

# WHO'S TIPPING THE SCALES?

The growing influence of corporations  
on the governance of food systems,  
and how to counter it



# WHO'S TIPPING THE SCALES?

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## **Global Governance**

This report is part of a short briefing notes series on global governance and corporate capture, building the case for more transformative and inclusive food system governance.

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# KEY MESSAGES

Amid an ongoing food price crisis, climate change, and worsening hunger and malnutrition, it is vital to tackle the power imbalances in the institutions, policies, regulations, and norms that affect decision-making about our food systems. This briefing note provides a historical overview of corporate influence on food system governance, takes stock of the new ways in which decision-making processes are being captured, and identifies a path forward to democratic governance and corporate accountability. It finds:

- **Corporate influence over food system governance has become the new normal:** the 2021 UN Food Systems Summit exposed the ability of multinational agri-food corporations to influence food system decision-making and dominate seemingly inclusive 'multi-stakeholder' processes.
- The power of giant agribusiness firms was already a matter of concern over a century ago. Attempts have been made to rein them in through anti-trust policies, lobbying registers, and even a UN Code of Conduct on Transnational Corporations. But these efforts were ultimately inadequate, and the power of leading agri-food corporations to set the agenda has only grown.
- Over recent decades, **corporations have succeeded in convincing governments that they must be central in any discussion on the future of food systems.** Public-private partnerships and 'multi-stakeholder' roundtables (e.g., on 'responsible soy', or 'sustainable palm oil') have normalized a prominent role for corporations and given them an inside track to decision-making. Public governance initiatives have also become reliant on private funding.
- Behind the scenes, leading corporations have consolidated their grip by ensuring an industry-friendly regulatory environment (via lobbying and 'revolving door' approaches), shaping trade and investment agreements, putting up barriers to competition, sponsoring research, and making political donations.
- **Without effective action to address the new normal of corporate-captured governance, food systems will be increasingly shaped by private interests** – at a time of unprecedented threats to food security and the right to food, when it is clear that public interest should be center stage.
- Renewed efforts are underway to rein in corporate influence, including the recent adoption of UN Guiding Principles on Business and Human Rights, and work to develop a binding UN Treaty on Transnational Corporations and Human Rights. But these actions are incomplete, insufficient, and stifled by the ability of powerful governments and corporations to block meaningful change.
- **To meet the needs of those impacted by worsening hunger and malnutrition, it will be necessary to address the influence of corporations at all levels,** including through a UN-wide Corporate Accountability Framework and robust conflict of interest policies, taking inspiration from World Health Organization frameworks for tobacco control and engagement with non-state actors.
- It is also critical to move beyond 'damage control'. **We must democratize existing processes, and create new autonomous governance spaces,** building on inspiring examples emerging around the world – from Nyéléni and the World Forum of Fisher Peoples, to local food policy councils and citizen juries. Only by securing bold structural changes can we heed the voices of the people and communities most affected by hunger and ecological harm, hold transnational corporations accountable, and build the sustainable food systems of the future.



Credit: Mokhammad Edliadi - CIFOR

# INTRODUCTION

The Covid-19 pandemic and the war in Ukraine have laid bare the massive challenges facing global food systems. Meeting the needs of those impacted by the worsening situation of hunger and malnutrition demands tackling existing power imbalances in global food systems governance (i.e., the institutions, policies, laws, regulations, customs, assumptions, and other influences that affect decision-making about food systems).<sup>1</sup> These have become especially pronounced in recent decades, with the rise in corporate engagement in global agri-food governance processes.

The 2021 UN Food Systems Summit (UNFSS) was a watershed moment in drawing attention to corporate influence over public food governance. The embrace of corporate participation by the UNFSS leadership

enabled agribusiness firms to claim that they had a rightful place in public-interest based decision-making. Many civil society organizations, social movements, and food system scholars were deeply troubled by what they considered to be the corporate capture of global food governance that could undermine the public good, as well as the rights of people and communities to engage with food systems decision-making and decision-makers on their own terms. Many boycotted the summit. Corporate engagement in global food governance is not a new phenomenon by any means. Yet, the extent to which corporate actors influenced this event is noteworthy and continues to raise concerns about the future direction of global food governance and the role of corporations within it.



This Briefing Note examines the implications of the growing influence of large agribusiness corporations on the international governance of food systems and proposed measures to address it. Specifically, it asks:

1. In what ways do corporations influence global food governance?
2. What are the key concerns about their engagement?
3. What measures are being taken to rein in corporate influence in global food governance and are they sufficient to address concerns?
4. What are additional ways to address concerns?

These topics are investigated through a literature review, analysis of documents, and interviews with civil society actors working in global food governance spaces. The research shows that corporations have long had influence over international food governance, and their involvement has manifested in multiple ways, both visible and less visible:

- Corporate capture of global food governance is increasingly taking place in more visible ways, with a multiplying presence of firms in governance processes and spaces (e.g., through public-private partnerships such as the Global Alliance for Improved Nutrition, the Scaling Up Nutrition Movement, the Food and Land Use Coalition, and multi-stakeholder initiatives<sup>1</sup> such as the UNFSS), staking growing claims to be legitimate actors in these spaces.
- Additionally, there are broader and often less visible ways in which corporate actors influence global food governance – i.e., through lobbying behind the scenes, political and institutional donations, market power, shaping trade, and investment rules, shaping research and innovation, as well as influencing other structural aspects of global food systems.

The growing influence of corporate actors in food governance raises important concerns that matter for the public good. First, it can undermine principles of inclusivity, fairness, and transparency in governance processes. Second, it can lead to weak and ineffective outcomes of governance initiatives. And third, it can result in a lack of corporate accountability, especially

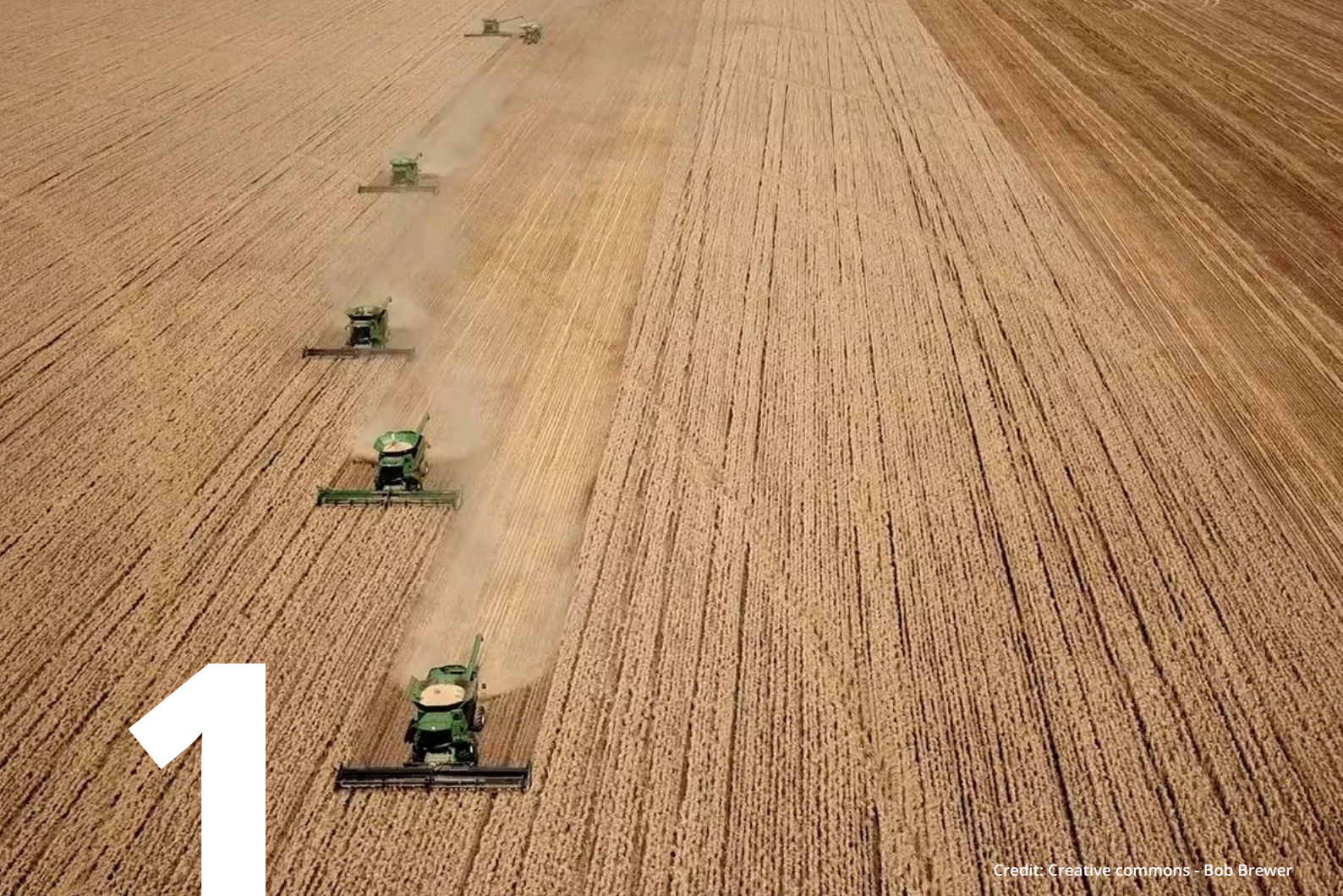
to those who are most affected by the actions of large and powerful corporations, and the impacts of the industrial food system on people and the planet.

This brief outlines the ways in which existing initiatives have made important contributions toward addressing some of the most egregious impacts of corporate power, and as such are worthwhile steps toward more significant change. Yet while important, these proposals typically seek to improve power dynamics within existing arrangements rather than question or transform the structures of power themselves. Broader and deeper changes are needed.

A bold, structural vision to counter the corporate takeover of food-related global governance – one that supports central roles for people, governments, and democratic, public-interest-based decision-making – is urgently needed. Such a vision would include democratizing existing governance spaces and creating new ones free from corporate influence, to ensure accountability and amplify the voices of people and communities who have and will be most affected by hunger, malnutrition, and ecological harm.

**“A bold, structural vision to counter the corporate takeover of food-related global governance – one that supports central roles for people, governments, and democratic, public-interest-based decision-making – is urgently needed.”**

<sup>1</sup> Multi-stakeholder initiatives are “initiatives that bring together a variety of actors (‘stakeholders’) that are identified as having a stake, (i.e., interest) in a certain issue, and should therefore play a role in addressing it”, FIAN International. 2020. [Briefing Note on Multi-Stakeholder Initiatives](#). See also: “Multistakeholder bodies are groups functioning outside the intergovernmental multilateral system but acting in many ways as if they were governing bodies. The membership of these groups are generally executives from [trans-national corporations] and related business associations who bring together their associates in civil society, in government, in the UN system, in academia and in other public bodies to jointly work on a specific topic. (...) By design, multistakeholder participants can exert governing power but they, unlike national states, have no formal requirements for responsibility, no obligations and no liabilities. This diffusion of responsibility, obligation, and liability – who is really accountable – makes the multistakeholder form of governance appealing, particularly in complex crisis situations. (...) [multistakeholderism] is contributing to the marginalization of multilateralism and the UN system”. Gleckman, H., Friends of the Earth International, and the Transnational Institute. 2022. [The Three Covid Crises and Multistakeholderism: Impacts on the Global South](#).



Credit: Creative commons - Bob Brewer

# THE CORPORATE TAKEOVER OF GLOBAL FOOD SYSTEM GOVERNANCE

The corporate takeover of global food governance spaces is taking place through both more visible and less visible strategies. These work together to build influence and the perception of legitimacy for the presence of large companies in decision-making fora. In this section, we explore a diversity of apparent and less apparent ways in which governance is impacted – and the relationship among them.

## 1.1 VISIBLE INVOLVEMENT OF AGRI-BUSINESS IN GLOBAL FOOD GOVERNANCE

**Multi-stakeholder initiatives as key mechanisms in global food governance have blossomed in recent years**, with the growing adoption and formalization of new forms of multi-stakeholder initiatives, including in UN settings. It was on full display at the 2021 UN Food Systems Summit (UNFSS), which was a product of a 2019 strategic partnership between the UN and the World Economic Forum (WEF).<sup>2</sup> **The UNFSS was an eye-opening moment when it was clear that large agribusiness associations were sitting directly at the UN governance table.**



Following years of increasing corporate engagement in global food governance, it is not surprising that the UNFSS was structured from the start as a giant multi-stakeholder initiative, with the head of the Alliance for a Green Revolution in Africa (AGRA), who is also a member of the Global Agenda Council of the World Economic Forum, hand-picked to lead the process. The UNFSS sought to legitimize the multi-stakeholder approach to food governance at the international level, and specifically its engagement with large agribusiness associations, by casting itself as a 'people's summit' in which all stakeholders were welcome at the table. **But many civil society organizations, social movements, and food scholars chose to boycott the Summit on the grounds that it failed to recognize and address the problem of corporate power in the food system, including its insidious creep into food systems governance and subversion of the right to food.**<sup>3</sup>

**The UNFSS was in many ways a culmination of the deepening of the relationship between global governance bodies and the corporate food sector.**<sup>4</sup>

This approach became prominent in the 1990s and was a marked shift from earlier approaches in the 1970s that sought to bring transnational corporations to account through regulation. Back then, the issue was approached from the perspective of regulating the relationship between corporations and states, particularly in developing and recently independent countries. Key areas of concern included investment and technology transfer, and others related to the linkage of foreign investment to the local economy, and respect for economic and national sovereignty, domestic laws, and development objectives.<sup>5</sup>

In 1974, the UN Commission on Transnational Corporations was established, and negotiations started to develop a UN Code of Conduct on Transnational Corporations. This attempt failed after rich countries insisted that any imposition of duties on investors should go hand in hand with the strengthening of investors' rights: the process was declared dead in 1991.<sup>6</sup> Only issue-specific instruments such as the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy agreed upon within the International Labour Organization (ILO) in 1977 and The Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises, adopted in 1976, were passed.<sup>7</sup> Both instruments remain relevant but are increasingly overshadowed by a shift from skepticism about the role of transnational corporations, to a neoliberal

climate that increasingly welcomes large businesses into governance fora, including through multi-stakeholder initiatives.

**Momentum toward multi-stakeholderism continued through the 1990s when large agribusiness firms increasingly engaged in voluntary market-based governance initiatives and certification schemes,** including with other actors such as mainstream NGOs. Around this time, corporations increasingly participated in, and in some cases drove, the establishment of sustainable certification initiatives for global commodity supply chains, such as the Roundtable on Sustainable Palm Oil, the Roundtable on Responsible Soy, Bonsucro, and the Roundtable on Sustainable Beef. They also joined in initiatives such as Field to Market and the Global Good Agricultural Practices (Global G.A.P) that seek to establish metrics and guidance for sustainability in agricultural supply chains.<sup>8</sup> While some point to the importance of these initiatives in setting standards for commodity production and enshrining basic guarantees,<sup>9</sup> industry-led sustainability roundtables have been critiqued for failing to provide evidence of their purported benefits, insufficiently focusing on rights holders, and using the 'oversight' of participating NGOs and third-party auditors to improve their legitimacy in more formal food governance settings.<sup>10</sup>

**Agri-food firms also increasingly shape governance and policy through other multi-stakeholder efforts, such as engagement in public-private partnerships.**<sup>11</sup> As a number of governments pursued neoliberal economic strategies and cut back public funding, many firms upped their engagement in governance spaces as "partners" with the public sector.

Some of the most prominent agri-food public-private partnerships include the Global Alliance for Improved Nutrition (GAIN), the Scaling up Nutrition (SUN) Movement, the Food and Land Use Coalition (FOLU), the Alliance for a Green Revolution in Africa (AGRA), and the G8 New Alliance for Food Security and Nutrition (NAFSN),<sup>12</sup> all of which involve close linkages between governments, international organizations, big business, and private foundations.<sup>13</sup>

**Corporate partnerships have also provided key sources of funding for global food governance institutions, while at the same time providing corporations with an inside track to decision-making.**



**“ To maintain and enhance their decision-making power, corporations often argue that they play a necessary role in food system transformation, especially in times of crisis. ”**

For example, the Consultative Group on International Agricultural Research (CGIAR) has increasingly relied on funding from private firms and private philanthropic foundations with close ties to industry. The Bill and Melinda Gates Foundation was the second largest donor to the CGIAR system in 2020 at nearly USD 100 million, dwarfing the amounts pledged by individual governments, including the United States.<sup>14</sup>

The FAO also has a long history of pursuing close collaboration with the corporate sector through industry partnerships, although many of the details, including concerning funding contributions, are not readily available.<sup>15</sup> The FAO's partnership with CropLife, a major pesticide lobby organization that has many large agribusiness firms as members, is one of the more recent examples of this type of arrangement.<sup>16</sup> While such partnerships allow firms to 'blue-wash' or 'social-wash' their reputations via closer links with the UN and other intergovernmental bodies, critics have charged that these kinds of partnerships between private sector actors and international governance bodies also create conflicts of interest.<sup>17</sup>

Overall, **corporations have become increasingly vocal in staking their claims to be at and shape governance processes and spaces,** often arguing that they have a necessary and key role to play in food system transformation.<sup>18</sup> This narrative of the 'need' for corporate involvement dates back at least to the Millennium Development Goals partnership between the World Bank and the United Nations Development Programme, gaining traction through the Sustainable Development Goals era, which further pushed open doors for corporations to be fully involved, as they had the necessary funds and technical capacity, as well as critically, presence in the domestic economies of most countries.

Additionally, when corporations are involved in public governance they can also justify involvement by reframing the concept of public interest in terms that benefit corporations and large private businesses rather than people and the environment (e.g., "feeding the world through digital agriculture").<sup>19</sup> These arguments are often used to maintain and enhance power over food system decision-making and have grown through recent crises (e.g. the Covid-19 pandemic, invasion of Ukraine, and food inflation), as governments and multilateral agencies face increasingly constrained public funds. Additionally, governments sometimes invite large industry players into governance initiatives in an effort to be inclusive, or as a consequence of privatization of public disinvestment that leave critical sectors under-resourced.

<sup>14</sup> See for example, the Private Sector Mechanism (PSM) of the Committee for World Food Security Position Paper on the Composition of the Advisory Group, which outlines detailed proposals for which committees should have additional PSM members appointed. It also states, "*The private sector believes that it has a strong role to play in translating CFS decisions into operations, in facilitating the impact of CFS products 'on the ground', and in finding synergies with other multilateral processes*". International Agri-Food Network. 2020. Working of [sic] POSITION PAPER Approved by PSM Governing Council.

<sup>15</sup> See for example, the Food Finance Architecture report, which states, in reference to UN Food Systems Summit pathways, "(...) we need strong public-private platforms to share these country food system pathways, add up the results (not just the targets), increase ambition and hold all countries to account for their commitments". World Bank Group. 2021. *Food Finance Architecture : Financing a Healthy, Equitable, and Sustainable Food System* (English). See also, notes from the webpage of The Grain and Feed Trade Association which selectively highlights certain sections of a UN General Assembly resolution, as follows (bolded as per the webpage), "*On 23 May, the UN General Assembly adopted a resolution entitled 'State of global food insecurity' (...) Recognizes the critical role of the private sector in support of sustainable food systems and the positive contribution and improved quality of multi-stakeholder partnerships as a means to engage all key actors and stresses the need for further efforts to strengthen strategic partnerships with the private sector*", GAFTA. 2022, June 9. *Private Sector Mechanism Newsletter on Issues Related to the UN Committee on World Food Security - May 2022*.

<sup>16</sup> For a critique of digital agriculture, please see: IPES-Food & ETC Group. 2021. *A Long Food Movement: Transforming Food Systems by 2045*.

## 1.2 BROADER INFLUENCE OF LARGE CORPORATIONS ON GLOBAL FOOD GOVERNANCE

Beyond the more visible approaches that large corporate actors are increasingly taking to influence global food governance – such as through multi-stakeholder initiatives, public-private partnerships, and other mechanisms described above – they also have wide-ranging power over the broader context within which global food governance takes place. Though these strategies may be less visible and less direct, they have extensive impacts on global and national food systems by shaping markets, material conditions in food systems, and government policy-making<sup>18</sup> – all of which matter for food systems governance.

**Large corporations have a long history of influencing food systems and their governance behind the scenes.** This has been taking place for centuries, dating back at least to the British and Dutch government-chartered companies of the 17th century, which towered over markets for key globally traded commodities, such as sugar, spices, and tea.<sup>19</sup> The late 19<sup>th</sup> and early 20<sup>th</sup> centuries saw the rise of private grain trading and agricultural input firms that came to command a dominant share of those markets. A wave of mergers and acquisitions in the early 20th century, for example, led to consolidation in a number of agribusiness sectors, including farm machinery and agrochemicals, which occurred alongside more general industrialization and consolidation in the economy in the US and Europe.<sup>20</sup> Large firms tied to the food and agriculture sector throughout these periods had strong connections with governments, either through government granting of monopolies to chartered firms or through other kinds of influence such as lobbying.

By the early 20th century, the rise of a small handful of corporations as dominant actors in key segments of the economy in North America and Europe was widely seen to be problematic, especially in the US, prompting a wave of anti-trust legislation to rein in their power and ensure markets remained competitive.<sup>21</sup> Yet despite the enactment of competition policies across the world that ostensibly work to tame corporate influence, the companies that had earlier risen to dominate food systems in that period maintain a

significant degree of power in the global context. Large agribusiness firms such as Bayer, BASF, John Deere, and the former Monsanto, Dow, and Dupont, all date back to this period, and in some cases much earlier.

By the 1980s, the implementation and enforcement of antitrust protections had weakened with the rise of neoliberalism which focused narrowly on the consumer price impacts of consolidation (rather than market structure). This change has encouraged consolidation across the food system, reinforcing the power of large corporations. Growth in influence continues to be facilitated by several inter-connected 'behind the scenes' mechanisms that strengthen corporate power in global food governance.

### Gaining 'market power' through consolidation

**In recent decades, there has been renewed activity toward even greater consolidation and influence of large firms in the agri-food sector.** This has happened in part due to weakened enforcement of antitrust policies and technological changes on which firms have been able to capitalize and access finance that facilitates buying up rivals.<sup>22</sup> Some of the biggest corporate mergers of recent decades, for example, include agri-food companies, as seen with the combinations of Kraft and Heinz, Dow and Dupont, and Anheuser Busch In-Bev and SAB Miller in deals that were each over USD 100 billion in value.<sup>23</sup> Consolidation in the sector has been both horizontal (i.e. among firms producing similar or complementary goods in the same part of the supply chain) as well as vertical (linking up firms at different stages of agri-food supply chains).<sup>24</sup>

**Growing consolidation, not just in the agri-food sector but also across the wider economy, has prompted many to question whether we are in fact in a new 'gilded age' of giant firms dominating most business sectors.**<sup>25</sup> In most segments of the agri-food system today, just a few corporate players dominate markets – from the agricultural inputs industry to global food trade, to food processing, to grocery retail<sup>26</sup> (see Figure 1).

**The firms that dominate different parts of food systems are able to access and exercise power in various ways that can have a profound influence not only on the shape of food systems but also on their governance.** Their significant market shares give them what is typically called 'market power', which enables them to shape the contours of markets for the products they sell, for example by creating barriers that prevent other firms from competing with them.



Such measures include high levels of spending on research and development that is hard for new market entrants to match, capitalizing on patent protection and other forms of intellectual property rights by charging high licensing fees and lowering the prices they pay to suppliers while raising prices they charge to purchasers.<sup>27</sup> These kinds of market-shaping strategies work in ways that keep competitors at bay and extract the maximum return from their activities, enabling them to maintain their dominant market position.<sup>28</sup>

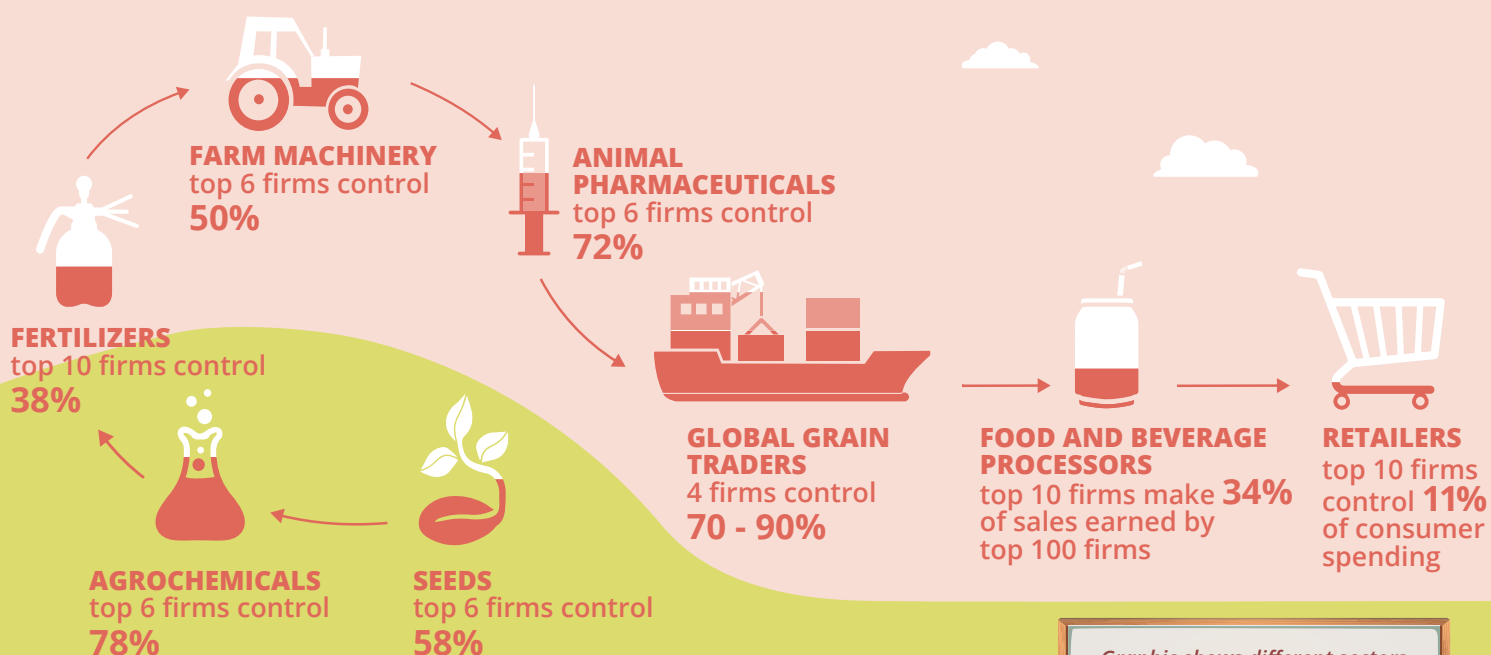
As these firms increase in size, they attract more financial investment, including from investment banks and powerful asset management firms such as BlackRock – the latter of which currently manages over USD 10 trillion in assets.<sup>29</sup> Indeed, a significant proportion of the shares in major agri-food firms (from agricultural inputs to food processors and food trading firms) are owned by large asset management firms.<sup>30</sup> Since the 1990s, corporations in general have increased their borrowing by issuing bonds and taking out loans from large investment banks, and even from official development banks such as the World Bank,<sup>31</sup> with a huge jump over the past decade fuelled by low interest rates.

The ability to amass large amounts of cash from these sources of financial capital has encouraged many large agri-food firms to further consolidate by taking over their rivals, which in turn only extends their market power.<sup>32</sup>

**“ In most segments of the agri-food system today, just a few corporate players dominate markets – from the agricultural inputs industry to global food trade, to food processing, to grocery retail. ”**

FIGURE 1

## Corporate concentration in the agri-food supply chain



Graphic shows different sectors of the agri-food chain and the percentage of the world market that the top firms control

## Using economic dominance to exercise political power

The ‘market power’ of large agribusiness firms is deeply entwined with their ability to exercise political power.<sup>33</sup>

**Dominant firms can spend large amounts of money to directly lobby government policymakers and regulators at the national and international levels, in a bid to influence policies and regulations that affect their bottom lines**, including regulations on plant biosafety, pesticides, trade, and investment agreements. In the US, for example, Bayer AG spent upwards of USD 9 million lobbying the US government in 2019, a year after it purchased Monsanto and the same year the US was reviewing whether to re-register glyphosate, a key herbicide that most of the firm’s seeds are engineered to work closely with.<sup>34</sup> At the same time, Bayer AG lobbyists were successful in reversing a ban on glyphosate in Thailand<sup>35</sup> and put pressure on Mexico to stop their efforts to ban the harmful herbicide.<sup>36</sup>

Large industry actors also spend huge amounts of money to directly fund political candidates and influence election outcomes (e.g., the holding company for Brazilian meat company JBS paid a USD 3.2 billion fine in 2017 for bribing hundreds of politicians to the tune of USD 250 million).<sup>37</sup> Large corporations also use lobbying to oppose efforts to close the kinds of tax loopholes<sup>v</sup> that large firms typically exploit.

As markets become more concentrated, the amount large corporations spend on lobbying grows.<sup>38</sup> In the US, for example, just as concentration increased across all segments of the food chain,<sup>39</sup> corporate lobbying in the agricultural sector has nearly doubled in the past few decades, from USD 79 million in 2000 to just over USD 150 million in 2021.<sup>40</sup>

**Agri-food firms can also influence policy through the phenomenon of the ‘revolving door’**, whereby former industry employees often move to policymaking and regulatory roles – with multilateral, government, international financial institutions,<sup>41</sup> and others – and then often return to industry positions once their government positions end.<sup>42</sup>

## Shaping scientific research and popular discourse through sponsorship

**Transnational corporations shape science and popular discourse in numerous ways, including through the sponsorship of academic research** that is sympathetic to corporate interests, which can ultimately influence the direction of policy and governance. This kind of practice has been documented with respect to the processed food industry as well as in the agrochemical sector.<sup>43</sup> In the case of the latter, for example, the recent release of internal documents from Monsanto as part of court proceedings revealed that in the run-up to key regulatory decisions on glyphosate, the firm engaged in numerous strategies to influence science around the chemical, including ghostwriting academic articles and orchestrating front groups to question scientific studies that raised concern about its safety.<sup>44</sup>

**“ The market power of large agribusiness firms is deeply entwined with their ability to exercise political power. ”**

Other methods of working to shape science and public discourse include sponsoring industry-authored articles in popular journals and paying for standard and content-based advertising, all of which shape the broader environment in which regulatory decisions are made.

## Shaping trade and investment treaties and agreements

**Transnational corporations are actively involved in negotiating international, regional, and bilateral trade agreements which shape the ways in which food trade and investments are governed.**<sup>vi</sup>

<sup>v</sup> Tax avoidance undermines the rhetoric that dominant firms are supporting governments with taxes, and layoffs and/or poor wages undermine arguments that they are providing good jobs.

<sup>vi</sup> This trend has been building since the 1980s with the General Agreement on Tariffs and Trade (GATT). The GATT led to rising public concern and mobilization regarding environmental and social consequences of industrialized agriculture and concentrated power in food systems, including unsustainable practices and violations of labour rights.



They often successfully lobby to build in mechanisms to protect their ability to generate profit, regardless of state efforts to prioritize the public good. Sometimes these firms are openly invited to give their input. For example, at a recent World Trade Organization event dubbed an 'Agri-Food Business Day', industry representatives from major food corporations, including Cargill, Nestlé, and Unilever, were invited to present their views on how best to improve global food value chains.<sup>45</sup>

Large corporations generally enjoy the protection of investment treaties, which grant them the right to sue a state through the Investor-state dispute settlement (ISDS) mechanism in a forum different from the state's own courts. For example, Mexico was threatened to be sued by 'an unidentified children's cereal manufacturer' after the country developed regulations to protect children from the marketing of unhealthy foods. According to the Columbia Center on Sustainable Investment, "[challenging Mexico's public health measure [...] through ISDS constitutes an abuse of corporate power at the expense of children's health".<sup>vii</sup>

The rights held by companies also enable them to resort to avenues such as arbitration tribunals to demand the protection of investments from state action that may affect them, including in cases of "indirect expropriation" resulting from regulatory changes that impose a disproportionate burden on investors. They occasionally negotiate specific "host government agreements", including a "stability clause", allowing them to claim compensation for any loss, even when such loss results from regulatory action adopted in the public interest, and that is neither discriminatory nor disproportionate.

**Through both the more visible presence of large firms in governance processes and spaces, and the less visible activities behind the scenes that shape the broader political and economic context, corporate actors have gained enormous influence over global food governance.**

<sup>vii</sup> "On average, ISDS claims cost governments USD 5 million per case to defend; [and] from 2017 to 2020, tribunals ordered governments to pay an average of USD 315.5 million each time they were successfully sued. The threat of ISDS alone can make governments less willing to adopt, maintain, or implement public interest measures", Mardirossian, N. and Johnson, L. 2021, November 30. Children's Cereal Company v. Mexico & the Corporate Use of Investor-State Dispute Settlement to Influence Policymaking. Columbia Center on Sustainable Investment. Other well-known food system ISDS cases include, "Corn Products International (US) vs. Mexico", in 2009 USD 58.4 million was awarded to the agribusiness producer of high fructose corn syrup – a derived sweetener linked to obesity. The investor challenged a government tax levied on beverages sweetened with high fructose corn syrup (NAFTA invoked); in "Cargill (US) vs. Mexico", in 2009 USD 90.7 million was awarded to the food-processing giant. The investor successfully challenged the above mentioned Mexican tax on HFCS (NAFTA invoked)", [Bilaterals.org](https://www.bilaterals.org). 2020. ISDS Issues: Agriculture & food.

FIGURE 2

## Corporate influence on global food governance





# PROBLEMS WITH CORPORATE ENGAGEMENT IN GLOBAL FOOD GOVERNANCE

**Through the various more and less visible mechanisms outlined above, corporate involvement in the global governance of food and agriculture has become effectively 'normalized' in today's world.** The increasing ubiquity of corporations in governance processes and spaces has created a new normal and is rarely seen as a problem by other participants. Few governments raise questions, and corporate involvement in decision-making effectively goes unnoticed and is not problematized.

This lack of concern is aided by a low level of public awareness about how policy and regulatory decisions are shaped, the business interests behind these decisions, and the responsibilities of governments as duty-bearers to uphold the rights of citizens and the public interest. Civil society, Indigenous Peoples

organizations, and scholars are increasingly raising alarms, yet those unwilling to accept the new status quo are often forced into effective self-exile outside of formal governance spaces. **This confluence has led to large corporations having undue influence over global food governance, undermining people's abilities to engage with food systems on their own terms and eroding their human rights, such as the right to self-determination and the right to food.**

The main types of problems associated with the growing presence of large agri-food firms in global food governance relate to 1) governance processes; 2) governance outcomes; and 3) questions of accountability. Combined, these have major global impacts on food systems, human rights, and the environment.



**“Large corporations have undue influence over global food governance, undermining people's abilities to engage with food systems on their own terms and eroding their human rights.”**

## **2.1 GOVERNANCE PROCESSES**

**With respect to processes, the growing corporate capture of food governance initiatives has been facilitated by the rising dominance of the 'stakeholder' paradigm,** grounded in a largely undifferentiated categorization of actors ('stakeholders') with 'an interest or concern' in the matter. Through multi-stakeholderism, these entities are then enabled to shape discourses, narratives, programmes, policies, etc. Multi-stakeholder initiatives, concerning food systems governance, for example, blur the lines between the roles and responsibilities of rights holders, duty bearers (i.e., states as the upholders of those rights), and those acting on behalf of corporate agendas.<sup>46</sup> This blurring occurs in large part because the structure and norms that underpin such processes are often opaque as outlined above, and neither emerge from nor are subject to democratic scrutiny. Multi-stakeholder initiatives, such as the UNFSS, often claim transparency as part of their public face, even when agendas get set behind the scenes where corporations tend to dominate.<sup>47</sup>

As corporations increasingly influence governance processes, also behind the scenes through their use of funding, private philanthropies, and lobbying, it raises serious questions about whether governance efforts genuinely support the public good.

**When corporations are in the driver's seat,<sup>viii</sup> the ways in which governance fora are constructed and conducted also tend to effectively exclude genuine civil society and grassroots social movement participation.** While participation in multi-stakeholder initiatives is generally open to all 'stakeholders', some are invitation-only. Directly affected communities are rarely on the invitation list, and where they are, the voices chosen to represent them can be dubious.

For example, AGRA, funded by Bill and Melinda Gates Foundation and Rockefeller Foundation, can be categorized as representing affected communities, yet many civil society organizations in Africa have critiqued AGRA for claiming to speak for Africans without African voices (as well as imposing techno-fixes on complex social and historical issues, and undermining demonstrated approaches such as agroecology).<sup>48</sup>

**Civil society organizations are usually included in multi-stakeholder initiatives, but critics charge this is often window-dressing, to give the appearance of fairness.**<sup>49</sup> Also, these organizations are rarely invited on behalf of their self-organized networks and alliances – leaving fragmented and imbalanced representation.

For those who are invited, the ability to participate as equals is limited. For example, civil society participation is often impeded by meetings held at times most convenient to the government and corporate delegates who are paid to attend; and when held online, civil society and social movement participants often must additionally contend with poor internet connections. The time required to prepare for meetings (with materials often sent at short notice) is monetarily compensated for government, corporate, and even international NGO delegates, but is often voluntary for civil society and social movement representatives with the least resources.

<sup>viii</sup> A survey of 27 food-related multi-stakeholder initiatives found that the corporate sector plays "leadership roles, particularly acting as chairs and vice-chairs of their decision-making bodies and governing institutions", and are often also founders, conveners, and leaders of multistakeholder initiatives. People's Working Group on Multistakeholderism. 2021. *The Great Takeover: Mapping of Multistakeholderism in Global Governance*

Decision-making processes in multi-stakeholder initiatives tend to constrain the agenda, narrowing the scope of solutions towards approaches that do not question corporate interest. There are also no mechanisms to address differences in and conflicts over demands, proposals, and power dynamics,<sup>ix,50</sup> and participants who question existing power differentials can end up excluded.<sup>51</sup>

**“ As corporations increasingly influence public decision-making processes, serious questions must be raised about whether governance efforts genuinely support the public good. ”**

#### BOX 1

### **Revitalizing the United Nations Committee on World Food Security in the context of growing corporate influence in global food governance**

The UN Committee on World Food Security (CFS) is at risk of becoming less relevant as the power of corporate actors in other food governance forums grows. Following ambitious and comprehensive institutional reform in 2009, member states in the CFS committed to making it the foremost, inclusive, intergovernmental platform to coordinate actions for eliminating hunger, and ensuring food and nutrition security for all. The goals of the reformed CFS included making sure that the voices of all relevant actors – especially those most affected by hunger and malnutrition – are heard in policy debates on food and agriculture. CFS ‘products’ are negotiated outcomes among member states and have the potential to create criteria for food governance policies that reflect the multifunctionality of food policies and the intersectionality of the right to adequate food.

However, civil society and social movement participants face increasing challenges to keep this space open for them, and free of corporate influence. As Shalmali Guttal notes, “The CFS is subject to the same forces of economic and financial globalization, neoliberal trade and investment, and political authoritarianism that are reshaping multilateralism (...) The steady deterioration of support for human rights in the CFS is accompanied by the rise of corporate-led multi-stakeholder initiatives, through which corporations impose their profit-making agenda onto governance processes”.<sup>52</sup> Corporate influence is so pervasive over some governments that their delegates’ positions are indistinguishable from corporate agendas.

The public interest mandate resulting from the CFS reform renders it a crucial multilateral, multi-actor space where those most deeply affected by hunger and malnutrition can engage meaningfully in global food governance. It must not be made subservient to well-funded multi-stakeholder initiatives, including those in the UN system, such as the UNFSS. For recommendations on how to revitalize the CFS, see section 4.

<sup>ix</sup> For instance, despite significant resources being allocated to civil society participation in the Extractive Industries Transparency Initiative, “power imbalances negatively impact civil society participation in formal and informal decision-making processes”, MSI Integrity, 2020, p. 77.

## 2.2 GOVERNANCE OUTCOMES

**With respect to outcomes, corporate influence affects the quality and effectiveness of governance initiatives.** The types of governance initiatives that emerge through corporate-dominated processes, such as industry-led certification schemes and multi-stakeholder initiatives, are often weak and ineffective in tackling the problems they seek to address. As noted above, constraining decision-making processes often mean that the set of possible solutions that get discussed is extremely narrow.

**“ Multi-stakeholder initiatives overwhelmingly favour corporate interests, exclude non-market ways of addressing problems, and are rife with conflicts of interest that undermine accountability. ”**

Multi-stakeholder initiatives overwhelmingly favour corporate interests and exclude non-market, non-capitalist ways of addressing problems such as redirecting public spending to community-based and public institutions, and redistribution of wealth. Solutions that would entail mandatory state regulations and possible reductions in corporate profits are typically replaced by market-friendly interventions. For instance, the industry routinely lobbies against mandatory public health measures such as front-of-package labelling, taxes on ultra-processed edible products and sugary drinks, and restrictions on the marketing of unhealthy foods to children – pushing instead for ineffective voluntary approaches.<sup>53</sup>

**Corporate actors tend to steer initiatives in ways that focus on measures that firms find more comfortable and ‘doable’ while excluding those that might be costly to implement or weaken their political power.**

For example, certification schemes and multi-stakeholder initiatives often focus on management processes rather than outcomes and are frequently weak on questions of safeguarding human rights. Studies have exposed how these measures have largely failed to result in better corporate practice.<sup>54</sup> Part of the reason for this tendency is that there is a fundamental mismatch between serving the public good, and the primary purpose of corporations to generate profit for shareholders.

## 2.3 QUESTIONS OF ACCOUNTABILITY

**Concerning accountability, corporate-dominated governance efforts such as multi-stakeholder initiatives typically avoid rules that hold firms to account, both legally and financially, when their practices cause harm to others.** This enables corporate impunity for operations and practices and a lack of effective remedy for those who have been harmed, even in cases of critical violations/abuses of human rights<sup>55</sup> (e.g., undermining the right to food and abusive labour practices; and widespread environmental pollution and loss of biodiversity).

**Multi-stakeholder initiatives are rife with conflicts of interest that also undermine accountability.**

Conflicts of interest arise when there is an incompatibility between one’s private interests and public duty, resulting in one’s professional judgement being unduly influenced by an interest, such as financial gain.<sup>56</sup> Corporations focus on profits and the maximization of shareholder value. They are in a conflict of interest when they engage in setting public governance rules meant to protect the public good, but which also affect their own operations. In multi-stakeholder initiatives, those who enable, commit, and ignore offenses set standards and criteria for operations and practices, and propose solutions: there are no rules for acknowledging and preventing conflicts of interest because multi-stakeholder initiatives (grounded in the hazy generalized discourse of ‘stakeholders’) conflate interests (‘stakes’), rights, and duties.<sup>57</sup>





Credit: ©FAO - Alessia Pierdomenic

# CURRENT INITIATIVES TO REGULATE CORPORATIONS

As the influence of large corporations has risen over the past decades, so too have efforts to rein in their power, often via the UN. The primary aim of these initiatives is to try to ensure that corporate influence is not “excessive”, with implications for many spheres, including global food governance. However, most approaches operate within prevailing power structures and do not fundamentally question the role of corporations, nor do they specifically prioritize the public interest. They also often place undue emphasis on the flawed concept of ‘due diligence’ (see Box 2 on the limitations of due diligence approaches to corporate accountability).

This section provides an overview of current international initiatives to regulate corporations and curtail the worst excesses of their influence.<sup>x</sup>

**Since 2000, the main efforts to regulate corporations at the international level have taken place in the UN human rights system.** In the early 2000s, the UN Global Compact, a framework of principles guiding business activities in the fields of human rights, labour, and environment (to which anti-corruption was added in 2004), was launched by the then UN Secretary General, Kofi Annan. The UN Global Compact is a non-binding voluntary initiative, with no monitoring or enforcement mechanisms.<sup>xi</sup>

<sup>x</sup> Please see Annex for a table with an overview of the key features of current procedural instruments.

<sup>xi</sup> See Annex for details.

In 2011, the UN Human Rights Council adopted the UN Guiding Principles on Business and Human Rights,<sup>xii</sup> a set of guidelines for states and companies to prevent and address human rights abuses committed in business operations. Imposing human rights and environmental due diligence obligations on companies have been considered one of the main contributions

of these Principles, despite the many problems with using due diligence as a primary mechanism for accountability (see Box 2). Companies are expected to develop their own internal procedures to identify, prevent, mitigate, and account for how they address their impacts on human and environmental rights in global supply chains.

## BOX 2

### The limitations of due diligence approaches to corporate accountability

Discussions in human rights fora regarding corporate accountability have overwhelmingly focused on business due diligence, neglecting issues of legal liability, regulation of activities of transnational corporations (including their parent companies), or extraterritorial jurisdictions. Yet due diligence, as an exclusive criterion to define liability, is insufficient to fully hold companies accountable for human rights violations, including those that occur along the global value chain. As long as liability is defined by a list of precautions/measures that eventual perpetrators can take, such as due diligence measures, and not on actual harm caused to individuals, communities, or the environment, it will impede actual access to justice. Legal liability must, therefore, be based on a duty to provide remedy and access to justice even where preventive action was taken but failed to prevent harm from occurring.<sup>xiii</sup>

Due diligence can run the risk of becoming merely procedural, in which businesses can tick boxes to exclude their liability. This risk is especially high if the only criteria to determine liability is compliance with due diligence requirements. This enables corporations to escape liability, and counters support for affected individuals and communities in their access to justice and remedies.<sup>xiv</sup>

As a form of self-monitoring or self-regulation, due diligence procedures as developed by the companies themselves lack the independence and impartiality required to be a serious tool to identify and prevent human rights abuses.<sup>xv</sup> Furthermore, company-level grievance mechanisms allow businesses to be both the judges and parties in remedial mechanisms for affected individuals and communities. Thus, they lack independence and depth, and their transparency is questionable. In some cases, such mechanisms have also been used to hinder people's access to state-based mechanisms, which are in principle more impartial. Therefore, it would be more effective for human rights protection to use other means of determining liability in which the adjudicator has a broader scope of consideration. For example, with a duty of care approach, the adjudicator defines the liability based on the reasonable foreseeability of harm as a result of the defendant's conduct. For hazardous activities, in this framework, specific regulations on strict liability would be required.

<sup>xii</sup> See Annex for details.

<sup>xiii</sup> The need for outcome-based measures (e.g., impact assessments) as a key factor in human rights due diligence and as part of a broader set of obligations, has been underlined by civil society in legally binding instrument negotiations. FIAN International. 2021. [Written Contribution by FIAN International on the Third Revised Draft of the Legally Binding Instrument \(LBI\) on transnational corporations and other business enterprises with respect to human rights.](#)

<sup>xiv</sup> In negotiations for the legally binding instrument, corporations have doubled-down on due diligence as a process, as opposed to an outcome-based standard. OHCHR. 2022. [Compilation of the comments, requests for clarification and concrete textual proposals made by non-State stakeholders during the seventh session. A/HRC/49/65.](#)

<sup>xv</sup> See, for example, the case of the Brumadinho mining disaster in Brazil, which illustrates the limitations of due diligence, Quijano, G and FIAN International. 2020. [Legal Analysis: Could a UN Treaty Make Transnational Corporations Accountable? The Crimes of Vale Inc. in Brumadinho, Brazil.](#)

**These international initiatives have not been sufficient to address the range of concerns outlined in Section 2.** Firstly, they are voluntary ‘recommendations’, ‘expectations’, or ‘guidance’ for ‘responsible business conduct’. Secondly, when they are mandatory, they lack any teeth for enforcement. In particular, they do not provide for any form of legal accountability nor access to effective justice and remedies for harmed individuals and communities in accordance with international human rights principles and standards. Legal concepts of separate legal personality and limited liability, which protect individual companies within a corporate group from exposure to the liability of other members of the group, have additionally allowed transnational corporations to benefit from human rights and environmental abuses with impunity (see, for example, Box 3).

**“ Most approaches to regulate corporations operate within prevailing power structures and do not fundamentally question the role of corporations, nor do they specifically prioritize the public interest. ”**

### BOX 3

#### **Pesticide plant explosion in Bhopal, India, 1984**

On December 3rd, 1984, there was a major gas leak at a Union Carbide Corporation plant in Bhopal, India. Amnesty International estimates that 7,000 to 10,000 people died within the first three days of the leak and that more than 570,000 people were exposed to damaging levels of toxic gas leading to a wide range of chronic and debilitating illnesses, not to mention the ecological destruction caused. Four decades after this disaster, victims still do not have access to an effective remedy. The Bhopal plant was majority-owned by the US-based Union Carbide Corporation at the time of the explosion. In 2001, Union Carbide became a wholly owned subsidiary of US-based The Dow Chemical Company (Dow). Dow has maintained that Union Carbide remained a separate company with its own assets and liabilities and that Dow did not assume its liabilities as part of the purchase. No foreign actor involved in this disaster has been held accountable in this case so far.<sup>58</sup>

In addition to measures at the international level, **many national governments have policies and regulations in place that aim to curb corporate influence.**<sup>xvi</sup>

Broadly speaking, efforts aim to address both the more visible and less visible aspects of their influence, **yet they are neither coordinated nor systematic across countries.** These include competition, or ‘anti-trust’ policies, that seek to limit corporate market power by ensuring that mergers and acquisitions do not lead to concentrated markets that could result in

anti-competitive market practices, and by prohibiting abuses of dominant positions. While these rules were put in place to ensure markets did not become so concentrated that they undermined competition, since the 1980s the interpretation of these laws in many countries has followed the lead of the US in shifting their focus more narrowly to only contest mergers that increase consumer prices or undermine efficiency.<sup>59</sup> In other words, mergers are rarely prohibited if they are expected to bring sufficient ‘efficiency gains’ that

<sup>xvi</sup> A detailed examination of domestic approaches is warranted, yet beyond the scope of this paper.



result in lower consumer prices. This approach enables corporations to continue to benefit from market power and related influence in global governance, so long as they keep prices low.

Other national measures that exist in some countries include rules and regulations that require firms to report their lobbying activities, restrictions on privatization in certain sectors,<sup>xvii</sup> and limits on campaign spending, though there are often no limits on the amount that lobbyists can spend more generally.<sup>60</sup> Further, existing regulations on corporate lobbying and campaign financing may not contain adequate measures to recognize and address conflicts of interest and take legal action against firms and individuals (including public officials) who transgress these rules. At the same time, the interpretation of UN human rights treaties as imposing clear duties on states to protect human and environmental rights by regulating corporations has gained traction,<sup>61</sup> and national laws on corporate due diligence are being developed in several countries.

**The shortcomings of the existing instruments to hold corporations accountable provoked a group of countries led by Ecuador and a large group of civil society organizations to call for a binding UN Treaty on Transnational Corporations and Human Rights.**<sup>xviii,xix</sup> In 2014, the Human Rights Council created an Open-ended Intergovernmental Working Group mandated to develop such a legally binding instrument. The ongoing process has created a political space in which advocacy groups working on diverse areas such as mining, food, environment, tax justice, health, digital technologies, and others, have converged to express their demands to hold corporations legally accountable for human rights abuses in international law. This comprises regulation for companies' activities both domestically and beyond borders, remedy, and preventive mechanisms for threatened and affected communities, and accountability mechanisms for states, including the states where home offices or controlling companies are located.

At the heart of the demands of states and civil society are mechanisms for enforcing civil, criminal, and administrative liability for companies perpetrating human rights abuses; monitoring and enforceability mechanisms at the international level; and the protection of human rights defenders. Domestic law is not sufficient to impose human rights-related obligations or to hold transnational corporations accountable for abuses in both their host and home states. Considering these power asymmetries, the process for a legally binding instrument is also an effort to have a corresponding legally enforceable regime with binding obligations that states, jointly and separately, impose on companies via international and national law, and that can be claimed by individuals and communities as collective subjects, and states as subjects of international law.

Despite significant efforts, current regulatory proposals to limit the influence of large corporations on governance are, at best, patchy and uneven. Civil society advocates have underlined that more robust conflict of interest policies should be advanced in tandem with the legally binding instrument, for the whole UN system, and specifically for food-related UN bodies. Baselines can be found in processes within the World Health Organization (WHO), including the WHO Framework Convention on Tobacco Control, the WHO Framework of Engagement with Non-State Actors, and the WHO Financial Regulations and Financial Rules. As noted by Dorado et al., these international mechanisms work to ensure that initiatives to advance the well-being of people and the planet are not undermined by industry, by 1) disclosing and curtailing conflicts of interest, 2) ensuring that industry is accountable to the people, 3) ensuring that industry is held liable for harm caused to people and communities, including through reparations.<sup>62</sup>

<sup>xvii</sup> A key example are restrictions on the privatization of water in various jurisdictions. This has been a result of successful mobilizing, grounded in experiences where once corporations controlled this public good, they imposed rate hikes, failed to meet the terms or contracts with governments, and exhibited general incompetence. Such resistance to corporate control over public goods takes place at national, and municipal levels - where, importantly, people can observe changes over a short time-span. See: Thier, H. 2022, June 6. *Capital's Muddy Waters. Jacobin*; Robinson, J. L. 2013. *Contested Water: The Struggle against Water Privatization in the United States and Canada*. Cambridge, MA: The MIT Press; Spronk, S. 2007. *Roots of Resistance to Urban Water Privatization in Bolivia: The "New Working Class," the Crisis of Neoliberalism, and Public Services. International Labor and Working-Class History, 71(1), 8 - 28.*

<sup>xviii</sup> The full title of the Treaty is, "Legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises".

<sup>xix</sup> See *Treaty Alliance and Dismantle Corporate Power*.



Credit: Thierry Kesteloot

# RE-IMAGINING FOOD SYSTEM GOVERNANCE IN THE PUBLIC INTEREST

The initiatives outlined in the previous section describe approaches that operate within prevailing power structures, using procedures within these to curb the most egregious impacts of corporate dominance. However, there is a major gap between current approaches as outlined above, and what is required for structural change. **To counter the corporate capture of food system governance, a much more foundational re-imagining is required that transforms existing systems and structures of power, both visible and less visible, in global food governance.** This calls for bold thinking in recognition of the urgency of the global situation.

A number of aspirational proposals are being advanced by civil society and social movements.

These ideas and approaches are intended to transform food governance power structures to better serve the public interest and uphold the rights of vulnerable populations, with implications for all governance actors. Drawing on these proposals, **this section advances principles for action and recommendations to support initial steps toward re-imagining food systems governance in the public interest.** Due to the interconnected nature of governance issues outlined above, making progress towards one principle without also moving forward with the other principles will not enable adequate transformation; all three principles are required to move towards genuinely just and sustainable food systems.



**“ To counter the corporate capture of food system governance, a much more foundational re-imagining is required that transforms existing systems and structures of power. ”**

**PRINCIPLE FOR ACTION 1:  
Address the influence of corporations in food governance**

A) **Create clear mechanisms for assessing, monitoring, and managing conflicts of interest in food system governance – going beyond existing limited approaches.** This requires agreement on public-interest based criteria for participants in governance spaces and processes, and strict rules mandating the disclosure of conflicts during the life of the governance process. Checks for potential conflicts of interest need to include businesses, as well as their ‘ecosystem’ of beneficiaries and partners participating in governance spaces, including civil society, academia, philanthropies, and professional research sectors linked with corporations whose roles subvert the public interest.<sup>63</sup>

Also, as mentioned above, food production, provision, quality, availability, and access are intrinsically linked to numerous other sectors and factors (e.g climate, land, soil, water, nutrition and safety standards, environment, finance, trade, investment, and social security). Conflict of interest checks must therefore be comprehensive, extending to all public fora charged with addressing factors that have bearing on food systems, including land tenure, nutrition, subsidies, climate change, and biodiversity.

Further, it is not sufficient to simply self-report conflicts of interest; individuals and entities with firm and/or sector-specific commercial interests should not be permitted to engage in governance as decision-makers or allowed to interfere with decisions.

B) **Undertake measures to reduce corporate market power.** Reducing the market power of large food systems firms is an important step required to reduce their political power and capacity to influence food governance. While most governments have anti-trust legislation in place, as noted, these rules have become weakened in recent decades and narrowly focused on price effects to end customers, rather than on the broader impacts of concentrated markets. For example, a ‘Walmart economy’ or ‘Walmart effect’, may yield lower prices, yet leads to significant negative public-interest impacts (including the closure of smaller retail outlets, lower regional wages, a significant loss of revenue into local economies, and a race to the bottom for environmental standards and labour conditions among global suppliers).<sup>64</sup>

Competition policies at the national level need strengthening, along with a wider focus on the broader impacts of consolidation beyond price effects (e.g., expanded income and racial inequality, barriers to entry for small and medium-sized firms, lower wages, lack of innovation, etc.).<sup>xx</sup> Greater international coordination on competition policy would also counteract the trend where jurisdictions with weaker policies host more of the largest and most dominant firms in the sector.

Other measures to rein in market power include a strengthening of rules that govern financial markets to reduce the capacity of firms and private investors to profit from financialized activities like speculation in food commodities.<sup>xxi</sup> Equally important are reviewing and reformulating trade and investment agreements through the lens of public interest-driven food systems to ensure that powerful organizations such as the World Trade Organization are not unduly influenced by corporate actors, and trade and investment agreements do not undermine food sovereignty and the right to food.

<sup>xx</sup> U.S. President Biden outlined impacts of corporate consolidation and 72 measures the country will take to address them in his 2021 [Executive Order to Promote Competition in the U.S. Economy](#).

<sup>xxi</sup> A detailed analysis of the connections and impacts on global governance of speculation, the financialization of food systems, and corporate influence is warranted, yet beyond the scope of this paper.

**C) Develop stricter rules on lobbying, spending, and campaign financing intended to influence government policy and elections, and more transparency in reporting on these activities.**

Corporations have financial resources far beyond ordinary citizens, and some even outweigh states. They are using these resources to influence processes that were originally intended to be governed by citizen input on a one-person/one-vote basis, and/or through processes of democratic deliberation.

While corporate lobbying is a well-known fact, not all countries require reporting of the amount of money that corporations spend to secure political allies and influence, nor how they do so. Most governments have rules prohibiting employees from accepting money, gifts, and benefits from people who stand to gain from governmental decisions, but these have not proved to be effective bulwarks against corporate power. Laws that go further to actually limit financial contributions by corporations and oblige them to declare the full extent of their contributions are important<sup>65</sup> but do not exist in all countries. Given their vast social-institutional networks, the financial power of corporations presents one of the most formidable threats to democratic governance.

**D) Counter the shaping of science and public discourse by large corporations.** Hand in hand with the efforts above, it will be critical to counter wide-ranging industry strategies to fund pro-industry research and narratives, with implications for science, policy, governance, and public pressure for transformative actions. Such awareness and pressure must extend to inter-governmental and public institutions at various levels to diminish and prevent corporate influence in shaping research, narratives, and regulatory guidance.

This is especially important post-UNFSS with industry-backed science-policy interfaces on the rise, and corporate funding of science and technology research centres, universities, and international consortia widespread. It will also be important to accelerate public awareness, education, and media initiatives about the dominance of corporations in food governance, to build public support for regulations, and to guarantee that the principles and norms underpinning them are grounded in the public interest.

**E) Redirect government resources and services to serve the public rather than private interests.**

Government resources are important to avoid agenda and research capture that accompanies corporate financing. These resources should be prioritized for public-interest-based initiatives such as public-sector research and development, programming, public procurement contracts, subsidies, financing, and international assistance. For example, support for diversified diets and healthy food environments can be carried out by funding research and transitions to agroecology, a food system paradigm that fosters sustainable food production while protecting and regenerating biodiversity, soils, and water – rather than current subsidies and other supports for damaging agro-industrial food systems.<sup>66</sup>

**PRINCIPLE FOR ACTION 2:  
Democratize governance to serve the public interest**

**A) Develop participation modalities underpinned by human rights.** People's organizations and other civil society actors working with those most affected by hunger and malnutrition should have the greatest weight in the identification of food-related issues that need governance; setting the agenda, terms of participation, and procedures; developing governance mechanisms and structures, etc. This would include developing and elaborating governance ideas and proposals as concrete demands from civil society and confronting power rather than accommodating it. Where other actors, such as large corporations, are present in governance fora, their role in achieving/undermining the right to food and other human rights must be transparently evaluated and taken into account when establishing their potential influence in decision-making processes.

In a human rights approach to participation in the global governance of food systems, the influence of agribusinesses and large commercial operations would be significantly reduced or eliminated, and the influence of communities, civil society, and states (as duty-bearers) significantly increased.

## Examples of emerging democratic governance spaces

There are myriad examples of emerging democratic governance spaces. These face risks including co-optation and domination by private interests and other powerful voices. Authentic and inclusive participation depends on multiple factors including participant selection, conflict of interest safeguards, how power relations are addressed, resources/efforts put towards engagement, outreach, foreign language accessibility, mechanisms for enacting recommendations, etc.<sup>67</sup> Questions of power imbalances in agenda setting, chairing meetings, the establishment of priorities, and follow-up also have critical impacts on outcomes.

**Participatory budgeting** is a democratic process that started in Porto Alegre, Brazil in the late 1980s, where community members decide together how to spend part of a public budget.<sup>68</sup> It is now being used in 3000 places around the world, primarily at the municipal level, including in New York City where 100,000 people decide how to spend USD 40 million. “Effective [participatory budgeting] uses grassroots organizing, outreach, and neighborly word of mouth to get those who usually don't or can't participate into the process. For example, [participatory budgeting] doesn't restrict participation based on citizenship, so immigrants, undocumented folks, and even those under the legal voting age of 18 can take part.”<sup>69</sup> Best practices in participatory budgeting also ensure ongoing evaluation of the process and its impacts.

**Food policy councils/groups** are multiplying at the municipal and sometimes state level in the U.S., Canada, and the United Kingdom (and emerging in other regions) with over 320 in the US alone.<sup>70</sup> “Food policy councils can play an important function in the re-localization and democratization of food systems governance, especially in the context of globalization and corporate control over food systems.”<sup>71</sup> They bring together a diversity of food systems duty-bearers, rights-bearers, and other stakeholders to examine food systems in a specific region, develop recommendations, and coordinate activities. Though their composition, scope, and spheres of action and accountability vary widely, they most often work in areas of policy, programming, and partnerships.<sup>72</sup> Research into diverse aspects of food policy groups, including impact, is ongoing.<sup>73</sup>

**Cooperatives**, especially those that operate according to International Cooperative Principles, are an enduring form of collective governance. Examples include food cooperatives and worker-owned cooperatives. Key principles include voluntary and open membership; democratic member control; members' economic participation; autonomy and independence; education, training, and information; cooperation among cooperatives; and concern for the community.<sup>74</sup>

**Citizen juries** are a process whereby randomly selected participants reflective of a specific area come together to reach a recommendation/decision on a policy issue.<sup>75</sup> The random selection of participants is a barrier to co-optation and seeks to ensure that the voices of those ‘beyond the usual suspects’ are heard. For instance, in Mali, an Espace Citoyen d'Interpellation Démocratique (Citizen's Space for Democratic Deliberation) was convened on the role of GMOs, combining citizen jury methodology and local methods for debate and dialogue (including the traditional African palaver), resulting in a decision not to introduce GM cotton in that country.<sup>76</sup>



B) **Build new projects of governance.** Rather than waiting to be admitted into, or playing ‘defense’ or ‘damage control’ in governance spaces established by others (e.g. states, inter-governmental agencies, international NGOs, and multi-stakeholder initiatives), progressive civil society and social movement actors – especially organizations and movements of peoples who have been marginalized, exploited and have had their rights abused – need to become proactive in building ‘projects of governance’. This would involve taking the lead in articulating governance proposals for implementation, from transformational ideas to practical actions.

Civil society and social movements must build and claim their competence and legitimacy in food systems governance, position themselves as leaders in regulatory processes, and construct collective narratives to challenge and loosen corporate grips over standards and discourses related to healthy, nutritious, just, and sustainable food systems. Such a move necessitates building consciousness and confidence that people do indeed have power and legitimacy to make governance demands and claims, and structures that support these claims.

C) Democratizing the global governance of food systems will also include the **development and adoption of mechanisms and remedies for correcting past wrongs and injustices, as well as structures and processes for building equality and preventing injustices from occurring in the future.** This is especially important for women, Indigenous Peoples, and particular ethnic, racial, and religious groups.

### PRINCIPLE FOR ACTION 3:

## **Build up autonomous processes and spaces for voices, claims, and proposals of people’s organizations and social movements**

To transform entrenched power structures in the global governance of food systems, it is necessary for civil society to build counter-power from the grassroots upwards and strengthen peoples’ agency to formulate and advance claims and proposals. This requires independent spaces and processes where agendas and decision-making are led by peoples’ organizations and social movements, resources are adequate to needs, and strategies and actions are determined by the participants. **These kinds of autonomous civil society spaces where unconstrained reflection, visioning, and strategizing can take place are essential for the development of robust, accountable, and effective governance processes that address the priorities of communities and peoples.**

Building global resistance to the corporate capture of governance is supported through movement-led education, awareness, and analysis springing from these autonomous spaces. These spaces and processes of autonomy, vision, and resistance are already happening (see Boxes 5 and 6) and must continue to grow in parallel to democratizing existing governance spaces and building new publicly accountable ones.

## BOX 5

### **Nyéléni: International Movement for Food Sovereignty**

Nyéléni has become the political platform for the food sovereignty movement globally. The first Nyéleáni gathering in Mali, in 2007, brought together more than 500 participants from over 80 countries to share knowledge and discuss diverse dimensions of food sovereignty – from land and water to seeds, breeds, labour, and the central role of women. Deliberations resulted in the Declaration of Nyéleáni<sup>77</sup> (which to date remains the foundational articulation of peoples' food sovereignty), the international Nyéleáni newsletter,<sup>78</sup> and numerous international and regional alliances among food sovereignty advocates. Since the first meeting, Nyéleáni has held gatherings in 2011 and 2015, and a Nyéleáni Global Forum is planned for 2025.

Nyéleáni is a space where people's organizations and social movements "meet in order to build collective strategies to advance food sovereignty, rights to land and territories, agroecology, and the rights of all small-scale food providers. (...) Articulations have given [people's organization and social movements] the strength to organize against capitalism, neoliberalism, corporate power, patriarchy, and ecocide".<sup>79</sup> The Nyéleáni meetings are understood as essential autonomous spaces in which "to build principles, concepts and strategies shared and reinforced by many different movements, while defending the most vulnerable at local levels".<sup>80</sup>

Through Nyéleáni processes, the food sovereignty movement created the basis for future positions in many global negotiations, including the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests; the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication; agroecology; and the implementation of Farmers' Rights in the context of the International Treaty on Plant Genetic Resources for Food and Agriculture.<sup>81</sup> The 2007 Nyéleáni Forum was key in galvanizing African states' support for the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Many movements and organizations involved in the Nyéleáni process have committed to demand observance and conditions for the implementation of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP).

## BOX 6

### **World Forum of Fisher Peoples: Ocean People's Rights to Govern Ocean Territories and Economies**

In the seventh General Assembly of the World Forum of Fisher Peoples (WFFP) held in India in 2017, WFFP members condemned the market-based governance of ocean, land, and water territories that enabled state-corporate capture of resources through 'blue growth', the 'blue economy', and Marine Protected Areas. They declared their claim to marine territories through the call, "We are the Ocean, We are the People."

In 2021, WFFP conducted peoples' tribunals on the impacts of the 'blue economy' in Sri Lanka, India, Bangladesh, Thailand, and Indonesia, which revealed the havoc created by the 'blue economy' and post-Covid-19 recovery projects on small-scale fisher peoples and low-income marine communities, including dispossession from traditional homelands, destruction of coastal and marine ecosystems, exacerbation of gender inequalities, and extraction of marine resources under climate change mitigation plans. The tribunal verdicts noted that global corporations were exploiting the fishers' commons as well as annihilating their sovereign rights over and identities from the ocean.

In 2022, the WFFP joined hands with civil society organizations to organize a Conference of the Ocean Peoples (C-OP), in parallel to the United Nations Oceans Conference dominated by corporations and elite conservation groups. The C-OP final declaration affirms the ocean peoples as the historic custodians of the oceans and claims their rights to govern ocean territories and economies for present and future generations.<sup>82</sup>

# RECOMMENDATION 1

Based on the legally binding instrument initiative, **states and civil society should push for the adoption of a UN-wide Corporate Accountability Framework to keep the UN free of undue corporate interference and to hold corporations accountable for the impacts of their activities.** This framework should be congruent with the human rights foundation of the UN and enable equitable power sharing with actors who are least politically and economically powerful, but whose voices must carry the greatest weight.

Building upon discussions around the legally binding instrument, which continues to be negotiated in the UN Human Rights Council, the need to develop a comprehensive corporate accountability framework is gaining traction.<sup>83</sup> Key elements of such a framework should include:

- **Duty of care and prevention of harm:** The concept of duty of care, in contrast to due diligence, imposes a legal obligation on corporations of reasonable care towards individuals and the environment, which they could foreseeably harm through their operations. The duty of care, in addition to imposing a legal requirement to prevent harm, therefore also triggers the civil liability of businesses when harm occurs.
- **Regimes of legal liability:** Beyond the soft discourse of corporate social responsibility or the more recent concept of responsible corporate conduct, states individually and jointly should adopt comprehensive regimes of legal liability of corporations for harm to human rights and the environment,<sup>xxii</sup> both within their territory and abroad. This means a regime of administrative, civil, and criminal liability, or its equivalent, for harm caused throughout the corporation's business operations, including abroad, providing and facilitating access to justice and remedies to foreign plaintiffs in its courts.
- **International cooperation between states:** As for similar transnational issues, such as money laundering, child trafficking, or climate change, the regulation and liability of transnational corporations requires international cooperation between states for purposes of mutual legal assistance, and therefore an international treaty.
- **Rules to prevent corporate capture of governance spaces:** Companies with vested interests in the area of agriculture and food should be excluded from policy and law negotiations on food governance. Furthermore, clear rules on conflicts of interest, lobbying, and 'revolving doors' should be adopted for individuals and institutions participating in governance processes, including those active in scientific research. Such rules would preserve the integrity, impartiality, and mandate of the specific institutions in which policies and laws are formulated and adopted, putting those values over the interests of funders.
- **Actions by states and competent international institutions to prevent abuses:** In addition to imposing a duty of care on corporations within their territory and jurisdiction, states should also take action within different policy areas to prevent corporate human rights abuses both at home and abroad. States' own trade, investment, energy, development cooperation, environment, labour, finance, and foreign affairs policies, as well as policies formulated in international financial institutions where states are members, should not incentivize corporate human rights abuses nor cause other states to lower their levels of human rights protection. In the same vein, within the limits of the powers attributed to them, international institutions should support states in the implementation of such actions and abstain from inducing states to support or give incentives to corporate behaviours harming human rights and the environment.

<sup>xxii</sup> There are some existing civil liability regimes in the environmental sphere (including the Paris and Vienna Conventions on nuclear liability; the 1992 Protocol amending the International Convention on Civil Liability for Oil Pollution Damage; the 1996 International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea). The 2010 Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety's central approach is administrative, however it preserves Parties' rights to put in place domestic civil liability rules and procedures.



## RECOMMENDATION 2

**States and civil society should push for democratizing the governance of food systems in all relevant fora, starting with the Committee on World Food Security (via the Civil Society and Indigenous Peoples Mechanism).**

Actions should include:

- **Inclusive participation modalities grounded in human rights and public-interest criteria.**

These should prioritize the authentic participation of people's organizations, social movements, and other civil society actors (as well as their self-identified networks and alliances) most affected by the realm of decision-making. These participants should have the greatest weight in developing governance mechanisms and structures, rules of process, setting the agenda, etc. The ways in which spaces function must also have viable conditions for effective participation, particularly for those most affected by the issues addressed in the space. Civil society would thus be able to participate fully and monitor decisions and actions to ensure that private interests - where present - do not usurp decision-making. Government funds should be available to implement recommendations that are decided upon, whether this requires education, training, or new programmatic initiatives. Support should also be available for the development of new projects of governance as identified by affected populations, as well as for building bridges and collaboration across platforms, sectors, constituencies, and operational levels through regional and global councils - elaborating governance proposals from positions of legitimacy and strength.

- **Independent and transparent screening mechanisms for assessing, monitoring, and managing conflicts of interest** based on comprehensive human rights and other public-interest based criteria (e.g. the right to food, protection of biodiversity, public health, labour rights, social equality, food justice, etc.), to be applied to corporations and their beneficiaries (including civil society, academia, philanthropies and professional research sectors linked with corporations).

Individuals and entities with firm and/or sector-specific commercial interests should not be permitted to engage as decision-makers,

nor allowed to interfere with decisions. A key step would be to differentiate the corporate sector from other private sector actors, such as small-scale food producers, micro-entrepreneurs, local cooperatives, associations, etc. Specifically, where they are involved, it must be clearly understood that large corporations, businesses, and commercial associations/federations, have an economic interest in extracting wealth from communities, including those experiencing malnutrition.

- **Robust grievance mechanisms.** Independent and robust grievance mechanisms must provide access to effective remedies for those who suffer harm and human rights violations. To be effective, grievance mechanisms must be accessible, predictable, equitable, transparent, rights-compatible, rights-holder centric, and a source of continuous learning.<sup>xxiii</sup>

- **For the Committee on World Food Security (CFS),** in addition to the above, the following should be enacted:<sup>84</sup>

- Placing human rights at the centre of all CFS policy processes, as the key unifying element. The right to food, within the indivisibility of all other human and collective rights, would become the lens through which all policy decisions are explored, assessed, and decided.

- Becoming a space where regional/global problems and trends that threaten the capacities, agency, and rights of small-scale food providers, workers, and Indigenous Peoples are promptly and efficiently examined and addressed.

<sup>xxiii</sup> For further details on proposed elements and a broader discussions on multi-stakeholder initiative grievance mechanisms, please see: MSI Integrity. 2020. *Not Fit-for-Purpose: The Grand Experiment of Multi-stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance.*

- Strengthening the coordination and policy convergence dimensions of the CFS by actively engaging with other intergovernmental spaces regionally and internationally, especially on crucial current issues (e.g food price crisis, Covid-19, etc).
- Strengthening the knowledge production dimension of the CFS by 1) better highlighting and explaining existing innovative CFS policy proposals (e.g the Global Strategic Framework, the Voluntary Guidelines on the Responsible Governance of Land, Fisheries, and Forests, and Connecting Smallholders to Markets) and 2) through deeper discussions on the role of critical approaches such as territorial markets and agroecology in building sustainable

food systems, revitalizing local economies, livelihoods, resilience, and biodiversity.

- Better supporting the High Level Panel of Experts (HLPE) with adequate funds and greater latitude to initiate reports on emerging issues and rapidly evolving global conditions, and the urgent transformations needed in food systems to end hunger and malnutrition. The HLPE could be further strengthened through more specific efforts to directly include Indigenous peoples' and local communities' knowledge. Each major HLPE report should be followed by a process to negotiate policies recommended in the report.

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## RECOMMENDATION 3

Allies of public-interest-based food governance (including states, political parties, village to legislature level democratic representative bodies, civil society, social movements, unions, philanthropy, and multi-actor bodies) should **prioritize the creation, long-term viability, and recognition of autonomous processes and spaces for voices, claims, and proposals of people's organizations and social movements**. Special attention needs to be given to processes that build the agency and voice of women, Indigenous Peoples, and constituencies whose voices and needs have been/are being marginalized in policy, justice, and governance structures.

This would include:

- **Long-term, process-based funding mechanisms** that enable people's organizations and social movements to regularly come together to review and assess food governance trends and issues without expectation of a specific 'project' or 'outcome'.
- **Creating spaces in formal deliberations and negotiations** (national, international, and multilateral) for the ideas, demands, and critiques generated from these processes and spaces to be considered on par with governmental proposals.
- **Establishing interface mechanisms and structures** that enable regular dialogue, exchange, and joint governance initiatives between state, multilateral, civil society, and social movement organizations.

FIGURE 3

## Bold approaches to counter the corporate takeover of global food governance spaces

### PRINCIPLES FOR ACTION



**1. Rein in the influence of corporations on food governance**



**2. Democratize decision-making to serve the public interest**



**3. Build counter-power from the grassroots upwards**

### RECOMMENDATIONS

Introduce a UN-wide Corporate Accountability Framework.

Create robust conflict of interest and grievance policies and new mechanisms grounded in human rights, that allow people's organizations, social movements, and other civil society actors to participate in food governance on their own terms.

Build up autonomous processes and spaces for claims and proposals from people's organizations and social movements, especially those that build agency for marginalized communities.





# CONCLUSION

An urgent change in the global governance of food systems is needed, with the future of global food security and nutrition hanging in the balance. The stakes are high; and the more entrenched corporate influence in food systems governance becomes, the more difficult it is to roll back. This brief has outlined the impacts of corporations encroaching on food system governance spaces, and the more visible and less visible ways in which this takes place.

Procedural approaches that operate within prevailing power structures to limit the worst impacts are necessary but ultimately are not enough. Building governance processes that genuinely prioritize the public interest and human rights – allowing us to collectively address rising and rampant hunger and malnutrition – will require much bolder approaches. This brief has pointed to some of the emerging approaches and guiding principles. Although none are perfect, and some are still in development, they show that people affected by food governance decisions can indeed wrest power from corporations and demonstrate new ways forward.

For change to happen, it will be necessary to address problems with the influence of corporations at food governance tables, as well as behind the scenes in the broader governance context; build up autonomous governance processes and spaces for voices, claims, and proposals of people's organizations and social movements; and to democratize governance fora to serve the public interest. All of these approaches need to happen in parallel in order to dismantle governance that reinforces corporate power, shift the balance of power from corporations to communities, and build new ways of governing in the public interest. It is time for transformative governance proposals to take centre stage.

**“ It is time for transformative governance proposals to take centre stage. ”**

## OVERVIEW OF INTERNATIONAL LEGAL INSTRUMENTS REGULATING BUSINESS AND CORPORATIONS

Instrument	Applicability and Binding Force	Main Material Scope	Key disclosure/DD requirements	Other relevant features
UN Global Compact	Non-binding; UN pact bringing together companies with UN agencies, labour groups, and civil society.	Voluntary initiative for businesses, stating ten principles in the areas of human rights, labour, the environment, and anti-corruption.	Does not have a monitoring or enforcement mechanism, but is rather designed to stimulate change and promote corporate sustainability.	Business participants are expected to publish in their annual report or similar corporate report (e.g. sustainability report) a description of the ways in which they are supporting the UN Global Compact and its ten principles. This is known as Communication on Progress. Failing to communicate progress on an annual basis results in a downgrading of participant status from active to non-communicating. Participants who do not communicate progress for two years in a row are expelled and the UN Global Compact publishes their name.

Instrument	Applicability and Binding Force	Main Material Scope	Key disclosure/DD requirements	Other relevant features
UN Guiding Principles on Business and HR	Non-binding; applies to all states and business enterprises, both transnational and others, regardless of their size, sector, location, ownership, and structure.	Human rights, fundamental freedoms, environment.	<p>Companies should:</p> <p>i) express their commitment to respect human rights through a policy statement that is publicly available and communicated internally and externally to all personnel, business partners, and other relevant parties (Principle 16); and</p> <p>ii) conduct human rights due diligence by assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed (Principle 17-21).</p> <p>Formal reporting by enterprises is expected where risks of severe human rights impacts exist, whether this is due to the nature of the business operations or operating contexts. The reporting should cover topics and indicators concerning how enterprises identify and address adverse impacts on human rights (Principle 21).</p> <p>The UN Guiding Principles Reporting Framework also helps companies report meaningfully on their human rights performance.</p>	<ul style="list-style-type: none"> <li>- Extraterritoriality: States to set out the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations. (Principle 2)</li> <li>- State-corporate nexus: Focus on state's own international law obligations when owning, controlling, contracting with, or legislation for corporations (Principle 4-6).</li> <li>- Offer remediation and access to remedy (Principle 22, 25- 31).</li> <li>- Business enterprises conducting due diligence should not assume that, by itself, this will automatically and fully absolve them from liability for causing or contributing to human rights abuses (Commentary, Principle 17).</li> </ul>



Instrument	Applicability and Binding Force	Main Material Scope	Key disclosure/DD requirements	Other relevant features
OECD Guidelines for Multinational Enterprises	Not legally binding on companies, but binding on signatory governments who are required to ensure the Guidelines are implemented and observed.	Human rights, employment, industrial relations, environment, consumer interests, combating bribery, science and technology, competition, and taxation.	<p>The Guidelines encourage disclosure or communication practices in areas where reporting standards are still evolving such as, for example, social, environmental, and risk reporting (Part III on Disclosure).</p> <p>Enterprises should, within the framework of internationally recognized human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations, have a policy commitment to respect human rights and carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts (Part IV Human Rights).</p> <p>Every government that adheres to the guidelines is required to establish an international grievance mechanism called National Contact Point to promote the Guidelines and handle complaints against companies that have allegedly failed to adhere to the standards.</p>	<ul style="list-style-type: none"> <li>- International and extraterritorial scope.</li> <li>- Recognition of due diligence and supply chain responsibility.</li> <li>- Broad coverage of issues and business sectors.</li> </ul>

Instrument	Applicability and Binding Force	Main Material Scope	Key disclosure/DD requirements	Other relevant features
The ILO Tripartite declaration of principles concerning multi-national enterprises (MNEs) and social policy	Non-binding; Principles are addressed to MNEs, governments of home and host countries, and employers' and workers' organizations; universally applicable to all member states of the ILO and all enterprises.	Employment, training, conditions of work and life, industrial relations, and related human rights.	Guided by the UN Guiding Principles on Business and Human Rights, Paragraph 10 (d) of the Declaration now stipulates that enterprises, including multinational enterprises, should carry out due diligence to identify, prevent, mitigate and account for how they address their actual and potential adverse impacts that relate to internationally recognized human rights, understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the ILO Declaration on Fundamental Principles and Rights at Work.	<ul style="list-style-type: none"> <li>- The last amendment to the MNE Declaration in 2017 has enriched the Declaration by strengthening and adding principles addressing specific decent work issues related to social security, forced labour, transition from the informal to the formal economy, wages, safety and health, access to remedy, and compensation of victims.</li> <li>- Additionally, Paragraph 10 e. of the MNE Declaration clarifies that the due diligence process should take into account the central role of freedom of association and collective bargaining as well as industrial relations and social dialogue as an ongoing process. This implies that a company's due diligence process has to include workers' organizations.</li> </ul>

Instrument	Applicability and Binding Force	Main Material Scope	Key disclosure/DD requirements	Other relevant features
CESCR General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities	Non-binding	Economic, social, and cultural rights.	<p>The obligation to protect entails a positive duty of the state to adopt a legal framework requiring business entities to exercise human rights due diligence to identify, prevent, and mitigate the risks of violations of Covenant rights, to avoid such rights being abused, and to account for the negative impacts caused or contributed to by their decisions and operations and those of entities they control on the enjoyment of Covenant rights.</p> <p>States should adopt measures such as imposing due diligence requirements to prevent abuses of Covenant rights in a business entity's supply chain and by subcontractors, suppliers, franchisees, or other business partners (Para 16).</p>	<ul style="list-style-type: none"> <li>- The Committee recognized the importance of international cooperation and access to remedy for effective accountability in transnational cases. The Committee welcomes, in this regard, any efforts at the adoption of international instruments that could strengthen the duty of states to cooperate in order to improve accountability and access to remedies for victims of violations of Covenant rights in transnational cases (Para 35).</li> <li>- The general comment also stipulates that effective monitoring, investigation, and accountability mechanisms be put in place to ensure accountability and access to remedies, preferably judicial remedies, for those whose Covenant rights have been violated in the context of business activities. States parties should also inform individuals and groups of their rights and the remedies accessible to them ensuring specifically that information and guidance, including human rights impact assessments, are accessible to indigenous peoples (Para 38).</li> </ul>



Instrument	Applicability and Binding Force	Main Material Scope	Key disclosure/DD requirements	Other relevant features
<p>CRC General comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights</p>	<p>Non-binding</p>	<p>Children's rights arising from the Convention of the Rights of the Child.</p>	<p>States should require businesses to undertake child-rights due diligence. This will ensure that business enterprises identify, prevent, and mitigate their impact on children's rights including across their business relationships and within global operations. Where there is a high risk of business enterprises being involved in violations of children's rights because of the nature of their operations or their operating contexts, states should require a stricter process of due diligence and an effective monitoring system (Para 62).</p> <p>States should require all state-owned enterprises to undertake child-rights due diligence and to publicly communicate their reports on their impact on children's rights, including regular reporting (Para 64). As part of child-rights due diligence, large business enterprises should be encouraged and, where appropriate, required to make public their efforts to address child rights impacts. Such communication should be available, efficient, and comparable across enterprises and address measures taken by the business to mitigate potential and actual adverse impacts for children caused by their activities (Para 65).</p>	<ul style="list-style-type: none"> <li>- Given the heightened risks, home states should require businesses enterprises operating in situations of emergency and conflict to undertake stringent child-rights due diligence tailored to their size and activities (Para 50).</li> <li>- When states conduct broader impact assessments of business-related policy, legislation, or administrative practices, they should ensure that these assessments are underpinned by the general principles of the Convention and the Optional Protocols thereto and have special regard for the differentiated impact on children of the measures under consideration (Para 79).</li> <li>- States should enable access to effective judicial and non-judicial mechanisms to provide remedies for children and their families whose rights have been violated by business enterprises extraterritorially when there is a reasonable link between the state and the conduct concerned. Furthermore, states should provide international assistance and cooperation with investigations and enforcement of proceedings in other states (Para 44).</li> </ul>

Private standards	Application/Compliance	Objective
<p>The International Finance Corporation (IFC) Sustainability Framework (Policy on Environmental and Social Sustainability, Performance Standards and Access to Information Policy.)</p>	<p>Applies to all investment and advisory clients whose projects go through IFC's initial credit review process after January 1, 2012.</p>	<p>The Policy on Environmental and Social Sustainability describes IFC's commitments, roles, and responsibilities related to environmental and social sustainability. IFC's Access to Information Policy reflects IFC's commitment to transparency and good governance in its operations and outlines the Corporation's institutional disclosure obligations regarding its investment and advisory services. The Performance Standards are directed toward clients, providing guidance on how to identify risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business sustainably, including stakeholder engagement and disclosure obligations of the client concerning project-level activities.</p> <p>The IFC acknowledges the responsibility of the private sector to respect human rights and encourages clients to undertake additional due diligence in high-risk circumstances. (PS 1 Para 6) Given the nature of extractive projects, there will be increasing demands for proponents to conduct human-rights impact and risk assessments (HRIAs). And, while that's good, best practice is still to include conflict management in these plans: Conflict, human-rights impact and risk assessments (CHRIAs).</p>

Private standards	Application/Compliance	Objective
<p>Multi-stakeholder initiatives (e.g. Roundtable on Sustainable Palm Oil, RSPO)</p>	<p>Most of these initiatives are self-defined, self-managed, and self-regulated norms, and compliance is voluntary. Models have emerged that enable rights holders to enforce compliance, for example by requiring members to put legally-binding terms reflecting an initiative's standards in their contracts. However, initiatives have not adopted them and thus compliance remains dependent on the willingness of members to meet multi-stakeholder initiative standards.</p>	<p>Multi-stakeholder initiatives are often sector-specific and give guidance to organizations on how to respect human rights in their daily work.</p> <p>RSPO's mission statement states that RSPO will transform markets to make sustainable palm oil the norm: advance the production, procurement, finance, and use of sustainable palm oil products; develop, implement, verify, assure and periodically review credible global standards for the entire supply chain of sustainable palm oil; monitor and evaluate the economic, environmental and social impacts of the uptake of sustainable palm oil in the market; engage and commit all stakeholders throughout the supply chain, including governments and consumers.</p> <p>The RSPO Principles and Criteria are standards for sustainable palm oil production, which RSPO members must comply with. They are reviewed every five years and subsequently submitted for ratification by the General Assembly of RSPO.</p>



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# WHO'S TIPPING THE SCALES?

## ADDITIONAL RESEARCHERS

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## ABOUT IPES-FOOD

The International Panel of Experts on Sustainable Food Systems (IPES-Food) seeks to inform debates on food systems reform through policy-oriented research and direct engagement with policy processes around the world. The expert panel brings together environmental scientists, development economists, nutritionists, agronomists, and sociologists, as well as experienced practitioners from civil society and social movements. The panel is co-chaired by Olivier De Schutter, UN Special Rapporteur on extreme poverty and human rights, and Lim Li Ching, Senior Researcher at Third World Network.



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