

Strengthening efforts towards fulfilling the human right to food and the right to clean, safe and healthy environment

By Danish* and Daniel Uribe**

Introduction

The COVID-19 pandemic has disproportionately impacted the most fragile economies and vulnerable groups around the world, as they have been confronted with multiple economic, social and humanitarian crises, as well as the ‘triple-planetary crises’ which have hampered their recovery efforts. The pandemic and its associated prevention measures also triggered the first increase of extreme poverty in more than two decades¹, including multidimensional poverty, in particular that linked to learning and employment loss.² The situation has only worsened recently due to the current geopolitical tensions and severe climate change events, which have impacted the full enjoyment of human rights, in particular the right to health, education, housing, and access to land.³

The rise in global food insecurity has been particularly severe, with the United Nations (UN) Secretary-General stressing that, “More than a quarter of a billion people are now facing acute levels of hunger, and some are on the brink of starvation”⁴. This has been exacerbated by high levels of inflation, especially food price inflation, as between January and April 2023, the World Bank has shown “high inflation in most low- and middle-income countries, with inflation higher than 5% in 64.7% of low-income countries, 81.4% of lower-middle-income countries, and 84% of upper-middle-income countries and many experiencing double-digit inflation...”⁵.

Challenges linked to food insecurity, chronic malnutrition, and natural resource degradation faced by developing countries can be deemed an outcome of current global inequalities, both among and within countries. These challenges are being further exacerbated by unsupporta-

Abstract

In the face of the unprecedented global crises that the world is currently facing, upholding and fulfilling the human right to food and a clean, safe and healthy environment have become critically important. The Human Rights Council (HRC) adopted two important resolutions on these issues in its 52nd Session, held from 27 February to 04 April 2023. The present policy brief discusses the implications and scope of these resolutions to strengthen and advance fundamental human rights, building resilience and promoting the role of multilateralism as a tool to face the triple planetary crises and recover better from the impacts of the COVID-19 pandemic.

Dans un monde confronté à des crises sans précédent, le respect et la réalisation du droit à l'alimentation et à un environnement propre, sain et durable sont devenus un enjeu essentiel. Le Conseil des droits de l'homme a adopté deux résolutions importantes sur ces questions lors de sa 52^e session, qui s'est tenue du 27 février au 4 avril 2023. Le présent rapport sur les politiques examine la portée de ces résolutions et les mesures qu'elles proposent en vue de consolider et protéger les droits fondamentaux, de renforcer les capacités de résilience et de promouvoir le rôle du multilatéralisme en tant qu'outil permettant de faire face à la triple menace qui pèse actuellement sur la Planète et aux conséquences liées à la pandémie de COVID-19.

Ante las crisis mundiales sin precedentes que el mundo afronta en la actualidad, la defensa y la realización de los derechos humanos a la alimentación y a un medio ambiente limpio, seguro y saludable han cobrado una importancia fundamental. El Consejo de Derechos Humanos adoptó dos resoluciones de calado sobre estos temas en su 52.^o período de sesiones, celebrado del 27 de febrero al 4 de abril de 2023. En este informe sobre políticas se debaten las consecuencias y el ámbito de aplicación de estas resoluciones para fortalecer y promover los derechos humanos fundamentales, desarrollar la resiliencia y promover la función del multilateralismo como un instrumento que permita hacer frente a la triple crisis planetaria y favorezca la recuperación de los efectos de la pandemia de COVID-19.

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ble sovereign debt burdens. The multiple crises the developing world is currently facing have also highlighted the weaknesses in their social protection systems and the lack of adequate safety nets.

The impacts of climate change on the natural environment also continue to be keenly felt in many developing countries, whether manifesting as record-breaking heatwaves in South East Asia⁶, acute droughts in the Horn of Africa⁷, or wildfires in Latin America⁸, leading to more deaths and ever-increasing economic losses (see Figure 1). Climate change is thus deeply affecting the fundamental human rights of individuals and communities⁹, particularly those who have contributed the least to the problem.

In the face of such unprecedented global crises, upholding and fulfilling the human right to food and to a clean, safe and healthy environment have become critically important. Two important resolutions on these issues were passed by the Human Rights Council (HRC) in its 52nd Session, held from 27 February to 04 April 2023, which are discussed below.

1. The human right to a clean, healthy and sustainable environment

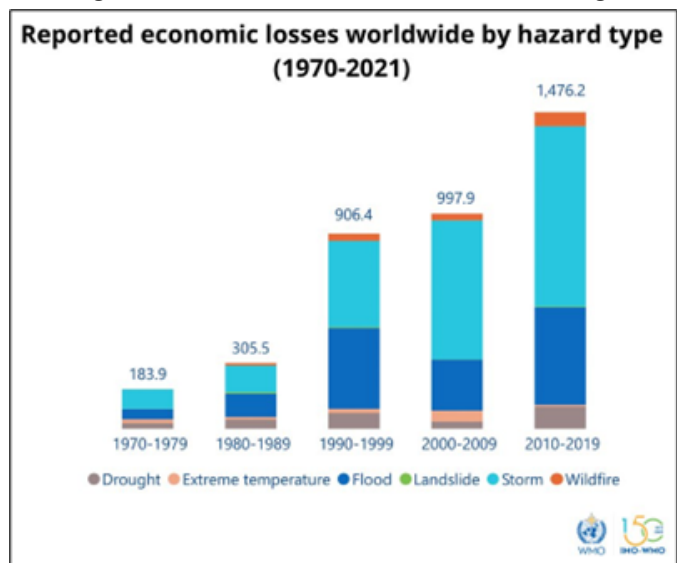
The international community has been seized with the importance of protecting the environment for several decades now, with the 1972 Stockholm Declaration recognizing that, “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being...”¹¹

The first human rights resolution (Resolution 48/13) in this regard was adopted by the Human Rights Council (HRC) on 8 October 2021, which formally recognized the human right to a clean, healthy and sustainable environment for the first time at the multilateral level. As emphasised by David Boyd, the UN Special Rapporteur on human rights and the environment, this resolution “should be a catalyst for universal recognition in constitutions, legislation and regional human rights treaties, as well as for accelerated action to address the global environmental crisis”¹².

The adoption of HRC Resolution 48/13 was followed by action at the UN General Assembly (UNGA), which adopted Resolution 76/300 on ‘The human right to a clean, healthy and sustainable environment’ on 28 July 2022¹³ with 161 Member States in favour, 8 abstentions and none against, thus giving universal recognition to this human right. Neither the HRC nor the UNGA resolutions are, however, legally binding on countries.

While introducing the UNGA draft resolution, the representative of Costa Rica noted that, “As such, the universal recognition of the human right to a clean, healthy and sustainable environment provides a powerful and effective response that could catalyze transformative changes in societies. The resolution will con-

Figure 1: Economic losses due to climate change



Source: WMO¹⁰

tribute to enhancing and integrating the United Nations response to the triple environmental crisis, as well as to support Member States more coherently and effectively in fulfilling their human rights obligations on environmental matters, and to scale up efforts to guarantee a clean, healthy and sustainable environment for all”¹⁴.

The UN Secretary-General welcomed the adoption of this resolution, underlining that, “This landmark development demonstrates that Member States can come together in our collective fight against the triple planetary crises of climate change, biodiversity loss, and pollution. The international community has given universal recognition to this right and brought us closer to making it a reality for all”¹⁵.

A second resolution on the human right to a clean, healthy and sustainable environment was adopted by the HRC on 4 April 2023¹⁶. It goes further than the resolution previously adopted during the 48th session of the HRC, as it calls upon States to undertake a number of actions, including *inter alia* to adopt and implement strong laws ensuring the rights to participation, to access to information and to justice and effective remedy in environmental matters; to facilitate public awareness and participation in environmental decision-making; and to have effective legal and institutional frameworks to prevent, reduce and remedy harm to biodiversity and ecosystems.

The resolution also encourages States to adopt integrated, intersecting and holistic national and local policies and an effective legal framework for the enjoyment of a clean, healthy and sustainable environment; build capacities to protect the environment; explore ways to incorporate information on human rights and the environment in school curricula, in order to teach current and future generations to act as agents of change, including by taking into account the traditional knowledge of indigenous peoples; seek to ensure that projects supported by environmental finance mechanisms respect all human rights; collect dis-

aggregated data on the effects of environmental harm, including the loss of biodiversity and the decline of ecosystem services; and strengthen efforts to protect biodiversity, including by updating and implementing their national biodiversity strategies and action plans; among various others.

Further, the resolution requests the Special Rapporteur on human rights and the environment, in collaboration with the Office of the High Commissioner on Human Rights (OHCHR), to convene an expert seminar on “the responsibility of business enterprises to respect the human right to a clean, healthy and sustainable environment, informed by the findings of the mandate holder” before the end of 2023.

2. The human right to food

The COVID-19 pandemic and its associated health measures, in addition to current global tensions, economic shocks and extreme climate events have posed significant pressure on food systems, risking food security and increasing malnutrition in almost every country¹⁷. The World Food Programme has stressed that, “The scale of the current global hunger and malnutrition crisis is enormous, with more than 345 million people facing high levels of food insecurity in 2023 – more than double the number in 2020. This constitutes a staggering rise of 200 million people compared to pre-COVID-19 pandemic levels. More than 900,000 people worldwide are fighting to survive in catastrophic hunger/one step away from famine”¹⁸.

In such circumstances, the human right to food assumes immense importance, particularly given that it has been recognized 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 nutritious food, or means for its procurement’¹⁹. The fulfilment of the right to food is also a core element for the achievement of Sustainable Development Goal (SDG) 2 on Zero Hunger by 2030.

In his recent report, the UN Special Rapporteur on the Right to Food, Michael Fakhri, noted that, “The right to food is unique within the International Covenant on Economic, Social and Cultural Rights because article 11(2) obliges States to enact specific programmes to eliminate hunger and fulfil the right to food. As a result, although the list is not exhaustive, the right to food comes with an international legal framework that guides States and people”²⁰.

Considering that “the meaning of the right to food is regularly advanced, in particular in times of crisis” and given “policy advancements connecting the right to food to agroecology and political advancements connecting it to food sovereignty”²¹, the Special Rapporteur on the right to food underscores the importance of updating “the meaning of the international legal framework on the right to food, taking into consideration these normative developments and contemporary understandings of how food should be adequate, availa-

ble and accessible”²².

In effect, the right to food requires a continuous analysis of the policies and means required to respond to structural and persistent factors that limit access to food production and impact the economic, social, and cultural rights of the most vulnerable. For example, structural discrimination and inequality might give rise to social conflicts with prolonged periods of rural population displacement. The lack of access to technology for small-scale farmers could also limit the modernization and improvement in productivity, thereby limiting sustainable farming practices and affecting their capacity to compete with the industrial production of food. In addition, the linkages between the right to food and the right to health may also be affected when pesticides are used for industrial agriculture.

Newer threats to the right to food are also emerging, especially as a result of industrial farming practices. For instance, the use of antimicrobials in food production increases the prevalence of resistance genes and mobile genetic elements in the environment²³ affecting nomadic pastoralism and distressing the food production chain.²⁴ The overuse of antimicrobials in humans, animals, food production and the environment has significant impacts on food production, which were also worsened during the pandemic²⁵.

The HRC Resolution 52/16 on the right to food, adopted on 3 April 2023, seeks to further advance this right by building upon the previous resolutions of the General Assembly, the HRC and the Commission on Human Rights on the subject, including the General Comments prepared by the Committee on Economic, Social and Cultural Rights on the right to food and on land and economic, social and cultural rights (ESC Rights). The resolution thus recalls the Universal Declaration of Human Rights, the Universal Declaration on the Eradication of Hunger and Malnutrition, the Millennium Development Goals and the SDGs, all of which touch upon elements of ending hunger and all forms of malnutrition, achieving food security and improved nutrition, and promoting sustainable agriculture.

The HRC Resolution further recalls the International Covenant on Economic, Social and Cultural Rights, which recognizes the fundamental right of every person to be free from hunger in Article 11. It underscores the role of international cooperation and solidarity for a coordinated and sustained effort to realize the right to food. Particular recognition has also been accorded to the “crisis resulting from the COVID-19 pandemic crisis [which] has exacerbated food insecurity, including through its devastating impact on the livelihoods of people, agriculture and food systems, value chains, food prices, food security and nutrition”. In this regard, the Resolution “expresses deep concern that owing to the crisis resulting from the COVID-19 pandemic, between 83 and 132 million more people have fallen into moderate or severe food insecurity”.

The HRC Resolution 52/16 also intersects with important UN instruments such as the UN Declaration on the Rights of Peasants and other people working in rural areas (UNDROP)²⁶ and the UN Declaration on the Rights of In-

Indigenous Peoples (UNDRIP) and their relationship with the right to food, as it “recognizes the importance of smallholder and family farmers and peasants in developing countries, including women, local and Indigenous communities, in ensuring food security and nutrition, reducing poverty and preserving ecosystems, and the need to assist their development”.

The right to food is explicitly included in Article 15 of UNDRIP, which provides that, “Peasants and other people working in rural areas have the right to adequate food and the fundamental right to be free from hunger.”²⁷ Similarly, “the contributions of peasants, smallholders, family farmers and other people working and living in rural areas in all regions of the world to development and in ensuring the right to food, food security and nutrition” and “the importance of traditional sustainable agricultural practices, *inter alia*, traditional seed supply systems, and access to locally adapted seeds, including for many Indigenous Peoples and local communities” are well-recognized in resolution 52/16. It is important to underscore that the contribution of peasants and other people in rural areas is crucial “in ensuring the right to adequate food and food security,”²⁸ as complying with their rights increases the opportunities for lowering the costs of nutritious food and promotes a more sustainable food supply chain.²⁹

Resolution 52/16 also mentions the role of South-South and Triangular Cooperation (SSTC) “in connection with food security and nutrition and the development of agricultural production for the full realization of the right to food”. Recent cooperation initiatives among developing countries show the importance of such a role regarding food security. For instance, India shipped 1.8 million tonnes of wheat to developing nations battling food crisis after the onset of the conflict in Ukraine³⁰. Vietnam has also extended its cooperation “with developing countries like Mozambique, Angola, Laos, Cambodia, Cuba and Haiti in various capacities as part of its SSTC initiatives in agriculture and related sectors. It has sent more than 400 agricultural experts to African countries under different SSTC projects on aquaculture and crop production”³¹. Improvement in agricultural production has also been a major component of SSTC, as shown by many examples in different regions³².

The referred HRC resolution also reaffirms the key role of North-South cooperation and stresses the need to increase official development assistance devoted to agriculture, both in real terms and as a share of total official development assistance, and further supports the provision of technical, technology transfer and capacity-building support to small- and medium-scale farmers in developing countries. This is especially relevant given the importance of transfer of environmentally sound technologies for climate change mitigation and adaptation³³.

3. The responsibility of corporations and foreign investors regarding human rights

Importantly, the role of corporations and foreign investors in relation to the fulfilment of the human right to food and the right to a clean, healthy and sustainable environment, has been highlighted in both of the aforementioned HRC resolutions.

For instance, Resolution 52/23 explicitly encourages States “to foster a responsible private business sector and to encourage corporate sustainability reporting while respecting the Guiding Principles on Business and Human Rights and environmental standards, in accordance with relevant international agreements”; and also considers a role for the Special Rapporteur on human rights and the environment in this regard, through the organization of the seminar mentioned above.

In parallel, the Resolution 52/16 on Right to Food stresses that “all States should make every effort to ensure that their international policies of a political and economic nature, including international trade agreements and tariff and non-tariff measures, do not have a negative impact on the right to food in other countries”; and “encourages the Special Rapporteur on the right to food to continue to take into account the links between human rights and trade policy perspectives, agriculture, food systems and global governance, and to cooperate with relevant international organizations to ensure that the international trade regime and the global economic architecture are geared to fulfilling the right to food”.

In his report on ‘Food systems and human rights’, Mr. Fakhri underscored the role of corporate power in the political economy of food, noting that “the world has been dominated by corporations in food systems that use wealth to generate more wealth, instead of using life to generate more life. The concentration of power through corporations on a global scale is symptomatic of an underlying political economic system that is defined by inequality (...) The problems of the world’s food system stem from the fact that the legal building blocks that create a market – contracts and property – have licensed investors to use corporations to financially benefit and violate people’s human rights”³⁴. In the context of seeds and farmers’ rights as well, Mr. Fakhri has highlighted that the “high concentration of corporate power allows a relatively small group to restrict people’s access to seeds, and to shape markets and innovation in a way that serves the ultimate goal of shareholder profit maximization and not the public good”³⁵.

Agroindustry and resource-intensive businesses have been responsible for increasing food prices and food shortages since the beginning of the century as large transactions between ‘host’ governments and corporations have transferred control over thousands of hectares of land to the latter, putting at risk food security, poverty alleviation, and sustainable livelihoods.³⁶ The effects of agroindustry are not limited to land ownership but have also impacted rural workers’ lives, as mass production is

detached from rural and local structures. This creates more speculative pressures on markets and agricultural products³⁷, thereby limiting potential growth and access to finance for small producers, and increasing land inequality.

There is an increasing recognition that the current international economic regime and its corporate actors are not fully aligned or amenable towards the fulfilment of fundamental human rights. Many developing countries have embarked on the process of reviewing their existing international economic agreements, including investment agreements with investor-State dispute settlement (ISDS) provisions, to ensure their compatibility with their national sustainable development objectives and international human rights obligations³⁸. Private actors must adopt a corporate culture based on respect for human rights and establish adequate measures for compliance with their human rights obligations, including the prevention, mitigation and remediation of human rights abuses and impacts.³⁹ The effective recognition and implementation of the right to development could provide a useful basis for developing public policies and international cooperation towards the full enjoyment of human rights and reducing poverty and inequalities⁴⁰.

Thus, there is an urgent need to accelerate the development of an international trade and investment regime that is fair, balanced, responsible and that contributes to the realization of human rights. The global economic rules and architecture must allow for economic growth while fulfilling fundamental human rights including the right to food and right to a clean, healthy and sustainable environment.

Conclusion and recommendations

The resolutions discussed above have sought to strengthen and advance fundamental human rights to build resilience and face the challenges arising from climate change and environmental degradation. They have also shown the role that multilateralism can play as a tool to face the triple planetary crises and recover better from the impacts of the COVID-19 pandemic.

Implementing the right to food and the right to a clean, healthy and sustainable environment requires a multidisciplinary approach that supports the improvement of living conditions and fulfilment of all human rights. The outcomes resulting from the work of the HRC may contribute to increase cooperation and coordination among States, private actors and local communities that must be further leveraged to support the transfer of technology, skills and knowledge for fostering resilience against external shocks and build back better for the future.

In order to be effective, these actions must be guided by the principles of transparency and the protection and respect for human rights. Collaboration with affected stakeholders at all levels of public decision making, paying particular attention to the participation of grass-

roots and vulnerable groups, could play a crucial role to help realize and fulfil the human right to food and the right to a clean, healthy and sustainable environment for all.

SSTC can also play a key role in this regard, through the exchange of relevant experiences, good practices and the provision of innovative solutions for tackling the unique challenges faced by developing and least developed countries in these areas. International cooperation, including through the supply of finance and technology is also necessary for articulating actions at the international, regional and domestic level for a comprehensive and coordinated response towards facing the current challenges and implementing the 2030 Agenda for Sustainable Development.

Endnotes:

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¹¹ Principle 1 of the Declaration of the United Nations Conference on the Human Environment, 1972

¹² The right to a clean, healthy, and sustainable environment: non-toxic environment, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/49/53, 12 January 2022.

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