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Sacred Nutrition: Asserting Indigenous Sovereignty and Rights of Women and Nature to Ensure the Right to Food in the United States

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SACRED NUTRITION: ASSERTING INDIGENOUS SOVEREIGNTY AND RIGHTS OF WOMEN AND NATURE TO ENSURE THE RIGHT TO FOOD IN THE UNITED STATES

*Mariana Chilton, PhD, MPH**

we are made to be holy surface peoples of the Earth
our souls are one with the souls of living beings of all time
we were placed here with the four sacred plants to guide us
our original instructions teach us that corn is a root of our lifeways
our songs and prayers resonant with the heartbeat of our
Earth Mother

*Excerpt of the Declaration of the Indigenous Food
Sovereignty and Traditional Knowledge for Climate
Change Resiliency Gathering, Aug. 2016*

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* I'm grateful to all participants in the studies and programs that I interviewed and mentioned herein. Their wisdom and generosity continue to teach the world about experiences of hunger and discrimination. Thank you to the editors and staff of the *University of Miami International & Comparative Law Review* for their thorough review of this Paper.

This Paper is a provocation to move beyond a standard human rights and right to food framework to encourage scholars, activists, and political leaders to engage in full throttle societal transformation. Ending hunger in the United States demands nothing less. The modern human rights framework is enshrined in the modern nation state system that is rooted in the transatlantic slave trade, colonization, and genocide.¹ Three primary ways in which these roots took hold were through land theft, rape, and starvation. Hence, to assert that integrating the right to food and freedom from hunger into nation-state constitutions or into national plans to end hunger without significantly altering the structure of the nation state will be fundamentally ineffective. Nation states currently depend on keeping people hungry, especially women and children.² If this is the case, then we ought to consider new ways of envisioning and devising a world in which all people are free from hunger and have good nutrition that supports human and more-than human flourishing. To do so demands we address food insecurity at its roots.

This Paper relies on twenty-five years of empirical research with Black women, Native communities, and other groups of color, as well as on the scholarship of Black and Native thinkers. In doing so, the Paper outlines how rape, colonization, racism, and gender discrimination continue to generate food insecurity and hunger, and how incorporating a broad view of the right to food to support rights of women, Indigenous peoples, peoples of African descent, and the rural poor are integral to the right to food. Finally, this Paper shows that societal transformation can only be made possible through providing reparations to descendants of people who were enslaved, respecting and repairing treaty rights with Native nations, and changing human beings' relationship with the natural world from viewing food as commodity to revering food and the natural world as kin with equal standing to humans. In doing so, we can meet the

¹ See generally Ibrahima Thiaw & Deborah L. Mack, *Atlantic Slavery and the Making of the Modern World: Experiences, Representations, and Legacies*, 61 CURRENT ANTHROPOLOGY 146 (2020).

² See generally MIKE DAVIS, LATE VICTORIAN HOLOCAUSTS: EL NIÑO FAMINES AND THE MAKING OF THE THIRD WORLD (Reissue ed. 2017); SILVIA FEDERICI, CALIBAN AND THE WITCH: WOMEN, THE BODY AND PRIMITIVE ACCUMULATION (Illustrated ed. 2004); CEDRIC J. ROBINSON, CEDRIC J. ROBINSON: ON RACIAL CAPITALISM, BLACK INTERNATIONALISM, AND CULTURES OF RESISTANCE (2019).

challenges of the climate catastrophe and promote resilience of future generations.

BACKGROUND: RACIAL, ETHNIC, AND GENDER INJUSTICES IN US
FOOD INSECURITY

In terms of raw numbers, there are millions more white people than Black, Indigenous, and Latinx people that experience hunger. For instance, in 2021, over 6 million white households reported food insecurity, compared to 3.3 million Black and 3.1 million Hispanic households.³ But, when rates are broken down by *percentage* for each population, Black and Hispanic people have rates that are two to three times higher than whites.⁴ Almost 20% of Black households and 16.2% of Hispanic households reported food insecurity, compared to 7% of white households.⁵ So the burden on Black and Hispanic communities is far greater than it is for white non-Hispanic communities.

Worse still, the greatest burden of food insecurity is experienced by Indigenous communities who report rates of food insecurity ranging between 33.9-64% depending on nation, tribe, and region.⁶ They have the highest rates of food insecurity compared to all other groups in the United States due to state-supported impoverishment and genocide carried out by whites over the past 500 years.⁷ No Indigenous nation was spared from United States government-backed massacres, forced removal, exploitation, war, child abductions to boarding schools, plundered lands, religious conversion, and cultural and economic genocide. If Indigenous people did not die of hunger, disease, or murder they were often starved into submission.⁸ Forced starvation was an act of war against Indigenous people. Sometimes withholding food was a way to force Indigenous

³ ALISHA COLEMAN-JENSEN ET AL., U.S. DEP'T OF AGRIC., ECONOMIC RESEARCH REPORT 309, HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2021, at 17 (2022).

⁴ *See id.*

⁵ *Id.*

⁶ TONI STANGER-MCCLAUGHLIN ET AL., NATIVE AM. AGRIC. FUND, REIMAGINING HUNGER RESPONSES IN TIMES OF CRISIS: INSIGHTS FROM CASE EXAMPLES AND A SURVEY OF NATIVE COMMUNITIES' FOOD ACCESS DURING COVID-19, at 57 (2022).

⁷ *Id.* at 17.

⁸ *See generally* ROXANNE DUNBAR-ORTIZ, AN INDIGENOUS PEOPLES' HISTORY OF THE UNITED STATES (2014).

people to stay imprisoned on reservations and at forts, to cede their lands, or to send their children to boarding “schools” where children were physically, emotionally, and sexually abused.⁹ These dynamics contributed to the genocide.¹⁰ Ongoing food insecurity and poor health among Native people is by design, as hundreds of years of land theft, exploitation, and ongoing discrimination by the U.S. government keeps most Indigenous people in abject poverty.¹¹

These disparities in food insecurity demand we look beyond availability, access, utilization, stability, and cultural appropriateness of food, and focus in on the rights of Native, Black, and immigrant communities. This then, requires we attend to the history of colonization, genocide, and enslavement.

Additionally, when one considers gender inequities in household food insecurity, similar injustices come to the fore. Since the beginning of the national measure of food security, single woman-headed households have reported food insecurity at extremely high rates (currently 24.3%) compared to all other households with children (12.5%).¹² Rates for female headed households are more than three times higher than two person-headed households (7.4%).¹³ People who are lesbian, gay, bisexual, transgender, queer, intersex, asexual, and beyond (LGBT+) also have a greater proportion of their population reporting food insecurity compared to national rates.¹⁴ Results from the Pulse Survey carried out during the COVID-19 pandemic show that among LGBT+ people rates of food insufficiency were 12.7%, compared to 7.8% of those who are non-LGBT+.¹⁵ When one considers intersections of race/ethnicity and gender, matters become even worse, as food insufficiency was three times worse for LGBT+ people of color, whose rate was 17.3% compared to 5.6% of non-LGBT+ white people.¹⁶ Finally, women overall have much higher rates of poverty

⁹ *Id.*

¹⁰ *Id.*; CARLA CEVASCO, VIOLENT APPETITES: HUNGER IN THE EARLY NORTHEAST (2022).

¹¹ DUNBAR-ORTIZ, *supra* note 8.

¹² *See* COLEMAN-JENSEN ET AL., *supra* note 3, at 17.

¹³ *See id.*

¹⁴ KERITH CONRON ET AL., UCLA SCH. OF L. WILLIAMS INST., FOOD INSUFFICIENCY AMONG LGBT ADULTS DURING THE COVID-19 PANDEMIC 2 (2022), <https://williams.institute.law.ucla.edu/wp-content/uploads/LGBT-Food-Insufficiency-Apr-20>.

¹⁵ *Id.*

¹⁶ *Id.*

than men.¹⁷ Indigenous women report the highest poverty rate at 28.1%; Black women have rates of 25.7%; and Hispanic women are at 24%; while 11.9 % of white women and 9% of white men experience poverty.¹⁸

As a coda, the pain that penetrates all the above is the prevalence of household food insecurity among people with disabilities. The national prevalence rate among all people with disabilities is at 33.5%.¹⁹

These injustices require responses that utilize an intersectional approach to address household food insecurity and the right to food, where intersecting power dynamics that oppress people on grounds of gender, race, ethnicity, disability, and other identities can be addressed simultaneously.²⁰ Attorney and scholar Kimberlé Crenshaw reviewed many ways in which Black women are discriminated against.²¹ She insisted that U.S. law is incapable of truly comprehending and supporting Black women because it only allows for evidence of racism *or* gender discrimination, without considering both simultaneously. She suggested we change our understanding of discrimination as an experience that cannot be parsed out in singular terms (such as by race or gender alone). She proposed the term “intersectionality” to frame ways of understanding how intersecting forms of domination and unequal power engender suffering.²² Many have expanded the context of intersectionality to include poverty, gender expression, and disability. Intersectionality has become a

¹⁷ INST. FOR WOMEN’S POL’Y RSCH., *Poverty & Opportunity*, in THE STATUS OF WOMEN IN THE STATES 123, 141 (2015), <https://statusofwomendata.org/wp-content/uploads/2015/09/PDF-of-final-Poverty-Opportunity-chapter-9-4-2015.pdf>.

¹⁸ *Id.*

¹⁹ ALISHA COLEMAN-JENSEN & MARK NORD, U.S. DEPT. OF AGRIC., ECONOMIC RESEARCH REPORT 144, FOOD INSECURITY AMONG HOUSEHOLDS WITH WORKING-AGE ADULTS WITH DISABILITIES 1 (2013).

²⁰ See Shawnika J. Hull et al., *Intersectionality Policymaking Toolkit: Key Principles for an Intersectionality-Informed Policymaking Process to Serve Diverse Women, Children, and Families*, 24 HEALTH PROMOTION PRAC. 597 (2023); KIMBERLÉ CRENSHAW, ON INTERSECTIONALITY: ESSENTIAL WRITINGS (2019).

²¹ CRENSHAW, *supra* note 20.

²² *Id.*

broadly accepted framework for both public health and human rights.²³

Given inequities in food security, it becomes clear that the most effective approaches to advancing the right to be free from hunger requires a historical and intersectional perspective to identify solutions for repair, redress, and prevention. Guidance from The United Nations Network on Racial Discrimination and Protection of Minorities established in 2012 suggests applying an intersectional approach to human rights that utilizes documentation based on people's experiences and encourages responders practice solidarity and build empathy to enable the inclusion and full participation of all without stigma.²⁴ They also suggest that solutions advance a holistic and structural approach to eliminate racial discrimination and protect minoritized people, and that stakeholders ought to adopt and apply a "survivor-centered approach."²⁵

Following this lead, I explore the right to food through experiences of Black women in Philadelphia who have experienced hunger first-hand. For you, the reader, I provide a note of caution: ahead I mention rape (now considered a gross violation of human rights and a crime against humanity), colonization, enslavement, and genocide (also international crimes and gross violations of human rights).

I. "HUMAN RIGHTS ARE A JOKE:" HOW RAPE IS AT THE CENTER OF HUNGER IN THE UNITED STATES

I learned what I currently understand about hunger in the U.S. from Black women in Philadelphia and Southern Cheyenne and

²³ See Jennifer Alvidrez et al., *Intersectionality in Public Health Research: A View From the National Institutes of Health*, 111 AM. J. PUBLIC HEALTH 95 (2021); see also Hull et al., *supra* note 20; see also U.N. NETWORK ON RACIAL DISCRIMINATION AND PROT. OF MINORITIES, GUIDANCE NOTE ON INTERSECTIONALITY, RACIAL DISCRIMINATION & PROTECTION OF MINORITIES (2021), <https://www.ohchr.org/sites/default/files/documents/issues/minorities/30th-anniversary/2022-09-22/GuidanceNoteonIntersectionality.pdf>; see also Yolande Tomlinson, *Intersectionality: A Tool for Realizing Human Rights*, NEW TACTICS IN HUM. RTS. (Feb. 11, 2015, 2:55 PM), <https://www.newtactics.org/blog/intersectionality-tool-realizing-human-rights>.

²⁴ U.N. NETWORK ON RACIAL DISCRIMINATION AND PROT. OF MINORITIES, *supra* note 23, at 5.

²⁵ *Id.*

Arapaho people in Western Oklahoma. Moving from Oklahoma, I arrived in Philadelphia in 2000 to learn about food insecurity. I interviewed Black women who utilized the numerous food pantries throughout Philadelphia. At that time, I was eager to learn from women who know the experience of hunger and how it relates health and the right to food. Learning about people's views on food insecurity from lived experience helped our teams to launch successful programs and inform policy. However, learning about people's experiences trying to stand up for their rights, and how they think about human rights has also been a devastating endeavor. For the Black women I spoke with, there was no knowledge of the international human rights framework; they held a deep-seated suspicion that such documents and ideas even existed.

During our conversation about getting food, buying food, and feeding her children, Tinisha a Black woman and a research participant, explained that not only had she been repeatedly raped as a child, and then later as an adult (she was raped by five men who tricked her into giving her a ride home from the grocery store), but also that her daughter was raped.²⁶ Despite reporting her rape to police, they never investigated and never provided her protection.²⁷ The same occurred when she reported the rape of her own child. So, when I asked, "What do you think about human rights and the right to food?" she looked at me quizzically. I explained the Universal Declaration of Human Rights and repeated from Article 1: "Everyone is born free and equal in dignity and rights." I then explained that everyone ought to be treated without discrimination, should get legal help, and always have access to food." She laughed incredulously. "That may be true for some people," she said, "but no one has ever helped me. My rights have never been protected. I've been raped so many times, my daughter has been raped, and no one helped us. I feel like someone just made that declaration to have a laugh. It's like they're laughing at me and laughing at people like me. Human rights are a joke."

²⁶ Interview with Tinisha (Pseudonym), in Philadelphia, Pa. (July 29, 2002) (all quotes and remarks referenced in relation to Tinisha in this article are sourced from this interview unless otherwise specified).

²⁷ See Mariana Chilton & Sue Booth, *Hunger of the body and hunger of the mind: African American women's perceptions of food insecurity, health and violence*, 39 J. NUTRITION EDUC. & BEHAV. 116 (2007).

This is a gut-punch for those of us who put faith into the international human rights framework. Many of us get starry-eyed about the possibilities of putting human rights into the constitution or want to find ways to assert human rights at the highest levels of government. But for a Black woman in Philadelphia, the truth about the everyday irrelevance of human rights is laid bare. As a Black woman, Tinisha has little recourse. Reasons for this are plentiful and stretch back through 500 years of history to the transatlantic slave trade and institutionalization of rape of Black women to make more people to enslave and build even more wealth in the U.S.²⁸ Enslaved women had no body autonomy, no legal recourse for sexual violence, and were continuously deprived of kinship relationships with their children.²⁹ After abolition, slavery simply morphed into laws called Black Codes that forced people into prison to become enslaved again, a trend still seen in mass incarceration today.³⁰ It also led to ongoing sexual violence and denigration of Black women who are not fully invited into the world of rights and nationhood.³¹ This overt and violent devaluation of Black women is built into the U.S. infrastructure.³² Historian Kali Nicole Gross insists that “perceptions of black women as undeserving of protection are embedded in the nation’s founding and its early laws (such as colonial statutes and practices that did not recognize or punish the rape of black women or black girls) but are also found in the cultural fabric of American whiteness—a whiteness that is steeped in the ideologies of white supremacy.”³³

Enforced Blackness (or racialization), in Saidiya Hartman’s estimation, is built into the institution of slavery and these ideas carry forward through today’s times to keep Black women in a “perpetual condition of ravishment.”³⁴ Similarly, lawyer and anti-violence

²⁸ See generally SAIDIYA HARTMAN, SCENES OF SUBJECTION: TERROR, SLAVERY, AND SELF-MAKING IN NINETEENTH-CENTURY AMERICA (1997).

²⁹ See generally TIYA MILES, ALL THAT SHE CARRIED: THE JOURNEY OF ASHLEY’S SACK, A BLACK FAMILY KEEPSAKE (2021).

³⁰ HARTMAN, *supra* note 28, at 146.

³¹ *Id.*

³² See TREVA B. LINDSEY, AMERICA, GODDAM (2023); see also DOROTHY E. ROBERTS, TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES--AND HOW ABOLITION CAN BUILD A SAFER WORLD (1st ed. 2022).

³³ Kali Nicole Gross, *Policing Black Women’s and Black Girls’ Bodies in the Carceral United States*, 20 SOULS 1, 2 (2018).

³⁴ HARTMAN, *supra* note 28, at 51.

advocate Sarah Deer of the Muscogee Nation identified the same dynamic for Native women. She explained that land theft and destruction of ecosystems in the name of colonization and Pope-endorsed domination gave Europeans and white Americans the license to rape the land as well as to rape women.³⁵ These dynamics carry through today, as disrespect for treaty rights, oil drilling, and other extractive processes are directly connected to the rape and disappearance of over 5,712 Native women in 2016.³⁶ In both strains of history, rape is the primary weapon through which white people, and people of European descent were able to perpetrate enslavement and colonization. Both trends led to genocide of Black and Indigenous people, and both are tap roots of hunger.

Some might think that a jump from hunger to rape to genocide is extreme. But again, this analysis is grounded in the lived experiences of people who know hunger in body and mind. The women I interviewed made the direct connection between rape and hunger very clear. To be hungry is a form of deprivation and disrespect. Women that reported the severest form of food insecurity, now termed very low food security, had comparatively high rates of reports that they were raped as a child or as an adult. Having been raped affected their health, wellbeing, and sense of worth, which in turn affected their ability to do well in school and the workforce, which then affected how much money they had to buy food. Gender-based violence is almost always related to not having enough money for food. Research evidence on violence and food insecurity among women makes this

³⁵ See generally SARAH DEER, *THE BEGINNING AND END OF RAPE: CONFRONTING SEXUAL VIOLENCE IN NATIVE AMERICA* (2015).

³⁶ ANNITA LUCCHESI & ABIGAIL ECHO-HAWK, URB. INDIAN HEALTH INST., *MISSING AND MURDERED INDIGENOUS WOMEN & GIRLS 2* (2018), <https://www.uihi.org/resources/missing-and-murdered-indigenous-women-girls/>.

connection between gender-based violence and food insecurity incontrovertible.³⁷

While rates of food insecurity are disproportionate among Indigenous, Black and Hispanic women and their families, similar dynamics can be seen in the national rates of rape. Data from the National Intimate Partner and Sexual Violence Survey shows that the rates of rape are 1 in 4 for all women (25%) in the US. For Native women, the rate is 43.7%, for Black women rates are 29%.³⁸

Internationally and over the past two decades, gender-based violence and gendered structural violence have been considered central to understanding the dynamics at play in attempting to advance the right to food. Special rapporteurs and human rights scholars continue to insist that the threat of violence and actual violence toward women is associated with malnutrition and hunger. The range of violence to which women are exposed in relation to food include but are not limited to issues such as brutalizing women for burning food, serving food late, or not serving food at all, sexual assault in fields or while carrying water and collecting firewood, (I

³⁷ See generally Mariana Chilton et al., *The Relationship Between Childhood Adversity and Food Insecurity: 'It's like a Bird Nesting in your Head,'* 18 PUB. HEALTH NUTRITION 2643 (2015); Mariana Chilton & Jenny Rabinowich, *Toxic Stress and Child Hunger Over the Life Course: Three Case Studies*, 3 J. OF APPLIED RSCH. ON CHILD. 1 (2012); Chilton & Booth, *supra* note 27; Mariana Chilton et al., *The Intergenerational Circumstances of Household Food Insecurity and Adversity*, 12 J. HUNGER ENV'T. NUTR. 269 (2017); Pam Phojanakong et al., *Experiences of Racial and Ethnic Discrimination are Associated with Food Insecurity and Poor Health*, 16 INT'L. J. ENV'T. RSCH. PUB. HEALTH 4369 (2019); Jing Sun et al., *Mothers' Adverse Childhood Experiences and Their Young Children's Development*, 53 AMERICAN J. PREV. MED. 882 (2017); Jing Sun et al., *Childhood Adversity and Adult Reports of Food Insecurity Among Households with Children*, 50 AMERICAN J. PREV. MED. 561 (2016); Dylan B. Jackson et al., *Food Insecurity and Violence in the Home: Investigating Exposure to Violence and Victimization Among Preschool-Aged Children*, 45 HEALTH EDUC. BEHAV. 756 (2018); Dylan B. Jackson et al., *Adverse Childhood Experiences and Household Food Insecurity: Findings From the 2016 National Survey of Children's Health*, 57 AMERICAN J. PREV. MED. 667 (2019); Cheryl Wehler et al., *Risk and Protective Factors for Adult and Child Hunger Among Low-Income Housed and Homeless Female-Headed Families*, 94 AMERICAN J. PUB. HEALTH 109 (2004); Linda Weinreb et al., *Determinants of Health and Service Use Patterns in Homeless and Low-Income Housed Children*, 102 PEDIATRICS 554 (1998).

³⁸ KATHLEEN C. BASILE ET AL., CTR. FOR DISEASE CONTROL & PREVENTION: NAT'L CTR. FOR INJURY PREVENTION & CONTROL, THE NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2016/2017 REPORT ON SEXUAL VIOLENCE 5 (2022).

include Tinisha's experience of being raped while trying to bring home her groceries from the store), and economic violence that restricts access to food.³⁹ Scholars Bellows and Jenderedjian insist that "not addressing violence partially explains why so little progress is being made in addressing the implacability of women's food insecurity. Violence interferes with women's basic human rights to dignity and self-determination, the foundation of the culpability necessary to advance claims on rights and entitlements."⁴⁰ But violence against women cannot be the only consideration, as the intersectional nature of the violence, that is, the violence against Indigenous and Black women especially, demands that we take a long view of how and why rape and other forms of violence occur in the first place. When rape is the primary tool of colonization and enslavement, both of which were genocidal and deeply scarring to entire peoples, we can see present day evidence that hunger is rooted in the original harms of the United States. The U.S. has been called to account by the United Nations, Native nations, and by the U.N. Working Group of Experts on People of African Descent, but the U.S. government has yet to acknowledge and repair massive and ongoing damages accumulated throughout centuries.⁴¹

The U.S. is not alone in its tacit acceptance of rape. Indeed, the world over, rape is quite prevalent, affecting close to a billion women and girls over their lifetimes.⁴² Many countries still allow rape in marriages or have laws that allow men to be absolved from rape if they marry the woman or girl they raped, and almost everywhere, there is

³⁹ Yonas Deressa Guracho & Berhanu Boru Biffitu, *Women's Attitude and Reasons Toward Justifying Domestic Violence in Ethiopia: A Systematic Review and Meta-Analysis*, 18 *AFRICAN HEALTH SCI.* 1255, 1255 (2018); Lora Forsythe, *Gender-Based Violence in Food Systems*, 4 *NATURE FOOD* 472 (2023); Erin C. Lentz, *Complicating narratives of women's food and nutrition insecurity: Domestic violence in rural Bangladesh*, 104 *WORLD DEV.* 271 (2018).

⁴⁰ ANNE C. BELLOWS ET AL., *GENDER, NUTRITION, AND THE HUMAN RIGHT TO ADEQUATE FOOD: TOWARD AN INCLUSIVE FRAMEWORK* 111, 471 (2016).

⁴¹ HUM. RTS. WATCH & ACLU, *RACIAL DISCRIMINATION IN THE UNITED STATES* 1-2 (2022).

⁴² EQUALITY NOW, *THE WORLD'S SHAME: THE GLOBAL RAPE EPIDEMIC: HOW LAWS AROUND THE WORLD ARE FAILING TO PROTECT WOMEN AND GIRLS FROM SEXUAL VIOLENCE* 5 (2017), https://equalitynow.storage.googleapis.com/wp-content/uploads/2017/11/16112622/EqualityNowRapeLawReport2017_Single_Pages_0-compressed.pdf.

tacit acceptance of rape if women and girls do not “fight back” or “resist.”⁴³ This suggests that, in many countries, unequal power dynamics, extreme dependency, coercive circumstances, and other factors are unimportant.⁴⁴ This has led to revisions of language in the documents outlining the meaning of rape by the international community to ensure that the crime of rape is verified if the woman, girl, or other person did not give consent or was in a circumstance of powerlessness.⁴⁵ Various committees of the United Nations have insisted that rape is a grave rights violation, a crime against humanity, and is equivalent to torture.⁴⁶ On her 2011 visit to the United States, the Special Rapporteur on Violence Against Women noted that Indigenous, Black and Immigrant women report extremely high rates of sexual assault, receive little support from police, are assaulted in prisons (and are more likely to be imprisoned than white women), and have inadequate laws to protect them from sexual assault.⁴⁷ She notes that such violence against women is associated with deep poverty and other forms of deprivation related to racial and gender discrimination.

In 1994 the U.S. ratified both the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT, 1984) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1969).⁴⁸ Official committee reports from both conventions have identified serious and numerous violations of both treaties and ongoing

⁴³ See *id.* at 6, 13.

⁴⁴ See *id.* at 13.

⁴⁵ See *id.* at 8.

⁴⁶ Dubravka Šimonović (Special Rapporteur on Violence Against Women, its Causes and Consequences), *Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention*, ¶ 3, U.N. Doc. A/HRC/47/26 (Apr. 19, 2021).

⁴⁷ See Ms. Rashida Manjoo (Special Rapporteur on violence against women, its causes and consequences), *Report of the Special Rapporteur on violence against women its causes and consequences on her visit to the United States of America*, U.N. Doc. A/HCR/17/26/Add.5 (June 6, 2011).

⁴⁸ Status of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Treaty Collection Depository, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=_en (last updated Jan. 4, 2024, 10:16 AM); Status of International Convention on the Elimination of All Forms of Racial Discrimination, U.N. Treaty Collection Depository, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=_en (last updated Jan. 4, 2024, 10:16 AM).

inadequate accountability from the United States.⁴⁹ After their visit to the United States, the Working Group of Experts on People of African Descent insisted that lack of acknowledgment and repair for harms of enslavement and colonization was a major violation of multiple articles of the ICERD, and they called for reparations, redress, and systemic overhauls of most U.S. institutions.⁵⁰ In their reports after the 2020 murder of George Floyd, this same body insisted that the US was doing very little to stem police brutality – which is a form of lynching and torture.⁵¹ Hence, the United States is in serious violation of its own laws and of international law. This mega exploitation, domination, and theft must be considered when advancing the right to food.

Given this history of violence against Black and Indigenous women and girls and gender non-conforming people, it is ironic that much of the political, economic, and social advancements made throughout U.S. history and up through the present day is due to the political and social engagement of Black women (most of whom are non-state actors) who have taken an intersectional approach to justice and an internationalist perspective to engaging in solidarity. Starting long before the activism of Sojourner Truth in the 1800s, movements for abolition, fought for and sharpened over hundreds of years, are still very much alive today. Building on the tradition of abolishing slavery, contemporary calls for abolition of police and prisons and an overhaul of all programs for families in poverty were strengthened with support from Black queer feminism that coalesced with the Combahee Women's Collective in the 1970s.⁵² The Collective asserted that sexism, racism, heteronormativity, and imperialism collide in most U.S.

⁴⁹ Press Release, Office of the Spokesperson, U.S. Department of State, Periodic Report of the United States of America to the United Nations Committee on the Elimination of Racial Discrimination (June 4, 2021), <https://www.state.gov/periodic-report-of-the-united-states-of-america-to-the-united-nations-committee-on-the-elimination-of-racial-discrimination/>.

⁵⁰ Rep. of the Working Group of Experts on People of African Descent, U.N. Doc. A/71/297 (2016).

⁵¹ Press Release, U.N. Human Rights Office of the High Commissioner, Mandate of the Working Group of Experts on People of African Descent (Feb. 16, 2021), <https://www.ohchr.org/en/press-releases/2021/07/mandate-working-group-experts-people-african-descent>.

⁵² See Combahee River Collective, *The Combahee River Collective Statement* (1977), reprinted in HOME GIRLS: A BLACK FEMINIST ANTHOLOGY 291-92 (Barbara Smith ed., 2000).

systems.⁵³ This coalesced again in the abolitionist work shared widely by many up through today to transition into learning and action collectives such as Critical Resistance, Project Nia, and Black Lives Matter. Current movements for abolition are also supported by many authors, including but not limited to, Angela Davis, Ruth Wilson Gilmore, both of whom advocate for abolishing prisons, Mariam Kaba who advocates for abolishing police and prisons, Dorothy Roberts who proposed abolishing the U.S. foster care system, and Bettina Love who brings abolition into education. Their primary commonality is the assertion that today's systems of education, healthcare, and social services have been penetrated by the carceral system that engage police and policing in various forms, and that these carceral tendencies are rooted in hundreds of years of history of enslavement and colonization.

Black women as state actors have also sought to advance human rights at the international level, with growing influence despite very difficult odds. Starting with the advocacy of presidential advisor Mary McLeod Bethune during the development of the human rights framework,⁵⁴ up through the present day with many Black women, such as Gay McDougall who is the U.S. representative for the U.N. Committee on the Elimination of Racial Discrimination. McDougall was instrumental in bringing the family of George Floyd and many others who had family members murdered by police to the United Nations to provide evidence of ongoing torture and lynching in the United States as violations of the right to be free from discrimination and right to life.⁵⁵

While these efforts by Black women generate momentum to support and promote rights of all women, the experiences of Noreen and so many others should encourage greater commitment to human rights, especially for Black, Indigenous, and immigrant women and to

⁵³ *See id.*

⁵⁴ *See generally* Kim Cary Warren, *Mary McLeod Bethune's Feminism: Black Women as Citizens of the World*, 35 GENDER HIST. 323 (2023).

⁵⁵ Letter from the American Civil Liberties Union to the United Nations Human Rights Council, Request for U.N. Independent Inquiry into Escalating Situation of Police Violence and Repression of Protests in the United States (June 8, 2020), <https://www.aclu.org/documents/coalition-letter-request-un-independent-inquiry-escalating-situation-police-violence-and>.

create infrastructure for people in the U.S. to participate in human rights dialogues safely and effectively.

II. INTERSECTIONAL PERSPECTIVE ON THE RIGHT TO FOOD

The U.S. is the only nation in the world that refuses to formally acknowledge the right to food.⁵⁶ The right to food and to be free from hunger are fundamental human rights enshrined in the *Universal Declaration of Human Rights* (UDHR, 1948) and in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 1966).⁵⁷ The documents incorporate being able to have consistent access to culturally appropriate and healthy food to live a healthy and fulfilling life without fear.⁵⁸ The right to food stems from Article 25 of the UDHR which asserts the right of everyone to an adequate standard of living, including adequate food, clothing, and housing.⁵⁹ The right to food, as outlined in the ICESCR, is dependent on many other rights such as the right to life, health, water, housing, and education. But the U.S. government has not ratified the ICESCR, meaning they refuse to ensure their people have basic needs respected, protected, and fulfilled.⁶⁰ The right to food is also enshrined in the *Convention on the Rights of the Child* (CRC, 1990), and the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW, 1979).⁶¹ The U.S. has not ratified these treaties either.

The most straightforward approach to ensuring the right to food in the U.S. is to encourage Congress to revisit the opportunity to ratify these three documents and get to work putting them into action. This requires strong support in Congress and a presidential mandate. In keeping with a rights-based approach, the government can start with a national strategy to implement the right to food. Following examples of other countries such as Brazil with their *Zero Fome*

⁵⁶ *Resolutions and Voting Results of the 34th HRC Session*, U.N. WATCH (MAR. 23, 2017), <https://unwatch.org/resolutions-voting-results-34th-hrc-session/> [hereinafter U.N. Watch Results].

⁵⁷ G.A. Res. 217 (III) A, *Universal Declaration of Human Rights* (Dec. 10, 1948).

⁵⁸ *Id.* at art. 25.

⁵⁹ *Id.* at art 11.

⁶⁰ U.N. Watch Results, *supra* note 56.

⁶¹ G.A. Res. 44/25, *Convention on the Rights of the Child* (Nov. 20, 1989); *See generally* POOJA KHANNA ET. AL, UN WOMEN, *CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) FOR YOUTH* (2016).

campaign under the first Lula Presidency, advancing the right to food demands that structural processes are put into place whereby agencies, organizations, and citizens are working toward the common goal of actively protecting the right to food by relying on widespread democratic participation centered on equity and non-discrimination.⁶² This sounds doable on the surface. Federal, state, and local governments could try to advance the right to food without attending to the deeper issues that cause hunger in the first place—namely discrimination based on race, ethnicity, gender expression, and the U.S. government's tacit refusal to address its history of genocide, rape, colonization, and enslavement. Until these crimes against humanity and gross violations are attended to, the U.S.'s attempt to advance human rights may be considered a joke, especially by those affected by hunger.

Advancing the right to food in a meaningful way, especially for Black and Indigenous women, requires an intersectional approach which considers violence against women and gender non-conforming people, seeks to provide repair, prevents ongoing violence's of enslavement and colonization, and foregrounds human relationship and connection to the earth. The key to advancing the right to food is to focus on body sovereignty (ending rape) and land sovereignty (ending colonization and holding reverence for the natural world, including food).

Broadening the paradigm of the right to food by focusing on women and land can provide the intersectional and transformational approach that supports human flourishing. Doing so also responds to the call by Black feminists who insist on bringing mutuality and care into the food system in ways that defy patriarchal beliefs, values, and practices rooted in domination of land and people. Scholar activists Reese and Cooper insist that "Black feminism is Black liberation *and also* eco-justice — an understanding that our liberation is inextricably

⁶² FOOD & AGRIC. ORG. OF THE U.N., THE RIGHT TO FOOD: VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY (2005), <https://www.fao.org/3/y7937e/y7937e.pdf>; Mariana Chilton & Donald Rose, *A Rights-Based Approach to Food Insecurity in the United States*, 99 AM. J. PUB. HEALTH 1203 (2009).

linked to the earth.”⁶³ In the same vein, advocates fighting for Indigenous women’s rights recognize that violence against Native women is rooted in colonization and disrespect for the Earth. “Genocide, Terracide, and Aquacide [...] identifies the compulsion to consume Mother Earth – and [...] the devouring of Indigenous women and girls’ lives through our bodies [...] Environmental devastation directly corresponds with the dehumanization and degradation of Indigenous Peoples, and more precisely, Native women and girls.”⁶⁴

The right to food as outlined in the treaties above is quite limited for the right to food is not guaranteed across the life course – beyond childhood and a women’s child-bearing context.⁶⁵ Hence, the right to food in the documents above are rooted in patriarchal ideas of the family, and very limited views of women as if their only purpose is to bear and feed their children. The special rapporteurs and human rights committees insist that the rights of women are integral to the right to food, and the General Comment 12 on the Right to Food and other writings of the special rapporteurs insist on “mainstreaming a gender perspective.”⁶⁶ Others propose “gender transformative approaches” that do not stop at ensuring women and girls and gender non-conforming people are acknowledged and empowered to claim their rights, but instead go further to ensure that all systems and structures of food and agricultural systems contest, dismantle, and transform patriarchal norms that exacerbate gender inequality.⁶⁷

The Food and Agriculture Committee on World Food Security (CFS) is the primary multi-stakeholder platform within the United

⁶³ Ashanté M. Reese & Dara Cooper, *Making Spaces Something Like Freedom: Black Feminist Praxis in The Re/Imagining of A Just Food System*, 20 ACME: AN INT’L J. FOR CRITICAL GEOGRAPHIES 450, 454 (2021).

⁶⁴ Tia Oros Peters, *To Be a Good Ancestor: Resisting Colonial Violence & Uplifting Native Women & Girls*, in MMIWG2 & MMIP ORGANIZING TOOLKIT 7, 8-9 (2023), https://www.sovereign-bodies.org/_files/ugd/6b33f7_2585fecaf9294450a595509cb701e7af.pdf.

⁶⁵ Letter from the American Civil Liberties Union, *supra* note 55.

⁶⁶ Françoise Trine & Marina Calvino, *Gender Equality and Women’s and Girl’s Empowerment Workstream*, COMM. ON WORLD FOOD SEC., <https://www.fao.org/cfs/workingspace/workstreams/gender> (last visited June 1, 2023).

⁶⁷ *Compendium of Good Practices*, FOOD & AGRIC. ORG. OF THE U.N.: JOINT PROGRAMME ON GENDER TRANSFORMATIVE APPROACHES FOR FOOD SEC. & NUTRITION, <https://www.fao.org/joint-programme-gender-transformative-approaches/knowledge-generation/compendium-of-good-practices/en> (last visited Jun 13, 2023).

Nations system dedicated to eliminating hunger.⁶⁸ Since 2020, CFS has been working with stakeholders to draft a consensus-driven “Voluntary Guidelines on Gender Equality and Women’s and Girl’s Empowerment in the context of Food Security and Nutrition” to address violence against women in food security and food sovereignty efforts carried out world-wide.⁶⁹ The committee has recognized that the right to food in areas of agriculture, food preparation and serving, and in achieving food security and adequate nutrition are held back not only due to patriarchal attitudes that generate gender inequality, but also due to the seemingly unending violence against women in the form of emotional, psychological, financial, and sexual abuse and exploitation, including threats and acts of rape.⁷⁰ The primary purpose of this stakeholder effort is not only to encourage states to ensure gender equality and women’s and girls’ empowerment, but to demonstrate the ways in which advancing rights of women and girls is central to advancing the right to food.⁷¹ Negotiations for the working draft have been ongoing for over two years, and stakeholders including civil society, private sector, U.N. agencies and others have yet to come to agreement.⁷² For instance, a stakeholder group of Indigenous women, women of color, and gender non-conforming people are dissatisfied with the current draft, because of other stakeholders’ refusal to take a fully intersectional approach to address and prevent oppression and discrimination of gender nonconforming people.⁷³ They claim that while at the outset their voices were in the

⁶⁸ Secretary-General’s Chair Summary and Statement of Action on the UN Food Systems Summit (Sept. 12, 2021), <https://www.un.org/en/food-systems-summit/news/making-food-systems-work-people-planet-and-prosperity>.

⁶⁹ See Food & Agric. Org. of the U.N., Consultation for the Development of the CFS Voluntary Guidelines on Gender Equality and Women’s and Girls’ Empowerment in the Context of Food Security and Nutrition (2021), https://assets.fsnforum.fao.org/public/PROCEEDINGS_EN_CFS_GEW_1.docx

⁷⁰ Trine & Calvino, *supra* note 66.

⁷¹ *Id.*

⁷² Camilla Lundberg Ney, *We Effect on the Guidelines on Gender Equality and Food Security*, WE EFFECT (Oct. 30, 2023), <https://weeffect.org/news/we-effect-on-the-guidelines-on-gender-equality-and-food-security/>.

⁷³ *CFS Voluntary Guidelines on Gender Equality: Finally Agreed Text is Deeply disappointing, says CSIPM*, LA VIA CAMPESINA: INT’L PEASANTS’ MOVEMENT (June 19, 2023), <https://viacampesina.org/en/cfs-voluntary-guidelines-on-gender-equality-final-agreed-text-is-deeply-disappointing-csipm/>.

lead of the discussions, the desire to stick to mutually agreed upon language is not explicit nor ambitious enough to ensure that women and gender non-conforming people are paid equally for their work, are protected during times of war and conflict, have access to land, can achieve reproductive justice, and have land sovereignty, food sovereignty, and body sovereignty.⁷⁴ They also express outright the importance of reinserting the terms “intersectionality,” “patriarchy,” and “gender transformative approach” which were in the original working document, but have since been extracted.⁷⁵ As of the writing of this Paper in June 2023, it is unclear what will be agreed upon by all stakeholders in October 2023. But already, people are putting the voluntary guidelines to the test, suggesting the ongoing work is needed and relevant.⁷⁶

Finally, some have expressed concern over lack of targeted attention to peasants and rural women and girls and gender-nonconforming people in the guidelines. Language regarding peasants is clarified in the *Declaration on the Rights of Peasants and Other People Working in Rural Areas* (UNDROP, 2018).⁷⁷ Thanks to the leadership of the international organization *La Via Campesina* and many others, the UNDROP is the most recent and robust U.N. covenant that ties the right to food together with land rights, workers’ rights, farmers’ rights, Indigenous rights, rights of rural women, and rights to healthy ecosystems. It is the most comprehensive international covenant for solidarity among poor people around the world. Only eight countries have not ratified it, most of them colonizing nations that actively suppress Indigenous sovereignty such as New Zealand, Australia, and the U.S.

Article 15 of The UNDROP explicitly outlines a variety of ways to respect, protect, and fulfil the right to food and to be free from hunger that “includes the right to produce food and the right to

⁷⁴ *Id.*

⁷⁵ Betsy Díaz Millán, *Women and Gender Diversities Working Group Statement on CFS Gender Equality and Women’s and Girls’ Empowerment*, CSIPM (2022), <https://www.csm4cfs.org/women-and-gender-diversities-working-group-statement-on-cfs-gender-equality-and-womens-and-girls-empowerment/> (last visited June 10, 2023).

⁷⁶ See generally Itziar Sobrino-García, *How Can the Adoption of the Voluntary Guidelines Improve Public Policy and Women’s Access to Agricultural Land in Mexico, Guatemala, and Bolivia?*, 12 LAWS 44 (2023).

⁷⁷ Human Rights Council Res. 39/12, U.N. Doc. A/HRC/RES/39/12 (Oct. 8, 2018).

adequate nutrition, which guarantee the possibility of enjoying the highest degree of physical, emotional and intellectual development.”⁷⁸ It also adds segments associated with sustainability and for ensuring access to food for future generations.⁷⁹ Further, it ensures protection from malnutrition for rural women and children and promotes education about nutrition and breastfeeding.⁸⁰ Additionally, it enshrines the right to land sovereignty and decision-making: “Peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty.⁸¹ This includes the right to participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures.”⁸² This comprehensive approach touches on issues ranging from current nutrition status of all people, for women and children, and for future generations, while also ensuring that the food system itself can be created and sustained by rural communities. In the UNDROP there are echoes of rights of Indigenous people that seeks to establish their sovereignty for present and future generations.

The *International Covenant of the Rights of Indigenous Peoples* (UNDRIP, 2007) is specific to Indigenous peoples, and is especially focused on self-determination.⁸³ While the treaty does not explicitly refer to the right to food, throughout, many articles support the use of and return of traditional land, where Indigenous people can work with their land in ways they see fit.⁸⁴ This would ostensibly include growing food, raising livestock, hunting, and fishing. The right to seeds and intellectual advancements are also protected. Indeed, the working draft of the UNDRIP to support Indigenous sovereignty is mentioned repeatedly in the 2002 Declaration of Atitlán, which emerged from the Consultation of Indigenous Peoples on the Right to Food where

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ G.A. Res. 61/295, United Nations Declaration on the Rights of Indigenous People (Sep. 13, 2007).

⁸⁴ E.g. Charlotte Coté, “Indigenizing” Food Sovereignty. *Revitalizing Indigenous Food Practices and Ecological Knowledges in Canada and the United States*, 5 HUMANITIES 1 (2016).

representatives of Indigenous communities from twenty-eight countries sought to address food security and food sovereignty.⁸⁵ In the preamble, this declaration stated, “the Right to Food of Indigenous Peoples is a collective right based on our special spiritual relationship with Mother Earth, our lands and territories, environment, and natural resources that provide our traditional nutrition.”⁸⁶

The UNDRIP asserts that Indigenous peoples should receive restitution of their lands, and when that is not possible, they should receive “fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.”⁸⁷ If the UNDRIP were justiciable, the U.S. would be required to return the vast majority of the nation’s lands. Finally, the UNDRIP asserts that “Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.”⁸⁸ This has profound and far-reaching implications, because not only does this address the present-day circumstances of the importance of protections of lands and spiritual beliefs, but it does so for future generations. Land, and therefore food, water, and air are not simply commodities, but are imbued with spirit and should be treated with reverence and respect. Both the UNDROP and UNDRIP bring the rights of nature closer to the horizon.

III. EMBRACING RIGHTS OF NATURE TO PROMOTE SURVIVAL

Rights of nature supports the intention of humans to get into right relationship not only with our human family but also considers how we are in kinship relations with soil, ecosystems, animals, plants, seeds, minerals, air, and water. The rights of nature grants personhood

⁸⁵ Declaration Of Atitlán, Guatemala: Indigenous Peoples’ Consultation on the Right to Food: A Global Consultation Atitlán, Sololá, Guatemala, Int’l Indian Treaty Council (Apr. 17-19, 2002), https://www.iitc.org/wp-content/uploads/2013/07/FINAL_Atitlan-Declaration-Food-Security_Apr25_ENGL.pdf.

⁸⁶ *Id.*

⁸⁷ Res. 61/295, *supra* note 83.

⁸⁸ *Id.*

status to entire ecosystems, rivers, and lakes, mountains, and to ensure reverence and proper treatment, and to establish the grounded for nature to be represented and defended by humans.⁸⁹ This ethic of responsibility and mutuality is the beginning of building resilience for surviving and adapting to the climate catastrophe and supporting future generations.⁹⁰ Deep reverence and respect for the natural world is not solely the domain of indigenous people, but *all* people.⁹¹

The United Nations has been hosting dialogues on the rights of nature and the right to harmony with nature for more than a decade in response to the ever-growing crisis with devastation of ecosystems and climate-induced catastrophes that have displaced millions of people and is actively depleting soil, destroying coral reefs and mangroves, killing off pollinators, and threatening food supplies and clean water. Before this time, in 1973 the U.N. created the Conventions on International Trade in Endangered species of wild flora and fauna (CITES), and in 1982 the U.N. established the World Charter for Nature stating, "Every form of life is unique, warranting respect regardless of its worth to humans, and to accord other organisms such recognition, humans must be guided by a moral code of action."⁹² These treaties also supported the discussions in the 1990s of the Earth Charter finally agreed upon in 2000, where the U.N. states that nature has intrinsic value.⁹³ World leaders also agreed upon the U.N. Convention on Biodiversity (1993), which created obligations for all nations to protect biological diversity and stem climate change.⁹⁴ Most climate experts participating in these dialogues recognize that the current legal framework of human rights is inadequate to protect life on earth — as the full array of rights and protections should consider the rights of future generations.

⁸⁹ Universal Declaration for the Rights of Mother Earth, Glob. All. For the Rts. Of Mother Nature, From the World People's Conference on Climate Change and the Rights of Mother Earth (Apr. 22, 2010), <https://www.garn.org/universal-declaration-for-the-rights-of-mother-earth/>.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Cites*, U.S. FISH & WILDLIFE SERV., <https://www.fws.gov/program/cites> (last visited Nov. 30, 2023).

⁹³ The Earth Charter, Earth Charter Comm'n (June 29, 2000) https://earthcharter.org/wp-content/uploads/2020/03/echarter_english.pdf?x45111.

⁹⁴ *See generally* DAVID R. BOYD, *THE RIGHTS OF NATURE: A LEGAL REVOLUTION THAT COULD SAVE THE WORLD* (2017).

Indigenous people have been insisting on nature's rights, broadly defined, since colonizers and conquerors landed in the Americas. Worldwide, Indigenous peoples currently steward 85% of the earth's most biodiverse lands.⁹⁵ They have practically no responsibility for the climate crisis, yet they suffer the worst of it.⁹⁶ Now, the United Nations insists that Indigenous wisdom and stewardship of their lands is key to survival of humanity and to saving all life of the planet. The terrible irony is that most nation states violently disrespected and forcibly displaced Indigenous communities who warned colonizers and the people who capitalized on colonization of the inevitable catastrophe of genocide and environmental destruction.

Modern agriculture and the global food systems are the third largest contributor to greenhouse gases primarily through land-based emissions, energy use, industrial activities, and waste management. Scientists recommend decarbonization policies to transform the way we grow, transport, and handle food waste.⁹⁷ Additionally, the United States is the second to China in CO2 emissions.⁹⁸ But such laser focus on carbon is distracting the international community from taking action to restore and protect biodiversity of ecosystems.⁹⁹ Despite efforts to stem pollution and protect ecosystems in the U.S., the current U.S. legal system is inadequate to protect the health and wellbeing of people in the face of corporate resource extraction. People in large cities and small towns across America have tried to influence their state legislature or the Environmental Protection Agency (EPA) in attempts to protect their lands, waters, and air from environmental

⁹⁵ Kira M. Hoffmann et al, *Conservation of Earth's Biodiversity is embedded in Indigenous Fire Stewardship*, 118 PROC. OF THE NAT'L ACAD. OF SCI. 1, 2 <https://www.pnas.org/doi/epdf/10.1073/pnas.2105073118>.

⁹⁶ RISHABH KUMAR DHIR ET. AL., INT'L LAB. OFF., INDIGENOUS PEOPLES AND CLIMATE CHANGE: FROM VICTIMS TO CHANGE AGENTS THROUGH DECENT WORK 20 (2017), https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_551189.pdf.

⁹⁷ M. Crippa et al., *Food Systems are Responsible For a Third of Global Anthropogenic GHG Emissions*, 2 NATURE FOOD 198 (2021).

⁹⁸ Robert Rapier, *China Emits More Carbon Dioxide Than the U.S. and E.U. Combined*, FORBES (July 1, 2018, 6:22 PM), <https://www.forbes.com/sites/rpapier/2018/07/01/china-emits-more-carbon-dioxide-than-the-u-s-and-eu-combined/?sh=56808a9628c2>.

⁹⁹ See generally CHARLES EISENSTEIN, CLIMATE: A NEW STORY (2018).

degradation only to find out that there is no law to protect communities from mining and other companies that cause harm.¹⁰⁰ The EPA is not only ineffective, but oftentimes it collaborates with polluting corporations.¹⁰¹

New eco-centric laws must be created. Many communities across the globe have been inspired by rights of nature and have begun to find ways to declare that ecosystems, rivers, mountains, and lakes are persons in need of protection. In 2018, The White Earth Band of Ojibwe in Minnesota, eager to stop the ongoing construction of oil pipeline "Line 3," continued their legal battle by harnessing the rights of nature and declared that *Manoomin* (wild rice) is a person¹⁰² The proposed law states: "Manoomin, or wild rice, within all the Chippewa ceded territories, possesses inherent rights to exist, flourish, regenerate, and evolve, as well as inherent rights to restoration, recovery, and preservation."¹⁰³ It is important to note that Manoomin is not only kin, an ancestor and descendent in need of reverence, respect, and protection, but that it is also food.¹⁰⁴ It is sacred nutrition.

While some nation states, such as Ecuador and Bolivia, have embraced the rights of nature by integrating them into their country's constitutions, the U.S. lags far behind.¹⁰⁵ The U.S. legal systems need to catch up to societal shifts that are already happening, where people act on the premise that nature is our kin, rather than an endless source of capital.

¹⁰⁰ CMTY. ENV'T LEGAL DEF. FUND, COMMON SENSE COMMUNITY RIGHTS ORGANIZING 8 (2018), http://celdf.org/wp-content/uploads/2015/08/CommonSense-Final-no_bleed-2020.pdf.

¹⁰¹ *Id.* at 1, 4.

¹⁰² Winona Laduke, *The White Earth Band of Ojibwe Legally Recognized the Rights of Wild Rice*, YES! MAGAZINE (Feb. 1, 2019), <https://www.yesmagazine.org/environment/2019/02/01/the-white-earth-band-of-ojibwe-legally-recognized-the-rights-of-wild-rice-heres-why>.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Rickard Lalander, *Rights of nature and the Indigenous People in Bolivia and Ecuador: A Straight Jacket for Progressive Development Politics?*, 3 IBEROAMERICAN J. OF DEV. STUD. 148 (2015).

CONCLUSION AND RECOMMENDATIONS

This Paper is not a full throttle assessment of where the global community is regarding the right to food, nor is it a complete assessment of how the right to food could be put into force in the U.S. Rather, it is meant to expand current conversations about the right to food in the U.S. Rooted in wisdom and lived expertise of Black and Indigenous women, and through an intersectional approach, I connect hunger to the violation of body sovereignty of women, girls, and gender non-conforming people. This also reflects how hunger is evidence of violence against the Earth itself.

In addition to ratifying CEDAW, CRC, and UNDROP, answering more effectively to ICERD and the CAT, and developing a national plan to end hunger,¹⁰⁶ the United States government ought to:

1. Create and staff multiple working groups to lead efforts on the right to food and to be free from hunger that consists primarily of Indigenous nations and descendants of people who were enslaved in the U.S.

2. Pass HR40/S40 (house and senate bills to study and make a plan for reparations to descendants of people who were enslaved).¹⁰⁷

3. Respect all existing treaty rights, return all lands stolen from Indigenous people, repatriate all remains and stolen objects, and repair damage done from pollution, mining and other forms of extraction.¹⁰⁸

4. Put into action all recommendations proposed by the Working Group of Experts on People of African Descent after their visit to the U.S. in 2016. This includes reparations, truth telling opportunities, compulsory education about harms of enslavement,

¹⁰⁶ See generally MARIANA CHILTON ET. AL., NAT'L COMM'N ON HUNGER, FREEDOM FROM HUNGER: AN ACHIEVABLE GOAL FOR THE UNITED STATES OF AMERICA: RECOMMENDATIONS OF THE NATIONAL COMMISSION ON HUNGER TO CONGRESS AND THE SECRETARY OF THE DEPARTMENT OF AGRICULTURE (2015), <https://cybercemetery.unt.edu/archive/hungercommission/20151217000051/http://hungercommission.rti.org/>.

¹⁰⁷ Commission to Study and Develop Reparation Proposals for African Americans Act, H.R. 40, 117th Cong. (2021).

¹⁰⁸ THE RED NATION, *Part One: End the Occupation*, in THE RED DEAL: INDIGENOUS ACTION TO SAVE OUR EARTH (2021), https://therednation.org/wp-content/uploads/2020/04/Red-Deal_Part-I_End-The-Occupation-1.pdf.

colonization, and genocide in the US, and investment in Black and brown communities to support housing, education, health care, cultural institutions, and social services.¹⁰⁹

5. Consider the abolition of police and prisons while investing in alternatives such as transformative and restorative justice;¹¹⁰ and pass the Breathe Act (which includes removing police from schools).¹¹¹

6. Recognize rape as a form of torture, aligning with the United Nations' human rights principles, to create stronger laws to prosecute and prevent rape. Native women should be granted special consideration through federal legislation, exemplified by the Savanna's Act of 2020.¹¹²

7. Ensure meaningful education for all school children to stem patriarchal assumptions of traditional roles of women and restrict anyone who has used violence against women and gender non-conforming people from public office and leadership positions throughout civil society.

8. Create a "federal periodic National Action Plan to End Gender-Based Violence that requires attention to the intersection of gender-based violence and right to food violations."¹¹³

9. Support the rights of nature in communities where people advocating for the protection of water, land and ecosystems. Promote meaningful education about how land, water, air, and, by extension, our food and our bodies are sacred and part of a web of interdependence. In essence, begin to assert and act upon the notion that food is our kin.

Finally, the fact that reducing hunger has been the first Sustainable Development Goal for the past twenty-three years, and the

¹⁰⁹ U.N. Doc. A/71/297, *supra* note 50.

¹¹⁰ See MARIAME KABA, TAMARA K. NOPPER & NAOMI MURAKAWA, *WE DO THIS 'TIL WE FREE US: ABOLITIONIST ORGANIZING AND TRANSFORMING JUSTICE* (Tamara K. Nopper ed., 2021).

¹¹¹ *What is the BREATHE Act?*, THE BREATHE ACT, <https://breatheact.org/learn-more/> (last visited Oct. 14, 2022).

¹¹² *Savanna's Act*, U.S. DEP'T OF JUST.: TRIBAL JUST. AND SAFETY, <https://www.justice.gov/tribal/mmip/SavannasAct> (last updated Mar. 31, 2023).

¹¹³ Denisse Córdova Montes et al., *Violence and the Right to Food in the US: Submission to the United Nations Special Rapporteur on the Right to Food Mr. Michael Fakhri*, 18 (2022), <https://www.ohchr.org/sites/default/files/documents/issues/food/cfi-violence-food/csos/24-miami-law-clinique-en.docx>.

world has yet to effectively reduce hunger in war-torn impoverished places and in highly wealthy nation-states alike, suggests there is something deeply pathological and dangerous in our own understanding of humanity and how we economically, socially, culturally and politically organize ourselves around the globe.

The United Nations system, stemming from atrocities of war and genocide, is still a work in progress. The preamble to ICERD, asserts that the United Nations has “condemned colonialism and all practices of segregation and discrimination associated therewith”¹¹⁴ This suggests that many nations, including the U.S., are on shaky ground until they recognize and repair harms of colonialism and return stolen lands. It’s important to remember that colonization is a global phenomenon, and almost all nation states are implicated in the legacies of rape and genocide. The modern nation state system is responsible for the impoverishment of women by rendering their labor and contributions invisible, unpaid, and undervalued. Nation states control women’s sexuality, fertility, work capacity, and labor power. If women, and by extension the earth, were treated equally to men, then the modern economic system, and consequently, the current nation state system, would be wholly transformed.¹¹⁵ Therefore, there is a “structural contradiction” within the current human rights framework, where human rights are upheld by the modern nation state system, organized through the United Nations.”¹¹⁶ It is unclear if the right to food in its current understanding can be achieved without societal, spiritual, political, and economic transformation on a global scale.

A good place for the U.S. to start is to provide reparations for the transatlantic slave trade and generations of enslavement, return stolen lands, and express care, concern and reverence for women, children, and gender non-conforming people, as well as for all creatures, habitats, ecosystems, and for our food.

¹¹⁴ G.A. Res. 2106 (XX), at 1, Int’l Convention on the Elimination of All Forms of Racial Discrimination (Jan. 4, 1969).

¹¹⁵ See Maria Mies & Vandana Shiva, *Women have no fatherland*, in ECOFEMINISM (1993).

¹¹⁶ *Id.* at 121.