"Prague Process"

Food Insecurity and Human Rights

Working Group Paper

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Prof. Mark Somos, Just Access, Director

Food Insecurity and Human Rights

State of the Field and Recommendations

State of the field

1. *Food security*, as defined by the 1996 World Food Summit, 'exists when all people, at all times, have physical and economic access to sufficient safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life'.[1] Where access to safe and nutritious food is not reliable, affordable, culturally appropriate, or sufficient, individuals and communities may be *food insecure*. In turn, food insecurity is closely linked to, though distinct from, concepts such as *hunger*,[2] which refers to an acute lack of food; *malnutrition*,[3] which refers to the physical consequences which may arise as a result of acute or intermittent lack of adequate food; and *food poverty*,[4] which refers specifically to food insecurity resulting from economic deprivation. The concept of food (in)security is an important metric for understanding the patterns of availability and lack of safe and nutritious food worldwide, but has been criticised as placing too much emphasis only on access to food, without considering the means by which that food is delivered and its availability secured.[5] The international peasants' movement, La Vía Campensina, in 1996 proposed an alternative concept, *food sovereignty*, which has been defined as the 'right of peoples to healthy and culturally appropriate food produced through socially just, ecologically sound and sustainable methods, and their collective right to define their own policies, strategies and systems for food production, distribution and consumption.'[6]

[1] Rome Declaration on World Food Security and World Food Summit Plan of Action, 1996.

[2] FAO, 'Hunger and Food Insecurity' (2023), available via <https://www.fao.org/hunger/en/>.

[3] Ibid.

[4] Brigid Francis-Devine et al., 'Food Poverty: Households, food banks and free school meals', House of Commons Library Research Briefing, (23 September 2022), available via <https://researchbriefings.files.parliament.uk/documents/CBP-9209/CBP-9209.pdf>.

[5] Alliance for Food Sovereignty in Africa, 'Food Sovereignty Systems: Feeding the World, Regenerating Ecosystems, Rebuilding Local Economies, and Cooling the Planet – all at the same time' (November 2011), available via <https://afsafrica.org/wp-content/uploads/2014/05/AFSA-Document.pdf>.

[6] Declaration of Nyéléni (27 February 2007), available via <https://nyeleni.org/IMG/pdf/DeclNyeleni-en.pdf>.

2. The concept of food sovereignty is intended, in part, to shift the focus from market-based mechanisms of food production and distribution to a wider focus on just, socially-focussed and ecologically-sustainable food systems. *Food systems*[7] which realise the food sovereignty of the people working within and supplied by them will ensure the reliable supply of 'good quality, adequate, affordable, healthy, and culturally appropriate food', produced in circumstances in which peasants' 'full rights to land' are defended and preserved, workers 'earn a living wage for their labour', and where methods of food production 'conserve and rehabilitate rural environments … based on ecologically sustainable management of law, soils, water, seas, seeds, livestock, and other biodiversity.'[8]

3. The human right to food is guaranteed by several international instruments. It was first recognised in 1948 as a component of an 'adequate standard of living' in Article 25(1) of the UDHR. This right was also included in Article 11 of the International Covenant on Economic Social and Cultural Rights (ICESCR), with its specific components clarified by the Committee on Economic, Social and Cultural Rights in its General Comment No. 12, as well as an aspect of the right to life in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), in accordance with General Comment No. 36 of the Human Rights Committee. Moreover, the right to food can be found in the Convention on the Rights of the Child (Articles 24(2)(c) and 27(3)), the Convention on the Rights of Persons with Disabilities (Articles 25(f) and 28(1)), the UN Declaration on the Rights of Indigenous Peoples (where Article 20 guarantees the right 'to be secure in the enjoyment of their own means of subsistence'), and the Convention on the Elimination of All Forms of Discrimination against Women (Article 12(2); hereafter: CEDAW). In its General Recommendation 34, the Committee on the Elimination of Discrimination Against Women has, too, emphasised the relevance of Article 14 CEDAW to rural women, and has reiterated that States must '[r]ecognise their [rural women's] crucial contributions to local and national economies and to food produc-

[7] 'The food system is a complex web of activities involving the production, processing, transport, and consumption. Issues concerning the food system include the governance and economics of food production, its sustainability, the degree to which we waste food, how food production affects the natural environment and the impact of food on individual and population health': Oxford Martin Programme on the Future of Food, 'What is the Food System', available via <https://www.futureoffood.ox.ac.uk/what-food-system>.

[8] Declaration of Nyéléni.

tion'. The UN Declaration on the Rights of Peasants (UNDROP), similarly, both specifically declares the rights of '[p]easants and other people working in rural areas … to adequate food and … to be free from hunger' (Article 15), as well as providing a number of guarantees for peasants and other rural workers in their capacities as workers within food systems (see especially Articles 4, 5, 9, 14, and 17-20). The right to food, too, is proclaimed in several regional human rights instruments, as well as in domestic constitutions. Finally, at minimum a narrow understanding of the right to food is defended in Sustainable Development Goal (SDG) 2, which mainly addresses food security. The fundamental human right to food is both a self-standing guarantee protected under conventional and customary international law, and an integral part of an indivisible fabric of rights relating to the right of the individual to an adequate standard of living (inter alia, the rights to food, housing, sanitation, water, and health); the rights of workers, peasants, and smallholders (inter alia, rights to land, to seeds, to safety at work, to fair wages, and to organise); and the rights of communities and indigenous peoples (indigenous rights to land and traditional means of subsistence; rights to social security; food sovereignty).

4. The right to food is supported by an international institutional system, in which the most central actors are the Food and Agricultural Organisation (FAO) of the United Nations, the World Food Programme (WFP), the International Fund for Agriculture and Development (IFAD), and the Committee on World Food Security (CFS). Within the CFS, the Civil Society and Indigenous Peoples' Mechanism (CSIPM) is a key space for inclusion of organisations and movements representing those groups most at risk of food insecurity, and comprises eleven constituencies: smallholder farmers, pastoralists, fisherfolk, indigenous peoples, agricultural and food workers, landless, women, youth, consumers, urban food insecure and NGOs. The wider institutional framework relating to the right to food also includes the World Trade Organisation (WTO), World Health Organisation (WHO), UNICEF, the UN Office for the Coordination of Humanitarian Affairs, and numerous other bodies and agencies, the mandates of which relate to food and food security in various ways.

5. The body of regulation pertaining to the right to food offers several advantages. First, as an autonomous right recognised in international law and in a number of national constitutions, States are under a legal obligation to respect, protect and fulfil the right to adequate food. Aspects of the right

to food which cannot be implemented immediately and in full are subject to an obligation of progressive realisation, and States must adopt national strategies to work towards full compliance with the right.[9] This may include, inter alia, land reform, labour protections, and measures to protect or enhance fisheries, forest ecosystems, and biodiversity. Second, the right to food promotes the transformation of social benefits that individuals or households receive under government food security programmes into legal entitlements. The primary objective of the right to food is to ensure that everyone, individually or as a member of a group, has permanent and secure access to nutritionally adequate food that is produced in a sustainable and culturally acceptable manner.[10] This access can be provided through three channels that often work in combination: (a) self-production, (b) access to income-generating activities and (c) social protection, either informally through community support or through State-administered mechanisms.[11] Finally, the State is under immediately applicable obligations not to interfere with the enjoyment of the right to food, for example by depriving individuals or communities of food or the ability to produce food. This may buttress, for example, farmers right to access and reuse seed, access to water, and the rights of peasants and indigenous peoples to enjoy unrestricted access to their lands.

6. However, despite that the right to food is recognised in a number of international treaties and increasingly in domestic constitutions, a rising number of people around the world face hunger and extreme food insecurity. The FAO has highlighted that the number of people unable to afford a healthy diet has risen year-on-year since 2019, to more than 3 billion people.[12] In parallel, the number of people facing acute hunger and undernourishment has risen to 9.8 per cent of the global population; around 820 million people.[13] The report notes that acute food insecurity is more pronounced in some regions than others, with Africa being the worst affected (with 20.2 per cent of

[9] See Olivier De Schutter, Interim report of the Special Rapporteur on the right to food, 2013, para. 8. For the origin of the 'respect, protect, fulfill framework in the work of another Special Rapporteur on the right to food, see Asbjørn Eide, The New International Economic Order and the Promotion of Human Rights: Report on the Right to Adequate Food as a Human Right Submitted by Mr. Asbjørn Eide, Special Rapporteur, 1987.

[10] Rome Declaration on World Food Security and World Food Summit Plan of Action, 1996.

[11] Olivier De Schutter, Interim report of the Special Rapporteur on the right to food, 2013, para. 6.

[12] FAO, 'The State of Food Security and Nutrition in the World, 2022', xiv.

[13] Ibid.

the population facing hunger), followed by Asia (9.1 per cent) and Latin America and the Caribbean (8.6 per cent).[14] However, it should be noted that almost all States and regions have seen a growth in the number of people facing food insecurity, including in high-income countries.[15]

7. It seems unlikely that the rising rates of food insecurity are primarily a reflection of absolute (i.e., global) availability of food: between 2000 and 2019 the global population increased by approximately 26 per cent. In the same period, the FAO reports that global production of primary crops increased by 53 per cent, production of vegetable oils increased by 118 per cent, and meat production increased by 44 per cent. A study by Atif Awad, published in 2023, comparing factors contributing to food insecurity across countries and regions noted that increasing domestic food production leads to a 'statistically significant' but 'minor' positive impact on rates of malnutrition, but notes that '[f]ood production is necessary, but it is not sufficient to guarantee the achievement of food security.'[16] By contrast, the paper identifies a clear, if counterintuitive, relationship between trade and falling rates of food insecurity, in which 'with more food imports, more people started suffering from undernutrition.'[17] Rather, it seems clear that rising rates of food insecurity and malnutrition are primarily related to structural forms of inequality—between and within States[18]—as well as food markets which, as a result of mismanagement or active policy choices, privilege corporate interests.[19] To this must be added the four major drivers of food insecurity as identified by the FAO: 'conflict, climate extremes, economic shocks, [… and] growing inequality'.[20]

8. Armed conflicts have been identified as having a significant negative impact on food security. Civil conflicts in particular routinely cause or exacerbate hunger, malnutrition and famine,[21] as

[14] Ibid, xvi.

[15] The Trussell Trust/Glen Bramley et al., 'State of Hunger: Building the Evidence on Poverty, Destitution, and Food Insecurity in the UK, Year Two Main Report' (May 2021), 11.

[16] Atif Awad, 'The determinants of food insecurity among developing countries: Are there any differences?' (2023) 19 Scientific African e01512.

[17] Ibid. See also Joseph Awange, *Food Insecurity & Hydroclimate in Greater Horn of Africa: Potential for Agriculture Amid Extremes* (Cham: Springer, 2022), 3-27.

[18] See e.g. Hans Konrad Biesalski, 'Hidden Hunger in the Developed World' in Manfred Eggersdorfer, et al. (eds), *The Road to Good Nutrition* (Basel: Karger 2013).

[19] Michael Fakhri, Interim report of the Special Rapporteur in the right to food, 2021, para. 26, and further paras. 17-19.

[20] FAO, 'The State of Food Security', 2.

[21] FAO, Food Insecurity and Violent Conflict: Causes, Consequences, and Addressing the Challenges, 2011.

ongoing situations in Yemen, Somalia and Syria can attest. It is estimated that approximately 30 per cent of the arable land in Ukraine has been rendered unusable as a result of mining and other direct impacts of the Russian invasion, which has also impacted fuel supplies and supplies of other agricultural raw materials.[22] In addition, the war in Ukraine has highlighted the lack of resilience of deregulated, corporate-driven food systems, most particularly 'just in time' logistics which has been shown to have very limited capacity to respond to supply chain disruptions. However, as FIAN and the FAO have highlighted, spikes in food prices following the invasion of Ukraine *preceded* any actual food shortages,[23] a phenomenon which FIAN attributes, inter alia, to the over-dominance of export crops, price speculation, and a poorly-functioning market in which 'four companies control the vast majority of the global grain trade. This concentration implies that those countries and companies can take advantage of a crisis situation by dictating prices and by speculation'.[24] Independent research has highlighted that the effect of the crisis has been further to entrench the control of a small number of corporations over food systems, while governments have, thus far, not succeeded in imposing a greater degree of democratic control.[25]

9. The climate crisis, too, is a significant (and worsening) factor in food insecurity. The ability of communities to feed themselves and earn a living is severely compromised by their exposure to changing and severe weather conditions, natural disasters, and environmental destruction, including soil degradation.[26] As climate change advances, changes to rainfall patterns and seasonal average temperatures will affect the habitable range for crop species, and will deprive some farmers and communities of their traditional crops. The IPCC has warned that numerous communities have already reached 'soft' limits to their ability to adapt to the agricultural impacts of climate change (limits resulting from their limited access to resources such as power, desalination technology, resistant seed varieties, or piped water), and that 'hard' limits may also be reached in the future (beyond which it is impossible to adapt, even with theoretically limitless resources).[27] Indeed, in

[22] FIAN International/Sofía Monsalve Suárez and Charlotte Dreger, 'War in Ukraine: Recurring Food Crises Expose Systemic Fragility' (May 2022), 9.

[23] Ibid., 11; FAO, Crop Prospects and Food Situation Quarterly Global Report, 2022 #1 (March 2022), 37.

[24] FIAN, 'War in Ukraine', 15, and further 11-16.

[25] FIAN, Food Crisis Response Entrenches Corporate Influence, October 2022.

[26] FIAN, The Problem with the Industrial Food System and how to fix it, July 2022, p. 4.

[27] Hans-Otto Pörtner et al, 'IPCC WGII: Summary for Policymakers' in Rita Adrian et al (eds), *Climate Change 2022: Impacts, Adaptation, and Vulnerability: Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge University Press 2022), paras. B.4.3, C.2.2, C.4.3.

some areas, such as the Horn of Africa where rains have failed in four consecutive rainy seasons, those hard limits may be approaching, or may already have been reached. Climate change disproportionately affects the right to food of rural women, smallholder farmers, people living in poverty and indigenous communities, who have less ability to invest in climate adaptation.[28] As a consequence, climate change further entrenches inequalities, giving additional advantages to the wealthy farmers who can make the investments at the cost of poorer farmers.[29] At the same time, food systems—particularly in highly developed States—are a major contributor to climate breakdown, with industrial livestock farming being among the most damaging activities. In arable farming, industrial agricultural practices involving heavy pesticide, herbicide, and fertilizer use are responsible for other forms of environmental degradation, including desertification, pollution of waterways, and ocean dead zones, in turn negatively affecting social and environmental determinants of health and accelerating negative environmental and climate feedback loops.[30]

10. Poverty and growing inequality, both within and between nations, are underlying structural factors that make some people more likely to experience food insecurity than others. It is now widely recognised that food security has little to do with insufficient levels of food production (globally), but is a problem of the unequal distribution of food: while some have access to ample food, people not having access to land or other natural resources to produce food for their own consumption, or to income from work or social security entitlements to be able to purchase food, or have difficulty accessing food because of their race, class, caste, gender, disability or other basis of discrimination, are at greater risk of being food insecure.[31] It has therefore been suggested that food security should be classed as an economic public good, as a food-secure world produces numerous benefits that can be enjoyed simultaneously and from which no-one can be practically excluded, such as moral benefits, public health gains, market opportunities, and higher social stability.[32]

11. The structural factors giving rise to poverty and inequality are, in turn, linked to trade and investment regimes that favour liberalised market mechanisms, including in agriculture, and to structural

[28] Joanna Bourke-Martignoni, The right to food, 2020, p. 157.

[29] J. Popke, S. Curtis and D.W. Gamble, 'A social justice framing of climate change discourse and policy: Adaptation, resilience and vulnerability in a Jamaican agricultural landscape', Geoforum, 73, 70–80 (2016)..

[30] Reyes Triado, 'Dead Zones: how agriculture fertilizers kill our rivers, lakes and oceans' 2008.

[31] Joanna Bourke-Martignoni et al., Agricultural commercialization, gender equality and the right to food, p. 1.

[32] Cristian Timmermann, Food security as a global public good, 2018, pp. 88 et seq.

adjustment programmes that have imposed policies on indebted countries in the global South, and subvert national governments' control over food and agriculture. Multinational corporations take advantage of tax regimes across States, removing value from developing economies.[33] Financial incentives offered by governments often favour economies of scale and promote large-scale, capital-intensive agriculture, thereby reducing support for smallholder farmers.[34] However, empirical studies cast doubt on commercialisation as a means to achieving global food security. Rather, commercialisation and intensification tend to increase specialisation, with crops grown as monocultures and only a few varieties planted. In turn, overspecialisation increases vulnerability to pests (leading to a concomitant overdependence on pesticides), as well as increasing vulnerability to environmental shocks. It also tends towards larger holdings, concentrating land in a few hands, disproportionately to the benefit of those with pre-existing access to power and resources. This is particularly problematic for women, as it leads to a loss of arable land and seasonal food shortages on the one hand, and changes in the division of labour, low wages and new dependencies on men's income, on the other.[35] Intersectional inequalities increase vulnerability among already disadvantaged groups.

12. A closely connected element in this context is the corporate dimension of the global food and agriculture system. For example, commodity seed systems and seed corporations have prevented farmers from freely saving, using, exchanging and selling seeds, and thus create barriers which impede people and communities from adequately feeding themselves directly from productive land.[36] Rapaciously commercialised commodity seed systems extract genetic material from plants with which communities live in symbiosis, in effect disrupting that relationship, and alienating peasants, indigenous peoples, and others from the right to benefit from their traditional knowledge. In parallel, the overdominance of specific, highly cultured varieties tends towards the establishment of monocultures, impoverishing soil and often transforming landscapes by imposing genetic homogeneity. Although international conventional law establishes rights for farmers to keep and use seed, to access seed varieties, and to benefit from genetic diversity of certain key seed crops,

[33] Olivier De Schutter, Interim report of the Special Rapporteur on the right to food, 2013, para. 17.
[34] Joanna Bourke-Martignoni et al., Agricultural commercialization, gender equality and the right to food, p. 5.
[35] Joanna Bourke-Martignoni et al., Agricultural commercialization, gender equality and the right to food, p. 10.
[36] Seeds, right to life and farmers' rights, Report of the Special Rapporteur on the right to food, Michael Fakhri (2022).

corporate systems aggressively advertise proprietary seed varieties which often produce non-viable seed (preventing re-sowing) or which are keyed to function with proprietary fertilisers, herbicides, or pesticides and which thus lock farmers into relationships of dependency.[37] It has been reported that the misinterpretation of national laws allowed intellectual property rights to dominate and construe certain farmers' rights as illegal, depriving especially those in the global South of the ability to benefit from their own seed systems.[38] In parallel, intensification, reduction in species and intra-species diversity, and overuse of pesticides and fertilizers have contributed to a crisis of biodiversity loss. The loss of biodiversity, in turn reduces the resilience of food systems: monocultures and crops with low degrees of genetic variation are more vulnerable to pests and diseases than mixed plantings, while the global crash in insect populations reduces the availability of natural pollinators, and natural pest control systems.

13. Corporate influence on food systems, too, can be seen in the growing problem of low-quality food. The ultra-processed foods and foods with extremely high fat, sugar, and salt content aggressively advertised by the industrial food industry are creating concentric health crises, in which the prevalence of both malnutrition and obesity are rising. Unhealthy diets are responsible for millions of deaths every year,[39] as well as adding to pressures on public health- and welfare systems. As 'junk' foods tend to be less expensive on a per-calorie basis than equivalent fresh-, whole- and other high-quality foods, individuals and groups with lower incomes or suffering from economic exclusion are most likely to be negatively affected.[40] It is key that, as the definitions both of food security and food sovereignty emphasise, for the right to food to be fulfilled it is not enough for an individual to have access to food, but rather to *good quality* food. The Nyéléni declaration emphasises access to 'good quality, adequate, affordable, [and] healthy' food.[41]

14. This expansion of corporate influence on food systems through the commercialisation of agriculture and land, as well as through public-private partnerships in nutrition and food, has been a cen-

[37] International Treaty on Plant Genetic Resources for Food and Agriculture,
[38] Seeds, right to life and farmers' rights, Report of the Special Rapporteur on the right to food, Michael Fakhri, 2022, para. 36.
[39] FIAN, The Problem with the Industrial Food System and how to fix it, July 2022.
[40] See, e.g., Adam Drenowski, 'Food Insecurity has Economic Root Causes', (2022) 3 *Nature Food* 555-556.
[41] Nyéléni Declaration.

tral concern for civil society organisations that work on the right to food, and has also been discussed in various human rights fora.[42] It has been even argued that a "corporate capture" of the FAO is taking place; that is to say, that there is a loss of democratic control over the organisation, as the relative influence of States (which represent their populations) declines vis-à-vis the interests of those (often corporate) bodies providing funding to the organisation.[43] Voluntary contributions account for 69% of the FAO's budget for 2022-2023, and donors have the opportunity to set priorities and determine how these resources are used through strict conditionality principles.[44] In addition, the FAO's updated strategy for private sector engagement from 2021 encourages the expansion and scaling up of partnerships with the private sector, of both formal and informal nature. A lack of transparency means that it is often unclear whether a risk assessment has been carried out and what procedures, if any, have been undertaken to evaluate proposed partnerships, the risks identified, appropriateness to local conditions, and any plans to mitigate these risks.[45]

15. Right to food and food sovereignty movements worldwide have launched effective campaigns to highlight the need for a greater focus on the social factors underpinning, and dependent on, well-functioning food systems. In particular, these movements have highlighted the roles women play in building and maintaining robust food systems as part of communities, a factor which has only recently begun to be captured in international processes, as well as the ways in which gender and other forms of discrimination compound vulnerabilities in food systems.[46] Nor are weak food systems gender-neutral in their impacts.[47] It has been observed that in 'commercialized agriculture, the unpaid farm and reproductive labour disproportionately performed by women are simultaneously central to and invisible within [….] economies.'[48] Feminist food sovereignty organisations, and the wider right to food movement in general, have a vital role to play in building strong and resilient food systems, as well as generating political will to support food system reform.[49]

[42] Joanna Bourke-Martignoni, The right to food, 2020, p. 155.
[43] See FIAN, Corporate Capture of FAO: Industry's Deepening Influence on Global Food Governance, May 2022.
[44] FIAN, Corporate Capture of FAO, p. 2.
[45] FIAN, Corporate Capture of FAO, p. 10.
[46] Joanna Bourke-Martignoni et al., Agricultural commercialization, gender equality and the right to food, pp. 1-2, 6.
[47] Joanna Bourke-Martignoni et al., Agricultural commercialization, gender equality and the right to food, p. 7, and further pp. 7-10.
[48] Joanna Bourke-Martignoni et al., Agricultural commercialization, gender equality and the right to food, p. 2.
[49] Joanna Bourke-Martignoni, The right to food, 2020, pp. 154-155; Olivier De Schutter, Interim report of the Special Rapporteur on the right to food, 2013, paras. 36, 40, 53-56.

16. For all of the reasons given above, there is a considerable and growing gap between States' obligations and reality on the ground. To date, legal frameworks have not proven successful in closing this gap, in part because those legal frameworks seldom designate the judicial, quasi-judicial and administrative bodies to which complaints about violations of the right to food can be submitted. Nor does most domestic legislation adequately provide for sanctions in cases of non-compliance.[50] Nor, at present, is there an effective multilateral, human rights-based, globally coordinated response to the hunger crisis that would prioritise the voices of the most affected countries and peoples.[51] However, the above brief mapping of the state of the field does strongly indicate the potential of a human-rights-centred approach, in consort with and in support of food sovereignty movements and others, to increase the priority given at the international level to realising the right to food.

Recommendations

1. States must fully implement existing human rights obligations, among other measures by ensuring that those who produce their own food have secure access to the resources they depend on, such as land, seeds, and water, while those who access food through markets have sufficient access to income-generating activities or social security mechanisms to enable them to purchase adequate, healthy food.[52] The land rights of indigenous peoples, peasants, and other groups which depend on access to land for the realisation of their right to food must be protected by law. Ethical principles, such as the non-wastage principle, could also be interpreted more widely, in order not only limit the waste and inefficient use of edible food, but to extend the imperative to the resources needed for food production. Land and water distribution and management arrangements that fail to leave enough resources of good quality as needed to cover the needs of the whole population are a violation of the right to food.[53]

[50] Olivier De Schutter, Interim report of the Special Rapporteur on the right to food, 2013, para. 40.
[51] FIAN, Food Crisis Response Entrenches Corporate Influence, October 2022, p. 7.
[52] Olivier De Schutter, Interim report of the Special Rapporteur on the right to food 2013, para. 11.
[53] Cristian Timmermann, Food security as a global public good, 2018, p. 91.

2. States are under an obligation to protect individuals' enjoyment of the right to food against violations by third parties, especially private enterprises, including by establishing an adequate regulatory framework for cross-border activities of corporations. A legislative framework, policies that execute food security initiatives, and judicial enforcement are all necessary for the right to food to be protected.[54] Not only is the adoption of framework laws especially important, but so is the improvement of existing ones, among other necessary measures by providing domestic remedies to individuals or organisations that have been harmed by lack of enforcement. Claimants must not be subjected to retaliation for exercising their rights but must be protected,[55] and the independent and impartial claim mechanisms that they must have access to should be established at a decentralised level, and should be free, accessible, and lacking in excessive formalities and language barriers for ethnic groups.[56]

3. With the full and transparent participation of peasants, smallholder farmers, and other specially affected groups, governments should seek to reduce the use of agrochemicals to a reasonable and sustainable minimum, and outlaw the use of those chemicals most dangerous to health and the environment. The manufacture and export for use elsewhere of agrochemicals banned for domestic use should be prohibited. In addition, governments should provide technical support for agricultural techniques that improve soil health, as may be appropriate in different contexts, such as composting, the use of organic fertilizers, use of perennial varieties, crop rotation, and use of no-dig systems, and increase awareness of the time and effort soil restoration requires.[57] Crop diversification should be encouraged, and mandated on massive monoculture plantations.[58] In parallel, The focus should shift from increasing food production by further commercialising agriculture toward agroecology, regenerative approaches, and indigenous food systems that do not use synthetic pesticides and emphasise genetically and culturally diverse agriculture at multiple scales.[59]

[54] Olivier De Schutter, Interim report of the Special Rapporteur on the right to food, 2013, para. 49.
[55] https://www.ohchr.org/en/stories/2022/03/environmental-human-rights-defenders-must-be-heard-and-protected
[56] Olivier De Schutter, Interim report of the Special Rapporteur on the right to food, 2013, para. 22.
[57] FAO, 'Status of the World's Soil Resources: Technical Summary' (2015).
[58] FIAN, The Problem with the Industrial Food System and how to fix it, July 2022, p. 6.
[59] Seeds, right to life and farmers' rights, Report of the Special Rapporteur on the right to food, Michael Fakhri, 2022, para. 79.

4. Governments should also implement taxes and warning labels to discourage the use of ultra-processed junk food and beverages, ban their targeted advertising to young people and other vulnerable groups, and implement and support campaigns that aim to ban the advertising of unhealthy products and food-related services.[60] Funds raised through junk food taxes should be used to subsidise the cost of producing and making widely available high-quality, healthy foods.

5. States, acting within the framework of appropriate multilateral mechanisms, should conduct an end-to-end review of structural issues and opportunities at the international level which impede, or which could assist, developing States to fulfil international human rights obligations on the right to food. In particular, attention should be paid to assistance in creating, and eliminating barriers to the establishment of social protection floors, as well as re-orienting production systems towards high-resilience food crops that feed the local population instead of prioritising export-led agriculture and commodities.[61] At a minimum, such a review should urgently consider restructuring or relief from unsustainable debt, as well as unfair trade and investment practices, tax evasion, the full implementation of existing development financing mechanisms and, if appropriate, the need for new or dedicated financing mechanisms. Such a review should take place in an open and transparent way, and with full participation by civil society, food sovereignty advocates, peasants organisations, and indigenous peoples, and should centre human rights obligations. G20 States and other States or actors holding large amounts of developing State debt should take the lead in forgiving or restructuring debts, including in advance of the review.

6. In matters relating to international trade, including negotiation of new bi-, pluri- or multilateral trade instruments, contracts, and other matters with foreseeable impacts on domestic food systems, States must centre the human rights of individuals and communities. In particular, States must ensure that new instruments and contracts accord both in letter and in spirit with their human rights obligations. States would be well advised to adopt a food sovereignty lens on international trade,

[60] FIAN, The Problem with the Industrial Food System and how to fix it, July 2022, p. 7. For definitions, and State obligations and the responsibilities of the food and beverage industry, see Unhealthy foods, non-communicable diseases and the right to health, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, 2014.

[61] Olivier De Schutter, Global fund for social protection: international solidarity in the service of poverty eradication - Report of the Special Rapporteur on extreme poverty and human rights (A/HRC/47/36).

and in particular to privilege domestic and local-scale production of diverse, culturally-appropriate crops over export-led agriculture.

7. States and international organisations should adopt community-led decision-making in the food sector. Establishing food policy councils and engaging with right to food organisations, food sovereignty organisations, and representatives of affected communities is vital in order to ensure that the decisions are responsive to the population's expectations and to the priorities that people identify. The principle of subsidiarity should apply, with decisions taken at local and regional levels where possible, in order to enhance the participation of those most affected. States should enact regulations, in accordance with international best practice, to ensure that agencies and aid organisations active within their territories engage with populations on terms of informed consent, and in ways which respect and uphold the agency of individuals and groups.

8. Greater emphasis on the views and self-determination of affected communities referred to in point 7, above, should form part of a wider rebalancing of the legal and institutional system pertaining to food. Following the example of the WHO's framework convention on tobacco control, States should enact provisions against agrifood corporations which seek unduly to influence decision-making within the FAO and other food-related international organisations.

9. In addition, the FAO should end its partnership agreements with entities the interests of which conflict with the organisation's mission. These include, but are not limited to, high-risk sectors such as agrochemical, fast food, beverage, tobacco, and fossil fuel industries.[62] The FAO should likewise adopt an enhanced transparency framework, under which it would fully disclose all financial donations made to the FAO and its Member States by private actors. This reporting should, at a minimum, detail the amount of money contributed by each entity, the projects it funded, the duration of the projects, the details of the diligence assessments conducted for those relationships, and the corrective actions taken to resolve any potential conflicts of interest.

10. The FAO's regulations on engagement with the private sector must be adjusted better to reflect the fact that small-scale food producers are the ones who need FAO protection, and to take into

[62] FIAN, Corporate Capture of FAO, p. 20.

account power imbalances that already exist between the corporate sector and small-scale food producers.[63]

11. In order to guarantee farmers' rights to freely save, use, exchange and sell farm-saved seeds, States should take steps to ensure that no knowledge belonging to a community can be shared or utilised commercially without that community's free, prior, and informed consent.[64] Instead of taking place in non-democratic multi-stakeholder settings that are dominated by the most powerful participants, global policy coordination must also take into account the disparities between nations and ensure that the voices of the most affected communities and peoples are heard at all levels of decision-making.[65] States should fully implement the International Treaty on Plant Genetic Resources, and in particular the provisions of that treaty on farmers' rights.

12. Private enterprises must carry out human rights due diligence to identify, prevent, mitigate and account for their impacts specifically on the right to food, as stipulated in the Guiding Principles on Business and Human Rights.[66] In this respect, States should support and actively participate in the UN Human Rights Council's process for a Binding Instrument on Transnational Companies and Human Rights as a crucial tool for regulating and holding corporations accountable, and should develop and implement national laws in accordance with the goals of that instrument.[67]

13. States, international organisations (including the FAO), and other agencies and actors should adopt a gender-sensitive and intersectional approach to their work on food (in)security, in particular taking into account racism, classism and ableism, as well as other intersecting forms of marginalisation. Structural discrimination and other systemic barriers to the full realisation of individual and community rights can compound the negative impacts of weak or fragile food systems, and must urgently be addressed. In particular, women often face the impacts of discriminatory laws and exclusionary or patriarchal social structures, with the effect that women produce more than 50 per

[63] FIAN, Corporate Capture of FAO, p. 1.
[64] Seeds, right to life and farmers' rights, Report of the Special Rapporteur on the right to food, Michael Fakhri, 2022, para. 52.
[65] FIAN, Food Crisis Response Entrenches Corporate Influence, October 2022, p. 12.
[66] Olivier De Schutter, Interim report of the Special Rapporteur on the right to food, 2013, para. 13.
[67] FIAN, Food Crisis Response Entrenches Corporate Influence, October 2022, p. 14.

cent of all food, but account for 60 per cent of the world's food insecure.[68] At the same time, 'Women are, and have always been, central to the creation of radical food politics that have the power to reconnect us with nature, remake social relations and prioritize intersectional justice.'[69] States must fully implement Article 14 CEDAW, as elucidated in General Recommendation 34 of the Committee on the Elimination of Discrimination Against Women, as well as Articles 3 and 4 UNDROP, and other relevant provisions of international human rights law.

14. Addressing food insecurity caused by non-State actors in armed conflicts or by failed States requires a multifaceted approach that includes both short-term humanitarian assistance and longer-term efforts to build more stable and accountable governance structures. International sanctions, such as asset freezes and prosecutions under the principle of universal jurisdiction for the use of hunger and starvation as a weapon of war and for crimes against humanity, could also be used against non-State actors that violate the right to food. Human rights monitoring and reporting mechanisms should ensure the effective monitoring and reporting of the compliance of non-State actors with human rights obligations, specifically including the right to food, and hold them accountable in case of violations. Finally, it has been argued that a greater engagement and negotiations with these entities is necessary, especially when they serve important State-like functions for the populations under their control.[70]

[68] Global Network for the Right to Food and Nutrition, 'Peoples' Monitoring Toolkit for the Right to Food and Nutrition', 23; World Food Programme USA, 'Gender Inequality', available via <https://www.wfpusa.org/drivers-of-hunger/gender-inequality/>.

[69] Right to Food and Nutrition Watch, 'Women's Power in Food Struggles' (2019, issue 11), 13.

[70] Giles Giacca, *Economic, Social, and Cultural Rights in Armed Conflict*, Oxford University Press 2014, chapter V. Just Access, The international responsibilities of "de facto authorities" and terrorist organisations in the Yemeni conflict, 26 December 2020, https://just-access.de/international-legal-responsibility-of-de-facto-authorities-and-terrorist-organisations-in-the-yemeni-conflict/