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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

The right to food and the coronavirus disease pandemic

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the right to food, Michael Fakhri, in accordance with Assembly resolution [76/166](#) and Human Rights Council resolution [46/19](#).

* [A/77/150](#).



Interim report of the Special Rapporteur on the right to food, Michael Fakhri

Summary

Pursuant to General Assembly resolution [76/166](#), the Special Rapporteur on the right to food submits the present report, in which he examines the emerging issues concerning the realization of the right to food, in particular in the context of the ongoing coronavirus disease (COVID-19) pandemic and its impact on food security and nutrition. While living with the coronavirus disease for over two years, communities have been adapting to survive. Yet, most national Governments still have not come together with a substantive, international response to the food crisis. The Special Rapporteur highlights structural constraints and outlines how a just transition to agroecology provides the way forward.

I. Introduction

A. Current situation

1. In comparison with life before the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) struck humanity, more people today are feeling sicker, hungrier, poorer, less secure in their housing and less secure in their jobs. The international consensus is that the pandemic has exposed and exacerbated existing fragilities within food systems.

2. In the present report, the Special Rapporteur:

- Summarizes the impact of the pandemic on food security and nutrition
- Provides a normative framework to guide States in developing action plans on the right to food and internationally coordinating their response to the food crisis.

3. The present report benefited from a series of regional consultations with civil society, as well as written submissions by civil society organizations and Governments in response to a questionnaire. The Special Rapporteur thanks all Governments and stakeholders for their responses.¹

4. Hunger has been on the rise since 2015. In 2021, between 702 million and 828 million people were affected by hunger. This is 103 million more people than during the 2019–2020 period and 46 million more than in 2020, if comparing the figures with the middle of the projected range. After increasing sharply in 2020, the global prevalence of moderate or severe food insecurity remained mostly unchanged in 2021 with around 2.3 billion people in the world moderately or severely food insecure. The gender gap in food insecurity, which had grown in 2020, widened even further from 2020 to 2021, driven largely by the widening differences in Latin America and the Caribbean, as well as in Asia. In 2021, 31.9 per cent of women worldwide were moderately or severely food insecure, compared with 27.6 per cent of men. Almost 3.1 billion people could not afford a healthy diet in 2020. This is 112 million more than in 2019, reflecting the inflation in consumer food prices stemming from the economic impacts of the coronavirus disease (COVID-19) pandemic and the measures put in place to contain it.²

5. Inequality has also increased during the COVID-19 pandemic, while the wealth of billionaires and corporate profits have soared to record levels. In the food sector, the wealth of billionaires increased by a billion dollars every two days.³ In 2021, Cargill, one of the world's largest food traders, made almost \$5 billion in net income, the biggest profit in its 156-year history, with even higher gains expected in 2022.⁴

6. What frustrated people is the fact that when SARS-CoV-2 was first detected, Governments could have avoided a pandemic or lessened its impact if they had acted quickly and decisively, and coordinated multilaterally. On 30 January 2020, the World Health Organization (WHO) declared that the outbreak constituted a public health

¹ The responses are available in their entirety at www.ohchr.org/en/calls-for-input/2022/call-input-impact-covid-19-right-food.

² Food and Agriculture Organization of the United Nations (FAO) and others, *The State of Food Security and Nutrition in the World 2022* (Rome, FAO, 2022).

³ See <https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/2022-05/Oxfam%20Media%20Brief%20-%20EN%20-%20Profiting%20From%20Pain%2C%20Davos%202022%20Part%202.pdf>.

⁴ See www.bloomberg.com/news/articles/2021-08-06/crop-giant-cargill-reports-biggest-profit-in-156-year-history and www.theguardian.com/news/2022/apr/17/soaring-food-prices-push-more-cargill-family-members-on-to-world-richest-500-list.

emergency of international concern, which is the highest level of global concern specified in international legally binding health regulations. Governments should have learned from previous outbreaks and pandemics and sprung into action with a coordinated worldwide response. Instead, national authorities waited for the death toll to rise and the virus to spread globally before taking decisive action. Even since then, international cooperation has been limited.⁵ Ultimately, the pandemic has been the result of a failure of global governance.⁶ The pandemic is not only a public health problem but also a human rights challenge, the impact of which is determined by poor leadership, socioeconomic inequality, systemic racism and structural discrimination.⁷ At the time of writing, WHO reports approximately 570,000,000 confirmed cases, including 6,400,000 deaths.⁸

7. Ever since armed forces of the Russian Federation wrongfully invaded Ukraine in February 2022, the food crisis has risen to prominence on national and international agendas. People in Ukraine fear for their lives and face possible food shortages, especially since Ukrainian farms, fields and seed banks are being destroyed by forces of the Russian Federation.⁹

8. Twenty-six countries source at least 50 per cent of their wheat needs from the Russian Federation and Ukraine. The attack by the Russian Federation on Ukraine created a global shock and generated a risk of imminent famine and starvation in more places around the world.¹⁰ The Government of Ukraine has said that 22 million tons of grain are stuck in the country due to the blockade of its ports by the Russian Federation.

9. Nevertheless, the spike in wheat and cooking oil prices has not been the result of a shortage of supplies as such but rather because hoarders, traders and financial speculators have responded with fear and panic.

10. For over two years, people and civil society organizations around the world have been raising the alarm about the food crisis. The Special Rapporteur, among others, has also been calling for an international coordinated response to the food crisis. Yet, the international community has failed to mobilize the Rome-based agencies and other United Nations organizations to respond to the food crisis in a coordinated way. This failure is a testament to the division among States and the limitations of international multilateralism today.

11. The reason the world is still in a food crisis today and faces the threat of rising rates of hunger, famine and malnutrition is not only because of the pandemic. It is also because many governments and international institutions have failed to listen to the most vulnerable communities and respond to their demands. They have refused to cooperate and coordinate, and have decided instead to enable agrifood businesses and financial speculation.

12. The 2021 United Nations Food Systems Summit was one missed opportunity to address the food crisis and encourage international cooperation, because it did not

⁵ The Independent Panel for Pandemic Preparedness and Response, “COVID-19: Make It the Last Pandemic” (2021), sect. 4.3.

⁶ A/HRC/47/31 and Nicoletta Dentico, Remco van de Pas and Priti Patnaik, “The politics of a WHO pandemic treaty in a disenchanting world”, Geneva Global Health Hub report (Geneva, 2021).

⁷ A/75/163.

⁸ See <https://covid19.who.int>.

⁹ Office of the United Nations High Commissioner for Human Rights (OHCHR), “Ukraine: millions of displaced traumatised and urgently need help, say experts”, press release, 5 May 2022.

¹⁰ OHCHR, “Ukraine: United Nations expert warns of global famine, urges end to Russia aggression”, press release, 18 March 2022.

even consider the impact of the pandemic on the world's food systems and did not provide substantive or useful policy guidance to address today's challenges.¹¹

13. As was known for decades, and as recently reaffirmed by the Secretary-General, hunger and famine are not the result of low productivity but rather a human-made political problem.¹² More specifically, organized violence and armed conflict remain the principal causes of food insecurity.¹³ (This will be the subject of the Special Rapporteur's thematic report in 2023.) For example, the blocking of fuel and humanitarian relief in Yemen by Saudi Arabia and local authorities has led to famine and the starvation of tens of thousands of children since 2015, with 2.2 million children suffering from acute malnutrition.¹⁴

14. How States tackle this food crisis, with its rising rates of hunger and conflict, will not just be a response to acute circumstances; it will also in effect transform the world's food systems for decades to come.

B. Framing the problem

15. During the worst times of the pandemic, governments that were flexible, coordinated, and responsive to people's demands developed and implemented effective policies. Based on the inputs received, some of the most effective measures to fulfil people's right to food include direct cash transfers, universal school meals, enforcement of labour laws and enhancement of worker protection, supporting peasants, supporting territorial markets and expanding social protection.

16. The problem with trying to transform food systems is not a lack of solutions but a lack of concerted action, and of international political determination to address structural challenges. Many governments are treating the recovery programmes as public health emergency measures and are starting to end these programmes. Moreover, some national Governments are considering rolling back their commitments to enhancing the sustainability of their food systems and are falling back on old ways of industrial intensive agriculture.¹⁵ Measures that effectively enhanced the right to food should not be treated as temporary responses but instead must be considered as proof of what is possible to transform a food system. States should be building upon and not ending their pandemic measures.

17. What has made matters worse is that agrifood corporations have used the pandemic to profiteer and lobby governments to justify halting the implementation of measures that further the right to food.¹⁶ For example, when the Government of Mexico implemented a new labelling policy that would require front-of-pack labelling warning consumers if a product is excessive in salt, fat, added sugar or calories, the ultraprocessed and sugar-sweetened beverage industry reportedly lobbied against the measure and has increased advertising of its products during the pandemic.¹⁷

18. The Special Rapporteur has witnessed scores of examples of people's ingenuity in these difficult times. Despite the sorrow and anguish of the pandemic, people have responded to the rising rates of hunger and malnutrition by connecting more directly to the land and local food producers. These deepened connections are generating

¹¹ A/76/237.

¹² See www.un.org/press/en/2021/sgsm20619.doc.htm.

¹³ FAO and WFP, "Hunger hotspots".

¹⁴ See A/HRC/48/20 and <https://news.un.org/en/story/2022/03/1113852>.

¹⁵ See https://ipes-food.org/_img/upload/files/AnotherPerfectStorm.pdf.

¹⁶ See [www.fian.org/files/files/Covid_Monitoring_Report_-_Template_EN\(1\).pdf](http://www.fian.org/files/files/Covid_Monitoring_Report_-_Template_EN(1).pdf).

¹⁷ Submission of El Poder Del Consumidor.

small-scale cultural and social transformations that are emerging from people's daily struggles. It will be years from now before the long-term impact of the pandemic on society is fully understood, but in the future it is likely that this era will be considered a revolutionary moment of profound global change. States can choose to build upon this wave of change and shape it to serve people through human rights or they can resist this popular wave and try to protect the status quo of how power is distributed in the world's food systems.

II. Effect of the pandemic on food security and nutrition

A. Challenges

19. The COVID-19 pandemic and the actions used to stop the transmission of the virus have had major effects on food security and nutrition in almost every country, albeit to varying degrees. As a result of strict lockdowns, many individuals were unable to work and therefore lost the income needed to access adequate food and nutrition.

20. The climatic conditions in the period 2020–2021 resulted in flooding or drought in many parts of the world. In the Syrian Arab Republic, for example, the decrease in the water level in dams and groundwater levels created challenges such as soil salinization and affected irrigated crops. Food production levels have decreased, and the rate of food insecurity has risen to its highest level since the beginning of the pandemic.¹⁸ The same can be said for the countries in the Sahel and Horn of Africa, which are experiencing historic levels of drought.

21. In the global South, governments often forced the closure of informal markets while permitting "formal" commercial hubs to remain open. This unfairly had an impact on the livelihoods of large portions of the urban poor, affecting the access of both buyers and sellers to food. Decreased dietary diversity, increased malnutrition and diet-related illnesses and higher levels of gender-based violence were some of the most striking knock-on effects.¹⁹

22. In many countries, the massive exodus of population from urban to rural areas during lockdowns made access to food more difficult. In Nepal, for example, one striking difficulty reported was the additional fear experienced by some people of consuming eggs, meat, fruit and milk as possible sources of virus transmission. This misconception that persisted in the beginning of the pandemic resulted in a sharp drop in demand for these high-priced but nutrient-rich foodstuffs; a decline in the consumption of much needed, diverse and nutritious food weakened people's health.²⁰

23. Consequently, the pandemic has further exacerbated global and local inequalities, disproportionately affecting women, girls and non-binary people, especially those of colour, those with different accessibility needs, those with migrant backgrounds, older persons and other marginalized groups. In many countries, certain segments of the population paid a particularly heavy price when it came to food security, including families that depend on remittances from their immigrant members, families supported through seasonal labour, people with insecure and informal work, families headed by women, displaced persons and people living in rural or remote areas. An increase in violence against women and non-binary people has been recorded during the pandemic. Unhoused people, people released from the

¹⁸ Submission of the Government of the Syrian Arab Republic.

¹⁹ Submission of United Cities and Local Governments.

²⁰ Submission of the Government of Nepal.

hospital and housebound people often slipped through assistance nets and were unable to access food.

24. Most food producers in the world work on a small scale. The pandemic has hit them hard,²¹ as their access to their territory has been limited and their access to markets to sell their food or buy supplies and equipment has been disrupted. Food and agricultural workers, even before COVID-19, experienced the highest incidence of working poverty and food insecurity; the lack of a coordinated response by governments and businesses to the pandemic has made the global situation worse.

25. Women are likely to be the first to go hungry, while also bearing the responsibility of feeding their families. They make up a significant proportion of informal workers or smallholder producers, which have been hit the hardest by the economic fallout of COVID-19. Moreover, women often face discrimination in land and livestock ownership and in pay. The pandemic has highlighted women's overrepresentation in more precarious work situations, in the informal economy and in underpaid and invisible care activities, such as tending to older persons, household duties and the well-being of their families and communities. In many places in the global South, women account for a significant proportion of agricultural workers and small business owners selling on the local markets. They were therefore deeply affected by lockdowns, with implications for their livelihoods and access to sufficient, nutritious food. Many remain very vulnerable today.²² In South Africa, for example, female-headed households were reportedly one of the most affected segments of the population, as “almost half of female-headed households did not have an employed person in 2020”.²³

26. In 2021, the number of children in child labour globally increased to 160 million, the first rise in 20 years. The concern is that millions more will soon be pushed into work. Child labour is concentrated in the agricultural sector, which accounts for 70 per cent of the global total.²⁴ The violation of children's rights stems from the fact that families are so poor that they are forced to put their children to work. The plight of children was exacerbated when lockdowns were imposed and millions of children and youth were denied access to daily meals at schools. Moreover, with schools moving online, increasing electricity and mobile data costs imposed an additional financial burden on families, further limiting their food purchasing power. The ongoing armed conflicts, economic crises and natural climatic changes, combined with the pandemic, continue to put the lives of millions of children at risk, with expectations that acute food insecurity is likely to worsen further in 20 countries or situations in 2022.²⁵

27. During the period when restaurants, hotels and companies serving the food industry were closing, seasonal workers in all industries lost their sources of income. These facilities served as a significant marketing channel, in particular for livestock and agricultural products. Smallholder farmers, livestock breeders, seasonal agricultural workers and rural employees in both legal and informal markets found it very difficult to feed themselves and their families because of closures. Foreign and

²¹ FAO, *The State of World Fisheries and Aquaculture 2020* (2020).

²² Submission of United Cities and Local Governments.

²³ Submission of the Legal Resources Centre (South Africa) and Statistics South Africa, “How COVID-19 affected food security in South Africa”, 31 March 2022 (available at www.statssa.gov.za/?p=15273).

²⁴ International Labour Organization (ILO) and United Nations Children's Fund (UNICEF), “COVID-19 and child labour: a time of crisis, a time to act” (New York, ILO and UNICEF, 2020).

²⁵ FAO and World Food Programme (WFP), “Hunger hotspots: FAO-WFP early warnings on acute food insecurity – June to September 2022 outlook” (Rome, 2022). Available at https://docs.wfp.org/api/documents/WFP-0000139904/download/?_ga=2.114705600.638452923.1657716796-316493378.1643200274.

migrant employees were among those who suffered the most. Many workers employed in the informal economy were forced to either continue working during the early pandemic months and expose themselves to the virus or lose all sources of income and face severe food insecurity.

28. Indigenous peoples around the world have faced severe food security challenges during the pandemic. They have struggled with unstable access to government financial aid, increases in domestic violence correlated with the pandemic, and the exacerbation of disputes and violations with regard to land rights. The Special Rapporteur received numerous reports of extrajudicial killings and violence against indigenous peoples. Some indigenous communities have been unable to practice their semi-nomadic/pastoral farming activities due to mandatory lockdowns and quarantines. Remote communities that rely on food deliveries have experienced mass shortages. Indigenous peoples in urban centres, who make up a significant portion of the informal labour market, were the first to be hit by job losses.²⁶ Moreover, many communities were marginalized and had difficulty accessing adequate food, especially if they were not self-reliant. For example, the Pygmy community in the Democratic Republic of the Congo heavily relies on humanitarian aid; when this aid was unable to reach them in time, it was difficult for them to get enough good food during the pandemic.²⁷

B. Responses

Community-level responses

29. The pandemic has not only revealed the fragility of food systems but also shone a light on what worked best in communities. It has underlined the value of sharing and solidarity, and the importance of the application of traditional, local knowledge in times of extreme hardship. Communities persevered when they were not exclusively dependent on food value chain operations for their food security. Resilient solutions included localized markets, public food reserves and associated public food distribution systems, mutual assistance and the sharing of food, as well as agroecology. The Special Rapporteur received reports from rural and urban communities indicating how mutual aid was crucial for building solidarity and resilience among families, households and communities. This included practices such as offering low-priced meals, selling foodstuffs at stable prices despite market conditions and keeping and sharing seeds to grow food.

30. For example, in New Zealand, Māori leaders organized the delivery of food parcels, hygiene packs and other resources to people's doorsteps and fostered social connectivity as part of what they call *mahi aroha*, the essential work undertaken out of love for the people.²⁸ In some communities, especially in Latin America, a barter economy flourished, not just between individuals but also among communities.

31. As a result of the pandemic, many grass-roots and civil society organizations have a reinforced understanding that connecting mutual aid practices to agroecological and other regenerative practices has reduced production and distribution costs. Reportedly, farmers are more likely to weather political and economic crises if they diversify their marketing and/or distribution channels for crops that still target local or regional markets rather than entering into bilateral partnerships with large corporations or contract farming.²⁹

²⁶ [A/75/185](#).

²⁷ Submission by John Ciza, Front commun pour la protection de l'environnement et des espaces protégés.

²⁸ See [A/75/185](#), para. 39.

²⁹ Submission by the Asia chapter of the Global Network for the Right to Food and Nutrition.

Local government-level responses

32. In July 2020, United Cities and Local Governments, as a global network of cities and local, regional and metropolitan governments and their associations, found that the distribution and transportation of foods had been a major hurdle for local and regional governments during the pandemic, affecting prices, and food and nutritional security.³⁰ Nevertheless, regional and local authorities have played an essential role in providing people with essential service and care, including access to food.

33. The need to ensure stronger links between producers and consumers was commonly highlighted as a key challenge to be overcome, with local and regional governments acknowledging the need to address the economic gaps that prevent communities from properly accessing nutritious food. Most of the local and regional governments underscored the effectiveness of actions aimed at facilitating direct access to local rural producers, strengthening initiatives of urban farms, including with a gender perspective, and securing distribution and access to the most vulnerable.³¹

National-level responses

34. Many States, local authorities and international organizations deployed shorter-term ad hoc measures to cope with the immediate consequences of the pandemic for food security. Although short term, these proved to be examples of how Governments can fulfil human rights. Many Governments provided relief through direct cash payments or financial assistance. This included financial assistance to small and medium-sized enterprises, unemployment allowances for workers and small-scale food producers, allowances for public sector employees and retirees, and the provision of temporary debt relief to individuals from public and private creditors without imposing any commissions, fines or late interest fees. Some farmers were supported through grants and loans at a low interest rate to maintain production.³²

35. In some countries, governments worked with civil society organizations to deliver food baskets directly to vulnerable people's homes. However, the Special Rapporteur received reports that in many cases the amount of food delivered was too little or culturally inappropriate to adequately meet households' nutritional needs. A further challenge was that undocumented individuals or non-citizens in many countries did not have access to this kind of assistance.

36. In some countries, such as South Africa, State authorities undertook specific measures to support farming and fishing communities, such as by providing farmers with the means to expand their production.³³ In Mauritius, the Government maintained irrigation services and granted the agricultural sector access to plantations throughout the lockdown to ensure food crop production.³⁴ The Development Bank of Mauritius put in place special financial assistance for backyard gardening, with special consideration for women. The Government of Nigeria froze loan repayments for small farms and also extended the repayment periods.³⁵ Luxembourg seized the opportunity offered by the European Commission to postpone the date of Common Agricultural Policy payment requests for farmers.³⁶ In Argentina, the Sembrar

³⁰ Conclusion of a "live learning experience" on "how to manage and strengthen food systems to improve access to quality and healthy options during the pandemic and beyond" hosted by United Cities and Local Governments.

³¹ Submission by United Cities and Local Governments.

³² Examples from submissions to the survey.

³³ Submission of the Legal Resources Centre.

³⁴ Submission of Mauritius.

³⁵ Submission of Nigeria.

³⁶ Submission of Luxembourg.

Soberanía Alimentaria (“sowing food sovereignty”) programme was aimed at strengthening and consolidating territorial networks of producers, processors and distributors for local and regional supply.³⁷ At the same time, the “Pro-Huerta” programme targeted socially vulnerable people and promoted the self-production of food (providing training, seeds and tools for this purpose) for personal, family and community consumption and for the commercialization of surplus food. Similarly, in Mexico authorities developed internal procedures to protect and fulfil the rights of children and adolescents in vulnerable situations and to guide public servants in their responses to the pandemic.³⁸ Mexico also enacted a food assistance programme by connecting consumers with local producers through the Sembrando Vida (“sowing life”) programme, which promotes employment in agriculture while strengthening food sovereignty through the self-production of food and the care of land and increasing the well-being of the communities.

III. Activating the right to food

A. Reaffirming the right to food

37. The Special Rapporteur ended up devoting a significant amount of his time during the first two years of the pandemic to promoting the right to food within United Nations forums despite the food crisis. While the United Nations system was slow, the right to food was actively taken up by people and social movements, as well as by national, subnational and local governments. For example, in June 2022, after a well-organized grass-roots campaign, Scotland passed the Good Food Nation Bill,³⁹ which was a substantive commitment to ensuring that everyone in Scotland has access to healthy, nutritious fare and that businesses and public kitchens commit to producing, selling and serving good food. After an inclusive, democratic consultation and drafting process, the proposed constitution of Chile details a right to adequate food and food sovereignty; the constitution will be put to a national plebiscite on 4 September 2022.⁴⁰

38. Since the invasion of Ukraine by the Russian Federation, there has been an increase in the recognition of the right to food within the United Nations system and among States. In the Group of Seven (G7) statement on global food security in June 2022,⁴¹ G7 leaders reaffirmed their commitment to the right to food and their support for the Committee on World Food Security. This is a marked advancement from their 2015 Elmau commitment, which made no reference to either. Another significant moment that same month, during the twelfth Ministerial Conference of the World Trade Organization (WTO), was when the United Nations High Commissioner for Human Rights and the Secretary-General of the United Nations Conference on Trade and Development sent an open letter to ministers participating in the WTO negotiations entitled “Trade and the right to food: the path to Sustainable Development Goal 2”.⁴²

³⁷ Submission of Argentina.

³⁸ Submission of Mexico.

³⁹ Scottish Government, “Good Food Nation Bill passed”, 15 June 2022 (see www.gov.scot/news/good-food-nation-bill-passed).

⁴⁰ John Bartlett, “Chile finalises new draft constitution to replace Pinochet-era document”, *The Guardian*, 16 May 2022.

⁴¹ See <https://www.g7germany.de/resource/blob/974430/2057824/b4c9113bec507f0bd4b0389f6ac15ea7/2022-06-28-statement-on-global-food-security-data.pdf?download=1>.

⁴² Available at https://unctad.org/system/files/information-document/osg-2022-06-13-unhcr-unctad-letter_en.pdf.

B. Advancing the right to food

39. Despite the renewed commitments to the right to food, very few countries and international organizations are acting through a right-to-food framework. Indeed, after every previous world food summit or crisis, the international community mobilized to advance and deepen the meaning of the right to food. For example, at the 1996 World Food Summit, Heads of State and Government reaffirmed the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger. In the declaration of the World Food Summit in 2002, Heads of State and Government reaffirmed the importance of strengthening the respect of all human rights and fundamental freedoms and invited the Council of the Food and Agriculture Organization of the United Nations (FAO) to establish an intergovernmental working group to develop a set of voluntary guidelines to support the efforts of Member States to achieve the progressive realization of the right to adequate food in the context of national food security. The Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security were adopted by the FAO Council in 2004. After the 2007–2008 food crisis, the Committee on World Food Security was reformed to become the primary inclusive, multilateral platform dedicated to facilitating global policy coherence, with the right to food and the Guidelines central to its vision statement.

40. During today's unprecedented global food crisis, the world still awaits a multilateral actionable commitment by Member States to realize the right to food. A declaration by the General Assembly could enable cooperation by spurring international organizations to reallocate resources towards fulfilling this right.

41. A declaration on the right to food could also spur any national or local government, public institution or community organization to take up the right to food when tackling the food crisis regardless of whether the right to food is explicitly enacted in its national legal system. This increases the chances of national and international coherence and cohesion.

42. A declaration on the right to food could also substantively enable a comprehensive national response to the food crisis and guide States in their national policies. Over 110 countries mobilized their entire Governments and developed national pathways for the transformation of food systems as part of the United Nations Food Systems Summit dialogues. However, these national pathways were not developed through a human rights framework, nor did they consider the need for international cooperation. This makes them incomplete plans and limits their chances of eliminating hunger and malnutrition. Human rights provide an international normative framework. This makes human rights a shared language of obligation, accountability and international cooperation – the language of action – and not just a set of policy choices.

43. In order to assist States in turning their national pathways into action plans on the right to food and to encourage global coherence and cooperation, the Special Rapporteur below provides an explanation of the meaning of the right to food in the light of today's challenges.

44. The right to food is unique within the International Covenant on Economic, Social and Cultural Rights because article 11 (2) obliges States to enact specific programmes in order to eliminate hunger and fulfil the right to food. As a result, although the list is not exhaustive, the right to food comes with an international legal framework that guides States and people. States must:

- (a) Cooperate internationally;

- (b) Improve food production and conservation;
- (c) Fully use and share technical and scientific knowledge, including principles of nutrition;
- (d) Efficiently use natural resources to develop or reform agrarian food systems;
- (e) Enact trade policies that take into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

45. The meaning of the right to food is regularly advanced, in particular in times of crisis. Since the drafting of the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, there have been normative developments regarding the right to food in relation to the rights of persons with disabilities, rural women, peasants, indigenous peoples and workers. There have been policy advancements connecting the right to food to agroecology and political advancements connecting it to food sovereignty. Moreover, during the pandemic there has been increased awareness about the essential role of local producers and workers, the importance of how food connects people to each other and nature, and how food system transformation is necessary to mitigate and adapt to climate change.

46. It is therefore important to update the meaning of the international legal framework on the right to food, taking into consideration these normative developments and contemporary understandings of how food should be adequate, available and accessible.⁴³ With this in mind, the international legal framework for the right to food should be updated on the basis of the following:

(a) International cooperation is not just about international institutions but in more modern terms can also be understood as international solidarity. Solidarity means developing a national food policy that is not only generous to people and ecosystems within a country but also generous and fair to other communities as a matter of reciprocity. An economy built on solidarity relies on organizing commerce through democratically governed enterprises designed to meet human needs instead of pursuing profits for their own sake. How and with whom people trade with should be intentional and enhance a community's quality of life;

(b) Improving food production and conservation can be reframed in terms of increasing biodiversity, and not strictly efficiency, food safety and economic growth. It includes people's right to determine what is culturally, nutritionally, socially and ecologically adequate food, based on their particular conditions and sense of dignity;

(c) Knowledge is not just technical and scientific but also includes traditional and indigenous knowledge. Good nutrition is key to fulfilling the right to food, but it should be understood within appropriate cultural contexts and broader dynamics of public and environmental health;

(d) Reforming agrarian food systems should be expanded to include reforming all types of food systems. This includes recognizing the plurality of food systems and their inherent link to different cultural understandings, values and cosmovisions. It also entails understanding food systems as a dynamic set of relationships. Reform should focus on increasing food system stability and transparency by improving trust among individuals and communities;

⁴³ Committee on Economic, Social and Cultural Rights, general comment No. 12 (1999) on the right to adequate food (article 11 of the International Covenant on Economic, Social and Cultural Rights); and [A/75/219](#).

(e) Equitable trade is not just a supply management issue but also a matter of food sovereignty and labour rights. A trade policy informed by food sovereignty and labour rights means that food markets are not simply about buying and selling commodities. Markets need to be fair and stable. This means that trade policy should be woven into how people co-design food systems with different levels of government and across different territories. Trade policy should strengthen local, regional and intercommunal self-sufficiency.

47. The International Covenant on Economic, Social and Cultural Rights also defines the right to food as the fundamental right to be free from hunger. This reminds us that the right to food is an inherent part of the right to life. Every instance of hunger – and malnutrition, famine or starvation – can be understood as the result of a system that is exploiting or trapping people, stripping them of a fundamental freedom. An analysis of the right to food therefore requires a focus on the most marginalized and vulnerable in society and the underlying systemic reasons for human rights violations. The right to food is not just about providing food to the poor; it is about “examining who is hungry, why they are hungry and how the actions or inactions of more powerful forces impact their access to adequate food”.⁴⁴

IV. Structural constraints and solutions

A. Constraints

48. According to recent estimates, donor States should spend an additional \$14 billion a year on average until 2030 to end hunger, double the incomes of 545 million small-scale farmers and limit agricultural emissions in line with the Paris Agreement on climate change. That would mean roughly doubling the amount of aid allocated to food security and nutrition each year, which would also need to be accompanied by an additional \$19 billion a year from the budgets of low- and middle-income countries.⁴⁵

49. States are faced, however, with several structural constraints that make any additional spending unlikely in the near future. The speed of sovereign debt accumulation, combined with already-existing debt service obligations and slow economic growth, is severely limiting the ability of most countries to devote public resources to adequately respond to the pandemic.⁴⁶ In responding to the shock of the pandemic, all countries quickly borrowed more money, causing debt levels to surge in 2020 at their fastest pace in five decades.⁴⁷ Developing country debt payments are at their highest levels since 2001.⁴⁸ Debt levels are projected to rise as pandemic response and recovery continues.⁴⁹ Since 2010, countries have borrowed less from the Paris Club of countries and more from private lenders, using new types of loan instruments governed by English and New York State law.⁵⁰ By 2017, China had

⁴⁴ Nadia Lambek, “The right to food: reflecting on the past and future possibilities – synthesis paper” *Canadian Food Studies*, vol. 2, no. 2 (September 2015), p. 71.

⁴⁵ See https://ceres2030.org/shorthand_story/donors-must-double-aid-to-end-hunger-and-spend-it-wisely.

⁴⁶ United Nations, “Global Impact of war in Ukraine on food, energy and finance systems”, Brief No. 1 (2022).

⁴⁷ M. Ayhan Kose, Franziska Ohnsorge and Naotaka Sugawara, “A mountain of debt: navigating the legacy of the pandemic”, Policy Research Working Paper 9800 (Washington, D.C., World Bank, 2021).

⁴⁸ See <https://debtjustice.org.uk/press-release/growing-debt-crisis-to-worsen-with-interest-rate-rises>.

⁴⁹ See https://jubileedebt.org.uk/wp-content/uploads/2022/05/Debt-and-public-spending_May-2022.pdf.

⁵⁰ See www.csis.org/analysis/next-wave-not-covid-19-wave-debt-sustainability-developing-countries.

become the world's largest public creditor, surpassing the World Bank and the International Monetary Fund (IMF).⁵¹

50. As food prices skyrocket, many countries are faced with the impossible choice of either feeding people or servicing debt. Using public funds to ensure that people have access to adequate food can cause a Government to fall into arrears, worsening financial shocks; servicing debt instead leads to more hunger and malnutrition. This means that the current international system of finance resolutely impedes the ability of governments to meet their obligations with regard to the right to food.

51. The Human Rights Council has recognized the need for reform of the global financial architecture.⁵² The Special Rapporteur echoes recent calls to reactivate the Debt Service Suspension Initiative and resolve the current debt crisis through a multilateral process backed by the United Nations that prioritizes social justice, equity and human rights.⁵³ Debt relief should be the highest priority.

52. States find it difficult to rely on foreign investment, especially as the international investment regime has lost credibility.⁵⁴ International investment law has long privileged foreign investor interests over human rights and host country sustainable development regulations. Moreover, international investment law has not enabled countries to attract more foreign investment.⁵⁵

53. The resounding international consensus is that States should instead first focus on repurposing their existing budgets. Most agricultural support, especially in high-income and upper-middle-income countries, is dedicated to foodways and agricultural practices that harm human and environmental health, whereas repurposing existing budgets can profoundly transform food systems to generate biodiverse food systems and enable healthier eating.⁵⁶

54. For that reason, the Special Rapporteur puts forward suggestions in section IV.B on how States should repurpose their existing budgets to fulfil the right to food. He explains the minimal set of policies required to enable a just transition to agroecology: a just transition for workers, land rights and genuine agrarian reform, and the curtailment of corporate power.

55. He also focuses on trade and reiterates his call to terminate the WTO Agreement on Agriculture and adds a call to terminate the Agreement on Trade-Related Aspects of Intellectual Property Rights. This would not only provide States with the utmost flexibility to transform their food systems, but also allow them to negotiate international food agreements that would meet today's trade challenges.

56. These proposals will help overcome the fact that there is no coherent international economic framework to guide States towards fulfilling the right to food. This incoherence was exemplified on 13 April 2022, when the leaders of WTO, the World Bank, IMF and WFP issued a statement in which they warned that the war in Ukraine was adding to existing pressures from the COVID-19 pandemic, called for urgent, coordinated action on food security and appealed to countries to avoid banning

⁵¹ Sebastian Horn, Carmen Reinhart and Christoph Trebesch, "China's overseas lending", *Journal of International Economics*, vol. 133 (November 2021).

⁵² Human Rights Council resolution 46/8.

⁵³ A/76/167.

⁵⁴ *Investors' International Law*, Jean Ho and Mavluda Sattorova, eds. (Oxford, United Kingdom of Great Britain and Northern Ireland, Bloomsbury Publishing, 2021).

⁵⁵ Gus Van Harten, "Five justifications for investment treaties: a critical discussion", *Trade, Law and Development*, vol. 2, No. 1 (2010).

⁵⁶ FAO and others, *The State of Food Security and Nutrition in the World 2022*, chap. 4; and Madhur Gautam and others, *Repurposing Agricultural Policies and Support* (Washington, D.C., World Bank, 2022).

food or fertilizer exports in the face of the shocks that recent global crises had exerted on food systems.⁵⁷

57. The Special Rapporteur responded by commending their call for urgent action.⁵⁸ Yet, their statement focuses on open trade, increased agricultural production, financial support and the provision of emergency food supplies. Unfortunately, the statement contains unclear recommendations and simply highlights what the respective institutions have been doing over the past several years, if not decades, without addressing the core challenges facing the world's food systems.

58. Ever since governments adopted the Green Revolution in the 1950s, the world's food systems have been increasingly designed along industrial lines, the idea being that, if people are able to purchase industrial inputs, then they can produce a large amount of food. Productivity has not been measured in terms of human and environmental health, but instead exclusively in terms of commodity output and economic growth. This same system has disrupted carbon, nitrogen and phosphorous cycles because it requires farmers to depend on fossil fuel-based machines and chemical inputs, displacing long-standing regenerative and integrated farming practices. It has also made farmers more dependent on the small number of corporations that provide these inputs.

59. Thus, the call in the statement for increased production, without a clear indication of production methods and types of food, risks reproducing mistakes of the past. Despite a 300 per cent increase in global food production since the mid-1960s, malnutrition is still a leading factor contributing to reduced life expectancy.⁵⁹ The problem with hunger is not a lack of sufficient production, but inequality and other systemic impediments to access adequate food.

60. Moreover, the fundamental problem is not that farmers' access to chemical fertilizers has been disrupted by the war in Ukraine, as described in the statement and reiterated by others. It is that so many farmers rely heavily on chemical fertilizers in the first place. Chemical fertilizers deplete nutrients from the soil and cause environmental harm through runoff, violating the right to a healthy and sustainable environment. In the immediate term, it is important to ensure that fertilizers reach farms with farming systems that depend on chemical inputs. The ultimate goal, however, must be to wean them off this dependency as soon as possible. New research that examines long-term evidence concludes that using far less to no chemical fertilizer can result in farms causing less greenhouse gas emissions and toxic pollution while also making them more productive and resilient to climate change. Using less fertilizer also protects farmers from international economic shocks.⁶⁰

B. Adapting to climate change through a just transition for agroecology

61. In his previous reports, the Special Rapporteur explained why agroecology is essential to fulfilling the right to food, adapting to climate change and increasing biodiversity.⁶¹ Biodiversity is key because the more biodiverse a food system, the higher the chance that any one species has a particular trait that enables it to adapt to a changing environment (and, in turn, pass that trait along). In sum, agroecology is a

⁵⁷ See www.wto.org/english/news_e/news22_e/igo_13apr22_e.htm.

⁵⁸ See www.ohchr.org/sites/default/files/2022-05/joint-statement-wto-imf-wfp.pdf.

⁵⁹ See <https://press.un.org/en/2021/sgsm20823.doc.htm>.

⁶⁰ See Chloe MacLaren and others, "Long-term evidence for ecological intensification as a pathway to sustainable agriculture", *Nature Sustainability* (June 2022); and <https://rodaleinstitute.org/science/farming-systems-trial/>.

⁶¹ [A/76/237](#), [A/HRC/46/33](#) and [A/HRC/49/43](#); see also [A/HRC/16/49](#).

science and a practice, the primary goal of which is to mimic ecological processes and biological interactions as much as possible in order to design production methods so that food producers' systems can generate their own soil fertility and protection from pests, and increase productivity. As an agricultural practice, agroecology is labour intensive and encompasses a range of production techniques derived from local experience and expertise that draw on immediately available resources. Thus, it also relies heavily on experiential knowledge, more commonly described as traditional knowledge.

62. As a social movement,⁶² producer-based agroecology acts as an important driver for strengthening social cohesion through the gradual reduction of social inequalities, the promotion of local governance, sovereignty and the empowerment of local communities.⁶³ Studies continue to confirm that agroecological production can meet the global community's dietary needs and that on-farm biodiversity can lead to dietary diversity at the farm level and beyond.⁶⁴ In fact, recent reports of the Intergovernmental Panel on Climate Change have endorsed agroecology combined with food sovereignty as a viable way to adapt to climate change.⁶⁵ This continues the trend of landmark reports such as the International Assessment of Agricultural Knowledge, Science and Technology for Development in 2008⁶⁶ and the Assessment Report on Land Degradation and Restoration by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services in 2018.⁶⁷

63. Agroecological knowledge and skills, as well as international policy tools and platforms, are all readily available. In 2018, FAO developed a set of agroecological principles known as the 10 elements of agroecology of FAO. In 2019, the High-level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security developed a set of recommendations on the best possible pathways for just and sustainable food system transformations based on 13 agroecological principles.⁶⁸

64. Agroecology is also being advanced in select countries through an action plan that FAO has developed in collaboration with partners, known as the Scaling Up Agroecology Initiative, a platform to catalyse cooperation on agroecology within the United Nations system. In 2021, the International Fund for Agricultural Development (IFAD) published a stocktaking report on agroecology looking at all 207 agroecology projects supported by IFAD across countries in its five regions, identifying further opportunities to scale up agroecological operations.⁶⁹ In addition, 32 countries and 59 organizations have formed an agroecology coalition.⁷⁰ In particular, France, Germany and Switzerland promote some version of agroecology as part of their bilateral aid.

⁶² See www.foodsovereignty.org/forum-agroecology-nyeleni-2015-2.

⁶³ [A/HRC/46/33](https://www.unhcr.org/refugees/46/33).

⁶⁴ Intergovernmental Panel on Climate Change (IPCC), *Climate Change and Land: An IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems* (2019), p. 468; and Global Alliance for the Future of Food, *The Politics of Knowledge: Understanding the Evidence for Agroecology, Regenerative Approaches, and Indigenous Foodways* (2021).

⁶⁵ Intergovernmental Panel on Climate Change, *Climate Change and Land*, chap. 5; and Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability* (2022), chap. 5.

⁶⁶ See www.globalagriculture.org/report-topics/about-the-iaastd-report.html.

⁶⁷ See <https://ipbes.net/assessment-reports/ldr>.

⁶⁸ See www.fao.org/3/ca5602en/ca5602en.pdf and www.ipes-food.org/_img/upload/files/sfsENhq.pdf. The Special Rapporteur notes that the 2021 Committee on World Food Security policy recommendations on agroecological and other innovative approaches for sustainable agriculture and food systems that enhance food security and nutrition are a step forward, but that the policy recommendations are not cohesive and do not adequately rely on human rights.

⁶⁹ See www.ifad.org/en/web/knowledge/-/stock-take-report-on-agroecology.

⁷⁰ See <https://agroecology-coalition.org>.

65. The Special Rapporteur finds the growing interest in agroecology promising and recommends that all States transform their food systems into agroecological systems. This of course will require investing in extension services, traditional and indigenous knowledge, and scientific practice dedicated to agroecology. The Special Rapporteur identifies below three policy areas that would help overcome structural constraints and provide the conditions that would enable a just transition to agroecology.

Just transition for workers

66. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations, the largest and oldest international federation of food and agriculture workers, explains just transition as follows:

Just transition is a strategy to protect livelihoods at risk because of climate policies. It advocates for workers and unions to have a voice in planning the transition to ensure that they are not left behind. It also calls for the creation of good quality, decent and secure “green” jobs, which have union representation.

On a broader level, just transition is also an opportunity to address the root causes of the climate crisis. It calls for deep socioeconomic transformation of the global economy towards a low-carbon world. This means a radical shift away from the current unequal and profit-driven system of endless production and consumption towards a more sustainable world, where the concerns and voices of workers are central. This also means fighting for a transformation of power relations in society to build a more just and equal society, particularly for groups in situations of vulnerability. Workers, represented by unions, must be at the heart of solutions otherwise they will be left behind.⁷¹

67. Agroecology is a labour-intensive practice and, as it gains popularity, it will generate a great number of new jobs. Since human rights are at the heart of agroecology, those jobs will have to be dignified jobs that adhere to human rights and international labour law. Indeed, as witnessed in India⁷² and recognized in Wisconsin, United States of America,⁷³ one of the most powerful forces of change comes from when workers and peasants form alliances of solidarity.⁷⁴ Therefore, transitions to agroecology must include workers’ voices.

Land rights and genuine agrarian reform

68. The Special Rapporteur has received reports that during the pandemic many farm workers looked for opportunities to become farmers, especially since work conditions on many farms around the world were becoming abhorrent. Some landless workers have struggled for decades to gain access and control of farmland.

69. Ultimately, people’s fate is significantly determined by their ability to access, control and steward land. Youth have the most at stake in and the greatest difficulty accessing land, considering the devastating effects of climate change and increasing rates of occupation, dispossession and violence against land defenders.

⁷¹ International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations (IUF), *Fighting for Our Future: An IUF Guide on Tackling the Climate Crisis in Intensive Livestock Production* (2022), p. 22.

⁷² See www.ohchr.org/en/press-releases/2021/11/un-expert-hails-india-plan-repeal-contentious-farm-laws-urges-accountability.

⁷³ See www.wisconsinfarmersunion.com/post/farmer-labor-alliance-calls-for-food-system-that-works-for-main-street-not-wall-street.

⁷⁴ See <https://lpeproject.org/blog/long-live-farmer-laborer-unity-contextualizing-the-massive-resistance-going-on-in-india>.

70. Access to land and secure tenure rights are essential for the enjoyment of the right to food.⁷⁵ The growing scientific and political consensus is that ensuring that people have access to land and protecting tenure rights provides them with the resources and security they need to adapt to climate change.⁷⁶ Strong, secure land rights also allow people to employ changes that require significant work and resources and give them the stability they need to benefit from the gains that accrue in the medium and long term.⁷⁷

71. How people, communities and others gain access to land, fisheries and forests is regulated by societies through systems of tenure. These written or unwritten tenure systems determine who can use which resources, for how long and under which conditions. Tenure systems increasingly face stress as climate change reduces the availability of land and as investors and corporations continue acquiring large scales of land (i.e. land grabbing). Inadequate and insecure tenure rights increase vulnerability, hunger and poverty. They also lead to conflict and environmental degradation when competing users fight for control of these resources.

72. Limiting people's access to land or an unjust tenure system makes certain groups – such as women, migrants, people with disabilities, older persons and indigenous peoples – more vulnerable to the effects of climate change.⁷⁸ Inadequate tenure systems also make it more difficult for people to be stewards of the land.

73. In 2012, through the Committee on World Food Security, States and stakeholders negotiated the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests. The Guidelines enjoy resounding support by both civil society and businesses and marked a significant step in grounding the governance of land, fisheries, forests and their associated natural resources in human rights. In addition, indigenous peoples' right to land is affirmed in the United Nations Declaration on the Rights of Indigenous Peoples.⁷⁹ Similarly, the right of peasants and other working peoples to land is enshrined in United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.⁸⁰ Nevertheless, States are slow to earnestly implement the Guidelines and respect, protect and fulfil people's right to land.

Curtailling corporate power

74. Even though the underlying cause of the COVID-19 virus is still unknown, the spread of pathogens, especially zoonotic diseases, is exacerbated by pollution, ecological destruction, deforestation and the removal of protective ecological barriers.⁸¹ Around 1 million animal and plant species are now threatened with

⁷⁵ A/65/281.

⁷⁶ See www.foodsovereignty.org/wp-content/uploads/2022/05/EN_We-Belong-to-the-Land_Statement_10yearsTG-1.pdf and www.landcoalition.org/en/newsroom/dead-sea-declaration-2022.

⁷⁷ Lisa Murken and Chrisoph Gornott, "The importance of different land tenure systems for farmers' response to climate change: a systemic review", *Climate Risk Management*, vol. 35, art. 100419 (2022).

⁷⁸ Intergovernmental Panel Climate Change, *Climate Change and Land*, pp. 29 and 677.

⁷⁹ Art. 26.

⁸⁰ Arts. 1 (1), 5 (1) and 17 (1).

⁸¹ United Nations Environment Programme, secretariat of the Convention on Biological Diversity and World Health Organization (WHO), *Connecting Global Priorities: Biodiversity and Human Health – A State of Knowledge Review* (WHO and secretariat of the Convention on Biological Diversity, 2015).

extinction, many within decades.⁸² Food systems also emit approximately one third of the world's greenhouse gases.⁸³

75. What has driven much of this damage has been industrial intensive agriculture and export-oriented food policies.⁸⁴ Corporate-led industrialized agriculture and food production have been a breeding ground for pathogens. The Special Rapporteur received reports of how meatpacking plants had fostered the pandemic, spreading the virus to nearby communities due to poor working conditions and environmental abuses.

76. What has made the problem difficult to overcome is the fact that corporations enjoy a profound degree of power but are not held accountable for the harm they cause to human health and to the environment.

77. For example, the “ABCD” of grain-trading giants – Archer-Daniels Midland, Bunge, Cargill and the Louis Dreyfus Company – account for between 70 and 90 per cent of global grain trade.⁸⁵ Four agrochemical companies control 60 per cent of the global seed market and 75 per cent of the global pesticides market.⁸⁶ This high concentration of corporate power allows a relatively small group of people to shape markets and innovation in a way that serves the ultimate goal of shareholder profit maximization and not the public good.⁸⁷

78. Growing corporate power and harm in food systems makes current treaty negotiations at the Human Rights Council open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights an important aspect of food security. Some countries are pushing for an approach that relies on human rights due diligence. Such an approach, however, puts the burden of meeting human rights obligations on persons; human rights due diligence requirements will not meet the obligation of States to protect and fulfil human rights and they would not effectively hold corporations accountable.⁸⁸ To stabilize food systems and ensure transnational justice, States should adopt a legally binding treaty that effectively curtails corporate power and levels the playing field in the world's food systems.

C. Trade

79. During the pandemic, people found store shelves empty because of supply chain disruptions, which showed how brittle international markets are. Supply chain experts have known for years that the current system of shipping is not sustainable. Trade policy has also contributed to climate change and environmental harm. Recent

⁸² Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), *Global Assessment Report on Biodiversity and Ecosystem Services*, Eduardo Brondizio and others, eds. (Bonn, Germany, IPBES secretariat, 2019); FAO, *The State of the World's Biodiversity for Food and Agriculture*, Julie Bélanger and Dafydd Pilling, eds. (Rome, FAO Commission on Genetic Resources for Food and Agriculture, 2019).

⁸³ See www.fao.org/news/story/en/item/1379373/icode.

⁸⁴ A/76/237.

⁸⁵ See https://ipes-food.org/_img/upload/files/AnotherPerfectStorm.pdf.

⁸⁶ See www.ipes-food.org/_img/upload/files/Concentration_FullReport.pdf.

⁸⁷ A/HRC/49/43.

⁸⁸ Rachel Chambers and Anil Yilmaz Vastardis, “Human rights disclosure and due diligence laws: the role of regulatory oversight in ensuring corporate accountability”, *Chicago Journal of International Law*, vol. 21, No. 2 (2021).

research has found that international trade in food accounts for nearly 20 per cent of total food system emissions.⁸⁹

80. Global commodity markets are significantly disrupted by the Chicago Mercantile Exchange because the Commodity Futures Modernization Act of the United States allows for speculators to bet on food price trends without actually trading in commodities themselves.⁹⁰

81. As during the Great Recession of the late 2000s and now with the COVID-19 pandemic and ensuing economic crisis, States and people are calling for fair and stable markets. This has been a recurring demand from farmers and workers for over a century.

82. To a growing number of countries, especially developing countries and least developed countries with net food imports, the agenda for establishing fair and stable markets includes:

- Increasing domestic production capacity
- Building up national and regional public stocks
- Developing an international trade system that enhances transparency in public and private food stocks
- Coordinating international stocks.

83. To farmers and peasants, the agenda for establishing fair and stable markets includes mechanisms such as supply management, price controls, price parity and guaranteed prices. Indeed, peasants have put forward a proposal for a new trade framework based on solidarity, food sovereignty and human rights. This includes dismantling WTO, strengthening local and regional markets and reconstituting public food stocks by supporting local produce coming from agroecological farming practices.⁹¹

84. The Special Rapporteur wishes to recall that, in one of his previous thematic reports, he provided an institutional map that could enable States to negotiate international food agreements within the existing General Agreement on Tariffs and Trade architecture and building on the principles of solidarity, self-sufficiency and dignity.⁹²

85. WTO leadership and members have been reluctant to explicitly address food security at WTO. Yet, the recent twelfth Ministerial Conference evidences a significant shift in what is on the Organization's agenda, since food security was one of the most central concerns. While ministerial declarations relevant to food security or the pandemic have started new processes, they have mostly lacked substance.⁹³ Additionally, coming after two decades of negotiations, the Agreement on Fisheries Subsidies bans government subsidies that support the fishing of already overfished stocks and curbs those that contribute to illegal, unregulated and unreported fishing. However, States were unable to determine how to proceed equitably between developed and developing States on curbing overcapacity and overfishing.⁹⁴

⁸⁹ Mengyu Li and others, "Global food-miles account for nearly 20% of total food-systems emissions", *Nature Food*, vol. 3 (2022).

⁹⁰ See https://ipes-food.org/_img/upload/files/AnotherPerfectStorm.pdf.

⁹¹ See <https://viacampesina.org/en/wp-content/uploads/sites/2/2022/06/LVC-Slogan-Arguments-and-Proposals.pdf>.

⁹² A/75/219.

⁹³ WT/MIN(22)/27, WT/MIN(22)/28, WT/MIN(22)/29 and WT/MIN(22)/31.

⁹⁴ WT/MIN(22)/33.

86. Although there is profound consensus in international food policy that national budgets need be repurposed to transform food systems, States are constrained by WTO in how they can support agriculture. This is because WTO frames domestic support as something that should be inherently limited. WTO does create some exceptions and allows for some domestic support. The political challenge, however, has been that these exceptions have primarily benefited rich countries and corporations. Since 2001, the conceptual challenge has been that States are unable to agree on which type of domestic support of agriculture is good and which type is bad. To overcome these challenges, the question to be asked instead should be: What domestic support should be encouraged to enable food systems to flourish and fulfil the right to food?⁹⁵

87. Moreover, there was no discussion at the twelfth Ministerial Conference of a permanent solution to the question of public stockholding for food security purposes, which was first raised in 2013. Considering how important public stockholding of food has proven to be to ensure food security during the pandemic, this issue is more important than ever. The Agreement on Agriculture, however, inherently constrains discussions on public stockholding for food security purposes because it frames the issue as a matter of trying to ensure that farmers are paid as little as possible by tying procurement prices to market prices. The question should be how public stockholding for food security purposes can be designed to ensure that people have access to adequate food, farmers have a stable livelihood and international markets are fair and stable.

88. The Special Rapporteur has noted how the Agreement on Trade-Related Aspects of Intellectual Property Rights constrains farmers' rights in relation to seeds and as such obstructs the rights to food and life.⁹⁶ At the twelfth Ministerial Conference, a handful of rich countries blocked a proposed waiver of the Agreement that would have enhanced the medical manufacturing capabilities of States and strengthened the global public health response to the pandemic. Instead, the world is left with a ministerial decision on the Agreement that simply reiterated existing WTO rules, with its narrow set of flexibilities, and in fact added some procedural steps for patent waivers.⁹⁷ Therefore, to ensure all human rights can be fulfilled, the Special Rapporteur echoes recent calls by international lawyers:⁹⁸ the Agreement on Trade-Related Aspects of Intellectual Property Rights must be terminated.

89. There is no indication that the twelfth Ministerial Conference laid out a path for a coherent trade and food security policy. For every moment that States delay enacting a coherent, coordinated trade and food security agenda, more people become poorer, sicker and hungrier.

V. Conclusion and recommendations

90. To encourage international cooperation and coordination, the Special Rapporteur provides the recommendations set out below as part of a global action plan on the right to food.

⁹⁵ See www.wto.org/english/res_e/reser_e/agricsymp2020_e.htm and FAO and others, *The State of Food Security and Nutrition in the World 2022*, pp. 108–109.

⁹⁶ A/HRC/49/43.

⁹⁷ WT/MIN(22)/30.

⁹⁸ Anne Orford, “Why it’s time to terminate the Agreement on Trade-Related Aspects of Intellectual Property Rights agreement”, 2022 annual Kirby lecture on international law, available at www.youtube.com/watch?v=jJGQe5_-j1M&feature=emb_logo.

Immediate response to the pandemic and the current food crisis**91. Member States should as a matter of national policy:**

(a) **Avoid introducing unilateral export bans that further destabilize markets; however, low-income States will need the option to ban exports more quickly and with less justification than other States;**

(b) **End all unilateral coercive measures and blockades;**

(c) **Avoid hoarding national food stocks and be transparent about national food stocks. Countries with large food stocks should support countries in need;**

(d) **Require businesses enterprises to disclose the nature and amount of their stocks;**

(e) **Extend pandemic-era policies that strengthen the realization of the right to food and convert them into permanent programmes. These include programmes that provide:**

(i) **Direct cash transfers;**

(ii) **Universal school meals;**

(iii) **Support for territorial markets;**

(iv) **Support for peasants, pastoralists, fishers and other small food producers, especially their access to inputs and territorial markets;**

(v) **Protection of the right of workers to association, enforcement of labour laws and enhancement of worker protection;**

(vi) **Social protection to mitigate the negative impacts of volatility;**

(f) **Recognition of and support for the role of local and regional governments in meeting needs related to the right to food.**

92. Member States should develop action plans on the right to food based on the principles of solidarity, self-sufficiency and dignity. This would include addressing the following topics as adapted from the International Covenant on Economic, Social and Cultural Rights:

(a) **International cooperation and solidarity;**

(b) **Improving food production and conservation by enhancing cultural and biological diversity in food systems;**

(c) **Supporting a holistic connection between traditional and indigenous local knowledge and scientific knowledge focused on agroecology;**

(d) **Reforming food systems to ensure that food is available and accessible in equitable terms and that labour rights are enforced;**

(e) **Ensuring that trade is equitable as a matter of food sovereignty and labour rights, thereby establishing fair and stable markets.**

93. The General Assembly is strongly encouraged to pass a declaration in which it:

(a) **Reaffirms the necessity of a multilateral coordinated response to the food crisis and the centrality of the right to food to globally responding accordingly;**

(b) Reaffirms the importance of enacting and enforcing laws that respect, protect and fulfil the rights of indigenous peoples, peasants, workers, people with disabilities, women and children to maintain a fair and stable food system;

(c) Calls upon on Member States and relevant international organizations to develop an action plan on the right to food that would repurpose existing public budgets to serve as a just transition to agroecology;

(d) Invites the United Nations High Commissioner for Human Rights to develop a right-to-food agenda that includes a just transition to agroecology and international trade policy during the three-day workshop that the Human Rights Council requested be held before its fifty-second session.⁹⁹

Immediate action to begin medium- and long-term food system transformation

94. To address the debt crisis and financial needs, Member States should:¹⁰⁰

(a) Establish an international debt relief mechanism which should include formal debt write-downs and cancellation of debt stock owed to both sovereign and private creditors. Debt relief should not be accompanied by structural and macroeconomic conditionalities that limit public spending or by other austerity measures;

(b) Recalling the call made by the previous mandate holder¹⁰¹ and relevant Human Rights Council resolutions,¹⁰² and since climate change has long-term, inequitable and deep impacts on food insecurity, urgently ensure increased financing to support developing countries in tackling climate change impacts through adaptation and loss and damage mechanisms. This is especially important given that the food systems most affected by climate change are in countries that have contributed the least to greenhouse gas emissions;

95. Member States should negotiate, adopt and ratify a legally binding instrument on transnational corporations and other business enterprises with respect to human rights. Such an instrument should ensure adequate prevention of human rights violations, include effective mechanisms for remedy and reparations, and curtail the power of corporations in the world's food systems.

96. To protect and support land rights and enact genuine agrarian reform, Member States should:

(a) Respect, protect and guarantee people's tenure rights and right to land by enacting laws and policies in line with the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas and the United Nations Declaration on the Rights of Indigenous Peoples;

(b) Ensure that strong systems of tenure rights to land include mechanisms to ensure reconciliation and restitution among pastoralists, indigenous peoples, fishers, forest dwellers, peasant farmers and other communities and rightsholders;

(c) Recognize hunting, fishing, foraging and herding rights, especially those of indigenous peoples and peoples living under occupation;

⁹⁹ Human Rights Council resolution 49/19.

¹⁰⁰ See also A/76/167.

¹⁰¹ See A/HRC/37/61.

¹⁰² Resolutions 38/4 and 50/9.

(d) Guarantee the recognition, protection and restitution of indigenous peoples' territories, as well as reparations and the right of return of peoples, groups, individuals and communities that have been dispossessed of their lands, fisheries and forests because of conflict, occupation and war;

(e) Expropriate large-scale tracts of land employing industrial intensive methods or owned by financial investors and redistribute them to indigenous peoples and local communities for the purpose of agroecological food production;

(f) Ensure that land rights, the right to land and agrarian reform are central to any discussion of climate change and food security. The upcoming twenty-seventh session of the Conference of the Parties to the United Nations Framework Convention on Climate Change provides the first such opportunity;

(g) Protect land and environment defenders and eliminate acts of killing, criminalization and harassment of, and discrimination against, such defenders.

97. To ensure that international trade law and policy create fair and stable markets, Member States should:

(a) Terminate the WTO Agreement on Agriculture and the Agreement on Trade-Related Aspects of Intellectual Property Rights as soon as possible;

(b) During 2023, discuss a new trade agenda based on food sovereignty and labour rights, using a right-to-food framework based on the policies laid out herein and the principles of solidarity, self-sufficiency and dignity as outlined by the Special Rapporteur.¹⁰³ These discussions should be held at different United Nations organizations, such as the Committee on World Food Security, the Human Rights Council, the Economic and Social Council, the International Labour Organization and the United Nations Conference on Trade and Development, and produce declarations and statements;

(c) In 2024, negotiate a set of trade principles based on the right to food. These negotiations should be fostered at the Committee on World Food Security in partnership with the Office of the United Nations High Commissioner of Human Rights and involve as many Member States as possible. Key stakeholders, in particular youth rightsholders from the Civil Society and Indigenous Peoples' Mechanism, should be granted a prominent place at the negotiations;

(d) In 2025, start negotiating new trade agreements and international food agreements, the purpose of which would be to develop, support and coordinate local, national and regional food stocks, using a right-to-food framework. Public stockholding for food security purposes should be designed to ensure that people have access to adequate food, farmers have a stable livelihood, stocks are transparent and prices are fair and stable for producers and consumers. All public stockholding schemes should include active and meaningful participation by rightsholders.

¹⁰³ [A/75/219](#).