important role of waged agricultural workers and the exploitative conditions many endure as laborers on the farms and plantations of others are often invisible. This neglect, in particular as it relates to women waged agricultural workers, has deleterious effects not only on the realization of women’s right to adequate food and nutrition, but also on the realization of their children’s, families’ and communities rights for generations. While access to waged agricultural work can bring about benefits to women, this paper aims to shed light on the discriminatory working conditions women agricultural workers endure in industries where women have traditionally constituted a significant share of the workforce – namely, many of the plantations for high-value agricultural products such as fresh fruit, vegetables, tea and flowers – and provide an analysis of these conditions from a human right to adequate food and nutrition perspective in order to offer recommendations to states about how to address these.

GLOSSARY

Gender: An individual's gender (for example, man/masculine or woman/feminine) refers to a social construction based on sex. While an individual's sex (male or female) refers to that person's biological make up (to have a chromosomal make up of XY or XX). Traditional gender roles, or the socially-constructed roles that are assigned to males and females, are at the root of gender-based discrimination and have an impact on individuals' capacity to realize their human rights, including their right to adequate food and nutrition. Gender roles are constructed socially and thus, are not *natural*, meaning that they can be changed or "reconstructed."

Human right to adequate food and nutrition:

First mentioned in Article 11 of ICESCR. General Comment 12 of ICSECR details the right's legal content and states that "the right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger as provided for in paragraph 2 of article 11, even in times of natural or other disasters."

Unpaid care work: Work that includes domestic work (meal preparation, cleaning, washing clothes and

fuel collection) and direct care of persons (including children, older persons and persons with disabilities as well as able-bodied adults) carried out in homes and communities.³

Feminization of agriculture: The growing dominance of women in agricultural production and the related decrease of men in the sector.

Waged agricultural workers: Workers who labor in crop fields, orchards, glasshouses, livestock units, and primary processing facilities to produce the world's food. They are employed on small- and medium-sized farms as well as large industrialized farms and plantations. They are waged workers because they do not own or rent the land on which they work nor the tools and equipment they use and so are a group distinct from farmers.⁴

Plantations: Any agricultural undertaking regularly employing hired workers which has been traditionally situated in the tropical or subtropical regions (but not exclusively) and which is mainly concerned with the cultivation or production for commercial purposes of coffee, tea, sugarcane, rubber, bananas, cocoa, coconuts, groundnuts, cotton, tobacco, fibers (sisal, jute and hemp), citrus, palm oil, cinchona or pineapple; it does not include family or small-scale holdings producing for local consumption and not regularly employing hired workers.⁵

Smallholder farmers: Farm households that own and/or cultivate small plots of land.⁶

The context of discrimination against women and girls: unpaid care work and waged employment

Women’s waged employment in agriculture needs to be understood against the backdrop of the unequal distribution and difficulty of unpaid care work as it is precisely this gendered distribution that is at the root of much of the *de facto* and *de jure* discrimination women experience in the labor market. As a result of socially-constructed gender roles, most women worldwide carry the disproportionate responsibility of the unpaid reproductive work or “care economy”. In many instances, women are the only ones responsible for maintaining households, raising children, preparing food, and taking care of sick and elderly relatives. Women and girls are presumed responsible for the collection of water and firewood and for the household’s legumes and vegetables. Furthermore, as part of their domestic work, rural women also feed and milk larger animals and raise poultry and small animals, provide most of the postharvest labor, arrange storage, and take care of handling, stocking, processing, and marketing of the produce.⁷ Women and girls in rural areas are often more disadvantaged than their urban counterparts because the availability of basic resources and services such as electricity, water and childcare are fewer or further away in rural areas.⁸ Women and girls perform these tasks in all areas of the world without pay, recognition or value.

Much of the discrimination against women in the workplace occurs as a result of the gendered-distribution of, and stereotypical assumptions that employers – and in some cases the country’s laws⁹ – make about, women’s family and caring responsibilities at home. At the workplace, women face limitations in regards to equal pay, access to employment opportunities, work safety, and equal participation in decision-making processes, among others, because of the perception that women are not supposed to work outside the home, are believed to be less capable of performing at the workplace because of their competing care responsibilities, and because women’s right to decent work is perceived as inferior to that of men as women are not perceived to be the household’s “breadwinner”.¹⁰ In addition, the feminization of agriculture has resulted in an increased toll on women’s time without any redistribution of women’s share of unpaid care work. As a result, women’s increasing time spent as agricultural workers and farmers add up to the time women already spend in their unpaid care work responsibilities (see table 1). It is also this lack of redistribution of unpaid care work that might leave women with few options in regards to employment opportunities because of their compromised right to education and training and as a result even push them into dangerous employment.¹¹

Table 1: Daily working hours of family members in Luzon, Philippines (source: FIAN Philippines)

Family member	Tasks	Time	Total hours
Husband/father	Farming	4:00 a.m. – 9:00 a.m.	8.5
		1:30 p.m. – 5:00 p.m.	
	Reparations or other tasks in the house	5:00 p.m. – 7:00 p.m.	2
Wife/mother	Food preparation for the family	3:30 a.m. – 7:30 a.m.	14
		10:00 a.m. – 12:00 a.m.	
	Other tasks in the household and farm	5:00 p.m. – 7:00 p.m.	
		8:00 a.m. – 10:00 a.m.	
	Household tasks	1:00 p.m. – 5:00 p.m.	1
		7:00 p.m. – 9:00 p.m.	
Son	Household tasks	5:00 p.m. – 6:00 p.m.	1
Daughter	Household tasks	5:00 p.m. – 8:00 p.m.	3

Structural violence and discrimination at the workplace

Waged agricultural workers grow, care for, harvest, fish, gather, and process much of the food that ends up on our plates and account for more than 40 per cent of the total agricultural workforce.¹² The percentage is constantly growing in all regions of the world and the sector is the main employer in rural areas.¹³ Women make up an increasing proportion inside the agricultural sector. The increasing domination of the agribusiness model in the food system, as well as armed conflict, migration of men household members in search of paid employment and rising mortality rates attributed to HIV/AIDS, have led to a rise in the number of single female headed households in rural areas.¹⁴ Worldwide 20 to 30 per cent of approximately 450 million waged agricultural workers are women with around 40 per cent just in Latin America and the Caribbean.¹⁵ The number is constantly rising.¹⁶ In fact, almost 70 per cent of all employed women in Southern Asia and more than 60 per cent in sub-Saharan Africa work in agriculture.¹⁷ Furthermore, case data suggest that 30 per cent of all people employed in the fishing sector are female.¹⁸

In spite of the sheer increase of women entering waged agricultural employment and international¹⁹, regional²⁰ and national standards against gender-based discrimination, cultural patriarchal norms prevalent in many parts of the world result in *de facto* gender-based discrimination at the workplace. One of the forms in which this discrimination is reflected in waged agricultural work is through the “feminization” of certain tasks.

Certain positions are considered to be “feminine”, such as sowing, weeding, applying fertilizer and pesticides, and harvesting and threshing of mostly high-value crops.²¹ As a result, women are generally recruited for, and often themselves seek these types of positions based on their actual roles in unpaid care work at home and what society and employers perceive their capacities to be. For example, cutting flowers, growing and packing vegetables and fruit, and picking tea leaves, all are perceived to require less physical work but higher “care”, and as such, these positions are traditionally filled by women.²² These activities are considered to be more docile, requiring less strength, and less skilled, and as a result, offer lower wages, poorer working conditions, and fewer protections overall. On the other hand, men are perceived to be able to run industrial and heavy equipment and handle complex tools, among other more “difficult” tasks, and are thus recruited for jobs that usually require training, tend to elicit higher wages, and provide more rights at the workplace.²³ The following section will analyze the structural violence and discrimination faced by women when employed in many of the high-value agricultural plantations, in particular in regards to equal pay, jobs and opportunities, access to maternity benefits, safety in the workplace, and women’s participation in decision-making processes and collective bargaining mechanisms, as well as the implications of this discrimination for women’s realization of their right to adequate food and nutrition.

Equal pay, jobs and opportunities

“Many of the tasks that women perform in the manual sugarcane production process are compensated with wages that are at a much lower level than those that men receive. Biological differences between men and women and the greater physical strength of men are usually given as reasons for this wage gap; however, the lack of adequate protection for equal working conditions and the responsibility of the state are never mentioned.”

FIAN Colombia on the situation of Afro-descendant peasant sugarcane workers in the community of Palenque Campesino Monte Oscuro

Waged agricultural workers are a hidden workforce, often working in remote and rural areas and with inadequate labor protection from laws. As a result, agricultural workers are the least paid and the most exploited workforce worldwide. In some countries, more than 60 per cent of all waged agricultural workers are living below the poverty line.²⁴ Women in waged employment are often more likely to be in part-time, seasonal and in low-paying jobs, and less likely to receive training and promotions.²⁵ Employers often justify such discrimination under the premise that women also have reproductive responsibilities and thus cannot work as hard as men.²⁶ Not only are women usually recruited for lower status jobs, which usually entail a lower pay, but even when performing the same task as their male counterparts, they rarely receive the same wage. For example, timber plantation companies in Africa tend to employ women only for the lower type of menial tasks and even when they do the same job as men, women tend to be paid less.²⁷ Similarly, in Ghana, men receive 58 per cent more wage pay than women for the same work,²⁸ and in Nepal in Kathmandu valley (Kritipur), men are paid NRs. 500 (USD 5.11) for paddy harvesting whereas women are paid only half of that amount for the same work.²⁹

Gender-based *de facto* discrimination in regards to wages is further aggravated by nationally-sanctioned low minimum wages that enable employers to legally employ women at wages that are well below what is needed to actually support a household. For example, Malawi has one of the lowest national minimum wages worldwide fixed at MWK 371 per day (USD 0.92) by the Employment Act No. 6 of 2000. Female seasonal tea pluckers in Malawi earn MWK 430 (USD 1.06) for eight hours of work if they collect 44 kilograms of tea leaves;

however, the requirements to cover the food basket of an average household are above MWK 1,900 per day (USD 4.69).³⁰ Tea pluckers in India face similar circumstances. In Assam, in the northeast of India, every tea plantation pays the same wages: 12 pennies an hour.³¹ Even if the tea is certified as fair-trade, tea pluckers receive no more than 89 rupees (USD 1.45) a day, which is a little over half of the legal wage for an unskilled permanent worker in Assam (158.54 rupees or USD 2.57).³²

Women often lack the information necessary to even negotiate a decent wage. For example, women in a jatropha plantation in Africa were often unaware of the general daily wage rate and were therefore unable to negotiate a fair payment.³³ Unfortunately, little is done to overcome these types of information gaps. In fact, the case of Bangladesh's economically vital shrimp processing industry shows that even great progress in strengthening workers' rights does not necessarily help the workers employed by a contractor – a workforce that is made up of 80 per cent women.³⁴ This workforce is often left without protection as the wages paid to labor contractors are not subject to audit; thus, making it difficult to determine how much of the wage is deducted by contractors as commission in comparison to how much the workers end up receiving.³⁵

In addition to receiving inadequate pay, women often have very little job security. The continuing casualization of agricultural work leads into seasonal employment without any contract causing women to suffer from excessive working hours and the insecurity of not knowing if they will receive income tomorrow.³⁶ Furthermore, this lack of formal employment is exacerbated by the fact that in many instances it is the husband or another male

in the household who is paid on behalf of the woman because it is often believed that women are “dependents” of the male “head of the household”, thus adding to the woman’s lack of income security.³⁷ It is often these beliefs – that men have ultimate control over women, even in their place of employment, or that the woman does not have any control over the manner in which she spends her own time – that also lead employers to refrain from training and promoting women. Employers often use the excuse that there is no use in giving women promotions because their husbands will not allow them to do the job,³⁸ thus, leaving women without an opportunity to gain job security.

Human rights analysis

Discrimination at the workplace has important implications for the realization of the right to adequate food and nutrition, which is guaranteed under Article 11 and General Comment 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). By failing to implement legislation or monitor the proper implementation, in relation to private actors, of laws that provide adequate remuneration for a decent living, states are breaching their obligation to protect rights-holders’ accessibility to adequate food and nutrition. Without adequate remuneration, whether it is due to gender-based discrimination or as a result of nationally-sanctioned laws that allow for a minimum wage that is below what is needed to support a household’s access to adequate food and nutrition, women are unable to have the income that is necessary to adequately feed themselves and their families. Similarly, by failing to

formulate and execute policies and programs that facilitate and assist women to have adequate access to work and income opportunities without discrimination, states are breaching their obligation to fulfill the right to adequate food and nutrition.

While “equal pay for equal work” and other international standards against gender-based discrimination at work have been laid down in the International Labor Organization (ILO) Convention No. 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value (1951), its Recommendation No. 90, and Article 11 of the United Nations (UN) Convention on the Elimination of Discrimination Against Women (CEDAW), amongst many other international and regional human rights documents aiming to root out discrimination,³⁹ this is not the reality in practice for many women around the world. By failing to treat women on an equal basis as men in the work place in regards to payment of wages for equal tasks performed and providing them with the same opportunities and training to enable them to acquire better and more permanent contracts and jobs, states who have ratified the above-mentioned treaties are violating their legal obligations under international law. Even if states have enacted legislation meant to address gender-based discrimination in the workplace, if *de facto* discrimination continues taking place, then states are nonetheless failing to uphold their human rights obligations and under General Recommendation No. 5 of CEDAW, “there is a need for action to be taken to implement fully the Convention by introducing measures to promote *de facto* equality between men and women.”

Safe work environment

“From working in the cold river and due to carrying heavy loads...women are found physically worn out – with backache and joint problems...[with] serious uterine ailments. Their access to healthcare is limited as the nearest health post is located at 2 hours walk from the hamlet and they lack the resources to afford the necessary services.”

FIAN Nepal on the situation of stone-crushing women workers in Nepal’s Ghandarva-Surkhet District⁴⁰

Waged agricultural workers, farmers and fisherfolk do one of the toughest jobs worldwide. Despite technological advancements, agricultural work is still strongly connected to long working hours, requiring physically-demanding and sometimes dangerous tasks for poorly-paid wages. The nature of agricultural activities involves long periods of standing, stooping, bending, and carrying out repetitive movements in awkward body positions and sometimes long exposure to sun and rain.⁴¹ A large number of waged agricultural workers are killed, injured or made ill each year as a result of their work. ILO estimates that in 1997 about 170,000 agricultural workers were killed – placing agriculture, alongside mining and construction, as one of the three most dangerous industries in which to work.⁴² For profit maximization, safety standards are kept low. Workers are exposed to the chemicals used on the plantations, often as a result of employers’ failure to provide adequate protective equipment for sprayers,⁴³ and receive poor training for the machinery they use. An FAO report⁴⁴ states, that “agricultural workers are among the least well protected in terms of access to health care, workers’ compensation, long-term disability insurance and survivors’ benefits.” Women agricultural workers face particular challenges in regards to work safety issues due to their own reproductive biology – which is put at high risk by employers – and due to their engagement in low-status precarious jobs with high demands, little control over their own work, and where protection is often lacking both through legal mechanisms and through collective bargaining mechanisms.⁴⁵ Women agricultural workers are exposed to a myriad of occupational hazards and stressors including injuries, pesticide illnesses, reproductive health problems, respiratory, dermatological, and infectious diseases and Musculoskeletal Disorders (MSDs), among others.⁴⁶

The security and health standards for women in agriculture are often very low. Safety standards often do not make the distinction between men and women doing the work and thus, often result in protection gear being just available in men’s sizes, and standards for muscle strength and handling equipment as well as the risks for chemical exposure not taking into consideration women’s biology.⁴⁷ For example, the exposure to toxic chemicals and pesticides in agriculture and the performance of certain tasks that place a significant physical toll on women’s bodies can be the cause of spontaneous abortions, premature births, and affect the health and life of the baby after birth both through in utero exposure to toxic chemicals and through the contamination of breast milk.⁴⁸

The piece-work based payment – which pays workers by accomplished task – upon which women agricultural workers’ contracts are often based is also another source of exploitation and danger at the workplace as it financially motivates workers to put their health and lives at danger in order to accomplish the greatest number of tasks in the shortest amount of time.⁴⁹ Not only are these workers at greater risk of developing musculoskeletal disorders due to the fact that women’s work often involves monotonous and repetitive movements in awkward positions with high ergonomic risks, but they are also at a higher risk of exposure to dangerous chemicals.⁵⁰ For example, in India, women cotton pickers working under daily wages pick about 10-15 kg of cotton a day; however, those working under the piece rate system can pick as much as 20-30 kg and some even reach 40 kg, creating health and injury risks for the latter group of workers, which include exposure to higher levels of pesticides that are used in the cultivation of cotton.⁵¹

Women migrant workers often face additional barriers as a result of their legal immigration status, lack of social support networks, cultural and language barriers, and poor education. Migrant agricultural workers in many parts of the world tend to reside on the site of employment and thus the lack of a safe environment often extends into their home environment. For example, about 50 per cent of the housing for hired farm workers in California is found to be overcrowded and 25 per cent is found to be extremely overcrowded. Similarly, in Lebanon, during the olive harvest season, migrant olive workers occupy temporary residential units; however, many of the housing structures are not intended for human habitation, with a sizeable proportion lacking plumbing, food preparation facilities, adequate ventilation and heating.⁵²

Exposure to overt gender-based violence at the workplace threatens women agricultural workers' personal safety. While all women agricultural workers are at risk and aware of the verbal, psychological, and physical abuse that exists in the workplace as a result of the unequal power relations between men and women, the fact that migrant women agricultural workers often have limited access to medical, social and governmental services as a result of their immigration status, cultural and language barriers, discrimination and seclusion from society outside of their place of employment, further adds to these women's lack of safety at the workplace and their inability to claim their rights.⁵³ There are reports that state that up to 80 per cent of women agricultural workers in the US, particularly in California – where two-thirds of the agricultural work force are migrants – are harassed or assaulted both by employers and others in positions of power.⁵⁴ In many instances, women have to give sexual favors to their supervisors in order to ensure that their contracts are renewed and that they receive full pay entitlement.⁵⁵ The lack of social networks, linguistic and cultural barriers, fear of legal persecution, discrimination – based on racism, sexism, disability, health conditions, national origin or immigration status – and limited access to health care result in abuses that are particularly egregious, including sexual violence, to go unreported as many women simply accept these abuses as an unavoidable condition of agricultural work.⁵⁶

Human rights analysis

By failing to protect the safety of women agricultural workers at their place of employment, states are also failing to protect women's and their children's right to adequate food and nutrition. States' lack of provision of a safe and healthy work environment to women interferes with women's ability to earn an adequate income and to adequately feed themselves and their families. Furthermore, states are violating their obligation to protect the right to adequate food and nutrition through their failure to ensure that employers – in the case of those that provide living quarters to their workers – are providing their workers with adequate infrastructure for a healthy living, including adequate food preparation facilities. Finally, through failing to regulate employers' lack of safety standards that allow for women's exposure to toxic chemicals or the performance of physical activity that has an impact on women workers' reproductive health, states are not only infringing upon women's rights, but also that of her children. Children's right to adequate food and nutrition, which is specifically protected under Article 24 of the Convention of the Rights of the Child (CRC) and generally, under ICESCR, is threatened through the contamination of their mothers' breast milk as well as through in utero health-related problems that might have an effect on the child's nutritional status after birth. For example, children of these mothers might have a low birth weight and as a result, would have a much higher risk of dying before reaching age 5, of developing more severe malnutrition, specially stunting,⁵⁷ and of developing chronic degenerative diseases in adult age.⁵⁸ Low birth weight, wasting, stunting, and child malnutrition, has the further consequence of impaired cognitive development and malnutrition, including under-nutrition and obesity, in adulthood.⁵⁹

While the ILO Convention on Occupational Safety and Health No. 155 (1981) and the ILO Convention No. 184 (2001) on Safety and Health in Agriculture,⁶⁰ and its accompanying Recommendation No. 192 (2001), are the main international instruments aimed at preventing injury to health linked with work, they have only been ratified by 62 and 15 countries⁶¹ respectively. However, under Article 7 of the ICESCR as well as Article 11 of CEDAW – which have been widely ratified – states have the obligation to ensure safe and healthy working

conditions, "including the safeguarding of the function of reproduction." Articles 12, 19, and 74 of the ILO Convention on Conditions of Employment of Plantation Workers No. 110 (1958), which has only been ratified by 12 countries⁶², also cover the health and safety of workers on plantations. By failing to protect women agricultural workers' safety, states that have ratified ILO Conventions 155, 184, and 110 are violating specific provisions that call for the enactment and enforcement of legislation that ensures adequate health and safety standards for both men and women at the workplace, protects the physical and psychological health of women both at the workplace and in their place of residence in the case where employers are also responsible for

workers' housing, and safeguards women's personal safety and the protection of their reproductive health. By failing to set safety standards that protect the specific needs of women workers, states parties to the ICESCR and CEDAW are also failing to meet their obligations under Article 7 of ICESCR and Article 11 of CEDAW to protect women workers' safety on an equal basis as that of men's and under Article 12 of ICESCR, to protect the general right to health. Furthermore, the fact that much of the sexual harassment and abuse suffered by women agricultural workers goes unreported indicates that states are violating their general obligation to provide for corrective measures and adequate access to justice⁶³ to women whose personal safety has been violated.

Maternity protection

“To be pregnant is our nature as women. Yet it is used to discriminate against us. At the workplace, we are not allowed to get pregnant, and it is not fair.”

Participant at the IUF African women’s seminar, July 2006⁶⁴

Women face great difficulties reconciling their responsibilities in the reproductive and productive sectors due to both employers’ perceptions about what women’s role should be in regards to the care of children as well as women’s actual physiology when pregnant and breastfeeding and the lack of protection of these biological stages. Women often hide their pregnancies to avoid being turned away or fired by an employer and sometimes women are even required to take pregnancy tests before being employed.⁶⁵ In order to prevent women from being entitled to maternity benefits, employers often only hire women for short-term contracts or even devise employment situations whereby they employ women under short-term contracts only to re-employ them under another short-term contract after a few days’ break.⁶⁶ The plight of women agricultural workers and their inability to access maternity benefits is further exacerbated by the fact that national maternity protection legislation in many places explicitly excludes agricultural workers.⁶⁷ Women agricultural workers are considered more or less like informal workers and as a result have little or no protection. Even those who are able to access maternity benefits may be covered during parts of the year but not the whole year as a result of the seasonal-nature of much of the agricultural work.⁶⁸

Similarly, the protection for breastfeeding and childcare is usually completely lacking for women agricultural workers and as a result, women are denied the time to breastfeed their infants after birth and have few support systems to enable their children to be cared for while they work.⁶⁹ Crèches are often unavailable near or at the place of employment and even in the cases where national law mandates plantation employers to provide crèches, the reality at the plantations is often one of blatant non-compliance with the legislation.⁷⁰ As a result, women are often faced with the difficult decision of either leaving their children without supervision or bringing them to the field with them. Once in the field,

children are more likely to enter the workforce first by informally “helping” their mothers, especially when the women are paid based on accomplished task, and afterwards as actual employees in part because employers prey on them due to the low wages they seek to pay.⁷¹ Approximately 132 million girls and boys aged 5-14 work in agriculture.⁷² For example, in Malawi, the tobacco leaves plucking sector employs 78,000 children.⁷³

Human rights analysis

The right to adequate food and nutrition is severely undermined through the failure of states to protect women workers’ human right to maternity protection. The failure of states to protect women workers from the discrimination that takes place through the hiring of women workers only for short-term contracts as well as administering pregnancy tests prior to the hiring of women to avoid having to provide them with maternity benefits have the effect of preventing women from accessing permanent employment opportunities. This not only results in their inability to access benefits, such as maternity and retirement benefits, among others, but further results in women’s powerlessness to feed and care for their families on a consistent and sustainable basis though their right to an adequate and steady income. Maternity protection for working women is particularly essential to their health and well-being and to that of their children and communities. Lack of maternity leave often leads to lack of income and food for the woman and her family, during a time when nutritious and sufficient food is of utmost importance. The lack of breaks to breastfeed and provide care for their children as well as the lack of well-equipped and well-run crèche services available at accessible distances also have a significant impact on children’s right to adequate food and nutrition as it is widely recognized that exclusive breastfeeding during the first six months of life and continued breastfeeding together with

complementary foods up to two years of age or beyond is the optimal way of feeding infants.⁷⁴ Similarly, the fact that the right of children to an education is violated in the cases where children end up working in plantations with their mothers has a dire effect on children's right to adequate food later in life as they often end up lacking the necessary education that would enable them to gain access to adequate employment and income opportunities as adults, with an impact on their right to adequate food and nutrition.

The ILO Convention on Maternity Protection No. 183 (2000) and its Recommendation No. 191, which has been ratified by 28 countries,⁷⁵ provides specific protection in regards to the amount of leave mothers should receive, the cash benefits during the leave, the medical and health benefits both during and after the pregnancy, breaks for breastfeeding and childcare, and protection regarding employment discrimination because of pregnancy or motherhood. In addition, the ILO Social Security (Minimum Standards) Convention No. 102 (1952) and its Recommendation No. 202 on Social Protection Floors (2012) affirm the right to social

security as a human right and calls on all states to establish and maintain their social protection floors comprising basic social security guarantees, which include maternity protection. The ILO's supervisory bodies have also commented on problems including the exclusion or non-coverage of women in the agricultural sector with respect to maternity leave as well as the lack of statistical data on coverage in this sector.⁷⁶ Article 11 of CEDAW also generally addresses employment discrimination as a result of pregnancy or maternity and as such it is also applicable. States clearly fail to uphold their human rights obligations under international law when they neglect to protect women workers from discrimination based on pregnancy or maternity by their employers. In allowing children to work at plantations, whether informally or formally, is also a violation of Article 32 of the CRC which "recognize[s] the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."

Participation in decision-making structures and protection of women's freedom of speech, expression, and association

"When I stood up, I got accused of being aggressive. I said, "No, I just want what's right."

Health and Safety Officer, Australian Meat Industry Employees' Union (AMIEU), Australia⁷⁷

Discrimination against women agricultural workers results in great part due to their absence in decision-making processes. Freedom of association is a fundamental human right that is central for workers' ability to take charge of their own labor conditions and to advocate for improvements for all workers. In the case of agricultural and rural workers, in spite of the universal recognition of the right to freedom of association,⁷⁸ poverty, informality, dependence on the employer for income, housing and schooling, as well as gender inequality and systematic violations of women's rights, contribute to structural, legal and practical impediments in their ability to access and exercise this right.⁷⁹ In the specific case of women agricultural workers, their freedom of association is threatened not only by these structural problems, which impede women's legal and practical access to the right at a global level, but also by the lack of women's participation in decision-making structures within their own workplaces. For example, gender-based discrimination results in part from men dominating the supervision segment and leading positions, as well as union boards.⁸⁰ The lack of promotion of women to positions of leadership within the workplace due to employers' patriarchal perceptions of women's roles and responsibilities contributes to a lack of involvement by women in unions. The level of trade union organization among women is well below its potential and generally lower than among men.⁸¹ The lack of participation by women in unions is in great part related to the fact that women do not always see how unions can help to improve their living and working conditions – often women do not see other women at high-level union positions nor do they see the issues that matter to them the most as priorities – and also due to the fear of reprisals by employers.⁸² Women who do become involved in unions often face retaliation at the hands of their employers further impeding their involvement. The jobs of women who find themselves in insecure working conditions depend on a good stand with their supervisors and thus,

these women often avoid putting themselves in situations that might upset their superiors in order to avoid the risk of losing their jobs. Migrant workers with insecure immigration status feel even more at risk because not only do they fear losing their jobs, but they also fear deportation. For example, in the US, agricultural migrant workers who faced and reported sexual abuse suffered retaliation in the form of reduced hours, less desirable work, and even termination.⁸³ Furthermore, agricultural workers union leaders and others who act as human rights defenders and their families are regularly murdered, imprisoned and often face threats and intimidation.⁸⁴

Human rights analysis

Women agricultural workers' lack of participation in decision-making bodies at the workplace, in unions, and in collective bargaining teams as well as the discrimination and criminalization of women agricultural workers who try to become engaged in these processes affect the realization of women's right to adequate food and nutrition as well as that of their families and their communities. Without the involvement of women in higher-level processes, the discrimination they face at the workplace and the specific issues that are of greatest importance to women workers will not be systematically addressed and as a result, women will continue to face violations of their right to a stable access to adequate income to sustain and feed their families. While addressing discrimination at the workplace on a case-by-case basis has its place, systematically dealing with the structures that entrench discrimination against women would have a wider effect that is crucial for the overall defense of women's right to adequate food and nutrition.

In discriminating against women workers in the promotion to positions of leadership, states are violating their obligations to protect women against discrimination at the workplace under the ILO Convention No. 11

on Discrimination in Employment and Occupation (1958) and its Recommendation No. 111, Article 11 of CEDAW, Articles 6 and 7 of ICESCR, as well under their general obligations of non-discrimination under the UN Universal Declaration of Human Rights. By failing to protect women agricultural worker human rights defenders against reprisals and criminalization, states are violating their obligations under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), Article 19 of the Universal Declaration

of Human Rights as well as their obligations under the UN Declaration on Human Rights Defenders. Furthermore, the human rights principle of participation calls for all individuals to have the right to participate in decision-making processes that affect their lives and well-being. Thus, women have the right to participate in processes that affect their working and social conditions and states have the obligation to ensure this is the case for women in all communities, including agricultural workers.

Recommendations to states

In order to address the issues and violations outlined above, we recommend that states enact, implement, and enforce national legislation that addresses structural violence and discrimination against women at the workplace by:

1. Extending labor protection to include all rural workers, including agricultural migrant workers, and spell out rights and responsibilities of all concerned with a special focus on the specific working conditions of women agricultural workers;
2. Affording sufficient resources to monitor and enforce compliance with national labor laws that are in line with requirements of international human rights law and strengthening rural labor inspection mechanisms, including the implementation of gender training of inspectors, in particular in regards to sectors that traditionally employ women and children;
3. Minimizing the extent to which contractual labour and other short-term contracts are used to subvert the requirements of labor law and social protection legislation, in particular maternity benefits;
4. Establishing minimum standards of labor rights for development projects or other public-private sector partnerships which result in large numbers of rural women being employed, or agricultural work which employs rural women, and mandating the reporting of such endeavors;
5. Guaranteeing maternity protection and other measures, such as the availability of crèches on or near the site of employment, that facilitate six months of exclusive breastfeeding for women employed in all sectors, with urgent attention to the agricultural sector;
6. Guaranteeing non-discrimination in the context of rural women workers exercising the rights to freedom of association and to bargain collectively in order to ensure decent work;
7. Guaranteeing non-discrimination in the context of rural women workers exercising the right to equal wages and working conditions with men in order to ensure decent work;
8. Guaranteeing non-discrimination in the context of rural women workers exercising the right to safe working conditions, in particular the right to personal safety in the workplace, in order to ensure decent work;
9. Affording sufficient resources for education and training programmes, in close consultation with rural women, that specifically target women in agriculture and other productive sectors of the rural economy with the objective of equipping them with the requisite skills to add value to the work they undertake and/or further their access to diversified employment opportunities;
10. Providing comprehensive universal social security to all rural women, with a special focus on workers in the agricultural sector, as to enable all women regardless of work status to have access to a basic standard of rights, in particular the right to adequate food and nutrition.

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Endnotes

- 1 One-fifth of all small-scale farms are managed by women. The feminization of agriculture is particularly evident in Africa and Asia, where women disproportionately depend on agriculture for a living. In fact, in Africa, 63 per cent of female workers relative to 48 per cent of male workers depend on agriculture-based livelihoods. Similarly, in Asia, the percentages were 57 and 48 respectively. (Agarwal 2013: 6). At the same time, women have been replacing men in waged agricultural work as men more than women move to non-farm jobs. In fact, today, it is estimated that there are more women working in agriculture than men (IAASTD 2009). In rural Africa, women produce, process and store up to 80 per cent of foodstuffs, while in South and South East Asia women undertake 60 per cent of cultivation work and other food production (UNIFEM 2000; IAASTD 2009: 293). Around 1.6 billion women depend on agriculture for their livelihoods, with percentages of women engaged in agricultural work reaching 50 per cent in most countries (Oxfam 2013: 2-3; Agarwal 2013: 6).
- 2 See, for example, FAO 2011.
- 3 For a detailed report on unpaid care work, see Sepulveda's report (2013) on extreme poverty and human rights.
- 4 For a more comprehensive description of waged agricultural workers, see FAO-ILO-IUF 2005: 8.
- 5 See ILO Convention 110.
- 6 For a more comprehensive description of small-holder farmers, using India as a concrete example, see FAO Regional Office for Asia and the Pacific 2002/2003 Publication on small-holder farmers in India.
- 7 World Bank 2009: 319; see also FAO 2011: 3.
- 8 *Ibid.*
- 9 While most constitutions worldwide prohibit gender based discrimination (FAO 2005 (2001): 9), not all legislation treat the issue satisfactorily. For example domestic labor rights can call for non-discrimination, but have for instance, a "protective" legislation prohibiting women from working in certain occupations or at certain times of the day, such as after dark. These provisions are enacted under the premises of "protecting women workers", but in turn they also limit their freedom to choose their occupation and may hinder their access to employment. It should also be stressed that most legislations worldwide leave out the informal sector (FAO 2005 (2001): 79, 84).
- 10 See ILO-UNDP 2009 publication on work and family for how perceptions about women's roles and responsibilities influence women in the workplace.
- 11 See Sholkamy (2012) for examples of how the gendered division of women's responsibilities in the private sphere can have a direct influence on women's necessity to resort to precarious employment.
- 12 FAO 2007: 19.
- 13 FAO 2007: 37.
- 14 IAASTD 2009: 211.
- 15 FAO 2007: 32.
- 16 World Bank, FAO, IFAD 2009: 317-18.
- 17 FAO 2011: 16.
- 18 Biswas 2013: 1.
- 19 For example, see International Labor Organization (ILO) Convention No. 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value (1951), its Recommendation No. 90, and Article 11 of the United Nations (UN) Convention on the Elimination of Discrimination Against Women (CEDAW), among others.
- 20 For example, see Article 18 of the African Charter on Human Rights and Peoples' Rights; European Directives on: Equal Pay (1975), Equal treatment in employment, vocational training, promotion and working conditions (1976), Equal treatment in social security (1978 and 1986), Equal treatment during pregnancy and motherhood (1986), and Burden of proof in cases of sex discrimination (1997); and the Treaty of Amsterdam (1999).
- 21 FAO 2007: 63.
- 22 *Ibid.*
- 23 World Bank, FAO, IFAD 2009: 321.
- 24 FAO 2007: 43.
- 25 FAO 2011: 18.
- 26 Preibisch and Encalada Grez 2010: 307.
- 27 Oxfam 2013: 9.
- 28 FAO 2011: 20.
- 29 FIAN Nepal email communication with Buddhi Chaudhary (October 2013). See also Upadhyya 2002, for a description of the wage situation of women workers in the agricultural sector of Nepal.
- 30 De Schutter 2013b.
- 31 Columbia Law School 2014: 55.
- 32 *Ibid.*
- 33 Oxfam 2013: 9.
- 34 Nuruzzaman 2013: 3f.
- 35 *Ibid.*
- 36 Dolan 2005: 422.
- 37 Habib and Fathallah 2012: 4358.
- 38 IUF 2007: 5.
- 39 See Article 23 of the UN Universal Declaration of Human Rights; Articles 6 and 7 of the International Covenant on

- Economic, Social and Cultural Rights (ICESCR), the ILO Convention No. 11 on Discrimination in Employment and Occupation (1958) and its Recommendation No. 111; Article 18 of the African Charter on Human Rights and Peoples' Rights; European Directives on: Equal Pay (1975), Equal treatment in employment, vocational training, promotion and working conditions (1976), Equal treatment in social security (1978 and 1986), Equal treatment during pregnancy and motherhood (1986), and Burden of proof in cases of sex discrimination (1997); and the Treaty of Amsterdam (1999).
- 40 FIAN International 2012: 5.
- 41 FAO 2007: 23.
- 42 FAO 2007: 32.
- 43 Columbia Law School 2014: 33.
- 44 FAO 2007: 23.
- 45 IUF 2007: 13.
- 46 Habib and Fathallah 2012: 4356.
- 47 IUF 2007: 13.
- 48 IUF 2007: 14.
- 49 For a description of the piece-rate based payment system for agricultural workers and associated problems, see the National Farm Worker Ministry website at <http://nfwm.org/education-center/farm-worker-issues/low-wages/> (*The Piece Rate: Payment Based on Productivity*).
- 50 See London 2002.
- 51 See Singh 2003: 10.
- 52 Habib and Fathallah 2012: 4358.
- 53 *Ibid.*
- 54 Human Rights Watch 2012: 23.
- 55 Human Rights Watch 2012: 26.
- 56 *Ibid.*
- 57 Stunting, or low height for age, is usually caused by continued insufficient nutrient intake and frequent infections, higher prevalence below age 2. Wasting, or low weight for height, is a strong predictor of infant or child mortality, and is usually associated with acute lack of adequate nutrient intake and disease. For more information, see United Nations Children's Fund (UNICEF), Progress for Children: A World Fit for Children Statistical Review, accessed March, 2014, http://www.unicef.org/progressforchildren/2007n6/index_41505.htm.
- 58 See UNICEF 2011: http://www.unicef.org/progressforchildren/2006n4/index_lowbirthweight.html.
- 59 See UNSCN 2010: <http://www.unscn.org/files/Publications/RWNS6/html/>.
- 60 More specifically, Article 18 of ILO Convention No. 184 calls for measures to address needs of women agricultural workers and Recommendation section 11.
- 61 As of March 2014.
- 62 As of March 2014.
- 63 See for example, Article 9 of ILO Convention No. 155; Article 4 of ILO Convention 184; Article 35 of ILO Convention 110.
- 64 IUF 2007: 25.
- 65 Longley 2013: 38.
- 66 *Ibid.*
- 67 GIFA 2013: 1.
- 68 GIFA 2013: 1
- 69 Women Working Worldwide (2011): 5.
- 70 See Columbia Law School Human Rights Clinic (2014): 8-9, for a description of how in spite of India's Plantation Labour Act of 1951, mandating plantation employers to provide social benefits, including crèches, visits to India's tea plantations revealed abandoned crèches.
- 71 *Ibid.*
- 72 See De Schutter 2013b.
- 73 *Ibid.*
- 74 See WHO: http://www.who.int/nutrition/topics/exclusive_breastfeeding/en/.
- 75 As of March 2014.
- 76 See ILO 2012: http://www.ilo.org/actrav/info/WCMS_175451/lang--en/index.htm.
- 77 IUF 2007: 56.
- 78 See ILO Convention No. 87 on the Freedom of Association and Protection of the Right to Organise (1948), ILO Convention No. 98 on the Right to Organise and Collective Bargaining (1949), and ILO Convention No. 11 on the Right of Association (Agriculture) (1921), among others.
- 79 ILO 2008: 86-88.
- 80 FAO 2011: 21; World Bank, FAO and IFAD 2009: 318.
- 81 IUF 2007: 2.
- 82 See IUF 2007.
- 83 Human Rights Watch Report 2012: 84.
- 84 See IUF 2010.