

RESEARCH BRIEF

HUMAN RIGHTS AND FOOD SUSTAINABILITY

KEY MESSAGES

- The future of humanity on Earth depends on the reorientation of food systems to ensure that food value chains, from production to consumption, respect the limited carrying capacity of the planet while at the same time guaranteeing access to adequate and nutritious food for everyone, including future generations.
- The notion of food sustainability proposes a holistic vision of food systems and assesses their impacts at social, economic, cultural and environmental levels with the aim of promoting social justice and more democratic and ecologically responsible governance of natural resources.
- The implementation of human rights standards and principles is fundamental to achieving food sustainability and human rights should be fully incorporated into domestic normative and policy frameworks governing food systems.
- In accordance with international human rights law, food systems must contribute to improving food availability, accessibility and adequacy globally and in the areas where they operate.
- Governments must ensure that food systems operating in their territories respect the human rights of everyone and that they promote substantive equality. This requires the adoption of specific measures to ensure that the rights of disadvantaged groups such as agricultural workers, children, women, persons with disabilities, migrants, and older persons are promoted and protected.
- National laws and policies must guarantee that food systems do not negatively affect the availability, accessibility, and quality of local natural resources or threaten traditional systems of collective use and management of the environment.

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INTRODUCTION

Food systems are processes and activities carried out for the satisfaction of the food needs of a certain population. They involve networks of stakeholders, including farmers, companies, financial institutions, public agencies and other organizations, and consumers, working interdependently on the different steps of supply chains (production, processing, packaging, distribution, retailing, and consumption). They influence and are influenced by aspects of social, cultural, political, economic and environmental nature.

One of the major challenges for humanity in the 21st century is to find ways to feed the world's population and at the same time ensure the continued capacity of the planet to produce food for everyone.

There is a growing consensus that finding ways to feed today's and tomorrow's world's population and at the same time cope with the Earth's limited capacity can only be achieved by the reorientation of food policies and related laws and by rethinking food systems so as to take full account of the complex relationships between food production, trade, environmental impacts, social justice and human wellbeing at local, national and international levels.

It is against this backdrop that the notion of food sustainability has emerged. It represents a holistic approach to food systems that seeks to integrate a number of food-related factors that are economic, political, social, cultural and ecological in nature, in order to assess the performance of food systems. Moreover, the notion of food sustainability is grounded in general principles that underlie the concept of sustainable development, especially the democratic governance of natural resources and intergenerational equity, and the observation of human rights standards, the focus of this research brief.

This research brief identifies a number of international human rights standards that should be taken into account by law- and policy-makers when developing normative and policy frameworks governing food systems.

THE RIGHT TO FOOD AND HUMAN RIGHTS PRINCIPLES

The right to food was first proclaimed at the international level in the Universal Declaration of Human Rights, adopted in 1948. Article 25.1 of the Declaration states that "Everyone

has the right to a standard of living adequate for the health and well-being of himself and of his family, including food [...]". Eighteen years later, this right was reaffirmed in the 1966 International Covenant on Economic Social and Cultural Rights (ICESCR) which created legally-binding obligations for States and other stakeholders to respect, protect and fulfil the right to adequate food. Pursuant to Article 11.1 and 11.2 of the ICESCR, States are required to take appropriate steps to ensure the full realization of the right to food and to "improve methods of production, conservation and distribution of food by making full use of technical

and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources".

In 1999, the United Nations (UN) Committee on Economic Social and Cultural Rights (CESCR) adopted its General Comment No 12 in which it defined the right to food as: "[t]he right [of] every man, woman and child, alone or in community with others, [to have] physical and economic access at all times to adequate food or means for its procurement." In accordance with this definition, States have the obligation to ensure that all individuals and communities have the ability to purchase and/or produce food or receive food assistance in case of need, especially in times of emergency or economic vulnerability. Related rights would include, on the one hand, the right to receive sufficient income to buy a food basket that satisfies one's nutritional needs. In case of individuals and communities that produce their own food, the right to food is inextricably related to the right to access land, water, seeds and other food production resources, as well as knowledge and innovations associated to food production and food storage facilities.

The CESCR definition has been further elaborated upon by UN Special Rapporteurs on the right to food, who aimed at capturing further elements and dimensions as well as encompassing the different realities and needs of diverse social groups. The former UN Special Rapporteur Olivier De Schutter, for example, proposed the following definition of the right to food: "The right to food is the right of every individual, alone or in community with others, to have physical and economic access at all times to sufficient, adequate and culturally acceptable food that is produced and consumed sustainably, preserving access to food for future generations." Among other elements, this

definition incorporates two further dimensions of the right to food. First, it highlights the cultural dimension of the right to food reflected in one's culinary habits. From this perspective, food must not only be available and accessible in sufficient quantity, but also accord to one's culture, traditions and religious beliefs. Second, this definition integrates general concerns on the environmental impact of food production. By alluding to the principle of sustainable development, it makes a strong case for the fact that global food production and consumption must take into account the needs of present and future generations alike. Food systems governance must be respectful of the limited carrying capacity of the planet.

SUSTAINABLE DEVELOPMENT IS

'development that meets the needs of the present without compromising the ability of future generations to meet their own needs.' Our Common Future (UN, 1988)

The implementation of human rights obligations in general and the right to food obligations in particular is informed by a set of fundamental principles, that can be summarised using the acronym PANTHER: participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law. In so far as the right to food is concerned, these principles imply that: (a) individuals and communities have the right to participate actively, freely, effectively and significantly in all decisions that affect their lives, especially those that might affect their ability to access food (participation); (b) authorities must be accountable for their actions and omissions in the realization of this right and there should be mechanisms that allow people to challenge both the process and content of their decisions (accountability); (c) the enjoyment of the right to food should not be restricted on the basis of identity factors including; ethnicity, sex, religion, socio-economic status, disability and age (non-discrimination); (d) information regarding food-related laws, policies, programs and budgets as well as on the ingredients of processed food and the use of pesticides and GMOs must be accessible to the public (transparency); (e) all actions affecting people's lives and livelihoods and their ability to enjoy the right to food must be adopted in a way that respects the absolute value of the person (human dignity); (f) individuals and communities must be provided with resources, including relevant information, and have access to institutional support in order to make the best decisions and choices

(empowerment); (g) governments' authority must be exercised in strict accordance with constitutions and other laws in force and follow democratic, legal processes (rule of law).

FOOD SYSTEMS AND RELATED HUMAN RIGHTS

Food systems may have positive and negative impacts on a number of internationally recognized human rights. Some examples are provided in the following paragraphs.

RIGHTS OF WORKERS

The right to work is key to human dignity and to the social and economic development of communities. At the international level, this right is entrenched in Article 23 of the Universal Declaration of Human Rights and Articles 6 to 8 of the International Covenant on Economic, Social and Cultural Rights. The right to work includes the right to enjoy just and favorable conditions of work. This means that workers should be fairly remunerated to provide a decent standard of living, that working conditions are safe and healthy and that workers are provided with time for rest and leisure. In addition, all workers have the right to form and to join trade unions.

Closely related to the right to work, the right to social security has also been recognized as a fundamental human right. Of particular relevance to this study, lack of access to social security has been identified as one of the main causes of the vulnerability and marginalization of rural workers. This right was affirmed in Article 22 and 25 of the Universal Declaration of Human Rights and Article 9 of the International Covenant of Economic, Social and Cultural Rights. It includes access to social insurance in the event of unemployment, sickness, disability, widowhood, old age or any other lack of livelihood in circumstances beyond one's control.

RIGHTS OF RURAL WOMEN

Rural women are considered as the "backbone of sustainable livelihoods", for their role in ecologically sustainable agricultural farming and their crucial contribution to the food security of their families and communities. Despite this work as food producers, data from around the world show that women and girls are disproportionately food insecure and malnourished. Globally rural women and girls are more likely to be discriminated against with respect to participation in decision-making and access to land and other natural



resources, credit, machinery and technology.

The Convention on the Elimination of all Forms of Discrimination against Women provides that States must adopt measures to foster equality between men and women, including in both urban and rural environments. Specifically with regard to rural women, Article 14 of the Convention contains obligations for States to guarantee the equal participation of women in the elaboration and implementation of development planning and other community activities; access to adequate health care facilities, social security, education and economic opportunities; equal treatment in land and agrarian reform and access to agricultural credit and loans, marketing facilities, and appropriate technology; and the enjoyment of adequate living conditions. In this respect, States Parties to this Convention (189 States as of August 2018) must ensure that rural women have access to adequate housing, water and sanitation, as well as public services such as electricity, transport and communications. As part of their obligations vis-à-vis the right to adequate living conditions, States must also respect, protect and fulfill rural women's right to food, what includes their fully-fledged participation in food systems governance.

RIGHTS OF CHILDREN

Child labor remains one of the major human rights issues in food production. In 2010, ILO estimated that there were around 215 million children engaged in work. Sixty percent of child laborers from ages 5 to 17 are employed in agriculture.

At the international level, Article 32.1 of the Convention on the Rights of the Child recognizes the right of the child to be protected "from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual,

moral or social development". The 196 States Parties to this Convention have agreed to set a minimum age for admission to employment, which according to ILO Convention No 138 should be in no circumstances under the age of 14, and to regulate hours and conditions for child work.

THE ENVIRONMENT AND NATURAL RESOURCES

Food production is one of the major drivers of environmental degradation and the transformation of natural sites. This fact has long polarized debates about human rights and the preservation of nature and natural resources. In reviving Malthus' theory – that proposes that human populations grow exponentially while food production grows at an arithmetic rate – environmental researchers in the 1950s and 1960s agreed that the limited food production resources would not suffice to feed the world's growing population.

The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas provides useful guidance for the sustainable governance of food systems, in line with human rights.

In the 1960s and 1970s, the green revolution and the expansion of irrigation, plant breeding, and the application of chemical fertilizers and pesticides significantly increased food production worldwide. However, it also led to critical environmental degradation with loss of biodiversity, soil erosion and desertification, as well as contamination of water basins. Likewise, the green revolution has also contributed to aggravating social tensions related to natural resources - particularly land, water and seeds. While a number of pressing issues are still to be addressed adequately by the human rights community, the latest international legal developments – particularly the adoption of the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas – provide us with useful guidance for the sustainable governance of food systems, in line with human rights standards and principles.

LAND

Land is the most important natural resource for food production and for this reason, the governance of land use is a pressing global issue with respect to both environmental protection and human rights. In spite of many conflicts over land ownership, possession and user rights, land is not included as a self-standing human right in the

existing catalogue of binding international human rights law. Instead, land rights have been interpreted as forming part of other human rights such as the right to property, housing, right to work and livelihood, right to food, cultural identity, non-discrimination and the right to development. International human rights monitoring mechanisms and court decisions at the regional and national levels have reiterated, for example, the close link between food security, the right to food and land rights of indigenous peoples, traditional local communities and small-scale farmers who depend on access to land to produce their own food.

The international recognition of a human right to land in the new UN Declaration on the Rights of Peasants and Other People Working in Rural Areas, provides for the legal recognition and protection of customary land tenure rights, the natural commons and the systems of collective land use and management. It condemns forced displacements of peasants and their communities, calls for redistributive land reforms and the conservation and sustainable use of land in food production, with the implementation of measures for the regeneration of biological and other natural capacities and cycles.

WATER

The right to water was recognized as a human right in 2002 and includes the right to access and use water for domestic purposes, and does not therefore cover water for irrigation. The right to access water springs and other sources and use water for irrigation did not enjoy a human rights status, but it was considered a fundamental element of other human rights, such as the right to food.

As with the right to land, the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas has amplified the scope of the right to water and sanitation. In this sense, the right to water of peasants and other people working in rural areas also includes the “right to water supply systems and sanitation facilities that are of good quality, affordable and physically accessible, and non-discriminatory and acceptable in cultural and gender terms”. The environmental and social dimensions of the right to water have also been acknowledged. While the instrument establishes the obligation of States to prevent overuse and contamination of water sources, it states that small-scale food production should have priority in water use. This rule highlights the steps that must be taken to respond to the vulnerability of small-scale farmers vis-à-vis agro-industrial food producers with respect to access to, control and use of water.

SEEDS

The decades following the green revolution have witnessed heated debates on seed regulation. With the emergence of the seed industry, the normative framework governing rights and duties of seed creators and users has flourished and raises a number of concerns and controversies. From a human rights perspective, the contentious issue has been that these seed laws and regulations are designed with a focus on industrial food systems and fail to take account of customs and practices established by farmers worldwide since time immemorial. Environmentalists and human rights advocates have also raised strong critiques to new norms on seeds, as they are believed to significantly contribute to the critical deterioration of seed diversity – and as a result jeopardize global food security – while at the same time neglecting traditional seed-related knowledge and cultural heritage.

Against this backdrop, farmers’ rights to seeds have been recognized as human rights, through its inclusion in the new UN Declaration on the Rights of Peasants and Other People Working in Rural Areas. It includes, among others, the rights to participation in decision-making, benefit sharing and traditional knowledge related to seeds, as well as the right to save, use, exchange and sell farm-saved seeds or propagating materials. In addition, the document prescribes a number of States obligations, including the obligation to ensure that peasants have access to seeds of sufficient quality and quantity, to support peasant seed systems and agricultural research and development oriented to subsistence farming. Last but not least, this new instrument demands that States’ seed policies and legal regimes for plant variety protection, including intellectual property laws, certification schemes and seed marketing laws, accord with the needs and realities of small-scale farmers. The enforcement of the rights of industrial breeders should not interfere with farmers’ rights nor put their livelihoods at risk.



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POLICY CONCLUSIONS

Food systems should contribute to the realization of the most fundamental human rights of the individuals and communities living in the territories they operate, without discrimination. These include, on the one hand, the right to food and human rights obligations related to food production, such as the obligation to respect, protect and fulfill the rights of workers, to ensure equality between women and men and to eliminate child labor in all steps of food supply chains. On the other hand, they include the promotion of equitable access to and fair and democratic governance of natural resources, especially land, water and seeds. States and private actors alike are bound to these standards, which should be reflected in national laws, policies and governmental programs.

RECOMMENDATIONS

Food availability. Food systems operating in States' territories should increase the availability of food for local consumption and must not, in any circumstance, put local food supply at risk.

Food accessibility. Governments must guarantee that everyone has sufficient resources to purchase a basic food basket that satisfies one's nutritional needs and facilitate access to resources needed to produce one's own food, including land, water, and seeds. This is particularly pertinent in the case of indigenous peoples, traditional local communities and other actors whose major means of accessing food is through their own production.

Food adequacy. Governments must ensure that food systems contribute to food diversity and the cultural food habits of the local population. Export-oriented food systems should not interfere in the production of local staple and typical food in such a way that they become no longer accessible.

Rights of workers. Governments must ensure that farmers and other food system workers fully enjoy the right to safe and healthy conditions of work, fair remuneration and social security, time for rest and leisure, as well as the right to form and join trade unions.

Elimination of child labor. Governments must protect children from performing work harmful to their physical or mental health, or that interferes with their education and development.

Gender equality. Governments must guarantee that men and women enjoy equal control of and access to land and other productive resources, secure income and social protection, representation in political, economic and social institutions as well as participation in decision-making processes at all levels.

Environmental protection. Strict environmental regulations must be implemented so as to guarantee that food systems do not negatively affect the availability, accessibility, and quality of local water, soil, seeds, biodiversity and other natural resources, especially those used by the local population to produce food.

Democratic governance of natural resources and social justice. Governments must promote redistributive reforms to guarantee equal access to land and other natural resources and limit land concentration. Traditional systems of collective use and management of natural resources and preferential access to the most vulnerable should be supported.

SELECTED REFERENCES ON FOOD SUSTAINABILITY AND HUMAN RIGHTS

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UN Committee on Economic, Social and Cultural Rights

UN Special Rapporteurs on the Right to Food

UN Declaration on the Rights of Peasants and Other People Working in Rural Areas

FAO, right to food

FAO, International Treaty on Plant Genetic Resources for Food and Agriculture

ILO, child labour

ILO, rural women

ILO, rural workers

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TOWARDS FOOD SUSTAINABILITY: RESHAPING THE COEXISTENCE OF DIFFERENT FOOD SYSTEMS IN SOUTH AMERICA AND AFRICA (FOODSAF)

FOODSAF is a six-year project, launched in 2015 and funded by the Research for Development Programme (r4d) of the Swiss National Science Foundation (SNSF) and the Swiss Agency for Development and Cooperation. It aims to provide evidence-based knowledge for the formulation and promotion of innovative strategies and policy options that improve food sustainability. It is composed of five interconnected pillars: food security, the right to food and other related human rights, the reduction of poverty and inequality, environmental integrity and social-ecological resilience.

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