



Creating a Culture
of Justice
International Development
Law Organization

RULE OF LAW FOR FOOD SYSTEMS TRANSFORMATION

POLICY BRIEF



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As the only global intergovernmental organization exclusively devoted to promoting the rule of law to advance peace and sustainable development, IDLO promotes the use of rule of law as a vital enabler of food systems transformation to enhance food security and nutrition for all. This policy brief highlights how the rule of law can unleash radical change in food systems and ensure that they contribute to enhancing food security and nutrition.

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EXECUTIVE SUMMARY

Ensuring adequate food and nutrition for all is a core challenge facing the international community. Around 260 million people faced acute food insecurity in 2022 in 58 countries and territories, reflecting an increase of nearly 65 million people over the preceding year.¹ Global hunger affected around 9.2% of the world population in 2022 (or between 691 and 783 million people). This is a 7.9% increase or 122 million more compared to pre Covid-19 levels. In addition, 3.1 billion were unable to afford a healthy diet.² Food insecurity has increased due to intersecting and compounding crises, including the adverse effects of climate change, rising costs of living due to economic shocks, and the increasing prevalence of violent conflict, as well as growing inequalities exacerbated by the impacts of the COVID-19 pandemic.³ Prevailing patterns of food production, distribution, and consumption deplete natural resources and accelerate climate change,⁴ and are not resilient to different types of shocks.⁵ In order to reverse these trends, food systems must be transformed.⁶

With its emphasis on the rule of law as an enabler of peace, justice, and inclusion, Sustainable Development Goal (SDG) 16 can promote the transformation of food systems, acting as an enabler of efforts to deliver on SDG 2's promise of zero hunger. It is evident that persistent disparities and discriminatory practices pervade food systems, underscoring the close linkage of the causes of food insecurity to systemic or structural injustices. Efforts to strengthen the rule of law as an accelerator of progress toward zero hunger is consistent not only with the 2030 Agenda, but with the vision and aims of the landmark UN Food Systems Summit in 2021.⁷

Key elements to foster the transformation of food systems through the rule of law include:

- Empowering the most food insecure people to claim their rights
- Strengthening food systems governance through sound legal and regulatory frameworks and effective institutions
- Improving and safeguarding equitable access to land, water, and natural resources

This policy brief advances 7 recommendations to accelerate food systems transformation based on the rule of law:



1. Empower food insecure people and communities to use the law and pathways to justice to realise their rights



2. Embrace a feminist approach to rule of law and food security that centres women and girls as rights-holders, food consumers, and food producers



3. Improve food systems governance through fair and effective laws, including constitutional provisions on the right to adequate food, and transparent and accountable institutions



4. Invest in durable rule of law solutions to root causes of food insecurity and malnutrition by strengthening the humanitarian-development-peace nexus



5. Strengthen equitable land, water, and natural resource governance through the protection of diverse tenure systems, including customary rights to land and other resources



6. Deliver food systems transformation within planetary environmental boundaries, using the rule of law to protect biodiversity and contribute to climate mitigation and adaptation



7. Champion the rule of law as an enabler of food systems transformation through multilateral cooperation, partnerships, and the generation of policy-relevant evidence

INTRODUCTION



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Ensuring food security and nutrition for all is one of the great challenges facing the international community in the 21st century. According to the Global Report on World Food Crises 2023, 258 million people experienced acute food crisis in 2022.⁸ Global hunger affected around 9.2% of the world population in 2022 (or between 691 and 783 million people). This is a 7.9% increase or 122 million more compared to pre Covid-19 levels. In addition, 3.1 billion were unable to afford a healthy diet.⁹ Stunting and wasting, key indicators of poor child nutrition, remain widely prevalent.¹⁰

Food insecurity tends to affect most severely those who already experience exclusion and marginalisation. Notably, women are more food insecure than men at all levels of analysis.¹¹ Discriminatory gender norms and unequal opportunities to access natural resources,

productive technology, and education are among the main causes of this disparity. But food insecurity and malnutrition are also more prevalent across a broad spectrum of excluded and marginalised constituencies, including youth, Indigenous peoples, smallholder farmers, pastoralists, and people on the move such as migrants and refugees.

Violent conflict, the rising costs of living emanating from recent economic shocks such as the COVID-19 pandemic, and growing inequalities are key drivers of increasing food insecurity.¹² The high cost of a healthy diet also contributes to increasing numbers of food insecure people.¹³ Moreover, ecosystem-related risks, such as loss of biodiversity, erosion of soils, and desertification, compounded by social injustices related to land and water access, pose a serious threat to the sustainability of

food production. Systems of food production, distribution, and consumption deplete natural resources, contribute significantly to global carbon emissions, and demonstrate limited resilience to different types of shocks.¹⁴ Current production and consumption practices are unsustainable: it is estimated, for example, that 30% of global food production is either lost or wasted.¹⁵ Climate change will impact more and more people with extreme weather conditions, disrupting food production and forcing some populations to migrate.¹⁶

Achieving the goal of ending hunger by 2030 becomes ever more challenging as the population facing high levels of acute food insecurity increases. Food systems must be transformed to reverse these trends.¹⁷ As the only global intergovernmental organisation exclusively devoted to promoting the rule of law as an enabler of peace and sustainable development, IDLO champions people-centred justice and inclusive laws and institutions as essential means of ensuring equitable and effective responses to food insecurity.

This policy brief highlights how the rule of law can unleash radical change in food systems and ensure that they contribute to enhancing food security and nutrition. It focuses on how the rule of law can contribute to ensuring that food systems deliver “food security and nutrition for all in such a way that the economic, social, and environmental bases to generate food security and nutrition of future generations are not compromised”.¹⁸ The brief highlights three key elements central to accelerating transformation of food systems through the rule of law as summarised below:

1. Empowering the most food insecure people to claim their rights
2. Strengthening food systems governance through sound legal and regulatory frameworks and effective institutions

3. Improving and safeguarding equitable access to land, water, and natural resources

Applying a justice lens to food systems transformation

Comparative analysis shows that countries where the rule of law has improved also demonstrate better key food security indicators, such as lower prevalence of undernourishment.¹⁹ Rule of law interventions can accelerate progress toward more just, equitable, and sustainable food systems that produce better food security and nutrition outcomes for all.

Achieving food security and nutrition is only possible through the realisation of the right to adequate food enshrined in international legal instruments as “the right of every individual, alone or in community with others, to have physical and economic access at all times to sufficient, adequate, and culturally acceptable food that is produced and consumed sustainably, preserving access to food for future generations”.²⁰ This means that all States are obliged to undertake efforts to deliver on the promise of progressive realisation of the right to adequate food in the context of national food security.

Transforming food systems is predicated on guaranteeing agency for all people, allowing them to make choices and exercise voice in shaping how those systems respond to their needs. This entails empowering excluded and marginalised people and communities to realise their rights and participate in food systems decision-making and governance mechanisms.²¹ Ensuring good governance of food systems necessitates fair and effective laws and regulations, transparent and accountable institutions, and inclusive and participatory decision-making processes. It also requires a people-centred justice approach,

one which enables excluded and marginalised people and communities to claim their rights, redress grievances, and resolve disputes using both formal and informal pathways to justice.

Several intersecting challenges affecting food security demand rule of law solutions. The climate crisis exacerbates food insecurity, as do related and proliferating conflicts over scarce resources like arable land, water, forests, and rangelands. Systemic rule of law interventions can address these challenges by implementing climate justice policies that empower smallholder farmers and pastoralists, adopting sound legal and policy frameworks, and bolstering dispute resolution mechanisms around land and other natural resources critical to food production. Upgrading legal frameworks

to secure land tenure for all, promote the sustainable use of natural resources, and ensure that planetary boundaries are respected will also contribute to achieving food security in the long-term.

Ultimately, concerted efforts at the intersection of Sustainable Development Goals (SDGs) 2 and 16, emphasizing their links to other relevant SDGs such as SDG 5 (gender equality) and SDG 13 (climate action), will accelerate the achievement of food security for all. SDG 16 is an enabler of a just, inclusive, equitable, and sustainable transformation of food systems, with specific attention to the needs of excluded and marginalised constituencies that are most vulnerable to food insecurity.

Key concepts: Food security, the right to adequate food, and food systems

Food security exist when “all people, at all times, have physical, social, and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life”.²² It is identified with six key dimensions: the availability of food; the economic and physical access to food; food utilisation, which determines people’s nutritional status; the stability of the other three dimensions over time; agency, or the capacity of people to act independently and make choices within their own food system; and sustainability, which means that food systems should ensure the food needs of the present population are met without compromising those of future generations.²³

The **right to adequate food** is the right of all human beings to live in dignity and free from hunger, food insecurity, and malnutrition.²⁴ It is recognised in Article 25 of the Universal Declaration of Human Rights;²⁵ Article 11 of the International Covenant on Economic, Social, and Cultural Rights;²⁶ and in relevant provisions of other international and regional human rights instruments. The UN Committee on Economic, Social, and Cultural Rights recognised that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights,²⁷ and that it is “inseparable from social justice, requiring the adoption of appropriate economic, environmental, and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all”.²⁸

Food systems are “the entire range of actors and their interlinked value-adding activities involved in the production, aggregation, processing, distribution, consumption, and disposal of food products that originate from agriculture, forestry, or fisheries, and food industries, and the broader economic, societal, and natural environments in which they are embedded”.²⁹ Food systems include three core components: food supply chains, food environments, and consumer behaviour. The interactions between these core components, various actors, and other systems (such as ecosystems, markets, and health systems)³⁰ determine how food systems produce their final outcomes.³¹

Key concept: Rule of law

The rule of law is a principle of governance in which all people and institutions, including the State and private actors, are accountable to laws that are publicly promulgated, equally enforced, independently adjudicated, and consistent with international human rights principles.³² IDLO advocates for a people-centred justice approach which places the needs and rights of people at the centre of rule of law policy and practice. This approach enables individuals to mobilise and take collective action to advance their interests, within a modicum of civic space and the boundaries of the law; seek, receive, and impart information, including in relation to decisions and policymaking concerning the design of food systems for the realisation of the right to adequate food; and actively take part in the conduct of public affairs. In this understanding of the rule of law, people hold duty-bearers accountable and are participants in relevant public decision-making.³³

EMPOWERING THE MOST FOOD INSECURE PEOPLE TO CLAIM THEIR RIGHTS



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Those most vulnerable to food insecurity are often those least able to access justice or make their voices heard in the governance of food systems, and those most likely to experience exclusion and marginalisation in general. Realising the right to adequate food requires transformative action based on the rule of law to tackle intrinsic inequalities among people, supporting them to claim and defend their rights and contribute to policymaking. Different means of empowerment can support marginalised and excluded constituencies in food systems.

Legal empowerment is an approach that provides people with the knowledge, confidence, skills, and tools to engage with laws and institutions that affect the conditions and ways in which they produce, access, and consume food. Empowered actors are better able to participate in decision-making processes, helping build greater trust and confidence in

public institutions and the justice system in the context of food security and nutrition. Legal empowerment actions relevant to the most food insecure people might include legal education and access to legal aid; protecting civic space and human rights defenders concerned with right to adequate food and other specific rights issues in food systems, such as land and natural resources rights; improving access to data and information; and boosting effective participation in food systems decision-making. The needs and voices of those most at risk of being left behind in efforts to achieve food security must be heard in food systems policymaking and programming, to ensure they fully enjoy their rights as enshrined in international human rights instruments.

Women and girls

Gendered power relations, conservative social norms, and systemic forms of discrimination

that exclude and marginalise women and girls expose them to a higher risk of food insecurity.³⁴ At all levels of analysis, women are more food insecure than men. In 2021, 31.9% women were moderately or severely food insecure compared to 27.6% of men—a gap of more than 4 percentage points, and an increase over 2019.³⁵ Discriminatory practices and unequal opportunities to access natural resources, education, and markets are among the main causes of this disparity. Sexual and gender-based violence against women, social and cultural stereotypes and practices that reinforce the inferior status of women, and the unequal burden of women’s unpaid care and domestic work impede the full realisation of women’s human rights, including their right to food.³⁶ This situation is exacerbated by the impacts of climate change,³⁷ and the weak access of women to sustainable employment, land, and other productive resources.³⁸ Women constitute less than 15% of all landholders, for example, meaning that their ability to produce food for their own use is severely limited.³⁹ In many countries, the social position of women affects their voice in food systems decision-making processes and negatively impacts their food security.⁴⁰

Where women have control over income, they have been found to be more likely to spend this on food and nutritional security for their households.⁴¹ Analysis shows that, if women had the same access to productive resources as men, they could increase farm yields by 20 to 30%, reducing overall hunger by 12 to 17%.⁴² Empowering women and girls to engage with duty-bearers and justice systems to ensure that gender-transformative solutions are developed and implemented is key to changing current practices, laws, and policies in food systems. This entails providing legal training to women and girls, and civil society organisations that support them, to improve knowledge of their rights and key

legal instruments to ensure gender equality in food supply chains and remove discriminatory laws and norms from food systems. It is also important to equip women and girls, and their movements and networks, with skills to engage widely used customary and informal justice (CIJ) mechanisms in incorporating gender-transformative practices and becoming more accountable to women. Providing legal aid and ensuring space for meaningful and recognized participation of women in food policies and decision-making should also be prioritised.

Youth

Youth constitute a majority or plurality of the population in developing countries where the prevalence of food insecurity is highest and where agricultural food systems constitute the largest source of employment.⁴³ Youth in all their diversity tend to be disproportionately affected by food insecurity: due to conservative and gerontocratic cultural norms and patterns of systematic exclusion, they experience discrimination based on age, face constraints on their participation in civic life, and lack the same recourse to formal justice and CIJ systems as adults.⁴⁴ Youth-led and youth-serving organisations confront many practical, social, and legal barriers to advancing the rights of young women and men or accessing governance institutions. These obstacles impede youth access to food and their ability to sway food systems decision-making in ways that meet their specific needs. Moreover, while youth can play diverse roles as food producers, the productivity of youth in rural economies may be constrained due to production barriers including lack of access to resources such as land, financial or technical support, and education.⁴⁵

Interventions to transform food systems must be based on approaches that incorporate the aspirations of young women and men, and address the challenges faced by youth both as rights-holders and as food producers. Legal

education of youth and provision of targeted legal aid and paralegal services; the integration of youth-inclusive practices in justice (in law and in practice), such as enabling young women and men to initiate legal and administrative proceedings concerning issues pertaining to food that impact their rights; and support for youth effective participation in public decision-making and youth-inclusive accountability mechanisms at all levels will ensure that youth can actively and equitably shape food systems transformation. Empowering youth-led and youth-serving organisations with financing and platforms to voice their interests will be instrumental in overcoming the practical, social, and legal barriers that prevent young people from upholding their right to adequate food and contributing effectively to global food production and rural development.

Indigenous peoples

The fundamental right of Indigenous peoples to exercise food sovereignty—that is, to access food that is not only nutritious but also rooted in their specific cultural frameworks—is recognised in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).⁴⁶ The diverse food systems utilised by the world's 476 million Indigenous peoples are remarkably productive and sustainable.⁴⁷ Indigenous peoples are also stewards of the Earth's biodiversity: while Indigenous lands make up only 20% of the Earth's land surface, this land contains 80% of the world's remaining biodiversity.⁴⁸ However, Indigenous communities frequently experience a lack of official acknowledgment of their lands, territories, and natural resources, resulting in dispossession and marginalisation. Additionally, they encounter obstacles to their access to justice and engagement in political processes. This historically rooted pattern of inequality and exclusion has rendered Indigenous peoples particularly susceptible to the consequences of unsustainable food systems, climate change,

and natural disasters.⁴⁹ The industrialisation of food systems also poses threats to their rights, including loss of their individual and collective land tenure, the relegation of Indigenous practices and knowledge, and widespread neglect of the UNDRIP-entrenched principle of free, prior, and informed consent regarding decisions that affect their rights.

Promoting Indigenous agency must be prioritised to ensure food security and requires States to establish a legal framework that upholds international instruments such as UNDRIP and supports Indigenous self-determination in regard to food systems. Indigenous food security is a restorative approach to reconciling Indigenous food and cultural values with colonial laws, policies, and mainstream economic activities, and includes using tailored-to-context approaches such as granting priority rights of access to Indigenous communities over selected land and resources. Legal empowerment can provide Indigenous peoples with tools and knowledge to ensure States are held to account for meeting obligations in the protection of Indigenous rights. Rule of law interventions can also help protect Indigenous peoples' rights in domestic legislation, defend them against encroachment and discrimination, and ensure the promotion of their sustainable traditional knowledge and practices. Ensuring inclusive, equitable, transparent and recognized participation in consultations and negotiations over land is crucial to safeguarding both Indigenous rights and the Earth's biodiversity.

Smallholder farmers

Smallholder farmers produce roughly 35% of the world's food while managing only 12% of all agricultural land.⁵⁰ Yet their ability to sustain themselves and improve their living conditions is often hindered, including by barriers to accessing land and resources; weak tenure security; low levels of education



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and lack of social protection; limited market access; and inadequate public investment in agriculture and the corollary increase in private intervention with its associated impacts on their rights and livelihoods. Evidence indicates that ensuring tenure rights within small-scale production systems contributes to sustainable rural incomes and livelihoods, and thus to food security, while also supporting the preservation of ecosystems and the nature-positive practices of rural people.⁵¹

Consistent with the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP), empowering small-scale producers and family farmers to improve knowledge of their rights, utilise legal tools to advance those rights, and participate in decision-making in food systems can happen in different ways. Farmers need knowledge about prevailing arrangements for governance of land and other natural resources, and how to engage with policymakers to ensure their rights are realised. They require support for their participation in policymaking processes at all levels, with a specific focus on recognition of diverse forms of tenure and the derived legitimate rights, the creation of multi-stakeholder frameworks on the progressive

improvement of land laws, and local land management customs and institutions, including those vested with a dispute resolution function. Smallholder farmers may also benefit from legal assistance or collective self-advocacy around the negotiation of land deals and other types of contracts to improve inclusive participation in markets.

Pastoralists

Pastoralism constitutes a broad array of both economic activities and cultural identities; as an economic activity, it is characterised by mobile herders accompanying livestock to target areas of seasonal pasture they know to be beneficial to their animals.⁵² As many as 200 million people may be engaged in pastoralism and agro-pastoralism worldwide, across the more than 50% of the world's land surface occupied by rangelands.⁵³ Resilience to climate variability is at the core of pastoralism: while managing uncertainty, pastoralists have the ability to achieve relative stability of food production from an unpredictable climate.⁵⁴ While natural climate variability plays a positive role in the functioning of pastoral systems, pastoralists' vulnerability to climate change is rooted in socioeconomic processes that affect their

mobility, as well as the unsettling of institutional arrangements, such as grazing and watering rights, from which conflict with sedentary farmers may arise.

Legal empowerment of pastoralist communities enables them to assert their rights to grazing and watering areas, and to resolve disputes over access with sedentary farmers using both formal justice and CIJ pathways. Pastoralists need support to participate in crafting food systems policies and laws that affect their mode of production and their livelihoods. Their mobility is associated with temporary but timely use of natural space which should be secured through land tenure and management systems and regulations allowing for multiple and overlapping access rights; these rights must be recognised, enshrined in law where possible, and respected by duty-bearers at all levels. Local land management practices should ensure inclusive and democratic land and water governance in areas where pastoralists and sedentary farmers coexist; these may include local land charters or natural resource management conventions jointly developed by rights-holders in line with national legal systems and the spirit of international frameworks such as the Dana Declaration⁵⁵ and the International Year of Rangelands and Pastoralists in 2026.⁵⁶

People on the move: Migrants, refugees, and internally displaced persons

One of the most pressing unmet needs experienced by people on the move is access to food.⁵⁷ Migrants, refugees, and internally displaced persons (IDPs) are disproportionately affected by crises such as environmental disasters and violent conflict, due to factors such as isolation, lack of social networks, mobility restrictions, or immigration status—factors which reduce their capacity to access support or protection and increase their

vulnerability. People on the move are likely to face greater difficulties in accessing food, both in transit and in host communities: among IDPs, for example, approximately 80% are displaced in contexts experiencing acute food insecurity and malnutrition.⁵⁸ Competition over land and access to natural resources between newcomers and host communities can, when inadequately managed, lead to grievances, disputes, and conflict. People on the move face challenges to achieving food security across all six dimensions, but accessibility of food is typically the most significant barrier to food security, due to heavy dependence on external resources during active mobility.⁵⁹ For migrants, refugees, and IDPs, “when assistance is not relevant to people’s needs and their views are disregarded, people feel disempowered and deprived of dignity”.⁶⁰

Radical change is needed, in the direction of approaches that adequately support people on the move based on their rights. This requires the participation of migrants, refugees, and IDPs in food systems decision-making in humanitarian settings. In that respect, people on the move need greater autonomy and investment in their self-reliance, and less dependence on external assistance.⁶¹ Empowerment and support will contribute to their meaningful participation in humanitarian interventions for better food security solutions and improved resilience in the long-term. Promoting rule of law actions to strengthen the humanitarian-development-peace (HDP) nexus can further contribute to enhancing the resilience and self-reliance of people on the move, including by integrating conflict-sensitivity analysis and tools in food systems programming; supporting local peace initiatives, specifically reconciliation and confidence-building between people on the move and host communities; and bolstering formal justice and CIJ institutions to deal with conflicts over land and natural resources before they escalate to violence.

STRENGTHENING FOOD SYSTEMS GOVERNANCE THROUGH SOUND LEGAL AND REGULATORY FRAMEWORKS AND EFFECTIVE INSTITUTIONS

Laws and institutions are essential to the full realisation of human rights, including the right to adequate food. Fair and equitable laws prevent opacity, discrimination, and exclusion in food systems. They are important tools for the domestication of international norms and best practices to ensure an adequate level of protection for consumers through safety standards and trade-related measures. Legal and regulatory frameworks are also needed to ensure sustainable and responsible investment in the food sector, to secure economic opportunities for smallholder farmers and other actors in food supply chains, and to protect the rights of marginalised constituencies from the negative environmental and social impacts of investment in food systems. Integration of the right to adequate food into domestic legal systems, including through constitutional provisions, will activate mechanisms making the right to food justiciable in court, promote remedies and redress, and ultimately render States more accountable for progressive realisation of the right to food.⁶²

Food systems governance encompasses the set of rules, norms, and processes that shape policies and decisions affecting food systems.⁶³ This includes the mechanisms and institutions through which food systems actors articulate their interests, exercise their rights, meet their obligations, and mediate

their differences.⁶⁴ Current governance mechanisms are fragmented and weak, with limited recognized participation mechanisms that enable transparency, and accountability in decision-making.⁶⁵ Ensuring sustainable and resilient food systems entails addressing these weaknesses through the establishment of accountable and transparent institutions with frameworks that enable participatory and inclusive policy development, dissemination, and monitoring. It also demands the enhancement of the justice sector, including CIJ mechanisms, to ensure access to justice for excluded and marginalised groups claiming their right to adequate food and other related rights in the context of food security, and to resolve disputes arising between different food systems actors.

Improving access to justice for people and communities seeking food security

Access to justice is key to ensuring fulfilment of the right to adequate food. Without access to justice, people are unable to exercise their rights, challenge discrimination, seek redress for grievances, or hold decision-makers accountable.⁶⁶ Intersecting vulnerabilities may increase in the absence of remedial and redress mechanisms: without issuance and enforcement of protection orders for survivors of sexual and gender-based violence, for example, survivors may be unable to work and



thus unable to access food.⁶⁷ As restrictions on public gatherings were introduced during COVID-19 pandemic, some countries declared legal services an essential activity or made operational adjustments including remote hearings and digitalization of case management, thereby ensuring that court backlogs did not expand and thereby restrict access to justice.⁶⁸

Strengthening access to justice in the context of food systems requires working both from the “bottom-up” by promoting legal empowerment, and from the “top-down” by reforming institutions. Improving access to justice in food systems and advancing the right to adequate food in the context of national food security could be pursued through social mobilisation, political negotiation and monitoring, and civil society participation in the formulation and implementation of public policies.⁶⁹ Legal empowerment is fundamental—not only in the context of formal justice systems, but also in relation to the CIJ systems where most disputes over land and natural resources are addressed.⁷⁰ It is vital to enhance access to justice for users of formal justice and CIJ

systems and respect for, and full enjoyment of human rights by, women and girls, youth, Indigenous peoples, and people on the move, among others. While recognition of the right to adequate food and other human rights relevant to food security in national legal frameworks reinforces the justiciability of those rights, it is also essential to vest national human rights institutions or ombudspersons with the mandate to oversee their realisation. There is also an important monitoring function for civil society, especially those organisations representing or serving excluded and marginalised constituencies.

Building effective institutions for more accountability and transparency in food systems

Well-functioning institutions are needed to deliver essential services across food systems; set in place transparent monitoring and accountability mechanisms, including reporting on the right to adequate food; and lay the foundations for recovery in the event of shocks. Due to the multidimensional nature of food security and the multisectorality of food systems, the institutional framework must be cohesive, with coordination among relevant duty-bearers. The right to adequate food provides the principal framework for enhancing policy coherence among and between duty-bearers at all levels. Within this framework, concerted implementation, monitoring, and evaluation of food policies, laws, plans, and programmes to create an enabling environment for realising the right to food must be the ultimate aim.

To ensure that food systems institutions are accountable in their operations, their mandates and procedures, including information about how they engage with other food systems actors, should be made publicly available. Anti-corruption measures should be put in place to build public confidence, including in

regard to the management of emergency food aid to prevent misappropriation and diversion.⁷¹ Context-specific inter-institutional coordination approaches, including the designation of lead coordinating ministries, the creation of inter-ministerial committee, and the establishment of dedicated agencies responsible for articulating a coherent policy vision, can be brought to bear.⁷² Coordination mechanisms must incorporate the participation of all relevant actors to support the progressive realisation of the right to adequate food in the context of national food security.⁷³ Multilevel governance should be promoted by involving relevant officials from international, regional, national, and local authorities, in food systems decision-making processes, to recognise the diversity of contexts and avoid a “one-solution-fits-all” approach that has proven futile.

Enabling participatory and inclusive decision-making in food systems

Participation and representation are central features of effective governance. The pervasive exclusion of the most food insecure from decision-making processes inhibits the potential of these constituencies to act as agents of change within food systems. Transparent and accountable practices can encourage the meaningful participation of different constituencies, but it is equally important that institutions consider different stakeholders as legitimate partners and involve them in food systems design and decision-making. The voices of those at-risk of food insecurity, such as women and girls, youth, Indigenous peoples, and people on the move, can be more effectively channelled through processes that enable meaningful participation. Food systems workers should be a specific focus of inclusion efforts: despite their contributions to food systems, these workers remain widely underpaid and undervalued, facing occupational hazards, poverty, and food insecurity,⁷⁴ their situation

exacerbated by discrimination and lack of access to legal protection.⁷⁵

Open access to information, including through the use of open data and other digital tools, is critical for the effective participation of all people and communities in food systems decision-making, and requires the adoption of mechanisms to enhance accountability and governance. Equitable, inclusive multi-stakeholder processes can enhance collaboration among different actors, from governments to civil society organisations, women’s and farmers’ organisations, and labour unions representing farm systems workers. Multi-stakeholder processes must be effective and credible, outcomes that are achievable only with the joint determination of objectives; building participatory capacity in light of the disparate power and resources available to stakeholders; and open communication about conflicts, trade-offs, divergences, and asymmetries.⁷⁶

Fostering sustainability and resilience across food systems

Agricultural production systems currently contribute to 20% of greenhouse gas emissions and are estimated to drive 75% of global deforestation.⁷⁷ Sustainability in food systems covers all levels of supply chains, from food production to consumption and disposal, and insists upon production of food through processes and systems that are non-polluting, conserving of energy and natural resources, economically viable, and safe and healthy for workers, communities, and consumers.⁷⁸ Sustainability means that food is produced using farming techniques that protect the environment, public health, and animal welfare.⁷⁹ This depends on development of environmental laws that define clear standards for food production and processing, consistent with global frameworks including the UN Framework Convention on Climate Change

(UNFCCC) and UN Convention to Combat Desertification; and measures to avoid or manage adverse impacts on the environment and society, accompanied by regulations for the monitoring and the enforcement of those measures.

Legal and regulatory frameworks can contribute to ensuring sustainability in food systems through the application of international codes, norms, and regulations such as the Code of Conduct on the use of Pesticides⁸⁰ and Fertilisers;⁸¹ regional and international regulations on due diligence; or the safe use of biotechnology products consistent with the Convention on Biological Diversity and its Cartagena Protocol.⁸² Laws and regulations can also be adopted to promote holistic, ecological farming systems and nature-based approaches, including the promotion of diversity in genetic resources through the recognition of the right of peasants and other people working in rural areas to save, use, exchange, and sell their own seeds in line with UNDROP and other frameworks.⁸³ Setting legally-binding targets production of food in ecological farming systems can encourage sustainability in both production and consumption of food, thereby contributing to the availability of healthier and safer food to consumers. Food laws should also support localization: local food systems (or “territorial food systems” in some contexts) and short supply chains that integrate social, environmental, and solidarity values represent models of local food governance that contribute to enhancing the sustainability and resilience of regional and local food systems.⁸⁴

Addressing food security at the humanitarian-development-peace nexus

Food security is undermined in times of conflict and disaster by the destruction of food production assets and infrastructure, the

displacement or death of farmers and other food systems workers, the disruption of food supply chains, and the reduction of public and private investment in food systems.⁸⁵ Food insecurity can itself be a driver of unrest and conflict, either by fuelling competition over scarce resources, eroding public confidence in State duty-bearers, or producing steep food price increases that aggravate other risks like weak state capacity and food trade power imbalances.⁸⁶ Many countries impacted by food insecurity are exposed to the impacts of climate change, and less resilient to the effects of shocks due to fragility.⁸⁷ The combination of these mutually-reinforcing drivers affects the ability of States, communities, and families, to preserve food security.⁸⁸ The capacity of countries affected by conflict and disaster to recover and rebuild their food systems is compromised by the institutional and social fragility that typically characterizes post-conflict or fragile environments.⁸⁹

Tackling these challenges demands strengthened action at the HDP nexus. Specific responses might include the provision of social and food safety nets to crisis-affected and at-risk populations in humanitarian contexts; strengthening transparency and justice in food assistance to ensure non-discriminatory and effective targeting; and accountability and oversight measures to prevent leakages and corruption in food assistance. An enhanced peacebuilding dimension in food security interventions might include integration of conflict-sensitivity analysis and tools in food security programming, to ensure interventions do not exacerbate tensions between communities; supporting local peace initiatives, specifically reconciliation and confidence-building, as integral to food security interventions; and prioritising protection against all forms of sexual exploitation and abuse toward refugees and IDPs, to safely meet

the food and protection needs of women and girls. Rule of law solutions are also needed to address the underlying causes of food insecurity and malnutrition, support local capacities and priorities, and build resilient livelihoods and food systems, alongside policies and actions addressing immediate food needs.⁹⁰



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ENHANCING AND SAFEGUARDING EQUITABLE ACCESS TO LAND, WATER, AND NATURAL RESOURCES



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Arable land, fresh water, and other natural resources like forests, rangelands, and fisheries are foundational to the food security and livelihoods of people and communities around the world.⁹¹ Some 3.8 billion people live in households that are linked to agri-food livelihoods.⁹² Yet a survey of 100,000 respondents across 101 countries and territories indicates that the inability to access land is one of the main justice problems faced by people globally.⁹³ Patterns of landholding are severely skewed, with large commercial farms accounting for more than 50% of the total agricultural area;⁹⁴ the increasing concentration of farming in the hands of large commercial producers is to the detriment of smallholders, the viability of whom is critical for local food security in the most food insecure contexts.

Moreover, despite the dependence of almost all people and societies on agriculture for food production, land degradation is intensifying and the global “water budget” is under acute pressure, indicating that human use of natural resources is exceeding planetary boundaries.⁹⁵ Slowing growth in the productivity of food systems and cascading environmental harms have deleterious implications for achievement of the aim of zero hunger by 2030.⁹⁶

Social structures determine the sustainability of natural resources: reducing poverty and inequality requires equitable access to land and natural resources. The critical factors to tackle these issues lie in establishing secure tenure and effective governance institutions.⁹⁷ Fair and inclusive laws, equitable and

accountable institutions, and participatory processes can ensure access to land, water, and natural resources in ways that improve people's livelihoods and food production in general. Relevant stakeholders need support to recognise land tenure and manage water and other resources in line with relevant international guidelines and norms, notably the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT).⁹⁸ The rule of law approach will also be instrumental to entrenching and enforcing respect for planetary boundaries, protection of biodiversity, and promotion of climate mitigation and adaptation, while improving food and nutrition for all.

Securing land tenure for all

By one estimate, 70% of the world's people do not have secure land tenure.⁹⁹ Improving secure land tenure for excluded and marginalised people and communities, who also tend to be the most food insecure and climate-vulnerable, relies on the ability of people seeking land justice to claim and realise their rights before relevant authorities and within existing legal and policy frameworks. Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which those decisions are implemented and enforced, and the way in which competing land interests are managed; tenure determines access to, and use of land, whether legally or customarily defined.¹⁰⁰ Land governance regimes that are inconsistent with human rights and social, economic, and environmental sustainability compromise food systems in ways that disproportionately affect communities already experiencing systemic marginalisation and escalate risks of food insecurity.

Adopting or revising land laws and policies to improve land and resource governance should



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be guided by international standards, namely the VGGT.¹⁰¹ Building on the right to food guidelines, the VGGT outlines key principles and internationally accepted practices for tenure systems with an emphasis on protecting the rights of vulnerable people in order to ensure the right to adequate food, poverty eradication, sustainable livelihoods, and rural development.¹⁰² Given the significance of customary and informal actors to the governance of land, water, and other natural resources in rural and peri-urban areas in most low- and middle-income countries, CIJ actors have a central role in enabling people to realise their rights. Laws, policies, and interventions in support of secure land tenure for all must also engage with customary and informal actors, supporting people and communities seeking land justice to claim their rights in relation to these context-specific mechanisms, and equipping CIJ providers with the tools and incentives not only to adhere to human rights norms in their governance of land but also to coordinate effectively with formal land institutions.

Strengthening measures to guarantee women's equal rights to land, water, and natural resources

Women face different and disproportionate challenges in their efforts to access land, water, and other natural resources. While they comprise a large proportion of the world's agricultural labour force, women have consistently less access to and control over land, water, and other resources, and in many cases, these gender gaps are significant.¹⁰³ There are often important gender gaps in tenure security due to conservative norms, widespread discrimination, and legal limits on women's ownership and inheritance. Gender-based inequalities in access to land, water, and other resources limit women's ability to raise collateral for loans and benefit from agricultural extension schemes that would provide them with productive inputs or preferential access to markets. Women farmers are often constrained in their choice of crop, with men tending to use more productive arable land for the cultivation of higher-value cash crops and livestock. Moreover, legal and policy frameworks on food may contain direct or indirect discrimination against women or fail to promote their meaningful participation in decision-making.¹⁰⁴ Many national agricultural policies and laws prioritise the expansion of large-scale commercial farming for non-food crops,¹⁰⁵ which tends to negatively affect women farmers, who are often low-income and more likely to engage in smaller-scale food production.¹⁰⁶

Ensuring secure land tenure for women, and securing women's access to water and other natural resources, must be a priority in efforts to achieve a holistic response to food insecurity. Control over land and other productive assets enable women's access to a range of income-earning and livelihood opportunities, as well as food security. Where women in a household gain tenure security, they acquire improved

status which can lead to greater influence over household decisions regarding food consumption and production,¹⁰⁷ in addition to other positive effects on their relative power and physical security. The gender gap in access to land and other resources can be addressed by eliminating gender-discriminatory laws on resource ownership and inheritance, and enacting non-discriminatory laws based on consultative and inclusive processes.¹⁰⁸ As rural women are largely dependent on customary and informal governance institutions to access land and other natural resources, and these institutions tend to reinforce patriarchal and conservative social norms and power relations, direct engagement to improve the responsiveness and accountability to women of CIJ actors is essential.

Promoting responsible investment in agriculture and value chains

Investments across food value chains must ensure support for sustainable and restorative livelihoods for small-scale producers and excluded and marginalised groups, and respect for a range of environmental, social, and economic goals that contribute to sustainable food systems. It is important to strengthen regulatory frameworks to ensure investments are managed responsibly. Key rule of law principles must be integrated, including transparency; meaningful and recognized participation of all rights-holders; social impact assessment of investments; grievance mechanisms in investment schemes; the appropriate management of social and environmental impacts; and the creation of economic opportunities for smallholder farmers and other excluded and marginalised actors.

Investments in agriculture must prioritise the legitimate tenure rights of people and communities and should be linked to effective accountability and compliance mechanisms aligned with international standards on

human rights and sustainability, instruments on responsible agricultural investments, and directives on corporate due diligence.¹⁰⁹ Ensuring responsible investment in food systems requires implementation of relevant international standards, such as the Principles for Responsible Investment in Agriculture and Food Systems;¹¹⁰ developing laws and policies to support investment schemes, such as bilateral agreements between investors and tenure rights-holders; and the promotion of farmer-friendly land and commercial laws, including cooperative and contract farming laws.

Reducing conflict over land, water, and natural resources

In situations of resource scarcity due, for example, to the adverse effects of the climate crisis and other environmental stresses, competition amongst people and communities, between communities and private firms, and between farmers and pastoralists, is likely to give rise to conflict if not effectively managed.¹¹¹ This risk is most acute when climate-driven scarcities occur in a context of fragility, characterized by poor state-citizen relations and weak management of disputes within a rule of law framework. Land tenure regularization processes can themselves be conflict-generative, especially when they undermine the land rights of excluded and vulnerable constituencies that rely on customary tenure or rental agreements,¹¹² or facilitate land grabbing by commercial interests. Food insecurity is a component of the climate-conflict nexus: in fragile contexts, extreme or unpredictable weather patterns causing food shortages or famine have contributed to armed conflicts, while, in turn, armed conflicts damage agricultural land and prevent the delivery of humanitarian aid, thereby reinforcing existing food scarcities.¹¹³

Inclusive governance of land and other natural resources has the potential to mitigate conflict

and sustain peace, for example by facilitating inter-communal cooperation in ways that reduce tension and increase trust. Establishing fair legal frameworks for environmental protection can promote equitable distribution of the benefits of natural resources in ways that reduce conflict overall. Consultation within and between at-risk communities, including women, youth, and excluded and marginalised constituencies, and recognizing a broad range of land tenure systems and forms of resource access, is needed to reflect the interests of all rights-holders. Fit-for-purpose land administration that is adaptive, incremental, and predicated on a continuum of land rights has proven effective in reducing conflict risks.¹¹⁴ Granting priority rights of access to selected land and resources for pastoralists or Indigenous communities, or incorporating women's customary rights to use land, can also play a role in conflict prevention.¹¹⁵ Access to justice initiatives can address everyday grievances and resolve disputes over land and natural resources through existing formal justice and CIJ mechanisms.

Advancing biodiversity protection and climate mitigation and adaptation

Climate change and biodiversity loss negatively affect food security and the stability of food systems. Increasingly frequent and severe rapid-onset natural disasters damage crop yields while slow-onset disasters such as desertification diminish the quantity and quality of food produced.¹¹⁶ Climate change is a major driver of variations in agricultural production and thus food prices, as the concentration of global crop production in a few regions renders supply chains and prices vulnerable to extreme events in producer countries. Extreme weather events have exposed millions of people to acute food insecurity and reduced water security, with harm to food systems from climate change detected in sectors such as agriculture,

forestry, and fisheries.¹¹⁷ The climate crisis is already undermining recent progress made in promoting sustainable rural livelihoods and fighting hunger and malnutrition. Food systems and related livelihoods are affected in the longer-term by the impact of biodiversity loss, including species extinctions and erosion of genetic resources, driven by unsustainable agricultural practices and land and soil degradation.

Protecting biodiversity and fostering transformative climate justice can be achieved through empowering people and communities to know and claim environmental rights and actively participate in decision-making that protects the commons. Providing capacity building and technical assistance to justice actors to promote and protect the environmental

rights of people and communities and recourse to judicial remedies is key. Laws and regulatory frameworks are essential to promote and sustain conservation and biodiversity policies; increase the use of resilient and regenerative production practices enabling countries to meet key targets relating to sustainable food systems; maintain the genetic diversity of seeds, cultivated plants, and farmed and domesticated animals; protect traditional knowledge that enhances biodiversity and food security; promote the use of alternative pesticides; maintain food safety;¹¹⁸ and strengthen human rights and good governance principles in UNFCCC-aligned National Adaptation Plans and anchor food systems in Nationally Determine Contributions.¹¹⁹



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POLICY RECOMMENDATIONS



1. Empower food insecure people and communities

Legal empowerment and protection of civic space can enable people and communities to claim their right to adequate food and nutrition, while inclusive policymaking ensures that food policies are informed by and responsive to their needs. Priority must be given to the most food insecure people: women and girls, youth and children, Indigenous peoples, smallholder farmers, pastoralists, and people on the move including migrants, refugees, and internally displaced persons.



2. Embrace a feminist approach to rule of law and food security

The efforts of women and girls to realise food security are affected by gender-based forms of exclusion, marginalisation, and discrimination. Food systems transformation must empower women and girls to claim their rights, integrate women's active engagement in food policy decision-making at all levels, and guarantee women's rights to land and natural resources.



3. Improve food systems governance

Fair and effective laws (including constitutional provisions guaranteeing the right to adequate food), and transparent and accountable institutions are essential to food systems transformation, especially efforts to ensure access to justice for people and communities seeking to realise their rights to food and nutrition, enable inclusive decision-making, promote responsible investment, and foster sustainability and resilience.



4. Invest in durable rule of law solutions to root causes of food insecurity

The root causes of food insecurity and malnutrition are diverse and complex, and in many contexts relate to the intersection of humanitarian, development, and peacebuilding challenges; working at this nexus is essential to ensuring holistic and durable solutions to food insecurity.



5. Strengthen equitable land, water, and natural resource governance

The ability of people and communities to realise their rights to food and nutrition is largely dependent on secure access to land, water, and natural resources. Food systems transformation must foster land tenure systems that protect diverse forms of tenure, including customary rights to land and other resources, and reduce conflict over land and other resources.



6. Deliver food systems transformation within planetary environmental boundaries

The global climate crisis and mounting biodiversity loss will have significant adverse implications for the world's ability to produce and distribute adequate food for all. The rule of law can play a crucial role in ensuring that food systems transformation contributes to protection of biodiversity and to processes of climate mitigation and adaptation.



7. Champion the rule of law as an enabler of food systems transformation

Mobilising partnerships between States and other stakeholders and supporting cooperation through multilateral frameworks, including the SDGs and the UN Food Systems Summit will foster an inclusive, coordinated, and intersectoral approach to food systems transformation that is grounded in the rule of law. Efforts must also be predicated on a convincing evidence base produced through policy-relevant research.

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