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**THE RIGHT TO FOOD FOR WOMEN VICTIMS OF VIOLENCE:
LEGAL AND SOCIAL PERSPECTIVES**

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*A mamma, papà
e Valentina*

INTRODUCTION

Food is a fundamental human necessity, and international law recognizes it as a human right, which is realized when “*every man, woman, and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.*”¹

Nevertheless, around the world, 733 million people are hungry, which means that 1 in 11 people face hunger. In 2023, 2.33 billion people globally faced food insecurity, 864 million of which experienced severe food insecurity.²

The Sustainable Development Goals (SDGs), particularly Goal 2: Zero Hunger, aim to end hunger, achieve food security and improved nutrition, and promote sustainable agriculture by 2030. Despite global efforts, the progress towards these goals has been uneven, exacerbated by factors such as climate, conflict, and economic instability. The interplay between food systems, social justice, and human rights makes the right to food a critical framework for addressing hunger and promoting sustainable development.

While the right to food has been recognized as a fundamental human right, its realization remains elusive for many. Physical and economic access to food is impaired by conflicts, poverty, and inequality.

In Gaza, because of Israel’s intentional and targeted starvation campaign, prevention of delivery of aid, and bombardment of the Strip, children die from malnutrition and dehydration.³ In Haiti, the outbreak of violence has resulted in loss of lives, widespread displacement, the collapse of education and healthcare, and food insecurity. Among the people who suffer the most, women and girls are the most disadvantaged group, and they are particularly vulnerable to sexual violence, sexual exploitation and sexual slavery.⁴

¹ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 12: The right to adequate food*, 1999

² <https://www.who.int/news/item/24-07-2024-hunger-numbers-stubbornly-high-for-three-consecutive-years-as-global-crises-deepen--un-report>

³ <https://www.ohchr.org/en/press-releases/2024/07/un-experts-declare-famine-has-spread-throughout-gaza-strip>

⁴ <https://www.ohchr.org/en/press-releases/2024/05/women-and-girls-bear-brunt-crisis-ravaging-haiti-say-un-experts>

They are limited in their ability to access markets for food and other essential services; but at the same time, they are compelled to resort to such strategies to put food on the tables.⁵

Despite their significant contributions to food production and their role in ensuring food security, women face numerous challenges in food systems worldwide. Women are often responsible for farming, food processing, and provisioning, yet they are disproportionately impacted by food insecurity due to systemic gender inequality. This inequality takes various forms, including limited land ownership, restricted access to resources, and discriminatory social norms. These factors hinder women's ability to fully participate in decision-making and contribute to their vulnerability to food crises. As a result, women's nutritional needs are often neglected, affecting their health and the well-being of their families.

This thesis seeks to explore the intersection of food access, gender equality and gender-based violence, examining how international human rights law, specifically the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, can contribute to addressing gender-based disparities in the access to food.

Particularly, I will try to answer some research questions, including: *does a right to food exist? To what extent is gender equality related to food security? Do victims of gender-based violence, including domestic violence, have effective access to food?*

In order to do so, this thesis will comprise of four chapters. In the first chapter, I will establish the framework by defining food security and the right to food, as they represent the main concepts from which I developed my work. Food security happens “*when all people, at all times, have physical, social, and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life*” composed of four dimensions – namely, physical availability, economic and

⁵ <https://www.actionaidusa.org/work/haitis-triple-crisis-and-its-impact-on-women-and-girls/>

physical access to food, food utilization and stability of the other three dimensions over time – which have to be fulfilled simultaneously.

Differently, the right to food is a recognized fundamental human right that consists of adequacy, accessibility, and availability and is primarily the right to feed oneself in dignity. The right to food is protected by several international instruments, both non-binding, such as the 1948 Universal Declaration of Human Rights, and binding ones, such as the 1966 International Covenant on Economic, Social and Cultural Rights.

However, it is declined differently: the Universal Declaration of Human Rights includes it in the right to an adequate standard of living, while the International Covenant identifies both the right to adequate food as part of the right to an adequate standard of living, and the fundamental right to be free from hunger.

Other specific International Human Rights Law instruments provide for the right to food, such as the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Convention relating to the Status of Refugees, and the Convention on the Elimination of All Forms of Discrimination Against Women. Moreover, I will describe some regional standards, particularly the Protocol of San Salvador within the Inter-American system; the African Charter of Human and People's Rights and its Protocol, and the African Charter on the Rights and Welfare of the Child.

From Humanitarian Law to Criminal Law, the several branches of International Law include food in their provisions, for example the obligation to guarantee the supply of food and water during conflicts, or the prohibition of starvation as a method of warfare.

The second chapter will develop how and to what extent the UN Convention on the Elimination of All Forms of Discrimination Against Women protects the right to food. Accordingly, its preamble recognizes that poverty hinders women's capacity to have access to food. However, it only elaborates on the nutritional aspects of the right to food in the context of pregnancy and lactation and the situation of rural women as food producers, but also their socio-economic rights. Indeed, Article 12 includes women's reproductive role as mothers, by requiring that they are granted access to general healthcare services, especially those related to family planning. Article 13 addresses the economic and social aspects of women's lives, as they are fundamental to achieve

economic independence and full participation in society. Particularly, the right to family benefits, to any form of financial credit, and to participate in all aspects of cultural life are mentioned. Article 14, on the other hand, deals with the protection of women living in rural areas, who experience particularly vulnerable situations. Accordingly, poverty, marginalization and lack of access to services hinder their ability to fully enjoy their fundamental human rights. Among the rights protected, the article explicitly mentions the right to adequate living conditions, which entails housing, sanitation, electricity, water supply, transport and communication.

Moreover, three individual communications to the CEDAW Committee on alleged violations of the above-mentioned rights will be analysed. Particularly, both *S.N. and E.R. v. North Macedonia* and *X. v. Cambodia* will highlight how rural women – notably Roma women – face discrimination in the access to healthcare, accommodation, and property rights, which leave them vulnerable and poor. *S.H. v. Bosnia and Herzegovina* instead will emphasize how the intersection of several kinds of discrimination – namely violence and lack of criminal investigation – exacerbated the victim’s vulnerability, eventually leading to extreme poor living conditions and the inability to access basic needs, including food.

The third chapter will focus on the framework of the Council of Europe, in which the European Convention on Human Rights represent the founding document. Although mainly protecting civil and political rights, the European Court of Human Rights has indirectly considered violations of socio-economic rights, including the right to food. Particularly, food poverty and poverty in general can amount and can be interpreted as violations of Article 2 on the right to life, and Article 8, on the right to private and family life, although not representing the best existing options.

By contrast, the Court has found that the lack of access to adequate food can be interpreted as degrading or inhuman treatment, amounting to a violation of Article 3 on the prohibition of torture. Such violation mainly occurs in contexts where people live in vulnerable conditions, namely confinement in psychiatric institutions, asylum-seeking and detention.

After assessing the general context of such organization, the thesis will explore the existing framework on the protection of women against gender-based violence, including

domestic violence. The Istanbul Convention aims at preventing and combating all forms of violence against women, as well as protecting and supporting the victims of such violence, and prosecuting the perpetrators by recognizing that violence against women is a structural violation of human rights, a form of discrimination against women and as such, it disproportionately affects women on the basis of gender, i.e., the socially constructed roles, behaviours, activities, and attributes that society considers appropriate for women and men.

When considering the right to food, not only do women represent one of the most disadvantaged groups, but this vulnerability is exacerbated when they suffer from other forms of discrimination, such as violence.

Although recognizing several relevant rights, the treaty does not cover the right to food for victims of gender-based violence. Still, it emphasizes the importance of ensuring comprehensive support and protection for them, which can include addressing their broader needs, including the access to basic resources. Access to adequate food is indeed a crucial part in supporting their overall safety and security.

Finally, the last chapter will consist of a case study to illustrate the practical implications of the theoretical framework developed in the previous chapters. The opportunity to develop a case-study came as a result of an internship at *Fondazione Banco Alimentare ONLUS* in Milan, which allowed me to do some research. Particularly, the case study will analyse the experiences of women victims and survivors of gender-based violence who sought help from anti-violence associations and/or shelters in the Municipality of Milan. In order to do so, I interviewed both a victim of GBV and operators of the anti-violence network and I developed a survey addressed to survivors.

Accordingly, one kind of gender-based violence is economic violence, i.e., any act or behaviour which causes economic harm to an individual and has the consequence to control the victim's ability to acquire, use, and maintain economic resources, threatening her economic security and potential self-sufficiency. Acts of economic violence include economic control, economic sabotage and economic exploitation. Control over economic

resources is one of the main reasons that constraints women's possibilities of leaving violence.⁶

Accent has to be put on economic independence. Particularly, shelters either provide victims with pocket money to use for their necessities or ask food banks to provide food. The advantage of pocket money lies in the autonomy given to survivors to make their own decisions, which is crucial to their empowerment. Moreover, as a long-term strategy, shelters provide job training to help them regain their independence and rebuild their lives free from violence and vulnerability.

The case study will offer some insights, although it also lacks statistical relevance due to the climate of protection around the topic of gender-based violence, in which survivors shall be preserved in their privacy and willingness to speak up.

Still, it can represent a discrete starting point for further development of the intersection between the right to food and gender-based violence.

The realization of the right to food for women is inextricably linked to gender equality and the elimination of gender-based violence. International human rights law can provide a valuable framework for addressing these interconnected issues, but policy changes that prioritize the needs of women and girls are required to address such issue.

⁶ https://eige.europa.eu/sites/default/files/documents/EIGE_Factsheet_EconomicViolence.pdf

CHAPTER 1

Establishing the Framework: Food Security and the Right to Food

1.1 Food Security

After World War II, the international community shared the common belief about the need to eradicate hunger through advances on nutrition and agricultural science. For this reason, the Food and Agriculture Organization (FAO) was created in 1945, as the first UN specialized agency. Its first efforts were based on international coordination of grain production and trade to redistribute surplus food produced in the West to meet the needs of the developing world, although the major grain producers pushed for a strengthening in food supply management within those countries.

In the 1960s, to respond to rapid population growth and lagging food production in developing countries, the UN World Food Programme (WFP) was created under the umbrella of the FAO to provide food assistance to developing countries; as well as the Food Aid Convention (FAC) – an agreement based on a food aid burden-sharing system. Moreover, these major grain producers decided to finance technological transfers and introduced higher-yield seed varieties, fertilizers, and pesticides as a way of bilateral and multilateral assistance on food production.

During the early 1970s, a shortage of wheat and the consequent increase in prices caused the first recognized world food crisis, and it led to severe hunger in many countries. As a consequence, during the 1974 FAO World Food Conference, factors such as price volatility and the unreliability of food supply on international markets were recognized as drivers of food insecurity. Still, the return of stability on international food markets lowered the sense of urgency for market reforms.⁷

Similarly, the major causes of the 2008 global crisis were represented by the increase in global food prices between 2005 and 2008; the decrease in agricultural production

⁷ Margulis, M. E., *The Regime Complex for Food Security: Implications for the Global Hunger Challenge*, in *Global Governance*, Jan.-Mar. 2013, Vol. 19, No. 1, pp. 53-67

growth; the decline in global grain stocks and higher energy prices raise production costs and the consequent increased demand from the emerging economies.⁸

Economist Amartya Sen contributed to the development of a more comprehensive concept of food security, as he theorized that food supply, availability, utilization and access – and not only food supply – were causes of hunger.⁹

The 1996 World Food Summit provided the international community with the definition of food security that is still widely used. Indeed, during such event, it was stated that food security exists “*when all people, at all times, have physical, social, and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life*”.¹⁰

While the traditional pre-1996 definition focused on food production, it is now recognized that physical access, affordability, and safety and nutritional balance, as well as socially and culturally determined preferences are key. Nutrition was found to be the basis of health and development.¹¹ Indeed, one can distinguish among four different dimensions of food security:

- i. Physical availability of food: it addresses the supply side of food security and is determined by the level of food production, stock levels and net trade;
- ii. Economic and physical access to food: household level food security is not in itself guaranteed by an adequate supply of food at the national or international level. Greater policy focus on incomes, expenditure, markets and prices can help achieving food security objectives;
- iii. Food utilization: the way the body makes the most of various nutrients in the food, since sufficient energy and nutrient intake by individuals is the result of good care and feeding practices, food preparation, diversity of the diet and intra-household distribution of food. Combined with good biological utilization of food consumed, this determined the nutritional status of individuals;

⁸ Mittal, A., *The 2008 Food Price Crisis: Rethinking Food Security Policies*, United Nations Conference on Trade and Development, G-24 Discussion Paper Series, No. 56, June 2009

⁹ Margulis, M. E., *supra note 7*

¹⁰ <https://www.worldbank.org/en/topic/agriculture/brief/food-security-update/what-is-food-security>

¹¹ https://www.who.int/health-topics/nutrition#tab=tab_1

- iv. Stability of the other three dimensions over time: a person is considered food insecure if he/she has inadequate access to food on a periodic basis, risking a deterioration of his/her nutritional status. Food security status can be undermined by adverse weather conditions, political instability, or economic factors such as unemployment or rising food prices.¹²

For food security objectives to be realised, all four dimensions must be fulfilled simultaneously.

Food insecurity may come in different forms. Moderate food insecurity is generally associated with the inability to regularly eat healthy, nutritious diets. For those who are moderately food insecure, access to food is uncertain. They might have to sacrifice other basic needs to be able to eat, and when they do, food may be the cheapest and not the most nutritious. Highly processed foods that are energy-dense, high in saturated fats, sugars and salt are cheaper and easier to come by but miss the essential nutrients that keep one's body healthy and functioning. By contrast, severe food insecurity is more strongly related to insufficient quantity of food and therefore to undernourishment or hunger.¹³

While FAO uses the Prevalence of Undernourishment (PoU) as an indicator to monitor hunger at the global and regional level by reviewing country data on food availability, consumption and energy needs, it also measures food insecurity by using its Food Insecurity Experience Scale (FIES), which consists of eight questions regarding people's access to adequate food, focusing on self-reported food-related behaviours and experiences. Particularly, the survey is structured as follows:

“During the last 12 months, was there a time when, because of lack of money or other resources:

1. *You were worried you would not have enough food to eat?*
2. *You were unable to eat healthy and nutritious food?*
3. *You ate only a few kinds of foods?*

¹² Tacoli, C., et al., *Food security and food systems: concepts and definitions*, in International Institute for Environment and Development, 2013

¹³ <https://www.fao.org/hunger/en/>

4. *You had to skip a meal?*
5. *You ate less than you thought you should?*
6. *Your household ran out of food?*
7. *You were hungry but did not eat?*
8. *You went without eating for a whole day?”¹⁴*

Food security is the result of effective food systems. Accordingly, they embody all activities “from farm to plate” – the manufacturing and distribution of inputs, agricultural production, primary and secondary processing, packaging, storage, transport and distribution, marketing and retail, catering, domestic food management, and waste disposal – but also the outcomes of those activities and their governance.

As there is not a global food system, there are several systems operating at different levels which are influenced by social, political, economic and environmental factors.¹⁵ Still, it is widely recognized that the complexities of food insecurity cannot be managed alone by individual states.¹⁶

Conflicts, climate change, and economic slowdowns and downturns represent the main drivers of food insecurity and are exacerbated by poverty and inequality, as well as the unaffordability of healthy diets. Conflicts affect the components of agrifood systems, as they may lead to the destruction of agricultural and livelihood assets, such as land, crops, irrigation infrastructures; cause displacement from land and disrupt the flow of food, labour and other essential items through markets, as well as create shortages of foods and contribute to rising prices. Climate variability negatively influence agricultural productivity and increase the demand in food imports. It affects the quantity, quality and dietary diversity of food consumed, which can also be compromised by the outbreak of diseases or by crop contamination. Economic slowdowns or downturns impact people’s access to food and the affordability of healthy diets, as they lead to unemployment and declines in wages and incomes.

¹⁴ <https://www.fao.org/policy-support/tools-and-publications/resources-details/en/c/1236494/>

¹⁵ Tacoli, C., *supra* note 12

¹⁶ Margulis, M., *supra* note 7

Covid-19 and the war in Ukraine are manifestations of these drivers on a global scale, as the former provoked economic recessions and the latter resulted in consequences on global food, agricultural inputs and energy prices. Moreover, the humanitarian and food security crisis in Gaza is caused not only by prolonged restrictions on access to sea, land, and markets – which deepen the vulnerability of agricultural livelihoods – but also by fuel shortages that affect hospitals and health, by the increased dependency on food imports which are currently constrained.¹⁷

1.2 The right to food

Human rights can offer a useful framework to address food insecurity as well as hunger by recognizing the right to food as a second-generation right.¹⁸

The second-generation rights relate to how people live and work together and to the basic necessities of life. They are based on equality and access to essential social and economic goods, services and opportunities. They require positive actions from public authorities and their fulfilment is strictly related to the availability of resources and the effectiveness of policies. Social rights are those necessary for full participation in the life of society and include the right to education. Economic rights, such as the right to work or the right to an adequate standard of living, put in relation a minimal level of material security to human dignity. Cultural rights, such as the right to participate freely in the cultural life of the community, refer to “a way of life”. Differently, the first-generation rights, namely civil and political rights, are based on personal liberty and protection.¹⁹

Although the classification of rights into generations is a commonly accepted approach – due to the progressive identification of human rights and especially the need to distinguish between different measures of implementation – it is not true that the emergence of “new rights” will replace the “old” ones. Moreover, all rights are indivisible, interrelated, and interdependent, as emerging from the Universal Declaration of Human Rights. If all

¹⁷ FAO, *Global food security challenges and its drivers*, Council’s Hundred and Seventy-fourth Session, Rome, 4-8 December 2023

¹⁸ Ayala, A., Meier, B. M., *A human rights approach to the health implications of food and nutrition insecurity*, in *Public Health Reviews*, 2017, 38:10

¹⁹ <https://www.coe.int/en/web/compass/the-evolution-of-human-rights>

human rights are inherent to human beings, stating that there are several generations of them might be of contradiction.²⁰

The reason for splitting the two main generations of rights can be found in the need for distinct mechanisms of implementation: States felt that the implementation of economic, social and cultural rights was to be realized progressively and through international assistance and cooperation.

The inherency of human rights becomes relevant again when considering the third-generation rights – such as the right to peace, to a safe and healthy environment, development and so on – which present a collective dimension: if human rights are inherent to human beings, then they cannot only belong to current members of society but must be enjoyed by future generations. With this regard, such rights would represent the conditions for ensuring the enjoyment of individual rights.²¹

General Comment No. 12 on the Right to Adequate Food of the UN Committee on Economic, Social and Cultural Rights states that the essential elements of the right to food are:

- i. Adequacy: it refers to both quantity and quality, in terms of food safety and nutrition value, which must be determined by social, economic, cultural, climatic, ecological and other conditions. It is also linked to a health perspective.
- ii. Accessibility: it relates to both economic and physical accessibility, meaning that an individual or a household shall have the economic means to procure food without compromising other basic needs, and that adequate food must be accessible to everyone, including vulnerable individuals, such as infants, young people, elderly people or people with disabilities. Food must be accessible in terms of sustainability, for both present and future generations.

²⁰ Pocar, F., *The Universal Declaration: a dual dimension approach to human rights*, in *The Right to Safe Food Towards a Global Governance*, G. Giappichelli Editore – Torino, pp. 3-8

²¹ *Ibid.*

- iii. Availability: it refers to the possibilities of either feeding oneself directly from productive land or other resources or purchasing it from the market.²²

The right to food is primarily the right to feed oneself in dignity: individuals should meet their own needs through their efforts and resources and to do this, they must live in conditions that allow him or her either to produce food – meaning that the individual needs land, seeds, water and other resources – or to buy it – meaning that one needs money and access to the market. Therefore, the State shall provide an environment in which people are able to use their full potential. Poverty, social exclusion and discrimination often undermine people’s access to food, meaning that the main root of hunger and malnutrition is not the absence of food in the world, but the lack of access to available food.²³

The right to food is inextricably linked to other human rights. Violating the right to food may compromise the enjoyment of other human rights and vice versa. With this regard, the distinction between generations of rights does not result as the most appropriate approach.

Water – besides personal and domestic uses – is necessary to produce food, ensure environmental hygiene, to secure livelihoods and to enjoy certain cultural practices. For this reason, the right to water is recognized as part of the right to an adequate standard of living. Ensuring sustainable access to water resources for agriculture is important for the realization of the right to adequate food.²⁴ The right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.

²² Agriculture and food Commission (C2A) of Coordination SUD, *Right to food: a Vital Tool for World Food Security*, No.3, June 2017

²³ United Nations Human Rights, Office of the High Commissioner for Human Rights, *The Right to Adequate Food*, Fact Sheet No. 34, 2010

²⁴ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant)* <https://www.refworld.org/pdfid/4538838d11.pdf>

There is a straightforward link between the right to health or healthcare and the right to food: unhealthy eating habits or malnutrition can lead to bad health, and bad health may prevent a person from consuming food adequately.

Occasionally, it may be acknowledged as a prerequisite to fulfil the right to life – the civil right *par excellence* – as malnutrition and hunger increase the possibility of infant mortality and reduce life expectancy.

Moreover, when a house lacks basic amenities, such as for cooking or storing food, the right to adequate food is undermined; or, when the cost of housing is too high, people may have to decide to decrease their food bill. Indeed, the right to adequate housing is connected to the right to food.

In addition, the right to social security – the right to access and maintain benefits without discrimination in order to secure protection from a lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; unaffordable health care; and insufficient family support, particularly for children and adult dependents – can be linked to the right to food, although the access to the benefits of a social security system does not automatically lead to access to food.

It is recognized that education and food are strictly related in terms of the development of a country: on an individual level, hunger may affect the learning abilities of students, especially when the child is in a crucial stage of development, and school meals may stimulate class attendances and increase the level of education of a region, affecting the economic achievements of the territory.²⁵

Lastly, access to land is key to eradicate hunger around the world: for a vast majority of people, land, water, grazing or fishing grounds, and forests represent essential resources for a decent livelihood. For this reason, the right to food can complement the right to property or of indigenous peoples' relationship with their lands and resources.²⁶

²⁵ Wernaart, B. F. W., *The enforceability of the human right to adequate food. A comparative study*, PhD thesis, Wageningen University, Wageningen, NL (2013), 484 pages

²⁶ Report of the Special Rapporteur on the right to food presented at the 65th General Assembly of the United Nations [A/65/281], *Access to Land and the Right to Food*, 21 October 2010

1.3 International standards on the right to food

International law protects the right to food among its different branches.

1.3.1 International Human Rights Law

International Human Rights Law is a branch of International Law. Its foundation lies on the inherent ethical value of human dignity. Still, it is relatively recent, as the experience of World War II represented a turning point for the doctrine to be influenced and especially after the United Nations were created and the 1948 Universal Declaration on Human Rights was drafted. This document – although not legally binding – is widely recognized as the common standard of achievements for all peoples and all nations.

International Human Rights Law is binding on States and applies both in peace and wartime, although derogation is permitted in emergency situations, but only if they serve a specified worthy purpose.

The right to food is mentioned in several international human rights tools, both binding ones – such as international treaties, and non-binding in nature – such as declarations, comments and so on.

a. Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the UN General Assembly in Paris on 10 December 1948 as a “*common standard of achievement for all peoples and all nations*”, therefore representing the milestone document of human rights after the dramatic experience of World War II and the systematic violations of human rights.²⁷

Its main commitments relate to the inherent dignity of every human being and the principle of non-discrimination. The document comprises 30 articles that list key civil, political economic, social and cultural rights, enunciating general moral principles applicable to everyone.

²⁷ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

As a declaration, it is non-binding in nature; however, its provisions have given impetus to subsequent international and regional instruments of human rights, and it is being increasingly recognized by the international community.²⁸

The right to food has been included for the first time in the Universal Declaration on Human Rights of 1948 as part of the adequate standard of living. Accordingly, Article 25(1) provides that:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

b. International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights is one of the two treaties adopted by the UN General Assembly in 1966 and entered into force on 3 January 1976 in accordance with Article 27. Together with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), it forms the International Bill of Rights.

The Covenant is composed of a preamble and 31 articles. Its implementation is monitored by the UN Committee on Economic, Social and Cultural Rights, a body of 18 independent experts. States parties are obliged to submit regular reports – initially within two years of accepting the Covenant and then every five years – to the Committee on how the rights enshrined in the Covenant are being implemented. In addition, it also publishes its authoritative guidance on the provisions of the Covenant, the so-called “general comments”.²⁹

²⁸ <https://www.britannica.com/topic/Universal-Declaration-of-Human-Rights>

²⁹ <https://www.ohchr.org/en/treaty-bodies/cescr/introduction-committee>

Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) provides that:

“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”

Article 11 identifies two distinct components of the right to food: the right to adequate food as a part of the right to an adequate standard of living, and the fundamental right to be free from hunger.

The right to adequate food is realized *“when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The core content of the right to adequate food implies the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture and the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights”*³⁰

³⁰ CESCR, *General Comment No. 12: The Right to Adequate Food (Art 11)*, 12 May 1999

Therefore, there are three essential elements: the adequacy and the availability of food, and the permanent access to food with dignity.

The right to be free from hunger should be interpreted as the basic provision protecting individuals from hunger, defined as the insufficient or inadequate intake of food and low resistance to diseases leading to death. It is the right to have access to the minimum essential food which is sufficient and adequate to ensure everyone is free from hunger and physical deterioration that would lead to death.³¹

States parties to the Covenant have the duty to adopt, individually and through international cooperation, all the measures thought to be necessary to assure this right through the improvement of food production and the conservation and distribution methods. The most advanced technical and scientific expertise are to be used, and reforms of the national agricultural systems are to be implemented in order to get to the best degree of development and employment of resources.³²

General Comment No. 12 on the Right to Adequate Food clarifies that the access must be implemented without interfering with other human rights and therefore it must be sustainable for both present and future generations. The dietary needs are met when appropriate food is assured in terms of nutrients in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation. Moreover, the so-called safety standards are to be met, in terms of the acceptable health standards of the physical-chemical components of food and the tolerable levels of risk which must be granted by a series of public and private measures able to prevent adulteration, contamination and intoxication.

³¹ Golay, C., *The Right to Food and Access to Justice: Examples at the national, regional and international levels*, FAO, 2009

³² Ricci, C., *International law as a meta-framework for the protection of the right to food*, in *The Right to Safe Food Towards a Global Governance*, G. Giappichelli Editore – Torino, pp. 8-32

Furthermore, the Committee, when interpreting Article 12(1) on the right to health, includes not only the medical treatment, but also all the factors decisive for health, such as “*access to safe and potable water and... an adequate supply of safe food*”.³³

States are the primary subjects appointed with the duty to ensure the progressive realization of the right to food. Particularly, they have the responsibility to respect, protect and fulfil the obligations set forth by the Covenant. The State is required to recognize the right of every human to have free and unlimited access to adequate food and it may not affect the individual initiative by taking measures that could prevent such access. Moreover, it has to enact legislative and administrative provisions in the short and long term to progressively facilitate access. In this sense, facilitation means that the State shall implement programmes for food security and shall provide individuals with the means for their self-sufficiency.

At the same time, the private business sector and all members of the civil society, such as families, non-governmental organizations, have to contribute to the realization of such right, although they have different levels of responsibility. In particular, the multinationals have to meet the standards of acceptable quality and bear their costs.

When the State is unable or unwilling to guarantee a minimum level of protection – therefore unfulfilling the right to adequate food – violations of the Covenant occur. Still, one must distinguish between the State being “unable” and “unwilling”. The former puts upon the State the duty to demonstrate that every possible effort has been made but it is impossible to comply, and it has to prove that it has unsuccessfully sought to obtain international support. The unwilling State – by acts or omissions – decides not to comply with the obligations.

Generally, a State is non-compliant when under its jurisdiction, any kind of discrimination – such as the one based on race, gender, language, age, religion, political opinion, citizenship – is perpetuated. In case this is committed, the State may be sanctioned not

³³ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 14. The right to the highest attainable standard of health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)*

only under the Covenant itself, but also under other binding provisions contained in *ad hoc* international conventions.³⁴

Although the national implementation represents the most important mechanism, due to the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights by the General Assembly in 2008, individuals may submit complaints related to the violation of the right to food protected under the Covenant.³⁵

Moreover, starting from 2000, the Commission on Human Rights appointed a Special Rapporteur on the right to food, whose main methods of work are – among others – communications with Governments on alleged violations of the right to food. Indeed, individuals or groups affected by violations of such right can submit a complaint through urgent appeals or allegation letters.³⁶

c. Specific conventions protecting the right to food

Some groups are protected by specific conventions.

As will be further analysed in the next chapter, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women provides that States shall provide adequate nutrition during pregnancy and lactation and deals with access to land, and agricultural credit, which represent key components of the right to food.³⁷

Moreover, the 1989 Convention on the Rights of the Child recognizes the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health and the access to such services. Particularly, States must take the appropriate measures to combat diseases and malnutrition, to provide adequate nutritious food and clean drinking-water and to ensure that all society is informed and have access to education and are supported in the basic

³⁴ Ricci, C., *supra* note 32

³⁵ United Nations Human Rights, Office of the High Commissioner for Human Rights, *supra* note 17

³⁶ *Ibid.*

³⁷ Domingo-Cabarrubias, L. G., *The right to food and substantive equality as complementary frameworks in addressing women's food insecurity*, in *International Journal of Law in Context*, 19, 2023, 367-385

knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents.³⁸

Moreover, Article 27 recognizes the right of every child to an adequate standard of living, which includes the physical, mental, spiritual, moral and social development.³⁹

The 2006 Convention on the Rights of Persons with Disabilities protects the right to health without discrimination on the basis of disability and obliges States to prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.⁴⁰

In addition, the adequate standard of living – which includes adequate food, clothing and housing – and social protection are recognized.⁴¹

Lastly, both the Convention relating to the Status of Refugees (1951) and the Convention relating to the Status of Stateless Persons (1954) recognize in Article 20 that in case of existence of a rationing system that applies to the population at large and regulates the general distribution of products in short supply, refugees and stateless persons shall be accorded the same treatment as nationals.⁴²

d. Other soft law instruments

Endorsed during the 30th Session of the Committee on World Food Security and adopted by FAO Council in November 2004, the Voluntary Guidelines to support the Progressive Realization of the Right to Food represent a practical tool to help the implementation of the right to food. Although not legally binding, they nonetheless provide policy recommendations to States and other stakeholders on relevant issues.⁴³

The Voluntary Guidelines priorly consider the principles of equality and non-discrimination and the fact that food should not be used as a tool for political and economic pressure. Their goal is to guarantee the availability of food in quantity and

³⁸ United Nations Convention on the Rights of the Child (1989), Article 24

³⁹ United Nations Convention on the Rights of the Child (1989), Article 27

⁴⁰ United Nations Convention on the Rights of Persons with Disabilities (2006), Article 25

⁴¹ United Nations Convention on the Rights of Persons with Disabilities (2006), Article 28

⁴² <https://www.ohchr.org/en/special-procedures/sr-food/international-standards>

⁴³ <https://www.fao.org/right-to-food/guidelines/en/>

quality sufficient to satisfy the dietary needs of individuals; physical and economic accessibility for everyone to adequate food, meaning food free from unsafe substances and acceptable within a given culture; or the means of its procurement. They promote a human rights-based approach, which not only addresses the final outcome of abolishing hunger, but also proposes ways and tools by which such goal is achieved.⁴⁴

The Right to Food Guidelines address not only States, but also NGOs, civil society organizations and the private sector.⁴⁵

The 2030 Agenda for Sustainable Development was adopted by the Member States to the United Nations in 2015. It represents a plan of action for people, planet and prosperity and seeks to strengthen universal peace and freedom.⁴⁶

Its core are the 17 Sustainable Development Goals (SDGs) and the 169 associated targets. Particularly, Goal 2 aims directly at ending hunger, achieving food security and improved nutrition and promoting sustainable agriculture. Moreover, Goal 6 refers to clean water and sanitation.⁴⁷

Other non-binding soft law instruments have provided for the right to adequate safe food. For example, the 1974 Universal Declaration on the Eradication of Hunger and Malnutrition was adopted during the World Food Conference. It recognizes that social inequalities, including alien and colonial domination, foreign occupation, racial discrimination, apartheid and neo-colonialism represent obstacles to the full emancipation and progress of the developing countries. The inalienable right to be free from hunger and malnutrition is instrumental to the development of a person's physical and mental faculties. As a consequence, nations should cooperate to eliminate hunger and malnutrition.⁴⁸

In 1985, the FAO Conference approved World Food Security Compact which restated the objectives of world food security – increased production, stability of supplies and

⁴⁴ FAO, *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national security*, 2004

⁴⁵ Agriculture and food Commission (C2A) of Coordination SUD, *supra* note 22

⁴⁶ <https://sdgs.un.org/2030agenda>

⁴⁷ <https://sdgs.un.org/goals>

⁴⁸ <https://www.ohchr.org/en/instruments-mechanisms/instruments/universal-declaration-eradication-hunger-and-malnutrition>

adequate access to food by all, the importance of the protection and conservation of forests and the prevention of blind exploitation leading to land destruction.⁴⁹

The 1992 World Declaration and Plan of Action for Nutrition pledged to incorporate nutritional objectives into policies and programmes; improve household food security; protect consumers through improved food quality and safety; prevent and manage infectious diseases; promote breast-feeding; care for the socio-economically deprived and nutritionally vulnerable; prevent and control specific micronutrient deficiencies; promote appropriate diets and healthy lifestyles; and assess, analyse and monitor nutrition situations.⁵⁰

The 1996 Rome Declaration on World Food Security included the commitment to implement effective policies aimed at eradicating poverty and inequality and to improve the access to sufficient, adequate and safe food. It stressed the importance to achieve global food security for present and future generations through cooperation and solidarity.⁵¹

More recently, the international community recognized the need for common integrated actions. The 2002 Johannesburg Declaration on Sustainable Development recognized the urgency to fight – among other conditions – against chronic hunger and malnutrition, as they pose severe threats to the sustainable development of people.⁵²

At the 2009 World Food Summit, governments committed to the eradication of hunger, malnutrition, and food insecurity through legislation at the national, regional and international level, in order to improve animal and plant health, to prevent and control diseases, and through the adoption of policies and programmes which promote effective national food safety rules, involving all stages of the food chain and all actors.⁵³

⁴⁹ https://cdn.un.org/unyearbook/yun/chapter_pdf/1985YUN/1985_P2_CH3.pdf

⁵⁰ http://www.unscn.org/files/Annual_Sessions/UNSCN_Meetings_2013/nishida_MOM_1992ICN.pdf

⁵¹ <https://www.fao.org/4/w3613e/w3613e00.htm>

⁵² https://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POI_PD.htm

⁵³ Ricci, C., *supra note 32*

1.3.2 Regional standards

Although the UN represents the universal standard for the international community, other standards exist within different regional levels.

a. Inter-American system

The Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, the so-called “Protocol of San Salvador” of 1988 directly protects the right to food in Article 12:

*“1. Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development.
2. In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production, supply and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies.”*⁵⁴

Moreover, Article 17 deals with the protection of the elderly by stating that States have to provide suitable facilities, as well as food and specialized medical care for elderly individuals who lack them and are unable to provide them for themselves.⁵⁵

However, the right to food can also be protected indirectly. For instance, the Inter-American Court of Human Rights – the monitoring body of the American Convention⁵⁶ decided, in *Sawhoyamaxa Indigenous Community v. Paraguay* (2006) that Paraguay had violated the right to life of members of the indigenous community by failing to ensure access to their ancestral lands and natural resources and with that the community had to suffer from extreme poverty, deprivation of access to a minimum of food.⁵⁷

⁵⁴ Organization of American States, Protocol of San Salvador (1988), Article 12

⁵⁵ <https://www.ohchr.org/en/special-procedures/sr-food/international-standards>

⁵⁶ The Inter-American Court of Human Rights is established directly by the American Convention on Human Rights. Member States or the Inter-American Commission can go before the Court once the procedure before the Commission has ended. However, this possibility is available for those States which have ratified the American Convention; otherwise, only the Commission will be available.

⁵⁷ United Nations Human Rights, Office of the High Commissioner for Human Rights, *supra note 23*

b. African system

The African Charter of Human and People's Rights is the founding document of the African Union, and it is monitored by the Commission. Although not directly protecting the right to food, Article 16 states that every individual has the right to enjoy the best attainable state of physical and mental health. Moreover, Article 22 protects the right of all peoples to have their economic, social and cultural development, with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.⁵⁸

In 2001, the African Commission affirmed that Nigeria had violated the right to food of the Ogoni people by not preventing the destruction and contamination of food sources by oil companies as well as by the military and security forces.⁵⁹ The Commission held that Nigeria had violated the right to food which is derived from the right to life, the right to health, and the right to economic, social and cultural development of the Charter, as well as the right to a clean environment, and the right to adequate housing.⁶⁰

The right to food security is recognized by the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa – the Maputo Protocol of 2003. Accordingly, Article 15 obliges States to “*provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food;*” and to “*establish adequate systems of supply and storage to ensure food security.*”

Lastly, the African Charter on the Rights and Welfare of the Child, in Article 14, obliges States to ensure the provision of adequate nutrition and safe drinking water; to combat diseases and malnutrition within the framework of primary health care through the application of appropriate technology; and to ensure that all sectors of the society – parents, children, community leaders and workers – are informed and supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding,

⁵⁸ <https://www.ohchr.org/en/special-procedures/sr-food/international-standards>

⁵⁹ United Nations Human Rights, Office of the High Commissioner for Human Rights, *supra note 23*

⁶⁰ <https://leap.unep.org/en/countries/ng/national-case-law/social-and-economic-rights-action-center-et-al-v-nigeria>

hygiene and environmental sanitation and the prevention of domestic and other accidents.⁶¹

1.3.3 International Humanitarian Law

The Geneva Conventions and their Additional Protocols constitute the core of international humanitarian law, which relates to the conduct of armed conflicts. They protect people who are not taking part in the hostilities, namely civilians, health workers and aid workers, and those who are no longer taking part in the hostilities, namely wounded, sick, and shipwrecked soldiers and prisoners of war. International humanitarian law does not replace international human rights law, rather, they are to be considered complementary. Moreover, the former does not allow any derogation.

Within this context, the access to food and water during armed conflicts of civilians and prisoners of war is protected. According to the International Committee of the Red Cross (ICRC), armed conflicts are one of the key reasons for lack of food and violations of the right to food.⁶² Moreover, a major factor contributing to hunger and starvation during armed conflicts is population's displacement and this is one of the reasons why international humanitarian law seeks to ensure that civilians remain in their home-territory.⁶³

The Third Geneva Convention relative to the Treatment of Prisoners of War states, in Article 20, that prisoners of war who are being evacuated shall have supplied sufficient food and potable water. Moreover, Article 26 states that the basic daily food rations have to be sufficient in quantity, quality and variety in order to keep prisoners of war in good health and avoid loss of weight or the development of nutritional deficiencies. Their habitual diets have to be taken into account. Additional rations shall be allowed for those who work and generally, as far as possible, all prisoners should be associated with the preparation of their meals. Finally, collective disciplinary measures affecting

⁶¹ <https://www.ohchr.org/en/special-procedures/sr-food/international-standards>

⁶² Mazo, A. F., *The protection of access to food for civilians under international humanitarian law: acts constituting war crimes*, in *The Age of Human Rights Journal*, 14 (June 2020), pp. 181-209

⁶³ Pejic, J., *The right to food in situations of armed conflict: The legal framework*, in *International Review of the Red Cross*, Vol. 83, No. 844, December 2001

food are prohibited. Similar provisions relate to internees in Article 89 of the Fourth Geneva Convention.

The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War mentions food in several articles. Article 23 affirms that States must allow the free passage of all shipping of essential food, clothing and tonics for children under fifteen, pregnant women and maternity cases.

In addition, Article 55 states that the occupying power must ensure food and medical supplies for the population and has the duty to provide them if the resources of the occupied power are inadequate. The occupying power has not the right to requisition.

Article 54 of the First Additional Protocol to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts deals with the protection of objects indispensable to the survival of the civilian population, by providing that *“1. Starvation of civilians as a method of warfare is prohibited. 2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.”*

A similar provision can be found in Article 14 of the Second Additional Protocol relating to the Protection of Victims of Non-International Armed Conflicts.⁶⁴

To sum up, the Geneva provisions protect both the quantitative dimension and the qualitative dimension of food by providing for guarantees of the food diet that some vulnerable groups of people may have.⁶⁵ It is fully recognized that in wartimes, food can be used as a weapon, therefore, the use of famine or starvation of civilians as a method of warfare, the destruction of crops and goods essential to the survival of the population, and the requisition of objects indispensable to the survival of the civilian population are

⁶⁴ <https://www.ohchr.org/en/special-procedures/sr-food/international-standards>

⁶⁵ Mazo, A. F., *supra* note 62

prohibited. This prohibition is violated not only when denial of access to food causes the death of the population, but also when the population suffers from hunger because of deprivation of food or supplies.⁶⁶

At the same time, it is imposed to allow the free passage of relief supplies to besieged zones, in particular for those who are more vulnerable, such as women, children, and the elderly; of food when the population is suffering from excessive shortages and the control of distribution by impartial organizations; and providing adequate food supplies.⁶⁷

1.3.4 International criminal law

The criminal responsibility of individuals results from acts or omissions that amount to crimes. The denial of food or access to food can be included within this framework.

Accordingly, the 1998 Rome Statute – the founding treaty of the International Criminal Court – includes “extermination” as one of the acts that – when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack – amounts to a crime against humanity. Particularly, “[...] *extermination includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.*”⁶⁸

Moreover, Article 8(2)(b)(xxv) provides that “*intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions*” is criminalised and cannot be used as a method of warfare. To remedy the absence of the prohibition of starvation of civilians regardless the conflict – whether international or non-international – the Assembly of State Parties to the International Criminal Court adopted the Starvation amendment, signalling that those who use

⁶⁶ *Ibid.*

⁶⁷ <https://guide-humanitarian-law.org/content/article/3/food/>

⁶⁸ Rome Statute, ICC, Article 7(2)(b)

starvation as a method of warfare in any conflict will be prosecuted.⁶⁹ This provision has become a customary rule.⁷⁰

Other provisions relating to the destruction of the natural environment as a war crime may be broadly interpreted to include the right to food.⁷¹

⁶⁹ <https://globalrightscompliance.com/project/mobilising-ratification-of-the-rome-statute-starvation-amendment/#:~:text=The%20adoption%20of%20the%20Starvation,and%20prosecution%20of%20starvation%20as>

⁷⁰ Mazo, A. F., *supra note 62*

⁷¹ United Nations, Rome Statute of the International Criminal Court (1998), Article 8(b)(iv)

CHAPTER 2

The UN Convention on the Elimination of All Forms of Discrimination Against Women

2.1 Women's food insecurity

Women have always been responsible for food production, processing and provisioning. Most women cook and serve food for their families. When women have more autonomy as family food managers and have assets and income, child survival, nutrition and health are better.⁷²

In Third World countries, agriculture represents the most important sector as it is the primary source of livelihood for the majority of people, especially women, who are workers within the food chain. Most farmers of the world are women, and young girls learn the skills and knowledge of farming in the fields and farms. They produce more than half of the world's food; therefore, their food-producing capacity is directly linked to food security.⁷³ Women are often the preservers of traditional knowledge of indigenous plants and seeds, and they apply it to nutrition and health.⁷⁴

Still, in every region of the world, women are more likely than men to experience food insecurity.⁷⁵ Women's historical experience of systemic discrimination is also reflected in food security and the right to food.⁷⁶ Studies show a strong correlation between gender inequality and food insecurity: as inequality increases, food security diminishes.⁷⁷

According to the Voluntary Guidelines on Food Systems and Nutrition, gender relations and cultural norms are one of the most relevant drivers of hunger, malnutrition and

⁷² Agarwal, B., *Gender equality, food security and the sustainable development goals*, in *Current Opinion in Environmental Sustainability*, 2018, 34:26-32

⁷³ Shiva, V., *Women and the Gendered Politics of Food*, in *Philosophical Topics*, Vol. 37, No. 2, Fall 2009

⁷⁴ Karl, M., *Inseparable: The Crucial Role of Women in Food Security Revisited*, in *Women in Action*, No.1, 2009

⁷⁵ FAO, *Global food security challenges and its drivers*, Council's Hundred and Seventy-fourth Session, Rome, 4-8 December 2023

⁷⁶ Domingo-Cabarrubias, L. G., *The right to food and substantive equality as complementary frameworks in addressing women's food insecurity*, in *International Journal of Law in Context* (2023); 19, pp. 367-385

⁷⁷ <https://careevaluations.org/evaluation/food-security-and-gender-equality/>

unhealthy diets. Women – due to harmful social gendered norms at household level – eat last and the least nutritious food. During food crises, women are the most challenged to feed their families as they are the first to sacrifice their food intake to ensure the nutrition of their children and male partner when food is unavailable.⁷⁸

Undernutrition and malnutrition of women affect first and foremost women themselves, but also their families and children. Poor nutrition during pregnancy and during the first years of life of the child has consequences for the child's physical and mental development: for instance, a mother's anaemia can cause low birth weight; and undernutrition is associated with intrauterine growth restriction, which can lead to the development of retarded mental and physical development of the child.⁷⁹

According to the World Health Organization, breastfeeding is a key pillar of food security: it is the first optimal and available food, it provides both nutrition and hydration, protection from infections and diseases and provides a communication system between mother and child.⁸⁰ Additionally, it helps mothers lose weight gained during pregnancy and reduces chronic disease burdens, such as type 2 diabetes and hypertension. However, household food insecurity compromises both maternal food consumption and breastfeeding success. When women experience low-quality diets, their breast milk will be of poor quality and generally, food insecure mothers are less likely to breastfeed their infants.⁸¹

Aside from health, norms about land ownership, assets and resources prevent women from having socio-economic, civil and political rights.⁸² Although effectively contributing to agriculture, improving child nutrition and growth,⁸³ female farmers are mostly left out of modern contract-farming arrangements; as most titles are in the name of man, women are prevented from having control over land and consequently face higher

⁷⁸ Center for Women's Global Leadership, *The Right to Food, Gender Equality and Economic Policy*, Meeting Report, September 16-17, 2011

⁷⁹ Asian Development Bank, *Gender equality and Food Security – Women's Empowerment as a Tool against Hunger*, 2013

⁸⁰ <https://www.frontiersin.org/journals/public-health/articles/10.3389/fpubh.2023.1256390/full>

⁸¹ Christina M. Frazier, Jigna Dharod, Jeff Labban, A. Nichole Raynor, Miguel Villasenor, Marlen Hernandez & Isa Ramos-Castillo, *Breastfeeding: How is it related to food insecurity and other factors among low-income mothers?*, Health Care for Women International, 2021

⁸² *We Effect, Women's rights to food – putting gender justice on the table*

⁸³ *Care, Food Security and Gender Equality: A synergistic understudied symphony*

risks of food insecurity. Sometimes, contract farming has increased conflicts over the use of land, with a negative impact on women producers. When men do not support household tasks and childcare, women and children are associated with poor diets.⁸⁴

Frequently, marriage does not automatically confer any legal rights over property, but rather it is owned by the person whose name is on registration records.⁸⁵ Lacking inheritance rights, they are more vulnerable when their husbands die.⁸⁶

When women have not titles to land, they also have poor access to credit, irrigation, fertilizers, technology, information on new agricultural practices and marketing infrastructure.⁸⁷

Additionally, women farmers are underrepresented and typically own smaller and less-capitalized farms and have lower incomes. Those who are labourers are even more disadvantaged, since they earn low wages and are often subject to sexual harassment or to exploitation.⁸⁸

In food processing and manufacturing, women are preferred in horticulture, vegetable and fruit production, as it is seasonal, part-time and flexible. Moreover, they are preferred in low-level, and high-intensity jobs, while men dominate supervisor and driver jobs. Women are not represented in the leadership of agribusinesses and food-related sciences are fundamentally gendered, with little input from women.⁸⁹

All these elements leave women at the bottom of the value chain, preventing them from having more relevant roles as buyers and sellers.⁹⁰

Indeed, persisting discrimination against women undermine global efforts to end hunger and improve nutrition.

⁸⁴ *Ibid.*

⁸⁵ Asian Development Bank, *supra note 79*

⁸⁶ Center for Women's Global Leadership, *supra note 78*

⁸⁷ Agarwal, B., *supra note 72*

⁸⁸ Allen, P., Sachs, C., *Women and Food Chains: The Gendered Politics of Food*, in *International Journal of Sociology of Food and Agriculture*, Vol. 15(1), April, 2007

⁸⁹ *Ibid.*

⁹⁰ Asian Development Bank, *supra note 79*

The World Food Programme is engaging in a Gender Policy (2022) that tackles three objectives:

1. Achieve equitable access to and control over food security and nutrition.
2. Address the root causes of gender inequalities that affect food security and nutrition.
3. Advance the economic empowerment of women and girls in food security and nutrition.⁹¹

When gender equality is integrated into food security programming, the access for all to nutritious and safe food is improved; food security outcomes are enhanced; safer communities – and the avoidance of violence, theft, transactional sex, child marriage – are built; and rights and appropriate service provisions are promoted. More balanced sharing of roles and responsibilities around food-related activities contribute to gender equality.⁹²

2.2 The Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the result of the efforts led by the United Nations Commission on the Status of Women⁹³, it was adopted in 1979 by the UN General Assembly and entered into force in 1981. It acts as an “*international bill of rights for women*” and consists of a Preamble and 30 articles.⁹⁴

In its preamble, it defines discrimination against women as “*...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field*” and it

⁹¹ <https://www.wfp.org/gender-equality>

⁹² IASC Gender in Humanitarian Action Handbook, *Food Security*, pp. 198-221
https://www.gihahandbook.org/media/pdf/en_topics/food_security.pdf

⁹³ The United Nations Commission on the Status of Women is the intergovernmental body that is exclusively dedicated to the promotion of gender equality, the rights and the empowerment of women.

⁹⁴ <https://www.un.org/womenwatch/daw/cedaw/>

recognizes that extensive discrimination continues to exist, violating the principles of equality of rights and respect for human dignity.⁹⁵

The Convention covers civil, political and reproductive rights. Women must enjoy the rights to vote, to hold public office, and to exercise public functions, as well as the rights to non-discrimination in education, employment, and economic and social activities. Marriage often links their legal status to their husband's one and it is also a way to pass the control of their lives from the father to the husband. Therefore, States are under the obligation to guarantee freedom of choice of the spouse, parenthood, and command over property. Aside from these issues, the Convention importantly tackles women's reproductive rights, often overlooked, but of vital importance. The role in procreation should not be a basis for discrimination and, with this regard, maternity protection and childcare are key. Furthermore, reproductive choice is protected.⁹⁶

Lastly, the Convention acknowledges that culture and tradition have a role in restricting women's enjoyment of their fundamental rights. Stereotypes, customs and norms give rise to legal, political and economic constraints on the progress of women. States parties to the Convention are obliged to work towards the modification of social and cultural patterns in order to get rid of "*prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women*".⁹⁷

States parties – namely states which have ratified the Convention – are legally bound to its provisions. This includes incorporating the principle of equality of men and women in their legal system, abolishing all discriminatory laws and adopting appropriate ones which prohibit discrimination against women; establishing tribunals and other public institutions to ensure the effective protection of women against discrimination; and ensuring elimination of all acts of discrimination against women by persons, organizations or enterprises.⁹⁸

⁹⁵ <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#intro>

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ <https://www.un.org/womenwatch/daw/cedaw/>

To monitor the implementation and the progress made by the States Parties, Article 17 of the Convention established the United Nations Committee on the Elimination of Discrimination against Women,⁹⁹ which consists of 23 independent experts on women's rights from around the world. States shall submit a report on their progress every four years.

Moreover, under CEDAW Article 22, UN agencies are invited to submit reports to the Committee on implementation of the Convention in the areas falling within the scope of their activities.¹⁰⁰

The Committee reviews all the reports submitted in a closed pre-sessional meeting and prepares a list of issues and questions to which the State party concerned has six weeks to respond before the plenary session. During the plenary session, the Committee discusses each report with representatives from the reporting State. After, the Committee issues Concluding Observations which highlights the opportunities and challenges to the implementation of the Convention, the main areas of concern, and recommendations. The State is expected to detail measures taken to address those issues in its next periodic report.¹⁰¹

The Committee's mandate includes the receipt of communications from individuals or groups of individuals submitting claims of violations of rights protected under the convention and the initiation of inquiries into situations of grave or systematic violations of women's rights.¹⁰²

⁹⁹ United Nations, Convention on the Elimination of All Forms of Discrimination Against Women (1979), Article 17

¹⁰⁰ FAO, *A tool for gender-sensitive agriculture and rural development policy and programme formulation*, Guidelines for Ministries of Agriculture and FAO, 2013

¹⁰¹ *Ibid.*

¹⁰² United Nations, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999

2.3 Provisions on the right to food under CEDAW

The Preamble of the Convention recognizes that in situations of poverty women have the least access to food, as well as health, education, training and opportunities for employment and other needs.¹⁰³

While it is true that the Convention deals with some of the critical and crucial aspects that have been mentioned in the previous chapter, such as the right to education (Article 10), to employment (Article 11), and to health (Article 12) which are relevant to the enjoyment of the right to food, it does not articulate neither the right to be free from hunger nor the right to adequate standard of living— as the other already-mentioned treaties do. It only explicitly elaborates on the nutritional aspects of the right to food in the context of pregnancy and lactation in Article 12 and the situation of rural women as food producers in Article 14.

a. Article 12

Article 12 states that:

“1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”¹⁰⁴

Although it is relevant to include women’s reproductive role as mothers, the Convention lacks a more inclusive provision which would include a comprehensive gender dimension.

Article 12(1) requires that women must be ensured the access to general healthcare services, both the ones equal with men, and those that women predominantly employ,

¹⁰³ United Nations, CEDAW (1979), Preamble

¹⁰⁴ United Nations, CEDAW (1979), Article 12

namely related to family planning. The second paragraph recognizes the specific role of women in procreation and states that this should not be a basis for discrimination. Particularly, the right of access to appropriate healthcare services that will enable women to go safely through pregnancy and childbirth and provide them with the best chance of having a healthy infant must be ensured.¹⁰⁵

Adopted in 1999, General Comment No. 24 on Article 12 of the Convention (Women and Health) reaffirms that access to health care, including reproductive health, is a basic right enshrined in the Convention. It recognizes that the right to health includes both physical and mental health.¹⁰⁶

To interpret Article 12, the understanding of sex and gender dimensions of health is needed, both in biological terms – regarding women’s reproductive healthcare requirements – and in social constructions terms – regarding their social roles and their capacities to make their own decisions on healthcare. Indeed, social practices of gender subordination exacerbate the risks women face, such as smoking, alcoholism, stress-related conditions, mental instability, unsafe abortion, malnutrition and anaemia, and poverty.¹⁰⁷

States are required to eliminate discrimination against women in their access to healthcare services throughout the life cycle, particularly in the areas of family planning, pregnancy and confinement and during the post-natal period.

States must report on their health legislation, plans and policies for women with reliable data on the incidence and severity of diseases and conditions that are harmful to women’s health and nutrition and on the availability and cost-effectiveness of preventive and curative measures. Moreover, women should be included and actively involved in the design and implementation of health policies and programs.¹⁰⁸

¹⁰⁵ Cook, R. J., and Undurraga, V., Article 12, in *The UN Convention on The Elimination of all Forms of Discrimination Against Women: A Commentary*, edited by Marsha A. Freeman, Christine Chinkin, and Beate Rudolf, Oxford University Press, 2013, pp. 311-333

¹⁰⁶ UN Committee on the Elimination of Discrimination Against Women, *General Comment No. 24: Article 12 of the Convention (Women and Health)*, 1999

¹⁰⁷ Cook, R. J., and Undurraga, V., *supra note 105*

¹⁰⁸ UN Committee on the Elimination of Discrimination Against Women, *supra note 106*

b. Article 13

Article 13 broadly requires the elimination of discrimination in economic and social life – an area in which the right to food falls within.

Accordingly:

“States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life.”

This provision addresses the economic and social aspects of women’s lives. These are relevant areas where women have historically faced discrimination, and which are fundamental to achieve economic independence and full participation in society. Women are entitled to participate in all areas of life on a basis of equality. As Article 22 of the UDHR recognizes, economic, social and cultural rights are indispensable to leading a life with dignity and freedom to develop one’s personality. Indeed, it is recognized that all human beings are free to develop their personal abilities, pursue their professional careers and make choices without the limitations set by stereotypes, rigid gender roles, and prejudices.¹⁰⁹

As specified in Article 13, women are to be granted the same rights as men to social benefits, bank loans, mortgages, and other forms of financial credit. They should also be beneficiaries in the participation of all aspects of cultural rights, which represent a relevant component of human dignity as it relates to the development and expression of an individual’s world view and identity.¹¹⁰ This provision is comprehensive, as it obliges States to examine the full range of women’s reality in order to take all appropriate

¹⁰⁹ Human Rights Committee, *General Comment No. 28: The equality of rights between men and women (Article 3)*, 2000

¹¹⁰ Inter-Parliamentary Union, *The Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol*, Handbook for Parliamentarians, 2003

measures. Moreover, economic structures and policies that perpetuate or create inequality including access to resources such as land or credit, must be targeted.¹¹¹

Family benefits are payments made – or other financially relevant advantages provided – to families to improve their well-being, through social security systems or other public assistance programmes for families. It covers all material support given to families.

Article 13(b) ensures women’s economic autonomy: bank loans are the provision of money by a bank and the duty to repay that sum; mortgages mean the conveyance of an interest in real estate as security for the repayment of money borrowed; while financial credit includes any other situation in which money is made available, either through a credit institution other than a bank or through other means.

The provision is particularly relevant as women face indirect discrimination when they try to obtain bank loans and public subsidies and have less access to finance.¹¹²

Although the Committee has not extensively dealt with this article – and did not elaborate a general comment – its scope has potential and could be applied to empower women in all areas of life. In particular, the practice of other human rights bodies – such as the CESCR – could be used as an inspiration.¹¹³

As for the right to food, the Committee has considered women’s access to food in emergency situations, in particular when a devastating tsunami had occurred in South-East Asia: although all survivors experience injuries, separation, extreme trauma, loss of security, including basic necessities such as shelter, food and water and sanitation, and livelihoods, the vulnerability and gender-specific needs of women and girls must be taken into account to respond with humanitarian and recovery actions.¹¹⁴

¹¹¹ Rudolf, B., *Article 13*, in *The UN Convention on The Elimination of all Forms of Discrimination Against Women: A Commentary*, edited by Marsha A. Freeman, Christine Chinkin, and Beate Rudolf, Oxford University Press, 2013, pp. 335-355

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ CO Democratic People's Republic of Korea A/60/38, 33rd Session (2005) available at: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=dtYoAzPhJ4NMy4Lu1TOebCwhwRbA%2BDSKmQePpgHFEEeS0UGxsHvXM%2BJmPds%2BkwcgsvBT6e8FToT%2B13kubDcdjOSjupngNDFuqpOUoOy6CaISa45RCHR4yHwRw6gArKH>

CESCR General Comment No. 16 on The Equal Right of Men and Women to the Enjoyment of all Economic, Social and Cultural Rights specifies that the State must not prevent women from realizing their right to food. This includes avoiding any actions that hinder women's access to and control over means of food production. Furthermore, the State has the obligation to implement protective measures against interference with this right by private individuals, such as combating customary practices that prohibit women from eating before men, that restrict them to less nutritious food, or that impose food taboos detrimental to women's health.¹¹⁵

Directly linked to food, there is water. The Committee has taken into account women's equal access to water in rural areas, but this right also applies to women living in other areas, such as slums. Women are usually responsible for obtaining water, frequently from long distances and are therefore at risk of assault. Under the Convention, States are required to provide for accessibility in terms of location and safety. Where necessary, parties must offer subsidies on the basis of income and responsibilities for dependent family members. When water is limited, women have to equally participate in decision-making as to its use.¹¹⁶

Moreover, as said before, the right to food was included in the right to an adequate standard of living in the UDHR. Such umbrella covers all aspects of life in terms of dignity and autonomy and its realization entails financial or other material resources. With this regard, Article 13(a) covers family benefits, while other rights to social security are recognized when States are obliged to take into account women's unpaid work at home, including care for their family members, which does not allow to contribute to a social security scheme based on one own's income.¹¹⁷

As part of the right to an adequate standard of living, the right to adequate sanitation is protected under Article 13. When lacking, women and girls are at risk of assault and may

¹¹⁵ UN Committee on Economic, Social and Cultural Rights, *General Comment No. 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3 of the Covenant)*, 2005

¹¹⁶ Rudolf, B., *supra note 111*

¹¹⁷ *Ibid.*

drop education for lack of facilities. Such right must be available in terms of quantity, quality, proximity, and safety.¹¹⁸

c. Article 14

Article 14 addresses the specific problems faced by rural women, who experience intersectional discrimination, due to poverty, marginalization, and lack of access to services.¹¹⁹

Accordingly:

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(a) To participate in the elaboration and implementation of development planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social security programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

¹¹⁸ *Ibid.*

¹¹⁹ Banda, F., *Article 14*, in *The UN Convention on The Elimination of all Forms of Discrimination Against Women: A Commentary*, edited by Marsha A. Freeman, Christine Chinkin, and Beate Rudolf, Oxford University Press, 2013, pp. 357-385

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

The Committee defines “rural” as related to both geography and exclusion from services and opportunities. Although they substantially contribute to agriculture labour and food growth, they face severe socio-economic disadvantages due to lack of access to services such as education, health, water, sanitation, and transport. Furthermore, their discrimination in accessing land has severe consequences on their right to food.

Under Article 14(1), the Committee acknowledges that unpaid work constitutes exploitation of women: as it is not within the waged sector, these subjects are particularly disadvantaged. As a consequence of their work, they are unable to attend school and their illiteracy impedes access to information on sexual and reproductive rights, which leads to high birth rate with poor development outcomes for the children. The CEDAW takes into account their disproportionate disadvantages in accessing social services and benefits due to the absence of identity documents.¹²⁰

States shall ensure that women have equal access to land: lack of rights to land makes them extremely vulnerable to poverty and eviction and they are prevented from having multiple economic options.¹²¹ Land is the fundamental prerequisite for food production and for providing access to income earning opportunities through the sale of agricultural commodities. As observed by the Special Rapporteur on the Right to Food, people’s access to land determines both their access to food and the general availability of food to communities.¹²²

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

¹²² Domingo-Cabarrubias, L. G., *supra note 76*

What is more relevant is Article 14(2)(h), relative to the right to adequate living conditions. It entails housing, sanitation, electricity, water supply, transport and communications.

Although rural women spend more time in and near the home than men, they continue to be disadvantaged in accessing adequate housing, due to legal and social factors. Water represents a key factor in the gendered division of labour, in which its collection and other related activities – such as cleaning, cooking, and washing – are considered “women’s work”. Climate and environmental changes have greater impacts on women, increasing the distance they have to travel to take water and exposing them to violence.¹²³

With this regard, recommendations for policy and programme measures that create opportunities for rural women include providing space and infrastructure for establishing sustainable community resource centres, controlled by rural women, where they can have easy and free access to information, education and training; and ensuring that access to essential services for poor rural communities is not subject to cost-recovery and fees.¹²⁴

General Recommendation No. 34 highlights the systematic and persistent barriers that rural women face in the access to land and natural resources, which prevent them from fully enjoying their human rights. It also considers food and nutrition in relation to their health, as well as their specific needs during pregnancy or lactation. As a consequence, it provides clear measures to address the difficulties, such as giving priority to rural women’s equal rights to land when undertaking land and agrarian reforms, ensuring that they have authority to manage and control their natural resources, implementing capacity-building programmes to improve women’s financial and business skills, developing agricultural extension programmes and advisory services to support rural women’s economic and entrepreneurial skills, and ensuring access to credit, community-managed and mobile financial services, technology, markets and marketing facilities.¹²⁵

In several Concluding Observations, the Committee has also expressed concern at the disproportional effects rural women experience due to discriminatory customs and

¹²³ Banda, F., *supra note 119*

¹²⁴ FAO, *supra note 100*

¹²⁵ Domingo-Cabarrubias, L. G., *supra note 76*

traditions that impede them from inheriting or acquiring land and other resources and accessing credit and services.¹²⁶

Moreover, General Recommendation No. 37 on climate change highlights that women, particularly rural and indigenous women, are directly affected by disasters and climate change as food producers and as agricultural workers due to the fact that they make up the majority of the world's farm workers. They are more likely to suffer from malnutrition in times of food scarcity. Suggested actions include identifying and supporting sustainable livelihoods, developing gender-responsive services, plans and policies that integrate a human rights-based approach to guarantee sustainable access to adequate food.¹²⁷

2.4 Individual Communications

Since the entry into force of the Optional Protocol to the Convention in 2000, the Committee can receive and consider individual communications under Article 2 if the State party concerned has recognized the Committee's competence by ratifying such Protocol.¹²⁸

Individual communications are complaints from or on behalf of a person or group of persons that claim to be victims of a violation of the Convention by a State party.

The complaint should be in writing, legible, preferably typed, and signed; and must provide basic personal information – name, nationality, date of birth, postal address and e-mail address of the complaint – and specify the State party against which it is directed.

All the facts on which the complaint is based must be set out in chronological order, be as complete as possible, and contain all the relevant information.¹²⁹

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

¹²⁸ <https://www.ohchr.org/en/treaty-bodies/cedaw/rules-procedure-and-working-methods>

¹²⁹ United Nations Human Rights, Office of the High Commissioner, *Fact Sheet No. 7, Rev. 2, Individual Complaint Procedures under the United Nations Human Rights Treaties*, 2013, available at: <https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-07-rev-2-individual-complaints-procedures-under-united>

In order for the complaint to be admissible, domestic remedies – namely the claims must have been brought first to the attention of the relevant national authorities, up to the highest available instance – must be exhausted. If some of these remedies are still pending or have not been exhausted, this should be indicated as well as the reasons for it.

There are two main stages of examination: the admissibility stage and the merits stage. Admissibility refers to the formal requirements that the complaint must satisfy before the Committee can consider its substance. Merits refer to the substance of the complaint, on the basis of which the Committee decides whether the alleged victim's rights under the treaty have been violated.¹³⁰

States are required to provide its observations within six months from the date on which the complaint was communicated to it.

At any stage of the procedure, the Committee can request the State party to take interim measures, which are measures to prevent any irreparable harm to the complainant or alleged victim.

Once the Committee has decided, the decision is final and non-appealable. It represents an authoritative interpretation of the Convention and contains recommendations to the State party. When a State is considered to have violated the treaty, it is invited to provide information, within 180 days, on the steps it has taken to implement the recommendations.¹³¹

The CEDAW Committee's case-law relating to the previously examined articles is not that extensive yet. In the following subsections, three complaints will be analysed. These cases can reconcile the topic of the right to food in light of a broader context, particularly assessing how it intersects with healthcare, socio-economic rights, and living conditions.

S.N. and E.R. v. North Macedonia deals with victims that belong to the minority group of rural people. Accordingly, the applicants, members of Roma people, were evicted from their homes without warning, while pregnant. Authorities destroyed the water pump used

¹³⁰ *Ibid.*

¹³¹ *Ibid.*

by the community and other facilities, leaving them homeless and vulnerable. Moreover, they were unable to access social housing or medical care because they lacked identity documents – like many other Roma people in Macedonia. The conditions in which they were left are in violation of the obligation of the State to provide suitable, secure accommodation and reparations, to combat intersectional discrimination and low-quality health care.

In *S.H. v. Bosnia and Herzegovina*, not only was the complainant a victim of violence, but the lack of criminal investigation further exacerbated her vulnerability, eventually resulting in severe suffering and poor living conditions, without any possibility to access basic needs, including food. The Committee focused on the compensation the victim should receive, but the case still illustrates that women remain disadvantaged in the access to food and other basic needs, especially when they suffer from other forms of discrimination.

X. v. Cambodia highlights the unequal access to land and tenure security of rural women. Accordingly, the applicant was living in a rural village – where she and her husband held a legal land title – until police authorities dug a ditch around the community land and prevented all residents from farming and accessing their houses. The applicant lost her property and house, and she was forced to relocate to a place lacking basic infrastructure, such as sanitary. The State was found to be in violation of its obligations, as it failed to take into account the specific problems faced by rural women in land planning, development and economic survival.

a. *S.N. and E.R. v. North Macedonia*

The authors are S.N. and E.R., both nationals of North Macedonia and of Roma ethnicity. On 1 August 2016, they were evicted from the settlement in which they were living and left homeless, without access to shelter or health care.

S.N. was born in Skopje in 2001, still minor, was living on the site of her former home with her partner. She was six months pregnant, and during these months she visited a doctor two or three times and had to pay for the examinations. She had not any identity document.

E.R. was born in Skopje in 2000, she was living on the site of her former home with her partner. She was three months pregnant, and she expected to give birth in a hospital. She visited a doctor only once, thanks to a non-governmental organization. She had both an identity document and a birth certificate. However, after the authorities had demolished her home, her document had been lost and she had not been able to obtain new ones as she would need to pay a fee for them.

Both the authors do not have public or private health insurance; therefore, they are not entitled to free-of-charge primary health care services in public hospitals. Under national law, those who are covered under the public health insurance system are entitled to free maternity care, and children are covered until the age of 18 years if at least one of the parents is covered. Moreover, people accommodated in social care institution are covered under the public health insurance system; however, the authors are not accommodated in such institutions. Lastly, a woman in labour may present herself at the emergency room of a public hospital, but if she is not covered under the public health insurance system, she has to pay for the services she receives while giving birth.¹³²

The authors lived in a settlement called “Polygon”, near the Vardar River, below the Kale (fortress), Centar municipality, in Skopje. The community consisted of 130 people of Roma descent, including 70 children. They did not have land tenure and were living in dwellings that were made by the community itself out of available materials and were living in poverty.

The Ministry of Transport and Communications formerly owned the land. In November 2011, the land was privatized and sold to a private company. Over the years, the authorities had removed the inhabitants’ property and/or destroyed their homes without offering them any alternative accommodations. The inhabitants had rebuilt their homes using available materials. Some of them had applied for social housing but their applications had been rejected.

On July 12 2016, the Department of the Inspectorate of the City of Skopje made a decision to “clean up” the settlement, as the construction of a road there was allegedly envisaged under the city’s urban plan. The members of the community never received any formal

¹³² Committee on the Elimination of Discrimination against Women, *Communication No. 107/2016*, available at: <https://juris.ohchr.org/casedetails/2703/en-US>

notice that they would be evicted from their homes. On the morning of 1 August 2016, without prior notice, the police entered the settlement and destroyed the only water source, a single water pump. Later, bulldozers arrived and demolished all the homes.

The Intermunicipal Centre for Social Work, a public body that serves the city of Skopje, informally offered some of the inhabitants of the site accommodation at a centre for refugees, internally displaced persons and homeless persons; however, all refused to accept it due to security concerns and the poor living conditions in the shelter. Indeed, most of the residents, including the authors, remained on the site of their former settlement, but had no shelter, no access to water and nowhere to go. The situation represented a direct threat to their lives and health, many suffered from health problems, such as bronchitis, and those who were pregnant were in an extremely vulnerable position and at serious risk of harm to their health. They had no access to basic necessities and had no maternal health-care assistance.¹³³

The authors claim that there was no available effective domestic remedy against the eviction, as they had no access to a remedy that would suspend it. They cannot prove that they are nationals of North Macedonia or that they fall into any other category of people eligible for public health insurance. They note that there are no implementing regulations or procedures to guarantee that all nationals of North Macedonia are eligible for health insurance, therefore they have no access to domestic remedies.

The authors claim that North Macedonia had violated Article 2(d) and (f), Article 4(1)(2), Article 12(1)(2) and 14(2)(h) of the Convention.

The authors assert that they have suffered intersectional discrimination on the basis of their gender, ethnicity and health status. Moreover, they claim that the State party has failed to pursue by all appropriate means a policy which would have modified, abolished or remedied the discrimination against the victims, the Roma communities, Roma women and Roma adolescents who are pregnant. Furthermore, the State limited their access to health-care services, including reproductive ones. Lastly, they affirm that, by evicting them without offering timely and appropriate alternatives, the State had left them in fear and anxiety and directly exposed to specific threats; and had no access to adequate living

¹³³ *Ibid.*

conditions, in relation to appropriate housing and nutrition, clean water, sustainable energy and adequate sanitation and hygiene.

The State Party reported its observations in a note dated 9 April 2019, detailing measures taken by the Ministry of Labour and Social Policy to protect families, including those living under the Kale Fortress. Experts from a public institution in Skopje visited these families multiple times, offering accommodation at a homeless centre, prioritizing those with pregnant women and babies, though all families declined the service.

The State Party noted the fluctuating number and composition of these families, making it challenging to monitor the situation. Due to cold temperatures in January 2017, some families were temporarily sheltered in a homeless facility but left after two days or refused the accommodation altogether.¹³⁴

Following Government sessions in October 2017, urgent and temporary accommodation measures prioritized families with pregnant women or young children, those with many children, families with children aged 4-7 years or with disabilities, and elderly or sick individuals. These measures resulted in around 100 people being housed in social facilities.

Those accommodated received meals, clothes, footwear, and hygiene items. Younger children were enrolled in a day centre, older children were enrolled in an educational process for adults. In 2016, two pregnant women were mentioned: J.D., who refused accommodation and left the informal settlement, and S.M., a minor placed in a facility for children with social or behavioural issues.

The State party also implemented a supported living program to help individuals acquire life and work skills for reintegration into society. Two Roma NGOs were involved in identifying the needs of each family to provide tailored support.

The Committee recognizes that, in the particular context of the authors' eviction and pregnancy, at the material time of the infringement of their rights, the State party has not pointed out any evidence to show that remedies existed but were not exhausted by the

¹³⁴ *Ibid.*

authors. Considering the communications on the merits, the Committee notes that the State had not respected, protected, or fulfil the rights to non-discrimination of the authors. Moreover, it recalls that special attention should be given to the health needs and rights of women who belong to vulnerable and disadvantaged groups; and that Parties should report on measures taken to eliminate barriers in the access to health-care services. The Committee adds that after the eviction, the authors lived in extremely poor living conditions and lacked drinkable water and water for personal hygiene.

Therefore, the Committee states that North Macedonia has violated Articles 2(d) and (f) on the measures to eliminate discrimination against women; 4(1) on temporary special measures; 12(1) and (2) on health care and family planning; and 14 (2)(b) and (h) on the discrimination against rural women of the Convention, taking into consideration its general recommendations Nos. 24 (1999) on women and health, 25, 28, and 34 (2016) on the rights of rural women.

The Committee recommends the State party to provide adequate reparation, provide suitable accommodation, access to clean water and proper nutrition and immediate access to affordable health-care services. As general recommendations, it suggests to adopt and pursue concrete and effective policies, programmes and targeted measures, to ensure effective access to adequate housing for Roma women and girls, to ensure access to affordable and high-quality health care and reproductive health services and prevent and eliminate the practice of charging Roma women and girls illegal fees for public health services, develop specific poverty alleviation and social inclusion programmes, and engage actively with civil society and women's organizations.¹³⁵

b. *S.H. v. Bosnia and Herzegovina*

The author is S.H., a Bosnian national of Croat ethnicity. In 1995, S.H. was living with her husband in the municipality of Prijedor, Bosnia and Herzegovina, in a village occupied by the Bosnian Serb forces since 1993. On 25 August 1995, the author was alone at home when four armed men, dressed in a combination of plain clothes and camouflage uniforms and carrying rifles, entered her house and one man raped her. She

¹³⁵ *Ibid.*

reported the incident in September 1995, but no investigation followed, and her police report was unavailable. For years, the author did not pursue the case due to fear of stigma and hope that the authorities would investigate. In 2008, she learned that the files had been destroyed and sought justice through the Social Work Centre, which referred her to NGOs. In 2009, the Association of Women Victims of War filed a criminal case on her behalf.

Despite ongoing efforts from 2009 to 2014, involving multiple authorities, little progress was made. Some responses from police stations were received, but most correspondence went unanswered. Furthermore, she discovered that the police had not conducted any investigation into her initial complaint in 1995 and that the report had never been registered.

On 1 February 2013, the Prosecutor's Office informed the Human Rights Ombudsperson Institution that the investigation was ongoing. On 19 March 2014, the District Prosecutor's Office in Banja Luka said it could not act unless the case was transferred by a court decision.

On 4 June 2014, the author appealed to the Constitutional Court of Bosnia and Herzegovina, alleging ineffective investigation and lack of compensation. The appeal was rejected on 17 February 2016, citing the exceptional circumstances and difficulties faced by authorities.

Meanwhile, back in 2012, the author requested registration as a civilian victim of armed conflict for social support, but it was denied as time-barred and her subsequent appeals to higher authorities and the District Court in Banja Luka were also rejected due to the statute of limitations.

On 25 August 2016, she submitted a complaint to the Constitutional Court, challenging the statute of limitations in the Law on the Protection of Civilian Victims of War.

The event of 1995 caused her severe physical and psychological suffering, leading to thyroid problems, genital infection, cervical disease and cancer. She developed a depressive disorder and personality change, affecting her marital life and resulting in

divorce in 2009. She now lives in poverty and struggles to cover basic needs and medical expenses.¹³⁶

The author claims that she has been a victim of the ongoing failure of the State Party to conduct a prompt, effective and thorough investigation of her rape complaint, which has allowed the perpetrators to enjoy impunity, constituting a violation of her rights under Article 1 on the definition of discrimination against women; read in conjunction with Articles 2(b), (c), (e) and (f) on temporary special measures aimed at accelerating equality between women and men; and Article 3 on the adoption of appropriate measures of the Convention. She alleges that her rights have been violated by the discriminatory and flawed nature of legislation, as a result of which the authorities failed to recognize or register the author as a civilian victim of armed conflict. She claims to have been deprived of access to social assistance and benefits, although she lives in poverty and precarious conditions.

The State Party argues that the communication should be considered inadmissible as an *actio popularis*, i.e., a lawsuit brought by a third party on behalf of the public). Specifically, this applies to general complaints about national laws and domestic judicial practices. According to international judicial practice, when claiming to be a victim of systemic violations, the author must provide reasonable and convincing evidence of a personal violation or the likelihood thereof. The State Party contends that the author has not demonstrated being personally affected or a direct/immediate victim of the lack of harmonization between national legal systems and administrative/judicial practices. Additionally, the author's case is still under investigation or examination by national authorities in criminal and administrative proceedings.

The State party asserts that significant efforts have been made by authorities at all levels to process war crimes and bring perpetrators to justice. It highlights the adoption of a national strategy for processing war crimes in 2008, aiming to prosecute the most complex and highest priority cases within seven years and other cases within 15 years.

¹³⁶ Committee on the Elimination of Discrimination against Women, *Communication No. 116/2017*, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/76/D/116/2017&Lang=en

By implementing this strategy, the State party believes it has fulfilled its obligation to process war crimes reasonably swiftly, as confirmed by domestic cases on wartime sexual violence.

The State party emphasizes the investigative efforts regarding the author's sexual violence allegations, despite challenges from numerous cases of grave human rights violations during the war, the complexity of the case, and the delay since it was filed in 2009. The Prosecutor's Office investigated several war crimes from 1992 to 1995 in Prijedor, including the author's case, but found insufficient evidence to identify perpetrators. On 28 August 2014, the Prosecutor's Office ordered the State Investigation and Protection Agency to take all necessary measures to establish the facts and obtain evidence. The author expressed satisfaction with these actions on 2 October 2014. Therefore, the State party claims that the author's allegation of inaction by the Prosecutor's Office is unfounded, as confirmed by the Constitutional Court.

The State party acknowledges that international jurisprudence recognizes the right of victims and their families to know the truth about gross violations of fundamental rights. However, this does not entitle them to scrutinize police records, obtain copies of all documents, be consulted on every investigative measure, or be informed of potential suspects' names. Such disclosure could stigmatize potentially innocent suspects.

The State party notes that the author's application for recognition as a civilian victim of armed conflict and for social support is under re-examination. The Constitutional Court ruled on 17 February 2016 that her claim of constitutional rights violations was premature since she filed an administrative claim in 2015. The State party mentions that free legal aid is provided under the Law on Providing Free Legal Aid adopted in 2016 and through relevant institutions, making civil proceedings not unreasonable or discriminatory.

The State party acknowledges the particular vulnerability of sexual violence victims in meeting the criteria for civilian victim status. It notes that the Government of Republika Srpska is drafting a law to ease these conditions and ensure victims' rights to financial compensation, health and psychological support, employment assistance, legal aid, and exemption from administrative and court fees. Moreover, it notes that it has amended its criminal legislation and the law on witness protection in 2016.

It notes that, under international law, it is necessary to establish a causal relation between an event and the harm caused. The author has failed to prove that the health conditions that she developed were a direct consequence of the event in question.¹³⁷

The author asserts that her complaint should not be considered an *actio popularis* but rather a personal grievance directly affecting her. She claims that the flawed and discriminatory legislation deprived her of recognition and support as a civilian victim of armed conflict. Therefore, her complaint is personal and admissible.

The author rebuts the State party's claims in three areas: (a) access to information on the investigation; (b) the delay and ineffectiveness of the investigation, leading to no compensation; (c) the failure to recognize her as a civilian victim and provide social support and benefits.

The author details her numerous attempts (18 letters) between 2009 and 2017 to get updates on the investigation. Most were unanswered, and the few responses were inadequate or contradictory. She clarifies that her expression of satisfaction in a letter was generic and not indicative of satisfaction with the investigation's effectiveness. She highlights the indifference of the Prosecutor's Office to her suffering.

The author states that the police did not investigate her initial rape complaint in 1995. They neither questioned her nor conducted a crime scene investigation or medical assessment. Additionally, she was informed that the records from that period were burned, prompting her to file a "new" complaint in 2009. The author acknowledges the State party's national strategy for processing war crimes but contends that it suffers from delays and inefficiencies, with many pending cases. The author finds it nonsensical for the State party to claim it is investigating events from 1992-1995 when she specified her rape occurred in August 1995. She argues that the State party did not exercise due diligence in investigating her case, prosecuting, and punishing those responsible, highlighting rampant impunity for wartime rape, including in her case.

¹³⁷ *Ibid.*

The author doubts any forthcoming criminal proceedings against her rapist and asserts she has not been given a meaningful opportunity for compensation or reparation, thus constituting further violations by the State party. She reiterates that her administrative claim for recognition as a civilian victim of armed conflict was rejected by the Banja Luka District Court on 24 June 2016, leaving her without social benefits or support, forcing her into poverty and unable to cover basic needs and medical expenses. The author notes the difficulty for victims of sexual violence during the conflict to have their status acknowledged under the current law and mentions that the draft law on the protection of victims of torture in Republika Srpska has not been adopted. Despite the State party's provision for free legal aid, the author, living in extreme poverty, has not accessed legal assistance from any State institution, and court fees have not been waived. The author supports her claims of health issues resulting from the 1995 rape with a medical certificate from 2014 and notes her diagnosis of depressive disorder and permanent personality change due to the traumatic experience.¹³⁸

The author argues that the State party failed to provide solid legal arguments against the admissibility of her complaint or adequately challenge her facts and merits. She maintains her complaint is admissible and alleges violations of the articles cited.

The Committee notes the State party's claim that the author's complaint constitutes an *actio popularis*, challenging the legal system as a whole rather than an individual violation, and thus should be declared inadmissible. However, the Committee also considers the author's assertion that her explanation of the legal framework is background information to explain how she is personally and directly affected by the legislation. The Committee recalls that under Article 2 of the Optional Protocol, communications can only be submitted by individuals claiming to be victims of a violation. In this case, the Committee finds that the author's complaint is personal and does not constitute an *actio popularis*, making it admissible in that regard.

The Committee recalls that under Article 4(1) of the Optional Protocol, it cannot consider a communication unless all available domestic remedies have been exhausted, or if these remedies are unreasonably prolonged or unlikely to bring effective relief. The Committee

¹³⁸ *Ibid.*

notes the State party's argument that the author's case is still under investigation or before national authorities. Nonetheless, the Committee also notes the author's submission that she has exhausted all available domestic remedies likely to bring sufficient relief and not unreasonably prolonged. The author brought her case to the Prosecutor's Office in 2009 and appealed to the Constitutional Court in 2014, which acknowledged the slow and inconclusive investigation in its 2016 ruling.

The Committee notes additional information that the Constitutional Court rejected the author's complaint regarding her status as a civilian victim of armed conflict. Although she was granted the status of a victim of conflict-related sexual violence in 2019 under the law of Republika Srpska, the author asserts that the pension amount is not proportionate to the crime's gravity and the harm suffered, thus not fully effective.

In the absence of an explanation from the State party on how the investigation would not be further prolonged or how proceedings under those laws would have been effective in securing the author's rights, the Committee concludes that the domestic remedies referred to by the State party have been unreasonably prolonged and were unlikely to bring effective relief to the author. Thus, the Committee is not precluded by Article 4(1) of the Optional Protocol from considering the present communication.¹³⁹

The Committee shall declare a communication inadmissible if the facts occurred before the Protocol's entry into force unless those facts continued after that date. The Committee observes that although the alleged offence occurred in 1995, before the Optional Protocol entered into force, the decision of the Prosecutor's Office to open a criminal investigation came after 2009, after the Protocol was in force. Therefore, the alleged failure to provide the author with redress and compensation occurred after the State party's recognition of the Committee's competence. The State party does not contest the Committee's competence *ratione temporis*, and the Committee concludes it is not precluded from considering the complainant's allegations under article 4(2)(e) of the Optional Protocol.

The Committee notes that, notwithstanding the presence of laws and measures taken to provide protection against conflict-related gender-based violence under its national

¹³⁹ *Ibid.*

strategy for processing war crimes, the political will should and must be supported by all States agents and bodies, in order to realize the principle of equality between women and men. The failure of a State party to take all appropriate measures to prevent acts of gender-based violence against women in cases in which its authorities are aware or should be aware of the risk of such violence, or the failure to investigate, prosecute and punish perpetrators and provide reparation to victims and survivors of such acts, provides tacit permission or encouragement to perpetrate acts of gender-based violence against women. Such failures or omissions constitute human rights violations.

Moreover, States Parties must take appropriate measures to create supportive environments that encourage women to claim their rights, report crimes committed against them and actively participate in criminal justice processes.¹⁴⁰

On the basis of the information provided, the Committee considers that the author was requesting regular information on progress in, and the results of the investigation carried out by the Prosecutor's Office, whether a trial might be forthcoming and, to the extent possible, the corresponding time frame. She might also require any reasonable and concrete explanation regarding delays holding up the investigation so that she might provide any possible contribution to accelerate the process. The Committee observes that, in that context, the State party could have provided the author with general information regarding progress made in the investigation in a more accurate, timely and individualized manner, without revealing confidential information. Therefore, the Committee concludes that the State party has breached its obligations under Articles 2(b), (c), (e) and (f) and 3 of the Convention.

The Committee observes that the author's requests for redress had been time-barred. Although the author was granted the status of a victim of sexual violence and a monthly disability pension in February 2019 under the new Law on the Protection of Victims of Torture in the Republika Srpska, the State party failed to provide her with timely recognition of her status as a victim. Additionally, the pension amount is not commensurate with the harm she suffered, which includes severe physical harm, impacts on her sexual and reproductive health and rights, psychological harm, and material

¹⁴⁰ *Ibid.*

damage. The Committee also notes that while the State party argues that adequate compensation could be provided under amendments to criminal procedure, the author cannot benefit from this provision because the criminal charge in her case has not yet been examined in court, despite her repeated requests. Given the seriousness of the gender-based violence she endured and her right to restitution, compensation, and rehabilitation, and given the lack of any means to fully enforce this right, the Committee concludes that the State party has breached its obligations under Article 1, read in conjunction with Articles 2(a) and (c), (f), 3, 12, and 13(a) and (b) of the Convention.

The Committee makes the following recommendations concerning the author of the communication: take immediate and effective measures to ensure a prompt, impartial, and effective investigation of the author's case, prosecuting and sentencing those found guilty appropriately; provide the author with timely and adequate information on the progress and results of the investigation and any forthcoming trials; ensure the author receives full reparation, including material and moral damages, restitution, rehabilitation, and satisfaction, such as free legal assistance and financial compensation proportionate to the harm suffered.

As for general measures, the State should: investigate all allegations of gender-based violence against women, especially war crimes, promptly, thoroughly, impartially, and seriously; ensure criminal proceedings are initiated and perpetrators are fairly and timely tried and sentenced; provide victims of gender-based violence with safe and prompt access to justice, including free legal aid, and keep them informed of investigation progress; enact legislative measures to prevent convicted war criminals from being exempted from sanctions, including sentence reductions and fines replacing imprisonment; establish an effective nationwide reparation scheme for war crime victims, ensuring equal access to social benefits and support measures; remove restrictive and discriminatory provisions from entity-level legislation and policies related to redress for civilian war victims; adopt the revised national strategy for processing war crimes to accelerate the prosecution of sexual violence crimes committed during the 1990s conflict by 2023; establish a fund for compensation and other forms of reparation to women victims of war crimes; provide timely gender-sensitive training for judges, lawyers, law enforcement officials, administrative personnel, and social workers on international

standards regarding combating gender-based violence against women; harmonize war crimes legislation across the State party and ensure consistent application in accordance with the Convention and other international standards, including the Istanbul Convention; implement the Committee's recommendations, especially those on combating violence against women, from its concluding observations on Bosnia and Herzegovina's sixth periodic report.¹⁴¹

c. X v. Cambodia

The author lives in La Peang village, in the Ta Ches commune of Kampong Chhnang Providence. For a decade, her entire community have been involved in a land dispute with KDC International, a development company owned by the wife of the then Minister of Mines and Energy.

The author describes ongoing tensions with KDC International that began in 1996, when La Peang residents were pressured to sell their land. The author moved to La Peang in 2004 and held an official land title. In 2006, KDC International representatives, accompanied by police but without proof of ownership, dug a ditch around the disputed land, preventing farming. In 2007, KDC International accused residents of illegal occupation, and in 2008, they destroyed houses and farmland, including the author's property. The author became the community representative, leading protests and seeking support. Despite petitions, no help was received from authorities. KDC International accused her of incitement, leading to court interrogations. Fearing arrest, she fled to Thailand in 2009 but was forcibly returned in 2011. Back in Cambodia, she continued her advocacy but faced threats and intimidation. In 2013, she received a death threat and reported it but received no response.¹⁴²

In 2014, the Ministry of Interior formed a commission to resolve the conflict, however most of the commission was aligned with KDC International. In April 2014, families met

¹⁴¹ *Ibid.*

¹⁴² Committee on the Elimination of Discrimination against Women, *Communication No. 146/2019*, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2F85%2FD%2F146%2F2019&Lang=en

with KDC International, which forced them to accept low compensation for their land. They later filed a complaint, claiming lack of informed consent, but received no court response. A commission's report on 30 April 2014 claimed none of the 52 families had land ownership documents and accused the community of causing trouble. The author and others complained to the National Assembly about the report.

Violence erupted in April 2014 when KDC International began constructing a wall around the disputed land, leading to clashes and injuries. In July 2014, police tried to arrest the author during a protest, resulting in a stone-throwing incident. In August 2014, several residents, including the author's husband, were arrested during a march to Phnom Penh. UN experts highlighted the issue of land appropriation and harassment of residents.

On 25 August 2014, the author and others complained to the Ministry of Justice and the National Assembly, leading to the release of detainees. Subsequent petitions and attempts to resolve the dispute through the National Assembly yielded no results. In January 2016, a meeting with the National Assembly and remaining families resulted in the case being transferred to the Ministry of Land Management, which declined to intervene.

In April 2017, the author was summoned to court for defamation but could not attend due to lack of legal representation. Her request for postponement remains unanswered. The author claims defamation charges are used to silence dissent. The walled-off land remains undeveloped, affecting her economic life and forcing her to work as a construction worker. Villagers face worsened living conditions and lack of quality water.

The author stopped protesting due to court pressure and she argues that despite efforts, domestic remedies have been ineffective and prolonged.¹⁴³

The author of the communication asserts that she is a rural woman and a human rights defender, protected under Article 14 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). She claims that the Cambodian government has failed to protect her from discrimination and human rights abuses related

¹⁴³ *Ibid.*

to land conflicts. Instead of addressing these issues, the judiciary has actively hindered her efforts as a human rights defender.

Despite multiple invitations, Cambodia did not submit observations on the admissibility and merits of the communication.

The Committee had to base its decision solely on the information provided by the author. It confirms that the same matter has not been and is not being examined under another international procedure and that domestic remedies have been unreasonably prolonged.

The Committee recognizes that forced eviction disproportionately affects women and that the author faced discrimination, including destruction of her house, farmland, and land title documents. KDC International built a concrete wall, fencing off part of her land, and workers threw stones at her house in 2014. The author was forcibly relocated to a place lacking basic infrastructure and essential services, such as sanitation and healthcare.¹⁴⁴

The Committee concluded that the State party's failure to protect the author from discrimination, forced eviction, violence, and threats constituted a breach of her rights under the Convention. The lack of response and action from the State's authorities exacerbated the author's suffering and reinforced systemic gender discrimination, particularly against rural women and human rights defenders, violating the obligation to ensure adequate standards of living.

The Committee makes the following recommendations: concerning the author, to provide full reparation, including adequate compensation, for the violations of her rights; ensure she can access land; and implement measures to allow her to safely and freely advocate for her community's interests.

As general recommendations, the State should implement laws and policies to ensure rural women have access to land and tenure security, and eliminate discrimination against them; ensure that land acquisitions follow due process, including free, prior, and informed consent, and provide thorough reviews and adequate compensation; address and investigate discrimination against women in forced evictions and other issues, and hold

¹⁴⁴ *Ibid.*

perpetrators accountable; ensure that evicted communities are relocated to places where women can access necessary services and amenities; create a safe environment for rural women and human rights defenders; and train judicial institutions on relevant conventions and recommendations to better protect rural women and human rights defenders.¹⁴⁵

¹⁴⁵ *Ibid.*

CHAPTER 3

The Istanbul Convention on Preventing and Combating Violence Against Women and Domestic Violence and the framework of The Council of Europe

3.1 Gender-based violence and food security

The term “gender-based violence” (GBV) refers to “*any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life*”¹⁴⁶.

Gender represents the basis for violence against a person and therefore the violent act is based on an imbalance of power and aims to humiliate and make a person or group of people feel inferior and subordinate. It is a type of violence that is rooted in the social and cultural structures and is often perpetuated by a culture of silence and denial. Violence can be physical, sexual, verbal, psychological or socio-economic and can take many forms.¹⁴⁷

Gender-based violence is a pervasive global health and human rights issue. Globally, one in three women have experience physical and/or sexual violence in their lifetime and the number increases when race, age, disability, displacement and other intersectional factors are taken into account.¹⁴⁸

While gender discrimination is one of the major causes of many forms of violence against women, it also contributes to the widespread acceptance, condonation, and invisibility of such violence, meaning that perpetrators are not held accountable, and survivors are not believed and/or are not encouraged to speak out and ask for support.¹⁴⁹

¹⁴⁶ UN Declaration on the Elimination of Violence against Women, 1967

¹⁴⁷ <https://www.coe.int/en/web/gender-matters/what-is-gender-based-violence>

¹⁴⁸ Forsythe, L., *Gender-based violence in food systems*, in *Nature Food*, Vol. 4, June 2023, pp. 472-475

¹⁴⁹ <https://interagencystandingcommittee.org/sites/default/files/migrated/2021-03/IASC%20Guidelines%20for%20Integrating%20Gender-Based%20Violence%20Interventions%20in%20Humanitarian%20Action%2C%202015.pdf>

Most of the women experience violence by those who are well known to them, such as intimate partners and family members.¹⁵⁰

Gender-based violence profoundly impacts survivors' immediate sexual, physical and psychological health, and contributes to greater risk of future health problems, such as unwanted pregnancies, unsafe abortions and sexually transmitted infections, but also acute and chronic illness, depression, anxiety, post-traumatic stress disorders, suicidality. Not only that, but survivors may suffer from secondary victimisation, namely further stigma associated with GBV, such as community and family ostracism.¹⁵¹

Scholar Bellows (2003) proposes the term “food violences” to characterize periods or chronic physical, psychological, and political harm associated with food availability and food-related work. Violences related to food that affect women encompasses several aspects of their lives.¹⁵²

As previously explained, notwithstanding their central contributions to food and nutrition security of households and communities, women struggle in having access to and owning assets, including lands and resources; they are disproportionately represented in lower-paying and insecure jobs; and suffer from discriminatory gender norms that restrict their freedom of movement and burden them with unpaid caring responsibilities. Moreover, their lack of access to education and training opportunities can limit their ability to improve productivity and profitability through new technologies and practices.¹⁵³

Consequently, where women have less power and resources, GBV can serve as a driver of food insecurity, for example when women eat less because of fear of retaliation or are deprived of food by partners or family members; while food insecurity can increase the risk of exposure to violence, for instance when women are obliged to sexually exploits

¹⁵⁰ *Ibid.*

¹⁵¹ *Ibid.*

¹⁵² Bellows, A. C., et al, *Violence as an Under-Recognized Barrier to Women's Realization of Their Right to Adequate Food and Nutrition: Case Studies from Georgia and South Africa*, in *Violence Against Women* 2015, Vol. 21(10), 1194-1217

¹⁵³ O'Mullan, C., et al, *A scoping review on the nature and impact of gender-based violence on women primary producers*, in *BMC Women's Health*, (2024), 24:395

themselves or are exploited to have access to food,¹⁵⁴ or when men take out their frustrations on women when they experience food insecurity. Moreover, when women are exposed to psychological distress, financial dependence, or fear of retribution, they are motivated to stay with their abusive partners or to engage in risky behaviours.¹⁵⁵

The denial of the right to food is a form of gender-based violence. Violence represents a barrier to the realization of women's right to adequate food and it can increase food insecurity by undermining the physical and psychosocial well-being of survivors. Injuries or illness can affect their capacity to work, limiting their productivity or capacity to secure food.¹⁵⁶

Notwithstanding the relevance of the link between food and violence, the topic is overlooked and not comprehensively addressed and as a result, its lack of attention not only violates women's human rights, but also influences the well-being of entire families, communities, and States.¹⁵⁷

Women's right to food is progressively realized when the path to food security is co-designed, co-implemented, co-monitored, and co-evaluated by women and when recourse and remedy options are possible to address and overcome the barriers they face.¹⁵⁸

3.2 The Council of Europe

The Council of Europe is an international organization based in Strasbourg, it was founded in 1949 by 10 States and is now composed of 46 members – after the exclusion of the Russian Federation in 2022. It aims to uphold human rights, democracy and the rule of law through international cooperation.

¹⁵⁴ Ward, J., *GBV Risks, Food Insecurity, and the Integrated Food Security Classification – What are Basics that Food Security and GBV Actors Need to Know?*, Gender Based Violence AoR Global Protection Cluster, 2022

¹⁵⁵ Agrawal, P., et al., *The interrelationship between food security, climate change, and gender-based violence: A scoping review with system dynamics modeling*, in PLOS Global Public Health, February 24, 2023

¹⁵⁶ WE EFFECT, *Women's Right to Food – Putting Gender Justice on the Table* available at: https://weeffect.org/app/uploads/2021/03/we_womens-right-to-food_hog.pdf

¹⁵⁷ Bellows, *supra note 152*

¹⁵⁸ *Ibid.*

The Council of Europe must be distinguished from the Council of the European Union, which is a body of the EU made up of government ministers and is the main decision-making body together with the European Parliament.¹⁵⁹

The Council of Europe is composed of the Secretary General, the Committee of Ministers, the Parliamentary Assembly, the Congress of Local and Regional Authorities, the European Court of Human Rights, the Commissioner for Human Rights, and the Conference of International Non-Governmental Organizations.

The Secretary General is elected by the Parliamentary Assembly for a once renewable five-year term of office. He/she is responsible for the strategic planning and direction of the Council's work programme and budget and leads and represents the organization. The Committee of Ministers is the Council's decision-making body and is made up of the ministers of foreign affairs of each member state or their permanent diplomatic representatives in Strasbourg. It decides policies and approves the budget and the programme of activities. The Parliamentary Assembly consists of 306 members and represents a democratic forum for debate and monitors elections. The Congress of Local and Regional Authorities is responsible for strengthening local and regional democracy in the member states and is composed of two chambers and three committees. The European Court of Human Rights is the judicial body guaranteeing the rights safeguarded by the European Convention on Human Rights. The Commissioner for Human Rights independently addresses and brings attention to human rights violations. The Conference of International Non-Governmental Organizations provides vital links between politicians and the public and brings the voice of civil society to the Council.¹⁶⁰

¹⁵⁹ https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/council-european-union_en

¹⁶⁰ <https://www.coe.int/en/web/about-us/structure>

3.3 The Convention for the Protection of Human Rights and Fundamental Freedoms

Membership to the Council of Europe is automatically linked to the European Convention on Human Rights, adopted in 1950 and entered into force in 1953. The instrument protects human rights and fundamental freedoms in Europe.¹⁶¹

The Convention starts with a preamble and is divided in three sections: the first section contains a list of human rights and freedoms; the second section refers to the establishment of the European Court of Human Rights and its operation modalities; the third section contains miscellaneous provisions.¹⁶²

The Convention protects the right to life, freedom and security; respect for private and family life; freedom of expression; freedom of thought, conscience and religion; vote in and stand for election; a fair trial in civil and criminal matters; property and peaceful enjoyment of possessions. It prohibits the death penalty; torture or inhuman or degrading treatment or punishment; slavery and forced labour; arbitrary and unlawful detention; discrimination in the enjoyment of the rights and freedoms secured by the Convention; and deportation of a state's own nationals or denying them entry and the collective deportation of foreigners.¹⁶³

Originally, three institutions were responsible for enforcing the obligations undertaken by the Parties: the European Commission of Human Rights, the European Court of Human Rights, and the Committee of Ministers of the Council of Europe. All individual applications were preliminarily examined by the Commission, which decided whether they were admissible. If a complaint was declared admissible, and no friendly settlement was reached, the Commission drew up a report establishing the facts and expressing a non-binding opinion on the merits of the case. The Commission and/or the State could

¹⁶¹ <https://eur-lex.europa.eu/EN/legal-content/glossary/european-convention-on-human-rights-echr.html>

¹⁶² <https://www.europewatchdog.info/en/convention-on-human-rights/#:~:text=Content%20and%20structure&text=The%20ECHR%20was%20drawn%20up,of%20human%20rights%20and%20freedoms.>

¹⁶³ <https://www.coe.int/en/web/human-rights-convention/our-rights>

then decide to refer the case to the Court for a final and binding rule. If the case was not brought before the Court, the Committee of Ministers would decide.¹⁶⁴

Now, the Court – set up in 1959 – rules on individual or state applications alleging violations of the Convention and since 1988, it has sat as a full-time court and individuals can apply to it directly. Any Party can decide to refer to the Grand Chamber if the issue is concerning serious questions on the interpretation or the application of the Convention or an issue of general importance. The Grand Chamber decides on the case by majority and all final judgments of the Court are binding for the Member States.¹⁶⁵

3.3.1 Possible scope of application of the right to food: Article 3 of the ECHR

The European Convention of Human Rights mainly protects civil and political rights, still, the European Court of Human Rights has indirectly considered violations of socio-economic rights. Particularly, the Court has found violations of Article 3 in relation to food, as the lack of access to adequate food can be considered a degrading treatment.

Article 3 of the Convention states:

*“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”*¹⁶⁶

The prohibition of torture, inhuman and degrading treatment amounts to *jus cogens*. *Jus cogens* norms are defined by Article 53 of the 1969 Vienna Convention on the Law of the Treaties (VCLT) as norms of general international law that are accepted and recognized by the whole international community as fundamental, and as such cannot be derogated, but can be modified only by a subsequent norm of general international law having the same character. Such article also provides that if, at the time of his conclusion, a treaty conflicts with a peremptory norm of general international law, the treaty is null and void.¹⁶⁷

¹⁶⁴ <https://prd-echr.coe.int/web/echr/european-convention-on-human-rights>

¹⁶⁵ <https://rpcoe.esteri.it/en/litalia-e-il-coe/il-consiglio-deuropa/european-court-of-human-rights/>

¹⁶⁶ Council of Europe, European Convention on Human Rights (1950), Article 3

¹⁶⁷ International Law Commission, Vienna Convention on the Law of Treaties (1969), Article 53

Examples of such norms include prohibition of genocide, slavery, torture, aggression, apartheid, use or threat of the use of force and the right to self-determination. Moreover, according to Article 64 of the VCLT, if a new peremptory norm of general international law emerges, any existing treaty in conflict with that norm becomes void and terminates.¹⁶⁸

As for the prohibition of torture, the European Court has stated that it is *one of the most fundamental values of democratic societies*¹⁶⁹ and represent a *standard accepted by the entire international community*.¹⁷⁰ Article 3 represents the only provision within the Convention that does not allow any derogation¹⁷¹, as no circumstance, including the threat of terrorism or national security concerns, can justify the exposure of an individual to the concrete risk of such human rights violations.¹⁷²

In order to fall within the scope of Article 3 of the European Convention on Human Rights, the treatment must reach a “minimum level of severity”, which is also the factor that distinguishes torture from inhuman or degrading treatment. Still, severity is not just an issue of the level of pain or suffering inflicted but involves any serious attack on an individual’s dignity; and includes the duration, the physical and mental effects of the treatment, and sex, age and state of health of the victim.¹⁷³ Moreover, the dynamics of power and control must be taken into account.¹⁷⁴ *Ireland v. UK* is the leading case that defined the threshold for the level of severity. Accordingly, the methods of interrogation – involving sleep deprivation, stress positions, deprivation of food and drink, and subjection to noise and hooding – used by UK troops in Northern Ireland against IRA suspects constituted a breach of Article 3.¹⁷⁵ Still, the Court has never drawn up a list of acts which will automatically be considered severe enough to be classified as torture, but instead it has always been flexible in order for the Convention to be a living instrument which must be interpreted in light of current conditions.¹⁷⁶

¹⁶⁸ International Law Commission, Vienna Convention on the Law of Treaties (1969), Article 64

¹⁶⁹ ECHR, *Case of Soering v. The UK*, para 88

¹⁷⁰ ECHR, *Soering v. The United Kingdom*, 1989

¹⁷¹ Danisi, C., *Divieto e definizione di tortura nella normativa internazionale dei diritti dell’uomo*, in DIRITTO&DIRITTI, 2009, pp. 1-14

¹⁷² <https://www.adir.unifi.it/rivista/2015/gori/cap2.htm#1>

¹⁷³ ECHR, *Case of Selmouni v. France*, para 100

¹⁷⁴ James, C., *Food, dignity, and the European Court of Human Rights*, in *Legal Studies* (2023), pp. 1-18

¹⁷⁵ https://www.files.ethz.ch/isn/16023/Guide%20to%20Jurisprudence%20on%20Torture_E.pdf

¹⁷⁶ ECHR, *Case of Selmouni v. France*, para 101

Moreover, in *The Greek Case*, the European Commission of Human Rights held that the defining characteristic of torture is not necessarily the nature and severity of the act, but rather the purpose for which the act was perpetrated. Indeed, in *Selmouni v. France*, the Court noted that torture is “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person”.¹⁷⁷

Differently, inhuman treatment is at least a treatment which deliberately causes severe mental or physical suffering, which in the particular situation is unjustifiable. Degrading treatment has been the subject of more substantial definitional considerations, for example, it can imply some form of gross humiliation, interfering with a person’s dignity.¹⁷⁸

In relation to food, the Court considers adequacy of food in terms of nutritional content, not just supply of sufficient calories. The contexts in which the Court has established violations of such right can be distinguished in three groups: firstly, confinement in psychiatric institutions; secondly, detention cases; and asylum-seeking cases outside of detention.¹⁷⁹

a. Confinement in psychiatric institutions

In *Stanev v. Bulgaria*, the applicant is a Bulgarian national, who, in 2000, was declared by the Ruse Regional Court to be partially lacking legal capacity on the ground that he had been suffering from simple schizophrenia. In 2002, the applicant was transferred to a social care home for adults with mental disorders, without any explanation of the reasons for and the length of his placement in the home.¹⁸⁰

The agreement between the trustee and the Pastra social care home did not mention the applicant’s name or the duration of its validity, but required the home to provide food,

¹⁷⁷ ECHR, *Case of Selmouni v. France*, para 98

¹⁷⁸ https://www.files.ethz.ch/isn/16023/Guide%20to%20Jurisprudence%20on%20Torture_E.pdf

¹⁷⁹ James, C., *supra note 174*

¹⁸⁰ ECHR, *Stanev v. Bulgaria*, <https://hudoc.echr.coe.int/eng?i=001-99998>, para 2-11

clothing, medical services, hearing and accommodation in return for payment of an amount determined by law.¹⁸¹

As for diet, hygiene and sanitary conditions, the applicant asserted that the food provided at the home was insufficient and of poor quality, he had no say in the choice of food and could not assist in its preparation. Access to the bathroom was permitted once a week, and the space was unhealthy and decaying. The toilets consisted of holes in the ground covered by dilapidated shelters and each of them was used by a minimum of eight people. Toiletries were available only sporadically.¹⁸²

The applicant attempted several times to seek release from trusteeship to restore his legal capacity; but reports by the director and the social care home workers indicated that it was not possible for him to reintegrate into society. At the applicant lawyer's request, a new examination by a different psychiatrist occurred and it was reported that his health had visibly stabilised and as a consequence, reintegration was possible, as his stay in the Pastra social care home was very destructive for his health.¹⁸³

Therefore, the applicant considers that he had been unlawfully and arbitrarily deprived of his liberty against his will (Article 5); he complained that his living conditions in the Pastra social care home were poor (Article 3 read in conjunction with Article 13); he complained that he had no access to a court to seek the restoration of his legal capacity (Article 6); and complained about the trusteeship system, which interfered with his right to his private life and home (Article 8).¹⁸⁴

The Court established that without the applicant's prior consent, the decision to place him in a social care home for people with mental disorders was invalid and that his deprivation of liberty was contrary to Article 5.¹⁸⁵ Moreover, his direct access to a court to seek restoration of his legal capacity had not been guaranteed, resulting in a violation of Article 6.¹⁸⁶

¹⁸¹ *Ibid*, para 12

¹⁸² *Ibid*, para 22-23

¹⁸³ *Ibid*, para 31-34

¹⁸⁴ *Ibid*, para 87-90

¹⁸⁵ ECHR, *Case of Stanev v. Bulgaria Judgment*, 2012, https://www.escribnet.org/sites/default/files/caselaw/decision_on_stanev_v_bulgaria_0.pdf para 132

¹⁸⁶ *Ibid*, para 245-246

As for the alleged violations of Article 3 taken alone and in conjunction with Article 13, the Court recalls that the prohibition of torture, inhuman or degrading treatment is one of the most fundamental values of democratic society and it is absolute. The body considers that some aspects of the applicant's physical living conditions are a considerable cause for concern, particularly in terms of insufficient and poor-quality food and hygiene. Therefore, the living conditions to which he was exposed during a period of approximately seven years amounted to degrading treatment. Article 3 had been violated.¹⁸⁷

b. Detention cases

Most of the cases in which the Court ruled that inadequacy of food amounted to degrading treatment dealt with food provided to prisoners. Detention context gives rise to asymmetrical power relationships.

In *Stepuleac v. Moldova* (2007), the applicant had been detained for over three months without adequate medical assistance, sufficient food and heating, free access to tap water and a toilet or access to daylight for up to 22 hours a day. Similarly, in *Dudchenko v. Russia* (2017), the violation of Article 3 occurred before and during transit between detention facilities, when the prisoner had not been provided with food.¹⁸⁸

Moreover, the issue of inadequacy of food gains more importance when considering certain applicants in detention. In *Korneykova and Korneykov v Ukraine* (2016), the applicant, while five months pregnant, was detained by the police on suspicion of robbery. She gave birth to his child in May 2012 at Kharkiv Maternity Hospital and was discharged a few days later.¹⁸⁹

The applicant asserts that her cell was cold and damp and that there was no hot water and only an irregular supply of cold water; and there was no baby changing table or cot. She

¹⁸⁷ *Ibid*, para 201-213

¹⁸⁸ James, C., *supra note* 174

¹⁸⁹ ECHR, *Case of Korneykova and Korneykov v. Ukraine*, <https://hudoc.echr.coe.int/eng?i=001-161543>, para 8-16

was not provided with any baby hygiene products, and she did not receive nutrition suitable to her needs.¹⁹⁰

The applicant complained that she had been shackled to her bed in the maternity hospital¹⁹¹ and that the poor conditions in detention and the lack of adequate medical care to her son amounted to a violation of Article 3.¹⁹²

The Court recalls that the State must ensure that a detained person lives in conditions which are compatible with respect to his human dignity. It found that the food given was insufficient and this in itself raises an issue under Article 3 but becomes even more crucial in the case of a breastfeeding mother, who can see her mental health worsened due to her reproductive status. Therefore, Article 3 had been violated.¹⁹³

These decisions emphasize that when individuals rely on the State, the lack of access to sufficient food severely undermines their physical and mental health, constituting a serious violation of their human dignity. Moreover, the physiological effects of hunger offer concrete medical evidence of the harm suffered by the applicants, which the Court considers when determining if the threshold of Article 3 has been exceeded.¹⁹⁴

c. Asylum seeking cases

Asylum seekers who are detained in camps are vulnerable individuals who depend on state authorities and/or non-governmental organisations for their basic needs.

The case of *RR and others v. Hungary* (2021) concerned the confinement of an Iranian Afghan family, including three minors, to the Roszke transit zone at the border of Hungary and Serbia.¹⁹⁵ The applicants complained about the conditions of their confinement which amounted to a violation of Article 3.¹⁹⁶

¹⁹⁰ *Ibid*, para 26-29

¹⁹¹ *Ibid*, para 97

¹⁹² *Ibid*, para 117

¹⁹³ *Ibid*, para 128-148

¹⁹⁴ James, C., *supra note* 174

¹⁹⁵ ECHR, *Case of R.R. and others v. Hungary*, <https://hudoc.echr.coe.int/fre?i=001-208406>, para 1

¹⁹⁶ *Ibid*.

The Court highlighted the particular vulnerability of the applicants owing to R. R's repeat asylum seeker status, the children's young age and the pregnancy of his wife. The Court recognized that, due to their lack of access to food and extreme poverty, the applicant could not leave – although he was not obliged to stay – the transit zone and had to be fully reliant on the Hungarian authorities for his basic human needs.¹⁹⁷ The applicant described that he was forced to take food from dustbins and begging.¹⁹⁸

As such, there was a violation of Article 3,¹⁹⁹ although the Court did not assess whether the ill-treatment amounted to degrading or inhuman treatment. However, the Court recognized that having to beg or take waste food is linked to the worth and dignity of the applicant.²⁰⁰

In this case, it was the lack of food alone that triggered the violation of Article 3, and not more general degrading living conditions. The Court also criticised the lack of formal agreement with NGOs working in the zone to ensure consistent food provision, the absence of safeguards and the lack of proper assessment of the applicant's situation.²⁰¹

Although the vast majority of cases involves detention, the Court can trigger the violation of Article 3 in cases of inadequate welfare support taking place outside detention, but in which the vulnerability of the applicants at the time of the ill-treatment is key.²⁰²

In *MSS v. Belgium and Greece*, the applicant was an Afghan asylum seeker who entered the European Union through Greece and travelled on to Belgium where he applied for asylum.²⁰³ According to the Dublin rules,²⁰⁴ Greece was responsible for the examination of his application, therefore Belgium transferred him there in 2009, where he firstly faced insalubrious conditions in detention and then lived on the streets without any material

¹⁹⁷ *Ibid*, para 48 - 65

¹⁹⁸ *Ibid*, para 42

¹⁹⁹ <https://www.asylumlawdatabase.eu/en/content/rr-and-others-v-hungary-ecthr-rules-asylum-seeking-family%E2%80%99s-rights-under-article-3-and>

²⁰⁰ James, C., *supra* note 174

²⁰¹ *Ibid*.

²⁰² *Ibid*.

²⁰³ ECHR, *Case of M.S.S. v. Belgium and Greece*, <https://hudoc.echr.coe.int/fre?i=001-103050>, para 9 - 17

²⁰⁴ The Dublin Regulation determines which EU member state is responsible for the examination of an application for asylum. Accordingly, the application will be processed by the first Dublin country the asylum seeker comes to. If he/she applies for protection in another Dublin country, he or she will be sent back to the country that has already considered his/her application or that is responsible for considering the application.

<https://www.udi.no/en/word-definitions/cooperation-under-the-dublin-regulation/>

support, in extreme poverty and unable to cater for his basic needs, such as food, hygiene and a place to live.²⁰⁵

The Court recalled that the States must ensure that detention conditions are compatible with the respect for human dignity; moreover, it recognized that the applicant's living conditions, combined with the prolonged uncertainty in which he had remained and the lack of any prospects of improvement, have triggered the level of severity required to fall within the scope of Article 3 of the Convention.²⁰⁶

Similarly, in *Z. and others v. UK*, Article 3 was breached because the local authority failed to remove siblings from a household characterised by abuse and poor living conditions. The children had to steal food at school and from bins and kept losing and failing to gain weight. This amounted to both inhuman and degrading treatment.²⁰⁷

3.3.2 Possible scope of application of the right to food: Article 2 and Article 8 of the ECHR

The European Court of Human Rights has also considered applications concerning food poverty and poverty in general under Article 2, which protects the right to life, and Article 8, which protected the right to respect for private and family life.

For instance, in *Nencheva and Others v. Bulgaria*, the Court established that insufficient food was one of the causes of the death of children in a home for disabled young people. Where people are detained or confined and are totally dependent on the State, Article 2 is necessarily engaged if people are not given enough food and subsequently die. However, in the cases of people living outside of detention but in poverty, it could be more difficult to establish the causal link between the State's failure to provide adequate benefits and death.²⁰⁸

Article 8 has been used to challenge the deficiencies of the welfare benefits that provoke and/or increase poverty. However, this strategy has not always been successful, as the

²⁰⁵ ECHR, *Case of M.S.S. v. Belgium and Greece*, para 206

²⁰⁶ <https://www.asylumlawdatabase.eu/en/content/ecthr-mss-v-belgium-and-greece-gc-application-no-3069609>

²⁰⁷ James, C., *supra note 174*

²⁰⁸ *Ibid.*

State can justify limitations on the right in pursuit of certain welfare and fiscal policies. In contrast, Article 3 represents the best existing option as it is an absolute right and cannot be derogated.²⁰⁹

3.4 The Convention on Preventing and Combating Violence against Women and Domestic Violence

Violence against women is a worldwide recognized phenomenon. Documents such as the UN Declaration on the Elimination of Violence against Women and the Beijing Platform for Action have played a key role in raising awareness and establishing international legal frameworks to combat violence against women.

Since the 1990s, the Council of Europe has undertaken a series of initiatives – such as the “Strategies for the elimination of violence against women in society: the media and other means”; and the Action Plan to Combat Violence against Women – to promote the protection of women against violence. In 2002, the Committee of Ministers adopted Recommendation 5, which represents a milestone as it proposes for the first time in Europe a comprehensive strategy for the prevention of violence against women and the protection of victims. It has been a reference text for Member States and its implementation is regularly monitored by means of a monitoring framework to evaluate progress.

During the Warsaw Summit of 2005, the Heads of State and Government of the Council of Europe Member States decided to carry out a large-scale campaign on the issue, monitored by the Task Force to Combat Violence against Women, including Domestic Violence, composed by members appointed by the Secretary General. The campaign was strongly felt by the Parliamentary Assembly, and it brought examples of good practices and initiatives, raising even more awareness.²¹⁰

The Parliamentary Assembly has repeatedly called for the need of legally binding standards on the topic and as a result the Ad Hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO) was created,

²⁰⁹ *Ibid.*

²¹⁰ <https://rm.coe.int/1680a48903>

which had the task of preparing one or more legally binding instruments to prevent and combat domestic violence, including specific forms of violence, and to protect and support the victims of such violence, as well as prosecute the perpetrators.²¹¹

Also known as the Istanbul Convention – the place where it was opened for signature by States – the Convention on Preventing and Combating Violence against Women and Domestic Violence is a treaty of the Council of Europe that entered into force in 2014 and is ratified by 39 countries.²¹²

The Convention aims at preventing and combating all forms of violence against women, including domestic violence, as well as protecting and supporting the victims of such violence, and prosecuting the perpetrators. It acknowledges that violence against women is a structural violation of human rights, which results in physical, sexual, psychological, or economic harm or suffering.²¹³

Article 3 provides a series of relevant definitions:

“For the purpose of this Convention:

- a. “violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that results in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life;*
- b. “domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;*
- c. “gender” shall mean the socially constructed roles, behaviours, activities, and attributes that a given society considers appropriate for women and men;*

²¹¹ *Ibid.*

²¹² <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=210>

²¹³ Council of Europe, Istanbul Convention (2011), Article 3

- d. “gender-based violence against women” shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately;
- e. “victim” shall mean any natural person who is subject to the conduct specified in points a and b;
- f. “women” includes girls under the age of 18.”

When referring to domestic violence, the Committee of Ministers of the Council of Europe recognized that this kind of violence occurs to a greater disproportional extent against women and girls. Differently from domestic violence, which is characterized by the space in which it is committed, violence against women is characterized by the gender of the subject over whom it is perpetrated.²¹⁴

The Convention is based on 4 “Ps”: Prevention, Protection, Prosecution, and Policy. The preventive action is key because violence against women is rooted in the historical gender inequality between men and women. States must adopt the necessary measures to promote changes in social and cultural patterns of behaviour in order to eliminate prejudices and traditions based on the idea of inferiority of women and/or on stereotyped roles for women and men. They must consider the specific needs of vulnerable people, such as disabled, migrants, and rural women, and must take measures that encourage all members of society, in particular men and boys, to actively contribute to this cause.²¹⁵

Protection is the second aim, and it focuses on the victims, who must be informed of their rights, as well as where and how they can get help. They can rely on support services, which consist in legal and psychological advice, financial assistance, accommodation, education, job-seeking, access to health services. States parties must ensure assistance in individual and/or collective complaints, specialist support services, accessible shelters, telephone helplines, rape crisis or sexual violence referral centres which guarantee medical and forensic examination, trauma support, and counselling for victims.²¹⁶

²¹⁴ Merino-Sancho, V., M., *Article 3: Definitions*, in Preventing and Combating Violence Against Women and Domestic Violence. A Commentary on the Istanbul Convention, Elgar Commentaries in Human Rights series, Edited by Sara De Vido and Micaela Frulli, 2023

²¹⁵ [https://www.coe.int/en/web/istanbul-convention/the-convention-in-brief#{%2211642062%22:\[1\]}](https://www.coe.int/en/web/istanbul-convention/the-convention-in-brief#{%2211642062%22:[1]})

²¹⁶ *Ibid.*

Prosecution is included in Chapter V. The offences must be punishable under national law by effective, proportionate, and dissuasive sanctions. States parties shall introduce new offenses where they do not exist and must implement other measures, such as monitoring or supervision of convicted persons or the withdrawal of parental rights. Aggravating circumstances may be taken into consideration, in particular if the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabitating with the victim or a person having abused her or his authority, if the offences were committed repeatedly, if the offence was committed against a vulnerable person and against or in the presence of a child.

Investigations and judicial proceedings shall be carried out without undue delay while taking into consideration the rights of the victims during all stages of the criminal proceedings. Victims cannot be blamed for their past behaviour in order to reduce or cancel the responsibility of the perpetrator. Victims, as well as their families and witnesses, must be protected from intimidation, further victimisation, and retaliation; they must be informed whether the perpetrator escapes or is released and regarding their rights and the services at their disposal.²¹⁷

Lastly, preventive, protective, and prosecutive actions require a solid normative system and cooperation between all relevant agencies, institutions, and organizations. An effective response to such violence requires concerted policies by different actors, such as government agencies, NGOs, national, regional and local parliaments and authorities, but also society itself.²¹⁸

States parties may adopt more favourable measures than the ones provided for under the Convention and can ratify more advanced treaties. Likewise, other international agreements could give in on the Istanbul Convention. As stipulated by Article 23 of the CEDAW, any more conducive provision will not be affected by the Convention itself and this results in a synergy between the CEDAW and the Istanbul Convention, as the latter makes it possible to strengthen international standards.²¹⁹

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*

²¹⁹ De Vido, S., *Donne, violenza e diritto internazionale: la Convenzione di Istanbul del Consiglio d'Europa del 2011*, MIMESIS, 2016, pp. 104-105

The body responsible for the implementation of the Convention by the State parties is GREVIO. It is composed of a minimum of 10 and a maximum of 15 independent experts elected by the Committee of the Parties to the Convention every four year and ensures a balanced participation of women and men and a geographical balance, as well as multidisciplinary expertise.²²⁰

GREVIO writes and publishes reports which evaluate legislative and other measures taken by the parties to give effect to the provisions of the Convention. It may initiate special inquiry procedures if action to prevent a serious, massive or persistent pattern of any acts of violence is required. It may also adopt general recommendations on themes and concepts of the convention.²²¹

GREVIO is also part of the Platform of Independent Expert Mechanisms on Discrimination and Violence against Women (EDVAW Platform), which gathers seven United Nations and regional independent expert mechanisms on violence against women and women's rights.²²²

3.5 The absence of provisions on the right to food in the Convention

The Istanbul Convention does not cover the right to food for women victims of violence. Nevertheless, some provisions may be interpreted in light of it, particularly after the situation of violence, when women are still vulnerable and in need of support, in terms of general and specific services, such as shelters. The Convention does emphasize the importance of ensuring comprehensive support and protection for victims of gender-based violence and domestic violence, which can involve addressing their broader needs, including the access to basic resources. Ensuring that survivors have access to adequate food is a crucial part of supporting their overall safety and security.

Adequate food intake is essential for healing and preventing long-term health complications, it provides the energy and strength to recover from trauma and participate in daily activities. Not only that, but economic independence is a critical aspect of recovery for survivors, as it empowers them to make their own choices, reduce their

²²⁰ <https://www.coe.int/en/web/istanbul-convention/grevio>

²²¹ *Ibid.*

²²² <https://www.coe.int/en/web/istanbul-convention/edvaw-platform>

reliance on potential abusers, and build a more stable and secure future. This includes employment, and as a consequence their capacity to provide for their needs – including food – on their own.

The provisions that can be indirectly linked to the issue will be listed and explained below, as well as two principles – non-discrimination and due diligence – which are considered the roots of the Convention.

Accordingly, Article 4 on fundamental rights, equality and non-discrimination prohibits any form of discrimination against women: as the list is non-exhaustive, such principle may include – among others – economic empowerment, physical well-being and living conditions, which are linked to food access.

Article 5 refers to State obligations, which can consist of refraining from violating the right to food, preventing third parties from violating the right to food and ensuring access to food through positive steps. Moreover, due diligence requires states to display their best efforts.

Article 6 mandates States to pursue gender-sensitive policies. In relation to food, this may mean addressing women’s particular needs, in terms of services (such as healthcare and family planning), a safe environment, and the elimination of their economic inequalities.

Article 8 requires States to provide adequate human and financial resources to achieve the objectives of the Convention. As victims are in a precarious situation, they particularly need resources from public authorities and non-governmental activities, as they guarantee the most specialized support.

Article 18 refers to protective and supportive services, including creating a safe environment where victims can access food without fear, by enabling them to purchase it and strengthening their financial independence, and by ensuring access to services such as food aid.

Articles 20, 22, 23 deal with general and specialized support services that enable victims to empower themselves by providing them with specific support and assistance that meet their needs. Needs may include food and other basic necessities. Particularly, the establishment of shelters to protect victims and their children must include the provision

of safe accommodation, which not only relates to a safe housing, but also the need to rebuild their lives freely and independently.

Finally, Article 56 on measures of protection is based on the understanding that victims must be protected at every stage of the process, as women and girls subjected to violence, including domestic violence, may face restriction on their access to resources, including food and such conditions can persist, even after leaving the abusive situation.

a. Article 4 – Fundamental rights, equality and non-discrimination

“1. Parties shall take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere.

2. Parties condemn all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it, in particular by:

- embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realisation of this principle;

- prohibiting discrimination against women, including through the use of sanctions, where appropriate;

- abolishing laws and practices which discriminate against women.

3. The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.

4. Special measures that are necessary to prevent and protect women from gender-based violence shall not be considered discrimination under the terms of this Convention.”

Since every person has the right to live free from violence in the public and the private sphere, paragraph 1 obliges States to promote and protect this right for women, who are predominantly victims of gender-based violence. This provision gives effect to the Preamble's aspiration to create a Europe free from violence against women and domestic violence.²²³

Discrimination against women represents one of the grounds for tolerance towards violence against women, therefore, any measure taken to prevent and combat violence against women needs to promote substantive equality between women and men, as it is the only way to prevent violence in the future. As a consequence, paragraph 2 affirms the principle of substantive equality and it requires to condemn all forms of discrimination and to enshrine the principle of equality in law, ensure its practical realization, prohibit discrimination by law and abolish any discriminatory legislation and practices. States may decide between a constitutional amendment or the embodiment in other legislative acts of the principle of equality.²²⁴ Although there is a list of obligations States must take, it is non-exhaustive, meaning they do not limit themselves to these obligations only.²²⁵

The Convention additionally requires States to take practical measures to implement the principle of equality: together with *de jure* equality, the *de facto* equality duty complements the idea that gender equality is key in order to eradicate violence against women.²²⁶

Paragraph 3 prohibits discrimination in Parties' implementation of the Convention on the grounds of gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status, or other status. The phrase "other status" makes the list an open-ended one. While Paragraph 2 calls on Parties to condemn discrimination in areas beyond the remit of the Convention, paragraph 3 requires States to refrain from discrimination in the implementation of the provisions of the Convention. Finally, this provision puts the accent on the rights of victims: GREVIO itself expects

²²³ Peroni, L., *Article 4: Fundamental rights, equality and non discrimination*, in Preventing and Combating Violence Against Women and Domestic Violence. A Commentary on the Istanbul Convention, Elgar Commentaries in Human Rights series, Edited by Sara De Vido and Micaela Frulli, 2023

²²⁴ Council of Europe Treaty Series – No. 210, *Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence*, 2011

²²⁵ Peroni, L., *supra note 223*

²²⁶ *Ibid.*

States to consider and address the increased vulnerability of groups of women who have experienced violence and have been re-victimized.²²⁷

Paragraph 4 refers to special measures that a Party may take to enhance the protection of women from gender-based violence. These measures would benefit women only and since women experience gender-based violence to a significantly larger extent than men, special resources and measures for the benefit of victims would not constitute a form of discrimination.²²⁸ Still, the provision does not require States to adopt these special measures, rather, if they decide to do so, the measures will not be considered discrimination even when they do not address men.²²⁹

b. Article 5 – State obligations and due diligence

“1. Parties shall refrain from engaging in any act of violence against women and ensure that State authorities, officials, agents, institutions and other actors acting on behalf of the State act in conformity with this obligation.

2. Parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors.”

This Article sets three different categories of obligations: the negative obligation to abstain from engaging in any act of violence against women (paragraph 1); the positive obligation to ensure that State authorities, representatives and any other person acting on the State’s behalf act in conformity with the obligation to refrain from acts of violence against women (paragraph 1); and the obligation to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence against women covered by the Convention that are perpetrated by non-State actors (paragraph 2).²³⁰

²²⁷ *Ibid.*

²²⁸ Council of Europe Treaty Series – No. 210, *supra* note 224

²²⁹ Peroni, L., *supra* note 223

²³⁰ Ollino, A., *Article 5: State obligations and due diligence*, in Preventing and Combating Violence Against Women and Domestic Violence. A Commentary on the Istanbul Convention, Elgar Commentaries in Human Rights series, Edited by Sara De Vido and Micaela Frulli, 2023

Paragraph 2 sets out the principle of due diligence as an obligation of means, i.e., and obligation requiring a Party to display its best effort toward the achievement of a given result, without the guarantee of success. In case of mere failure, State responsibility is not automatically implied, but it amounts to state responsibility when failure stemmed from its lack of effort.²³¹

The response to all forms of violence covered by the scope of the Convention must be organised as to diligently prevent, investigate, punish and provide reparation for such acts of violence. If the State fails to do so, the responsibility amounts to state responsibility for an act otherwise solely attributed to a non-state actor.²³²

Although being formulated in Article 5, due diligence is incorporated as one of the Convention overarching principles, and its content is to be interpreted in conjunction with the other provisions of the Convention, such as Article 18.²³³

c. Article 6 – Gender-sensitive policies

Article 6 embodies the backbone principle of the Convention. Accordingly,

“Parties shall undertake to include a gender perspective in the implementation and evaluation of the impact of the provisions of this Convention and to promote and effectively implement policies of equality between women and men and the empowerment of women”

Advancing gender equality and women’s empowerment is fundamental to eradicate violence against women.

The provision’s first obligation relates to the application of a gender perspective during the implementation of the Convention and the evaluation of its impact. GREVIO

²³¹ *Ibid.*

²³² Council of Europe Treaty Series – No. 210, *supra note 224*

²³³ Ollino, *supra note 230*

highlights the importance of anchoring a gender perspective in laws and policies on gender-based violence.²³⁴

Empowering victims of gender-based violence strengthens women's agency and lessens their vulnerability to violence. This is why the second obligation is promoting and effectively implementing policies that aim to achieve equality between women and men and the empowerment of women. GREVIO recalls that the violence against women is both a consequence and a cause of gender inequality and States must commit to constant efforts to maintain the progress and to ensure further achievements.²³⁵

d. Article 8 – Financial resources

“Parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by non-governmental organizations and civil society”

In order to fight against gender-based violence, adequate resources are needed. This is why this provision sets out a legally binding obligation for States to allocate appropriate financial and human resources for the implementation of integrated policies and measures to combat violence against women. If States allocated resources by adopting gender-sensitive budget practices, this would result in an increase in efficiency, effectiveness and fairness.²³⁶

Generally, resources are considered appropriate when they are relevant to directly or indirectly advance the objectives of the Convention. These resources are not limited to public authorities, but non-governmental activities have to be financed, as it is NGOs that provide most of the specialized support services and contribute more to a gender understanding of violence against women. States must support civil society organizations

²³⁴ Peroni, L., *Article 6: Gender-sensitive policies*, in Preventing and Combating Violence Against Women and Domestic Violence. A Commentary on the Istanbul Convention, Elgar Commentaries in Human Rights series, Edited by Sara De Vido and Micaela Frulli, 2023

²³⁵ *Ibid.*

²³⁶ Cerulli, F., *Article 8: Financial resources*, in Preventing and Combating Violence Against Women and Domestic Violence. A Commentary on the Istanbul Convention, Elgar Commentaries in Human Rights series, Edited by Sara De Vido and Micaela Frulli, 2023

by increasing access to stable and sustainable grants in line with the needs of those engaged in combating violence against women.²³⁷

e. Article 18 – General obligations

Article 18 states that:

“1. Parties shall take the necessary legislative or other measures to protect all victims from any further acts of violence.

2. Parties shall take the necessary legislative or other measures, in accordance with internal law, to ensure that there are appropriate mechanisms to provide for effective co-operation between all relevant state agencies, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities as well as non-governmental organisations and other relevant organisations and entities, in protecting and supporting victims and witnesses of all forms of violence covered by the scope of this Convention, including by referring to general and specialist support services as detailed in Articles 20 and 22 of this Convention.

3. Parties shall ensure that measures taken pursuant to this chapter shall:

- be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;*
- be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment;*
- aim at avoiding secondary victimisation;*
- aim at the empowerment and economic independence of women victims of violence;*
- allow, where appropriate, for a range of protection and support services to be located on the same premises;*
- address the specific needs of vulnerable persons, including child victims, and be made available to them.*

²³⁷ Ibid.

4. *The provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator.*

5. *Parties shall take the appropriate measures to provide consular and other protection and support to their nationals and other victims entitled to such protection in accordance with their obligations under international law.*²³⁸

This Article sets out several general principles to be respected in the provision of protective and supportive services. Paragraph 1 emphasizes a positive obligation of result, i.e., the general duty to implement legislative or other measures to protect all victims from further acts of violence covered by the Convention.²³⁹ Women are inherently and permanently at risk of gender-based violence and must be granted protection even if harm cannot be predicted in a given case.²⁴⁰

Paragraph 2 – consistent with the Convention's promotion of a comprehensive and multi-agency approach – mandates that States parties ensure, in line with domestic law, the existence of appropriate mechanisms that facilitate effective cooperation among key entities identified by the drafters, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities, and NGOs. The list is not exhaustive, therefore allowing for collaboration with additional organizations. The emphasis on collaboration among these actors is driven by the belief that the types of violence addressed by the Convention are most effectively tackled through coordinated and concerted efforts by multiple agencies. For instance, law enforcement agencies, often the first to engage with victims at a crime scene, need the capability to refer victims to specialized support services, such as shelters and rape crisis centres, typically operated by NGOs. The services then provide medical care, forensic evidence collection (if needed), psychological and legal counselling, and assist the victim in navigating subsequent steps, often involving the judiciary. Notably, this obligation extends not only to victims, but also witnesses, with particular consideration given to child witnesses.²⁴¹

²³⁸ Council of Europe, Istanbul Convention (2011), Article 18

²³⁹ Council of Europe Treaty Series – No. 210, *supra note 224*

²⁴⁰ Riccardi, A., *Article 18: General obligations*, in Preventing and Combating Violence Against Women and Domestic Violence. A Commentary on the Istanbul Convention, Elgar Commentaries in Human Rights series, Edited by Sara De Vido and Micaela Frulli, 2023

²⁴¹ *Ibid.*

Paragraph 3 outlines several objectives and criteria that protective and support services should aim for or be grounded in. All measures should be based on a gendered understanding of violence against women and domestic violence and due diligence. This means that services must adopt an approach that recognizes the gendered dynamics, impacts, and consequences of such violence, and operates within a framework of gender equality and human rights. Second, this paragraph emphasizes the importance of considering the relationship between victims, perpetrators, children, and their broader environment to avoid addressing needs in isolation or without acknowledging their social context. It is fundamental to assess victims' needs in light of all relevant circumstances, enabling professionals to make informed and appropriate decisions.²⁴²

Moreover, the paragraph requires all measures to focus on empowering women victims of violence and promoting their economic independence. This involves ensuring that victims understand their rights and entitlements and can make decisions in a supportive environment that treats them with dignity, respect and sensitivity. Services should also help victims regain control over their lives, which often includes working towards financial security and independence from the perpetrator. Finally, it mandates that Parties ensure support services are accessible to vulnerable individuals and cater to their specific needs. These services should be made available regardless of the victims' socioeconomic status and, where appropriate, provided free of charge.²⁴³ This means that the victims' rights and needs are to be not only acknowledged, but also met.²⁴⁴

Paragraph 4 addresses the concern that when victims may not be willing to press charges or testify against the perpetrator, they may be denied counselling or accommodation. This contradicts the principles of empowerment and the human rights-based approach and as such must be avoided.

Some forms of violence covered by the Convention may have an international dimension. Victims of crimes such as forced marriage, domestic violence, or those at risk of genital mutilation who are outside their home country may require consular protection, as well as medical and financial assistance. Hence, paragraph 5 requires Parties to take

²⁴² *Ibid.*

²⁴³ *Ibid.*

²⁴⁴ WAVE – Women Against Violence Europe, *Fact Sheet Istanbul Convention*, January 2016

appropriate measures to provide necessary consular assistance, and where appropriate, other forms of protection and support. This obligation extends not only to nationals of a party to the Convention but also to other victims who are entitled to national protection under international law, such as nationals of an EU member state that does not provide protection through a permanent representation (embassy, general consulate, or consulate).²⁴⁵

f. Article 20 – General support services

Article 20 states that:

“1. Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.

2. Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced and professionals are trained to assist victims and refer them to the appropriate services.”²⁴⁶

In providing services to victims, a distinction is drawn between general support services and specialist support services. General support services are those provided by public authorities, such as social services, healthcare, and employment services. These services offer long-term assistance and cater to the general public, not specifically to victims. On the other hand, specialist support services are focused on addressing the specific, often urgent, needs of victims of particular forms of violence, such as violence against women or domestic violence, and are not accessible to the general population. Although some of these specialist services may be government-run or funded, the majority are provided by NGOs.

²⁴⁵ *Ibid.*

²⁴⁶ Council of Europe, Istanbul Convention (2011), Article 20

Article 20, paragraph 1, mandates that public welfare services – including housing, employment, education, training, psychological and legal counselling, and financial support – must address the specific needs of victims of violence covered by this Convention when necessary. While many victims already use these services, their unique challenges and trauma may not always be fully recognized or addressed. Therefore, Parties to the Convention are required to ensure that victims have access to these services, receive supportive treatment, and have their needs appropriately met. Health and social services often have the earliest contact with victims. Paragraph 2 emphasizes that these services should be adequately funded to meet the long-term needs of victims and stresses the importance of training staff to understand the different forms of violence, the specific needs of victims, and how to respond effectively and supportively.²⁴⁷

g. Article 22 – Specialist support services

“1. Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention.

2. Parties shall provide or arrange for specialist women’s support services to all women victims of violence and their children.”

Building on the obligation outlined in Article 20, this provision and those that follow mandate that Parties to the Convention establish or ensure availability of a well-funded specialist support sector. The purpose of this specialized support is to empower victims by offering tailored support and assistance that meet their specific needs. Women’s organizations, along with services provided by local authorities composed of professionals and expertise in gender-based violence, are often best suited to deliver support. It is crucial to ensure these services are widely available across the country and accessible to all victims. Additionally, these services and their staff must be equipped to address the various forms of violence covered by the Convention and to support all victim groups, including those who are hard to reach. The range of support that these dedicated

²⁴⁷ Council of Europe Treaty Series – No. 210, *supra* note 224

services should offer includes safe shelter and accommodation, immediate medical care, forensic medical evidence collection in cases of rape and sexual assault, both short- and long-term psychological counselling, trauma care, legal counselling, advocacy and outreach services, telephone helplines to connect victims with appropriate services, and specific support for children as victims or witnesses.

h. Article 23 – Shelters

“Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.”

This article mandates that Parties establish a sufficient number of appropriate, easily accessible shelters as a key measure in fulfilling their obligation to provide protection and support. The primary purpose of these shelters is to offer immediate, ideally 24/7, access to safe accommodation for victims, particularly women and children, when their homes are no longer safe. Merely offering temporary housing or general shelters, such as those for the homeless, is inadequate as they do not provide the necessary support for empowerment. Victims often confront a range of interconnected challenges related to their health, safety, finances, and the well-being of their children. Specialized women’s shelters are best suited to address these issues, as their role extends beyond providing safe housing. These shelters offer support that helps women and their children cope with trauma, leave violent situations, regain self-esteem, and lay the groundwork for an independent life of their choosing. Additionally, women’s shelters are crucial in fostering networking, multi-agency cooperation, and raising awareness within their communities.²⁴⁸

To ensure the safety and security of women and children, it is essential that all shelters adhere to a set of standards. This includes assessing the security situation of each victim and developing an individualized security plan based on that assessment. The technical

²⁴⁸ *Ibid.*

security of the shelter itself is also vital, as violent attacks by perpetrators pose a threat not only to the victims but also to the staff and surrounding community. Effective collaboration with law enforcement on security matters is therefore indispensable.

This provision emphasizes the need to establish shelters in sufficient numbers to provide appropriate temporary accommodation for all victims. Different types of violence require specialized support and protection, and staff must be adequately trained to provide these services. The term "sufficient numbers" is intended to ensure that all victims' needs are met, both in terms of shelter capacity and specialized support. According to the Final Activity Report of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (2008), there should be one family place in a specialized women's shelter per 10,000 inhabitants in each region. However, the actual number of shelter places should be determined by the specific needs. For shelters addressing other forms of violence, the number of places should also be based on actual demand.²⁴⁹

Although psycho-social needs of victims and survivors of gender-based violence are not legal in nature, they are inextricably linked to the efficacy of legal interventions in gender-based violence cases. The provisions set out in these articles recognize those needs and have at their heart the safety and needs of victims.

The coexistence of both short and long-term support services ensures that States take care of the immediate and long-term needs of the victims, including their ability to fully recover and become economically independent. Women must be given a realistic chance to rebuild their lives outside violence.²⁵⁰

According to GREVIO, a multidisciplinary approach offers the advantage of providing an interconnected range of support services based on the victims' choices and needs.

²⁴⁹ *Ibid.*

²⁵⁰ Meyersfeld, B., and Sironi, De Gregorio, F., *Articles 20, 22, 23, 24 and 25*, in *Preventing and Combating Violence Against Women and Domestic Violence. A Commentary on the Istanbul Convention*, Elgar Commentaries in Human Rights series, Edited by Sara De Vido and Micaela Frulli, 2023

i. Article 56 – Measures of Protection

Article 56 lists several non-exclusive measures – both legislative and of other forms – aimed at safeguarding the rights of the victims.

Victims must be protected at every stage of the procedure, both during the investigations and during trial proceedings. They must be protected from intimidation, retaliation and repeated victimization, and so they must be their families and witnesses. Moreover, they must be informed when the perpetrator is released temporarily or definitely or escapes. It is also required that victims be informed of their rights and services at their disposal, in a language that they understand (letter c). Victims shall be heard, supply evidence and choose the means of having their views, needs and concerns presented and considered (letter d).²⁵¹

As for support services, Parties shall provide victims with appropriate ones (paragraph 1, letter e): specialist support services include shelter and safe accommodation, immediate medical support, the collection of forensic medical evidence in cases of rape and sexual assault, short and long-term psychological counselling, trauma care, legal counselling, advocacy and outreach services, telephone helplines to direct victims to the right type of service and specific services for children as victims or witnesses.²⁵²

As for letter (f), the protection of privacy extends to the risk of public disclosure of any information that could lead to the identification of victims is prevented. This requires taking measures, where appropriate and in accordance with internal law, to prevent public dissemination of any information that could lead to the identification of victims.²⁵³

Letter h obliges the provision of independent and competent interpreters, where necessary: language can represent a barrier when the victim is not able to speak the language of the country where she was subject to violence, as it further exacerbates her isolation.

²⁵¹ Council of Europe Treaty Series – No. 210, *supra* note 224

²⁵² Maravall-Buckwalter, I., and Montesinos Garcia, A., *Article 56: Measures of protection*, in *Preventing and Combating Violence Against Women and Domestic Violence. A Commentary on the Istanbul Convention*, Elgar Commentaries in Human Rights series, Edited by Sara De Vido and Micaela Frulli, 2023

²⁵³ Council of Europe Treaty Series – No. 210, *supra* note 224

Finally, letter i obliges Parties to ensure that victims are enabled to testify in the courtroom without being present or at least without the presence of the alleged perpetrator, in order to limit as far as possible, the psychological impact on the victim.

Paragraph 2 relates to the rights to special protection measures for child victims and child witnesses.²⁵⁴

To sum up, ensuring that survivors have access to adequate food is essential for their overall safety and security. While the Istanbul Convention does not explicitly address the right to food, its provisions emphasizing support and protection can be interpreted to include access to basic resources like food.

However, within the framework of the Council of Europe, what is most appropriate for safeguarding the right to food is Article 3 of the European Convention on Human Rights, which prohibits torture, inhuman and/or degrading treatment. The European Court of Human Rights has interpreted this to encompass living conditions, such as extreme hunger or malnutrition, particularly when the deprivation reaches a level of severity that constitutes inhuman or degrading treatment.

Beyond its implications for detention conditions, the principle of human dignity underlying Article 3 can be extended to broader contexts, including the protection of vulnerable individuals like survivors of gender-based violence. This would suggest that denying survivors access to essential resource like food violates their human rights.

Future developments may lead to even broader interpretations of food access for victims and survivors of gender-based violence, including domestic violence.

²⁵⁴ *Ibid.*

CHAPTER 4

Case study: Victims of GBV in the Municipality of Milan

Women face distinct and compounded challenges in securing their right to food, although they frequently bear the primary responsibility for feeding their families. Discrimination and lack of control over assets and economic opportunities further exacerbate their vulnerability.

Still, globally, a new perspective is developing. As the gender gap in food security affects economic resources, cultural and political challenges and family obligations, female leaders are working to address this issue: particularly, food banks led by women bring a unique connection with the communities, are excellent at problem solving and resources mobilization. This is due to the crucial role women play in food systems, as they are responsible for decisions in terms of management of needs and resources within their families.²⁵⁵

Food banking can empower female leadership, increase food security of women and girls, ultimately leading to the achievement of the UN Sustainable Development Goals, such as no poverty, zero hunger, quality education and gender equality.²⁵⁶

However, various forms of discrimination and disadvantage intersect and create unique experiences of oppression for women. This is the case of gender-based violence, which represent a very problematic issue, also encompassing global health.

Therefore, when taking as a research target women victims of gender-based violence, the topics of empowerment and independence acquire even more relevance, since they could have suffered from economic violence and food is linked to economic independence and autonomy. Their possibility to be economically independent is crucial to support the pathway out of violence and food can be seen as a means of empowerment, rather than of survival.

²⁵⁵ <https://www.foodbanking.org/blogs/the-crucial-role-of-women-in-food-systems/>

²⁵⁶ <https://www.foodbanking.org/reports/womensday.html>

While the previous chapters focused on the assessment of the legal frameworks dealing with the protection of women, the right to food, and gender-based violence, including domestic violence - at the UN and Council of Europe level, this chapter focuses on a case study that was possible due to an internship at *Fondazione Banco Alimentare ONLUS* (Milano), which allowed me to do some research thesis on the relationship between food and gender-based violence, particularly considering women hosted in anti-violence shelters in the Municipality of Milan.

4.1 The research target

The target of the study is victims and survivors of gender-based violence in the Municipality of Milan.

According to ISTAT, in Italy, 13,6% of women (two million, eight hundred thousand) have been subjected to physical or sexual violence by partners (5,2%) or former partners (18,9%).²⁵⁷

In 2023, there were 13,793 requests for help and intervention for domestic and gender violence. Within the interventions classified for ‘alleged domestic/gender violence’ where the alleged victim is female, only in 1.5 % of the cases the perpetrator is unknown to the victim. On the other hand, in 61.5% of the cases the perpetrator is linked to the victim by a sentimental relationship, current or former (in particular: in 43.2% of the cases the spouse/cohabiting partner or ex; in 18.3% of the cases the partner or ex). In two out of five (42%) cases of such violence perpetrated against women by perpetrators linked by a sentimental, current or past relationship, there were cohabiting minors.²⁵⁸

2,741 women turned to the anti-violence network of Milan. Of these, about half were asking for help for the first time. In 70% of cases, the first access took place spontaneously, without prior referral. Half of the applicants are between 21 and 39 years old, although the percentage of women between 40 and 60 years old (30%) is also

²⁵⁷ <https://www.istat.it/statistiche-per-temi/focus/violenza-sulle-donne/il-fenomeno/violenza-dentro-e-fuori-la-famiglia/il-numero-delle-vittime-e-le-forme-di-violenza/>

²⁵⁸ <https://www.poliziadistato.it/articolo/violenza-domestica-e-violenza-assistita--i-dati-del-2023>

noteworthy. As many as 62% of the total are Italian women who rely on anti-violence centres. Only 38% of them are economically autonomous.²⁵⁹

Food preparation is thought to be one of the major causes of the outbreak of violence by an intimate partner in the household, as the kitchen is assumed to be a feminine space, where women spend their time cooking, cleaning, and serving meals – a commonly recognized gender role.²⁶⁰

Studies highlight that food behaviours are associated with anger in men, when a woman's cooking or related efforts are unacknowledged and/or disrespected. Therefore, food behaviours can be harmful in unequal partnerships, escalating into anger, violence, or manipulation to create unequal power dynamics.²⁶¹

Episodes of violence can influence food choices and consumption, for example great consumption of fat in the diet, fast food, and generally more unhealthy foods, but also alcohol or the emergence of eating disorders.²⁶²

Still, the main topic here is the link between economic independence and food access: women who are victims of gender-based violence may be dependent on the abuser, and therefore struggle in having their own income and making their own choices. Moreover, when they leave the abusive situation, they live in precarious conditions, without a job or economic resources that would assure them economic independence.

4.2 Methods

In order to capture an effective understanding of food access for women victims of gender-based violence, I employed a mixed-methods approach, combining qualitative and quantitative research techniques. This methodology integrates the strengths of both

²⁵⁹ <https://www.milanotoday.it/attualita/aumento-donne-case-antiviolenza.html>

²⁶⁰ Warg, A., *Queering Kitchens: Dismantling Violence and Reimagining Livable Spaces*, in *Sprinkle: an undergraduate journal for feminist & queer studies*, Volume 13-2020

²⁶¹ Shimizu, R., et al., *The Role of Food and Food Behaviours in Intimate Partner Violence*, in *Journal of Family Issues*, Volume 44, Issue 6, June 2023, pp. 1572-1596

²⁶² Da Cruz Morais, L., et al., *Family violence and food consumption: A systematic review*, in *Aggression and Violent Behavior*, Volume 75, 2024

interviews and surveys to provide a comprehensive and nuanced perspective on the topic. Moreover, it enriches not only the analysis, but also the reliability and validity of the findings.

The qualitative aspect of the study involved conducting interviews with people working in anti-violence associations and/or shelters in the municipality of Milan. The list of associations that are part of the anti-violence network of the municipality of Milan can be found on the website.²⁶³ These interviews allowed for a detailed exploration of insights and opinions of people that are involved and work with survivors.

Complementing this, I tried to administer a survey to gather quantitative data from the victims themselves. The survey consists of 18 questions that encompass several aspects of food access and personal information of the subjects. It starts by gathering demographic information about the respondents' age, which are segmented into: 18-24 years, 25-34 years, 35-44 years, 45-54 years, 55-64 years, 65+ years.

Respondents are asked to indicate their marital status, with the option to select multiple categories if applicable: single, cohabitating (living with a partner), married, separated, divorced, widowed.

Then, there is a section regarding the presence of dependent children, whether they are present, the number and age of children, if the respondent is currently breastfeeding, and whether the children have access and use school meal services or are enrolled in childcare facilities or nurseries.

Most of the survey focused on food for the victims. Particularly, on difficulties that respondents faced in accessing sufficient and nutritious food during the period they experienced violence. The options included: always, often, sometimes, rarely, never.

Respondents are asked to identify the primary sources of food during the period of violence among personal purchases, donations from family/friends, donations from organizations/food banks, government assistance programs (vouchers, meal tickets, etc.), or other.

²⁶³ <https://www.reteantivolenzamilano.it/>

A further question assesses how respondents would describe the quantity of food they had access to during that period, with options ranging from: always sufficient, often sufficient, sometimes insufficient, often insufficient, always insufficient.

Respondents are asked to rate the quality of food they had access to, with responses including: very good, good, acceptable, poor, very poor.

Then, the survey focused on the current situation. Particularly, one question assesses whether respondents currently face difficulties in accessing sufficient and nutritious food; they are asked to indicate their current primary sources of food and whether they receive any support to access sufficient and nutritious food. If they answer “yes” to receiving support, they are asked to specify the nature of this support, including whether it is direct assistance or financial aid for independent purchase.

Respondents are asked how many meals they are able to have per day.

Finally, the last two questions focused on the identification of any unmet food needs and the provision of suggestions for improving access to food.

4.3 Findings

The results comprise two interviews, with an anti-violence centre worker and operator, and one with a victim of gender-based violence.

4.3.1 Interview 1

I had the opportunity to interview Sabrina Ignazi, coordinator of *Centro Antiviolenza SeD- Servizio Donne*, co-managed by *Farsi Prossimo* and *Caritas Ambrosiana*. This service was created in the 90s and through the years, it has become more updated on the sphere of gender violence. CAV collaborates with emergency structures, which give first aid, and also offers paths to gain autonomy, as well as secondary welcoming, a very relevant help in terms of education. The service also collaborates with the Municipality of Milan, head of the local network.

The networks are structured on territorial basis, comprising of 13 centres. Social assistants, educators, therapists and coordinators can be found, since the network is based

on a multidisciplinary approach. Moreover, both civil and criminal legal counselling are guaranteed.

Together with *Caritas Ambrosiana*, the network mostly aims at the sensibilization and training and offers counselling and listening centres in churches (*centri di ascolto parrocchiali*).

When asked about food access for victims of gender-based violence, she addressed the connection with economic violence, namely the situation in which women have limited or no access to economic resources within families and/or intimate relationships. A violent behaviour can also occur when they are not allowed to have their own income and a job, through pressures or prohibitions. It is known that abusers sabotage the victim's work and efforts to become self-sufficient.

These situations represent a strong reason not to ask for help and stay in the violent environment, as leaving would mean precarity and vulnerability.

In opposition, when women manage to escape abuse and are located in shelters and communities, access to food is guaranteed. First, they can ask for material and economic support to the counselling centres and dioceses, which are founded on charity services. Moreover, board and lodging (*vitto e alloggio*) are offered through the entire time of welcoming and can last for years when there is extreme vulnerability.

After the first months of full protection, women are given pocket money, namely an amount of money they can use for their needs, including food. This allows survivors to be autonomous in their choices. At the same time, paths to job training are activated, in order to re-empower the victims. Empowerment represents the focal point of this discourse, as those subjects who had been passive during the abuse have to regain their autonomy, independence, awareness and freedom of choice.

The goal of the entire network is to empower women in employment, in order for them to be independent and able to provide for themselves.

However, according to her, the main issue remains housing, because, differently from employment, it cannot be activated; it is becoming more and more expensive to find a house and victims have to find one in the free market, with no financial help; and even

though the option of public housing (*case popolari*) is available, not everyone can obtain one.

4.3.2 Interview 2

N.C. is a victim of gender-based violence in the workplace. She was the Director of a nursing home, and she explained that at the time, she was divorcing from her husband, and when confronting with a colleague about her situation, she found out that he was going through the same event. In the meantime, that same colleague had been fired due to some errors, and he was struggling. N.C. was trying to help. However, he started to psychologically persecute her. Notwithstanding this, she was still trying to help, but he started stalking her, threatening her family and finally it escalated to physical violence.

She reported that she had entered a loop of shame and inability to speak, and she even tried to commit suicide. She first requested six months' leave at work and she was proposed a job transfer.

Eventually, she was able to open up to a priest friend, asking for support, and he recommended a women's house in Milan, an extremely high protection structure where victims of violence can go, but that involves the cancellation of their previous life and the beginning of a new one, to protect them from the abusers.

Although the structure mainly hosts victims of trafficking – who are very often victims of violence – it also provides for victims of gender-based violence. The structure offers psychiatrists and psychologists, group and individual psychological activities, and work activities.

As for food, she reported that the food bank (*Banco Alimentare*) trucks delivered supplies on a weekly basis. Watching their arrival from the window elicited a profound sense of joy, akin to the celebration of Christmas. This reaction stemmed from the severe deprivation and vulnerability of her circumstances, which rendered the sight of these vehicles exceptionally remarkable.

Still, she indicated that she did not think too much about food, as it was a situation of general deprivation. However, some other hosted victims placed significant emphasis on food, due to deeply rooted traditions and cultural values, and thus found it challenging to

accept limitations on their ability to cook or find what they were used to. Nevertheless, when possible and provided that ingredients were available, they were permitted to prepare their own meals on weekends. This opportunity gave them a glimpse of normalcy.

Following her departure from the highly protective environment, she was accommodated in a semi-autonomous facility in Como. In this setting, while the operators managed the shopping, they still solicited the residents' preferences regarding their desired items.

After leaving that structure as well, she reported perceiving no change in food access, as she was able to rent her house during the time she was hosted in the structures, receiving an income that allowed her to be economically independent and provide for her needs, including food. However, she is aware of the fact that a lot of women struggle with it, because they are not economically independent.

Still, she had to find a new job, as it was not possible to return to the old one, for safety reasons. That is why she had the idea to create a specific cooperative that would give employment to women who had emerged from violence. The cooperative was created in 2016, with the collaboration of the Municipality of Milan and, notwithstanding the risks, she was appointed President, because she did not want her past to condition her life. However, after the period of financial support from Milan (three years), the structure could not sustain itself and had to close.

4.3.3 Surveys

Unfortunately, although one association had made itself available for the administration of the survey, it was not possible to have the results in time.

4.4 Discussion

Although representing a relevant issue during violence, the access to food is even more important and problematic after.

Several studies show that, among the most used services that offer help for victims, there are emotional support from friends or family, professional counselling, medication for

emotional problems, welfare, support or self-help groups, visits to medical providers, legal services for divorce or restraining orders, psychotropic medication, food banks and religious or spiritual counselling. Additionally, the services perceived as most helpful are subsidized day care, religious or spiritual counselling, subsidized housing, welfare benefits, educational services, food banks, job training, unemployment benefits, rape crisis or sexual assault services, and domestic violence shelters.²⁶⁴

This conclusion highlights that, although emotional, psychological, and legal support are important, victims look for tangible supports: survivors should be offered help in locating and securing these kinds of services, such as food, housing, and financial assistance, in order to bring more awareness to economic justice and self-sufficiency.²⁶⁵

Similarly, when interviewed, both workers at anti-violence shelters and victims put the accent on economic independence, which allows women to re-gain their autonomy and live a life free from violence. When women are victims of economic violence, having limited control over financial resources hinders their ability to seek help and it often leads to increased precarity and vulnerability.

In contrast, once a victim is in a safe environment, food can mean relief and a sense of normalcy, although for some victims, other needs may overshadow the one related to food.

Both interviews underscore the importance of empowerment in the recovery process, both with the aim to achieve economic independence through job opportunities, training and housing, and a life free from violence.

The discussions highlight the multifaceted nature of support for victims of gender-based violence. While food access is a crucial aspect of care, it cannot be addressed in isolation from economic independence and housing stability.

Furthermore, the narratives of empowerment and resilience exemplified by individuals like N.C. serve as powerful reminders of the potential for recovery and advocacy in the

²⁶⁴ Postmus, J. L., et al., *Women's Experiences of Violence and Seeking Help*, in *Violence Against Women*, Vol. 15, No. 7, July 2009, pp. 852-868

²⁶⁵ *Ibid.*

face of adversity. Moving forward, it will be vital to ensure that all aspects of a survivor's needs are recognized and addressed within the broader context of support services.

4.5 Limits and future perspectives

Although representing a discrete starting point, this research presents various critical points which limit its capacity to comprehensively address the issue of food access for victims and survivors of gender-based violence, including domestic violence.

First, the limited time available, as the research took time from May to August 2024, during the summer break, which made it difficult to gather significant answers from shelters and/or associations. As a consequence, having too little sample, the research cannot be statistically relevant.

Moreover, being a particularly sensitive issue, which includes the presence of vulnerable and traumatised people, it was not easy to contact the associations involved in protecting women victims of violence for several reasons. First, the associations themselves did not reply to my requests for contact; and, if they did, they replied that they could not help me or that they wanted to protect the well-being of their guests.

Out of 11 associations I contacted, only three answered. Of these three, one was not available, one made itself available but then decided not to administer the surveys, and one made itself available to answer, but did not submit the answers in time.

This attitude may be a symptom of climate of protection towards the victims of such pervasive problem. Maintaining privacy helps protect victims from potential retaliation or further harm from their abuser; develop a sense of safety and encourage them to share their experiences and seek support without having to feel fear, shame, or stigma; gives a sense of control over their narratives; not to mention the role of privacy in legal proceedings, where confidentiality ensures that sensitive information is not disclosed inappropriately.

Nevertheless, the current climate may not be fully receptive to the issue of food access for victims of violence: many victims are still struggling with immediate safety concerns, and until those are prioritized, discussions about the topic might not gain the attention it deserves.

Some future perspectives to consider in the short-term are the administration of the survey to women hosted in anti-violence associations and shelters not only in the territory of Milan, but also the national level.

In the long term, other perspectives include:

- Deeper assessment and analysis of evolving needs of victims over time, providing a more comprehensive understanding of food access and its relation to recovery.
- Building trust, long-term relationships, and engaging directly with shelters, organizations focused on gender-based violence and food banks to foster more effective collaboration.
- Raising awareness on the intersection of food and gender-based violence to gather more public and institutional support, eventually leading to increased funding and resources.
- Developing mechanisms that prioritize privacy and safety of victims while gathering data.

CONCLUSIONS

The right to food is a cornerstone of human dignity. It is recognized as a fundamental human right by several treaties, declarations and other international tools. It encompasses not only the quantity aspect of food, but also quality, and must be considered in light of other conditions such as climate, economic, social conditions. Moreover, it refers to physical and economic accessibility; and to availability, namely to the possibilities of either feeding oneself directly from productive land or other resources or purchasing it from the market.

The most advanced provision on the right to food is the one included in the 1966 UN International Covenant on Economic, Social and Cultural Rights, as it foresees both the right of everyone to an adequate standard of living – including food, and the right to be free from hunger. Moreover, it obliges States Parties to respect people's access to food and means of obtaining it; to protect their enjoyment against violations by third parties; and to fulfil such right by proactively strengthening people's access to and use of resources and means.

However, around the world, people still struggle to see such right recognized and that is not due to the lack of food, but rather to the lack of access to it, and is further exacerbated by drivers such as poverty, economic crises and inequality.

One of the most disadvantaged groups is women: although being responsible for producing, processing, and provisioning food within families and communities, the discrimination they face in the enjoyment of other rights such as ownership, credit, access to land and education worsen their situation.

Moreover, in the case of limited food, they often eat less and last, as their partners and children are prioritized in eating.

Food plays a crucial role in the health and well-being of women, especially during pregnancy and breastfeeding. Proper nutrition is vital for supporting the developing foetus, ensuring that it receives the essentials for growth. A balanced diet helps to strengthen the mother's body, providing the energy and nutrients necessary to go through the physical and psychological demands of pregnancy and the postpartum recovery.

During breastfeeding, adequate nutrition is equally important, as it directly affects the quality of breast milk and influences the infant's growth and system.

In general, nourishing meals can enhance a mother's mood and overall health, fostering a positive environment for both mother and child.

Addressing women's vulnerability to food insecurity requires a holistic approach that tackles poverty, economic inequality and systemic discrimination.

It is not surprising then, that when adding another layer of discrimination – namely gender-based violence – victims and survivors of such violence are even more vulnerable.

In the agriculture sector and for rural women, the impact of gender-based violence is exacerbated and women's experiences are made invisible.

Particularly, food preparation is considered to be one of the major causes of the outbreak of violence by an intimate partner in the household, due to gender roles, which assign women with primary responsibility for food. In cases of gender-based violence, gender norms can be weaponized, with abusers using food as a tool of control or punishment.

Furthermore, food is strictly linked to economic independence. A family where the abuser controls the financial part and money flows can lead to the victim being too vulnerable to leave the abusive situation. Or the partner may sabotage or exploit the victim's financial conditions.

Vulnerability continues even after women find refuge in a safe place, such as shelters. They can receive some material support by shelters, but at the same time still be vulnerable in terms of employment and housing, since they had to leave their previous life and begin a new one.

One should also mention the psychological consequences of such violence: trauma may leave victims with issues such as alcoholism or eating disorders, such as binge-eating or anorexia, but also hypervigilance. This affects women's ability to cope with food insecurity and make healthy food choices.

The full enjoyment of the right to food for women is also hindered by the existing legal frameworks. Accordingly, the relevant international instruments lack harmonization on the definition and the very same definitions – especially the oldest ones – contain a language that does not take into account women's experiences but is rather male-centred.

Moreover, specific conventions that protect women's rights do not explicitly mention the right to food. For instance, the UN CEDAW only mentions food-related issues with regards to pregnancy and rural livelihoods. Although they represent two particular situations where women's vulnerability is high, the absence of more comprehensive guarantees limits the scope of such articles.

Similarly, the 2011 Istanbul Convention empowers victims and survivors of gender-based violence, including domestic violence, as it focuses on protection and support through general and specific services – such as shelters – but it lacks a specific provision on food and food access for extremely vulnerable individuals who have endured abusive conditions.

Moving from the theoretical part to the practical level, my research case also highlighted that women are given autonomy in their decision-making – which can also include food choices – but shelters and anti-violence associations are not fully receptive on the topic and may lack enough fundings.

The connection between gender-based violence and food insecurity presents a significant challenge for achieving food security for all.

Food can be a powerful means of empowerment, enabling women to break free from cycles of poverty and violence.

Achieving food security for women requires a multifaceted approach that addresses the root causes of gender inequality and violence. By promoting gender equality, women's full participation and by recognizing their fundamental contribution to food systems, it is possible to create a world where everyone can enjoy their right to a life free from hunger and to feed oneself in dignity. More broadly, it also helps creating a more sustainable, healthy and safe food system.

It is imperative that governments, NGOs, and communities work together to implement policies and programs that address gender-based violence, promote women's empowerment, and ensure their equitable access to resources and services.

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RINGRAZIAMENTI

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