

INTERNATIONAL HUMAN RIGHTS PROTECTION IN THE GLOBAL FOOD CHAIN

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The aim of the research

In the last decades, business enterprises have been increasingly considered as major sources of human rights adverse impacts on workers and local communities. However, holding agribusiness responsible for human rights violations linked to their activity is still a major issue, since enterprises are not directly subject to international law obligations. International human rights law primarily calls for States to regulate the activity of private actors, thus creating a gap in human rights protection where States are unwilling or unable to impose human rights standards.

While human rights protection by business enterprises is often left to **voluntary compliance with global standards and codes of conducts**, legislative gaps and weak human rights enforcement are still used to outsource and **externalize social and environmental costs of food production**.

The aim of the research is to identify current gaps and future perspectives of business and human rights instruments under international law, in addressing the challenges of a human rights based approach to foster a **socially sustainable food production**.

Research questions

✓ Does international law provide for legal instruments to adopt and enforce a human right based approach of food production?

✓ How can agribusiness be held accountable for human rights violations in the global food chain?

✓ Is there any legislative gap that should be filled or legal instruments to be better implemented to tackle human rights abuses of agribusiness?

✓ Are recent developments in law and practice pushing for a sustainable food production from a human rights point of view?

Human rights impact of agri-business: an assessment



Over 70% of **child labor** worldwide takes place in agri-food (FAO 2020). Furthermore, 11% of the **modern slavery** reported worldwide takes place in agriculture (ILO, 2017). The **rights of migrants** are especially at risk in terms of respect of minimum wage and working hours.



The widespread and uncontrolled use of pesticides worldwide and intensive livestock farming increasing the risk of zoonotic diseases and antimicrobial resistance are major threat to the **right to life**, the right to life with dignity and the **right to health** (HRC, 2020).



Deforestation, land grabbing and intensive use of soil for agriculture highly impacts the **rights of indigenous people** (HRC, 2020), as well as the **right to housing** and the **right to a healthy environment** of local communities and worldwide.

Focus: a local problem

In Piemonte region, especially the area of Saluzzo, every year seasonal migrants are employed in fruit harvesting. Obstacles in matching job offer and demand through institutional intermediaries and peculiarities of work in agriculture pave the way for **gangmasters** (c.d. caporali). Although mostly under regular contract, the phenomenon of **grey job** (c.d. lavoro grigio) is widespread. Despite actual working days, data shows that most of seasonal migrants formally works less than the required minimum to access basic rights and social benefits (i.e. 51 days per year).

Sources: *Vite sottocosto*, Progetto Presidio Caritas 2018; CREA 2019.

Mapping international obligations

State duty to protect human rights in context of business activity

- International Covenants on Civil and Political Rights and on Social, Economic and Cultural Rights (GC no. 24, 2017)
- European Convention on Human Rights (*Chowdury et al v. Greece*, 2017)
- Draft of a Legally Binding Instrument to Regulate, in International Human Rights Law, the activities of Transnational Corporations and other Business Enterprises (2020)

Corporate responsibility to respect human rights

- United Nations Guiding Principles on Business and Human Rights (2011)
- OECD Guidelines for Multi-national Enterprises (2011)
- OECD/FAO Guidance for Responsible Agricultural Supply Chain (2016)

European Union Law

- Directive on Unfair Trading Practices in Agriculture (2019/633)
- EU Green Deal and Farm to Fork Strategy (COM/2020/381)
- Announced proposal for mandatory human rights due diligence in the EU in 2021 (Commissioner Didier Reynders)

Ongoing research themes

✓ implementing the human rights due diligence in agribusiness.

Companies must carry out a **risk-based human rights due diligence** to assess possible human rights violations caused by their activity, preventing adverse impacts and mitigate and account for where such adverse impacts occur (see also OECD/FAO Guidance for responsible

business conduct in agriculture, 2016). Mandatory human rights due diligence laws are currently in force in France (*Loi de vigilance*, 2017) and under political process of approval in Germany.

A project of EU Directive on mandatory due diligence is currently under discussion and will pave the way for further developments in national laws.

✓ improving the accessibility to non-judicial remedies.

National Contact Points operating in OECD countries have so far received **49 complaints** against companies related to non-compliance in food and agriculture sector (source: OECD Watch database,

2020). Most of them relate to violation of labour standards, human rights violations and violation of environment protection standards. Monitoring the evolution and outcome of such complaints will assess their effectiveness.

✓ ensuring the accountability of the whole food supply chain.

Holding the food chain accountable is crucial to tackle the root causes of human rights violations in the agri-food. According to UNGPs and OECD Guidelines companies should **avoid contributing to violations and use leverage** over business partner to stop the harmful activity.

Big supermarkets asking for unsustainable conditions of food supply

creates the demand for lower social and environmental standards in food production, while earning up to 30% of the end consumer price (Oxfam, *Behind the price*, 2018) and **third-party certifiers** releasing social and environmental certificates also play a major role in shaping the behaviour of agribusiness. The current legal framework allows to address the accountability of such actors, while praxis is still scarce.