**Housing and Land Rights Network**



# Habitat International Coalition

**Input in response to the Special Rapporteur on the right to food’s call for input: Violence and the right to food**

21 November 2022

**Erasure, physical and mental harm**

Protracted conflict and economic deterioration in Yemen are worsening food insecurity and malnutrition as the world’s worst humanitarian crisis. Infrastructures and livelihood have suffered. Recently, around 17.4 million people experience high levels of acute food insecurity; 2.2 million children under five are severely malnourished; and about 1.3 million pregnant and lactating women suffer from acute malnutrition through 2022.[[1]](#endnote-1)

The agriculture sector, employing 60% of Yemeni households, is gravely affected, since 2016; 1.5 million family farmers lack access to inputs and urgently need emergency agricultural support. 860,000 of them lack animal feed and many livestock-dependent households have sold their herds to meet other needs.[[2]](#endnote-2)

Malnutrition has passed "emergency" thresholds in four food-producing governorates.[[3]](#endnote-3) The UN has called for conflict parties to end starvation of civilians; denying humanitarian access; continued attacks on civilians, crops, livestock and water supplies as war tactics.[[4]](#endnote-4) Conflict and hunger affect irregular workers, women, displaced persons and other marginalized groups most. The climate crisis also forces more families to abandon homes and farms amid absent government response to farmers' needs in the complex crisis.[[5]](#endnote-5)

Meanwhile, CSOs urge local and international duty holders to uphold binding human-rights and chartered peace-and-security obligations, and to implement the FFA.[[6]](#endnote-6) CSOs seek restorative justice, focusing on local communities and small-scale food producers as key actors in building peace and social stability[[7]](#endnote-7) not only to be “resilient,” but as subjects of sustainable development.[[8]](#endnote-8)

**Sanctions**

Economic sanctions have been used as much for enforcing international law (IL) as means of unilateral punitive action that may contravene IL, including human rights treaties and principles.

Examples of financial and trade sanctions could be applied against a particular state (or states), or even against subnational regions or groups within a state’s jurisdiction or territory of effective control, include occupying Powers in such cases as India’s land policies, movement restrictions and trade sanctions applied in Kashmir, or Israel’s various closures, revenue seizures, travel and food-transport bans, and blockades across occupied Palestine.

Vulnerable subject groups are often most affected.[[9]](#endnote-9) Therefore, sanctions must be strictly “targeted.” The UN Sub-Commission studied the practice and proffered a six-prong test to determine whether economic sanctions are ‘smart,’[[10]](#endnote-10)

**Good Government Practices**

Individually, states bear obligations to adhere to the general principles of international law applicable to them under Public International Law, including the Law of Nations, which governs states’ relations with each other, and with nations and peoples, as well as to other legal and natural persons. International Humanitarian Law (IHL), including the Law of War and the Law of Occupation, also establish individual state obligations, as all states in the UN System are *de jure* parties to the Four Geneva Conventions and must adhere to applicable general principles.

With specific regard to food security and nutrition in protracted crises, all states are required individually to respect, protect and fulfill the human right to food under customary law, while most states also bear related obligations individually under other relevant treaties, in particular the International Covenant on Economic, Social and Cultural Rights (1966). Pursuant to Article 11.2, states recognize that more-immediate and urgent steps may be needed to ensure “the fundamental right to freedom from hunger and malnutrition.”

These include minimum core obligations. Each state bears a core obligation to take the necessary action to mitigate and alleviate hunger as provided for in Article 11.2, even in times of natural or other disasters.[[11]](#endnote-11)

In this spirit, Brazilian local governments meet in 2012 and committed to responsible investment by avoiding contracting with parties that violate human right, in particular, by supporting or benefitting from occupation, or violating related IL prohibitions.[[12]](#endnote-12) In 2014, local governments meeting in Seville, Spain reiterated their pledge to fulfil that same *erga omnes* obligation.[[13]](#endnote-13)

*Confronting Unfair Trade Agreements*

In 2012, Toronto’s City Council voted for a permanent exemption from the Canada=European Union Comprehensive Economic and Trade Agreement (CETA), and requested the Province of Ontario to issue a permanent exemption and that it otherwise protect municipalities, hospitals, school boards, utilities, universities and other subfederal agencies to use public procurement, services and investment as tools to create local jobs and otherwise support local economic development. Over 70 municipalities requested similar exemptions.[[14]](#endnote-14)

In 2000 WTO agricultural trade negotiations, Mauritius rejected draft agreement terms for their potential harm to its farmers and agricultural sector, citing its prior obligations under ICESR.[[15]](#endnote-15)

**Endnotes**

1. The Integrated Food Security Phase Classification (IPC), “Yemen: Acute Food Insecurity Projection Update October - December 2022,” 16 November 2022,

   <https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_Yemen_Acute_Food_Insecurity_Projection_Update_2022Oct_Dec_Snapshot_En.pdf>. [↑](#endnote-ref-1)
2. *Ibid*; *see also “*As Yemen food crisis deteriorates, UN agencies appeal for urgent assistance to avert a catastrophe,” Joint FAO-UNICEF-WFP News Release, February 2017, <https://www.fao.org/news/story/en/item/470024/icode/> [↑](#endnote-ref-2)
3. Abyan, al-Hudaydah, Hadhramaut, and Ta`iz. [↑](#endnote-ref-3)
4. A/HRC/42/L.16, Human rights situation in Yemen, OHCHR, September 2019.at: <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G19/282/15/PDF/G1928215.pdf?OpenElement> [↑](#endnote-ref-4)
5. Yemen: Conflict and climate crises push farmers to the breaking point, ICRC news, 16 November 2022. at: <https://www.icrcnewsroom.org/story/en/2038/yemen-conflict-and-climate-crises-push-farmers-to-the-breaking-point> [↑](#endnote-ref-5)
6. Framework for Action for Food Security and Nutrition in Protracted Crisis (FFA), CFS 2015/42/4, 15 October 2015, <https://www.fao.org/fileadmin/templates/cfs/Docs1415/FFA/CFS_FFA_Final_Draft_Ver2_EN.pdf>, committing to integrating short-term and emergency aid with he longer-term and institution-building development approach within the overarching framework of human rights, with their combined preventive and remedial effects (paras, 15–16), while addressing land conflicts and land governance as root causes of political and social instability (paras. 3, 6, 8, 15, 20, 31). *See also* “CSM Report on Monitoring the use and application of the FFA” (Rome: Civil Society Mechanism for relations with CFS, February 2021), <https://www.csm4cfs.org/14260/>; Preliminary Statement of the CSM Advisory Group on the War in Ukraine and its implications for world food security, CSIPM, March 2022. at: <https://www.csm4cfs.org/impact-of-the-war-in-ukraine-on-world-food-security-preliminary-statement/>. See also Framework for Action for Food Security and Nutrition in Protracted Crises [↑](#endnote-ref-6)
7. For more details about this recommendations please check “the Counting on Justice: A Reckoning of Land Rights Violations and Their Consequences toward Reparations for Victims in Yemen”, Habitat International Coalition-Housing and Land Rights Network, October 2021.at: <http://www.hlrn.org/img/documents/Ex_Sum_EN_FINAL.pdf> [↑](#endnote-ref-7)
8. Under states’ obligations to ensure “progressive realization” of ESC rights and the “continuous improvement of living conditions,” ICESCR, articles 2.1 and 11, respectively. [↑](#endnote-ref-8)
9. United Nations General Assembly, Promotion and Protection of the Rights of Children: ‘Impact of armed conflict on children, Report of the expert of the Secretary-General, Ms. Graça Machel, submitted pursuant to General Assembly resolution 48/157, A/51/306, 26 August 1996, E. Sanctions, 1. Humanitarian exemptions p. 39, para. 128, <https://digitallibrary.un.org/record/223213?ln=en>; Inter-Agency Standing Committee Working Group (IASCWG). (2000). ‘Background Paper on Economic Sanctions and Human Rights,’ XLI Meeting, Geneva, 18–19 May 2000, p. 2, <https://interagencystandingcommittee.org/system/files/legacy_files/WG41_7.pdf>; Larry Minear, David Cortright, Julia Wagler, George A. Lopez and Thomas G. Weiss, ‘Toward More Humane and Effective Sanctions Management: Enhancing the Capacity of the United Nations System,’ Occasional Paper #31, The Thomas J. Watson Jr. Institute for International Studies Brown University (1998), p. vii, <https://sanctionsandsecurity.nd.edu/assets/110294/toward_more_humane_.pdf>. [↑](#endnote-ref-9)
10. United Nations Sub-Commission on the Promotion and Protection of Minorities. (2003), ‘The adverse consequences of economic sanctions on the enjoyment of human rights,’ Working paper prepared by Mr. Marc Bossuyt, E/CN.4/Sub.2/2000/33, 21 June 2000, pp. 11–12, paras. 41–47, at: <https://undocs.org/E/CN.4/Sub.2/2000/33>. [↑](#endnote-ref-10)
11. Committee on Economic, Social and Cultural Rights (CESCR), “General comment No. 12: The right to adequate food (art. 11)” (1999), para. 6, at: <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1999%2f5&Lang=en>. [↑](#endnote-ref-11)
12. “Local Authorities Forum - Free Palestine—in Brazil,” *Land Times/أحوال الأرض*, Issue 5 (January 2013), <http://landtimes.landpedia.org/newsdes.php?id=o2xp&catid=pQ==&edition=pw==>. [↑](#endnote-ref-12)
13. “The Olive Declaration” reads: “Local governments…commit to responsible investment by not contracting with parties and not twinning with cities that support or benefit from occupation, or violate related prohibitions under international law.” International Conference of Seville in Support of Palestinian Rights, organized by Fondo Andaluz de Municipios para la Solidaridad Internacional (FAMSI), United Cities and Local Government (UCLG) and the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP). (2014). ‘Olive Declaration,’ 2–3 December 2014, at: <http://www.hlrn.org/img/documents/olivedeclaration.pdf>. [↑](#endnote-ref-13)
14. Stuart Trew, “Win! Toronto City Council Seeks Exemption from Canada-EU Trade Deal,” *The Council of Canadians* (7 March 2012), <https://canadians.org/analysis/win-toronto-city-council-seeks-exemption-canada-eu-trade-deal/>; Toronto City Council, “Request to protect City of Toronto interests and existing powers in any trade agreement signed between the Government of Canada and the European Union - Motion MM14.14 referred by City Council on November 29, 2011,” 5 March 2012, <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX16.2/>; Food Policy Council, “ New Trade Deal May Put A Stop to Local Food,” *Food Secure Canada* (undated), <https://foodsecurecanada.org/content/new-trade-deal-may-put-stop-local-food>. *See also* “Report of the Special Rapporteur on the right to food, Olivier De Schutter: Mission to Canada,” A/HRC/22/50/Add.1, 24 December 2012, para. 16, <http://www.srfood.org/images/stories/pdf/officialreports/20121224_canadafinal_en.pdf>; “UN food envoy scolds Ottawa's anti-poverty efforts,” CBC News (3 March 2013), <http://www.cbc.ca/news/politics/story/2013/03/03/pol-cp-un-food-envoy-slaps-ottawa-on-scrapping-census-and-eu-trade-talks.html>; and Canadian Union of Public Employees, “Local governments feel impacts of international trade deals,” 27 May 2019, <https://cupe.ca/sites/cupe/files/trade_en_0.pdf>. [↑](#endnote-ref-14)
15. Mauritius asserted rather that “agriculture is not only restricted to the economic sphere, but that it should be called upon to fulfil the role devolved upon it by, inter alia, the International Covenant on Economic, Social and Cultural rights of 1966 and the 1996 FAO World Food summit.” Statement by Mauritius: European Communities proposal on Food Quality – Improvement of market access opportunities, G/AG/NG/W/52, 10 October 2000, <https://www.wto.org/english/tratop_e/agric_e/ngw52_e.doc> and copy on file. In any case, WTO rules in private international law remain subordinate to the prior obligations of state arising from public international law, including human rights, humanitarian law and peremptory norms, relevant to protracted crises. *See* Ian Brownlie, *Principles of Public International Law* (Oxford: Clarendon Press, fifth edition, 1998), p. 515; Theodore Meron, “On a Hierarchy of International Human Rights,” *American Journal of International Law*, No. 80 (1986), p. 14; “The situation in the Middle East,” A/37/123, 16 December 1982, para. 13, <https://undocs.org/en/A/RES/37/123>. The WTO regime does not impede this corrective trade measure. Tom Moerenhout, “The Obligation to Withhold from Trading in Order Not to Recognize and Assist Settlements and their Economic Activity in Occupied Territories,” *Journal of International Humanitarian Legal Studies*, Vol. 3, Issue 2, pp. 344–85 <http://booksandjournals.brillonline.com/content/journals/18781527/3/2>; also Security Council resolution 478 of 20 August 1980, <http://unscr.com/en/resolutions/478>. [↑](#endnote-ref-15)