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including the right to development**

Conflict and the right to food

Report of the Special Rapporteur on the right to food, Michael Fakhri

Summary

In the present report, submitted to the Human Rights Council resolution 46/19, the Special Rapporteur on the right to food gives an account of how different forms of violence in food systems harm people and generate the conditions that lead to human rights violations. Drawing from the received inputs, he shows how different interests and identities experience shared forms of violence and how food systems not only produce food but also amplify and produce violence that makes people more poor, vulnerable and marginalized.



I. Introduction

1. All human beings are born free and equal in dignity and rights.¹ Nonetheless, the world is rife with discrimination and inequality. The coronavirus disease (COVID-19) pandemic exposed just how deadly discrimination and inequality can be.² Along with others, the Special Rapporteur has identified systemic discrimination and structural inequality as root causes of human rights violations.³

2. Human rights law commonly addresses inequality by focusing on people who are poor, vulnerable or marginalized. Echoing his own previous reports as well as recent ones by other mandate holders, the Special Rapporteur reiterates that human rights law requires scrutinizing how people are made poor, vulnerable or marginalized.⁴ How is inequality produced? Structural inequality is not a natural occurrence or anomalous. It is produced by systems, including food systems.

3. The right to food can be fully realized only once all actors involved understand how our food systems are making people vulnerable to harm. The mandate holder has observed over the years how violence in food systems can be detrimental, especially to marginalized people, smaller communities, isolated families and workers who lack the resources for collective bargaining and action. All food providers – be it a parent, worker, small-scale or large-scale food producer – are particularly vulnerable to violence in times of distress and crisis. When food providers are vulnerable, communities are vulnerable.

4. Violence in food systems has increased in recent years owing to the interdependence of various factors affecting global food security. For example, the rural communities dealing with the loss of traditional livelihoods and farmers who confront land-grabbing by powerful businesses are in many instances already severely affected by climate change and drought. Communities that have to take on an overwhelming struggle against corporations for the preservation of their ancestral lands, traditional knowledge and seeds are often the ones that, during the global pandemic, relied heavily on their own such knowledge, ancestral dietary habits and holistic practices for survival.

5. In preparing the present report, the Special Rapporteur found that structural inequality had made mass amounts of people more vulnerable to violence; in turn, systemic violence has been a significant cause of structural inequality. This vicious cycle of structural inequality and systemic violence causes widespread human rights violations.⁵ Food systems not only produce food but also generate and amplify violence that makes people more poor, vulnerable and marginalized. In the report, the Special Rapporteur gives an account of different forms of violence in food systems that harm people and generate the conditions that lead to human rights violations. He does not attempt to address all forms of violence in food systems; instead, he draws from the inputs received to provide a narrative on how different interests and identities experience shared forms of violence. The Special Rapporteur frames violence as systemic, focusing on how violence inherently structures food systems. He outlines four interconnected and overlapping forms of violence: discrimination; bodily harm or assault against a person's physical and mental integrity; ecological violence; and erasure.

II. Food systems rely on a global economy of dependency and extractivism

6. In a joint study, the Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP) found that violence and conflict remain the primary

¹ Universal Declaration of Human Rights, art. 1.

² See A/75/163.

³ See A/76/167, A/76/177, A/76/408, A/77/157, A/HRC/41/54 and A/HRC/50/28.

⁴ See A/HRC/41/39.

⁵ See A/75/148, A/75/163, A/75/258, A/77/174 and A/77/177.

drivers of acute hunger in many parts of the world. They concluded that both hunger and violence would increase in 2022, especially as the global economy deteriorated.⁶

7. Over the past four years, global rates of hunger have risen and are expected to continue to rise in the near future, leading to record humanitarian needs.⁷ Conflict and natural disasters alone cannot, however, explain this trend. Understanding systemic violence in food systems requires viewing them as part of the global economy. Today's global economy is the continuation of a centuries-long process characterized by a dynamic of dependency and extractivism undergirded by international law at large and national legal regimes.⁸

8. Countries and transnational corporations, in their pursuit of extracting resources from nature, have disrupted and reconfigured people's social and ecological relationships, limiting people's ability to have a stable livelihood and attacking people's very existence. This degree of disruption and reconfiguration is a violent act against people, undermining their dignity and humanity, often through categories of disability, race and gender. The resulting structural inequality is illustrated by the fact that people in situations of vulnerability and from marginalized communities are usually – and predictably – at the losing end of having their rights met, especially their right to food.

9. Systemic violence violates the right to life by limiting or denying people access to the necessities of life: land, seeds, water, fair and stable markets and dignified work. When people are dispossessed of their land or work in hostile conditions, they are more exposed to harm on a regular basis. With less secure access to land or dignified work, people have less bargaining power because they are limited in their ability to negotiate favourable terms in commercial transactions or for work. This is how systemic violence makes people vulnerable and dependent while enabling a relatively small group to take advantage of their vulnerability. It allows the few who already have power and resources to gain the ability to restrict access to what is necessary to reproduce life, generating more violence and inequality.

10. During today's food crisis, transnational corporations in the agrifood sector are profiteering while people struggle and suffer as life gets harder. The wealth of food-sector billionaires increases by a billion dollars every two days.⁹ 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 2022.¹⁰

11. Markets today amplify the crisis and are prone to volatility because of a global food system that relies on a small number of industrially produced staple grains, a small number of countries to produce those grains for export, and a small number of corporations that dominate the agrifood market.¹¹ Since the 1980s, the dominant global common sense has been that Governments should no longer use international agricultural policy to cooperate or to try and stabilize markets; instead, policymakers have been driven by short-term calculations of rapid production and maximizing profit.

12. Ever since the armed forces of the Russian Federation invaded Ukraine in February 2022, the food crisis has gained more prominence on both national and international agendas. While armed conflict often results in food insecurity, this does not have to be the case. As recognized by the Security Council in its resolution 2573 (2021), and evidenced in some

⁶ FAO and WFP, "Hunger hotspots: FAO-WFP early warnings on acute food insecurity – October 2022 to January 2023 Outlook", Rome, 2022.

⁷ Office for the Coordination of Humanitarian Affairs, *Global Humanitarian Overview 2023*, 2022 (see <https://humanitarianaction.info/>).

⁸ Michael Fakhri, *Sugar and the Making of International Trade Law* (Cambridge, Cambridge University Press, 2017); Ntina Tzouvala, *Capitalism as Civilisation: A History of International Law* (Cambridge, Cambridge University Press, 2020); Usha Natarajan and Julia Dehm, eds., *Locating Nature: Making and Unmaking International Law* (Cambridge, Cambridge University Press, 2022).

⁹ See "Profiting from pain: The urgency of taxing the rich amid a surge in billionaire wealth and a global cost-of-living crisis", Oxfam media briefing, 23 May 2022.

¹⁰ See Rupert Neate, "Soaring food prices push more Cargill family members on to world's richest 500 list", *The Guardian*, 17 April 2022.

¹¹ Jennifer Clapp, "Concentration and crises: exploring the deep roots of vulnerability in the global industrial food system", *Journal of Peasant Studies*, October 2022.

conflicts since the First World War, food systems and markets can and should properly function in situations of armed conflict.¹²

13. Unfortunately, the international food policy response to the resulting food crisis has focused too much on the war in Ukraine while overlooking the long-standing structural causes and systemic violence in food systems. As much could be witnessed in discussions held in forums such as the Security Council, the General Assembly, FAO, the Committee on World Food Security and the Group of Seven. Even if the war in Ukraine ended immediately, the food crisis would continue to worsen.

A. Dependency

14. Food systems rely on a series of dependency relationships: importing countries depend on global markets for food, food-exporting countries depend on global markets for capital, workers depend on employers for their livelihood, survivors of sexual and gender-based violence sometimes become more economically dependent on aggressors because of the abuse, and people depend on a small number of food commodities for their nourishment. In previous reports, the Special Rapporteur noted how farmers increasingly depend on transnational corporations for their inputs and developing countries depend on international financial institutions and richer countries for capital.¹³

15. Dependency relationships are based on profound power imbalances and reaffirm structural inequality. Whereas relationships based on reciprocity and human rights recognize the fact that we all share the same planet and therefore all food systems; reciprocal relationships build an economy that generates substantive equality. The Special Rapporteur has witnessed during the pandemic that, in times of crisis, relationships of dependency quickly break down, while relationships of reciprocity stay resilient.

16. The armed conflict in Ukraine, when understood in the context of food systems and dependency relationships, can highlight a particular global weakness: how international markets actually amplify violence rather than the opposite, creating global shocks from a regional war.

1. Dependency on food exports

17. People in Ukraine are fighting for their human rights and the integrity of their country. Along with other severe restrictions, they face food shortages, since Ukrainian farms, fields and seed banks have been attacked and destroyed by the Russian army. The Russian Federation should end the war immediately and unconditionally, just as all other States should end any and all invasions and occupations immediately.¹⁴

18. Before the escalation in February, between 2019 and 2021, Ukraine had 9.9 million moderately and severely food insecure people with a food crisis in the eastern regions of Donetsk and Luhansk oblasts. As the war unfolds, there is growing evidence that loss of income, supply chain disruptions, increasing prices and related dependency on food assistance is significantly affecting access to and the affordability of food across the country. Preliminary analyses estimate that the war will cause a projected decline of Ukrainian gross domestic product (GDP) by around 45 per cent in 2022; it may increase the poverty rate in the country, with approximately 60 per cent of the population forecast to be in poverty by 2023, presenting major risks to the food security of vulnerable households and communities.¹⁵

19. Member States should focus on the needs of Ukrainian peasants and workers, who are defending, recovering and revitalizing the food system in Ukraine.¹⁶ The war has revealed

¹² See Fakhri, *Sugar*.

¹³ See A/77/177.

¹⁴ 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.

¹⁵ FAO, “Note on the impact of the war on food security in Ukraine”, Rome, 20 July 2022.

¹⁶ OHCHR, “Ukraine: UN expert warns of global famine, urges end to Russia aggression”, press release, 18 March 2022.

how the country's export-dependent food system is vulnerable to disruptions to global trade and market volatility. Its food system was not set up to ensure food security for the people of Ukraine or the region, but rather designed to grow a small number of crops for the purpose of export, namely sunflowers and sunflower products, corn, wheat, barley and rapeseed. More than 55 per cent of Ukraine was arable land; in 2021, agriculture exports totalled \$27.8 billion, accounting for 41 per cent of the country's \$68 billion in overall exports.¹⁷ Studies before the war suggested that the country's system of agricultural subsidies was neither transparent nor equitable.¹⁸

20. Nevertheless, the networks and collective action that have emerged during the war accelerated the development of a vibrant rural civil society, giving cause for hope for a diversified and revitalized post-war food system in Ukraine.¹⁹

2. Dependency on food imports and financial markets

21. The invasion of Ukraine by the Russian Federation almost immediately led to a spike in the price of foodstuffs like wheat and cooking oil. In the case of wheat, it was not the result of a shortage of supplies. The Russian Federation and Ukraine supply approximately 30 per cent of the world's exports of wheat. At the outset of the war, the estimated wheat export shortfall was 7 million tons.²⁰ Global production of wheat in 2021, however, was 778 million tons.²¹ Therefore, the expected shortfall would have affected only 0.9 per cent of the global wheat crop. Even when considering the fact that import-dependent countries would have to rely on or establish new supply chains, tracking supply and demand does not adequately explain price increases of almost 70 per cent in the immediate aftermath of the invasion.²² The extreme nature of this price spike can be explained rather by the fear and panic among hoarders, traders and financial speculators that took hold of financialized food markets. As was most acute during the food crises of 2007/08 and 2010/12, global commodity markets are significantly disrupted by the Chicago Mercantile Exchange because the Commodity Futures Modernization Act of the United States of America allows for speculators to bet on food price trends without trading in commodities themselves.²³

22. The war created a global alarm because 36 countries depend on the Russian Federation and Ukraine for more than half of their wheat imports, including some of the poorest and most vulnerable countries in the world. Owing to that dependence, these countries were now exposed to a higher risk of food insecurity.²⁴ The Special Rapporteur has already outlined the shortcomings of the current trade regime and expressed concern at States that relied too much on trade to support their food systems.²⁵ Not only are countries exposed to greater risk when their food systems are over reliant on trade; the war in Ukraine has revealed how many developing countries depend on a small number of countries for key commodities.

23. As a result, countries that relied on wheat from Ukraine are having to increasingly rely on WFP for food, which in turn depended on Ukraine for half its wheat (among other commodity foods).²⁶ The world's system of humanitarian relief and international trade have been severely disrupted by the same relationship of dependency.

¹⁷ See www.fas.usda.gov/sites/default/files/2022-04/Ukraine-Factsheet-April2022.pdf.

¹⁸ See <https://kse.ua/community/stories/the-new-agricultural-support-system-in-ukraine-who-really-benefits/> and www.oaklandinstitute.org/driving-dispossession.

¹⁹ Natalia Mamonova, "Food sovereignty and solidarity initiatives in rural Ukraine during the war", *Journal of Peasant Studies*, 11 November 2022.

²⁰ Niels Graham and Inbar Pe'er, "Putin's invasion of Ukraine threatens a global wheat crisis", Atlantic Council, 22 March 2022.

²¹ www.statista.com/statistics/267268/production-of-wheat-worldwide-since-1990/.

²² Joe Rennison, "War, Climate Change, Energy Costs: How the Wheat Market Has Been Upended", *The New York Times*, 1 August 2022.

²³ International Panel of Experts on Sustainable Food Systems. "Another perfect storm?", May 2022..

²⁴ United Nations, "Global impact of war in Ukraine on food, energy and finance systems", Brief No. 1, 13 April 2022.

²⁵ See A/75/219 and A/76/237.

²⁶ WFP, "Bulk carrier sets off from Ukraine with grain for WFP in first since start of war", 16 August 2022.

3. Dependency on fertilizer

24. The war in Ukraine has also disrupted chemical fertilizer supply chains, given that the Russian Federation, Ukraine and Belarus are the world's biggest suppliers of chemical fertilizers. The Special Rapporteur emphasizes that the problem of this disruption is not so much the lack of availability of such fertilizers but rather that so many farmers rely so heavily on them. Chemical fertilizers deplete nutrients in the soil and cause environmental harm through runoff, violating the rights to life, health and a healthy and sustainable environment.²⁷ 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 fewer greenhouse gas emissions and less toxic pollution while also making them more productive and resilient to climate change.²⁸ Reducing the dependency of global agriculture on chemical fertilizers protects farmers from international economic shocks.

4. Dependency on wheat consumption

25. Another problem is that too many food systems depend so heavily on wheat; more broadly, too many people rely on a small number of mass-produced grains for nourishment, including wheat, rice and corn.²⁹ Our relationship with only nine species (sugar cane, maize, rice, wheat, potatoes, soybeans, oil palm fruit, sugar beet and cassava) accounts for more than 66 per cent of all crop production by weight.³⁰ This is the result of many developed countries subsidizing large-scale, monocrop agricultural operations. Almost 90 per cent of the \$540 billion of agricultural support a year harms people's health and the climate, and drives inequality.³¹ The Special Rapporteur has previously outlined how to repurpose existing budgets to move away from a system of corporate welfare towards fulfilling the right to food by diversifying ecosystems and diets.³²

B. Extractivism

26. Global food systems are characterized by extractivism, which can be understood as the "non-reciprocal dominance-based relationship"³³ among human beings, non-human beings, and the land and water. Extractivist economies rely on the extraction and export of their natural resources. Extractivist industries include mineral and fossil fuel extraction, as well as monocultural large-scale agricultural, forestry and fishery operations.³⁴

27. Many development models rely on extractivism to generate economic growth. The theory is that the ecosystem is a collection of commodities, and ecological destruction is justified by economic growth. The assumption is that exploiting nature is worth it because the ensuing revenue will be shared and benefit the public at large. The reality is that extractivism leads to human impoverishment, especially to the detriment of Indigenous peoples, racialized communities, rural communities, small-scale food producers/peasants, food and agriculture workers, and women. Global extractivism is also the main driver of climate change, with 100 fossil fuel producers linked to 71 per cent of global industrial greenhouse gases since 1988. Global extractivism and climate change are simultaneously the

²⁷ See A/74/480.

²⁸ See Chloe MacLaren and others, "Long-term evidence for ecological intensification as a pathway to sustainable agriculture", *Nature Sustainability*, vol. 5, 2022, and <https://rodaleinstitute.org/science/farming-systems-trial/>.

²⁹ Jessica Fanzo, "The world's food system is too dependent on wheat", *The Washington Post*, 22 April 2022.

³⁰ Julie Bélanger and Dafydd Pilling, eds., *The State of the World's Biodiversity for Food and Agriculture*, FAO Commission on Genetic Resources for Food and Agriculture, Rome, 2019, p. 114.

³¹ FAO and others, *The State of Food Security and Nutrition in the World 2022* (Rome, FAO, 2022), chap. 4.

³² See A/77/177.

³³ Naomi Klein, *This Changes Everything: Capitalism vs. The Climate* (New York, Simon and Schuster, 2014), p. 169.

³⁴ See A/HRC/29/25; A/HRC/41/54, para. 6; and A/71/281.

result of and contribute to global and local inequalities, deepening vulnerabilities and further marginalizing those who already live at the margins.³⁵

28. Extraction from nature and the exploitation of people are, however, inherently linked, since you cannot separate how you treat nature from how you treat people.

29. From a right-to-food perspective, extractivism generates three problems. First, extractivist projects undermine and destroy traditional and small-scale hunting, fishing, herding and agriculture, together with foraging and gardening practices that enhance biodiversity. This is well documented in the context of Indigenous peoples.³⁶ Second, more food systems are becoming more lethal because they limit biodiversity – by taking from the land and leaving nothing in return, turning the soil barren. Third, food systems are dependent on chemical inputs and high-energy processes, generating approximately one third of the world’s greenhouse gases.³⁷

30. International economic law, and particularly the World Trade Organization Agreement on Agriculture, has enabled extractivist global food systems.³⁸ Such food systems favour transnational and industrial food production practices and thereby permit the enrichment of corporate actors at the expense of impoverishing farming communities, particularly in the Global South and in some areas of the Global North. Global food systems also extract monetary value for global capital markets from the natural environment, leaving the environment degraded, depleted and destroyed for centuries to come. Lastly, global food production and supply chains are extractive in that they take more from than they give to workers and small-scale food producers by underpaying them and exposing them to precarious and hazardous working conditions.³⁹

31. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance found that the contemporary political economy of global extractivism could not properly be understood without reference to its colonial (racial) origins.⁴⁰ She explained how extractivist economies rely on structural inequality that oppresses people based on their interlaced identities, highlighting how it involves multiple intersectional social categories and structures of domination. According to the Special Rapporteur, the concept of intersectionality captures both the structural and dynamic consequences of the interaction between two or more forms of discrimination or systems of subordination. It specifically addresses the manner in which racism, patriarchy, economic disadvantage and other discriminatory systems contribute to the creation of layers of inequality that determine the relative positions of women, men, races and other groups. It also addresses the way that specific acts and policies create obstacles that exist along the intersecting axes, contributing actively to a dynamic of disempowerment.⁴¹

32. In sum, whether in times of peace or war, individuals experience violence as an intersection of exploitation (arising from their relationship to land and the products of their labour) and oppression (arising from their diverse set of dynamic identities).⁴²

III. Discrimination and inequality

33. One significant way that human rights ensure that all human beings are free and equal in dignity and rights is by prohibiting discrimination based on a person’s identity, lack of

³⁵ Farhana Sultana, “The Unbearable Heaviness of Climate Coloniality”, *Political Geography*, vol. 99, No. 1 (2022).

³⁶ See A/HRC/18/35, paras. 30–55; A/HRC/24/41; A/HRC/33/42; and A/70/301.

³⁷ “Food systems account for more than one third of global greenhouse gas emissions”, FAO, 9 March 2021.

³⁸ See A/75/219.

³⁹ See A/HRC/40/56 and A/73/164.

⁴⁰ A/HRC/41/54, para. 22.

⁴¹ A/HRC/41/54, para. 18. See also Committee on Economic, Social and Cultural Rights general comment No. 20 (2009), paras. 15, 17 and 27.

⁴² Vanessa Wills, “What could it mean to say, ‘Capitalism causes sexism and racism?’”, *Philosophical Topics*, vol. 46, No. 2 (2018).

wealth, or legal status.⁴³ The ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy all of their human rights.⁴⁴ With the rising rate of fear and want, it is more important than ever to prioritize the realization of rights; this can be achieved by focusing on substantive equality (in addition to formal equality before the law).

34. Substantive equality is a legal principle and core goal of human rights.⁴⁵ Substantive equality refers to equality of outcomes rather than merely procedural equality of opportunity. Achieving substantive equality for members of a specific group requires “the implementation of measures that consider and are tailored to respond to the unique causes of their historical disadvantage as well as their geographical and cultural needs and circumstances.”⁴⁶

35. The most common way that inequality is produced in food systems is by denying, or impeding, people’s access to food and to means and entitlements for its procurement. Any discrimination in access to food with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights is a violation of human rights.⁴⁷

36. Discrimination by denying people access to food, and to means and entitlements for its procurement, is always an instance of violence. It causes individual harm because it exposes a person to a higher risk of hunger and malnutrition. That denial also disrupts that person’s social and ecological relationships in long-lasting ways. Instances of discrimination are usually part of a pattern of systemic violence because it is based on widely held assumptions regarding ability, class, legal status, age, gender, race and other identities. Discrimination as a form of systemic violence stems from a constructed, abstract notion of what is normal, and targets whomever does not fit that particular definition of normal. It also often stems from an assumption that certain people are less worthy because of certain traits and their identity.

37. Regarding discrimination against rural and Indigenous women and girls, general recommendations No. 34 (2016) and No. 39 (2022) of the Committee on the Elimination of Discrimination against Women respectively provide detailed, comprehensive, systemic and rights-based recommendations. They explicitly recognize the right to food and nutrition in the context of food sovereignty to ensure that women and girls have the authority to manage and control their natural resources. This implicitly addresses the discrimination and social and political configurations around power over food that particularly affect rural and Indigenous women and girls.⁴⁸ Similarly, women workers in food systems tend to be paid less than men, often work seasonal, part-time and dangerous jobs, and are more likely to be employed in non-managerial positions.⁴⁹

38. Members of the LGBTQ+ community face structural barriers, including discrimination by food and service providers, lack of family and community support, and stigma and fear. Numerous reports confirm that gender-based discrimination denies millions of people access to food and to means and entitlements for its procurement if they are not cisgendered. In some countries, during the pandemic, food shopping days specifically for men and women or separate procedures and modalities for receiving food packages, based on gender, were put in place. These policies led to, in different instances, the exclusion, abuse, stigmatization and arrest of transgender and non-binary people. The mandate holder

⁴³ See Universal Declaration of Human Rights, art. 2; International Covenant on Economic, Social and Cultural Rights, art. 2; International Covenant on Civil and Political Rights, art. 2; Committee on Economic, Social and Cultural Rights General Comment No. 20; and A/77/157.

⁴⁴ See preamble to the International Covenant on Economic, Social and Cultural Rights.

⁴⁵ International Convention on the Elimination of All Forms of Racial Discrimination, art. 2.2. See also Committee on Economic, Social and Cultural Rights general comment No. 20, paras. 8–9; A/HRC/41/54 and A/HRC/50/28. See also the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

⁴⁶ <https://www.sac-isc.gc.ca/eng/1583698429175/1583698455266#chp2>; [Assembly of Manitoba Chiefs Declaration for the Implementation of Jordan’s Principle](#), 19 January 2011.

⁴⁷ Committee on Economic, Social and Cultural Rights general comment No. 12 (1999), para. 18.

⁴⁸ www.csm4cfs.org/wp-content/uploads/2018/10/EN-CSM-LR-2018-compressed.pdf, p. 24

⁴⁹ Submissions by IUF and University of Miami School of Law Human Rights Clinic.

received testimonies of denial of food assistance to lesbian women and their families for not fitting the traditional mould of family.⁵⁰ Reports from the United States indicate that LGBTQ+ adults are nearly twice as likely to experience food insecurity than non-LGBTQ+ individuals.⁵¹

39. Gender-based discrimination also idealizes the family in heteronormative terms. Considering that family farms are an important aspect of food systems, definitions of family and kin determine people's access to land, inheritance and resources. Encompassing the full range of genders and configurations of kinship ensures a more equitable distribution of resources.

40. Agricultural workers are systematically excluded from labour right protections. National legal systems all over the world carve out exceptions to their labour laws for farmworkers, leaving them more exposed to exploitation and bodily harm. This includes a persistent and global legal exclusion of agricultural workers from the rights to freedom of association and collective bargaining, one of the oldest core labour rights as provided for by the Right of Association (Agriculture) Convention, 1921 (No. 11) of the International Labour Organization (ILO). Moreover, children, prisoners and migrant and seasonal workers are often legally marginalized and afforded even less protection from what labour rights national agricultural regimes have to offer.⁵²

41. Nearly half of all deaths in children under 5 years are attributable to undernutrition, which puts children at greater risk of dying from common infections, increases the frequency and severity of such infections, and delays recovery. Wasting persists at an alarming rate, while overweight rates continue to rise.⁵³ The tragedy is that this is preventable. For example, in Ecuador, the Government has developed a strategy to prevent and eradicate chronic child malnutrition. To ensure the strategy is effective, the Government has created public sector obligations while also establishing co-responsibility and participation of the private sector and social organizations. This strategy recognizes the importance of prioritizing and learning from local and territorial practices to improve national interventions.⁵⁴

42. 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. 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.⁵⁵ In Haiti, children are in domestic service or "scattered through the streets under the stars"; approximately 20 per cent of children under 5 years in Cité Soleil suffer from severe or moderate acute malnutrition, while older adults and persons with disabilities are similarly affected.⁵⁶ By ensuring that the food system protects and fulfils children's rights, the community's rights are also protected and realized.

IV. Bodily harm or assault against a person's physical and mental integrity

43. Bodily harm is the most tangible result of violence in food systems. Food systems can be violent and dangerous, particularly to people in situations of vulnerability/marginalization. The Special Rapporteur highlights below five contexts in which food systems systemically

⁵⁰ Submissions by Outright international, Response of the International Commission of Jurists to the joint questionnaire by special procedure mandate holders on protecting human rights during and after the COVID-19 pandemic, 19 June 2020. See also Thom File and Joey Marshall, "LGBT Community Harder Hit by Economic Impact of Pandemic", United States Census Bureau, 11 August 2021.

⁵¹ See for example submission by the University of Miami Human Rights Clinic.

⁵² See www.iuf.org/wp-content/uploads/2021/07/C11-anniversary-study.pdf, www.ilo.org/ipecc/areas/Agriculture/WCMS_172348/lang--en/index.htm and <https://civileats.com/category/investigations/injured-invisible/>.

⁵³ <https://data.unicef.org/topic/nutrition/malnutrition/>.

⁵⁴ Submission by Ecuador.

⁵⁵ A/77/177.

⁵⁶ Submission by FIAN Haiti.

produce bodily harm: malnutrition; famine; sexual and gender-based violence in food systems; unilateral coercive measures; and armed conflict.

44. The Special Rapporteur emphasizes that violence causing bodily harm not only includes direct harm but also denial of access to food by destroying infrastructure or crippling an economic system. It is more than to hurt or kill. Bodily harm includes creating a climate of fear that denigrates individuals, communities and peoples, and makes them vulnerable to exploitation. Women in vulnerable situations, and groups of people at higher risk of vulnerabilities, such as Indigenous people, people with disabilities, refugees, internally displaced persons, migrants, people living in poverty, older adults, children, and people affected by severe diseases usually suffer the most.⁵⁷

A. Malnutrition

45. People's health and well-being is inherently linked to their food. Inadequate diets and the resulting malnutrition are major drivers of non-communicable diseases.⁵⁸ Undernutrition, including micronutrient deficiencies, and overnutrition are inherently connected to the nature of the broader food system. The right to food includes the right to an adequate diet that, as a whole, contains a mix of nutrients, for physical and mental growth, development and maintenance, and physical activity that are in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation.⁵⁹

46. People in prisons and their well-being are often forgotten. As an example, Brazil has the third-largest prison population in the world, with more than 800,000 people currently incarcerated. They face such acute malnutrition that the Public Defender's Office of São Paulo noted that prisons imposed a de facto "hunger penalty" that put incarcerated people's health and physical integrity at serious risk.⁶⁰ In Malawi, incarcerated persons are served only one meal per day, usually consisting of *nsima* (maize) and beans or peas; and they also face food and water shortages, with a harmful impact on their human rights to adequate food, health and water.⁶¹

47. In Colombia and Mexico, consumers have launched campaigns to ensure clear labelling of ultraprocessed food and beverages to combat malnutrition, obesity and the resulting chronic non-communicable diseases. These campaigns and the Governments in those countries were subjected to significant pressure from agrifood businesses.⁶² Similarly, in El Salvador, there is concern that companies excessively market processed foods that are high in sugar, fat and salt, and do not provide complete nutritional information. This has led to increased consumption of unhealthy food.⁶³

B. Famine

48. As has been known for decades, and as recently reaffirmed by the Secretary-General, hunger, malnutrition and famine are not the mere result of low productivity or weather conditions but are caused by policy choices.⁶⁴ Every famine amounts to a severe violation of the right to food. Although there is no agreed definition of famine, the most common one is used by the Integrated Food Security Phase Classification, which defines famine as a condition of food insecurity, malnutrition and mortality that affects at least 20 per cent of the

⁵⁷ OHCHR, "Unilateral sanctions hurt all, especially women, children and other vulnerable groups", press release, 8 December 2021.

⁵⁸ See <https://ncdalliance.org/why-ncds/risk-factors-prevention/unhealthy-diets-and-malnutrition>.

⁵⁹ Committee on Economic, Social and Cultural Rights general comment No. 12, paras. 6–7.

⁶⁰ Submission by Centro de Capacitación en Ecología y Salud para Campesinos IBFAN Mexico.

⁶¹ See A/HRC/25/57/Add.1 and communication MWI 5/2022 (available at <https://spcommreports.ohchr.org/>).

⁶² See communication MEX 12/2022 (available at <https://spcommreports.ohchr.org/>) and submission by FIAN Colombia.

⁶³ Submission by El Salvador.

⁶⁴ www.un.org/press/en/2021/sgsm20619.doc.htm. See also Mike Davis, *Late Victorian Holocausts: El Niño Famines and the Making of the Third World* (London, Verso, 2002).

population, with about one in three children being acutely malnourished and two people dying per day for every 10,000 inhabitants due to armed conflict or the interaction of malnutrition and disease.⁶⁵

49. Afghanistan, Ethiopia, Nigeria, South Sudan, Somalia and Yemen remain at the highest alert level, as they all have populations facing or projected to face famine and starvation. The Central African Republic, the Democratic Republic of the Congo, Haiti, Kenya, Pakistan, the Sahel region, the Sudan and the Syrian Arab Republic also remain of very high concern.⁶⁶

50. To determine who is responsible for famine, it is important to analyse the full extent of national and international conditions. Famine may be considered a crime against humanity, since such crimes are generally referred to as “systematic or mass violations of human rights”.⁶⁷ Such crimes may be committed both in peacetime and during armed conflicts, subject to any limitations based on jurisdiction. Even though famine is often triggered by armed conflict, there is currently no legal argument that famine is a war crime.

51. If famine is a condition, starvation is intentionally using famine as a method of warfare and may trigger laws of war (see para. 66 below). Starvation means attempting to annihilate or weaken a population by depriving people of food, water and other essentials for survival, including the means to produce and procure food.⁶⁸

C. Sexual and gender-based violence in food systems

52. When families are food-insecure, women and girls are at greater risk of sexual and gender-based violence, which in turn makes women and girls less likely to have access to food.⁶⁹ The COVID-19 pandemic has widened the gender gap in food security, as women were the most affected by job and income losses, while also bearing larger burden of additional unpaid, unrecognized caregiving, looking after sick family members and children out of school.⁷⁰ Women often eat last and least when families are struggling.⁷¹ Moreover, members of the LGBTQ+ community are at higher risk of hunger and malnutrition, and sexual and gender-based violence only exacerbates the challenges they face.⁷²

53. Many women employed by the food industry, especially in hospitality services, are vulnerable to harassment at work. They also face job loss during times of economic crisis and pandemic, while also being at heightened risk of domestic violence when they are no longer able to adequately feed their families. The COVID-19 pandemic underscored the links between sexual and gender-based violence, food insecurity, low-wage work and inequities in access to social and economic protections.

54. Tolerating discrimination against women in the workplace invites violence and harassment. Working in male-dominated environments or, as it is often the case on farms and plantations, in workplaces managed solely by male supervisors also increases the risk of violence. Many employers use their power to hire and fire to demand sexual favours from workers, especially seasonal workers, as a condition for employment or for renewal of their

⁶⁵ www.ipcinfo.org/famine-facts/.

⁶⁶ FAO, *Hunger Hotspots FAO-WFP early warnings on acute food insecurity: October 2022 to January 2023 Outlook*, Rome, 2022.

⁶⁷ See for example A/46/10 102, and William Schabas, “Criminal Responsibility for Violations of Human Rights” in *Human Rights, International Protection, Monitoring, Enforcement*, Janusz Symonides, ed. (Farnham, Ashgate, 2003).

⁶⁸ See Rome Statute, art. 121 (5); and International Committee of the Red Cross (ICRC), commentary on the Additional Protocols, paras. 4791, 2089–2090. See also the view of the Turkel Commission, *The Public Commission to Examine the Maritime Incident of 31 May 2010*, 2011 (Report 1, Part 1), para. 76; and “Seventy Years of the Geneva Conventions”, Chatham House Briefing, 24 March 2020.

⁶⁹ www.care.org/wp-content/uploads/2022/11/GBV-food-security-brief_EN.pdf.

⁷⁰ FAO and others, *The State of Food Security*, p. 29.

⁷¹ www.care.org/wp-content/uploads/2022/11/GBV-food-security-brief_EN.pdf.

⁷² See for example File and Marshall, “LGBT Community Hit Harder”.

employment contracts. Isolated workers, such as plantation workers, are exposed to more risk of bodily harm due to a poor working environment and conditions.⁷³

55. The fast-food sector is notorious for precarious working conditions, having a relatively young workforce and employing a large number of women, migrant workers and other groups of people in situations of vulnerability and marginalization.⁷⁴ Employers take advantage by paying poverty wages and creating a hierarchical environment that allows bullying and different forms of harassment to flourish. Far too often the complaints of employees are met with silence or retaliation from their employers. One of the worst offenders, though by no means the only one, is McDonald's, the world's biggest hamburger restaurant chain.⁷⁵

56. Economic violence is also a facet of domestic violence; assailants often push survivors of domestic violence into relationships of economic dependence; survivors are often left driven by the fear of losing income, being unable to provide the basic needs of the family or feeling trapped in a vicious circle where domestic violence and violence at the workplace become interconnected.⁷⁶ Sexual and gender-based violence also hinders women's ability to make and enact decisions related to their bodies, sexual health and nutrition, as well as the nutrition of their children and families, with intergenerational and community-wide repercussions for the right to food.⁷⁷

D. Unilateral coercive measures

57. That unilateral coercive measures are an ineffective international policy tool has been known for decades.⁷⁸ Such measures, usually in the form of blockades or economic sanctions, are deployed with the intent to economically weaken an opposing national regime and generate domestic pressure to concede to foreign demands. In reality, they are often a cynical tool that creates or worsens a protracted crisis.

58. The right to food is often severely affected by unilateral coercive measures; at their worst, unilateral coercive measures turn food into a weapon.

59. The blockade against Yemen since 2015 has led to one of the world's worst humanitarian disasters. The reduced availability and denial of access to food have led to a country-wide famine and the starvation of tens of thousands of people. The Group of Eminent International and Regional Experts on Yemen found that the blockade against Yemen by coalition forces and their supporters has blocked the supply of food, fuel and water to civilians, which may amount to war crimes. Coalition airstrikes notably destroyed or damaged farmland, water facilities, essential port infrastructure and medical facilities. The Houthis planted landmines on farmland and used hospitals for military purposes, which prevented their use or contributed to their destruction.⁷⁹

60. Since Yemen imports 90 per cent of everything it consumes, some have described the coalition blockade as "torture in slow motion".⁸⁰ The agriculture sector, which employs 60 per cent of Yemeni households, has been gravely affected since 2016; 1.5 million family

⁷³ ILO Violence and Harassment Recommendation, 2019, art. 9.

⁷⁴ Submission by IUF.

⁷⁵ See <https://effat.org/in-the-spotlight/mcdonalds-workers-speak-out-at-european-parliament-about-corporate-violence-and-abuse-2/>; and www.thenation.com/article/society/mcdonalds-sexual-harassment/.

⁷⁶ See www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/briefingnote/wcms_738117.pdf; and www.womensaid.org.uk/information-support/what-is-domestic-abuse/domestic-abuse-is-a-gendered-crime/.

⁷⁷ See for example Andrea Freeman, "'First food' justice: Racial disparities in infant feeding as food oppression", *Fordham Law Review*, vol. 83, No. 6 (2015).

⁷⁸ See Johan Galtung, "On the Effects of International Economic Sanctions, With Examples from the Case of Rhodesia", *World Politics*, vol. 19, no. 3 (1967); and [Aslı Bâli, "The Humanitarian Paradox: Why Human Rights Require Restraint", Quincy Brief No. 27 \(July 2022\)](#).

⁷⁹ See A/HRC/42/17 and A/HRC/48/20.

⁸⁰ World Organisation against Torture, *Torture in Slow Motion: the Economic Blockade of Yemen and its Grave Humanitarian Consequences*, September 2022.

farmers lack access to inputs and urgently need agricultural support.⁸¹ Today, malnutrition rates among women and children in Yemen are among the highest in the world, with 1.3 million pregnant or breastfeeding women and 2.2 million children under 5 years of age requiring treatment for acute malnutrition.⁸² With the recent end of the truce mediated by the United Nations, people's suffering in Yemen will foreseeably worsen even further.

61. Even when countries aim to impose “targeted” economic sanctions against another country, there are usually side effects that disrupt local, regional and international food systems and economies. Humanitarian exemptions in unilateral sanction are usually ineffective owing to the absence of regular monitoring and the wider, scattered effect of sanctions on the economy.⁸³ Moreover, financial institutions tend to over-comply with unilateral sanctions to reduce legal and business risks associated with inadvertent violations. This inhibits aid and magnifies the harm to human rights.⁸⁴

E. Armed conflict

62. The Security Council took an important step when it adopted resolution 2417 (2018), in which it recognized that food insecurity is a cause and effect of armed conflict. The resolution is important because it warns against using food as a weapon. This is a far cry from when the United States Secretary of Agriculture in 1975 stated that “food is a weapon; it is now one of the principal tools in our negotiating kit.”⁸⁵ In sum, the Council reaffirmed the obligation of all parties to an armed conflict to comply with international humanitarian law, recognized the unique relationship between hunger and armed conflict, while acknowledging the complexity of hunger in holistic and systemic terms.

1. International humanitarian law

63. Previous mandate holders have outlined the extent to which international humanitarian law provides protection from hunger in armed conflict.⁸⁶ It sets out to protect three categories of persons from hunger: the wounded and sick, prisoners of war, and civilians. Currently, international humanitarian law includes some protection against right to food violations, but is not enough to fully protect against hunger in armed conflict nor to shield food systems from further violence. This is because international humanitarian law ultimately organizes, but does not eliminate, violence in food systems.

64. Moreover, the rules for the protection of the natural environment in armed conflict, despite having evolved significantly since the 1970s, are still insufficient to address the harm caused to the natural environment.⁸⁷ As a result, armed conflict can inhibit a region's ability to produce food safely long after hostilities have ceased.

65. International humanitarian law prohibits attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, including foodstuffs, agricultural areas for the production of foodstuffs, crops and livestock.⁸⁸ All conduct that

⁸¹ www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Yemen_Acute_Food_Insecurity_Projection_Update_2022Oct_Dec_Snapshot_En.pdf.

⁸² FAO and WFP, “Monitoring food security in food crisis countries with conflict situations – no. 10”, May 2022, Rome.

⁸³ OHCHR, “Humanitarian exemptions in unilateral sanctions regimes ineffective and inefficient: UN experts”, 23 November 2022.

⁸⁴ OHCHR, [Guidance Note on Overcompliance with Unilateral Sanctions and its Harmful Effects on Human Rights, Special Rapporteur on unilateral coercive measures, 28 June 2022](#).

⁸⁵ Henry Weinstein, “C.I.A. Report Says Worsening World Grain Shortages Could Give U. S. Great Power”, *The New York Times*, 17 March 1975.

⁸⁶ See A/56/210 and E/CN.4/2002/58.

⁸⁷ ICRC, *Starvation, Hunger and Famine in Armed Conflict* (2022); and A/HRC/5/5. See also International Law Commission, *Draft principles on protection of the environment in relation to armed conflicts* (2022), principles 10–11 and 19–22.

⁸⁸ See Additional Protocol I to the 1949 Geneva Conventions, art. 54 (2); Additional Protocol II to the 1949 Geneva Conventions, art. 14; International Humanitarian Law Databases, [Rule 54 Customary IHL Database](#); and Security Council resolutions 2417 (2018) and 2573 (2021).

results in food not being consumable any more are prohibited, including the destruction of crops by defoliants.⁸⁹ There is, however, a military exception with long-term, systemic right to food implications: foodstuffs or drinking water installations may, for example, be attacked “when required by imperative military necessity” for a party to defend its own national territory.⁹⁰

66. Another example of how the laws of war insufficiently protect the right to food are its rules on starvation as a method of warfare. While international humanitarian law prohibits the starvation of civilians, the starvation of combatants remains lawful.⁹¹ The Special Rapporteur condemns this exception: starvation of any person, regardless of that person’s legal status in armed conflict, is a slow and cruel form of killing. It is also an indiscriminate form of killing in the sense that it is effectively impossible to separate the starvation of combatants from that of civilians. Starvation indiscriminately violates non-derogable human rights, such as the right to life and the prohibition of cruel and inhuman treatment.

67. The distinction between combatants and civilians in the laws of war as it concerns starvation is based on the premise that civilian, military and humanitarian supply chains can be separated from one another. Such supply chains, however, not only overlap but often are one and the same. As a result, blockades and sieges of combatants and their supplies inevitably increase the risk of starving non-combatants. Indeed, the rules of war on starvation are so far removed from the realities of armed conflict that they may in fact legitimize indiscriminate hunger, malnutrition and starvation.

2. International criminal law

68. Using starvation of civilians as a method of warfare by denying access to food, including wilfully impeding the delivery of relief supplies, constitutes a serious violation of the laws and customs applicable to international armed conflict and amounts to a war crime.⁹² Most instances of starvation occurring today, however, are in the context of non-international armed conflicts. In 2018, Switzerland, with the support of the Netherlands, led the adoption of the amendment to the Rome Statute to include starvation in the list of recognized war crimes that can be committed in non-international armed conflicts.⁹³ The Special Rapporteur encourages all States to accept and/or ratify the amendment.

69. At the same time, the Special Rapporteur points to the limits of international criminal law in ending violence and delivering justice. International criminal law cannot deliver remedial justice nor alleviate the suffering of those who are deprived from access to food because it can only hold identifiable individuals culpable – and even then, only natural persons, not corporations. As a result, it draws public attention towards the acts of an alleged perpetrator rather than the survivors of violence. This can be consequential. It risks equating justice with criminal accountability.⁹⁴

70. Moreover, international criminal accountability recognizes starvation as a war crime only when it is deliberately inflicted. As seen in the case of the disruption of food markets by the Russian invasion of Ukraine, violence is systemic and armed conflict in one food-exporting region can lead to hunger and famine in regions that are not under conflict. Pursuing international criminal conviction for food-related war crimes should not preclude addressing pressing structural reasons leading to widespread severe violations of the right to food in conflict regions and beyond.

⁸⁹ ICRC, *Commentary on the Additional Protocols*, p. 655.

⁹⁰ Additional Protocol I, arts. 54 (3)(b) and 54 (5).

⁹¹ Additional Protocol I, art. 54 (1); Additional Protocol II, art. 14; Security Council resolution 2417 (2018), para. 5. See also Yves Sandoz, Christophe Swinarski and Bruno Zimmermann, eds., *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Martinus Nijhoff, 1987), paras. 144–1460; United Kingdom Manual on the Law of Armed Conflict, para. 5.19; and United States Department of Defense Law of War Manual, para. 17.9.2.1.

⁹² Rome Statute, art. 8 (2)(b)(xxv).

⁹³ Submission by the Government of Switzerland.

⁹⁴ Maxine Kamari Clarke, “The Rule of Law through Its Economies of Appearances: The Making of the African Warlord”, *Indiana Journal of Global Legal Studies*, vol. 18, No. 1 (2011).

V. Ecological violence

71. Industrial food systems have a massive environmental impact and violate the rights to life, health, water, food and the enjoyment of a safe, clean, healthy and sustainable environment.⁹⁵ Food systems emit approximately one third of the world’s greenhouse gases.⁹⁶ Moreover, because of climate change, biodiversity is decreasing because of pollution, ecological destruction, deforestation and the removal of protective ecological barriers.⁹⁷ Around 1 million animal and plant species are now threatened with extinction, many within decades.⁹⁸ Industrial intensive agriculture and export-oriented food policies have driven much of this damage.⁹⁹

72. The problem is commonly framed as a technical matter, a lack of effective environmental policies that require the careful management and use of natural resources.¹⁰⁰ The Special Rapporteur, however, emphasizes that food systems are undermining people’s relationship with the environment, leading them to disassociate from and destroy the very same ecosystems that sustain them. Recognizing this dynamic as ecological violence highlights the fact that environmental harm cannot be separated from human harm. The world must move away from an extractive economy and dependent relationships.

73. Some describe the ecological violence caused by climate change as “slow violence”, the idea being that much of the harm and death it causes is not instantaneous or spectacular, but incremental and invisible.¹⁰¹ In the context of slow ecological violence, it is important not to lose sight of historical responsibilities.¹⁰²

A. Land rights, genuine agrarian reform and protecting human rights defenders

74. Ultimately, people’s fate is significantly determined by their access to land and their ability to control and steward it. Access to land and secure tenure rights are essential for the enjoyment of the right to food. Limiting people’s access to land or an unjust tenure system makes certain groups – such as women, racialized people, migrants, persons with disabilities, older persons and Indigenous peoples – more vulnerable to the effects of climate change. Inadequate and insecure tenure rights lead to conflict and environmental degradation when competing users fight for control of these resources. 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. Strong, secure land rights also allow people to employ changes that require significant work and resources and give them the stability necessary to benefit from the gains that accrue in the medium and long term.¹⁰³

75. Member States can obtain guidance on how to develop stronger land rights by starting with the Committee on World Food Security Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. The Guidelines enjoy resounding support by both civil society and businesses, and

⁹⁵ See A/76/179.

⁹⁶ www.fao.org/news/story/en/item/1379373/icode/

⁹⁷ World Health Organization, Convention on Biological Diversity and United Nations Environment Programme, *Connecting Global Priorities: Biodiversity and Human Health: A State of Knowledge Review*, 2015.

⁹⁸ Eduardo Brondizio and others, *Global Assessment Report on Biodiversity and Ecosystem Services* (IPBES Secretariat, 2019).

⁹⁹ See A/76/237.

¹⁰⁰ Committee on Economic, Social and Cultural Rights general comment No. 12, paras. 7–8 and 25.

¹⁰¹ Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Cambridge, Harvard University Press, 2011).

¹⁰² Julia Dehm, “Climate change, ‘slow violence’ and the indefinite deferral of responsibility for ‘loss and damage’”, *Griffith Law Review*, vol. 29, No. 2 (2020).

¹⁰³ A/77/177.

marked a significant step in grounding the governance of land, fisheries, forests and their associated natural resources in human rights.

76. The Special Rapporteur regularly receives reports of people, especially peasants and Indigenous peoples, being pushed off and denied access to their land and territory. Dispossession and occupation come from the economic pressure arising from investors and megaprojects enabled by Governments and corporations.¹⁰⁴ This problem covers all regions and has consistent effects: it pushes people into poverty, often by destroying their livelihood and/or forcing them to become migrant labourers. This not only denies them their access to food but also to the means and entitlements for its procurement.

77. The Special Rapporteur is also concerned by the increasing rate of threats and attacks against and killing of land and environmental defenders, who are often from Indigenous and racialized communities.¹⁰⁵ It is well established that people defending community's land rights and ecosystems are human rights defenders.¹⁰⁶ Agribusiness corporations not only violate human rights with impunity through commercial activity; they are also frequently implicated in the murder of human right defenders.¹⁰⁷ Threatening, attacking and killing land and environmental defenders usually have the aim of intimidating local communities, stopping people from defending their territory, and should therefore be understood as acts of terror and assassination.

B. Farmers' and Indigenous peoples' right to freely save, use, exchange and sell seeds

78. Seeds are life, but some seeds systems treat seeds like private property. Four agrochemical companies control 60 per cent of the global seed market and 75 per cent of the global pesticides market. Such market concentration means that a small number of companies unfairly control the price of seeds. Any increase in seed (and other input) prices makes it harder for small farmers to have access to seeds, as witnessed during supply chain disruptions related to the COVID-19 pandemic. The "Big Four" also produce most of the agrochemicals associated with genetically modified seeds. Those agrochemicals pollute the environment and reduce biodiversity, which lowers agricultural resilience, making farms more vulnerable to climate change shocks. The increasing use of pesticides harms the health of agricultural workers, farmers and communities.¹⁰⁸

79. In a seeds system built around farmers' and Indigenous peoples' rights to freely save, use, exchange and sell saved seeds,¹⁰⁹ everyone benefits. Farmers' and Indigenous seed systems make food systems more resilient against climate change, pests and pathogens: the more diverse a food system and the more dynamic the global ecosystem, the greater 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). Since humankind relies on plants for food, feed, fibre and a functional ecosystem, nothing less than the right to life is at stake when

¹⁰⁴ Submissions by Mexico, FIAN Colombia, FIAN Haiti, FIAN Indonesia, University of Miami Human Rights Clinic, response from the Catholic Agency for Overseas Development, the Food Rights Alliance on Uganda, APN, PAN Asia Pacific, Centro de Estudios Rurales, Ambientales y Apoyo Legal.

¹⁰⁵ Input from the Catholic Agency for Overseas Development; see www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/; https://cafod.org.uk/content/download/56617/776987/version/3/file/Protecting%20our%20common%20home%20HDR%20in%20Latin%20America_v5.pdf; and https://d3o3cb4w253x5q.cloudfront.net/media/documents/2022_4_the_hidden_iceberg.pdf.

¹⁰⁶ See A/71/281; and A/HRC/41/54, para. 59.

¹⁰⁷ Global Witness, *Defending Tomorrow: the climate crisis and threats against land and environmental defenders*, 2020.

¹⁰⁸ See A/HRC/49/43.

¹⁰⁹ See the International Treaty on Plant Genetic Resources for Food and Agriculture, art. 9; the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, arts. 19–20; and the United Nations Declaration on the Rights of Indigenous Peoples, art. 31.

farmers' seed systems are challenged or poorly supported. They are integral to the world's genetic and cultural diversity and are foundational for all food systems.¹¹⁰

VI. Erasure

80. Erasure can refer to the “practice of collective indifference that renders certain people and groups invisible”.¹¹¹ It arises from the narratives that set and are produced by political agendas, raising questions such as: Whose stories are taught and told and by whom? Whose knowledge and experience are prioritized? Whose struggles are recognized? Whose dead are mourned?

Land and self-determination

81. Dispossession and occupation are not only acts of ecological violence against land rights, but they can also undermine people's right to self-determination and their very existence. Settlers around the world have dispossessed Indigenous peoples from their territory through legal doctrines of discovery and *terra nullius*, as exemplified by the well-known phrase, “A land without a people for a people without a land”. Gradual and immediate erasure comes when communities are dispossessed of their ancestral lands by landgrabs or occupation, leaving them displaced, dispersed and forgotten. This has turned many a biodiverse region into spaces of resource extraction and export-dependency, rife with local hunger and malnutrition.

82. In Mexico, Indigenous communities have been disposed and displaced through land grabs, enabled by free trade agreements and neoliberal agricultural policies, justified by claims of increasing food production. These policies have deprived these communities not only of their livelihood but also of their identity, causing them to migrate to urban areas, which in turn aggravates urban poverty and leads to further violence.¹¹² In Cambodia, an economic land concessions scheme has significantly affected land rights of small-scale farmers. Under the scheme, many farmers have lost their lands to concessions owned and operated by local corporations.¹¹³ The Polavaram Dam project in India has had devastating impact on rural communities, with an estimated 70,000 people expected to lose their livelihood entirely or partially.¹¹⁴ In Guatemala, the Mayan, Garifuna and Xinca peoples have been excluded and marginalized at the expense of local businesses, transnational corporations (hydroelectric, monoculture, mining) and other powerful groups.¹¹⁵ These are unfortunately not isolated examples; the mandate holder receives allegations of similar situations from many other parts of the world.

83. One powerful legal tool that Indigenous peoples have to protect their land and lives from violence is the legal principle of free, prior and informed consent – the right of Indigenous peoples to give or withhold their consent for any action that would affect their lands, territories or rights.¹¹⁶ The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas gives non-Indigenous rural communities a legal tool by which States must consult and cooperate in good faith with peasants, ensuring the active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes, while taking into consideration power imbalances.

84. Destroying farmland or herding, hunting, fishing and foraging conditions has been and remains the most common way for people to be erased from their homeland. Peasants, pastoralists, fishers and Indigenous peoples asserting their land and territorial rights are therefore exercising their right to self-determination and to sovereignty over their lands and

¹¹⁰ See A/HRC/49/43.

¹¹¹ Parul Sehgal, “Fighting ‘Erasure’”, *The New York Times*, 2 February 2016.

¹¹² Submission by Mexico, El Colegio de México, Mexico City.

¹¹³ Submission by PAN Asia Pacific.

¹¹⁴ Ibid.

¹¹⁵ Submission by Fastenaktion.

¹¹⁶ See inter alia the United Nations Declaration on the Rights of Indigenous Peoples, art. 10.

resources. The Special Rapporteur calls upon all Member States to respect and protect these communal rights, as they are the cornerstone for the very existence of these communities.

VII. Conclusions

85. **Violence in food systems is systemic. It is the result of human choices, and is not natural or unavoidable. Many food systems rely on and produce violence. Violence is prevalent in food systems during both times of peace and of armed conflict.**

86. **Systemic violence is intersectional, interconnected and re-enforcing. Systemic violence and structural inequality have a vicious cyclical relationship. Structural inequality makes mass amounts of people more vulnerable to violence, explaining why individuals and groups of people who are structurally disadvantaged frequently experience multiple forms of violence simultaneously.**

87. **The Special Rapporteur has shown this in the case of four forms of violence: discrimination and inequality; bodily harm or assault against a person's physical and mental integrity; ecological violence; and erasure.**

88. **Systemic violence and structural inequality in food systems are a central feature of a global economy that is supported by relationships of dependence among individuals, countries, international financial institutions and corporations. This economy also relies on extractive practices that disrupt people's social and ecological relationships and undermine human and environmental health.**

89. **Systemic violence limits or denies people access to the necessities of life: land, seeds, water and dignified work. Systemic violence also enables a relatively small number of individuals, transnational corporations and countries to gain greater access and control over the necessities of life. Systemic violence is therefore also a significant cause of structural inequality. This cycle of structural inequality and systemic violence leads to widespread human rights violations.**

90. **The Special Rapporteur finds that, to create conditions in which the right to food can be fully realized, all forms of violence across all aspects of food systems must be eliminated.**

91. **The realization of the right to food is not only about recognizing people's identity and hearing their claims; it is also driven by the ability of communities to build campaigns around relationships of solidarity.¹¹⁷**

92. **Just because people are vulnerable to violence does not make them helpless victims. People are survivors of violence. They have strength because they are alive. Many give all their strength when confronting violence in food systems and are killed. But if the dead get justice, they can also give power to the survivors.**

VIII. Recommendations

93. **The Special Rapporteur recommends that Member States:**

- (a) **Eliminate violence in all its forms in all aspects of food systems;**
- (b) **Transition away from an economy reliant on relationships of dependency and extractivism towards agroecology.¹¹⁸**

94. **To address particular forms of violence in food systems, the Special Rapporteur makes the recommendations below.**

¹¹⁷ Submission by Masifundise.

¹¹⁸ See A/77/177.

Discrimination

95. **The Special Rapporteur recommends that Member States devote their national food pathways to ensuring substantive equality for all people regardless of ability, socioeconomic class, legal status, age, gender, race, caste, religion, ethnicity or other discriminatory categories. This includes recognizing that individuals experience discrimination and violence in food systems as an intersection of different identities.**

Bodily harm: gender-based violence in the world of work

96. **The Special Rapporteur recommends that Member States:**

(a) **Ratify, implement and monitor the ILO Right of Association (Agriculture) Convention, 1921 (No. 11), since union membership and collective bargaining are the most fundamental ways to protect people against sexual and gender-based violence;**

(b) **Ratify, implement and monitor all relevant ILO instruments, such as Convention No. 190 and Violence and Harassment recommendation, 2019 (No. 206);**

(c) **Ensure that employers implement a zero-tolerance policy for sexual harassment, and end the culture of impunity.**

97. **The Special Rapporteur recommends that employers implement a zero-tolerance policy for sexual harassment, recognizing that they are responsible for any sexual harassment against their staff.**

Bodily harm: unilateral coercive measures

98. **The Special Rapporteur recommends that Member States:**

(a) **Lift or minimize any unilateral coercive measures;**

(b) **Prevent any adverse effects of unilateral coercive measures on the enjoyment of human rights, including the right to food;**

(c) **Take all measures necessary to safeguard against any overcompliance by financial institutions with sanction regimes;**

(d) **Provide for broader exemptions and simpler procedures, and ensure that sanction regimes do not impair the delivery of humanitarian assistance.**

Bodily harm: armed conflict

99. **The Special Rapporteur recommends that Member States disallow the starvation of any person, combatant or otherwise, at all times, recognizing that starvation is always a human rights violation.**

100. **To undo the cycle of hunger and armed conflict, Member States should commit to the right to food and eliminate hunger, despite armed conflict.**

101. **To understand how to decouple the cycle of hunger from armed conflict, Member States should situate the analysis of armed conflict within the context of all relevant food systems; in this regard, the Special Rapporteur strongly recommends as guidance the Framework for Action for Food Security and Nutrition in Protracted Crises of the Committee on Food Security, a policy tool that is negotiated by Member States, grounded in international humanitarian law and human rights law, and strongly supported by civil society.¹¹⁹**

102. **There is no agreed upon definition of protracted crisis. Manifestations may however include disruptions to livelihoods and food systems, increasing rates in morbidity and mortality, and increased displacements. Even though not all armed conflicts are prolonged or recurrent, the causes and manifestations of armed conflict are much the same as for a protracted crisis. Indeed, as climate change continues to unfold, biodiversity declines and new pandemics emerge – unless there is concerted**

¹¹⁹ www.csm4cfs.org/14260/.

multilateral political action grounded in human rights, more protracted crises and conflicts can be expected.

103. The Framework for Action for Food Security and Nutrition in Protracted Crises is unique because it focuses on resolving and preventing underlying causes of protracted crises, and the food insecurity and malnutrition they so often cause. It therefore sets the stage for preventing a crisis, recovering from one and restoring food systems. The Framework is more coherent than the humanitarian-development-peace nexus developed in other policy platforms, which remains ambiguous in its treatment of underlying drivers and human rights obligations.

Ecological violence

104. The Special Rapporteur recommends that Member States:

(a) Respect, protect and guarantee land rights and enact genuine agrarian reform by enacting laws and policies in line with the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas;

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

105. With regard to seeds, the Special Rapporteur reminds the Human Rights Council of his previous report on seeds,¹²⁰ and reiterates that Member States should:

(a) Reaffirm that farmers', Indigenous peoples' and workers' rights are human rights;

(b) Base their national seed systems on the International Treaty on Plant Genetic Resources for Food and Agriculture and human rights law as articulated in such instruments as the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.

Erasure

106. The Human Rights Council should recognize land and labour rights as part of an international commitment against exploitation, dispossession and occupation in food systems.

107. The Special Rapporteur recommends that Member States:

(a) Support meaningful and facilitated participation in national and international forums relevant to the governance of food systems;

(b) Eliminate all agricultural exceptions to labour rights and protections;

(c) Reaffirm the legal principle of free, prior and informed consent, as articulated in the United Nations Declaration on the Rights of Indigenous Peoples and elsewhere, and ensure it is enacted in its fullest meaning in all relevant national and international contexts by all parties concerned;

(d) Reaffirm the legal duty to consult and cooperate in good faith with peasants and other people working in rural areas, as articulated in the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas;

(e) Support the preservation, protection, development and dissemination of traditional knowledge; this includes strengthening national and international

¹²⁰ A/HRC/49/43.

mechanisms that establish reciprocal and productive engagement between traditional and scientific knowledge-holders.
