

## UNFSS HUMAN RIGHTS LEVER OF CHANGE: “Unlocking the transformative potential of a human rights-based approach.”

### Executive Summary

Recalling the historic commitments made at the first World Food Summit held in Rome in 1996,<sup>1</sup> and the subsequent Summit in 2002,<sup>2</sup> the present United Nations Food System Summit (UNFSS) marks yet another pivotal moment for global food systems. As the world continues to battle the COVID-19 pandemic, an estimated 270.5 million people are reported as acutely food insecure or at high risk in 2021,<sup>3</sup> and 41 million people in 43 countries are on the brink of famine.<sup>4</sup> The devastating socio-economic effects of the pandemic are appropriately credited with these trends; but we cannot overlook the persistent conflicts, economic shocks, natural disasters, and climate change that have disrupted food systems and perpetuated food insecurity and hunger for far too long.<sup>5</sup> Tackling these challenges and responding to the UN Secretary General’s Statement of Action requires more than an immediate and reactionary response—it requires a systematic shift in how we conceptualize food and food systems—one which places human rights and human rights principles at the center.

A human rights-based approach to food system transformation reinforces that food is a human right owed to all in all circumstances, without exception. It also recognizes that this right is inextricably linked to all other human rights, and that human rights principles of participation and inclusion, accountability, non-discrimination, transparency, equality and empowerment, and rule of law are critical to developing meaningful, inclusive, and coherent policy. Recognizing the universe of rights to which all humans are entitled, and the obligations owed by States and non-State actors is the first step in constructing a unified and holistic policy framework. Human rights are not optional or voluntary; international human rights law is binding and must be implemented accordingly. Implementation further requires concrete actionable policy commitments, including those that rebalance agency in food systems to empower local producers and promote the rights of the most vulnerable, excluded and marginalized, particularly women, children, peasants, small-scale producers, migrants, workers, and Indigenous peoples.

A blueprint for this implementation already exists in the form of the 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs), which underpin the UNFSS and are

<sup>1</sup> World Food Summit (13-17 November 1996, Rome, Italy), [http://www.fao.org/wfs/index\\_en.htm](http://www.fao.org/wfs/index_en.htm).

<sup>2</sup> World Food Summit: Five Years Later (10-13 June 2002), <http://www.fao.org/worldfoodsummit/english/index.html>.

<sup>3</sup> WFP, WFP GLOBAL OPERATIONAL RESPONSE PLAN 2021 UPDATE #2 5 (June 2021), [https://docs.wfp.org/api/documents/WFP-0000129022/download/?\\_ga=2.268931641.993067323.1625701211-900988666.1624548082](https://docs.wfp.org/api/documents/WFP-0000129022/download/?_ga=2.268931641.993067323.1625701211-900988666.1624548082).

<sup>4</sup> WFP, WFP GLOBAL OPERATIONAL RESPONSE PLAN 2021 UPDATE #2 7 (June 2021), [https://docs.wfp.org/api/documents/WFP-0000129022/download/?\\_ga=2.268931641.993067323.1625701211-900988666.1624548082](https://docs.wfp.org/api/documents/WFP-0000129022/download/?_ga=2.268931641.993067323.1625701211-900988666.1624548082).

<sup>5</sup> See Global Network Against Food Crisis and Food Security Information Network, *Global Report on Food Crises: Joint Analysis for Better Decisions* (2021), [https://docs.wfp.org/api/documents/WFP-0000127343/download/?\\_ga=2.43078637.993067323.1625701211-900988666.1624548082](https://docs.wfp.org/api/documents/WFP-0000127343/download/?_ga=2.43078637.993067323.1625701211-900988666.1624548082); See also UN General Assembly, International Covenant on Economic, Social and Cultural Rights, Art. 11(2), 16 December 1966 (“recognizing the fundamental right of everyone to be free from hunger,” and requiring State parties to:

[T]ake, individually and through international co-operation, the measures, including specific programmes, which are needed: (a) 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; (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.) *Id.*

grounded in all human rights and human rights principles.<sup>6</sup> Articulating a transformative global narrative on food security and nutrition within the context of the 2030 Agenda and the SDGs, for example, requires prioritizing the right to food as a guiding principle and legal framework.<sup>7</sup> The SDGs, in return, offer concrete and measurable benchmarks for framing development around people and planet and for monitoring the progressive realization of human rights.

Of course, the realization of human rights does not end with the SDGs or the UNFSS. Building upon the Summit outcomes and commitments made by States, businesses, and civil society, there must be additional governance tools, monitoring mechanisms and new accountability measures to reinforce human rights as enforceable and justiciable at the international and national level.

## I. Introduction

Food is not a commodity nor a privilege; it is a human right.<sup>8</sup> Article 11(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) (171 State Parties)<sup>9</sup> recognizes the right to food, or the “right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.”<sup>10</sup> With the latest estimates projecting that 720— 811 million people in the world faced hunger in 2020, nearly one in three people in the world (2.37 billion) were unable to regularly access safe, nutritious, and sufficient food, and more than 12 per cent of the global population was severely food insecure in the past year, it is apparent that this right is not realized by all.<sup>11</sup>

Any illusion that our food systems were functioning as intended were shattered by the COVID-19 pandemic. The global crisis is credited as disrupting supply chains and exposing millions to food insecurity.<sup>12</sup> However, the state of hunger and food insecurity is not solely attributable to the pandemic's socio-economic impacts. Dominant production and consumption models are reinforcing longstanding inequalities and discrimination, especially among the most marginalized populations, and perpetuating power asymmetry among food system actors to the detriment of women, smallholder farmers, peasants, fisher folk, and indigenous peoples. Persistent conflicts and humanitarian crises, climate change, natural disasters, and a political economy that leaves food systems susceptible to exploitation through extraction and domination are also to blame for our troubling reality.<sup>13</sup>

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<sup>6</sup> UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1 (25 Sept. 2015). The promise to ensure that “no one is left behind” is featured in the Preamble and main text of the Declaration (paras. 4, 26, 48, 72).

<sup>7</sup> HLPE. 2020. Food security and nutrition: building a global narrative towards 2030. A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, Rome.

<sup>8</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, Art. 11, 16 December 1966, UNTS vol. 993, p. 7.

<sup>9</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, UNTS vol. 993, p. 3.

<sup>10</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, Art. 11(2) 16 December 1966.

<sup>11</sup> FAO et al., *The State of Food Security and Nutrition in the World: Transforming Food Systems for Food Security, Improved Nutrition, and Affordable Healthy Diets for All* (2021), <http://www.fao.org/3/cb5409en/cb5409en.pdf>.

<sup>12</sup> See FAO et al. *The State of Food Security and Nutrition in the World: Transforming Food Systems for Affordable, Healthy Diets* 3 (2020) (projecting that the COVID-19 pandemic may add between 83 and 132 million people to the total number of those undernourished).

<sup>13</sup> See Report of the Special Rapporteur on the right to food, Michael Fakhri, to the Human Rights Council, A/HRC/46/33, 24 December 2020 (citing Kate Miles, *The Origins of International Investment Law: Empire, Environment and the Safeguarding of Capital* (Cambridge, Cambridge University Press, 2013); Jennifer Clapp, “The rise of financial investment and common ownership in global agrifood firms”, *Review of International Political Economy*, vol. 26, No. 4 (2019); and Anna Chadwick, *Law and the Political Economy of Hunger* (Oxford, Oxford University Press, 2019).

In many ways, the food system is a microcosm for society; around the world, “egregious and systematic human rights violations”<sup>14</sup> continue to afflict far too many. Rising impunity; hate speech, misogyny, exclusion and discrimination; social polarization; environmental degradation, and unequal access to resources and opportunity prompted the UN Secretary General to disavow these violations and issue a “Call to Action for Human Rights” in 2020. This “Call to Action” identified seven thematic areas for attention: sustainable development, crisis, gender equality and rights for women, public participation and civic space, future generational rights and climate justice, collective action, and new frontiers.<sup>15</sup> The Call also reminded the world that “[u]pholding all rights of all people is in the interests of everyone.”<sup>16</sup> It is this simple but fundamental principle that must inspire new commitments for food system transformation.

Transforming food systems requires a holistic coordinated approach that places human rights at the centre of policy change. **Human rights are not simply abstract or aspirational ideas, but consist of enforceable rights, concrete obligations, and legally-accepted norms and principles.** As stated in the Universal Declaration of Human Rights (UDHR), which was adopted by the United Nations General Assembly in 1948, “all human beings are born free and equal in dignity and rights.”<sup>17</sup> The International Covenant for Civil and Political Rights (ICCPR) (173 State Parties)<sup>18</sup> and the ICESCR<sup>19</sup> subsequently codified the rights that we recognize today. Embedded in these instruments that are collectively regarded as the “bill of human rights,” as well as the various human rights treaties, declarations, and protocols, is the recognition that all human rights are universal—owed equally and without discrimination—inalienable, indivisible and interdependent.

Adopting a human rights-based approach to food system governance will not only create an environment that is more conducive to the enjoyment of human rights, but will prevent any further rights violations and impunity. As the primary duty-bearers of human rights, States are obligated to respect, protect, and fulfil all human rights, taking positive actions to facilitate the enjoyment of rights and avoid taking negative actions that would diminish the level of rights enjoyed.<sup>20</sup> The prevalence of hunger, food insecurity, environmental degradation and biodiversity loss, as well as the vulnerability of today’s food systems to shocks and crises confirms that States lack capacity to progressively realize rights, especially in the most difficult times when rights-holders face the greatest risks. Rights holders, especially private businesses and corporate actors, are similarly failing to act in furtherance of the rights of others.

The UNFSS provides an unparalleled opportunity for States and private stakeholders to commit to change this status quo; eliminating hunger and malnutrition, fighting for climate justice and restoring biodiversity, improving livelihoods and wellbeing, empowering communities, building food system resilience, and investing in science, knowledge, and innovation, however, cannot be achieved without greater recognition, implementation, monitoring, and enforcement of human rights.<sup>21</sup>

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<sup>14</sup> UN, ANTÓNIO GUTERRES, UNITED NATIONS SECRETARY-GENERAL, THE HIGHEST ASPIRATION: A CALL TO ACTION FOR HUMAN RIGHTS 1 (2020).

<sup>15</sup> UN, ANTÓNIO GUTERRES, UNITED NATIONS SECRETARY-GENERAL, THE HIGHEST ASPIRATION: A CALL TO ACTION FOR HUMAN RIGHTS 2 (2020).

<sup>16</sup> UN, ANTÓNIO GUTERRES, UNITED NATIONS SECRETARY-GENERAL, THE HIGHEST ASPIRATION: A CALL TO ACTION FOR HUMAN RIGHTS 2 (2020).

<sup>17</sup> UN General Assembly, Universal Declaration of Human Rights, Art. 1, Res 217A(III), 10 December 1948.

<sup>18</sup> UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

<sup>19</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, UNTS vol. 993, p. 3.

<sup>20</sup> See OHCHR, Fact Sheet No.2 (Rev.1), The International Bill of Human Rights, <https://www.ohchr.org/Documents/Publications/FactSheet2Rev.1en.pdf>.

<sup>21</sup> See *Human Rights Based Approach. Universal Values: Principle 1: A Human Rights Based Approach*, UN Sustainable Development Group <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>; *Action Tracks*, UNFSS, <https://www.un.org/en/food-systems-summit/action-tracks>.

## II. A human rights-based approach to food system transformation

A human rights-based approach (HRBA) refers to a conceptual framework that is normatively based on international human rights standards and principles.<sup>22</sup> There are several universally agreed-upon tenets of an HRBA, including that the following human rights principles should be integrated into policy development: participation and inclusion into decision making, accountability and rule of law, non-discrimination, empowerment and equality, transparency, as well as the universality, inalienability, indivisibility, and interdependence of all human rights.<sup>23</sup> An HRBA to food system policy and governance is one that focuses not just on the quantifiable aspects of the food system economies, but on the underlying environmental, social and cultural conditions that influence equality within society, while keeping the realization of human rights as the ultimate objective.

As human rights and good governance are mutually reinforcing,<sup>24</sup> governments and other policymakers must leverage human rights to inform and ground legislative frameworks, design and implement inclusive policies and programs as part of the implementation process. States should also guarantee certain procedural rights, including accountability and rule of law, such that all rights-holders have a legal basis for challenging corruption, gross negligence, and wrongdoing by governments, businesses, and other private actors that compromise or violate rights.<sup>25</sup> Leveraging the SDGs as a tool for monitoring rights, and instituting new monitoring and accountability mechanisms in accordance with good governance practices will further prevent future violations of the right to food and enable the enjoyment of all rights.

### A. Recognizing rights and obligations

The right to food, like all human rights, is binding, fundamental and universal; but it is frequently ignored and violated. Recognizing this right and the rights to which it is inextricably linked is a critical step towards food system transformation from an HRBA. So, too, is acknowledging the obligations owed, without exception, by States and private food system actors.

#### **RECOGNIZE The human right to adequate food.**

The right to food was first conceptualized in Article 25 of the UDHR, which established that “everyone has the right to a standard of living adequate for the health and well-being of himself and his family” and identified “food” as an element of this right.<sup>26</sup> The right was subsequently codified in Article 11(1) of the ICESCR, which stipulates State obligations to recognize and ensure “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions.”<sup>27</sup> The Committee on Economic Social and Cultural Rights (CESCR) stressed in its General Comment No. 12 that the right is not to be interpreted narrowly, or in the

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<sup>22</sup> OHCHR, PRINCIPLES AND GUIDELINES FOR A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES, HR/PUB/06/12.

<sup>23</sup> UNDP, THE HUMAN RIGHTS BASED APPROACH TO DEVELOPMENT COOPERATION TOWARDS A COMMON UNDERSTANDING AMONG UN AGENCIES (2003).

<sup>24</sup> HRC The role of good governance in the promotion and protection of human rights / adopted 27 March 2008, HRC Res 7/11. The rights and principles set forth in the Universal Declaration on Human Rights, the International Covenant on Economic Social and Cultural Rights, the International Covenant for Civil and Political Rights, the UN Guiding Principles on Business and Human Rights, and the UN Global Compact’s Ten Principles, among others, are most closely linked to good governance.

<sup>25</sup> UNDP, THE HUMAN RIGHTS BASED APPROACH TO DEVELOPMENT COOPERATION TOWARDS A COMMON UNDERSTANDING AMONG UN AGENCIES 2 (2003) (referring to principles of “accountability and rule of law,” which recognize that “aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.”).

<sup>26</sup> UN General Assembly, Universal Declaration of Human Rights, Art. 25, Res 217A(III), 10 December 1948.

<sup>27</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, Art. 11, 16 December 1966.

strictest sense, but will be realized when “every man, woman and child, alone and in community with others, has physical and economic access at all times to adequate food or means for its procurement.”<sup>28</sup>

The CESCR further distinguished the normative content of the right to include four components: availability, accessibility, adequacy, and sustainability.<sup>29</sup> “Availability” refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or well-functioning distribution, processing, and market systems; “accessibility,” encompasses both economic accessibility (food must be affordable without compromising on other basic needs) and physical accessibility (including to those with physical vulnerabilities such as children, people with disabilities, the elderly, and those with illnesses) and ensures that those even in the most remote areas, or living in situations of conflicts and disasters, can acquire food; “adequacy” implies that food must be safe, while also satisfying dietary needs and cultural preferences; and “sustainability” ensures that realizing the right to food for the present generation does not compromise the enjoyment of this right for future generations. Realizing the right to food means protecting, respecting, and fulfilling these four components for all rights-holders, such that hunger, food insecurity, malnutrition, and famine, are obsolete.

### **RECOGNIZE Interrelated, interconnected, and indivisible human rights.**

The human right to food cannot be realized in isolation. Several human rights instruments explicitly or implicitly reference the right to food; and food systems implicate numerous human rights and rights-holders. The ICESCR, for example, recognizes that the right to food is essential to adequate living, and that it is impossible to advance the right to food without addressing the rights to housing (art. 11), health (art. 12) and social security (art. 9).<sup>30</sup> As human rights should always be interpreted and applied holistically, understanding the universe of rights that touch upon the vision and coalitions of the UNFSS. This dashboard of rights includes following:<sup>31</sup>

Right to life; right to health; right to adequate housing; right to a safe, clean, healthy, and sustainable environment; right to development; right to education; right to freedom of movement; right to equality before the law and equal protection of the law; right to non-discrimination; rights to work and to enjoy favorable conditions of work; right of detained persons to humane treatment.

These and other rights relevant to food systems are contextualized in various human rights instruments, that recognize rights owed not only to the individual, but to the collective—*i.e.* rights that are intergenerational and belong to all peoples.<sup>32</sup> These instruments include: The Convention on the Rights of the Child (CRC);<sup>33</sup> the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);<sup>34</sup> the

<sup>28</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 12: The Right to Adequate Food (Art. 11), para 6., E/C.12/1999/5, 12 May 1999.

<sup>29</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 12: The Right to Adequate Food (Art. 11), E/C.12/1999/5, 12 May 1999.

<sup>30</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, Art. 11(1), 16 December 1966.

<sup>31</sup> This list is not exhaustive, but a sampling of the human rights that are most often and most closely related to the right to food.

<sup>32</sup> Rights to self-determination, development, and free use of resources, such as land and biodiversity, peace, a healthy environment, and those owed to minorities and to indigenous peoples, for example, are collective rights that are intergenerational, belonging to all peoples. OHCHR and the Inter-Parliamentary Union, Human Rights: Handbook for Parliamentarians No. 26, 21(2016).

<sup>33</sup> UN General Assembly, Convention on the Rights of the Child, 20 November 1989, UNTS vol. 1577. (Under Article 24(2), “States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.”).

<sup>34</sup> UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, UNTS vol. 1249.

Convention on the Rights of Persons with Disabilities (CRPD);<sup>35</sup> the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;<sup>36</sup> and the International Convention on the Protection of The Rights of All Migrant Workers and Members of their Families (ICPRMWF).<sup>37</sup>

The Declaration on the Right to Development also recognizes the individual and collective rights of these groups and all humans in the development context, affirming rights to access to basic resources, education, health services, food, housing, employment and the fair distribution of income. <sup>38</sup> The Declaration further reaffirms key principles of participation, non-discrimination, self-determination, individual and collective responsibility, international cooperation and equity—all of which are reaffirmed in the 2030 Agenda.

Most recently, States have also reaffirmed expansive protections of all human rights for indigenous people, as set forth in the Declaration on the Rights of Indigenous Peoples (UNDRIP),<sup>39</sup> and for peasants, and rural workers in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP).<sup>40</sup> The latter, adopted in 2018, explicitly recognizes the critical role of this population in managing natural resources for food and agriculture and for ensuring global food security. It acknowledges the rights owed to women and recognizing rights to seeds, to land,<sup>41</sup> to protection of traditional knowledge, to food sovereignty, which includes both the right to food and the right to participate in decision-making processes on food and agriculture policy.<sup>42</sup> Nevertheless, these rights are often overlooked.

### RECOGNIZE Obligations of States.

In principle, States are obligated to respect human rights, *i.e.* refrain from interfering with or curtaining the enjoyment of human rights; to protect human rights, *i.e.*, safeguard individuals and groups against human rights abuses; and to fulfill human rights. These obligations require concrete actions on the part of national governments. Pursuant to State obligation to “respect,” for example, governments are required to establish rule of law at the national level to facilitate the enjoyment of human rights.<sup>43</sup> In practice, however, States continue to deprioritize economic, social and cultural rights codified in the ICESCR, particularly the right to food. Only about 30 of the Covenant’s 171 State parties have explicitly integrated the right to food into their

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<sup>35</sup> UN General Assembly, Convention on the Rights of Persons with Disabilities: resolution/adopted by the General Assembly, 24 January 2007, A/RES/61/106. (Under Article 25(f), “In particular, States Parties shall: Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.”).

<sup>36</sup> UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 3 February 1992, A/RES/47/135.

<sup>37</sup> UN General Assembly, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 December 1990, A/RES/45/158.

<sup>38</sup> UN General Assembly, Declaration on the Right to Development: *resolution / adopted by the General Assembly*, 4 December 1986, A/RES/41/128, art. 1.

<sup>39</sup> UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295.

<sup>40</sup> UN General Assembly, United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas: resolution / adopted by the General Assembly, 28 September 2018, A/HRC/RES/39/12.

<sup>41</sup> Although the right to land is not yet recognized as an official human right, it is recognized as inherent to the right to food and offers a first layer of social protection. The CESCR is currently working on a draft general comment on land and economic, social and cultural rights, which will define a core set of minimum obligations to protect, respect, and fulfil the right to land and create an enabling environment for the realization of this right.

<sup>42</sup> UN General Assembly, United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas: resolution / adopted by the General Assembly, 28 September 2018, A/HRC/RES/39/12, art. 15.

<sup>43</sup> See UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: resolution / adopted by the General Assembly, 16 December 2005, A/RES/60/147.

respective national constitutions.<sup>44</sup> Far fewer have enacted enabling legislation and interpretive regulatory frameworks to ensure that the rights are implemented and enforced without discrimination.

Failure to ratify human rights instruments, such as the ICESCR, does not excuse States from the obligation to respect, protect, and fulfil fundamental human rights, or allow States to take regressive steps that interfere with the enjoyment of these rights. The right to food, for example, is ubiquitous, and does not disappear simply because it is not formally recognized by a national government. Rather than dismiss obligations or refute the universal, binding nature of human rights, States should adopt new laws and commit to legislative amendments that explicitly recognize the right to food and all other rights as realizable legal entitlements.

This recognition would ultimately advance policy coherence and ensure alignment with multilateral and bilateral agreements. Adopting an HRBA to regional and national agricultural frameworks, for example, would require governments to simultaneously address several other policy areas, including: environmental protections, nutrition assistance programs, poverty and social exclusion, health, gender equality, access to and control over land and natural resources (forests, water, etc.), seeds, and other productive resources—cutting across the UNFSS. Such a multi-sectoral approach would allow for more integrated policies, as well as implementation of various SDGs and thus support more expansive protections based on human rights and human rights principles rather than a needs-based model.

Formalizing human rights in national legislation will also build resilience of food systems to disruption and deterioration during times of conflict and crisis, such as the ongoing global pandemic. Human rights law does not differentiate the obligations of states to enable access to adequate, available food in emergency and non-emergency situations—meaning that our food systems should support the needs of even the most vulnerable—such as women and children-- in even the most precarious situations. Other States, and non-governmental actors have a subsidiary responsibility to act when a government is unable to stabilize markets or deliver temporary food assistance.<sup>45</sup>

### **RECOGNIZE Obligation of businesses.**

The Summit's inclusion of the private sector reflects the power of these stakeholders in the global food system and their exercised influence over policymaking processes. Yet there is an attached responsibility owed by these actors to all other rights-holders that is often unacknowledged or disregarded. At a minimum, businesses are expected to “respect” human rights, *i.e.*, avoiding infringing upon internationally recognized human rights and labour rights, and causing, perpetuating, or ignoring violations of these rights.<sup>46</sup> The UN Guiding Principles on Business and Human Rights enables the operationalization of this responsibility.<sup>47</sup> For example, businesses should issue a policy commitment to avoid causing or contributing to adverse human rights impacts, and to prevent or mitigate adverse human rights impacts to which they are directly connected; businesses should execute human rights due diligence through assessment, tracking, and reporting; and businesses should uphold the principle of “do no harm,” and cooperate in legitimate compliance and remediation processes.<sup>48</sup>

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<sup>44</sup> Critical perspective on food systems, food crises and the future of the right to food: Report of the Special Rapporteur on the right to food, Hilal Elver, A/HRC/43/44, 21 January 2020.

<sup>45</sup> Report of the Special Rapporteur on the right to food, A/HRC/37/61, 25 January 2018, para. 71.

<sup>46</sup> OHCHR, GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS: IMPLEMENTING THE UNITED NATIONS “PROTECT, RESPECT AND REMEDY” FRAMEWORK, Principle II (2011).

<sup>47</sup> OHCHR, GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS: IMPLEMENTING THE UNITED NATIONS “PROTECT, RESPECT AND REMEDY” FRAMEWORK (2011).

<sup>48</sup> OHCHR, GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS: IMPLEMENTING THE UNITED NATIONS “PROTECT, RESPECT AND REMEDY” FRAMEWORK, Principles II, III (2011).

This guidance and the responsibility to respect human rights extends to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure. Harms inflicted in distant, often developing countries, such as environmental degradation, labour exploitation, and displacement of local people and food systems, are often unmonitored and unaddressed in opaque supply chains; but ignoring this abuse is not an option. States are required to take the necessary steps to prevent human rights violations abroad by corporations domiciled in their territory and/or jurisdiction without infringing the sovereignty of other countries.<sup>49</sup>

### **RECOGNIZE Rights and Responsibilities of Civil Society.**

As rights-holders, civil societies should seize every opportunity to ensure the progressive realization of the rights of others. This includes raising awareness of rights and obligations, advocating on behalf of the most vulnerable, and holding rights violators accountable in the public sphere. Dedicated human rights institutions, academia, parliamentarians, and other relevant actors that represent and are comprised of civil society must also assist with this recognition, and further play a role in implementing, monitoring, and accounting for rights.

Amidst changing demographics, urbanization, and globalization, civil society cannot become disconnected and disassociated from the food system. Youth populations, especially in rural areas, must be afforded access to food, adequate housing, education, and decent work in order to earn livelihoods. Civil society, generally, must also recognize their power as consumers, and make purchasing and policy choices that do not compromise the rights of local producers, and food system workers. Individuals must recognize themselves as “food citizens,” and mobilize around stronger urban-rural engagement, collective procurement, and participation in food policy councils to ensure the realization of the right to food, and connected rights, for all.

### **B. Implementing human rights to transform food systems.**

For States and other stakeholders at the UNFSS, identifying actionable policy commitments that are rooted in the aforementioned rights and obligations should not require reinvention. International human rights law provide the basis for implementation, as human rights instruments offer concrete and enforceable rules that States must implement. As discussed below, human rights treaty bodies help to monitor implementation of the core international human rights treaties, regularly reviewing reports of progress towards national implementation and complaints of non-compliance.<sup>50</sup> General Comments from these treaty bodies interpret binding human rights law for State and non-State actors, thus further enabling coherent implementation in accordance with human rights principles.

Policy documents produced by multilateral institutions—such as the FAO Committee on Fisheries (COFI) and the Committee on World Food Security (CFS)—also provide practical guidance to States and other stakeholders.<sup>51</sup> Drawing from research of leading multilateral institutions and the High-Level Panel of Experts on Food Security and Nutrition, the CFS resources, in particular, offers several voluntary tools to promote good governance, global coordination and policy convergence on food insecurity and nutrition. The

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<sup>49</sup> OHCHR, GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS: IMPLEMENTING THE UNITED NATIONS “PROTECT, RESPECT AND REMEDY” FRAMEWORK, Principles I (2011).

<sup>50</sup> Treaty bodies include: the Committee on Elimination of Racial Discrimination, Committee on Economic, Social and Cultural Rights, Human Rights Committee, Committee on the Elimination of Discrimination Against Women, Committee Against Torture, Committee on the Rights of the Child, Committee on Migrant Workers, Subcommittee on the Prevention of Torture and other Cruel Inhuman or Degrading Treatment or Punishment, Committee on the Rights of Persons with Disabilities, Committee on Enforced Disappearances.

<sup>51</sup> COFI constitutes the only global inter-governmental forum dedicated to addressing international fishery and aquaculture issues and developing recommendations for governments, regional fishery bodies, NGOs, fishworkers, FAO and international community. *Committee on Fisheries (COFI) - Fisheries Division*, FAO, <http://www.fao.org/fishery/about/cofi/en>.



Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (“Right to Food Guidelines”), for example, which were adopted by consensus of the UN Food and Agriculture Organization’s main inter-governmental governing body, Council, in 2004 and later endorsed by the CFS, identify measures for implementing the right to food in a wide range of policy and programme areas through an HRBA.<sup>52</sup> Such measures include national strategies, institutions, legal frameworks, access to resources and assets, nutrition, national financial resources and monitoring.

States and non-State actors should seek to align policy commitments with human rights obligations—not only in accordance with the human rights law, but also in furtherance of the SDGs. Pursuant to human rights law and substantive guidelines for implementation, the following priorities must be at the forefront of food system transformation:

**Solution 1: Restructure exclusionary policies, partnerships, and a political economy that undermines the sovereignty, autonomy, and dignity of local food systems.**

Large agri-businesses are disproportionately benefiting from existing policy schemes that promote foreign direct investment, large-scale land acquisition, technical trade requirements and export-oriented, subsidy-based agriculture. Economic reforms imposed by international financial institutions and financial speculation of commodity markets further privilege large-scale agribusinesses to the detriment of local producers, destabilizing food systems along the way. The role of the smallholder farmers, fisherfolk, livestock keepers, peasants and other small food providers, as well as indigenous peoples, who produce food for the majority of the world’s population should be acknowledged, supported and protected from intrusion. Often, this intrusion takes the form of ill-conceived public-private partnerships that purport to advance collaborative engagement and decision-making.

The SDGs envision multi-stakeholder partnerships— but not with a lack of transparency, deepening inequality between local and global businesses and exclusion from international adjudication. Too often, these “partnerships” are reinforcing power asymmetries and increasing inequality within and between countries.<sup>53</sup> Partnerships should not be transformed into new bilateral agreements between agribusinesses and governments, but must include State partners from the developing world, and proportional representation from farmers, workers and trade unions, indigenous peoples, women, and youth. Local producers should have enough seats at the table so that they can meaningfully influence decisions that determine their own food and agricultural systems. Public-private partnerships should enable, not interfere, with the realization of human rights.

**Solution 2: Rebalance agency within food systems to empower the most vulnerable.**

Transforming food systems requires not only reimagining the macro-economic global order, but a revaluation of local food systems and the people who comprise them. Agriculture employs about 1.3 billion people;<sup>54</sup> small-scale and traditional farmers living in rural areas produce 70 per cent of locally produced food;<sup>55</sup> and an estimated 16.7 million women working in agriculture contribute to nearly half of production.<sup>56</sup> Many of these

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<sup>52</sup> FAO, VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY (2005).

<sup>53</sup> Critical perspective on food systems, food crises and the future of the right to food: Report of the Special Rapporteur on the right to food, Hilal Elver, A/HRC/43/44, 21 January 2020, para. 69.

<sup>54</sup> *Agriculture: a hazardous work*, ILO, ilo.org/safework/areasofwork/hazardous-work/WCMS\_110188/lang-en/index.htm.

<sup>55</sup> KARLA D. MAASS WOLFENSON, FAO, COPING WITH THE FOOD AND AGRICULTURE CHALLENGE: SMALLHOLDERS’ AGENDA (2013); Kelsey Nowakowski, *Why we need small farms*, NATIONAL GEOGRAPHIC, (Oct. 12, 2018), <https://www.nationalgeographic.com/environment/article/photos-farms-agriculture-national-farmers-day>.

<sup>56</sup> See Solidarity Center, Factsheet: Women Workers in Agro-Industry, <https://www.solidaritycenter.org/wp-content/uploads/2018/03/Fact-Sheet.Agricultural-Women.3.18.pdf>.

groups are vulnerable to evictions, disinheritance and displacements due to large-scale agribusiness acquisitions, regardless of formal title or traditional ownership. Those who are most closely connected to food systems, acting as stewards of traditional knowledge, land, and resources, as producers, and as labourers, are also among the poorest, the most food insecure, and the most likely to be “left behind.”

This paradox is a symptom of the current world order. Today’s food systems prioritize profit over people, commodify agricultural inputs, including natural resources, including seeds, land, water and even knowledge, and concentrate power into the hands of a few corporate actors.<sup>57</sup> An HRBA to food system transformation requires recalibrating policies to secure access to markets and services, recognize land tenure rights, and revalue contributions of the most vulnerable to food systems. Protecting land rights, either in written or non-written norms will provide more assurances that small-scale production systems can continue to sustain rural income and livelihoods, and food security, while continuing to favour the preservation of ecosystems and the nature positive practices of small-scale farmers, pastoralists, indigenous people, and forest farmers.

Rebalancing power also requires dismantling the intellectual property rights regime that criminalizes those who save, reuse, exchange and sell farm-saved seeds, exempting local producers from these restrictions on access to innovation, technology, and food. States and private sector actors should recognize the rights of farmers, peasants, and Indigenous peoples to equitably participate in sharing benefits arising from the utilization of plant genetic resources for food and agriculture.

Women continue to face persistent gender-based discrimination and violence, despite their disproportionate contribution to agriculture, rural development, food and nutrition and poverty reduction. The Secretary General has previously stated that “human rights and human dignity will never be realized without a special emphasis on the human rights of women.”<sup>58</sup> These rights include the full universe of civil, political, economic, and social rights, as well as additional protections defined in CEDAW. Policies should recognize that women working in rural areas, including peasants, pastoralists, migrants, fisherfolk and landless women, experience intersecting forms of discrimination.<sup>59</sup>

Peasants and those living and working in rural areas are entitled to the same rights owed to all people, but are disproportionately burdened by insecure land tenure (nearly 20 per cent of rural producers are landless), discrimination, by a lack of access to productive resources, to financial services and to information, yet are the first line of defense against environmental degradation and impacts of climate change. UNDROP acknowledges this contribution to global food security and sustainability, and reaffirms rights owed. Policies should enable consultation in policy design, to organize, and to control access over land, knowledge, and productive resources, including seeds, in furtherance of the right to food.

Indigenous people’s rights are custodians of 80 per cent of the world’s remaining biodiversity, and possess the knowledge and practices that have successfully promoted ecosystem health.<sup>60</sup> UNDRIP and UNDROP reaffirm the fundamental rights owed and detail the specific consideration that Indigenous people must receive with respect to policy decisions. There is growing global consensus that agroecological methods that rely on traditional knowledge are better aligned with human rights and dignity.<sup>61</sup> States and private actors should commit financial support for research and capacity building of Indigenous people’s food systems

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<sup>57</sup> See Report of the Special Rapporteur on the right to food, Michael Fakhri, A/HRC/46/33, 24 December 2020, paras. 51, 78, 79, 80.

<sup>58</sup> UN, ANTONIO GUTERRES, UNITED NATIONS SECRETARY-GENERAL, THE HIGHEST ASPIRATION: A CALL TO ACTION FOR HUMAN RIGHTS 3 (2020).

<sup>59</sup> See Committee on the Elimination of Discrimination Against Women, General recommendation No. 34 (2016) on the rights of rural women.

<sup>60</sup> Secretary-General, “The State of the Planet”, World Leaders Forum, Columbia University, New York, 2 December 2020.

<sup>61</sup> See Report of the Special Rapporteur on the right to food, Michael Fakhri, A/HRC/46/33, 24 December 2020, para 63.

through education, training, and infrastructure, and should ensure that those with traditional knowledge have an opportunity to meaningfully engage in decision-making.

### **Solution 3: Provide for accessible, affordable healthy food in times of peace and crisis.**

Advancing healthier, affordable, accessible, more sustainable food systems requires addressing underlying factors affecting nutrition, including industrial food systems, unhealthy food environments, trade liberalization, and unregulated marketing of food products. The prevalence of malnutrition and non-communicable diseases, especially among children, youth, and minority populations, has gained visibility during the pandemic. Yet, the revelation that 3 billion people cannot buy or grow sufficient foods for lifelong health and physical activity<sup>62</sup> confirms a need for preemptive and targeted regulation and policy interventions to increase access to more nutritious foods.

Adjusting eligibility for social safety-nets designed around access to a healthy diet can serve as a foundation for greater social inclusion and better health outcomes, especially for children and youth. Using evidence-based poverty lines, leveraging school meals programmes, and procuring food from local producers will help to effectively target and deliver this support, while also contributing additional employment opportunities for rural populations. Investments in plant-based alternatives, and other innovations further have the potential to improve health outcomes of the most vulnerable populations and protect ecosystem health.

Recognizing land access and ownership as necessary to the enjoyment of the right to food and other rights is even more important in times of crises and during recovery periods. States should seek to reestablish land rights and access to productive resources and markets to revitalize local food systems and build sustainable food systems transformation.

Emergency and crisis situations should trigger additional interventions to secure access to and delivery of healthy food. Social protections constitute a strategic investment in those who are most vulnerable to food insecurity and hunger and who face higher risk in the wake of and during natural disasters, conflicts, and other destabilizing events. International and national stimulus packages adopted amidst the ongoing global pandemic and future emergencies provide a vehicle for responsibly investing in these protections. States and non-governmental actors should recognize humanitarian assistance as an untapped opportunity to make a lasting investment in local food and agricultural systems that enable resilience following a disaster and in conflict, post-conflict countries. The COVID-19 pandemic has revealed the importance of linking national social protection systems with humanitarian cash and voucher assistance, and the need for development agencies to invest in local communities and youth, and more holistically respond to and assess the needs of affected people.<sup>63</sup>

Children and youth receive heightened rights protections under the CRC, and should also be placed at the forefront of food system transformation. Realizing the human rights of young people means securing access to education, decent employment, livelihoods, and of course, adequate food. Investing in school meal programmes will not only support the education, and nutrition of children and youth, but can contribute to the achievement of at least seven SDGs and to the UN Decade of Action on Nutrition (2016-2025).<sup>64</sup> Youth populations must also be recognized as leaders in the pursuit of “good food for all,”<sup>65</sup> and be intentionally included in decision-making processes. The UNFSS demonstrates the mobilization efforts and leadership potential of young people in influencing meaningful change—not only for the advancement of SDGs, but for the realization of rights.

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<sup>62</sup> FAO et al. *The State of Food Security and Nutrition in the World: Transforming Food Systems for Affordable, Healthy Diets* 3 (2020)

<sup>63</sup> UN-coordinated support to people affected by disaster and conflict, *Global Humanitarian Overview 2021*.

<sup>64</sup> See UNFSS, Solution Cluster 2.1.3: School Meals Coalition - Nutrition, Health and Education for Every Child.

<sup>65</sup> See UNFSS, Global Youth Summit Dialogue, <https://www.un.org/en/food-systems-summit/news/global-youth-summit-dialogue>.

Migrants, refugees, and internally displaced persons are often excluded from regular social protections, opportunities to earn a livelihood, or worse, criminalized simply for existing. These populations are entitled to the full universe of human rights, and any exclusions or exceptions violate the human rights principle of non-discrimination. The UN Secretary General's Global Humanitarian Response Plan for COVID-19 prioritized the protection and assistance of and advocacy for refugees, IDPs, migrants, and host communities particularly vulnerable to the virus.<sup>66</sup> National policies and development agency support should recognize the precarious living situations of these populations and afford heightened attention to the provision of food assistance, without sacrificing adequacy for sufficiency.

**Solution 4: Extend labour rights, human rights, and social protections to all agricultural and food system workers, including those employed in the informal economy.**

As many as 90 per cent of all agricultural workers are informally employed, meaning that they earn lower incomes, have limited bargaining power, and face higher exposure to risks.<sup>67</sup> Approximately 20 per cent of agricultural workers have access to basic social protections, which include access to social security, health care and workers' compensation.<sup>68</sup> Under international human rights law, States must establish social protections against the risk of poverty caused by sickness, disability, maternity leave, employment injury, unemployment, age, death of a family member and health-care or child-care costs.<sup>69</sup> Labour rights and human rights are interdependent, indivisible and mutually inclusive.<sup>70</sup> Thus, instruments of the ILO, the only tripartite agency in the United Nations common system,<sup>71</sup> must operate in conjunction with human rights instruments in order to ensure the broadest protections for workers

Migrant workers are often overlooked in national policies and protections, hidden from view within expansive supply chains. Migrant workers in all regions tend to face more severe economic exploitation and social exclusion than other agricultural workers, as they lack the fundamental protections provided to citizens. Protection of migrant workers with an irregular or undocumented status, however, is a necessary precondition for the realization of the full enjoyment of human rights and labor rights for agricultural workers. Adoption and adherence to ILO instruments and human rights laws, including the ICPRMWF are necessary to address conditions of forced and unpaid labour, restricted freedom of movement and limited access to justice, that undermines the food security and dignity of these workers.

**Solution 5: Invest in planetary health, food system resilience, and sustainable development.**

Not all methods of production, financing and investment are equally compatible with an HRBA to food system policy. Rather than reinforce the goals of the 2030 Agenda and advancing climate justice, current food systems are the single biggest underlying cause of decline in nature, responsible for approximately 80% of deforestation, 70% of freshwater withdrawal, and up to 29% of all greenhouse gas emissions.<sup>72</sup> The dominant methods of producing compromise not just the health of the planet, but of people. Intensive pesticide and

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<sup>66</sup> UN Coordinated Appeal, *Global Humanitarian Response Plan Covid-19*, April-December 2020.

<sup>67</sup> ILO, *World Employment and Social Outlook*.

<sup>68</sup> FAO, *Understanding decent rural employment* (2015).

<sup>69</sup> Interim report of the Special Rapporteur on the right to food, Hilal Elver, A/73/164, 16 July 2018, para. 21 (*citing* Magdalena Sepúlveda and Carly Nyst, Ministry for Foreign Affairs of Finland, *The Human Rights Approach to Social Protection* (Oulu, Erweko Oy, 2012)).

<sup>70</sup> Interim report of the Special Rapporteur on the right to food, Hilal Elver, A/73/164, 16 July 2018, para. 27.

<sup>71</sup> The ILO is comprised of representatives from governments, trade unions and employers' organizations, all of whom have voting rights.

<sup>72</sup> United Nations Food Systems Summit Action Track 3: Boosting Nature Positive Production Potential Game Changing and Systemic Solutions: A Second Compilation (2021).

agrochemical use exposes workers and local communities to toxic drift, and perpetuating biodiversity loss and ecosystem degradation hinders the food security of future generations.

Investments to restructure food systems around agroecology, regenerative agriculture, and other climate adaptations and innovations are necessary to achieve the SDGs and realize human rights. However, technological “quick fixes” that enhance efficiency and productivity do not account for underlying drivers of discrimination and inequality. States should reconsider innovations from a human rights perspective, adopting holistic policies that reimagine dominant production and consumption methods. Agroecology, for example, describes not just a scientific discipline that focuses on the ecology of agricultural environments, but serves as an important driver for strengthening social cohesion, reducing inequalities, and empowering local communities.<sup>73</sup>

States should also carefully scrutinize sustainable development projects that appeal to investors and which are intended to advance progress towards the SDGs. The right to development is an inalienable human right that entitles all people to participate in, contribute to, and enjoy economic, social, cultural and political development;<sup>74</sup> yet it also implies the full realization of the right of peoples to self-determination and to exercise their inalienable right to full sovereignty over all their natural wealth and resources.<sup>75</sup> As many of these projects are funded through blended finance, multi-stakeholder partnerships and private investments; but States and developers must conduct a thorough ex ante human rights assessment of the project. Proper consultation with local populations and prior informed consent consistent with human rights instruments is also necessary.

A call to is guided by human rights and rights-based principles. During the UN Food Systems “Pre-Summit” held in a hybrid format in Rome on 26-28 July 2021, the full recognition of the right to food was identified as a pre-requisite and necessary condition of more inclusive and sustainable food systems and the achievement of the SDGs. The importance of using a human rights framework for food systems transformation was reiterated throughout the three-day event.

### C. Monitoring and enforcing human rights without discrimination

An HRBA is necessary for the elimination of hunger and malnutrition, as well as rebalancing the power in food systems but will not be effective without corresponding monitoring and enforcement mechanisms. In holding actors accountable for food system transformation, all stakeholders have a role to play in realizing human rights: civil society must speak out against impunity for human rights violations committed against human rights defenders and cannot shy away from fighting for rights in fear of retaliation; businesses must do more than adopt voluntary promises to promote social responsibility, but should monitor and protect against human and labour rights inflicted along supply chains, especially in territories outside of the domiciled jurisdiction; and States should remove barriers to access to justice, upholding obligations to respect, protect, and fulfil human rights—including the right to food and other economic, social and cultural rights.

#### LEVERAGE International Institutions

UN Human Rights. Systems for monitoring and enforcing the realization of the right to food and other human rights—such as Treaty Bodies, the Human Rights Council, and Universal Periodic Review process of the Office of the High Commissioner for Human Rights—are already in effect, and utilized by UN

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<sup>73</sup> Report of the Special Rapporteur on the right to food, Michael Fakhri, to the Human Rights Council, A/HRC/46/33, paras. 58-59, 24 December 2020

<sup>74</sup> UN General Assembly, Declaration on the Right to Development: *resolution / adopted by the General Assembly*, 4 December 1986, A/RES/41/128, art. 1.

<sup>75</sup> UN General Assembly, Declaration on the Right to Development: *resolution / adopted by the General Assembly*, 4 December 1986, A/RES/41/128, art. 1.

institutions including Special Rapporteurs, independent experts, and INGOs and civil society. The notions that such rights are “second tier” to civil and political rights within this system or are “positive” rights are misguided; distinguishing economic, social and cultural rights from civil and political rights overlooks the inherent interconnectedness. The UN human rights infrastructure has the knowledge and understanding to highlight these connections—recognizing, for example, that right to information and freedom of expression are often violated in attempts to prevent reporting economic, social and cultural rights. Protecting lesser-known rights, such as the right to participation, and the right to information, are ultimately critical for ensuring that people are aware of rights to food, health, education, etc., and have an opportunity to articulate when these rights are violated.

During a human rights-focused panel at the Pre-Summit, Michelle Bachelet, UN High Commissioner for Human Rights, highlighted that human rights “provides normative and policy guidance to design resilient and people-centred food systems, prioritizing the most vulnerable and marginalized groups”. Other experts drew connections between human rights and the need to redesign designated national budgets, corporate accountability and agency, especially for the most vulnerable.<sup>76</sup> “The Pre-Summit has shown me that we can deliver on the right to food, while securing the future of our planet”, said UN Deputy Secretary-General Amina Mohammed during her closing remarks at the Pre-Summit of the UN Food Systems Summit. During the pre-Summit, key constituencies like the private sector, consumer organizations, civil society, parliamentarians, reinforced these statements and declared their commitment to respect and ensure the rights and dignity of the people for a sustainable food system transformation that is truly inclusive, non-discriminatory and empowering.

Committee on World Food Security. There is no shortage of international organizations committed to promoting a world of zero hunger and malnutrition in their mandates,<sup>77</sup> but the CFS is best suited for monitoring progress rights violations within the food system. Derived from multilateralism and reformed in 2009 following the 2008 global food crises, the CFS represents the most innovative, inclusive, and multi-stakeholder platform in the global governance system.<sup>78</sup> The CFS reviews global progress towards implementing the Right to Food Guidelines as well as other CFS policy tools, including: the Voluntary Guidelines on Food Systems and Nutrition (2021), Framework for Action for Food Security and Nutrition in Protracted Crises (2015), Principles for Responsible Investment in Agriculture and Food Systems (2014), and the Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security (2012).<sup>79</sup> While voluntary, these policy tools are based on international normative laws and principles, and should inform policy coherence and implementation of human rights.

CFS supports and monitors implementation based on principles of participation, transparency, and accountability. These principles are reinforced through the activities of the CFS’ Civil Society and Indigenous People’s Mechanism, and Private Sector Mechanism which support the strengthening of multilateral institutions and the re-grounding of food systems in individual and collective human rights. This organizational composition ultimately allows for effective and transparent monitoring.

### **STRENGTHEN National Institutions**

States should not only participate in these existing international fora, but should establish national-level monitoring mechanisms that are legitimate, sustainably-funded, and freely-accessible to all. States may appoint

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<sup>76</sup> Jeffrey Sachs, Director of the Center for Sustainable Development at Columbia University, for example, acknowledged at the Pre-Summit that “The SDGs are nothing more than our generation’s attempt to honour the Universal Declaration of Human rights.”

<sup>77</sup> Consider FAO, WFP, CFS, IFAD, the World Bank, the International Food Policy Research Institute, UNDP, UNICEF, WHO, UNEP, ILO, the Intergovernmental Panel on Climate Change and the OHCHR implements mentioned above.

<sup>78</sup> Committee on World Food Security, Reform of the Committee on World Food Security Final Version, CFS:2009/2 Rev.2 (2009).

<sup>79</sup> *CFS Policy Products*, CFS, <http://www.fao.org/cfs/policy-products/en/>.

an expert or special rapporteur to observe and report on progress towards the realization of human rights, and fund a national human rights institution (NHRI) with an independent monitoring body. Those who experience a violation of economic, social and cultural rights are entitled to access to justice; access to the judicial system is also categorized as a civil and political right,<sup>80</sup> but economic, social, and cultural rights are also justiciable.<sup>81</sup> The Right to Food Guidelines advise States to envisage “administrative, quasi judicial and judicial mechanisms to provide adequate, effective and prompt remedies accessible, in particular, to members of vulnerable groups.”<sup>82</sup>

In the event that States do not codify rights in national constitutions, develop a judicial culture of recognition in practice, or adopt the necessary legal frameworks required to ensure that all human rights are justiciable, the Optional Protocol to the ICESCR offers an alternative avenue to justice.<sup>83</sup> It is critical that more States adopt this Protocol, as only 26 have ratified it to date,<sup>84</sup> to ensure that avenues to justice are available and known, especially in relation to the most vulnerable populations.

National-level budgeting and monitoring of human rights is predominantly the responsibility of governments, but it is also an international norm that requires involvement of all branches of the State (executive, legislative, and judiciary), institutions, civil society, and academia. Even if States and stakeholders commit to substantial science-based and market-based solutions that promote greater equality, participation, and dignity, this pursuit ultimately fails without accountability for States and private actors who diminish or violate human rights.

SDG Monitoring. States and private sector actors should leverage the 2030 Agenda and particularly, targeted measuring of progress towards the SDGs through defined indicators, provides an immediate tool for monitoring and reinforcing the realization of human rights. Measures of household food insecurity (SDG 2.1.1 and 2.2.2), tenure rights (especially over agricultural lands) (SDG 1.4.2), women’s agricultural land ownership (SDG 5.a.2), sustainable agriculture (SDG 2.4.1), unpaid care work (SDG 5.4.1), and violence against human rights defenders (SDG 16.10.1), for example, are reflective of the broader human rights landscape.

Even while measuring progress towards the SDGs, food system actors should adopt a human rights-sensitive, non-discriminatory approaches to data collection, monitoring, and reporting. The UN has developed guidance on adopting a HRBA to data collection under the 2030 Agenda,<sup>85</sup> which includes disaggregated data, ensuring participatory and transparent collection methods, and enabling self-identification and reporting. Just as human rights are inextricably linked, the SDGs must also be pursued holistically, taking into account the synergies and trade-offs that exist between indicators; local knowledge and soft evidence, such as narrative experience, should also be included as a means of information collection to preserve human dignity. Additional enforcement mechanisms are necessary to help reduce these trade-offs and hold actors accountable for undermining progress towards the SDGs and human rights or carrying out rights violations.

### III. Conclusion and Summary of Select Recommendations

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<sup>80</sup> UN General Assembly, International Covenant on Civil and Political Rights, Art. 14, 16 December 1966.

<sup>81</sup> Report of the Special Rapporteur on the right to food, Hilal Elver: Access to justice and the right to food: the way forward, A/HRC/28/65, 12 January 2014, para. 13

<sup>82</sup> Right to Food Guidelines, Guideline 7.2.

<sup>83</sup> OP-ICESCR: resolution 8/2, 18 June 2008.

<sup>84</sup> *Status of Ratification Interactive Dashboard: OP-ICESCR*, OHCHR, <https://indicators.ohchr.org/> (last updated 18 June 2021).

<sup>85</sup> OHCHR, A HUMAN RIGHTS-BASED APPROACH TO DATA LEAVING NO ONE BEHIND IN THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT (2018), <https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>.

The UNFSS is the continuation of a long process. Since 1974, several international alliances to foster political will and to step up actions in the fight against hunger have emerged. The World Food Summit in 1996 and the World Food Summit: five years later are examples. The respect, protection and fulfilment of human rights feature prominently in the development agenda. The adoption of the Right to Food Guidelines in 2004 was the first attempt by governments to interpret an economic, social and cultural right, while providing recommendations to be undertaken for its realization. Other key documents for its implementation are the Rome Declaration on Nutrition and the Vienna+20 Declaration. Yet, the UNFSS is also a starting point for jump-starting the realization of the right to food and all other interrelated rights. It offers a historic opportunity to realign public and private commitments for change with binding human rights obligations.

This alignment should be intuitive, as human rights are essential to the food system transformation envisioned by the UNFSS. The Summit leadership has designated it as a “Lever of Change” for this very reason, recognizing that human rights offer a unified and holistic framework that places humans at the centre of food system change. If meaningfully integrated, human rights can help identify root causes, and patterns of discrimination, non-participation, and inequality that are often root causes of hunger and food security. Through legally accepted, concrete principles and norms, human rights can also enable resilient food systems that prioritize and empower the most vulnerable, particularly women, youth, peasants, small-scale farmers and fishers, agricultural workers, and indigenous peoples. A HRBA to policy implementation, monitoring, and enforcement will therefore offer not just a direction for immediate responses, but will pave the way towards healthier, more equitable, and sustainable food systems.

In summary, this policy brief advocates for the following (non-exhaustive) steps and solutions food system actors committed to transforming food systems from a human rights-based approach:

**Step 1. RECOGNIZE that human rights law awards universal rights to and imposes binding obligations on all food system actors.**

*States primarily owe the obligation to **respect, protect, and fulfil the right to food and all other interrelated and interconnected rights**, but this responsibility extends to all private actors, including businesses.*

**Step 2. IMPLEMENT human rights pursuant to international human rights law.**

*States and all private actors, including businesses, owe obligations to rights-holders and should pursue laws, policies, programs, and practices that prioritize critical food system solutions.*

**Solution 1:** Restructure exclusionary policies, partnerships, and a political economy that undermines the sovereignty, autonomy, and dignity of local food systems.

**Solution 2:** Rebalance agency within food systems to empower the most vulnerable.

**Solution 3:** Provide for accessible, affordable healthy food in times of peace and crisis.

**Solution 4:** Extend labour rights, human rights, and social protections to all agricultural and food system workers, including those employed in the informal economy.

**Solution 5:** Invest in planetary health, food system resilience, and sustainable development.

**Step 3. MONITOR AND ENFORCE human rights without discrimination.**

*Bolstering existing mechanisms and developing new ones will ultimately ensure that UNFSS commitments are meaningful in the long-term. **UN human rights institutions and the Committee on World Food Security** should be integrated into any follow-up and review mechanisms that hold food system actors accountable. **National monitoring and enforcement mechanisms** must also be strengthened, utilizing the SDGs to help measure progress towards transformation.*