

**Mandate of the Special Rapporteur on the right to food**

13 January 2021

Excellency,

It was a pleasure to talk with you and the Food Systems Summit Secretariat on 23 September 2020 and to attend the first Integrating Team Meeting on 5 November 2020. It was also a pleasure appearing with you at the Committee on World Food Security (CFS) High-Level Special Event on 15 October 2020 and the WTO Agriculture Symposium on 2 December 2020.

Thank you for inviting me to bring my expertise in human rights and international law to the newly formed Integrating Team. In the spirit of providing a preliminary vision for the Food Systems Summit, I am writing to share with you what I have learned from my duties as UN Special Rapporteur on the Right to Food, including my direct participation in debates and negotiations surrounding agroecology and other innovative approaches, food systems, and nutrition held at the CFS. I have copied a number of important stakeholders across different international institutions in order to share my vision and avoid silos. I invite you to share this letter with the Integrating Team.

As you may be aware, the Secretary-General presented his Call to Action for Human Rights to the UN Human Rights Council in February 2020, in which he called on all countries to “put human rights principles and mechanisms front and centre in the implementation of the Sustainable Development Goals – including by creating wide avenues for civil society participation”. The ultimate objective of the Food Systems Summit as the ‘People’s Summit’ should therefore be fulfilling all human rights for all, rather than primarily focusing on economic growth and food production or consumer habits. I appreciate that there is more space for a human rights-based approach to food systems in the Summit preparation since we last met. That space, however, remains very limited and I hope that it will continue to expand.

My overall concern is about the way the Food Systems Summit is so far organized that makes very little room for organizers and participants to discuss and promote the full spectrum of solutions to food insecurity. The Summit still appears to be heavily skewed in favor of one type of approach to food systems, namely market-based solutions. Ever since the 2008 food crisis, there remains a concern that depending on financiers and entrepreneurs to dominate food systems leads to more instability.

A human rights-based approach to food systems, however, puts people before profits. Human rights ensure that markets serve social needs and oblige States to provide people with adequate social protection. The challenge is not just about eliminating hunger and malnutrition. Our duty to ourselves and future generations is to change food systems in a way that ensures that everyone on the planet lives with dignity. There will be no real solutions if we focus on

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science and technology, profits and markets, without also addressing fundamental questions of equality, accountability, and governance.

As you encouraged me to provide solutions, allow me to present my observations, which I hope will be taken up by the Summit Secretariat and Integrating Team in their future work. I explore these topics further in my upcoming report to the Human Rights Council in March 2021 with a view to contributing to the important dialogue on the future of our food systems.

## **Action Tracks**

In order to reflect the Secretary-General's vision and respect international legal obligations, all Action Tracks must ensure that human rights are central to their analysis and output. I want to emphasize that while the right to food is key, all human rights are interconnected, interdependent and indivisible. In addition, human rights play a vital role in the successful achievement of the 2030 Agenda and to ensure that no one is left behind. Hence, the fundamental objective of the Summit to secure progress on the Sustainable Development Goals can only be achieved by paying particular attention to the realization of human rights for all.

I have provided my brief observations on the Discussion Starter Papers<sup>1</sup> for each Action Tracks in an Annex to this letter. After a preliminary analysis of the papers prepared to launch each Action Tracks' discussion, I was encouraged to see that Action Track 4 placed human rights at the centre of its discussion. Nonetheless, I note that while the paper of Action Track 1 included references to the right to food, it did not place it or human rights more generally at the core of the analysis. Whereas the papers of Action Tracks 2, 3, and 5 made no reference to human rights. Taken all together, this reflects an inconsistent and marginal presence of human rights at the Summit.

In this context, I encourage all Action Tracks to deploy further efforts ensuring the consideration of human rights in their work. Bearing in mind that they are the heart of the Summit, I would also invite each Action Track to prepare a report that provides a human rights analysis of food systems, relies on specific human rights laws and instruments, and outlines a particular plan for how human rights will play a central role at the Summit. Part of human rights work is public reporting: Action Track leaders should expect that I will share and comment on their reports during my presentation to the UN General Assembly in fall 2021, immediately before the Summit. They should also post their human rights reports on the Summit website by mid-May, allowing participants time to read the reports going into the pre-Summit event in late June. In addition, to synthesize the process, I would invite the Summit Secretariat to then prepare a public integrative human rights report capturing a systemic analysis some time before the Summit in October 2021. With this important endeavor, I also encourage all Action Track leaders to reach out to other Special Rapporteurs and Independent Experts, human rights academics, advocacy groups, trade unions, and social movements to inform their work.

## **Agroecology and Indigenous Knowledge**

When we spoke at the CFS High-Level Special Event, it clarified to me what we both shared: a recognition that all aspects of government and society should be paying attention to transforming food systems; an awareness that climate change is the biggest threat to our food systems; a commitment to science-based policy solutions; and a personal understanding of what is at stake since we both come from farming families in countries which have been ravaged by civil war. Where we need more clarity is how we understand the solutions.

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<sup>1</sup> <https://www.un.org/en/food-systems-summit/action-tracks>

Agroecology is currently absent from the Summit preparations. Agroecology starts with the question of power dynamics and frames the problem as an issue relating to access to knowledge, resources and control over the food system as underlying causes of food insecurity and malnutrition. Agroecology is a scientific discipline that includes experimental knowledge drawing from the work of ecologists. It also relies heavily on experiential knowledge, more commonly described as traditional knowledge. Its primary goal is to mimic ecological processes and biological interactions as much as possible in order to design production methods.

The Summit is currently dominated by a perspective commonly described as sustainable intensive agriculture or the New Green Revolution. Sustainable intensive agriculture recognizes the importance of responding to the social and ecological dimensions of food production but does so as part of an effort to reduce and eliminate intensive agriculture's harmful effects. Whereas agroecology is a practice committed to avoiding harmful effects all together. The reason that agroecology is sustainable in a way that fulfills people's human rights is because it creates a system in which notions of justice and equity inform all decisions at every level. Therefore, it must be a precondition of any food system that food producers enjoy secure access to and stable tenure of biodiverse land and natural resources.

Not only does the Summit preclude space for agroecology, it leaves out experiential/traditional knowledge that has the acute effect of excluding Indigenous peoples and their knowledge. As the Secretary-General recently noted:

Indigenous peoples make up less than 6 per cent of the world's population yet are stewards of 80 per cent of the world's biodiversity on land. Already, we know that nature managed by indigenous peoples is declining less rapidly than elsewhere. With indigenous peoples living on land that is among the most vulnerable to climate change and environmental degradation, it is time to heed their voices, reward their knowledge and respect their rights.<sup>2</sup>

I welcome the fact that the Food Systems Summit leadership has met with representatives from the Permanent Forum on Indigenous Issues and that there is some Indigenous representation in the Summit preparation process. I encourage everyone to continue meeting with and centering perspectives from Indigenous and rural communities, small scale farmers and civil society. I will continue to closely monitor what role Indigenous knowledge, and experiential/traditional knowledge more broadly, will play at the Summit.

Experiential/traditional knowledge and agroecology are core elements of international food policy today, as is reflected in the FAO's commitment to developing and promoting agroecology. At the World Intellectual Property Organization, negotiations are currently taking place on an international legal instrument on genetic resources through the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. Since at least 2011, the right to food has been firmly linked to agroecology. The Committee on World Food Security is currently in the midst of negotiating "Policy recommendations on agroecological and other innovative approaches". A number of countries are looking to transform their food systems on a national scale through agroecological methods.

## **Participation**

I was happy to learn that the CFS has been given a more prominent place at the Summit. Engaging the CFS in the Summit has the potential to enhance the Summit's status and increases the chances that the Summit will be a success. To include the CFS, one has to appreciate its

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<sup>2</sup> <https://unfccc.int/news/un-secretary-general-making-peace-with-nature-is-the-defining-task-of-the-21st-century>

form of international legal power – if States and multilateral processes provide the CFS the authority to act, the Civil Society and Indigenous People’s Mechanism (CSM) provides it with more legitimacy. Authority without legitimacy is simply repression.

I understand that the Private Sector Mechanism (PSM) has already found a place at the Summit, and that negotiations with the CSM are ongoing. The PSM essentially represents a business perspective and CSM represents people as rights-holders.

As conveyed during our discussions, I fully subscribe to the Secretary-General’s vision for the Food Systems Summit to be both a ‘People’s Summit’ and a ‘Solutions Summit’. People as rights-holders are entitled to be active participants and beneficiaries of the Summit’s outcomes.

Human rights not only entitle all people to free, active and meaningful participation in the decisions that affect them, but they also require that all public institutions empower people to exercise their voice in shaping policies. The right to collectively organize and the right to freedom of expression enable participation and ensure that decisions are made openly, transparently, and with accountability. In the end, people must have agency over the events and processes that determine their future.

According to the information I have received, there were concerns that the Summit did not ensure full and meaningful participation by civil society at the outset of preparation. Civil society also expressed their concerns in March 2020 in a letter signed by nearly 550 organizations to the Secretary-General (which I relayed to you in our first meeting), which remains unanswered. Amongst the issues, civil society was frustrated by the fact that the Summit Secretariat did not make any room for human rights. As you know, recently the CSM responded to their initial marginalization and the Summit’s lack of a human rights approach by putting out an open call to all movements, networks and organization concerned with food security to challenge the Summit.

In my conversations with different members of the Summit Secretariat, the repeated suggestion was that the CSM should voice their concerns through the Food System Summit Dialogues. Based on well established diplomatic and participation precedents, I do not think this is the right solution. Since the World Food Summit in 1996, the follow-up Summit in 2002, and with the restructuring of the CFS in 2010, civil society has always had an autonomous space in international food institutions and processes. This means that the CSM is built upon the knowledge and experience of almost 25 years in international food diplomacy. This has created a mature space for all facets of civil society to coordinate their diversity and work collectively to then dialogue with governments and other stakeholders. This has also meant that the CSM is already adept at working locally and globally, and in multiple languages.

As I mentioned in our discussions, the right to participate requires an environment that values and takes into account the work and contribution of all members of society, supports and encourages their engagement and ensures that they are empowered and equipped with the knowledge and capacity necessary to claim and exercise their rights. As I understood from a large number of civil society organizations, the Food Systems Summit Dialogues as currently structured do not provide an enabling environment and autonomous space for full and meaningful participation. Furthermore, I have received concerns about the lack of information on the Summit and ways to participate. This is partly because there was a delay in launching the dedicated portal of the Summit that would provide comprehensive, timely, user-friendly and multi-linguistic information on the ways and means to participate in the Summit. Even with the launch of the Food Systems Summit Dialogues website, that process as it stands today still

assumes that participants have reliable access to the internet and read mostly in English. David Nabarro, Special Advisor to the Summit Secretariat and organizer behind the Summit Dialogues, has reached out to me and I look forward to meeting with him and his team in the near future.

It is in that spirit, I would like to emphasize the importance that all of us involved with the United Nations ensure such avenues for participation in the decision-making process of the Food Systems Summit 2021, especially for people who are marginalized or are in vulnerable situations. I strongly believe that free, active and meaningful participation and space for collective action will ensure that the Summit's ultimate decision-making is more informed and sustainable, and the outcomes are more effective, accountable and transparent. This in turn will enhance the Summit's legitimacy.

This also includes respecting people's right to organize. Millions of people from around the world, from some of the world's most marginalized communities, have decided to unite and protest against the direction that the Summit is taking. Civil society does not have an obligation to participate in the Summit. If, however, the Summit leadership does not substantively and publicly respond to this global collective action, they risk losing legitimacy.

### **International Law and Global Multilateral Governance**

There seem to be a strong interest by the Summit Secretariat in multi-stakeholder partnerships that could help deliver food systems transformations that benefit people and nature, anchored in local contexts. Concerns have been raised that this may be seen as a replacement, or come at the expense of, the United Nation's strong commitment to global multilateralism and civil society participation.

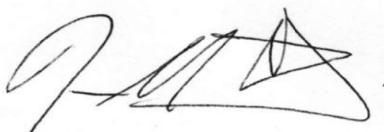
As we know, the Secretary-General's decision to convene this Summit was grounded in the objective that bold new actions to transform food systems are crucial for delivering progress on all Sustainable Development Goals (SDGs). The adoption of the 2030 Agenda for Sustainable Development in 2015 was a great feat of global multilateralism. You will agree that only through global multilateralism, which can bring together governments, the business sector, civil society and international institutions, can we collectively shift the world towards a sustainable and resilient path to ensuring the humanity is free from hunger and that no one is left behind. I hope the Summit will strengthen the multilateralist approach and bring the world's governments and peoples together toward common goals.

In light of the Summit's ambition, it is important to provide a prominent role for a number of international organizations. As COVID-19 has highlighted, if workers are sick no one eats. Therefore, the International Labour Organization should be granted a prominent role in leading COVID-19 related discussions and solutions. The ILO like the CFS brings both authority and legitimacy with its tripartite structure of States, unions, and employers. A high-level partnership with the Office of the United Nations High Commissioner for Human Rights would ensure that the Secretary-General's Call to Action is realized. No change can happen without investment, but the world's investment regime has been destabilized and is being fundamentally renegotiated in light of people's human rights demands; the UN Conference on Trade and Development has been the focal point of those debates and could bring its expertise to the Summit. With the different scientific perspectives and the emphasis on consumer behaviour and education, United Nations Educational, Scientific and Cultural Organization should be invited to share its perspectives with the Summit.

If the Summit's actions are grounded in a sound legal framework, this not only provides the authority and legitimacy to take bold actions, but it also increases the chances that real action is taken. In this regard, I offer my services to build and lead an independent Legal Bureau associated with the Summit. I understand that States are starting to contribute to the Summit's budget. As part of these pledges, if I am provided adequate resources, I can partner with leading international lawyers and universities around the world to provide legal briefs for all participants. These would be regularly published briefs intended for a non-specialist audience providing an action-oriented summary in all the legal fields necessary for food system transformation. This would include research in areas such as human rights, development, investment, trade, contracts, property, and environment. These briefs would provide all participants the framework they need to understand how food cuts across all aspects of life.

I remain available for further detailed discussions on the topics highlighted above and look forward to continuing to work with you and all the organizers and participants around the Summit.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'M. Fakhri', with a stylized flourish at the end.

Michael Fakhri  
Special Rapporteur on the right to food

**Cc: CFS Chair**  
**CFS Secretariat**  
**CFS HLPE**  
**CFS CSM**  
**CFS PSM**  
**FAO Food Systems**  
**FAO Right to Food**  
**FAO Agroecology**  
**IFAD**  
**WFP**

Encl./

## ANNEX A: REVIEW OF ACTION TRACKS

<https://www.un.org/en/food-systems-summit/action-tracks>

### **Action Track 1 – Ensure access to safe and nutritious food for all**

*Public Forum Summary Report (17 November 2020) and Discussion Starter (30 November 2020)*

The Discussion Starter identified a concern with violations of the right to food from the outset and highlighted that the burden of malnutrition and ill health often falls on those who are already the most vulnerable. But the document does not ensure that a human rights perspective more broadly is central to the analysis and proposed solutions.

A human rights perspective aims to empower the most marginalized and vulnerable, namely those with the most at stake. In food systems, this includes workers, small-holder producers/peasants, pastoralists, fisherfolk, Indigenous peoples, women, and youth. Most communities rely on them for food and this also the community of people which are most acutely struck by hunger.

What is unclear from Action Track 1 is who is the driver of change. Who sets the agenda and makes the decisions that determines the future of food systems? The Discussion Paper notes that, “Food systems need to present people with affordable safe food, made accessible and desirable in healthy dietary choices, and make it easy for them to make these choices.” Food systems, however, have no agency and are not subjects that act. Food systems represent a way of analyzing how food is made, shared and eaten. A human rights perspective would instead emphasize people’s power and entitlement to define for themselves what is good food, and that governments must ensure that food systems meet people’s cultural, nutritional, social, and ecological needs.

Further to that point, in Table 2, civil society is included but only as a lever of change serving a particular agenda. If we take civil society to be a self-organizing collective of rights holders, then they should contribute in equal part to set the agenda not serving it.

Following these points, two questions were asked at the Open Forum as to how human rights is to play a central role at the Summit. The answers from the Action Track leadership only provided a marginal role for human rights. The first question was about how “access” was defined and a concern that food is treated as a commodity and not a public good. In answering the questions, Action Track leaders framed access as a matter of “universal affordability”.

From a right to food perspective, access is about more than affordability. Access from a right to food perspective means that people should always be able to get a good meal, which may be accomplished through free school meals, fair markets or a social system ensuring that people have the time and resources necessary to cook at home and feed their communities. Food must also be physically accessible. This means that States must ensure that all food systems and institutions are universally inclusive. Regardless of a person’s physical abilities, state of health, legal status or housing condition, States must support everyone’s ability to get to a kitchen in order to obtain or make an adequate meal.

In fact, the focus on “trade-offs” in the Discussion Starter as a mode of decision-making, is also a very narrow, economic way of thinking. A “trade-off” analysis can be useful but it is unable

to provide a complete picture of all the competing values in play and resources at stake. A human rights analysis provides a normative framework that helps people manage resources according to their own contexts and priorities. This includes committing to the progressive realization of economic, social and cultural rights to the maximum of available resources and prohibiting retrogression in this regard.

The second human rights question asked was whether codifying the right to food in national food policies would be on the Food Systems Summit Agenda. The answer was that States will have to take up and push that agenda. The problem with that answer is that in the first year of Summit preparation, States were not been given an opportunity to play an active role in setting the agenda nor is there space at the Summit to address political commitments – this suggests the Summit will unlikely be an opportunity to enhance the right to food in food policies, unless States’ role in the preparation and participation at the Summit is enhanced.

## **Action Track 2 - Shift to sustainable consumption patterns**

*Discussion Starter (2 December 2020)*

There was no mention of any human rights in identifying problems and solutions. I invite this action track to address issues in terms of not only the right to food, but also the right to health and a right to a safe, clean, healthy and sustainable environment.

The problem of poor diets is framed as an issue caused by “shifting diets, population growth, lower levels of physical activity, and increasing household food waste.” This frames the problem as one resulting from individual choice. What is missing from the analysis is a systemic understanding of why food patterns are the way they are. This includes the power of large businesses and governments in shaping the food system in a way that encourages particular consumption patterns. The Discussion Starter focuses on “incentivizing markets and corporations to provide for healthy and sustainable diets” and using business-driven mechanisms to change consumer behavior.

Whereas a human-rights perspective is about ensuing markets operate fairly without large concentrations of power, holding businesses accountable, and ensuring that markets serve people’s cultural, nutritional and social needs. The issue of consumption must also include taking into account poverty, racism, and inequality. Moreover, a human rights perspective frames subjects as rights-holders and not just as consumers, capturing the complexity of how people and communities chose what to eat.

## **Action Track 3 – Boost nature-positive production**

*Discussion Starter (3 December 2020)*

There was no mention of any human rights in the analysis or solutions. I invite this Action Track to address issues in terms of not only the right to food, but the right to health and a right to a safe, clean, healthy and sustainable environment. Also, this is a track in which agroecology can play a central role in framing the issue.



## **Action Track 4 – Advance equitable livelihoods**

*Discussion Starter Paper (undated)*

This paper centers a human rights approach to framing problems and solutions. It has a broad understanding of access, an acute sense of changing power relations in the food system, and an emphasis on people's agency. This was only Action Track that identified the fact that irresponsible and inappropriate business and financial sector operations have been part of the problem. This Action Track is an opportunity to address the importance of unions in ensuring equitable livelihoods and people's right to organize. This is also an opportunity to address systemic racism in food systems, a point that is currently missing in the Summit preparation.

I encourage this Action Track to continue looking at current challenges through a human rights lens, explicitly reference human rights, and identify particular tools that can help people, governments, and businesses be more specific in their action-plans.

## **Action Track 5 - Build resilience to vulnerabilities, shocks and stress**

*Discussion Starter Paper (5 December 2020)*

This Action Track is not only relevant to the Food Systems Summit but also the upcoming 2021 United Nations Climate Change Conference in Glasgow (COP 26). This was the only Action Track to identify some other relevant initiatives and the importance of new relationships.

However, there was no mention of any human rights in the analysis or solutions. I invite this action track to address issues in terms of not only the right to food, but the right to health, right to water, and a right to a safe, clean, healthy and sustainable environment. This is also a track in which agroecology can play a central role in framing the issue.

A human rights approach to thinking about resiliency emphasizes people's dignity. In this track, the two questions at hand are: How can we ensure our food systems are resilient against climate change? How must we change our agricultural practices to mitigate greenhouse gas emissions? Those questions are not easily reconciled. Resiliency seeks to maintain stability in the face of change. Therefore, resiliency research addresses questions of how to measure and understand ecological stability and change. Climate change mitigation (and adaptation) research, however, emphasizes transforming agricultural practices and technologies.

Even so, resiliency, mitigation and adaptation can be brought together under human rights terms. The unifying question becomes: as nature and the enjoyment of human rights are closely linked, how can we ensure our food systems adapt to profound ecological changes in a way that maintains everyone's dignity? The emphasis on dignity anchors understandings of social and ecological resilience and stability in a people-centred approach to rapid transformation. This approach ensures that climate change adaptation and mitigation plans are inseparable from questions of equitable access to resources, social justice and agency. Climate change cannot be resolved through science and technology alone.