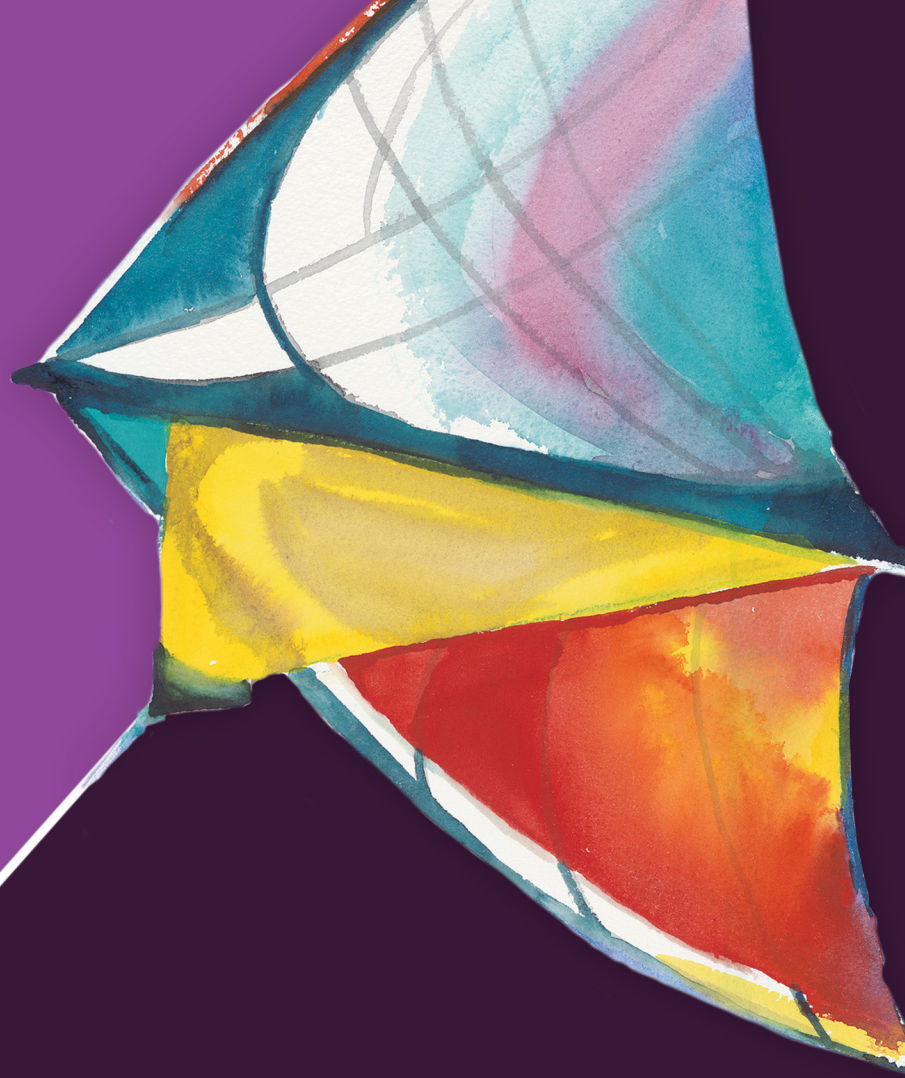


SERIES ON HUMAN RIGHTS AND HEALTH



8. HEALTHY FOOD

A Human Rights-based Approach

PAHO



Pan American
Health
Organization



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REGIONAL OFFICE FOR THE
Americas

8. HEALTHY FOOD: A Human Rights-based Approach

"The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."

Preamble to the Constitution of the World Health Organization

BAD ADVERTISING¹

A country's Public Prosecutor's Office filed a lawsuit asserting that an international food company's promotional campaign, which linked one of its products, a type of sweet cookie, with the children's character "Pipo," constituted an abusive advertising strategy. The promotion involved getting a watch with the "Pipo" character on it after buying five cookies and paying an additional sum of money. It was a clear example of advertising targeting children and adolescents, who undoubtedly find these characters appealing and are attracted by the product's colorful packaging. The company uses a marketing hook that is illegal under both the country's Constitution and national statutes.

The company argued that it was not a marketing hook, since the gift was not conditioned solely on the purchase of cookies, but rather on the purchase of five packages of the product plus a sum of money. The company also contended that the advertisement in question was merely a way of linking a gift to the purchase of the brand's products, and that, while "gifts" must be given to consumers free of charge, in this case consumers had to pay for the watch.

The country's highest court ruled that the campaign was a typical case of abusive advertising, and therefore unconstitutional, given that its content was directed at children and, contrary to national statutes, used a marketing hook. The court's ruling states that the advertisement in question is doubly abusive: first, because it is an advertisement that promotes the sale of food directly or indirectly targeting children; and second, because it uses an obvious marketing hook. This is prohibited in legal business transactions between adults and, even more so in a context that uses and exploits children's universe of play.

In addition, the court based its decision on the fact that the advertisement uses the imperative verb tense, and that, given the current childhood obesity crisis, it is the parents who should decide what food to buy: parents have the authority to determine their children's diet and no commercial enterprise has the right to hinder parents' authority and common sense. In addition, the court noted that although children cannot give their legal consent to enter into business transactions, they have the power to persuade their parents.

¹ This account is based on similar events that occurred in Latin America.

Food and nutritional security: current status

According to the definition adopted by the Committee on World Food Security, food and nutrition security requires that “all people at all times have physical, social and economic access to food of sufficient quantity and quality in terms of variety, diversity, nutrient content and safety to meet their dietary needs and food preferences for an active and healthy life, coupled with a sanitary environment, adequate health, education and care (1).

According to the United Nations Food and Agriculture Organization (FAO), since the World Food Summit (WFS) in 1996, “Food security, at the individual, household, national, regional and global levels ... exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life” (2).

In 2019, 47 million people in Latin America and the Caribbean were living with hunger. This means that approximately 7.4% of the Region’s inhabitants were suffering from hunger; even more significantly, it means that in the last five years alone the undernourished population has increased by more than 13 million people (3).

Moreover, in 2019, more than 190 million people in the Region faced moderate or severe food insecurity. Thus, one in three inhabitants of Latin American and Caribbean countries lacked access to food in adequate quantity or quality, due to insufficient economic or other resources. This reality affects food and eating habits, and has negative effects on nutrition, health, and well-being, and leads to problems caused by malnutrition and nutrient deficiencies, such as overweight and obesity (3).

Excess weight is one of the most prevalent and growing manifestations of food and nutrition insecurity.

The percent of children who are overweight in Latin America and the Caribbean continues to increase; in 2019 it stood at 7.5%, above the global average of 5.6%. In fact, overweight and obesity have increased in all age groups. In all countries of the Region, The percent of women who are overweight is higher than in men, and in 19 countries there is a difference of at least 10 percentage points (3). The economic and social cost of the double burden of malnutrition and, especially, overweight and obesity, is increasing in the Region: 75% of deaths due to noncommunicable diseases are largely associated with unhealthy eating (3). However, as is widely recognized, national averages often conceal even more serious situations within countries.

Currently, one in five territories in Latin America and the Caribbean is seriously lagging in terms of malnutrition, with regard to both stunting and overweight. Childhood stunting rates are disproportionately high in rural areas, where there is less access to services, labor markets are mostly informal, and there are high levels of poverty and low levels of education. Overweight in children under five years of age is more pronounced in urban areas, particularly among the poorest groups, although it also occurs in rural areas. In fact, 53 territories, or one out of every five, are lagging as a result of the double burden of malnutrition, and these territories tend to be rural, with high levels of poverty and high proportions of indigenous and Afro-descendant peoples (3).

The Region will have reached zero hunger only when all women and men, in all territories, are food secure and free from any form of malnutrition. The publication *Regional Overview of Food Security and Nutrition in Latin America and the Caribbean 2020* highlights some current examples of successful, multidimensional initiatives in the Region aimed at reducing the various forms of malnutrition, in areas facing the greatest challenges. There are cross-cutting policies and programs that combine interventions to guarantee physical and economic access to healthy food, while ensuring their

proper use and quality. These actions, when designed and implemented in dialogue and coordination with the relevant stakeholders, taking account of the territories' characteristics, can increase the well-being of the entire population (3). Measures at the production level, such as promoting good agricultural practices, reducing pesticide use, promoting food based on agrobiodiversity, and transitioning to agroecological production models, can be taken to increase availability throughout the year, and increase nutritional value and sustainability, among other benefits. In terms of storage, positive initiatives include promoting equipment and infrastructure that preserve the nutritional quality of the product, ensure food safety, and reduce post-harvest loss. Measures at the marketing level include improving hygiene conditions in local markets, and increasing family farmers' access to institutional markets (public purchasing) that serve vulnerable populations. Lastly, at the consumption level, the most cost-effective policies to promote healthy eating are those that seek to regulate the advertising and labeling of processed and ultra-processed products, along with tax measures (3, 4).

Protection under international and regional human rights instruments

Both the United Nations and the Inter-American System of Human Rights have an important set of legal instruments that recognize and protect the rights and freedoms of all persons without distinction of any kind, such as to ethnicity, color, sex, language, religion, political or other ideology, national or social origin, economic position, birth, or any other social condition. In addition, international human rights instruments specifically protect the right to adequate food. In addition to recognizing rights, they also establish States' obligations, such as the obligation to prevent third parties from violating fundamental rights. This obligation is central to addressing the right to adequate food, as States are obligated to monitor and supervise all companies that have a direct or indirect impact on the right to adequate food.

Conventions or treaties are legal instruments that are binding on States that have ratified them. There are also other instruments, such as declarations, resolutions, and comments emanating from the mechanisms of the United Nations and the Inter-American system that establish international standards in the field of human rights.

Human rights standards represent a consensus of international opinion. In most cases, these are issued by the United Nations General Assembly, the Human Rights Council, mechanisms for monitoring treaties and other commitments and obligations of United Nations Member States, the Organization of American States (OAS) Inter-American Commission on Human Rights (IACHR), and specialized agencies of the United Nations and the Inter-American system.

These standards provide a basic guide for implementing human rights treaties in countries, through the formulation and revision of legislation, policies, plans, and programs to ensure that the right to health and adequate food is protected. Some international standards in this regard state that the right to adequate food is realized when every man, woman, and child, as an individual or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense that equates it with a minimum amount of calories, proteins, and other specific nutrients.

United Nations Human Rights System

The United Nations human rights monitoring system consists of two types of bodies: United Nations Charter-based bodies and treaty-based bodies (5). The charter-based bodies include the Human Rights Council (an inter-governmental body within the United Nations System made up of 47 States responsible for the promotion and protection of human rights globally) (6); the Universal Periodic Review (a State-driven

process to examine the human rights situation in all States,, which provides the opportunity for each State to declare what actions it has taken to improve the human rights situation within the country) (7); and the special procedures of the Human Rights Council (a mechanism by which a mandate is assigned to prominent individuals, either individually or as a working group, to address specific situations or thematic areas [8]; one example of this mechanism is the Special Rapporteur on the right to food²).

The Special Rapporteur on the right to food has prepared reports on a range of topics. In particular, in July 2021, a report focusing on food systems noted that although the 2021 Food Systems Summit elevated the public debate on food systems reform, insufficient attention has been given to the structural challenges facing the world's food systems (9). The report states:

The current food crisis is an international problem. It has not only affected food availability and accessibility but also impacted a range of other rights, including the right to work, just and favourable conditions of work, health and social protection. The world was falling behind on fully realizing the right to food even before the current pandemic and things are now worse. Conflict, climate variability and extremes and economic slowdowns and downturns have widened existing inequities in the world's food systems. Specific groups, including food producers and workers, women and children, have borne the brunt of the human rights impacts of the pandemic (9).

The United Nations treaty-based bodies consist of committees of independent experts who monitor the implementation of international human rights treaties (10). Their existence derives from the treaties themselves;

for example, the Committee on the Rights of the Child consists of a group of 18 independent experts who monitor the implementation of the Convention of the same name (11). These treaty-based bodies are empowered to issue General Comments on matters related to their mandate, as well as to engage in individual communications, in which they are called to issue recommendations regarding the specific case before them.

The Office of the High Commissioner for Human Rights has stated that the four fundamental elements of the right to food are (12):

- a) **Availability:** Food should be obtainable from natural resources, either through the production of food, by cultivating land or animal husbandry, or by other means such as fishing, hunting, or gathering. Food should be on sale in markets and shops.
- b) **Accessibility:** Food must be affordable. Individuals should be able to have an adequate diet without compromising on other basic needs, such as school fees, medicines, or rent. Food should be accessible to the physically vulnerable, including children, sick people, people with disabilities, and the elderly. Food must also be available to people in remote areas, to victims of armed conflicts or natural disasters, and to prisoners.
- c) **Adequacy:** Food must satisfy dietary needs, taking into account a person's age, living conditions, health, occupation, sex, etc. Food should be safe for human consumption and free from adverse substances.
- d) **Sustainability:** Food should be accessible for both present and future generations.

Finally, it should be noted that within the United Nations, in addition to the World Health Organization (WHO), there are other agencies and funds working for

² <https://www.ohchr.org/en/issues/food/pages/foodindex.aspx>.

food security, namely: the World Food Program (WFP), which aims to provide food assistance to more than 80 million people in 80 countries and responds to food emergencies (13); the World Bank, which works with partners to improve food security and build a food system that can feed everyone, everywhere, every day (14); FAO, which aims to achieve food security for all people and ensure that all people can regularly access a sufficient amount of quality food to enable them to lead active and healthy lives (15); the United Nations Children's Fund (UNICEF), which works to protect children's rights and promote child health and nutrition (16); and the International Fund for Agricultural Development (IFAD), which focuses on reducing poverty in rural areas; to this end, it works with rural populations in developing countries to eliminate poverty, hunger, and malnutrition, increase agricultural productivity and incomes, and improve people's quality of life (17).

The United Nations has designated 2016–2025 as the Decade of Action on Nutrition, consisting of a commitment by United Nations Member States to undertake 10 years of sustained and coherent implementation of policies, programs and increased investments to eliminate malnutrition in all its forms, everywhere, leaving no one behind (18).

Binding international legal instruments³

International Covenant on Civil and Political Rights (1966)

This Covenant provides that every human being has the inherent right to life, and that no one shall be arbitrarily deprived of their life. Each State Party to the Covenant undertakes to respect and to ensure all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as to ethnicity, color, sex, language, religion, political or other opinion, national

or social origin, economic status, birth, or other status. With regard to equality, it recognizes that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. It also establishes that all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence (19).

International Covenant on Economic, Social and Cultural Rights (1966)

This treaty recognizes a wide range of economic, social, and cultural rights, including the right to adequate food, health, education, work, social security, and culture, among other rights, without discrimination based on ethnicity, color, sex, language, religion, political or other opinion, national or social origin, economic position, birth, or any other status.

This treaty also recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The measures that States Parties to the present Covenant must take to achieve the full realization of this right shall include those necessary for: (a) the reduction of stillbirth and infant mortality rates, and for the healthy development of the child; (b) improvement of all aspects of environmental and industrial hygiene; (c) prevention, treatment, and control of epidemic, endemic, occupational, and other diseases; and (d) creation of conditions that assures to all people medical service and medical attention in the event of sickness. It also recognizes the right of everyone to an adequate standard of living for oneself and one's family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions.

³ The designations "covenant" and "convention" or other forms do not change the binding nature of these instruments. These are treaties within the meaning of the Vienna Convention on the Law of Treaties (1969), which provides that every treaty in force is binding upon the parties to it and must be performed by them in good faith. A party may not invoke the provisions of its domestic law as justification for its noncompliance with a treaty.

The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, establishes the obligation of States Parties, individually and through international cooperation, to adopt measures, including specific programs, which are needed to: (a) improve methods of production, conservation, and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge on the principles of nutrition, and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; and (b) take into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need (20).

Convention on the Elimination of All Forms of Discrimination against Women (1979)

This instrument of international law condemns discrimination against women in all its forms, and recognizes the rights and obligations of States in promoting and protecting women's rights. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care to ensure, on an equal basis between men and women, access to health care services. In particular, the Convention establishes the obligation of States Parties to ensure women appropriate services in connection with pregnancy, birth, and the post-partum period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Further, this treaty establishes the obligation of States Parties to take all appropriate measures to eliminate discrimination against women in rural areas to ensure, on an equal basis between men and women, that women participate in and benefit from rural development and, in particular, ensure such women the right to adequate living conditions, particularly in relation to housing, sanitation, electricity, water supply, transport, and communications (21).

Convention on the Rights of the Child (1989)

This treaty recognizes that every child has the inherent right to life, to physical, mental, and moral integrity, and to health. It recognizes the right of the child to the enjoyment of the highest attainable standard of health, and to services for the treatment of illness and rehabilitation of health. To this end, States Parties shall combat disease and malnutrition, including within the framework of primary health care through, among other things, the application of readily available technology, and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution, as well as ensuring that all segments of society, in particular parents and children, are informed, have access to education, and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene, environmental sanitation, and the prevention of accidents, and that they have access to relevant education and are supported in the application of this knowledge.

In addition, the Convention recognizes the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral, and social development. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right, and shall in case of need provide material assistance and support programs, particularly with regard to nutrition, clothing, and housing (22).

Convention on the Rights of Persons with Disabilities (2006)

This Convention recognizes the special protection that States Parties must guarantee to persons with disabilities, and establishes all of their political, civil, economic, social, and cultural rights, taking into account the specific needs of this population. This instrument reflect-

ed a paradigm shift with respect to this group, moving from the old medical model of physical and mental disability to a social model, which acknowledges that, to a large extent, the causes of disabilities are social.

This treaty recognizes the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability, and obligates States Parties to take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties must prevent discriminatory denial of health care, health services, or solid and liquid foods on the basis of disability.

The Convention also recognizes the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate

food, clothing, and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability (23).

International declarations, principles, recommendations, and guidelines

Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights states that all human beings are born free and equal in dignity and rights. With regard to equality, it recognizes that all people are equal before the law and are entitled without any discrimination to equal protection of the law. In particular, it provides that everyone has the right to a standard of living adequate for the health and well-being of oneself and one's family, including food (24).

International Code of Marketing of Breast-milk Substitutes (1981)

Breastfeeding is the basis of life and brings benefits to the health of the mother and the child in the short and long term; for this reason, it should be promoted as a cultural and behavioral norm, and not as something interchangeable with artificial feeding. Just as there are measurable benefits to breastfeeding, in both the most affluent and disadvantaged settings, there are also measurable risks stemming from its absence. The decision on how to feed the nursing infant should not be viewed as a lifestyle choice, but rather as a choice linked to reproduction, one that promotes the optimal health of the mother-child binomial throughout life.

In this regard, the International Code of Marketing of Breast-milk Substitutes, adopted by the World Health Assembly, was established in response to concerns that inappropriate marketing of breast-milk substitutes caused a large number of infant deaths. The Code and the subsequent related resolutions of the Assembly constitute the basic policies of any effort to protect, promote, and encourage breastfeeding.

The Code is a set of recommendations aimed at regulating the marketing of breast-milk substitutes, bottles, and nipples (25).

The purpose of the Code is to curb the aggressive and improper marketing of breast milk substitutes. In 1981, the 34th World Health Assembly adopted the International Code of Marketing of Breast-milk Substitutes as a minimum requirement to protect and promote adequate infant and young-child feeding. The aim of the Code is to "contribute to the provision of safe and adequate nutrition for infants, by the protection and promotion of breastfeeding, and by ensuring the proper use of breast-milk substitutes, when these are necessary, on the basis of adequate information and through appropriate marketing and distribution" (26).

The Code advocates that infants be breastfed. If infants are not breastfed, for whatever reason, the Code also advocates that they be fed safely on the best available nutritional alternative. Breast-milk substitutes should be available when needed, but should not be promoted.

To achieve optimal growth, development, and health, WHO recommends that infants should initiate breastfeeding within one hour of birth, and be exclusively breastfed for the first six months of life. Thereafter, infants should receive adequate and safe complementary foods while breastfeeding continues up to two years of age and beyond.

The importance of this instrument lies in establishing general conditions that allow mothers, based on impartial information and without commercial influences, to make the best decisions about feeding their children, while receiving the full support they need.

The inappropriate marketing of food products is an important factor that often negatively affects the choice of a mother to breastfeed her infant optimally. Given the special vulnerability of infants and the risks involved in inappropriate feeding practices, usual marketing practices are therefore unsuitable for these products (25).

Committee on Economic, Social and Cultural Rights General Comment No. 12: The Right to Adequate Food (1999)

In this Comment, the Committee on Economic, Social and Cultural Rights affirmed that the right to adequate food is indivisibly linked to the inherent dignity of the human person, and is indispensable for the fulfillment of other human rights. It also established that the concept of adequacy is particularly significant in relation to the right to food, since it serves to underline a number of factors that must be taken into account in determining whether particular foods or diets that are accessible can be considered the most appropriate under given circumstances for the purposes of Article 11 of the Covenant (on the right to adequate food). The notion of sustainability is intrinsically linked to the notion of adequate food or food security, implying food must be accessible for both present and future generations. The precise meaning of “adequacy” is to a large extent determined by prevailing social, economic, cultural, climatic, ecological, and other conditions, while “sustainability” incorporates the notion of long-term availability and accessibility.

In addition, the Committee determined that the core content of the right to adequate food implies: (a) the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture; and (b) the accessibility of such foods in ways that are sustainable and that do not interfere with the enjoyment of other human rights.

Lastly, the right to adequate food, like any other human right, imposes three types or levels of obligations on States Parties: the obligations to respect, protect, and fulfill. The obligation to respect existing access to adequate food requires States Parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State Party to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to fulfill (facilitate) means the State must proactively engage in activities intended to strengthen people’s access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States

have the obligation to fulfill (provide) that right directly. This obligation also encompasses persons who are victims of natural or other disasters (27).

Committee on Economic, Social and Cultural Rights General Comment No. 14: The Right to the Highest Attainable Standard of Health (2000)

This General Comment is central to understanding the scope of the right to health and the obligations assumed by States upon ratification of the International Covenant on Economic, Social and Cultural Rights. In this Comment, the Committee on Economic, Social and Cultural Rights analyses the content and scope of Article 12 of the Covenant on the right to health, as well as the obligations of States Parties arising from it, and provides clear guidelines on what measures should be taken to ensure that right. In this Comment, the Committee states that the right to health is closely related to other human rights to life, non-discrimination, equality, personal freedom, personal integrity, freedoms of association, assembly, and movement, and the rights to food, housing, water, work, and education, which are interdependent with the right to health.

The Committee also sets out the four essential and interrelated elements that make up the right to health in all its forms and at all levels, the precise application of which will depend on the conditions prevalent in a particular State Party:

(a) Availability. Functioning public health and health-care facilities, goods and services, as well as programs, must be available in sufficient quantity within the State Party. The precise nature of the facilities, goods, and services may vary depending on numerous factors, including the State Party's level of development. They will include, however, the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics, and other health-related facilities, trained medical personnel and other professionals receiving domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs.

(b) Accessibility. Health facilities, goods, and services must be accessible to everyone without discrimination, within the jurisdiction of the State Party. This element has four dimensions: (i) non-discrimination; (ii) physical accessibility; (iii) economic accessibility (affordability); and (iv) access to information.

(c) Acceptability: All health facilities, goods, and services must be respectful of medical ethics and be culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples, and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.

(d) Quality. As well as being culturally acceptable, health facilities, goods, and services must also be scientifically and medically appropriate and of good quality. This requires, among other aspects, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation (27).

Committee on the Rights of the Child General Comment No. 7 (2005): Implementing child rights in early childhood

In this General Comment, the Committee on the Rights of the Child determined that States Parties should ensure that all children have access to the highest attainable standard of health and nutrition during their early years, in order to reduce infant mortality and enable children to enjoy a healthy start in life. In particular: (a) States Parties have a responsibility to ensure access to safe drinking water, adequate sanitation, appropriate immunization, good nutrition, and medical services, which are essential for young children's health, as is a stress-free environment; and (b) States Parties have a responsibility to implement children's right to health by encouraging education in child health and development, including on the advantages of breastfeeding, nutrition, hygiene, and sanitation (28).

Guiding Principles on Business and Human Rights (2011)

These Guiding Principles apply to all States and to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership, and structure. These Guiding Principles should be understood as a coherent whole and should be read, individually and collectively, in terms of their objective to enhance standards and practices regarding business and human rights so as to achieve tangible results for affected individuals and communities, thereby also contributing to socially sustainable globalization. The principles determine, among other aspects, that States must protect against human rights abuses within their territory or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish, and redress such abuses through effective policies, legislation, regulations, and adjudication. States should also clearly state the expectation that all business enterprises domiciled in their territory or jurisdiction respect human rights throughout their operations.

At the same time, these principles also set forth the obligations of business enterprises, and establish that they should respect human rights. That means that they should avoid infringing on the human rights of others and should address adverse human rights impacts that they participated in causing. The responsibility to respect human rights requires that business enterprises: (a) avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; and (b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products, or services, or stem from their business relationships, even if they have not contributed to those impacts. The responsibility to respect human rights applies to all enterprises regardless of their size, sector, operations, ownership, and structure.

These Principles set out concrete measures that business enterprises must take to prevent abuses of human rights and mitigate adverse impacts to these rights that are directly linked to their operations, including regarding the right to adequate food (29). This instrument is essential in the context of protecting food security and promoting business enterprises responsible for ensuring it.

Comprehensive Implementation Plan on Maternal, Infant, and Young Child Nutrition (2012)

This WHO Plan aims to alleviate the double burden of malnutrition in children, starting from the earliest stages of development. Substantial benefits can be obtained by concentrating efforts from conception through the first two years of life, but at the same time a life-course approach needs to be considered so that good nutritional status can be maintained. Progress can be made in the short term, and most nutrition challenges can be resolved within the current generation. For example, currently available nutrition interventions should be able to avert at least one third of the cases of stunting in the short term. However, full elimination of some conditions may require a longer time frame. Commitment to a decade of investment to expand nutrition interventions should be made, with the aim of averting one million child deaths per year. Taking into account the need to align the implementation of the plan to other development frameworks that also consider nutrition, it is proposed that this plan have a 13-year time frame (2012–2025). Reporting will be done biennially until 2022, and the last report will be done in 2025.

The targets to be met by 2025 are as follows:

- a) **Global target 1:** Stunting: Reduce by 40% the global number of children under 5 who are stunted.
- b) **Global target 2:** Anemia: Reduce anemia in women of reproductive age by 50%.
- c) **Global target 3:** Low birth weight: Reduce low birth weight by 30%.
- d) **Global target 4:** Overweight: Ensure that there is no increase in childhood overweight.

- e) **Global target 5:** Breastfeeding: Increase the rate of exclusive breastfeeding in the first six months of life by 50%.
- f) **Global target 6:** Wasting: Reduce and maintain childhood wasting to less than 5% (30).

Committee on the Rights of the Child General Comment No. 15: The Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (2013)

In the words of the Committee on the Rights of the Child, “The present General Comment is based on the importance of approaching children’s health from a child-rights perspective that all children have the right to opportunities to survive, grow and develop, within the context of physical, emotional and social well-being, to each child’s full potential” (31). The purpose of this General Comment was to provide guidance and support to States Parties and other duty bearers to aid them in respecting, protecting, and fulfilling children’s right to the enjoyment of the highest attainable standard of health.

The Committee indicates in this document that States’ should adopt measures, within their specific context, to fulfill the obligations to ensure access to nutritionally adequate, culturally appropriate, and safe food, and to combat malnutrition. Exclusive breastfeeding for infants up to six months of age should be protected and promoted, and breastfeeding should continue alongside appropriate complementary foods preferably until two years of age, where feasible.

In addition, the Committee establishes that adequate nutrition and monitoring of growth in early childhood are particularly important. Where necessary, integrated management of severe acute malnutrition should be expanded through facility and community-based interventions, as well as treatment of moderate acute malnutrition, including therapeutic feeding interventions. The Committee affirms that school feeding is desirable to ensure all pupils have access to a full meal every day,

which can also enhance children’s attention for learning and increase school enrollment. The Committee recommends that this be combined with nutrition and health education, including setting up school gardens and training teachers to improve children’s nutrition and healthy eating habits.

Lastly, the Committee provides that States should also address obesity in children, as it is associated with hypertension, early markers of cardiovascular disease, insulin resistance, psychological effects, a higher likelihood of adult obesity, and premature death. Children’s exposure to “fast foods” that are high in fat, sugar, or salt, energy-dense and micronutrient-poor, and drinks containing high levels of caffeine or other potentially harmful substances should be limited. The marketing of these substances – especially when such marketing is focused on children – should be regulated and their availability in schools and other places controlled (31).

Committee on the Rights of the Child General Comment No. 16 (2013): State Obligations Regarding the Impact of the Business Sector on Children’s Rights

In this General Comment, the Committee on the Rights of the Child notes that States have obligations regarding the impact of business activities and operations on children’s rights arising from the Convention on the Rights of the Child. These obligations cover a variety of issues, reflecting the fact that children are both rights-holders and stakeholders in business as consumers, legally engaged employees, future employees and business leaders, and members of communities and environments in which businesses operate.

This General Comment aims to clarify these obligations and outline the measures that should be undertaken by States to meet them. However, the Committee recognizes that duties and responsibilities to respect the rights of children extend in practice beyond the State and State-controlled services and institutions and apply

to private actors and business enterprises. In addition, it points out that environmental degradation and contamination arising from business activities can compromise children's rights to health, food security, and access to safe drinking water, and that the marketing to children of products such as foods and beverages high in saturated fats, trans-fatty acids, sugar, salt, or additives can have a long-term impact on their health.

States must ensure that all business enterprises, including transnational corporations operating within their borders, are adequately regulated within a legal and institutional framework that ensures that they do not adversely impact on the rights of the child and/or aid and abet violations in foreign jurisdictions.

The Committee warns that children may regard marketing and advertisements that are transmitted through the media as truthful and unbiased and consequently can consume and use products that are harmful. Advertising and marketing can also have a powerful influence over children's self-esteem, for example when portraying unrealistic body images. States should ensure that marketing and advertising do not have adverse impacts on children's rights by adopting appropriate regulation and encouraging business enterprises to adhere to codes of conduct and use clear and accurate product labeling and information that allow parents and children to make informed consumer decisions (32).

This instrument is essential to defining the scope of States' obligations in their role of controlling and supervising business enterprises to prevent violation of the right to adequate food and the promotion of food security for children.

Global Action Plan for the Prevention and Control of Noncommunicable Diseases 2013-2020 (2013)

The purpose of this WHO Plan is to reduce the preventable and avoidable burden of morbidity, mortality, and disability due to noncommunicable diseases, through

multisectoral collaboration and cooperation at the national, regional, and global levels, so that populations reach the highest attainable standards of health and productivity at every age and so that those diseases are no longer a barrier to well-being or socioeconomic development. This document incorporates objectives and actions related to nutrition, healthy eating, and preventing obesity at all ages (33). In 2019, to align the objectives of the Plan with the 2030 Agenda for Sustainable Development, the 72nd World Health Assembly decided to extend the Plan's implementation period until 2030 (34).

2030 Agenda for Sustainable Development: Sustainable Development Goals (2015)

The 2030 Agenda proposes to end poverty in all its forms everywhere, move toward achieving gender equality, empower all women, ensure healthy lives and promote well-being for all at all ages, promote economic growth, full employment, and inclusive cities and human settlements.

The Agenda's Sustainable Development Goal (SDG) 2 is to end hunger. To achieve this, the following targets were defined (35):

2.1. By 2030, end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious, and sufficient food all year round.

2.2. By 2030, end all forms of malnutrition, including achieving, by 2025, the internationally agreed targets on stunting and wasting in children under 5 years of age, and address the nutritional needs of adolescent girls, pregnant and lactating women, and older persons.

2.3. By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equitable access to land, other productive resources and inputs,

knowledge, financial services, markets and opportunities for value addition, and non-farm employment.

2.4. By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, help maintain ecosystems, strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters, and progressively improve land and soil quality.

2.5. By 2020, maintain the genetic diversity of seeds, cultivated plants, and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional, and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, as internationally agreed.

2.A. Increase investment, including through enhanced international cooperation, in rural infrastructure, agricultural research and extension services, technology development, and plant and livestock gene banks, in order to enhance agricultural productive capacity in developing countries, particularly in the least developed countries.

2.B. Correct and prevent trade restrictions and distortions in world agricultural markets, including through the parallel elimination of all forms of agricultural export subsidies and all export measures with equivalent effect, in accordance with the mandate of the Doha Development Round.

2.C. Adopt measures to ensure the proper functioning of food commodity markets and their derivatives, and facilitate timely access to market information, including on food reserves, in order to help limit extreme food price volatility.

Human Rights Committee General Comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life

In this General Comment, the Human Rights Committee notes that the duty to protect life also implies that States Parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include widespread malnutrition. To that end, it provides that measures needed address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure individuals access without delay to essential goods and services, such as food (36).

Inter-American System of Human Rights

The Inter-American System of Human Rights is composed of two bodies: the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (37).

The Inter-American Commission on Human Rights (IACHR) is composed of seven independent members. Its work rests on three main pillars: (a) the petition and case system (through which complaints related to specific cases are brought before the Court); (b) monitoring of the human rights situation in the OAS Member States, for example, through country visits and published reports with recommendations; and (c) work in priority thematic areas, which includes monitoring efforts and technical cooperation with existing Rapporteurships and Working Groups (38), among which are the Special Rapporteurship on Economic, Social, Cultural and Environmental Rights.⁴ This Special Rapporteurship prepared a report entitled *Business and Human Rights: Inter-American Standards*, which establishes international standards on States' duty to prevent human rights violations in the context of business activities, the duty to supervise the effective enjoyment of human rights in the context of business activities,

⁴ <https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/r/DESCA/default.asp>.

the duty to regulate and adopt provisions in domestic law, and the duty to investigate, punish, and ensure access to effective reparations for victims in those contexts, including activities linked to the food industry (39).

The Inter-American Court of Human Rights, composed of seven judges, is an autonomous legal institution with contentious and advisory functions, whose objective is to interpret and apply the American Convention on Human Rights. With respect to its contentious function, the Court may determine whether a State has incurred international responsibility for the violation of any of the rights embodied or established in the American Convention on Human Rights or in other treaties of the Inter-American System. The Court also performs an advisory role, under which it may respond to consultations from Member States or other OAS bodies on the interpretation of the American Convention and other treaties, or on the compatibility of a State's domestic laws with the Convention (37).

Binding Inter-American legal instruments⁵

American Convention on Human Rights ("Pact of San José," 1969)

This treaty is the Region's principal human rights instrument, due to the number of rights it recognizes and its predominant role in establishing States Parties' obligations in the area of human rights. It recognizes, among other rights, the right to life, physical integrity, personal freedom, freedom of thought and expression, and the right of access to information. In addition, the Convention provides for the obligation of States Parties to protect the rights and freedoms of all persons, without any discrimination as to ethnicity, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition. It also recognizes that all persons have the right, without discrimination, to the equal protection of the law (40).

Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador," 1988)

Under this international instrument, the States Parties to this Protocol undertake to guarantee the exercise of economic, social, and cultural rights without discrimination of any kind for reasons related to ethnicity, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition. The Protocol establishes that everyone shall have the right to health, and the States Parties agree to recognize health as a public good, prevent further abuses, and promote education of the population on the prevention and treatment of health problems. In addition, the Protocol establishes the obligation of States Parties to prevent and treat endemic, occupational, and other diseases, and to promote education of the population on health problems.

In particular, the Protocol establishes the right to food, by establishing that everyone has the right to adequate nutrition that guarantees the possibility of enjoying the highest attainable level of physical, emotional, and intellectual development. In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production, supply, and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies.

The Protocol also provides that States have a duty to guarantee adequate nutrition for children at the nursing stage and during school attendance years. It also establishes that States must provide suitable facilities, as well as food and specialized medical care, for elderly individuals who lack them and are unable to provide them for themselves (41).

⁵ The designations "covenant," "convention," "protocol," or other forms do not change the binding nature of these instruments. These are treaties within the meaning of the Vienna Convention on the Law of Treaties (1969), which provides that every treaty in force is binding upon the parties to it and must be performed by them in good faith. A party may not invoke the provisions of its domestic law as justification for noncompliance with a treaty.

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of “Belém do Pará,” 1994)

The foundation of this instrument is that the elimination of violence against women is essential for their individual and social development. The Convention provides that every woman has the right to the recognition, enjoyment, exercise, and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include the right of women to have their lives respected, and the right to have their physical, mental, and moral integrity respected (42).

Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (1999)

The objectives of this Convention are to prevent and eliminate all forms of discrimination against persons with mental and physical disabilities, and to promote their full integration into society. It is the first international convention to specifically address the rights of persons with disabilities. It defines discrimination against persons with disabilities as “any distinction, exclusion, or restriction based on a disability, record of disability, condition resulting from a previous disability, or perception of disability, whether present or past, which has the effect or objective of impairing or nullifying the recognition, enjoyment, or exercise by a person with a disability of his or her human rights and fundamental freedoms” (43).

Inter-American Convention on Protecting the Human Rights of Older Persons (2015)

This Convention recognizes the specific rights of older persons, such as the right to free and informed consent in the area of health and safety, the right to safety and a life free of violence, the right not to be subjected to torture and cruel, inhuman, or degrading treatment, and economic, social, cultural, and environmental rights. With regard to the right to health, this treaty is also highly advanced in its various provisions, in establishing that

older persons have the inalienable right to express their free and informed consent on health matters, as well as the right to a comprehensive system of care that protects and promotes their health, provides social services coverage, food and nutrition security, water, clothing, and housing, and promotes the ability of older persons to decide to stay in their own homes and maintain their independence and autonomy. In addition, this treaty recognizes the duty of States Parties to adopt measures to prevent, punish, and eradicate practices that contravene this Convention, such as deprivation of food (44).

Regional declarations, principles, recommendations, standards, and technical guidelines

American Declaration on the Rights and Duties of Man (1948)

This Declaration aims to protect civil, political, economic, social, and cultural rights and fundamental freedoms, and is part of what is known as the regional corpus juris of human rights. Although it is not an international treaty that States must ratify, it is understood, as a matter of international custom, that this Declaration is binding on the countries of the Americas. It establishes that everyone has the right to the preservation of health through sanitary and social measures, relating to food, among other things (45).

Plan of Action for the Prevention and Control of Noncommunicable Diseases in the Americas 2013-2019 (2013)

The purpose of the Specific Objective 2.3 of this Plan of the Pan American Health Organization (PAHO) is to promote healthy eating for health and well-being. In this regard, the following indicators were established: number of countries with policies to reduce the impact on children of marketing of foods and non-alcoholic beverages high in saturated fats, trans-fatty acids, free sugars, and salt; number of countries with adopted national policies to limit saturated fats and virtually eliminate partially hydrogenated vegetable oils in the food supply, as appropriate within

national context and national programs; and number of countries that by 2019 reduce salt/sodium consumption from the level established at the national baseline to the level established for interim reporting to the WHO Global Monitoring Framework, and contribute to the 2025 global target of 30% relative reduction in population-based intake of salt/sodium, measured by age-standardized mean population intake of salt (sodium chloride) in grams per day in persons aged 18 years old and older (46).

Plan of Action for the Prevention of Obesity in Children and Adolescents (2014)

The overall goal of this Plan of Action of the Pan American Health Organization is to halt the rise of the rapidly growing obesity epidemic in children and adolescents, so that there is no increase in current country prevalence rates. This goal requires a multisectoral life-course approach that is based on the social-ecological model and focuses on transforming the current obesogenic environment into opportunities for increased intake of nutritious foods and improved physical activity. The document indicates that this will be accomplished by implementing a set of policies, laws, regulations, and interventions, which will take into account the priorities and context of PAHO Member States, in the following strategic lines of action: (a) primary health care and promotion of breastfeeding and healthy eating; (b) improvement of school nutrition and physical activity environments; (c) fiscal policies and regulation of food marketing and labeling; (d) other multisectoral actions; and (e) surveillance, research, and evaluation (47).

Sustainable Health Agenda for the Americas 2018-2030: A Call to Action for Health and Well-Being in the Region (2017)

This Agenda represents the health sector response to the commitments adopted by the countries in the 2030 Agenda for Sustainable Development, and unfinished business from the Millennium Development Goals and the Health Agenda for the Americas 2008–2017, as well as the

commitments of the WHO regional office for the Americas, other global health commitments of the Region, and future public health challenges that may arise in the Region.

In this Agenda, the States of the Region commit, among other things, to accelerate the progress made to date in reducing newborn, child, and maternal mortality by ending all such preventable deaths before 2030; ensure universal access to sexual and reproductive health care services, including for family planning, information, and education; accelerate the pace of progress made in fighting malaria, HIV/AIDS, tuberculosis, hepatitis, Ebola, and other communicable diseases and epidemics, including by addressing growing anti-microbial resistance and the problem of unattended diseases affecting developing countries; and work to prevent and treat noncommunicable diseases, including behavioral, developmental, and neurological disorders, which constitute a major challenge to sustainable development.

Goal 2 of the Agenda is to end hunger, achieve food security and improved nutrition, and promote sustainable agriculture (48).

Plan of Action for the Elimination of Industrially Produced Trans-Fatty Acids 2020-2025 (2020)

This PAHO Plan of Action proposes to complete the removal of trans-fatty acids from industrial production by fully scaling up the adoption and implementation of IP-TFA elimination policies throughout the Americas. For optimal effectiveness, proposed regulatory policy should be accompanied by other policies and best practices for enforcement, labeling, progress assessment, and education. The Plan of Action is based on evidence of the harms to health of trans-fatty acids; on prior resolutions and the work of the Pan American Health Organization (PAHO) and World Health Organization (WHO); on analyses of the Region's important progress on this issue to date, including lessons learned and challenges encountered in both voluntary and regulatory efforts to reduce or eliminate IP-TFA; and, lastly, on extensive input from

consultations with Member States. This Plan of Action proposes a strategic course of action for Member States and for the Pan American Sanitary Bureau (PASB) between 2020 and 2025 that would lead to virtual elimination of industrially produced IP-TFA from the food supply in the Americas by 2025 (49).

Strategic Plan of the Pan American Health Organization 2020-2025: Equity at the Heart of Health (2020)

The Plan establishes the joint commitment of PAHO Member States and the Pan American Sanitary Bureau for the next six years. PAHO Member States have clearly stated that the Strategic Plan is a principal instrument for implementation of the Sustainable Health Agenda for the Americas 2018-2030, and thus for realizing the health-related Sustainable Development Goals (SDGs) in the Region of the Americas.

In particular, the Strategic Plan specifically identifies among its outcomes the reduction of malnutrition in all its forms. There is a need for a systematic approach to actions to address malnutrition, according to national context, that includes but is not limited to:

- a) Promotion, support, and protection of motherhood and of early and exclusive breastfeeding for the first six months of life, and the continuation of breastfeeding up to two years of age or beyond, together with timely and appropriate complementary feeding.
- b) Interventions to improve diets tailored specifically to women; efforts to encourage and facilitate mothers to breastfeed through maternity leave policies and legislation, workplace lactation locations, counseling, and support, and establishment of “baby-friendly” hospitals, workplaces, and other settings, and similar initiatives.
- c) Interventions to implement and/or strengthen national mechanisms for implementing effective measures aimed at giving effect to the International Code of Marketing of Breast-milk Substitutes as well as other WHO evidence-based recommendations, keeping in

mind the special needs of children and of women who cannot breastfeed.

- d) Support for timely and adequate complementary feeding, in accordance with the guiding principles for complementary feeding of the breastfed child, as well as the guiding principles for feeding of the non-breastfed child, 6-24 months of age; support for continuing to take all necessary measures in the interest of public health to implement recommendations to end inappropriate promotion of foods for infants and young children; and education to facilitate the adoption of health practices that do not displace breastfeeding or give inappropriate foods to infants.
- e) Implementation of policies on food production, supply, safety, and access that are coherent with a healthy diet; establishment of supportive environments, including supporting the role of the family in healthy food shopping, preparation, and consumption.
- f) Implementation of policies to create and support the development of healthy eating patterns among children and adolescents, by reducing consumption of energy-dense nutrient-poor products, including sugar-sweetened beverages, in alignment with national dietary guidelines and recommendations.
- g) Enactment of regulations and policies to protect children and adolescents from the impact of marketing of energy-dense nutrient-poor products, including sugar-sweetened beverages, while implementing education policies and messaging campaigns to improve understanding of healthy eating patterns.
- h) Development and implementation of norms for front-of-package labeling with nutrient content information to promote healthy choices, including allowing for quick and easy identification of energy-dense nutrient-poor products, in alignment with national dietary guidelines and recommendations.
- i) Development and implementation of norms and policies to encourage that consumers are provided accurate information on the nutrient content of non-packaged foods (50).

How these standards should be applied, and how international and regional human rights systems can be used strategically

The instruments and mechanisms of the United Nations and the Inter-American Human Rights System establish a solid legal basis for the adoption of measures that promote and protect the right to healthy food, food security, and the prevention of malnutrition in the Region of the Americas. These measures should involve all segments of society: the various branches of government, civil society, academia, the media, the private sector, and society as a whole. All stakeholders and interest groups should be aware of the human rights and protections guaranteed by these instruments, and use them to review and improve national laws, policies, plans, programs, and practices. The organs of the United Nations human rights system and the Inter-American Human Rights System are central tools to complement the work done by States at the national level, and can function as bodies for monitoring and reporting, as well as cooperating with States and providing them with technical assistance in promoting and protecting the right to a healthy diet.

Ministries of health, education, and labor, and other competent bodies have the obligation to know, apply, and disseminate the international instruments that their States voluntarily ratify, which recognize and protect human rights, and which establish obligations of control and supervision over non-State actors, such as business enterprises or other stakeholders that may negatively impact food security, protection of the right to adequate food, and the prevention of malnutrition. These legal instruments create a range of public policy, legislative, budgetary, and practical obligations in relation to the promotion and protection of these rights. Among other responsibilities, human rights conventions require the protection of life, health, physical integrity, housing, and other economic, social, cultural, and environmental rights that are related to the protection of the right to healthy food, nutrition, and food security. In addition, they establish the obligation of States to not interfere with the enjoyment of these rights, as well as to prevent

third parties (such as business enterprises and other private institutions) from violating the right to a healthy diet. In this regard, governments have an obligation to bring their programs, plans, policies, and practices in line with the human rights standards established in these international instruments, and to monitor and control the activities of business enterprises as well as other private institutions. To this end, the recommendations of the various organs of the United Nations system and the Inter-American System are extremely useful, offering guidance and guidelines to States on what measures to adopt and how to do so from a human rights perspective. As has already been pointed out, the State not only has the obligation to not violate rights, but also the responsibility to ensure that third parties do not do so. This is particularly relevant when establishing regulations, for example, on front-of-package food labeling, so that consumers can correctly, quickly, and easily identify products that contain excessive amounts of sugars, total fats, saturated fats, trans-fats, and sodium. The regulatory goal of a front-of-package labeling system should be to help consumers correctly, quickly, and easily identify products that contain excessive amounts of sugars, fats, and sodium. Other examples of measures that could be taken by States include taxing sugary drinks and regulating advertising of ultra-processed products as a tool to reduce their consumption and the related health risks.

It is essential that ministries of health regulate the marketing and sale of food aimed at children, to reduce their exposure to the consumption of food products with excess fats, sugars, or salt, principally in terms of limiting the supply of ultra-processed products.

In the same vein, it is essential that they promote policies and programs to encourage breastfeeding. Breastfeeding is unparalleled as a way of providing suitable food for nursing children. Breast milk is safe and clean, and contains antibodies that help protect nursing children against many common childhood illnesses. The protection, promotion, and support of breastfeeding are among the most effective interventions for improving child survival.

Ministries of education, for their part, have a major role in promoting and protecting the right to adequate food. There are interesting initiatives, such as the Nutrition-Friendly Schools Initiative. The centers involved in this initiative incorporate a program based on five components: (a) school nutrition policies; (b) awareness and capacity building within the school community; (c) nutrition and health promoting curricula; (d) a supportive school environment for good nutrition; and (e) school health and nutrition support services. Human rights education is also a central tool in promoting and protecting the right to healthy food. States should also ensure that they provide the population with education, communication, training, and awareness campaigns about the importance of consuming healthy products, as well as about the negative health impacts of eating foods high in fats, sugars, and sodium. Fundamentally, they must ensure that the school environment is conducive to healthy eating. To this end, it is essential to eliminate the supply, promotion, advertising, and sponsorship of ultra-processed products in and around schools.

All ministries and government institutions also have the opportunity to make appropriate use of public resources in relation to food, in furtherance of the guarantee and protection of fundamental rights. Food supply policies can establish restrictions on the acquisition and supply of ultra-processed products and ensure the indispensable benefits of natural foods, favoring those produced by agroecological, campesino, and family agriculture, so as to promote a virtuous cycle involving the multiple dimensions of health, nutrition, and sustainability.

Legislators should be intimately familiar with international human rights law, and have a duty to ensure that all national laws comply with obligations under existing conventions and other international human rights instruments. If this is found not to be the case, legal instruments should be analyzed and reformulated to harmonize them with international standards. For example, legislators can introduce and pass laws regulating business activities to prevent malnutrition and excessive consumption of unhealthy food products. As noted,

legislative instruments could be established to impose taxes on sugary drinks; similarly, legislative instruments mandating front-of-package labelling of foods could be devised to help consumers correctly, quickly, and easily identify products containing excessive amounts of sugars, fats, and sodium, along with legislative instruments regulating the advertising of such products. This would help consumers meet the WHO recommendations, protecting them against the main risk factors for mortality, such as hypertension, hyperglycemia, and overweight or obesity, that are damaging to their health and development. A number of countries in the Region are adopting instruments of this type.

In addition, it is important that legislatures promote laws that comply with the provisions of the International Code of Marketing of Breast-milk Substitutes. The instrument is important in that it creates an overall environment that enables mothers to make the best possible feeding choices, based on impartial information and free of commercial influences, and to be fully supported in doing so. The inappropriate marketing of food products is an important factor that often negatively affects the choice of a mother to breastfeed her infant optimally. Given the special vulnerability of infants and the risks involved in inappropriate feeding practices, the usual marketing practices are therefore unsuitable for these products.

Educators. Courses should be provided on the right to healthy food, food security, and the prevention of malnutrition. Such courses can be used to teach students to think critically about the health impacts of poor nutrition and the importance of consuming healthy products at all ages, with particular emphasis on nursing mothers and young children. Promotion and education in children and adolescents regarding the benefits of breastfeeding are essential. Breastfeeding is the basis of life and brings benefits to the health of the mother and the child in the short and long term; for this reason, it should be promoted as a cultural and behavioral norm, and not as something interchangeable with artificial feeding. Integrating these lessons in the curriculum will help stu-

dents become promoters of this right and demand that it be followed by the various stakeholders involved.

Judicial system officials must apply the legal framework of international human rights in each of their decisions, promote respect for human rights and fundamental freedoms without discrimination, and guarantee access to justice to investigate, punish, and redress any violation of the right to healthy food. The role of justice is central to the dissemination of international human rights law for the promotion and protection of people's rights, in particular, in effectively implementing the State's obligation to monitor and regulate all business activities that affect food security. To this end, members of the judicial branch should receive human rights training, especially on the right to healthy food and the prevention of malnutrition, to incorporate not only standards, but also the human rights approach into all judicial processes and into each of their decisions and rulings.

National human rights institutions and the Office of the Ombudsperson have the ability to follow up on citizen complaints, to ensure compliance with national laws. Moreover, they must include the right to healthy food and food security in their work plan, so that, in addition to taking protective actions, they also engage in campaigns to promote these rights. They must demand that the State fulfill its role of controlling public and private activities that affect the food security of the population. The role of these bodies is fundamental for ensuring that the States of the Region comply fully with international human rights treaties.

Nongovernmental organizations have the capacity to advocate for measures to protect and promote the right to healthy food and the right to food and nutrition security. They have the ability to promote efforts to raise the public's awareness of their rights, how to exercise them, and how to create proactive networks. Activists and nongovernmental organizations working on human rights issues related to nutrition and food security

must understand how international legal instruments on human rights serve to protect these rights, and how to use the protection mechanisms offered by human rights conventions. Similarly, organizations that do not deal specifically with these rights should consider, in their actions, the interdependence that exists between the right to healthy food and other human rights, so as to guarantee that these rights are also protected. They can also help to advocate for community-based programs that provide information to empower people, and create such programs, as well as promoting awareness of the importance of consuming healthy foods.

Lastly, they have a central role in the ongoing effort to demand that States protect these rights, through investigating and monitoring of the private sector. In this regard, they can also make use of regional and international mechanisms for the protection of human rights and can utilize them in cases where these rights are violated at the local level within countries. Networking and partnerships among nongovernmental organizations are highly effective in combining forces and making better use of available resources.

The media. The media play a fundamental role in the cultural transformation necessary to promote healthy food consumption and the prevention of malnutrition, obesity, and other related diseases. To this end, they should raise public awareness of the negative health impacts of the failure to consume healthy foods and the importance of having instruments that regulate food activity and support the population in their food choices. The media must also responsibly cover the problems of malnutrition, obesity, hypertension, and other diseases related to the lack of healthy food, particularly by infants and young children, as well as covering the role of business enterprises and the private sector in this regard, in accordance with the protection provided by international instruments. The media's role is central to promoting breastfeeding, by providing information on its benefits to child survival, health, and brain and motor development.

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Annexes

Annex 1. United Nations Human Rights System

Table A.1.1 shows six international instruments of the United Nations human rights system that protect the fundamental rights and freedoms indicated. Table A.1.2 lists the countries that are parties to these environment.

Table A.1.1. Provisions of Select International Instruments of the United Nations Human Rights System that Protect the Listed Fundamental Rights and Freedoms

Fundamental rights and freedoms	Universal Declaration of Human Rights	International Covenant on Civil and Political Rights	International Covenant on Economic, Social and Cultural Rights	Convention on the Elimination of All Forms of Discrimination against Women	Convention on the Rights of the Child	Convention on the Rights of Persons with Disabilities
Life	Art. 3	Art. 6.1			Art. 9	Art. 10
Personal integrity	Art. 5	Art. 7			Art. 19	Art. 17
Personal liberty	Art. 3	Art. 9				Art. 14
Due process	Art. 8	Art. 14			Arts. 37 and 40	
Privacy	Art. 12	Art. 17			Art. 16	Art. 22
Freedom of expression	Art. 19	Art. 19, para. 2			Arts. 12 and 13	Art. 21
Equal protection of the law	Art. 7	Art. 26		Arts. 3 and 15, para. 1		Art. 12
Judicial protection	Art. 10	Art. 14		Art. 15, para. 2	Arts. 37 and 40	Art. 13
Work	Art. 23		Arts. 6 and 7	Art. 11		Art. 27
Enjoyment of the highest attainable standard of physical and mental health	Art. 25, para. 1		Art. 12	Art. 12	Art. 24	Art. 25
Education	Art. 26		Art. 13	Art. 10	Art. 28	Art. 24
Food			Art. 11	Art. 12	Arts. 24 and 27	Art. 28

Table A.1.2. Countries in the Region of the Americas that are Parties to Select International Instruments of the United Nations Human Rights System

International instrument	States Parties
Universal Declaration of Human Rights	Not subject to ratification
International Covenant on Civil and Political Rights	Argentina, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States of America, Uruguay, and Venezuela (Bolivarian Republic of)
International Covenant on Economic, Social and Cultural Rights	Argentina, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Convention on the Elimination of All Forms of Discrimination against Women	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Convention on the Rights of the Child	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Convention on the Rights of Persons with Disabilities	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)

Annex 2. Inter-American System of Human Rights

Table A.2.1 shows six international instruments of the Inter-American Human Rights System that protect the fundamental rights and freedoms indicated. Table A.2.2 lists the countries that are parties to these instruments.

Table A.2.1. Select International Instruments of the Inter-American Human Rights System that Protect the Listed Fundamental Rights and Freedoms

Fundamental rights and freedoms	American Declaration of the Rights and Duties of Man	American Convention on Human Rights	Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights	Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities	Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women	Inter-American Convention on Protecting the Human Rights of Older Persons
Life	Art. I	Art. 4			Art. 4, section a)	Art. 6
Personal integrity	Art. XXV	Art. 5			Art. 4	Arts. 9 and 10
Personal liberty	Art. I	Art. 7			Art. 4 section c)	Art. 13
Due process	Art. XVIII	Art. 8			Art. 7, section f)	
Privacy	Art. V	Art. 11				Art. 16
Freedom of expression	Art. IV	Art. 13				Art. 14
Equal protection of the law	Art. II	Art. 24		Arts. II and III	Art. 4, section f)	Art. 30
Judicial protection	Art. XXVI	Art. 25			Arts. 4, section g), and 7	Art. 31
Work	Art. XIV		Arts. 6 and 7	Art. III, para. 1 a)		Art. 18
Enjoyment of the highest attainable standard of physical and mental health	Art. XI		Art. 10	Art. III, para. 2 a) and b)	Art. 4, section b)	Art. 19
Education	Art. XII		Art. 13	Art. III, para. 1 a) and 2 b)		Art. 20
Food	Art. XI		Arts. 12, 15 and 17			Arts. 4, 12 and 19
Autonomy				Art. 7		
Accessibility				Art. 26		
Protection of women	Art VII			Arts. 5, 20 y 23		

Table A.2.2. Countries in the Region of the Americas that are Parties to the Selected International Instruments of the Inter-American System for the Protection of Human Rights

International instrument	States Parties
American Declaration of the Rights and Duties of Man	Not subject to ratification
American Convention on Human Rights	Argentina, Barbados, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)	Argentina, Bolivia (Plurinational State of), Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of)
Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities	Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela (Bolivarian Republic of)
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Inter-American Convention on Protecting the Human Rights of Older Persons	Argentina, Bolivia (Plurinational State of), Chile, Costa Rica, Ecuador, El Salvador, Peru, and Uruguay

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