

## Use and Disuse of International Instruments for Food Justice\*

Joseph Schechla†

This presentation highlights the value, importance and urgency of implementing international instruments related to food justice. This message applies to all relevant human rights norms of law and good practice, but it comes at a moment of grave contradiction between those instruments and their actual use. Our common conceptual framework is provided by the Charter of the United Nations (UN), with its three main purposeful pillars: Human rights, peace and security, and forward/sustainable development. Grounding this foundation, the UN Treaty System, which sets out the binding obligations of states is both the bedrock and scaffolding holding this edifice upright, maintained with commitment in the form of global policies and other declaratory instruments.

### The Normative Framework

Three quarters of a century have passed since the adoption of the Universal Declaration of Human Rights, recognizing everyone's "right to a standard of living adequate for the health and well-being of himself and of his family, including food."<sup>1</sup> It was in December 1966, 57 years ago, the ICESCR guaranteeing adequate food and nutrition as a human right with corresponding state obligations.<sup>2</sup>

However, it was 25 years ago when the Committee on Economic, Social and Cultural Rights (CESCR) defined the normative content of that right, specifying those obligations of state in General Comment No. 12 on the right to adequate food.<sup>3</sup> Specific to the Rome-based agencies, the Guidelines on the Right to Food to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted already in 2004, incorporated much of that authoritative interpretation of state obligations under treaty.

Other soft law instruments have emerged since then as global policy instruments that remain operative across the international system until replaced by a new standard under periodic review. These include the Sustainable Development Goals such as Goal 2, promising a world free of hunger by 2030 the end to hunger.

The Guidelines on Responsible Governance of Tenure of Land, Forests and Fisheries in the Context of National Food Security (VGGT), in 2012, gave content to the commitment to equitable and sustainable access to, use of, and control over land and other productive resources.

The Tenure Guidelines led to FAO's development of training materials and curriculum to implement them in the field. Civil society partners also developed a popular manual to guide promotion, implementation, monitoring and evaluation.<sup>4</sup> The Tenure Guidelines also informed

---

\* Paper delivered at conference, "Food justice from a human rights perspective: challenges of reality and the future stakes," Doha, Qatar, 6–7 February 2024.

† The author is coordinator of Housing and Land rights Network – Habitat International Coalition, and Near East/North Africa facilitator of the International Planning Committee for Food Sovereignty, Cairo, Egypt.

the Institute for Advanced Sustainability Studies (IASS) to develop a Technical Guide on Commons on behalf of FAO.<sup>5</sup> That instrument presents 12 strategies for legal recognition and protection of the commons, for states' and right holders' implementation, and for the enjoyment of rights.

The Committee on World Food Security adopted the Framework for Action for Food Security and Nutrition in Protracted Crises (FFA) reiterates prohibitions and required actions in 2015. These covered situations of conflict, political or economic upheaval, and environmental disasters.

The co-chair of the negotiations (Elizabeth Kvitashvili) characterized the unique FFA contribution to the norms of policy and practice was by enshrining the concept of "resilience" (القدرة على المجابهة والتعافي) in a policy instrument. The concept of resilience may be a quality to be built into systems and structures, but is not necessarily appropriate to impose on individuals. This brings to mind the testimony of refugee Mary Maker in the Major Groups and Other Stakeholders Forum at the 2023 High-level Political Forum (HLPF). She emphasized that "we never wanted to be resilient." Rather, "We want to be free."<sup>6</sup>

The major contribution from the human rights perspective is its call for coherence of policy and practice to harmonize short-term emergency relief, longer-term and institution-building development approaches, within the over-arching framework of human rights and the duty to apply their preventive and remedial measures. It also explicitly merges binding obligations of the organs of state with the voluntary commitments of current global policies.<sup>7</sup>

Although some of these instruments are voluntary in name and nature, they are grounded in binding treaty law.

### **Implementation**

Civil society partners have been active to uphold and monitor these normative instruments as developed. In 2014–15, the International Planning Committee for Food Sovereignty (IPC) assessed the use of the R2F guidelines on the occasion of their tenth anniversary.<sup>8</sup> It found the Guidelines still to have a low profile in many countries.<sup>9</sup>

Despite the ensuing decade's rich choices of ongoing protracted crises in which to test their application, the FFA has not been used and is little remembered, as a recent CSIPM monitoring study has found. Three principal coordinating organizations – Arab Group for the Protection of Nature (APN)/Arab Network for Food Sovereignty (ANFS), FIAN International and Housing and Land Rights Network – Habitat International Coalition (HIC – HLRN) – supported CSIPM to report on a global assessment of FFA implementation.<sup>10</sup>

In all these reviews and assessments of the relevant instruments on food justice, common shortcomings and obstacles were found to impede their use. The hazards of not implementing the instruments, nor their constituent principles

FAO publications cite a unique application of the Tenure Guidelines through a EU-funded project in Sudan. However, civil society partners and other parties are interested in evaluative reporting and lessons learned from that application, which remain elusive.

Moreover, FAO's biennial regional conferences in the Near East/North Africa (NENA), corresponding policy deliberation since 2016 have seen the narrowing of gender principles, the abandonment of agro-ecology and the exceptional regional priority of water scarcity in the Arab states.

#### **Conclusions:**

In general terms, the various reflections on experience with the relevant food justice instruments found:

- Agreement on concepts, but not on processes and plans;
- Management factor
- Lack of coordination structures for implementation;
- Successful examples are largely unknown;
- Low level of awareness and advocacy;
- Shrinking space for civil society engagement;
- Funding shortage;
- The missing side of the triangle;
- Absent liability mechanisms;
- Lack of political will among (international, national and local) public servants;
- Gross violations of the human right to adequate food.<sup>11</sup>

Despite serious efforts, too little has been done to promote and disseminate the instruments among relevant policy makers, state institutions at all levels, including local and judicial authorities, civil society and other actors, and to build understanding about how these actors can/should apply the Guidelines in their full spirit.

The nonbinding nature of some instruments makes it difficult for CSOs and social movements to convince policy makers and implementers of their urgency and importance.<sup>12</sup>

We find a problem not of disusing these international instruments of varying levels of duty for UN bodies, officials and organs of member states. Also, **the flagrant violations of their content; i.e., the most-basic and legally uncontentious principles of operation.**

Food and starvation has been and continues to be used as a weapons in Syria, Palestine, including by population transfer, displacement and land-and-natural-resource dispossession across historic Palestine, the protracted occupation of Western Sahara, the conflict in Sudan and elsewhere.

The ongoing war on Gaza is one of the most horrific human rights violations in the modern era, which entered a new phase during the 2008 war. This has seen Israeli military monitoring and control over the caloric intake of Gaza's Palestinian population,<sup>13</sup> and military and colonial

settlers targeting Palestinian food production and food stores for 90 years.<sup>14</sup> This has accompanied an explicit Israeli military doctrine since 10 March 2048 to target homes, shelters and shelter seekers across Palestine and in the invasion and occupation of territories in Syria and Lebanon.<sup>15</sup>

In the domestic sphere of many countries, current policies, projects and initiatives risk aggravating conflicts and related abuses and violations; e.g., by facilitating the privatization of natural resources and large-scale land acquisitions.<sup>16</sup>

In the regional sphere, FAORNE has reneged on the program designed and negotiated with civil society partners since 2018 to pilot applications of the Tenure Guidelines in specific countries of our region. This effort was envisioned to learn lessons to be upstreamed nationally and regionally.

Since 2012, civil society has proposed a system of qualifying staff and officials of Rome-based UN organizations in the bureaus and in the field in those human rights norms, like staff and contractors are required to do for security in the field.

Despite what we often hear from officials of UN specialized agencies, they are not only technical actors. The added value of UN and multilateral bodies is their convening power and their norms. Otherwise, they blur their distinction from otherwise-interested private sector service providers.

Amid shrinking CSO engagement,<sup>17</sup> the current FAO Director-General (QU Dongyu) admonished civil society on 4 June 2023 not to invoke human rights. To explain his fractured vision of the otherwise intendedly unitary nature of the UN System, insisted that human rights have relevance only in Geneva, not in Rome. He also insisted that FAO forums are not for discussion of development policy; that belongs in the HLPF.<sup>18</sup> This forecloses consideration of the UN as the unitary system and the complementarity of the three pillars of the Charter and Organization, as well as human rights-based approaches and the policy coherence championed in the FFA. It also relegates the specialized agency to a role indistinct from the private sector and corporate interests.

The convening of the Stockholm+50 Conference in 2022 reminded us how long and slow is the process of establishing experience and evidence informed standards and norms of law and practice. For instance, despite some important progress in the domestic and regional spheres,<sup>19</sup> 50 years on, treatment of the crime of ecocide remains only a proposal to the Conference of Parties to the Rome Statute.<sup>20</sup> The transformation of such norms into practice is an even longer, if not unending, journey.

In the context of Israel's continuous Nakba and genocide in Palestine, the relevant norms and states practice come into high relief. With the current applications and cases before the International Court of Justice (ICJ) and International Criminal Court (ICC) in mind as well as the occasion of this year's Summit of the Future and Pact of the Future, the integrity of promises and institutions are put to the test.

**Needs:**

The various assessments and lived experience have identified several key recommended actions:

- **Spaces for policy dialogue and conducive policy cultures;**
- **Management of agencies as UN Charter-based organizations;**
- **Legal and policy frameworks related to tenure;**
- **Increase efforts and political will to protect and strengthen customary tenure rights and systems, including in the context of the implementation of the instruments;**
- **Prevent and prosecute violence against human rights defenders working on natural resources;**
- **End the criminalization of struggles to defend rightful land tenure;**
- **Develop and apply needed monitoring and evaluation methods and procedures;**
- **Accountability and prosecution violators of human rights and criminal law prohibitions related to food justice, including through the International Criminal Court;**
- **Remedy and reparations for affected populations.**

A horror has engulfed Palestine under a near-century of apartheid, population transfer and genocide, including by weaponizing food and starvation of civilian populations. Israel, the principal author of these crimes, has exposed the hypocrisy of the main authors of international laws and voluntary normative frameworks with their predatory foreign policies. This central injustice in our region has brought us well beyond the tipping point, where international law has lost legitimacy in many people's eyes, who see the lack of integrity on the part of politicians and diplomats manipulating norms to suit the interests of last century's Great Powers. International instruments like those supporting food justice risk losing their constituency in the Global South who rely on them as tools to halt deprivation, even mass starvation, employed to entrench these criminal systems.

As seen in popular demonstrations around the world, calling for ceasefire and fundamental change of the international system enabling such crime, we risk losing the constituency in the Global North as well. Reconciling the contradiction between the norms and practice remains a core challenge of great urgency at this moment.

## Endnotes:

- <sup>1</sup> United Nations General Assembly (UNGA), Universal Declaration of Human Rights, resolution 217A, 10 December 1948, article 25, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
- <sup>2</sup> UNGA, International Covenant on Economic, Social and Cultural Rights (ICESCR), resolution 2200A (XXI), 16 December 1966, article 11, <https://www.ohchr.org/sites/default/files/cescr.pdf>.
- <sup>3</sup> CESCR, General Comment No. 12: the right to adequate food (art. 11), E/C.12/1999/5, 12 May 1999, <https://documents.un.org/doc/undoc/gen/g99/420/12/pdf/g9942012.pdf?token=9CD647U4xoLidfXkIL&fe=true>.
- <sup>4</sup> *People's Manual on the Guidelines on Governance of Land, Fisheries and Forests: A guide for promotion, implementation, monitoring and evaluation* (Rome: IPC, 2016), <https://www.foodsovereignty.org/peoplesmanual111/>.
- <sup>5</sup> *Governing Tenure Rights to Commons A guide to support the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (Rome: FAO, 2016), <https://www.fao.org/3/i6381en/i6381en.pdf>.
- <sup>6</sup> "We Never Want to Be Resilient": Stakeholder Perspectives at SDGs' Mid-point," *Land Times/أحوال الأرض*, No. 29 (September 2023), <https://landtimes.landpedia.org/newsdes.php?id=qm1r&catid=pQ==&edition=pHE=>.
- <sup>7</sup> FFA, *op. cit.*, paras. 15–16.
- <sup>8</sup> *Synthesis Report on Civil Society experiences regarding the use and implementation of the Tenure Guidelines and the challenge of monitoring CFS decisions* (Rome: IPC, 2016), [https://www.foodsovereignty.org/wp-content/uploads/2021/06/CSM-Monitoring-Report-VGGT-final\\_EN.pdf](https://www.foodsovereignty.org/wp-content/uploads/2021/06/CSM-Monitoring-Report-VGGT-final_EN.pdf).
- <sup>9</sup> IPC, *Synthesis Report* (2016), *op. cit.*, p. 41.
- <sup>10</sup> Mariam Aljaajaa, Elle Ambler, Heather Elaydi, Ayushi K. and Joseph Schechla, *CSM Report on Monitoring the Use and Application of the CFS Framework for Action for Food Security and Nutrition in Protracted Crises (CFS-FFA) [FFA Report]* (Rome: CSM, 2021), [https://www.csm4cfs.org/wp-content/uploads/2021/02/EN-FFE\\_REPORT-2021.pdf](https://www.csm4cfs.org/wp-content/uploads/2021/02/EN-FFE_REPORT-2021.pdf).
- <sup>11</sup> CSM, *FFA Report* (2021), *op. cit.*, pp. 35–38.
- <sup>12</sup> IPC, *Synthesis Report* (2016), p. 41.
- <sup>13</sup> "Israel forced to release study on Gaza blockade," *BBC News* (17 October 2012), at: <https://www.bbc.com/news/world-middle-east-19975211>; Haaretz Exclusive 2,279 Calories per Person: How Israel Made Sure Gaza Didn't Starve State forced to release 'red lines' document," *Haaretz* (217 October 2002), at: <https://www.haaretz.com/.premium-israel-s-gaza-quota-2-279-calories-a-day-1.5193157>; Coordination of Government Activities in the Territories, "Food Consumption in the Gaza Strip – Red Lines," 1 January 2008, at: <https://www.haaretz.com/resources/Pdf/red-lines.pdf>.
- <sup>14</sup> Charles W. Anderson, "The Suppression of the Great Revolt and the Destruction of Everyday Life in Palestine," *Journal of Palestine Studies*, Vol. , Issue 79 (autumn 2019), <https://www.palestine-studies.org/en/node/1643031>; United Nations Office for the Coordination of Humanitarian Affairs (OCHA), "Unprotected: Israeli settler violence against Palestinian civilians and their property," December 2008, <https://www.un.org/unispa/document/auto-insert-196200/>; Debora Patta, "Killing of Palestinian farmer adds to growing concerns over settler violence in West Bank," *CBS Evening News* (3 November 2023), <https://www.cbsnews.com/news/israel-west-bank-palestinians-violence-settlers-tensions/>; Taylor Luck and Fatima AbdulKarim, "In West Bank, Palestinian farmers face settler attacks in war over land," *The Christian Science Monitor* (20 November 2023), <https://www.csmonitor.com/World/Middle-East/2023/1120/In-West-Bank-Palestinian-farmers-face-settler-attacks-in-war-over-land>.
- <sup>15</sup> *Targeting Homes, Shelters and Shelter Seekers during Operation Cast Lead in the Context of Israeli Military Practice* (Cairo: Housing and Land Rights Network – Habitat International Coalition, 2009), [http://mail.hlrn.org/img/publications/submission\\_excerpt.pdf](http://mail.hlrn.org/img/publications/submission_excerpt.pdf).
- <sup>16</sup> IPC, *Synthesis Report* (2016), p. 42.
- <sup>17</sup> FAO, "FAO Strategy for Partnerships with Civil Society Organizations," (2013), <https://www.fao.org/3/i3443e/i3443e.pdf>; FAO, "Follow-up report on the Evaluation of the FAO Strategy for Partnerships with Civil Society Organizations," PC 134/9, 134<sup>th</sup> session, 7–11 November 2022, <https://www.fao.org/3/nk105en/nk105en.pdf>.
- <sup>18</sup> "Shrinking FAO-CSO Engagement," *Land Times/أحوال الأرض*, No. 29 (September 2023), <https://landtimes.landpedia.org/newsdes.php?id=qm9m&catid=pQ==&edition=pHE=>.
- <sup>19</sup> *Counting Costs, Loss & Damage: Quantifying Impacts of Habitat-related Human Rights Violations amid Environmental Hazards and Climate-change* (Cairo: HIC-HLRN, 2023), pp. 2–3, .
- <sup>20</sup> "Stop Ecocide International, "Legal Definition of the Ecocide," June 2021, <https://www.stopecocide.earth/legal-definition>.

Field Code Changed