May 1, 2021

**Human Rights and Environmental Impacts of the Global Food System:**

**Selected Examples and Explanations**

Erika George[[1]](#footnote-1)\*

Hannah Taub[[2]](#footnote-2)\*\*

We write to provide input to the UN Special Rapporteur on Human Rights and the Environment to inform the thematic report on “human rights and associated obligations related to the adverse environmental impacts of the global food system.” Our observations respond to questionnaire items 1, 7, and 11. While prepared with reference to conditions in the United States, we submit that the presence of similar challenges in other countries may make our comments relevant in other contexts.

**(1) Global Food System Practices Present Environmental Hazards that Place Human Rights at Risk**

Practices common to the industrial food production processes that support a significant portion of the world’s food supply result in environmental hazards that have adverse impacts on a range of internationally recognized fundamental human rights.[[3]](#footnote-3) Large scale monoculture, confined animal feeding operations (CAFOs), and the overuse of chemical pesticides and fertilizers, among other practices, can contribute to unsafe working conditions and create unhealthy environmental conditions for surrounding communities.[[4]](#footnote-4)

Workers on farms and in factories occupy an important place in the global food system, yet the human right to health for those who labor to ensure adequate food availability to the world’s population continues to be adversely impacted by heavy chemical pesticide and fertilizer use, animal agricultural waste exposure, and overcrowded working conditions.[[5]](#footnote-5) Hazardous chemical fertilizers and pesticides have been detected in the air communities breathe and the water communities drink placing the rights to food and water at risk.[[6]](#footnote-6) Chemical compounds and animal wastes in the runoff from industrial agricultural operations can contaminate water resources.[[7]](#footnote-7) These environmental risks can compromise the health rights of surrounding communities and make enjoying rest and leisure outdoor activities more difficult because of noxious odors from pollution.[[8]](#footnote-8) Moreover, minority communities disproportionately suffer the environmental harms associated with industrial agricultural food production implicating issues of equal protection and racial discrimination.[[9]](#footnote-9)

Crowded working conditions contributed to COVID outbreaks at US meatpacking facilities.[[10]](#footnote-10) When farm and factory workers do not receive adequate protection from COVID-19 in the workplace and suffer more severe disease symptoms due to pesticide exposure; their rights to life and the health are violated and the right to a safe, clean, healthy, and sustainable environment is implicated.[[11]](#footnote-11)

The largely immigrant workforce in large scale industrial meatpacking and agriculture has been left without safety nets when work shuts down, with little to no support from their employers, in violation of internationally recognized rights to a social safety net and to just conditions of employment.[[12]](#footnote-12) Migrant farm workers not only work in close proximity to one another, but also often live in packed temporary housing and have little to no access to health care placing their internationally recognized rights to health and safe labor conditions on equal terms with others at risk.[[13]](#footnote-13) Access to COVID-19 testing has been hard to come by for farmworkers. Farmworkers in Florida only gained access to testing after capturing public attention by circulating an online petition.[[14]](#footnote-14)

A global food system that creates environmental hazards and places human rights at risk is not sustainable.

**(7) More Robust Rights-Based Approaches are Needed to Protect Indigenous Food Sources and to Promote Food Security**

Governments should protect and promote the right to food.[[15]](#footnote-15) In terms of protecting Indigenous food systems using a rights-based approach in the US, there is much work to be done. International treaties, while helpful, fall short in upholding of Indigenous decision-making power over their lands, particularly where the government does not treat international human rights instruments as self-executing. Existing domestic rights-based frameworks have proved insufficient to guarantee Indigenous peoples full exercise of sovereignty in their subsistence practices as recognized in international instruments because of government policies that have “checker-boarded” tribal lands across different governing entities giving rise to complicated jurisdictional challenges.[[16]](#footnote-16)

The *La Via Campesina* movement defines “food sovereignty” as “the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems” and many Indigenous peoples’ have been closely aligned with this movement.[[17]](#footnote-17) Indigenous peoples’ rights and the human right to food are interdependent and indivisible.[[18]](#footnote-18) The UN Economic and Social Council Permanent Forum on Indigenous Issues has highlighted the connections between Indigenous peoples’ control of resources on their lands and their right to food being upheld.[[19]](#footnote-19) The Utah Diné Bikéyah are connecting cultural knowledge with land preservation through their Bears Ears Indigenous Food Movement in order to revitalize traditional indigenous food sourced from lands managed by a consortium of five sovereign tribal nations.[[20]](#footnote-20)

Studies on the impact of the global food system on Indigenous peoples’ have revealed health disparities in Indigenous communities.[[21]](#footnote-21) Issues of inequality remain highly relevant as food insecurity among Indigenous Peoples’ and other racial minorities has been compounded by COVID-19.[[22]](#footnote-22) Recent studies have found links between food insecurity and a lack of food sovereignty and access to traditional food sources for Indigenous communities; California where tribal members have to compete with the wider public for hunting permits and are limited by state restrictions on fishing salmon, a staple resource for the Karuk people offers an example of risk to food security.[[23]](#footnote-23)

It will be important to conceptualize human rights and environmental rights in a manner consistent with promoting equity, protecting respect for sovereignty, and fulfilling food security.

**(11)Responsible Business Practices are Required to Promote a Healthy and Sustainable Global Food System**

Because agribusiness drives industrial food production, it has an important role to play in the realization of the human right to food and the enjoyment of a safe, clean, healthy and sustainable environment.[[24]](#footnote-24) Subsidized by government, agribusinesses have increased food production and introduced new technologies to improve efficiency making more food available to more people.[[25]](#footnote-25) Agribusinesses have also been implicated in a range of human rights violations.[[26]](#footnote-26) Global integration of food supply chains and the growth of biotechnology point to the importance of new sources of influence and regulatory authority.[[27]](#footnote-27)

Business enterprises must respect human rights by avoiding abuses by conducing impact assessments to assess risks to rights and by addressing adverse impacts involving their business policies, practices, or partnerships.[[28]](#footnote-28) Due to consumer and investor demand, more major multinational food corporations now report on human rights and environmental issues.[[29]](#footnote-29) Reports from Nestle,[[30]](#footnote-30) Coca-Cola,[[31]](#footnote-31) and PepsiCo[[32]](#footnote-32) address water use. Our comparative analysis of corporate sustainability reporting from these firms found that only PepsiCo made express reference to recognizing “the human right to water” as a core component of supporting long-term sustainable water security for all.

 A global food system in which agribusinesses acknowledge the existence of the human right to water and accept responsibility for reducing risks to human rights presented by particular business practices could be more sustainable.

\*\*\*

We urge the Special Rapporteur to examine the substantive rights and responsibilities related to realizing a healthy and sustainable global food system with particular emphasis on addressing issues of inequality and including the voices of workers in food production processes. We encourage the Special Rapporteur to explore environmental personhood to protect natural resources.

1. \* Samuel D. Thurman Professor of Law, University of Utah S.J. Quinney College of Law, Director Tanner Humanities Center. [↑](#footnote-ref-1)
2. \*\* Tanner Humanities Center, Environmental Humanities Research Fellow. [↑](#footnote-ref-2)
3. *See generally,* Universal Declaration of Human Rights (UDHR); International Covenant on Civil and Political Rights (ICCPR); International Covenant on Social, Economic and Cultural Rights (ICESCR); International Convention on the Elimination of All Forms of Racial Discrimination (CERD); *see also,* Charlotte E. Blattner & Odile Ammann, *Agricultural Exceptionalism and Industrial Animal Food Production: Exploring the Human Rights Nexus*, 15 J. Food L. & Pol’y 92, 99 (2019). [↑](#footnote-ref-3)
4. *See e.g.,* Hidden Costs of Industrial Agriculture, Union of Concerned Scientists (2008). [↑](#footnote-ref-4)
5. *See, e.g.,* Human Rights Watch, Blood, Sweat and Fear: Workers’ Rights in US Meat and Poultry Plants (2004); Human Rights Watch, On the Margins of Profit: Rights at Risk in the Global Economy (2008); Farmworker Justice, Exposed and Ignored: How Pesticides are Endangering Our Nation’s Farmworkers (2013) <http://www.farmworkerjustice.org/wp-content/uploads/2012/05/aExposed-and-Ignored-by-Farmworker-Justice-singles-compressed.pdf> [↑](#footnote-ref-5)
6. *See, e.g.,* Alex Sauerwein, *The Shortcomings of Regulating Pesticides Internationally and How Disadvantaged Communities Pay the Price*, 25 Hastings Envtl. L. J. 319 (2019)(Note); Daniel L. Moeller, *Superfund, Pesticide Regulation, and Spray Drift: Rethinking the Federal Pesticide Regulatory Framework to Provide Alternative Remedies for Pesticide Damage*, 104 Iowa L. Rev. 1523 (2019)(Note); *see also*, UDHR Art. 25(1), ICESCR Art. 11(1)(Right to Food, Water, Sanitation). [↑](#footnote-ref-6)
7. Heather Kathryn Ross, Righting Civil Wrongs, Earthjustice (Oct. 30, 2015). [↑](#footnote-ref-7)
8. *Id.; see also*, UDHR Art. 25(1), ICESCR Art. 12 (Right to Health); UDHR Art. 24 (Right to Rest and Leisure). [↑](#footnote-ref-8)
9. *See e.g.,* Robert D. Bullard, Dumping in Dixie: Race, Class and Environmental Quality (2000); Morgan Drake, *Big Agriculture and Harm to Minority Communities: How Administrative Civil Rights Complaints are the Solution*, 2019 BYU L. Rev. 1083 (2019)(Comment); Christine Ball-Blakely, *CAFOs: Plaguing North Carolina Communities of Color*, 18 Sustainable Dev. L. & Pol’y 4 (2017); *see also* CERD Art. 2(c); Art. 5(e)(iii)(iv)(vi)(Rights to Housing, Health, Equal Participation). [↑](#footnote-ref-9)
10. *See*, *Transmission of SARS-CoV-2: implications for infection prevention precautions Scientific brief*

World Health Organization (July 9, 2020); Danica Jorden, *COVID-19 sweeping through US immigrant farmworker and meatpacker ranks,* Open Democracy (Apr. 23, 2020, 9:29 AM),

<https://www.business-humanrights.org/en/latest-news/usa-covid-19-exposes-serious-labour-rights-violations-amongst-immigrant-agricultural-workers/>. [↑](#footnote-ref-10)
11. Wali Muhammad et al., *LINKING PESTICIDE EXPOSURE WITH COVID-19 AMONG AGRICULTURAL PROFESSIONALS IN PERSPECTIVES OF IMMUNITY AND SAFETY: A REVIEW*, 4 Plant Protection 97 (2020); Ronald Kostoff et al.,*The under-reported role of toxic substance exposures in the COVID-19 pandemic*, 145 Food and Chemical Toxicology 1 (2020); *see also*, UDHR Art. 3, ICCPR, Art. 6 (Right to Life). [↑](#footnote-ref-11)
12. *See* UDHR Art. 22 (Right to Social Security); UDHR Art. 23 (Right to Just Working Conditions); *see also*, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) Art. 25(1)(a)(Right to Equal Treatment in Conditions of Work). [↑](#footnote-ref-12)
13. Greg Asbed, *What Happens if America’s 2.5 Million Farmworkers Get Sick?,* N.Y. Times, Apr. 3, 2020, at <https://www.nytimes.com/2020/04/03/opinion/coronavirus-farm-workers.html>. [↑](#footnote-ref-13)
14. Rob Manch, *Weeks after creating an online petition, workers in Immokalee are finally getting COVID-19 testing*, FOX 4 (Apr. 29, 2020, 8:58 PM) <https://www.business-humanrights.org/en/latest-news/usa-imokalee-farm-workers-to-receive-covid-19-testing-following-online-petition/>. [↑](#footnote-ref-14)
15. UDHR Art. 25(1), ICESCR Art. 11(1)(Right to Food); see also, . [↑](#footnote-ref-15)
16. Sequoia L. Butler, *"I Am the River, the River Is Me": How Environmental Personhood Can Protect Tribal Food Systems,* 38 Wis. Int'l L.J. 79, 85 (2020)(Note); *see also*, The UN Declaration on the Rights of Indigenous Peoples (2007). [↑](#footnote-ref-16)
17. Andrew D. Jones et al., *Assessing the Potential and Limitations of Leveraging Food Sovereignty to Improve Human Health*, 3 Front. Public Health 1 (2015). [↑](#footnote-ref-17)
18. Food and Agriculture Organization of the United Nations & Centre for Indigenous Peoples’ Nutrition and Environment, Indigenous Peoples’ food systems & well-being interventions & policies for healthy communities (Harriet V. Kuhnlein et al. eds., 2013). [↑](#footnote-ref-18)
19. Press Release, United Nations, Indigenous Peoples' Right to Food Crucially Dependent on Control of Resources in Land, Territories They Inhabit, Permanent Forum Told (May 14, 2012), <https://www.un.org/press/en/2012/hr5092.doc.htm>. [↑](#footnote-ref-19)
20. Revitalizing our Indigenous Food Heritage for a Stronger and Healthier Future, Utah Diné Bikéyah (2017) <https://utahdinebikeyah.org/traditional-foods-program/>; Allison M. Dussias, *Spirit Food and Sovereignty: Pathways for Protecting Indigenous Peoples’ Subsistence Rights*, 58 Clev. St. L. Rev. 273 (2010) [↑](#footnote-ref-20)
21. Jennifer Browne et al., *Effects of food policy actions on Indigenous Peoples’ nutrition-related outcomes: a systematic review*, 5 BMJ Global Health 1 (2020). [↑](#footnote-ref-21)
22. Angela D’Elia Decembrini, *Indigenous Food Sovereignty and COVID-19,* First Peoples Law Blog (Aug. 26, 2020), <https://www.firstpeopleslaw.com/public-education/blog/indigenous-food-sovereignty-and-covid-19>. [↑](#footnote-ref-22)
23. Andi Murphy, *Indigenous Food Security is Dependent on Food Sovereignty,* Civil Eats (July 24, 2019),

<https://civileats.com/2019/07/24/indigenous-food-security-is-dependent-on-food-sovereignty/>. [↑](#footnote-ref-23)
24. See, Olivier De Schutter, What is the Role of Agribusiness in the Realization of the Right to Food? (2010) <http://www.srfood.org/en/agribusiness>; Stephanie Tai, *The Rise of US Food Sustainability Litigation*, 85 S. Cal. L. Rev. 1069 (2012); Margot J. Pollans, *Farming and Eating*, 13 J. Food L. & Pol’y 99 (2017); Smita Narula, *The Right to Food: Holding Global Actors Accountable Under International Law*, 44 Colum. J. Transnat’l L. 691(2006); Corporate Power in Global Agrifood Governance, Jennifer Clapp & Doris Fuchs (eds.)(2009). [↑](#footnote-ref-24)
25. Ying Chen, *Improving Sustainability and Promoting the Right to Holistic Food: The Role of Agribusiness*, 31 Fla. J. Int’l L. 143,152-53 (2019); *but see*, Raj Patel, *How Society Subsidizes Big Food and Poor Health*, 176 JAMA Internal Medicine 1132 (2016); Raj Patel, Stuffed & Starved: The Hidden Battle for the World Food System, (2d ed. 2012). [↑](#footnote-ref-25)
26. *See, e.g*., Erika George, *Child Labor in African Agriculture and the Challenge of Changing Practices in the Cocoa Industry* 21 U. C. Davis J. Int’l L & Pol’y 59 (2014). [↑](#footnote-ref-26)
27. *See, e.g.,* Matthew Canfield, Amy J. Cohen & Michael Fakhri, *Agriculture, Law and the State* in Routledge Handbook on Law and Society (forthcoming); Erika George, Incorporating Rights: Strategies to Advance Corporate Accountability(Oxford University Press, 2021 forthcoming). [↑](#footnote-ref-27)
28. United Nations Guiding Principles on Business and Human Rights (2011). [↑](#footnote-ref-28)
29. Erika George, *Transformation Through Transparency: Human Rights and Corporate Responsibilities*

*in the Global Food System*, in Power, Participation, and Private Regulatory Initiatives: Human Rights Under Supply Chain Capitalism (Daniel Brinks, Julia Dehm, Karen Engle, and Kate Taylor eds.) (University of Pennsylvania Press, 2021 forthcoming). [↑](#footnote-ref-29)
30. *Respecting Human Rights,* Nestle, <https://www.nestle.com/csv/impact/respecting-human-rights>. [↑](#footnote-ref-30)
31. Business and Environmental, Social and Governance Report (The Coca-Cola Company eds., 2020) [↑](#footnote-ref-31)
32. *2019 Sustainability Report: Focus Areas – People,* PepsiCo, <https://www.pepsico.com/sustainability/focus-areas/people>; Our Commitment to Human Rights: Pepsico, Inc. Human Rights Report 2019 (Pepsico Inc. eds., 2020), *see also*, Sharmila Murthy, *The Human Right(s) to Water and Sanitation: History, Meaning and the Controversy Over Privatization*, 31 Berkeley J. Int’l L. 89 (2013). [↑](#footnote-ref-32)