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University of the Witwatersrand

Commerce, Law and Management

PhD Thesis

Interrogating the Shortcomings of the New Alliance for Food Security and Nutrition from a Human Rights Perspective

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Date: 24th March 2023

List of Abbreviations

ABF-	Associated British Foods PLC
AgDevCo-	Agriculture Development Company
AGRA-	Alliance for a Green Revolution in Africa
AU-	African Union
BAGC-	Beira Agricultural Growth Corridor
CAADP-	Comprehensive Africa Agricultural Development Program
CCF-	Country Cooperation Framework
CEDAW-	Convention on the Elimination of all forms of Discrimination Against Women
CEOs-	Chief Executive Officers
CESCR-	Committee on Economic, Social and Cultural Rights
CILSS-	Permanent Interstate Committee for Drought Control in Sahel
CNT-	Coumba Nor Thiam
CRC-	Convention on the Rights of the Child
CSA-	Cane Supply Agreement
DUATs-	certificates on land use rights in Mozambique
ECOWAS-	Economic Community of West African States
EU-	European Union
FAO-	Food and Agricultural Organisation

FSPG-	Food Security Policy Group
G8 countries-	France, Germany, UK, USA, Japan, Canada, Italy and Russia
GDP-	Gross Domestic Product
GHI-	Global Hunger Index
HRC-	Human Rights Committee
ICCPR-	International Covenant on Civil and Political Rights
ICESR-	International Covenant on Economic, Social and Cultural Rights
ICRC-	International Community of the Red Cross
IDDRSI-	Drought Disaster Resilience and Sustainability Initiative
IFAD-	International Fund for Agricultural Development
IGAD-	InterGovernmental Authority on Development
ILO-	International Labour Organisation
IMF-	International Monetary Fund
KPL-	Kilombero Plantations Limited
KSCL/KSC-	Kilombero Sugar Company Limited
KIHOCO-	Kilombero Holding Company
KOTACO-	Korea Tanzania Agricultural Company
LOIs-	Letters of Intent
MDGs-	Millenium Development Goals
NAFSN-	New Alliance for Food Security and Nutrition

NEPAD- New Partnership for Africa's Development

NGOs- Non-Governmental Organizations

OECD Guidelines- Organisation for Economic Cooperation and Development's Guidelines for Multinational Enterprises

OHCHR- Office of the High Commissioner for Human Rights

PAC- Parliamentary Public Accounts Committee in Tanzania

PAPs- Project Affected Persons

PAMRDC- Multi-Sectoral Nutrition Action Plan for the Reduction of Chronic Undernutrition

RAP- Resettlement Action Plan

RUBADA- Rufiji Basin Development Authority

SADC- South African Development Community

SAGCOT- Southern Agricultural Growth Corridor of Tanzania

SAPs- Structural Adjustment Programs

SDGs- Sustainable Development Goals

SLAPP- Strategic Litigations Against Public Participation

SRI- System of Rice Intensification

SRSP- Country-Specific Poverty Reduction Strategy Papers

SSA- Sub-Saharan Africa

SUN- Scaling Up Nutrition

TA-	Traditional Authority
TAFSIP-	Tanzania Agriculture and Food Security Investment Plan
TIC-	Tanzania Investment Centre
TSB-	Tanzanian Sugar Board
UDHR-	Universal Declaration for Human Rights
UK-	United Kingdom
UN-	United Nations
UNCTAD-	United Nations Conference on Trade and Development
UNGP-	United Nations Guiding Principles on Business and Human Rights
USA-	United States of America
USAID-	United States Agency for International Development
USD-	United States Dollar
VAT-	Value Added Tax
VGGT-	Voluntary Guidelines on responsible Governance of Tenure of land, fisheries and forests
WAEMU-	West African Economic and Monetary Union
WHO-	World Health Organisation

Declaration of Authorship

I certify that the thesis I submit is entirely my original work unless otherwise stated. I am aware of the University's regulations regarding plagiarism, including rules regarding possible disciplinary action for plagiarism using. Any use of works by any other author is duly acknowledged at the time of use.

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1. **Introduction**

"We are not opposed to investment but want an investment that respects our rights."[1]

Access to food entails the physical means to obtain food directly, and economic access, which is the ability to purchase food from available sources. Lack of access to food continues to deny a significant proportion of the globe, especially women and peasant farmers, a dignified life. There have been many attempts at both local and international levels to address food insecurity in Sub-Saharan Africa (SSA).[2] Most recent attempts have championed agribusinesses to solve food insecurity, with increasing agribusiness involvement from the Global North. The primary advocates of this model have been agribusinesses' home states and international financial institutions. At face value, the injection of capital by the private sector to boost agricultural production seems like a noble idea. The proponents of this model champion it as the remaining piece in the jigsaw to accelerate food production in developing economies. They view it as the ultimate solution to ongoing food insecurity in a continent with abundant, unutilized arable land.[3]

Unfortunately, how these interventions have been designed has left doubt as to whether the intended beneficiaries have profited from them or whether participating agribusinesses have

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[1] Conversation with Small-scale farmer, Tanzania, June 23, 2015.

[2] Food security in this context means see Ziegler Jean, Golay, Mahon, & Way. *The Fight for the Food.* (United Kingdom: Palgrave Macmillan, 2011).

[3] "Food for Thought," Breaking News, World News and Video from Al Jazeera, last modified September 20, 2012, https://www.aljazeera.com/programmes/countingthecost/2012/09/20129167591879452.html. For example, NAFSN's advocates view agribusiness as the most potent route to boost food production in Africa. Paul Conway, the Vice Chairman of Cargill, one of the significant participating multinational corporations, calls for the need to "make better use of the land in Africa; Accessed June 8, 2021, https://www.interaction.org/article/president-obamas-new-alliance-food-security-and-nutrition. Also, When NAFSN was launched, Save the Children praised the initiative for "refocusing world attention on the 'injustice of chronic hunger.

ended up benefiting.[4] For example, the Alliance for a Green Revolution in Africa (AGRA) is an agribusiness- led model initiative that has been assessed as benefiting multinational corporations at the expense of the intended small-scale farmers.[5]

The experience of communities impacted by this model reveals that it considerably restricts their enjoyment of the right to adequate food.[6] Opponents of the model claim that it ignores the historical, social and economic barriers that have contributed to the unsustainability of small-scale food production. They characterize proponents of private sector intervention in small-scale farming as profit-driven entrepreneurs who, instead of addressing these structural causes of food insecurity, pursue profits by lobbying for favourable legal and policy reforms that commoditise food and exacerbate food insecurity disadvantaging peasant farmers, especially women.[7]

There are two significant shortcomings of these interventions. First, they ignore the human rights principles applicable to such interventions, which, if applied, significantly increase the chances for these projects to be pro-poor and beneficial to the intended groups. There is a growing body of guidelines from intergovernmental agencies on the human rights standards

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[4] Felix Adamu Nandonde and John Kuada, "Perspectives of Retailers and Local Food Suppliers on the Evolution of Modern Retail in Africa," *British Food Journal* 120, no. 2 (February 5, 2018): 340–54, https://doi.org/10.1108/bfj-02-2017-0094. This explains the evolution of modern food retailing in Tanzania.

[5] Alex P. Vercillo, "African Agriculture Without African Farmers," Breaking News, World News and Video from Al Jazeera, last modified October 9, 2021, https://www.aljazeera.com/opinions/2021/10/9/african-agriculture-without-its-farmers. A columnist has argued that AGRA's was designed to reduce the number of peasant farmers in the agricultural sector.

[6] See Chapter 5 of this thesis. The right to food here is as stipulated by international human rights law, especially the International Covenant on Economic, Social and Cultural Rights and elaborated by several interpretative bodies.

[7] Mbithe Pollyne & Mwabu Germano, 'The Impact of Structural Adjustment Programs on Agricultural Sector Growth in Kenya', International Journal of Economics, Vol. 1, Issue 1 No. 1, pp 79-102, 2016. Available at https://www.iprjb.org/journals/index.php/IJECON/article/view/124/161

applicable to agribusiness.[8] This includes their responsibility to ensure they do not compromise existing means of livelihood.[9] Secondly, they fail to consider scientific and indigenous knowledge on the harmful impacts of some agricultural practices propagated by governments and agribusinesses. For instance, the introduction of mono-cropping at the expense of shifting cultivation practised by traditional communities is not conducive to sustainable agriculture.[10]

The New Alliance for Food Security and Nutrition (NAFSN) is one such business-driven intervention. It is an initiative by G8 countries that seeks to improve food security and reduce poverty in several African countries by taking policy and legal measures to increase the involvement of agribusinesses in the agricultural value chain.[11] My study is motivated by this burgeoning recourse to agribusiness as a solution to food insecurity, mainly among communities that traditionally practised small-holder food production in the Global South, including SSA.[12] This thesis focuses on selected cases to interrogate how NAFSN has failed to improve food security and reduce poverty by adopting a human rights perspective. I demonstrate that the NAFSN, as designed and implemented, is inherently flawed and compromises the right to adequate food for local communities where its projects are based.[13] I

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[8] "GAA Advancing Human Rights Policy and Practice in the Agribusiness Sector," accessed December 5, 2022,https://docs.wbcsd.org/2020/11/GAA-Advancing-human-rights-policy-and-practice-in-the-agribusiness-sector.pdf.

[9] United Nations. Office of the High Commissioner for Human Rights and United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (New York: United Nations Publications, 2011), https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

[10] Vercillo, "African Agriculture Without African Farmers," Breaking News, World News and Video from Al Jazeera.

[11] "About," New Alliance, accessed June 8, 2021, https://newalliance.travelvisabookings.com/about. The New Alliance for Food Security and Nutrition is a private sector-led initiative to boost commercial farming in Africa and promises to reduce food insecurity and lift millions out of livelihood; See Chapter 3 of this thesis.

[12] Schiavoni Christina et al., *Analysing Agricultural Investment from the Realities of Small-Scale Food Providers: Grounding the Debates*: (Third World Quarterly, 2018), 1348-1366.

[13] See chapter 6 of this thesis. In this study, local communities include peasant farmers/communities and small-scale farmers who largely depend on agriculture for subsistence.

conclude that fundamental flaws in NAFSN's architecture limit its capacity to reduce poverty among the local communities where its projects are based.[14]

Using the internationally recognised human right to food as the framework for analysis, I explain why NAFSN has not achieved its objectives. I have identified four issues of concern that have led to the failure of the studied NAFSN projects. First, some of the selected NAFSN interventions were introduced in communities without consulting the intended beneficiaries.[15] The targeted groups were unaware of the implications of embracing agricultural practices advanced by NAFSN proponents. This information asymmetry disadvantaged them as they could not meaningfully participate and consent to such initiatives. I demonstrate how NAFSN projects were conceptualized and implemented without consultation with local communities leading to their failure to meet their food security needs.[16]

Second, NAFSN projects were meant to improve access to food directly or through poverty reduction by improving livelihoods. This would have consequently enabled the targeted groups to purchase locally available food that is of the recommended calorific value, is culturally appropriate and caters for the varied dietary needs of community members.[17] Any compromise of the existing means of procuring is a breach of emerging international human rights norms. Where this failure is by the agribusiness, it is contrary to the responsibility to respect human rights.[18] Acts of commission or omission by states leading to such a compromise of

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[14] See Chapter 7 of this thesis.

[15] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values.*

[16] See Chapter 4 of this thesis.

[17] "Healthy Diet," World Health Organization (World Health Organization), accessed December 5, 2022, https://www.who.int/news-room/fact-sheets/detail/healthy-diet.

[18] Pillar II of the United Nations Guiding Principles on Business and Human Rights. UN Human Rights Council, "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect

communities' right to adequate food violate the obligation to protect human rights.[19] I demonstrate the negative impact of selected NAFSN projects on food security and poverty reduction for local communities where they are based.[20] This includes analysing how the projects have failed to improve access to food for local communities and how they disproportionately benefit agribusinesses at the expense of small-scale food producers.[21]

Third, NAFSN projects ignored to take into account the various ways in which women may be disadvantaged by development. The United Nations Working Group on business and human rights (UNWG) has issued guidelines on steps businesses should take to avoid exacerbating discrimination against women.[22] For example, an initiative that consults landowners in a given location may involve a significantly low number of women in settings where land ownership

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and Remedy' Framework: Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises," John Ruggie, 21 March 2011, A/HRC/17/31.

[19] Pillar I of the United Nations Guiding Principles on Business and Human Rights. UN Human Rights Council, "States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication;" Pillar II of the United Nations Guiding Principles on Business and Human Rights. UN Human Rights Council, "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework: Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises," John Ruggie, 21 March 2011, A/HRC/17/31.

[20] See Chapter 4 of this thesis. Poverty reduction is an important component of improving food security as it gives the individual the economic means of buying food items where they are unable to produce on their own.

[21] C. Golay, "Towards a Convention on the Rights of Peasants in A. Paasch and S. Murphy (eds), The Global Food Challenge. Towards a Human Rights Approach to Trade and Investment Policies," Heinrich Böll Stiftung | India Office, accessed June 8, 2021, https://in.boell.org/sites/default/files/the_global_food_challenge.pdf. Golay predicted that the wave of foreign agribusinesses following the 2008 food crisis would lead to violations of the rights of peasants; De Schutter (2015), *The New Alliance for Food Security and Nutrition in Africa* O. European Parliament (Directorate-General for External Policies (2015). De Schutter concluded that "[w]hile the general objective of the NAFSN is sound, certain deficiencies remain". It singles out NAFSN's failure to stimulate sustainable agricultural production, ignorance of women's rights and gender empowerment

[22] United Nations Human Rights Council, "Human Rights Council Forty-First Session 24 June–12 July 2019 Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Gender Dimensions of the Guiding Principles on Business and Human Rights, Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises" (New York: United Nations General Assembly, May 23, 2019), https://media.business-humanrights.org/media/documents/files/documents/A_HRC_41_43.pdf.

is predominantly by men though women may also benefit from access to such land.[23] Land ownership often leads to situations where cultural stereotypes and existing discrimination is exacerbated.

Finally, all right holders should have access to remedy if state agencies or third parties infringe on these rights. Access to remedy pathways should be enabled by the state as well as the businesses. Despite the existence of judicial, non-judicial and company-based grievance mechanisms, there are many legal and structural barriers for individuals and communities aggrieved by the operations of businesses to access remedy.[24] I demonstrate how structural and procedural barriers prevented local communities aggrieved by the conceptualisation and implementation of NAFSN projects from accessing effective remedies. In Chapter 7, I recommend measures to ensure that such methods are pro-poor and ensure the reduction of food insecurity.

1.1 Background to the Problem

For a long time, Sub-Saharan Africa (SSA) has suffered from food shortages and appealed for food donations from local and international sources at specific historical periods.[25] Various historical, geographical and economic reasons are attributed to this precarious situation.[26] This

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[23] "Home | Food and Agriculture Organization of the United Nations," accessed December 5, 2022, https://www.fao.org/3/I8796EN/i8796en.pdf.

[24] Access to remedy is covered in Pillar III of the UNGPs. Pillar III of the UNGPs, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (A/HRC/17/31).

[25] Food and Agriculture Organization of the United Nations, (Rome: 2018). According to FAO statistics, in 2016, about 25% of the hungry people lived in sub-Saharan Africa.

[26] Mbithe Pollyne & Mwabu Germano, 'The Impact of Structural Adjustment Programs on Agricultural Sector Growth in Kenya', International Journal of Economics, Vol. 1, Issue 1 No. 1, pp 79-102, 2016. Available at https://www.iprjb.org/journals/index.php/IJECON/article/view/124/161 accessed on June 8, 2021. This provides a deep understanding of the impacts of Structural Adjustment Programs on agriculture in Kenya; Due Jean M. &

unacceptable level of hunger is against the background of many African states having national constitutions that have guaranteed the right to food.[27] They have also ratified regional and international conventions that guarantee the right to adequate food.[28] These states continue to be subjected to domestic and international pressure to ensure that they build the capacity of right holders to access food by protecting the available food sources from threats by state and non-state agents, which include businesses.[29]

In the last decade, NAFSN has been one of the interventions presented as an all-encompassing solution to improve food security. It entails the injection of private sector capital into small-scale food production.[30] This intervention presupposes small-scale farmers cannot meet the food demands due to failure to use modern technology, bio-fortified seeds and modern agricultural techniques. This narrative was a precursor to a prescription by G8 countries that several African countries adopt legal and policy reforms to incentivize private sector investment.[31] The prescriptions included generous tax holidays, monopoly over seed and fertilizer sale and distribution, and government-backed large-scale land leases.

Gladwin Christina H., Impacts of Structural Adjustment Programs on African Women Farmers and Female-Headed Households, *Am J Agric Econ* (1991) 73 (5): 1431-1439.

[27] Home | Food and Agriculture Organization of the United Nations, accessed June 8, 2021, https://www.fao.org/docrep/016/ap554e/ap554e.pdf. FAO, 'Constitutional and Legal Protection of the Right to Food around the World', FAO, 2011

[28] OHCHR, accessed June 8, 2021, https://www2.ohchr.org/english/law/pdf/cescr.pdf. By September 2018, 168 countries, including most African countries, were party to the International Covenant of Economic, Social and Cultural Rights, General Assembly Resolution 2200A(XXI) December 16, 1966, that provides the right to food.

[29] See Chapter 2 of this thesis.

[30] "Neocolonialism and the New Alliance for Food Security and Nutrition: A Gendered Analysis of the Development Consequences for Africa," ScienceDirect.com | Science, Health and Medical Journals, Full Text Articles and Books, accessed June 9, 2021, https://www.sciencedirect.com/science/article/pii/B9780128164105000049?via%3Dihub.

[31] "Neocolonialism and the NAFSN: A Gendered Analysis of the Development Consequences for Africa."

Some projects have been implemented under NAFSN similar to this model and, therefore, present an opportunity to evaluate their impact on small-scale food producers. A keen examination of their results reveals the following suite of practical and conceptual concerns in these projects generally and with NAFSN, which are discussed below.

1.1.1 Impact of Commodification of Food under NAFSN on Food Security

Corporations engage in business primarily for profit, thereby maximizing shareholder value and giving investors a return on their investment.[32] Agribusinesses are corporations. They profit by treating food, a fundamental human right, as a commodity. They participate in the food supply chain through processing, manufacturing, or distributing food.[33] Others deal in agricultural inputs and machinery. On their part, small-scale farmers practice subsistence farming. This practice entails producing food for domestic consumption and selling surplus to the local market. NAFSN aims to improve small-scale farmers' food security and reduce poverty by linking them to the global food supply chain through agribusinesses.[34] However, this objective effectively commodifies food produced by small-scale farmers by treating it as an item of trade.[35] This commodification of food has undermined small-scale farmers' food security and their prospects of poverty reduction in the following ways:

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[32] Adam Hayes, "Shareholder Value: Definition, Calculation, and How to Maximize," Investopedia (Investopedia, October 30, 2022), https://www.investopedia.com/terms/s/shareholder-value.asp.

[33] James Chen, "Agribusiness Explained: What It Is, Challenges, and Examples," Investopedia (Investopedia, September 30, 2022), https://www.investopedia.com/terms/a/agribusiness.asp.

[34] European Union, *The New Alliance for Food Security and Nutrition in Africa* (2015), PDF e-book, 36. accessed June 9, 2021, https://www.europarl.europa.eu/RegData/etudes/STUD/2015/535010/EXPO_STU(2015)535010_EN.pdf.

[35] Friedman Milton, The Social Responsibility for Business is to Increase its Profits", The New York Times Magazine, September 13, 1970. Copyright @ 1970 by The New York Times Company; Also, see Professor Alston's assertion about the privatisation of essential services. Although he is writing about privatisation, his argument applies this model. He says it "…often involves the systematic elimination of human rights protections and further marginalisation of the interests of low-income earners and those living in poverty."

1.1.1.1 Denial of Communities' Right to Determine their Food Production and Consumption Patterns

Communities should be able to freely determine their method of agricultural production and be trusted to protect the access of the poor to land, seeds and other productive resources. In addition, communities are better suited to cushion themselves against external shocks that threaten their access to food. Women's predominant role in agricultural production is also better protected in a community setting.[36] These principles are consistent with those of the food sovereignty movement, developed during the World Summit in 1996 and emergent as the counterforce to politics that promoted and prioritised trade, thus commodifying food.[37] Advocates for the movement have argued that commercialisation of agriculture at the peasant farmers' level is responsible for the increased dependence on food imports and blames its practices for climate change, environmental degradation and erosion of traditional means of subsistence.[38] The movement also has its critics.[39]

One of the pillars of the food sovereignty movement is the right to healthy and culturally appropriate food that meets the dietary requirements of a particular group.[40] Small-scale farmers in many participating countries ordinarily rely on a range of locally grown foods for

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[36] "Women's Key Role in Agricultural Production Emphasized," UN Women – Headquarters, accessed December 5, 2022, https://www.unwomen.org/en/news/stories/2014/10/sharefair-rural-women-technologies.

[37] "Rome Declaration on World Food Security and World Food Summit Plan of Action: World Food Summit," 13-17 November 1996, Rome Italy (1996) , https://www.fao.org/3/w3613e/w3613e00.htm

[38] Bina Agarwal, "Food sovereignty, food security and democratic choice: critical contradictions, difficult conciliations," *The Journal of Peasant Studies* 41, no. 6 (2014): (1247-1268), doi:10.1080/03066150.2013.876996.

[39] A critique of food sovereignty, Agarwal, "Food sovereignty, food security and democratic choice: critical contradictions, difficult conciliations," *The Journal of Peasant Studies* 41, no. 6.

[40] "What is Food Sovereignty," Food Secure Canada, last modified March 23, 2018, https://foodsecurecanada.org/who-we-are/what-food-sovereignty.

subsistence.[41] Commodification, championed by agribusinesses, makes peasant farmers gravitate towards mono-cropping so that it can make economic sense for the businesses. Consequently, this leads to a gradual shift in communities' food production and consumption patterns.[42]

The commodification of food has seen the growing power of agribusinesses. Their influence on the policies and practice of agriculture has seen them supplant these traditional food production and supply systems by promoting mono-cropping for their supply. This limits the range of food items available to meet the local communities' dietary requirements, leaving food purchases as the only way to bridge any dietary gaps.[43] Even in instances where small-scale farmers benefit from projects advancing the commercialisation of agriculture, competing demands on their income may render them unable to replace the missing nutrition elements. Alternatively, they may spend a disproportionate percentage of family income to buy food at the expense of other basic needs such as education and health.

NAFSN takes away small-scale farmers' food sovereignty, undermining the realization of not only their right to food but potentially other fundamental rights such as health and enjoyment of housing.[44] Such interventions often do not address the root causes of food

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[41] "Home | Food and Agriculture Organization of the United Nations," accessed December 5, 2022, https://www.fao.org/3/i5251e/i5251e.pdf.

[42] Million Belay, "Africa is Not a Monoculture, We Reject the Plan to Make It One," Breaking News, World News and Video from Al Jazeera, last modified September 22, 2021, https://www.aljazeera.com/opinions/2021/9/22/africa-is-not-a-monoculture-we-reject-the-plan-to-make-it-one.

[43] Michael N.I. Lokuruka, "Food and Nutrition Security in East Africa (Kenya, Uganda and Tanzania): Status, Challenges and Prospects," *Food Security in Africa*, 2021, doi:10.5772/intechopen.95036.

[44] For instance, the tracing of an increase in the incidences of lifestyle diseases. Also, housing may be impacted where communities are forcibly evicted their communal settings to pave way for agribusiness. See Human Rights Watch Report on displacement to pave way for agribusinesses in Ethiopia. Human Rights Watch, "'Waiting Here for Death' Forced Displacement and 'Villagization' in Ethiopia's Gambella Region," *Human Rights Watch Website* (New York: Human Rights Watch, 2012), https://www.hrw.org/sites/default/files/reports/ethiopia0112webwcover_0.pdf; Also, see Kaweri in Uganda.

insecurity in SSA and may end up negatively impacting food availability at the local level. For instance, the imposition of Structural Adjustment Programs (SAPs) by the Bretton Woods institutions ended up cutting government subsidies to agriculture and exposing local supply chains to competition from the Global North and led to the dumping of cheap imports from the Global North. Consequently, farmers in Africa could not offer competitive market prices for food items such as maize, leading to increased reliance on food imports.[45]

1.1.1.2 Soil Degradation

Soil degradation is the physical, biological, chemical and ecological decline in soil quality, which eventually impacts the soil ecosystem functions and services.[46] The food production patterns adopted by traditional societies cushioned soil from degradation. For instance, shifting cultivation involved planting on a given plot of land for one or several seasons and then leaving it fallow for the soil nutrients to regenerate.[47] In addition, traditional food production methods, practised by most small-scale farmers, are less dependent on expensive farm inputs such as fertilizers and pesticides. The growing consciousness about the long-term health benefits of

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Human Rights Violations in the Context of Kaweri Coffee Plantation Ltd. in Mubende, and Fisherfolk in Uganda, (Uganda: FIAN UGANDA, 2021), https://www.fian.org/files/files/FIAN_Uganda_-_UPR_Parallel_Report.pdf; and Palm oil business in Kahanagalaa.

[45] Stein H., 'World Bank Agricultural Policies, Poverty and Income Inequality in Sub-Saharan Africa', Cambridge Journal of Regions, Economy and Society, vol. 4 (2011), pp. 79-90; Clapp, J. (2009). Food price volatility and vulnerability in the Global South: Considering the global economic context. *Third World Quarterly*, 30(6), 1183–1196; Mbithe P. & Mwabu G., Impact of SAPs on Agriculture Sector Growth in Kenya, 79-102; Due J. M. & Gladwin C. H., Impact of SAPs on African Women Farmers and Female-Headed Households, 1431-1439.

[46] R. Lal, "Soil degradation as a reason for inadequate human nutrition," *Food Security* 1, no. 1 (2009): doi:10.1007/s12571-009-0009-z.

[47] Thilde B. Bruun, Ole Mertz, and Bo Elberling, "Linking yields of upland rice in shifting cultivation to fallow length and soil properties," *Agriculture, Ecosystems & Environment* 113, no. 1-4 (2006): doi:10.1016/j.agee.2005.09.012. Shift cultivation, also known as 'slash and burn cultivation' is a common practice in Sub Saharan Africa where land was cleared and cultivated on for a time until it lost its fertility. The land is then 'abandoned' and fallow vegetation allowed to grow so as to regain fertility.

organic food has also made farmers prefer this food production system.[48] According to agronomists, intercropping and crop rotation, both practised by small-scale farmers, enhance soil fertility.[49] They further advise that prolonged use of farm inputs reduces soil fertility, increasing overreliance on fertilizers and other chemicals to achieve meaningful production.[50]

Commercialisation introduces mono-cropping, degrading the soil and promoting overreliance on industrial chemicals during the project's life since participating agribusinesses must ensure that they create a market for their products. In addition, should the small-scale farmers choose to revert to traditional crops, the cost of full soil rehabilitation would be too expensive. Therefore, these projects promote unsustainable land-use practices through their long-term negative impacts on food quality and quantity for the local communities.[51] These impacts diminish the prospects of farming to earn a livelihood.

1.1.1.3 Reducing Small-Scale Farmers' Resilience

Traditional crops have been known to be more resistant to changes in weather. For example, foods such as yams withstand drought and are crucial to resilience against weather changes. Agribusiness has gradually replaced traditional crops with exotic ones which are not as resilient. This replacement compromises sustainable food production for local communities, especially when viewed in the light of changing weather patterns.[52]

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[48] "FAQ," Organic Agriculture: What are the environmental benefits of organic agriculture?, accessed December 6, 2022, https://www.fao.org/organicag/oa-faq/oa-faq6/en/.

[49] Rinku Singh and G. S. Singh, "Traditional agriculture: a climate-smart approach for sustainable food production," *Energy, Ecology and Environment* 2, no. 5 (2017): doi:10.1007/s40974-017-0074-7.

[50] Rinku Singh and G. S. Singh, "Traditional Agriculture: A Climate-Smart Approach for Sustainable Food Production," *Energy, Ecology and Environment* 2, no. 5 (April 2017): pp. 296-316, https://doi.org/10.1007/s40974-017-0074-7.

[51] "Neocolonialism and the NAFSN: A Gendered Analysis of the Development Consequences for Africa."

[52] Winifred Chepkoech et al., "Farmers' Perspectives," *International Journal of Climate Change Strategies and Management* 10, no. 4 (2018): pp. 551-579, https://doi.org/10.1108/ijccsm-07-2017-0160.

Over time, small-scale farmers have developed resilience by partially cushioning themselves from the risks associated with their produce. When they grow food crops, they consume some of them domestically and sell the surplus to the market. They also preserve the non-perishable food crops if either the prevailing market price is low or to cushion themselves from a future shortage.[53] In some instances, peasant farmers barter-trade their produce in exchange for social services such as health and education services.[54] In other cases, food is part of the gifts exchanged at cultural functions such as weddings and funerals.[55]

Growing commercialisation has supplanted some traditional food items with those that can only be sold for processing by the participating agribusiness. For example, in Uganda, a community in Kaweri was displaced to pave the way for coffee for export by the subsidiary of a German agribusiness.[56] This has led to a food shortage, leaving the community less resilient. As I demonstrate later in this thesis, in cases where peasant farmers get involved in supply contracts with a local agribusiness, such contracts are often disproportionately in favour of the agribusiness. The contracts may exempt such agribusinesses from the obligation of buying excess or what it deems to be substandard produce, the latter of which may be occasioned by externalities such as weather.

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[53] "Managing Risk in Farming - Food and Agriculture Organization," accessed December 6, 2022, https://www.fao.org/uploads/media/3-ManagingRiskInternLores.pdf.

[54] Singh and Singh, "Traditional Agriculture," 2017.

[55] James Peoples, "Ceremonies and Village Economic Change: A Conceptual Framework and an Application," *Human Organization* 46, no. 3 (1987): pp. 200-210, https://doi.org/10.17730/humo.46.3.g227322l48107178.

[56] European Parliament, *Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union - Exchange of letters between the Neumann Gruppe and the authors of the study*, (European Union, 2017), https://www.europarl.europa.eu/RegData/etudes/STUD/2016/578007/EXPO_STU(2016)578007(ANN01)_EN.pdf.

Therefore, the overreliance on a single monopolistic agribusiness is disempowering for the farmers and denies them the range of resilient options available under their traditional production system.[57] The risk is aggravated if the agribusiness ceases operations due to mismanagement or other investment decisions. It may leave the farmers with produce they cannot consume locally, especially non-food items such as cotton or sisal.

1.1.1.4 Unequal Allocation of Public Resources

Most NAFSNs are located in areas conducive to agribusiness, including fertile areas and have supporting infrastructures such as a road network and reliable power supply. These are termed growth corridors. Under NAFSN, the participating countries are expected to improve and maintain the infrastructure and give targeted support services depending on the type of agribusiness. Some countries have allocated disproportionately more resources to the growth corridors and marginalized other areas to meet this commitment. For example, Malawi's current allocation of resources for agricultural extension services is skewed in favour of agribusiness compared to small-scale livestock farmers in more arid areas.[58] Such allocation compromises governments' fulfilment of their obligation to promote the realization of the right to food in a manner that does not perpetuate discrimination.

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[57] Singh and Singh, "Traditional Agriculture," 2017; Mono-cropping endangers the ecological integrity of agroecosystems through the degradation of the soil resource, a result of an overreliance on agrochemicals.

[58] Wolfgang Obenland. Corporate influence through the G8 New Alliance for Food Security and Nutrition in Africa. (Bonn, Germany: Global Policy Forum, 2014). Accessed on June 17, 2021 https://neu.globalpolicy.org/sites/default/files/Corporate_Influence_through_the_G8NA.pdf

1.1.1.5 Displacement of Local Communities to Pave the Way for Agribusinesses.

Availability of vast 'idle' arable land is one of the pull factors for agribusinesses based in the Global North to Africa. The notion of 'idle' land is often misleading, as most of it is community land where local communities practice shifting cultivation or nomadic pastoralism. Under NAFSN, participating countries committed to avail land for the agribusinesses, primarily by leasing.[59] There have been cases where government agencies have forcibly displaced the local population to pave the way for agribusinesses. In Mozambique, the land occupied by communities in Nampula, Niassa and Zambezia provinces was deemed to be idle from an outsider's perspective, while in reality, the community would practice shifting agriculture to give the land time to regenerate fertility. As a result of this inaccurate conclusion, the local community was forcibly evicted to pave the way for the ProSAVANA programme under the NAFSN.[60] In Ethiopia's Gambela region, government security agents participated in the displacement, killing, beating, and rape of an indigenous group to pave the way for commercial cotton, rice, and sugar farms under NAFSN.[61] Forcible displacement of local communities is not only confined to NAFSN projects. In Sierra Leone, a local community has been protesting displacement by the government to give way for Socfin Agricultural Company Ltd (SAC) to plant palm oil. The government leased community land to the company without the community's consent of participation.[62]

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[59] AGRODEP, "An Assessment of the New Alliance for Food Security and Nutrition," last modified April 2018, https://www.agrodep.org/sites/default/files/NAFSN%20Full%20Report%20with%20Annexes.pdf.

[60] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture: Implications of the ProSAVANA Programme in Northern Mozambique (May 2015) https://www.eur.nl/sites/corporate/files/CMCP_30-_IKEGAMI.pdf

[61] Human Rights Watch, '"Waiting Here for Death": Displacement and "Villagization" in Ethiopia's Gambella Region', 2012 available at https://afsafrica.org/wp-content/uploads/2019/10/agrawiseprelimfindings2017.pdf

[62] Michael Phoenix et al., *Land Grabbing for Palm Oil in Sierra Leone: Analysis of the SOCFIN Case from a Human Rights Perspective*, (FIAN Belgium, 2019),

1.1.2 Exacerbating Discrimination Against Women

Discrimination against women occurs when society, based on gender as opposed to capabilities, assigns people roles and responsibilities that limit the expression and realization of one's full potential. The most significant step in addressing discrimination against women in many countries globally is outlawing it and issuing policy guidance on affirmative action to correct the uneven playing field between men and women.[63]

Despite international and domestic legal protections against gender discrimination, women struggle to enjoy the same rights as men. However, significant gaps in translating these laws and policies to the meaningful protection of women against discrimination still exist due to structural barriers and cultural prejudices. This is due to social constructs that continue to disadvantage them even when there seems to be a level playing field.[64] For instance, despite legislative reforms in many African countries allowing women to own land, access to affordable credit by women remains one of the stumbling blocks.[65]

The food supply chain, including small-scale farming, is one sector where discrimination against women has had far-reaching consequences for society. According to the UN Human Rights Council,

> …while women contribute more than 50 per cent of the food produced worldwide, they also account for 70 per cent of the world's hungry, that women and girls are disproportionately affected by hunger, food insecurity and poverty, in part as a result of gender inequality and discrimination, that in many countries girls are twice as likely

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https://www.fian.be/IMG/pdf/fian_b_report_landgrab_in_sl_malen_2019_full_weblow.pdf. Land Grabbing for Palm Oil in Sierra Leone Analysis of the SOCFIN Case from a Human Rights Perspective

[63] UN Women, "Focusing on prevention: Ending violence against women," accessed December 7, 2022, https://www.unwomen.org/en/what-we-do/ending-violence-against-women/prevention.

[64] FAO, "Chapter II. The gender perspective," accessed December 7, 2022, https://www.fao.org/3/x2919e/x2919e04.htm.

[65] "OHCHR | Convention on the Elimination of All Forms of Discrimination Against Women," accessed June 9, 2021, https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx, Article 12 and 14.

> as boys to die from malnutrition and preventable childhood diseases, and that it is estimated that almost twice as many women as men suffer from malnutrition;[66]

The irony of this discrimination is the roles that many patriarchal cultures impose on women require access to the same productive resources they are denied. Women are involved from the farm to the kitchen. Whether they get proper nutrition before, during pregnancy, and breastfeeding impacts their children's development. They are responsible for feeding children and the family.[67]

At the farm level, women are estimated to be involved in at least 60% of food production in small-scale farming in Africa. However, only 2% of them have any title to land as the distribution and ownership of land in agricultural communities, where the right to use land is concerned, often takes a gender dimension. Women are vital actors in food production, providing unpaid labour. On the other hand, due to their perceived role as income earners, men take charge of cash crop farming. However, due to other priorities, they do not necessarily channel the cash earned to the purchase of food. The commodification of food from the commercialisation of agriculture has reinforced discrimination against women by building another layer of hardship on them purely due to their gender roles.[68] For instance, research claims that in Sierra Leone, the change in land access brought by SOCFIN agribusiness

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[66] United Nations General Assembly, "Human Rights Council Forty-third session A/HRC/43/L.12 - E - A/HRC/43/L.12 -Agenda item 3, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development," eSubscription to United Nations Documents, last modified February/March 2020, https://undocs.org/A/HRC/43/L.12.

[67] Itang Egbung, "Patriarchal Limitations Imposed on African Women: A Deconstructiv Deconstructive Reading of Chinweizu' e Reading of Chinweizu's Anatomy of F Omy of Female P Emale Power," *Journal of International Women's Studies*, September 2021.

[68] Joanna Bourke Martignoni et al., "Agricultural Commercialization, Gender Equality, and the Right to Food," *Agricultural Commercialization, Gender Equality and the Right to Food*, 2022, pp. 1-22, https://doi.org/10.4324/9781003202004-1.

activities impacted women more negatively than men.[69] Agribusinesses exacerbate discrimination against women in the following ways:

1.1.2.1 Exclusion of Women from Consultation

Land ownership in small-scale farming settings is predominantly by the male heads of households. There are cases where consultation between landowners and agribusinesses or government agents on access and compensation has occurred. Due to the gender-blind nature of NAFSN, the invitation to such negotiations, based exclusively on land ownership, has therefore ended up excluding women.

Additionally, there is a perception in patriarchal societies that men are the decision-makers in society. This further restricts the meaningful participation of the women who may have a chance to attend and contribute to such consultations. This discrimination against women's participation denies project proponents a deeper understanding of the impact of the projects on women so that they can take the necessary action to avoid harmful impacts.[70]

1.1.2.2 Reducing Acreage of Land Available for Subsistence Farming

In agrarian societies, the woman's role is to feed her family. Concerning commercial agriculture in Sierra Leone, FIAN concludes that,

> Prior to the arrival of SOCFIN, the agricultural activity of women was of chief economic importance within communities. As the basis of much of the social

[69] Genesis T. Yengoh, Frederick A. Armah, and Karin Steen, "Women's Bigger Burden: Disparities in Outcomes of Large Scale Land Acquisition in Sierra Leone," *Gender Issues* 32, no. 4 (2015): doi:10.1007/s12147-015-9140-7; For more on how the activities of SOCFIN have impacted local communities, see Michael Phoenix et al., *Land Grabbing for Palm Oil in Sierra Leone: Analysis of the SOCFIN Case from a Human Rights Perspective*.

[70] For more on the need to mainstream gendered human rights impact assessment, see Bonita Meyersfeld, "Business, Human Rights and Gender: a Legal Approach to External and Internal Considerations (Chapter 8) - Human Rights Obligations of Business," Cambridge Core, accessed July 3, 2021, https://doi.org/10.1017/CBO9781139568333.013, (pp. 193-217).

> interaction within villages, it also played a key social role. The changes in access to and control over land following the lease agreement removed the base materials of this activity from local women, creating a wide economic and social gap in communities.[71]

Under some NAFSN projects, small-scale farmers have converted land culturally used for subsistence farming to mono-cropping to supply produce to agribusiness.[72] This deprives women of land available for subsistence farming. In Tanzania, a widow practising subsistence farming was given the notice to vacate by a company under the NAFSN to pave the way for palm oil. She explained the uncertainty surrounding the eviction procedure, compensation and whether her ability to grow crops and sustain her family would be compromised.[73]

1.1.2.3 Limiting the Available Food for Women's Special Dietary Needs

Women, either by themselves or because of those they nurture children, the sick and the elderly, thus have special dietary needs. Pregnant and breastfeeding mothers need particular nutrients. Mono-cropping, including non-food items such as cotton and palm oil, may limit the range of food items available for such groups and restrict their access to the recommended calorie intake.[74] Mono-cropping exacerbates this deficiency in communities where these dietary requirements may not have been met before its introduction. Women have little control over any income from cash crops, and any economic benefit from mono-cropping may not be

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[71] Michael Phoenix et al., *Land Grabbing for Palm Oil in Sierra Leone: Analysis of the SOCFIN Case from a Human Rights Perspective*.

[72] "Women Grow 70% of Africa's Food. But Have Few Rights over the Land They Tend," World Economic Forum, last modified March 21, 2018, https://www.weforum.org/agenda/2018/03/women-farmers-food-production-land-rights/

[73] Richard Mbunda, Mark Curtis, and Action Aid, "Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania," ActionAid International, last modified March 2015, https://actionaid.org/sites/default/files/stopecoenergy.pdf.

[74] For a discussion on the conditions necessary for industrial crops to contribute to food security, see **Steve** Wiggins, Giles Henley, and Sharada Keats, "Competitive or complementary? Industrial crops and food security in sub-Saharan Africa," odi.org, last modified April 2015, https://cdn.odi.org/media/documents/9633.pdf

channelled to bridge the dietary gap.[75] In addition, the food needed to bridge that gap may be too expensive compared to the income and the need to meet other basic needs.[76]

1.2.2.4. Discrimination in the Context of Employment

Engaging in decent work is one way of securing a livelihood. Despite the guarantee against non-discrimination in international law, women face various forms of discrimination in the workplace, including in agribusinesses. The International Labour Organization acknowledges that women face discrimination, including by business enterprises, when pregnant or nursing children. In addition, they are underrepresented in managerial positions and earn less than men for the same type of work.[77] Women dominated the lowest cadres in employment, with very few accessing managerial positions.[78]

Commenting on the experience of women impacted by the operations of SOCFIN, FIAN observes that women are primarily;

> deemed unfit for the tasks demanded of workers on the SOCFIN plantations, especially in the case of the elderly, women have frequently been faced with a barrier to work of all forms. This has had a cumulative negative social impact and severe implications for communities' rights in general, and women's rights in particular, including their right to food, water and an adequate standard of living.[79]

NAFSN promises to create employment as one of its strategies for reducing poverty. One way is direct employment at processing and distribution sites, farms and other points along the

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[75] On the other hand, due to their perceived role as income earners, men take charge of cash crop farming.

[76] Wiggins, Henley, and Keats, "Competitive or complementary? Industrial crops and food security in sub-Saharan Africa," April 2015.

[77] International Labour Organization, *Global Wage Report 2018/19: What lies behind gender pay gaps*, (Geneva: International Labour Office, 2018), p. 23, https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_650553.pdf.

[78] "Women in the Workplace 2022," McKinsey & Company (McKinsey & Company, October 18, 2022), https://www.mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace.

[79] Michael Phoenix et al., *Land Grabbing for Palm Oil in Sierra Leone: Analysis of the SOCFIN Case from a Human Rights Perspective*, (FIAN Belgium, 2019).

supply chain.[80] However, some communities where the projects are based claim that opportunities have not been consistent and predictable. Women from a community where a NAFSN project introduced palm oil in Nigeria said that although agribusinesses have paid their casual employees according to the minimum wage, this has not equated to a living wage that can consistently be relied on as a livelihood.[81] The number of opportunities for women has been fewer than for men. Where women have taken up employment, the wage is insufficient to hire extra help at home. They have worked long hours at home to perform their traditional chores. In other cases, these roles have been taken by the girls in the family, often at the expense of their education.

1.1.3 Predatory Arrangements that Economically Disadvantage Peasant Farmers

Agribusiness involved in the transport, processing and marketing of produce by peasant farmers often enters into predetermined contracts that the farmers must often accept if they are to enter the relationship.[82] These contracts are often worded to protect the interest of the agribusiness and offer a minimal cushion to peasant farming in case of adversity. The benefits are shared, but the peasant farmers disproportionately bear the risks at the local level.[83]

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[80] "An Assessment of the New Alliance for Food Security and Nutrition - AGRODEP," accessed December 20, 2022, https://www.agrodep.org/sites/default/files/NAFSN%20Full%20Report%20with%20Annexes.pdf.

[81] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', Africa Growth and Development Policy Modeling Consortium & Regional Strategic Analysis and Knowledge Support System, April 2018 available at 34472-doc-nafsn20full20report20with20annexes.pdf (au.int)

[82] "Advantages and Problems of Contract Farming," Contract farming - Partnerships for growth, accessed December 20, 2022, https://www.fao.org/3/y0937e/y0937e03.htm.

[83] Rebecca Smalley, Emmanuel Sulle, and Lameck Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014), https://media.africaportal.org/documents/FAC_Working_Paper_106_1.pdf. The farmers entered into a Cane Supply Agreement (CSA) through outgrower associations. When KSCL began delaying payments in 2013, the

Contract farming is one-way NAFSN seeks to integrate small-scale farmers into the global agriculture value chain. It can help them secure reliable markets and, in some cases, new markets for their produce, technical support and access to credit facilities for farm inputs.[84] Despite these benefits, small-scale farmers who have entered contract farming under NAFSN have experienced several challenges.[85]

1.1.3.1 Inequality of the contracting parties

Ordinarily, parties to a contract should freely enter into a binding agreement without undue influence or intimidation. It is also presupposed that the parties stand on an equal footing in understanding the contract terms. Under NAFSN, the agribusiness and the farmers' relationship is termed a 'partnership'. Ordinarily, this term of endearment denotes a better understanding between the two parties than in an ordinary contract.

However, information and power asymmetry between agribusinesses and small-scale farmers is disproportionately skewed in favour of the former. Agribusinesses have exclusive access to information on international market dynamics, which they may choose not to share with the farmers when they sign supply contracts for their produce. Some contract farming arrangements have also perpetuated the farmers' cyclic indebtedness to agribusiness due to loan advances for farm inputs, making it difficult for farmers to opt out of this relationship.[86]

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farmers only complained to their respective out grower associations as they are unaware of their contractual rights.

[84] "The Growing Role of Contract Farming in Agri-Food Systems Development: Drivers, Theory and Practice," Home | Food and Agriculture Organization of the United Nations, accessed July 3, 2021, https://www.fao.org/sustainable-food-value-chains/library/details/en/c/266526/.

[85] See Chapter 6 of this thesis for more examples

[86] "Advantages and Problems of Contract Farming," Contract farming - Partnerships for growth, accessed December 20, 2022, https://www.fao.org/3/y0937e/y0937e03.htm.

1.1.3.2 Contract Farming Restricts Produce Suppliers' Chances of Moving Up the Supply Chain

Over-dependence on a single monopolistic buyer may create complacency and limit suppliers' chances of innovating so that they can move up the supply chain. This may also occur if a powerful buyer puts barriers to forming cooperatives or other business associations that might be used for more involvement, including possible direct competition. Restriction to a narrow aspect of the food supply chain limits their choices of economic activities.

1.1.3.3 Economic Disenfranchisement of Farmers

In several cases, farming contracts have given agribusinesses the exclusive right to determine the price they buy produce with no guarantee of a minimum price. It may also exempt the agribusiness from the obligation of buying excess produce if there is a glut in the market or buying produce that may be considered substandard. This may be so even when these are occasioned by externalities such as weather or disease infestation. One contract in a project in Tanzania obligates farmers to pay for inputs advanced by the same agribusiness they supply produce to within the first three months, regardless of whether they have been fully paid.[87] Such terms and conditions in supply contracts give farmers little control over their produce and promote cyclic indebtedness to agribusiness. They also lower farmers' resilience, unlike in subsistence farming.

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[87] Oakland Institute "Irresponsible investment: Africa's broken development model in Tanzania". 2015. Available at https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_Report_Irresponsible_Investment.pdf p. 18 (hereafter called the Oakland Institute Report)

1.1.4 Ignoring Current Theories on Essentials of Poverty Reduction Strategies

The introduction of agribusiness has been rationalised to improve food security by reducing poverty and increasing income for the local population.[88] Poverty reduction strategies have long been viewed as not necessarily requiring human rights approaches. However, through the work of leading thinkers on pro-poor development, such as Amartya Sen, and the observations of UN treaty mechanisms, it is now settled that pro-poor development projects should be designed to increase the intended beneficiaries' freedom to make choices.[89] Consequently, project beneficiaries should participate at all stages – from conception to implementation. In addition, the projects should be based on the principles of non-discrimination and accountability.

Nonetheless, examining agribusiness projects, including NAFSN, that claim to reduce poverty reveals that these principles are often ignored.[90] However, Sen's capability approach views poverty as denying the freedoms necessary for human dignity.[91] This is why efforts to distance human rights poverty reduction strategies from human rights approaches fail, as they

[88] In this context, I adopt Sen's definition of poverty as 'the failure of basic capabilities to reach certain minimally acceptable levels'." See, Amartya K. Sen, *Inequality Reexamined* (Cambridge: Harvard University Press, 1992), 109.

[89] Amartya K. Sen, *Poor, Relatively Speaking* (Oxford Economic Papers 35, 1983), 153-169, doi:10.1093/oxfordjournals.oep.a041587; Also see Poverty and the International Covenant on Economic, Social and Cultural Rights: statement adopted on 4 May 2001 by the Committee on Economic, Social and Cultural Rights (E/C.12/2001/10), para. 13.

[90] Dagmar Milerová Prášková and Josef Novotný, "The Rise and Fall of the New Alliance for Food Security and Nutrition: A Tale of Two Discourses," *Third World Quarterly* 42, no. 8 (November 2021): pp. 1751-1769, https://doi.org/10.1080/01436597.2021.1917355.

[91] Polly Vizard, "Poverty and Human Rights: Sen's Contributions in Ethics," *Poverty and Human Rights*, February 2006, pp. 66-96, https://doi.org/10.1093/acprof:oso/9780199273874.003.0003.

deny the intended beneficiaries other aspects of a dignified life.[92] The following are some of the failures to adhere to these principles:

1.1.4.1 Lack of Participation of Peasant Farmers or their Representatives in Designing Food Security Interventions.

The active participation of the poor in designing, implementing and monitoring poverty reduction strategies is essential. For effective participation to occur, they must have access to information, be allowed to express themselves directly or through elected representatives, and enjoy a reasonable standard of living to feel secure in articulating their views.[93]

There are cases of introduction to agribusiness where local communities have not been involved in decision-making on issues that have far-reaching consequences for their ability to access food.[94] For example, in Kenya, a local community in a predominantly agricultural region that is self-sustaining first heard from their local leaders about their decision to invite the Chinese to invest in agribusiness and shift the local community from the traditional form of agriculture.[95]

This failure is also evident in NAFSN. According to an account of the background work leading to NAFSN, agribusinesses were involved, but there was no representation from groups

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[92] United Nations, *Human Rights and Poverty Reduction: A Conceptual Framework* (New York and Geneva: OHCHR, 2004), https://www.ohchr.org/Documents/Publications/PovertyReductionen.pdf.

[93] United Nations, *Human Rights and Poverty Reduction: A Conceptual Framework* (New York and Geneva: OHCHR, 2004).

[94] Leonard I. Chirenje, Richard A. Giliba, and Emmanuel B. Musamba, "Local Communities' Participation in Decision-Making Processes through Planning and Budgeting in African Countries," *Chinese Journal of Population Resources and Environment* 11, no. 1 (2013): pp. 10-16, https://doi.org/10.1080/10042857.2013.777198.

[95] Christine Maema, "Drawing Lessons from China's Poverty Alleviation Strategies for African Countries," CGTN Africa, last modified March 9, 2021, https://africa.cgtn.com/2021/03/09/drawing-lessons-from-chinas-poverty-alleviation-strategies-for-african-countries/.

advocating for small-scale farmers at the conceptualisation and design stage.[96] Therefore, the model was a top-down model that failed to prioritize the needs of the project beneficiaries; instead, it created a framework within which the beneficiaries were supposed to fit. For instance, an account of how Malawi joined NAFSN reveals that it came during foreign exchange constraints and needed support from the United Kingdom (UK). The UK came up with a *quid pro quo.* Malawi had to join NAFSN. It, therefore, had to reorient its agriculture development agenda to NAFSN priorities. Malawi government officials did not have sufficient time to review the initiative for compliance with its food security needs. In Tanzania, elected leaders at national and local levels where the projects are based claimed they first learned about NAFSN when it was about to be implemented on the ground.[97]

1.1.4.2 Lack of Accountability Mechanism

Accountability is essential in the context of poverty reduction. Accountability entails allocating responsibility for achieving results the benefactors have committed to achieving. One way of ensuring accountability is making the commitments public and periodically monitoring progress towards their achievement.

NAFSN promised to create jobs for 50 million people across Africa.[98] However, it lacks a credible monitoring and accountability mechanism for achieving this goal and developing a

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[96] Olivier DE SCHUTTER, *STUDY: The New Alliance for Food Security and Nutrition in Africa*, (Belgium: European Parliament's online database, 'Think tank', 2015), ISBN: 978-92-823-8388-9 (pdf).

[97] Claire Provost and Erick Kabendera, "Tanzania: 'Large-Scale Farming Turns Small Farmers into Mere Labourers,'" *The Guardian*, February 18, 2014, sec. Global development, https://www.theguardian.com/global-development/2014/feb/18/tanzania-large-scale-farming-small-farmers-labourers?CMP=twt_gu.

[98] Olivier DE SCHUTTER, *STUDY: The New Alliance for Food Security and Nutrition in Africa*, (Belgium: European Parliament's online database, 'Think tank', 2015), ISBN: 978-92-823-8388-9 (pdf).

remedial action during the initiative.[99] The kind of jobs, the working conditions, health and safety considerations, and gender policies governing such employment have all been left to the individual companies. Any employment opportunities the corporations claim to have created will thus not be open for independent verification.

1.1.5 Lack of an Effective Grievance Handling Mechanism

States are under an international law obligation to respect, promote, protect and fulfil human rights. The duty to protect entails ensuring that third parties do not restrict the enjoyment of human rights. Where third parties restrict such enjoyment, right-holders should have access to remedy.

The commercialisation of agriculture in peasant communities gives agribusiness significant influence on whether the local community enjoys the right to adequate food. Any negative impact of such projects on human rights, including the right to adequate food, would be widespread given their potential impacts on livelihoods and in the context of the interdependence of human rights. It is, therefore, imperative that a human rights-based approach is adopted so that the impact of the project on other rights as well can be assessed and negative impacts avoided, mitigated or remedied.

In the context of NAFSN, the participating countries should have taken concrete measures to ensure that agribusiness did not restrict the enjoyment of the right to food, especially for vulnerable members of society. There is no evidence that this was either mandated by the

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[99] Dagmar Milerová Prášková and Josef Novotný, "The Rise and Fall of the New Alliance for Food Security and Nutrition: A Tale of Two Discourses," *Third World Quarterly* 42, no. 8 (November 2021): pp. 1751-1769, https://doi.org/10.1080/01436597.2021.1917355.

participating African countries or voluntarily done by the participating agribusinesses.[100] They should have, for instance, required that the projects pursue a human-rights-based approach to development and conduct human rights due diligence. This would have helped identify and address the project's potential human rights risks and avoided some of the harm communities have already suffered.

For right-holders to meaningfully enjoy their rights guaranteed by international human rights instruments, they should have access to a mechanism for redressing their grievances. This is for where harm is likely to occur and measures to prevent it or where harm has already occurred so that any on-going harm may be stopped and the victims or their families compensated.

This requirement also applies to victims of corporate-related harm, including agribusinesses, which should have a credible grievance-handling mechanism. The necessity for a credible grievance mechanism in the context of agribusiness is necessitated by the power asymmetry between agribusinesses and those impacted by their operations.

A documented experience by local communities point to a systematic failure by both governments and agribusinesses, to take measures to ensure that individuals and communities who are impacted by increasing significant land acquisitions for commercial agriculture are compensated. Those affected lack redress avenues, whether state-based or company-initiated operational-level grievance mechanisms. For example, the community evicted by Kaweeri more than two decades ago is yet to obtain redress despite filing a lawsuit against the company

[100] See chapter 4 of this thesis.

in Uganda.[101] Despite the local lawsuit, the court has now ordered mediation, and none of the victims has been compensated for being forcefully evicted by the army. Earlier on 8th July 2015, the Committee on Economic, Social and Cultural Rights had, in its concluding observations, taken note of cases of forcible evictions and singled out the Kaweeri Plantations and expressed concern that restitution of land rights was not one of the options for the victims.[102] Neumann Gruppe, which owns Kaweeri Plantation, has previously denied complicity in the evictions.[103]

On the other hand, voluntary international standards on measures agribusinesses should take to ensure they do not violate the rights of those impacted by their operations have failed to protect vulnerable groups.[104] As the Special Rapporteur on extreme poverty and human rights has observed, the "…[e]xisting human rights accountability mechanisms are inadequate for dealing with the challenges of large-scale and widespread privatization".[105]

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[101] Kaweeri case For a comprehensive analysis of this case, see FIAN Uganda, *Human Rights Violations in the Context of Kaweri Coffee Plantation Ltd. in Mubende, and Fisherfolk in Uganda*, (Uganda: FIAN UGANDA, 2021), https://www.fian.org/files/files/FIAN_Uganda_-_UPR_Parallel_Report.pdf.

[102] The Committee observed "The Committee is particularly concerned about the case of Mubende District whose inhabitants were evicted from their homes in 2001 in the context of the Kaweri Coffee plantation and about the fact that so far the legal redress they could obtain did not include restitution of land rights." FIAN Uganda, *Human Rights Violations in the Context of Kaweri Coffee Plantation Ltd. in Mubende, and Fisherfolk in Uganda*.

[103] European Parliament, *Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union - Exchange of letters between the Neumann Gruppe and the authors of the study*, (European Union, 2017), https://www.europarl.europa.eu/RegData/etudes/STUD/2016/578007/EXPO_STU(2016)578007(ANN01)_EN.pdf.

[104] Principles for Responsible Investment in Agriculture and Food Systems, para. 21 (available from: http://www.fao.org/3/aau866e.pdf; 'Corporate Human Rights Benchmark: 2018 Key Findings, Corporate Human Rights Benchmark, p. 18. Available at https://www.corporatebenchmark.org/sites/default/files/documents/CHRBKeyFindings2018.pdf accessed on June 8, 2021. To support this claim, a ranking of the most significant 101 publicly traded companies globally by selected human rights indicators show that the agricultural products scored an average of 25.5%.

[105] UNGA, Report by Special Rapporteur on extreme poverty and human rights, September 26 2018

An analysis of the avenues available to each of the three parties, government as the regulator, businesses as owners of capital and small-scale farmers as the intended beneficiaries, reveals, unsurprisingly, that it is skewed against the small-scale farmers. Agribusinesses have exerted their economic and political influence, besides using trade agreements to protect their interest in third countries where they have invested whenever their interests are threatened. They may also recourse to investor-state arbitration or litigation. A recent study concluded that Investor-State Dispute Settlement clauses (ISDS) had been used to undermine efforts to impose adequate human rights protections for corporate-related harm to hold companies accountable for human rights abuses.[106]

On their part, governments of the participating countries have used law and policy changes to take measures that have often undermined communities in the context of agribusinesses. For instance, in Kaweri Plantations, the Ugandan government used the army to forcibly evict local communities, compounded by the obstacles for victims to obtain a remedy in court due to an inefficient judicial system.[107] This frustrates efforts to obtain justice for communities that have suffered violence, land displacement, and other harms.

While visiting an area impacted by NAFSN projects in Tanzania, I met a local farmer who had been displaced to pave the way for commercial palm trees. He told me he could not take a

[106] Business and Human Rights Resource Centre, *Corporate rights or human rights? How Trade And Investment Agreements Could Threaten Human Rights Due Diligence Laws*, (2021), https://media.business-humanrights.org/media/documents/2021_Trade_Briefing_FINAL.pdf.

[107] FIAN Uganda, *Human Rights Violations in the Context of Kaweri Coffee Plantation Ltd. in Mubende, and Fisherfolk in Uganda*.

'giant' like the government or the complicit international agribusiness to court.[108] He feared it would be expensive, and he did not have the finances to retain a lawyer.

To gain a deeper insight into the potential negative impacts of this model, I examine the conception and implementation of projects under the NAFSN. I then focus on how NAFSN projects impact several communities in the participating African countries. Through a literature review of reports on how NAFSN projects are being implemented in participating African countries, I illustrate how agribusinesses have negatively impacted local communities by compromising their right to adequate food and exacerbating the existing discrimination against women. I also demonstrate how these negative consequences are occasioned by the refusal of NAFSN proponents to secure the local communities' participation in the conceptualization and implementation of the projects. There had also been a failure by the governments of the participating African countries and the agribusiness to ensure communities and individuals with grievances on how NAFSN is being implemented have access to effective remedies.

1.2 NAFSN

The G8-driven NAFSN partially responded to the global food crisis in 2007. G8 countries (France, Germany, UK, USA, Japan, Canada, Italy, and Russia), meeting in Italy in 2009, committed to increasing financial support to countries engaged in subsistence agriculture, including those in Africa.[109] In 2012, G8 countries and the European Union partnered with 10

[108] Conversation with Small-scale farmer, Tanzania, June 23, 2015. The farmer had been ordered by government officials not to plant any perennial crops on his land as it has been earmarked for lease to Agro EcoEnergy.

[109] Obenland, W. (2014). Corporate influence through the G8 New Alliance for food security and nutrition in Africa. *Global Policy Forum Working Paper;* O. Badiane, J. Collins, B. Dimaranan, and J. Ulimwengu 'An Assessment of the New Alliance for Food Security and Nutrition, Africa Union, April 2018; "About," New Alliance, accessed June 8, 2021.

African countries, namely Tanzania, Senegal, Ethiopia, Mozambique, Ghana, Ivory Coast, Malawi, Nigeria, Burkina Faso and Benin (the participating African countries), multinational corporations such as Syngenta, Yara, and Monsanto, and multilateral financial institutions including the World Bank and the World Food Program, to bring NAFSN to life.

NAFSN was designed 'to accelerate the flow of private capital to African agriculture, scale new technologies and other innovations that can increase sustainable agricultural productivity, and reduce the risk borne by vulnerable economies and communities. This would *lift 50 million people out of poverty* by 2022.[110] The participating African countries committed to adopting a raft of legislative and policy measures aimed at easing the multinational corporations' entry into their markets to practice agribusiness. These included considerable tax incentives for the agribusinesses, easing their land acquisition procedures, offering long-term leases, and ceding significant leverage over farm input policies.

Each participating country committed to a Country Cooperation Framework (CCF), spelling out its strategy to mobilize private capital from domestic and international agribusinesses. In their CCFs, the participating countries agreed to a raft of policy reforms to encourage private-sector investment in agriculture. These were in three broad thematic areas: securing a business-friendly environment, improving farmers' access to farm inputs such as fertilizers and seeds, and developing specific nutrition-based policies.

1.2.1 Commitments by Participating African Countries

Broadly, the participating countries committed to the following:

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[110] Singh and Singh, "Traditional Agriculture," 2017.

a) Securing a business-friendly environment through infrastructure improvement, tax incentives, and better access to finance.[111] For instance, Malawi promised to lift the ban on the export of food items and review the tax regime to 'maximize investment incentives'.[112]

b) Removal of structural barriers.

c) Improving access to inputs by small-scale farmers, including seeds, fertilizers and farm implements, while paying particular attention to the needs of women farmers.

d) Develop specific nutrition-based policies addressing issues such as malnutrition.

The CCF also committed the participating countries to an annual review process, which had already been in place in several countries under the Comprehensive Africa Agricultural Development Program.[113] The African Union Commission and Grow Africa co-chair the annual review process.[114]

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[111] European Union, *The New Alliance for Food Security and Nutrition in Africa* (2015), PDF e-book; "Neocolonialism and the New Alliance for Food Security and Nutrition: A Gendered Analysis of the Development Consequences for Africa accessed June 9, 2021, https://www.sciencedirect.com/science/article/pii/B9780128164105000049?via%3Dihub.

[112] Patel Raj et al., (2015) Cook, eat, man, woman: understanding the New Alliance for Food Security and Nutrition, nutritionism and its alternatives from Malawi, Journal of Peasant Studies, 42:1, 21-44, For the commitments that Malawi made, see Country Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Malawi (2013), p. 6

[113] Badiane O et al., "An Assessment of the New Alliance for Food Security and Nutrition,"13-17, African Union, last modified 2018, https://au.int/sites/default/files/documents/34472-doc-nafsn20full20report20with20annexes.pdf.

[114] African Union, accessed June 8, 2021, https://au.int/sites/default/files/documents/34445-doc-nafsn20full20report20with20annexes.pdf.

On their part, agribusinesses signed 'Letters of Intent'.[115] These were part of the CCF and specified the nature and scale of investment they intended to do in the participating African countries.

General Concerns about NAFSN

Concern has been raised on how NAFSN has been implemented in different participating countries from different quarters. These include appointees of the UN Human Rights Council, government members of the G8 that initially supported the initiative, international and domestic civil society organizations, members of parliament from the European Union and some participating African countries.[116] Some communities impacted negatively by some of the NAFSN projects have participated in local and international advocacy campaigns to seek support for withdrawing such projects. For instance, the Agro EcoEnergy project championed by a Swedish investor in Bagamoyo faced opposition from part of the local community, who alleged that they were not consulted before being displaced to pave the way for the Project.[117]

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[115] European Union, *The New Alliance for Food Security and Nutrition in Africa* (2015), PDF e-book, 36. Accessed June 9, 2021, https://www.europarl.europa.eu/RegData/etudes/STUD/2015/535010/EXPO_STU(2015)535010_EN.pdf.

[116] McKeon, N. (2014). The New Alliance for food security: A coup for corporate capital. Amsterdam: Transitional Institute; United Nations Human Rights Council, 'The Transformative Potential of the Right to Food, Twenty-fifth session Report of the Special Rapporteur on the right to food, Olivier De Schutter (January 24 2014), para 24; 'France Withdraws from NAFSN; Agribusiness is not the cure for hunger!" ActionAid, February 09, 2018, available at https://www.actioncontrelafaim.org/en/press/france-withdraws-from-nafsn-agribusiness-is-not-the-cure-for-hunger. This shows France withdrawing from NAFSN; "Pourquoi La France S'est Retirée De La Nouvelle Alliance Pour La Sécurité Alimentaire," Le Monde.fr, last modified February 12, 2018, https://www.lemonde.fr/afrique/article/2018/02/12/pourquoi-la-france-s-est-retiree-de-la-nouvelle-alliance-pour-la-securite-alimentaire_5255771_3212.html. This explains why France withdrew from NAFSN. Also, read the parliamentary Hansard for a deeper understanding of the issues; Misereor, Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective, May 2015 https://www.misereor.de/fileadmin/publikationen/study-a-right-to-food-perspective-2015.pdf International give ActionAid, FIAN, Global Policy Forum, and Oxfam, FoodFirst Information and Action Network. Local examples include HakiArdhi (see report in the Methodology section); Kabwe Zito and European Parliament have spoken up against it and called it a type of colonialism.

[117] ActionAid, Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania, March 2015 available at http://www.actionaid.org/sites/files/actionaid/stopecoenergy.pdf; The company responded to the allegations. See

The concerns raised against NAFSN's implementation in Tanzania mirror the ones experienced by other communities impacted by NAFSN projects in other participating African countries. I discuss these concerns in detail in chapter 4. These concerns regarding NAFSN projects can be grouped into two broad categories.

a) NAFSN projects failed to involve local communities in the planning and implementation phase. The second concern is the negative impact of food accessibility. The NAFSN projects impacted the local communities' ability to access food directly from their production or purchase from the local markets thus affecting them not only physically but also economically. Advocates for food sovereignty also challenge the NAFSN strategy as being against food sovereignty.[118] They say the model makes farming reliant on expensive farm inputs that are not affordable for many small-scale food producers.[119]
b) NAFSN failed to consider that women in small-scale farming settings were disadvantaged by cultural norms despite their expected role as food providers. It ended up designing projects without considering how women would be impacted. Several projects ended up worsening discrimination against women in such settings. In early 2018, France withdrew its support of the NAFSN initiative after reviewing

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'Land Grabbing Perpetrated in the BEE project", Per Carstedt, Bagamoyo EcoEnergy Ltd(A subsidiary of AgroEgoEnergy) available at https://www.businesshumanrights.org/sites/default/files/documents/Bagamoyo%20EcoEnergy%20Response%20re%20ActionAid%20Tanzania%20Report.pdf.

[118] It is not my intention to support or discount food sovereignty, but the Project is against the five features of food sovereignty. See Amy Crankshaw. *A food sovereignty critique of the G8 New Alliance on Food Security and Nutrition*. (South Africa: University of Witwatersrand, 2015). Amy -Wits. See also Declaration of Nyeleni, available at DeclNyeleni-en.doc

[119] Schutter De O., 2015, NAFSN in Africa

how NAFSN projects impacted small-scale food producers.[120] According to a European Parliament report, a study conducted in 2013 revealed that NAFSN did not propose any measures specifically targeting women producers.[121] This is despite CCFs acknowledging the role of women in small-scale food production settings, including the commitment of many participating countries in their CCF that they would be sensitive to the needs of women producers.[122]

I attribute these two negative impacts of NAFSN on human rights to two significant shortcomings in NAFSN design.

a) Failure to ensure effective participation of the small-scale holders, including women: First, communities impacted by these projects were not consulted and did not participate in their conceptualization and implementation. They had little or no information on how the projects would impact them. For example, a study on the implementation of NAFSN projects in Benin revealed that most local communities impacted by the projects were not consulted.[123] Malawi joined three months after the United Kingdom encouraged it to join after the former sought financial assistance to meet financial obligations.[124] No meaningful participation consultations with the relevant stakeholders could have occurred in the three months. According to an

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[120] Schutter De O., 2015, NAFSN in Africa, France Withdrawal from NAFSN.

[121] Schutter De O., 2015, NAFSN in Africa, 30.

[122] "Does the New Alliance for Food Security and Nutrition Impose Biotechnology on Smallholder Farmers in Africa?" Taylor & Francis, last modified February 02, 2015, https://www.tandfonline.com/doi/full/10.1080/11287462.2014.10022

[123] NAFSN in Benin, where Major NGOs do not know about the Project

[124] Patel Raj, 2015, Understanding NAFSN, Nutritionism and its Alternatives from Malawi, 21-44.

Oxfam report, local farmers in Mozambique were unaware of far-reaching regulatory changes to land, seed and fertilizer control until NAFSN.[125]

b) Lack of credible accountability systems for recourse by those negatively impacted by these projects. This lack of accountability is in two regards. First, NAFSN lacks specific targets that are publicly available and accessible oversight mechanisms to ensure that parties honour their commitments.[126] I will demonstrate later in this thesis how despite agribusinesses having a considerable impact on the right to adequate food, the participating African countries did not take reasonable steps to ensure that local communities were protected, including ensuring access to remedy. In addition, the businesses did not have credible grievance mechanisms where local communities could seek resolution of their concerns. Therefore, the lack of remedies left local communities without an avenue to have their concerns redressed and mitigated.

1.3 Objectives of the Study

This study explains why selected NAFSN projects failed to achieve their twin objectives of improving food security and reducing poverty. To better understand the problem, I trace the significant shifts impacting the food security situation in sub-Saharan Africa. This analysis also includes the growing influence of agribusinesses on food security in SSA. I also theorise on

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[125] Munoz, E. (2013). Return on investment: What have we gained from the New Alliance. *Oxfam America Policy*. Retrieved fromhttp://policy-practice.oxfam.org.uk/blog/2013/06/what-have-we-gained-from-the-new-alliance

[126]OHCHR. Accessed June 8, 2021. https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. The UN Guiding Principles on Business and Human Rights were endorsed by the United Nations Human Rights Council in 2011 (A/HRC/RES/17/4)

the participating African countries' motivation to join NAFSN. My work draws on the experiences of different participating African countries to explain the human rights impacts of NAFSN.

This study has four objectives:

1. To investigate how NAFSN failed to consult local communities during the design and implementation of NAFSN.
2. To assess how the NAFSN projects compromised local communities' access to food
3. To inquire about the role of NAFSN in reinforcing culturally entrenched discrimination against women.
4. To investigate the shortcomings of NAFSN in supporting local communities' access to grievance mechanisms.

1.4 Research Questions

1. How has the NAFSN project's failure to engage communities played out?

2. How have NAFSN projects compromised access to adequate food for local communities?

3. What was the role of NAFSN projects in exacerbating discrimination against women?

4. How has failure to ensure effective remedy for those aggrieved by NAFSN projects compromised their rights?

1.5 Methodology

1.5.1 International Human Rights Law as the Analytical Framework

NAFSN makes the twin promises: improving food security and lifting millions of Africans from poverty. In understanding NAFSN's contribution to food security, my work will be grounded in international human rights law regarding the right to food. Several factors justify the use of the international human rights framework.

First, the conceptualization, design and execution of this model are often by actors across several countries. Different participating African countries have different standards of conduct for agribusiness. Similarly, different home states of the agribusiness may have standards of conduct for the parent companies diverse from those of the subsidiaries, which may be operating in different participating African countries. This makes it necessary to assess the conduct of the agribusiness and the participating African countries using a common standard. International human rights law creates the same standard of conduct from all state parties to international covenants.

Second, NAFSN's stated approach is to reduce poverty to improve food security. The human right to adequate food is therefore central to this initiative. However, due to the interdependence of human rights, other human rights, such as the right to non-discrimination, especially in the context of women, are also affected. International human rights provide not only traditional international law standards on the right to food but also other rights as well. In addition, guidelines flowing from international human rights instruments to states and agribusiness often set a higher standard of conduct than domestic standards. To make the human rights guarantees meaningful for the right holders, parties should ascribe to common

and the highest standards of conduct in their operations. The commentary to principle 11 of the UNGPs states that,

> "The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights."

At the beginning of this study, I sought to inquire to what extent NAFSN meets its objective of improving food security and reducing poverty. As my research progressed, I noted a pattern of documented concerns relating to the conception, design and implementation. This prompted me to reorient my inquiry to understand the causes of these failures. I adopted a human rights framework to explain these failures and identified four broad issues.

First, I investigated the extent to which the failure of the project proponents to involve local communities who were to be impacted by the projects in the conceptualisation and implementation of the projects by NAFSN architects contributed to its failure. Second, I examined the various ways the implementation of the projects impacted the existing physical and economic access to food.[127] This included how NAFSN contributed to supplanting subsistence food with mono-crops meant to benefit agribusinesses primarily.

Third, I assessed how the projects exacerbated pre-existing gender discrimination in small-scale holder settings. In many patriarchal communities, women are marginalized from decision-making regarding property, and they only have user rights.[128] They are not consulted

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[127] See Chapter 4 of this thesis.

[128] "OHCHR | Convention on the Elimination of All Forms of Discrimination Against Women," accessed June 9, 2021, https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx, Article 12 and 14; Meyersfeld Bonita, "Chapter 9: The rights of women and girls in HRIA: The importance of gendered impact assessment," in Handbook on Human Rights Impact Assessment, ed. Nora Gtzmann (Gloucestershire: Edward Elgar Publishing, 2019)

by proponents of poverty reduction programs, notwithstanding that their cultural roles are significantly dependent on access to land.[129] Therefore, any project that alters this equilibrium in favour of cash crops will likely impact this cultural dynamic by exacerbating or narrowing it. My inquiry explored the various ways NAFSN projects exacerbated gender discrimination in decision-making and access to productive resources, especially given their culturally constructed roles. Finally, I investigated how the lack of remedy pathways impacted small-scale holders aggrieved by NAFSN projects. I will explain in chapter 5 how these four issues are anchored in international human rights.

1.5.2 Methodological Choice

This is an explanatory study of why NAFSN has failed, and I adopted qualitative research methods to achieve my research objectives. I relied on desktop research and observation as my data collection methods. I have referenced various sources, including journals, reports, international human rights instruments, and commentaries by UN treaty bodies and the United Nations Special Rapporteur on the Right to Food. I also relied on reports by the Food and Agricultural Organisation (FAO) and African human rights mechanisms. Given the currency of the subject matter, I reviewed primary media sources that provide information about the application of the NAFSN in the participating African countries.

I adopted a non-probability sampling method for this study with a deliberate focus on peasant communities in the ten participating African countries where there have been documented grievances about the design and implementation of NAFSN. I focused on finding

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[129] See Bonita Meyersfeld, "Business, Human Rights and Gender: a Legal Approach to External and Internal Considerations (Chapter 8)- Human Rights Obligations of Business," Cambridge Core, accessed July 3, 2021, https://doi.org/10.1017/CB09781139568333.013.

examples of NAFSN cases with grievances from the intended NAFSN 'beneficiaries'. The NAFSN cases are selected using purposive sampling due to their relevance to the study's objectives. I exclusively selected aggrieved NAFSN communities I observed during my professional work in Tanzania and those I obtained from my desktop research, and then I understood these cases from a human rights perspective.

This study leans heavily on examples from Tanzania due to the earlier strategy of this work to conduct a field study in Tanzania. Cost considerations had dictated the earlier choice as it neighbours my country of residence, my familiarity with how NAFSN was acquired in the course of work, and the existence of more literature on NAFSN's implementation in Tanzania compared to other participating African countries.[130]

The study has triangulated information from more than one reliable source to reduce the likelihood of bias. My data collection focused on the cases where local communities and their advocates raised grievances. I grouped the grievances into clusters around the four research questions to analyse the data collected. I then examined whether the grievances were of a nature that is inconsistent with the applicable international human rights standards. I analyze NAFSN's compliance with human rights standards from the following perspectives:

a) Whether local communities were consulted during the design and implementation stages

b) Impact on the right to food.

This is analysed from two perspectives.

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[130] In the course of my literature review, it became clear that NAFSN was not tailored to meet its objectives. This necessitated the explanatory research interrogating the shortcomings of the NAFSN from a human rights perspective.

i. Ecological sustainability, including how mono-cropping, using fertilizers, and other practices introduced under NAFSN have compromised small-scale farmers' food sovereignty, including physical access to food.

ii. Physical and economic access to food, including how corporations have introduced predatory contractual relationship models that disadvantage small-scale farmers.

c) The impact of NAFSN projects on discrimination against women.

In this section, I explain how NAFSN's gender-blind design and implementation have reinforced discrimination against women. I demonstrate how this has compromised women's food security to a greater degree than its impact on men.[131]

d) Lack of accountability and grievance handling mechanisms.

I explain how the absence of a credible monitoring and accountability framework has compromised small-scale farmers' right to adequate food. It has also left their past and on-going grievances against the participating agribusinesses unaddressed.

1.5.3 Focus of the Study

States are primarily responsible for promoting, respecting, protecting and fulfilling human rights. States' duty to protect human rights entails taking regulatory action to ensure third parties, including businesses, respect human rights. Pillar two of the United Nations Guiding Principles on Business and Human Rights codifies an emerging international consensus that businesses must respect human rights in their operations. It provides widely accepted broad

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[131] "OHCHR | Convention on the Elimination of All Forms of Discrimination Against Women," accessed June 9, 2021, https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx, Article 12 and 14; Meyersfeld Bonita, "Chapter 9: The rights of women and girls in HRIA: The importance of gendered impact assessment," in Handbook on Human Rights Impact Assessment, ed. Nora Gtzmann (Gloucestershire: Edward Elgar Publishing, 2019)

guidance measures businesses can take to ensure their operations are not harmful to individuals and communities. These are, broadly speaking, adopting a human rights policy and conducting human rights due diligence to assess the human rights risks so that they can avoid, mitigate and take remedial action. Pillar three of the UNGPs also urges businesses to take measures to secure access to remedy for those harmed by their operations. This includes refraining from obstructing justice for lodging claims against businesses and adopting an operational grievance-handling mechanism.[132]

My study focuses on the activities of the agribusinesses involved in NAFSN. I will explain how they encouraged, reinforced or advocated for the failure to observe human rights in the four issues. These are; their complicity in participating African countries' failure to ensure that local communities participated in the design and implementation of the NAFSN; their contribution to the restriction of access to food and compromise of livelihoods for peasant farmers; their failure to take measures to prevent reinforcement of discrimination against women; and their contribution to lack of remedy for those aggrieved by their operations. These failures point to a failure by the participating African countries to regulate agribusinesses. My work seeks to understand the shortcomings of the NAFSN from a human rights perspective and does not necessarily attribute these shortcomings to any of the stakeholders of the NAFSN mentioned in this study.

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[132] Principle 30 of the UNGPs. United Nations. Office of the High Commissioner for Human Rights and United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (New York: United Nations Publications, 2011).

1.5.4 Limitations of the study

This study explains why NAFSN has failed. Therefore, it exclusively focuses on the cases where human rights concerns have been raised about implementing NAFSN on the selected projects. The study relies on a publicly available literature review. It includes the agribusiness's perspective on the concerns raised where applicable. However, there is a likelihood that the situation may have improved in some of the projects discussed. In addition, a study covering all the projects under NAFSN would require enormous resources and time beyond the capacity of the current study. Therefore, the findings of this study cannot be extrapolated to all the NAFSN projects in the ten participating countries. However, my findings offer insights into the systemic and structural failures in NAFSN architecture, which need to be addressed in designing such projects in future.

1.5.5 Significance of the Study

My work is critical at a time when similar agribusiness initiatives are questioned for their failure to protect peasant farmers.[133] In addition, with support from international financial institutions, some African governments continue to propagate the commercialisation of agriculture at the expense of the rights of peasant farmers in a way that presents the same human rights challenges as those documented in NAFSN projects. The work, therefore, questions this

[133] Wise, Timothy, ' AGRA at Ten Years: Searching for the Evidence of a Green Revolution in Africa', Tufts University and Small Planet Institute, November 2017, available at https://afsafrica.org/wp-content/uploads/2019/10/agrawiseprelimfindings2017.pdf

approach and argues that unless these projects adhere to international human rights standards, they stand little chance of achieving their objectives of reducing hunger and poverty.[134]

In addition to other work that has been done on the NAFSN, my research findings present designers of similar initiatives with empirical evidence of design flaws that could compromise the local communities right to adequate food as well as exacerbate discrimination against women. My recommendations give local community advocates particular points on which to lobby their governments and the participating agribusinesses to demand accountability for such a flawed model and ensure future interventions are anchored on a human rights-based approach, including embedding access to remedy pathways.

1.5.5.1 Contribution to scholarship

Various studies have been done relating to the conceptualisation, design and implementation of NAFSN. These include scholarly work as well as NGO reports. Obenland examines NAFSN from the perspective of its impact on corporate influence.[135] De Schutter analyses NAFSN's architecture and points out how its inherent shortcoming will likely impact human rights.[136] Dagmar uses the NAFSN as the framework to discuss the tension between agro ecology and neo-liberal food systems as separately advocated by my two leading

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[134] Dr Regina Neudert, Dr Lieske Voget-Kleschin, and Misereor, *What are the effects of large-scale land acquisitions in Africa on selected economic and social indicators?* (Greifswald, Germany: Misereor, 2021), https://www.cidse.org/wp-content/uploads/2021/06/study-LSLA.pdf.

[135] Dagmar M. Prášková and Josef Novotný, "The rise and fall of the New Alliance for Food Security and Nutrition: a tale of two discourses," Third World Quarterly 42, no. 8 (2021): doi:10.1080/01436597.2021.1917355.

[136] DE SCHUTTER, O., 2015. *The New Alliance for Food Security and Nutrition in Africa*, EPRS: European Parliamentary Research Service. Retrieved from https://policycommons.net/artifacts/1334716/the-new-alliance-for-food-security-and-nutrition-in-africa/1940480/ on 30 Jan 2023. CID: 20.500.12592/1cm691.

proponents of NAFSN.[137] Andrea acknowledges the need for private-public partnerships to pay closer attention to gender lenses.[138] The synthesis report on NAFSN provides raw data and does not analyse where different targets have not been met under the NAFSN.[139]

Whereas the available scholarly literature points to the weaknesses of the NAFSN, it does not give empirical evidence to demonstrate how these shortcomings have translated to challenges for local communities and compromised their right to adequate food. My work relies on the lived experiences of those small-scale holders who have raised grievances about NAFSN to theorise on the conceptual failures from a human rights perspective.

1.6 Structure of my Thesis

In this introductory chapter, I have explained the research problem my thesis seeks to address. I have restated the objectives of my study. I then explain why I have used a human rights approach as the framework of analysis for my study. This follows a discussion on the criteria for selecting my case studies and the limitations of the study, including that this study is not representative of all NAFSN projects. However, it sheds light on recurring shortcomings in the selected cases leading to NAFSN's failure to achieve its objectives. I then discuss the significance of my study, especially when the commercialization of agriculture is increasingly

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[137] Dagmar M. Prášková and Josef Novotný, "The rise and fall of the New Alliance for Food Security and Nutrition: a tale of two discourses," *Third World Quarterly* 42, no. 8 (2021): doi:10.1080/01436597.2021.1917355.

[138] Andrea M. Collins, "Goal Setting and Governance: Examining the G8 New Alliance for Food Security and Nutrition with a Gender Lens," Global Governance: A Review of Multilateralism and International Organizations 23, no. 3 (2017): doi:10.1163/19426720-02303006.

[139] AGRODEP, "An Assessment of the New Alliance for Food Security and Nutrition," last modified April 2018, https://www.agrodep.org/sites/default/files/NAFSN%20Full%20Report%20with%20Annexes.pdf.

but erroneously viewed as an effective solution to food insecurity in Africa. The chapter also includes the methodology, focus of my study, and the limitations and significance of this study

In Chapter 2, I discuss food security in Sub-Saharan Africa and the various responses and interventions incorporated. This included a historical background on the evolution of food insecurity in Africa from the pre-colonial era to the contemporary period, a discussion on the internal and external factors contributing to food insecurity in Africa and the Comprehensive Africa Agriculture Development Programme (CAADP) as an intervention to address food insecurity in Africa. In Chapter 3, I explain how the 2007/2008 food crisis and the CAADP's failure to combat food insecurity in Africa effectively was a precursor to the conceptualization of NAFSN. Finally, I introduce NAFSN in this chapter, including its background, design and implementation in various participating countries.

Chapter 4 gives a deep insight into how NAFSN projects were introduced in the participating countries. I discuss its implementation in Tanzania and Mozambique. First, I provide a background on the importance of agriculture to the communities in the respective countries. This is followed by a highlight of the commitments made by the countries to attract private investors under NAFSN. I also illustrate how growth corridors in each country were key in investors' decisions to participate in agricultural projects. Finally, using selected case studies, I demonstrate how agribusinesses involved in NAFSN projects in the two countries approached community participation in their design and implementation, how they impacted access to food, whether they reinforced discrimination against women and whether they facilitated an effective grievance mechanism for those with human rights about the implementation of the projects.

In Chapter 5, I situate the right to adequate food in international human rights law and identify the various frameworks and standards agribusinesses should follow. Under this section, I trace the evolution of the right to adequate food in international human rights law and the scope of obligations of duty bearers as enunciated by authoritative texts and UN treaty bodies, including the Committee on Economic Social and Cultural Rights (CESCR). The evolution ranges from codifying the right to adequate food, elaborating on the obligation of duty bearers and the rights of right holders, and guidelines to be followed by duty bearers in designing programs to enhance food security. I highlight a few strategic interventions to promote the right to adequate food. I discuss several mechanisms and bodies that attempt to regulate agribusinesses to ensure they respect human rights. This includes the UN Special Rapporteur on the Right to Food and guidelines by the Food and Agricultural Organization. I also include a discussion on the emerging consensus on the responsibility of corporations to respect human rights, including the right to adequate food. I conclude by analysing what motivates the state's extraterritorial intervention in food security.

In Chapter 6, I begin with a discussion on how agribusinesses impact human rights. I have limited my discussion to those rights pertaining to this study's objectives. These are whether communities are involved in decision-making on issues that impact their access to food, the impacts of such projects on discrimination against women and the ability of local communities to access remedies when aggrieved by the operations of agribusinesses. I analyse the selected NAFSN cases in Chapter 4, not withholding other NAFSN case examples from Senegal, Ethiopia, Nigeria and Malawi identified from my desktop research, for compliance with applicable international human rights laws highlighted in Chapter 5.

In Chapter 7, I make my conclusions and recommendations. The study concludes that NAFSN's designers ignored to embed a human rights approach, leading to its failure to meet

its stated objectives of reducing poverty and increasing food security. This is because its design and implementation have excluded peasants, compromised physical and economic access to food, reinforced discrimination against women, and failed to offer credible access to remedy pathways for those aggrieved. The study recommends a review of the current business-led initiative to ensure consistency with a human rights approach and remedial measures for peasant communities disadvantaged by the current model.

2. **Food Security in Sub-Saharan Africa**

2.1 Introduction

In many communities in pre-colonial Africa, food was an asset to secure the communities' subsistence. It was not a commodity for trade. Trading in food was not a way of enriching individuals or the community. Instead, they created wealth by trading other goods such as minerals, crafts, and jewellery.[140] This perspective is consistent with Sen's view of food as one of the most basic and primitive property rights common to all societies.[141] In the contemporary world, however, food is a commodity. Agribusinesses are corporations that profit by producing, processing, and marketing food and related farm inputs. Individuals and communities without the means to produce and access food sustainably and who do not have the money to purchase food from the food market have to rely on handouts.[142]

The food security situation in Africa has been worse for a long time, exacerbated by colonization and continued after independence in many African countries. This was partly due to the post-colonial practice of multinational corporations doing business in former colonies in the same exploitative ways as colonial governments.[143] In response, diverse local and international actors have attempted different strategies to improve food security. These

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[140] Parker Shipton, and Goheen Mitzi. "Introduction. Understanding African Land-Holding: Power, Wealth, and Meaning." Africa: Journal of the International African Institute 62, no. 3 (1992): 307-25. Accessed June 17, 2021. www.jstor.org/stable/1159746.

[141] Amartya Sen, *Poverty and Famines: An essay on Entitlement and Deprivations.* (Oxford: Clarendon Press, 1981).

[142] The World Bank, "Putting Africans at the Heart of Food Security and Climate Resilience," last modified October 17, 2022, https://www.worldbank.org/en/news/immersive-story/2022/10/17/putting-africans-at-the-heart-of-food-security-and-climate-resilience

[143] Carl Eicher, & John Staatz. 1985. "Food Security Policy in Sub-Saharan Africa," 1985 Conference, August 26-September 4, 1985, Malaga, Spain, International Association of Agricultural Economists. DOI: 10.22004/ag.econ.182560

interventions have often depended on the intervening entities' strategic interests, which often shape their narrative on the cause of food insecurity. Over the last two decades, agribusinesses, fortified by the International Monetary Fund (IMF) and the World Bank, have promoted the commercialization of agriculture as the solution to food insecurity in many parts of the Global South.[144] I will demonstrate that this commercialization has contributed to food insecurity. The New Alliance for Food Security and Nutrition (NAFSN), a response to the 2008 global food crisis, is one such intervention. It promotes private agricultural investment in ten participating African countries to reduce food and food insecurity.

This chapter introduces the stated rationale of NAFSN and how it aims to achieve its objectives. To achieve this, I trace the evolution of food production, consumption, and access trends in Africa dating back to the pre-colonial period. This historical overview reveals both the internal and external causes of food insecurity and demonstrates agribusinesses' growing influence in shaping global food policies. I also discuss how the 2008 global food crisis catalysed the launch of NAFSN.

2.2 An Overview

Food insecurity is often equated with starvation. Whereas starvation is the most severe manifestation of food insecurity, the indicators of food insecurity are broader. According to the Food and Agriculture Organization (FAO), food security is attained 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.'[145] The FAO definition has

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[144] Raj Patel, *Stuffed and Starved: The Hidden Battle for the World Food System* (Melville House Pub, 2007).

[145] Food and Agriculture Organization. "Food security and trade: an overview." Chapter 1 in Trade Reforms and Food Security: Conceptualizing the Linkages. Rome: FAO, 2003.

four key aspects. These are availability, accessibility (both physical and financial), utility and resilience to secure food at all times. This definition is consistent with the Committee on Economic, Social and Cultural Rights.[146] Several conditions should be met for a population to be said to be food secure. These are; the availability of adequate amounts of appropriate food, individuals' ability to buy or barter for food, the capacity to process and store food, people's awareness of nutrition and childcare needs, and access to health and sanitation services.[147]

Food security should, therefore, be viewed in a continuum. At one extreme, individuals cannot access food at all due to either human causes, such as violent conflict and displacement or natural disasters, such as flooding and drought, which may temporarily restrict physical access to food. In the middle are two groups; those that cannot obtain all the required nutrients for their developmental needs and those that spend a disproportionately high percentage of their income to acquire food. At the desirable extreme are individuals who have access to the required nutrients without spending a disproportionately high percentage of their income at the expense of other basic needs.[148]

Public discussions about food are often woven into the conversations about securing livelihoods. An example is when governments in agrarian communities commit to reducing unemployment, improving farmers' plight, or reducing import taxes for scarce food items. However, the conversation about food security dominates public discourse when it is extreme,

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[146] UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999, available at: https://www.refworld.org/docid/4538838c11.html [accessed 17 June 2021]

[147] Mahamat Dodo (April 8th 2020). Understanding Africa's Food Security Challenges [Online First], IntechOpen, DOI: 10.5772/intechopen.91773. Available at: https://www.intechopen.com/online-first/understanding-africa-s-food-security-challenges

[148] World Bank, "Overview," World Bank, last modified December 13, 2022, https://www.worldbank.org/en/region/afr/overview.

for example, when individuals starve to death or when hunger affects a significant portion of the population.[149] These severe cases receive the media spotlight, occasionally with images of malnourished and emaciated children, feeding off roots after depleting whatever food their parents may have had in their households.[150]

Whereas the rest of the world has seen trends of improvement in food security, statistics point to a worsening situation in sub-Saharan Africa. Several broad indicators lend credence to this assessment. Between 1990 and 2000, for example, the starving population increased from 169 million to 236 million.[151] African countries have shifted from being net food exporters to net food importers.[152] This shift means increasing reliance on international actors to feed the population. The increase in demand leads to an increase in the cost of accessing food. In 2010, the FAO estimated that more than a quarter of those suffering from hunger globally live in sub-Saharan Africa.[153]

According to FAO's 2015 State of Food Security in the World, only 18 of 54 African countries reached the Millennium Development Goals on improving food security and

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[149] Megan K. Schraedley et al., "Food (in)security communication: a *Journal of Applied Communication Research* forum addressing current challenges and future possibilities," *Journal of Applied Communication Research* 48, no. 2 (April 2020):, doi:10.1080/00909882.2020.1735648.

[150] A haunting example of this imagery is the 1993 Sudan famine, where Kevin Carter, a South African photojournalist, took a picture of a vulture waiting for a malnourished child to die before it could prey on it; Greg Marinovich and Joao Silva, *The Bang-Bang Club: Snapshots From A Hidden War* (Basic Books, 2000). 0465044131 (ISBN13: 9780465044139)

[151] Jean Ziegler, Golay, Mahon, & Way. *The Fight for the Right to Food.* (United Kingdom: Palgrave Macmillan, 2011). 62.; Other metrics indicate that a third of the population does not have access to the recommended minimum calorific amount.

[152] The African Union Commission, "Food Security," African Union, The African Union Commission, accessed June 17, 2021, https://au.int/en/auc/priorities/food-security.

[153] Albert Sasson. "Food security for Africa: an urgent global challenge." *Agriculture & Food Security,* 1, 2 (2012). https://doi.org/10.1186/2048-7010-1-2

nutrition.[154] The growing unemployment of the most youthful population and the attendant poverty affect the population's means of economically accessing food. The recommended daily dietary requirements cannot be met without compromising the enjoyment of other fundamental rights.

Has it always been like this? No. A shifting production, availability and consumption pattern have contributed to food insecurity. The communities' ability to embrace sustainable food security strategies, including their building resilience, has been unable to withstand external and internal pressures.[155] The following section situates these pressures from a historical perspective.

2.2.1 A Historical Perspective

To understand the evolution of food insecurity, I divide this section into four eras. These are pre-colonial, colonial, post-colonial, and contemporary periods. I have chosen colonization as a reference point due to its impact on food production, access, and consumption patterns, a shift significantly responsible for food insecurity.

2.2.1.1 Pre-Colonial Era

During the early pre-colonial days, many communities' dominant food production methods were hunting, gathering, and fishing.[156] They relied on wild game, fish, and plants.[157] There

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[154] Dodo, *Food Security Challenges*, 3.

[155] The World Bank, "Putting Africans at the Heart of Food Security and Climate Resilience," last modified October 17, 2022, https://www.worldbank.org/en/news/immersive-story/2022/10/17/putting-africans-at-the-heart-of-food-security-and-climate-resilience#:~:text=Putting%20Africans%20at%20the%20Heart%20of%

[156] Jan Vansina. "Finding Food and the History of Precolonial Equatorial Africa: A Plea." *African Economic History*, no. 7 (1979): 9-20. https://doi:10.2307/3601199

[157] Toyin Falola. "Key Events in African History: A Reference Guide" (Westport: Greenwood Press, 2002). 22.

was no significant food insecurity during this period.[158] For instance, the Ndorobo community that inhabited much of East Africa approximately 500 years ago did not experience any pressure on land as there was no population pressure.[159] When other tribes began migrating into the Ndorobo territory, they introduced farming indigenous crops as an additional way of subsistence.[160]

Archaeological studies suggest that the Tiv community in Nigeria's Middle Benue Valley was food secure in AD 1015-1391 and relied on yams, oil palm, and millet for subsistence.[161] Evidence indicates a rise in population in the fourteenth century.[162] However, the large deposits of food items found during the archaeological studies demonstrate that the communities were still food secure despite this population growth.[163] The Banda people in Ghana had the same trend. In the pre-colonial era, cultivating drought-resistant millet helped local communities withstand severe centuries-long droughts between AD 1400-1650 and support other food-insecure communities.[164]

As international trade routes developed and the slave trade started burgeoning, the transatlantic trade began to shape farming systems. The slave trade took away non-disabled men and women from their communities, “effectively siphoning labour and knowledge out of

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[158] "Usable Pasts Forum: Critically Engaging Food Security," African Archaeological Review, last modified August 23, 2019, https://link.springer.com/article/10.1007/s10437-019-09347-9.

[159] Maundu P, Imbumi M. East Africa. In: Katz S, Weaver W, eds. Encyclopedia of Food and Culture. New York: Thomson and Gale, 2003; 27–34

[160] Maundu P, Imbumi M. East Africa. In: Katz S, Weaver W, eds. Encyclopedia of Food and Culture. New York: Thomson and Gale, 2003; 27–34

[161] Logan, Amanda L. 2016. "“Why Can't People Feed Themselves?”: Archaeology As Alternative Archive Of Food Security In Banda, Ghana". *American Anthropologist* 118 (3): 508-524. doi:10.1111/aman.12603.

[162] Michael Watts. *Silent violence: Food, famine, and peasantry in Northern Nigeria*. (Athens: University of Georgia Press, 2013).

[163] Michael Watts. *Silent violence: Food, famine, and peasantry in Northern Nigeria*.

[164] Logan, Amanda L. 2016. "“Why Can't People Feed Themselves?”

tropical agricultural systems."[165] These developments contributed to the early episodes of food insecurity among these traditional communities.

2.2.1.2 Colonial Era

The colonial era had different ramifications for different communities depending on whether there was hostility by the local communities to colonial occupation or not. In territories that did not resist occupation, goods and services were exchanged between those territories and Europe and the USA. Trade routes for transferring products from the European countries to Africa and enslaved people from Africa to fight or work in plantations in Europe grew. The leaders of the African communities who collaborated with colonialists would get manufactured goods in exchange for enslaved people and raw materials.[166] In tropical and savanna west Africa, enslaved people were either shipped to Europe or exploited as forced labourers in farms growing non-subsistence crops such as palm oil and cocoa to meet European industrial demands and sustain the colonies.[167]

Seizure of agriculturally productive land for communities that resisted colonial occupation punctuated the colonial era. The land was used primarily for cash crops grown for export to meet the demands of the growing industries aboard.[168] As long as local collaborators were content, food security for the local communities was not a priority for the colonial state.

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[165] Walter Rodney. *How Europe underdeveloped Africa*. (London: Bogle-L'Ouverture Publications, 1972).

[166] Adam Hochschild. *King Leopold's Ghost; A Story Of Greed, Terror, And Heroism In Colonial Africa*. (Boston: Houghton Mifflin Harcourt, 1999).

[167] Austin, Gareth (2007) Labour and land in Ghana, 1874-1939: a shifting ratio and an institutional revolution. Australian economic history review, 47 (1). pp. 95-120 DOI: 10.1111/j.1467-8446.2006.00198.

[168] Verena Raschke and Bobby Cheema. "Colonisation, the New World Order, and the eradication of traditional food habits in East Africa: historical perspective on the nutrition transition." *Public Health Nutrition*, 11, 7, (2007): 662–674. https://doi:10.1017/S1368980007001140.

Africans lost indigenous markets due to restrictions of movement by the colonial state.[169] Local communities concentrated in camps and could only venture out to look for food under supervision.[170]

Where there was active resistance to colonial occupation, such as among the Banda in Ghana, decades of resistance to occupation took away labour resources and stability from the communities. They ended up cultivating short-term easy-to-produce crops.[171]

The colonial era continued the introduction of exotic crops for export. Farming for profit gradually supplanted subsistence farming. Through religion and western education, local communities were indoctrinated about the superiority of the western lifestyle, including farming and food consumption. However, the cultivation of cash crops was regulated and protected by legislation. Only white settlers were allowed to farm these cash crops.[172]

Religion also had an impact on food security. The case of the Tiv people in Nigeria demonstrates the influence of religious groups in changing African communities' production and consumption patterns. Before colonization, the Tiv people had been cultivating yams and other indigenous food crops for subsistence. However, the Dutch Christian Reform Mission introduced exotic plants such as rice and indoctrinated the Tiv people to shift their focus from cultivating for food security to cultivating for revenue.[173]

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[169] Caroline Elkins. *Britain's Gulag; The Brutal End of Empire in Kenya.* (London: Jonathan Cape, 2005).

[170] Caroline Elkins. *Britain's Gulag; The Brutal End of Empire in Kenya.*

[171] Gareth Austin, Baten, and Moradi. "Exploring the evolution of living standards in Ghana, 1880–2000: An anthropometric approach." (Online) *ResearchGate*. Accessed on June 27, 2021 from https://www.researchgate.net/publication/228707976

[172] For an overview of agricultural practices during colonial rule, see Caldwell C. The social repercussions of colonial rule: demographic aspects. In: Boahen A, ed. Africa under Colonial Domination 1880–1935. Paris: UNESCO History, 1985; 483

[173] Logan, Amanda L. 2016. "'"Why Can't People Feed Themselves?", 508–524.

The colonial state enforced some of this change. For instance, in 1944, it banned the cultivation and supply of yam to the Tim people working in mines.[174] The state also enslaved young Tiv men in mining areas, denying local communities the much-needed labour for yam growing. These strategies heralded the decline in reliance on indigenous crops such as yam, which the Tiv people considered the 'king of foods', in favour of subsistence crops.[175]

2.2.1.3 Post-Colonial State

The Universal Declaration of Human Rights, adopted in 1948, recognized the right to adequate food.[176] Two decades later, the International Covenant on Economic, Social and Cultural Rights, which enshrined the right to adequate food, came into force and was ratified by many African states.[177] The 1974 World Food Conference happened at a time of mounting food shortage worldwide, including in some African countries. There was a call for more international linkages to address the food shortage. These developments signified that food security was also a matter of global concern.[178]

The post-colonial period witnessed a dualist system of food production. On the one hand, there were large commercial farms that remained in the hands of the elite. These were either for speculation or growing cash crops, including for export. On the other hand, there were

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[174] Toryina Varvar. "The Impact Of The Colonial Economy On Yam Production In Tiv Land, 1900–1960." *Journal of the Historical Society of Nigeria,* 17 (2007): 16-27. Accessed June 17, 2021. www.jstor.org/stable/41857143.

[175] Nahanga Verter and Becvarova. "Yam production as pillar of food security in Logo local government area of Benue state, Nigerian." *European Scientific Journal*, 10,31(2014): 27–42. https://doi.org/10.19044/esj.2014.v10n31p%p

[176] United Nations General Assembly at its third session on 10 December 1948 as Resolution 217

[177] Adopted by the United Nations General Assembly on 16 December 1966 through GA. Resolution 2200A (XXI), and came in force from 3 January 1976

[178] Albert Sasson, "Food security for Africa: an urgent global challenge," *Agriculture & Food Security* 1, no. 1 (2012): doi:10.1186/2048-7010-1-2.

small-scale farmers involved in subsistence agriculture. In some countries, it was lawful to grow cash crops. However, stringent regulations for cash crops growing remained. Whether by small-scale farmers or large-scale agribusiness, the colonial legacy of prioritizing cash crops over food crops remained.[179]

The post-colonial period witnessed population growth that was faster than the increase in food production.[180] Countries became food insecure, exacerbated by ecologically destructive practices required to sustain exotic crops, such as mono-cropping and increased use of agrochemicals. The embrace of the western education system and religion supplanted traditional knowledge, including food production and preservation knowledge. Africans, especially those formally educated, began imitating the western way of life, including in consumption.[181] Advertising by commercial brands that by then had a foothold on the continent made it look fashionable to consume readily available processed foods.[182] The increasing reliance on low-quality but cheap imported processed food gradually replaced culturally resilient food.[183]

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[179]Fraser Taylor. "Changing Food Habits in Kikuyuland," *Canadian Journal of African Studies*, 4:3(1970): 333-349. https://10.1080/00083968.1970.10803615

[180] Philip Ndegwa. *Africa's Development Crisis and Related International Issues*. (Nairobi: Heinemann, 1985).

[181] Verena Raschke and Bobby Cheema. "Colonisation, the New World Order, and the eradication of traditional food habits in East Africa: historical perspective on the nutrition transition." *Public Health Nutrition*, 11, 7, (2007): 662–674. https://doi:10.1017/S1368980007001140

[182] Jenny Clover. "Food Security In Sub-Saharan Africa," *African Security Review*, 12:1(2003): 5-15. https://doi.org/10.1080/10246029.2003.9627566

[183] Hawkes C. The role of foreign direct investment in the nutrition transition. Public Health Nutrition 2005; 8(4): 357–65

2.2.1.4 Contemporary Period

Food security has become a theme of national and international conversations, including the obligations of governments in fulfilling the right to food. National bills of rights recognize the right to adequate food.[184] However, population growth, high life expectancy and agricultural underinvestment have contributed to food insecurity.[185]

Although Africa is not a significant contributor to climate change, this global phenomenon has negatively impacted agriculture and weakened local farmers' resilience, especially after embracing less climate-resilient exotic crops. Overreliance on certain food crops like maize, rice, and wheat exported from the Global North has made communities vulnerable to the shocks of the international trading regime.[186]

Increased commercialization of agriculture as a food security strategy has led to substituting subsistence agriculture with cash crops. This has had a synergistic effect of promoting the use of agrochemicals, agro-processors, and retailers. In short, food availability, from production to retail, is increasingly commercialized.[187]

There is a growing trend in Africa where multinational corporations have struck deals with governments to acquire large tracts of land for agribusiness. This has taken food production

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[184] Every person has a right to be free from hunger, and to have adequate food of acceptable quality. The Constitution of Kenya, 2010, Article 43 (1) (c); Section 27 (1) (b) of the South African Constitution states that 'everyone has the right to have access to sufficient food'; Article 77 of the Zimbabwean Constitutions also guarantees the right to sufficient food.

[185] Jenny Clover. "Food Security In Sub-Saharan Africa," *African Security Review*, 12:1(2003): 5-15. https://doi.org/10.1080/10246029.2003.9627566

[186] Ulrike Grote et al., "Food Security and the Dynamics of Wheat and Maize Value Chains in Africa and Asia," *Frontiers in Sustainable Food Systems* 4 (2021): doi:10.3389/fsufs.2020.617009.

[187] William Moseley, Schnurr and Kerr. "Interrogating the technocratic (neoliberal) agenda for agricultural development and hunger alleviation in Africa," *African Geographical Review*, 34:1(2015): 1-7, https://10.1080/19376812.2014.1003308

from local communities, with some communities having to embrace farming of crops that they have never been involved in to meet the needs of these agribusinesses.[188] For example, the Malawian government has leased a significant part of land traditionally belonging to the Nkhunga and Kaziilila communities to a South African sugar company. These communities had to embrace sugarcane farming to supply the company.[189]

These acquisitions have harmed the local communities' ability to produce and access food. Due to their cultural roles entrenched in a patriarchal society, women have been disproportionately disadvantaged.[190] Despite their significant contribution to agriculture as unpaid labourers, women have not been involved in negotiations with agribusinesses on the terms of contract farming.[191] NAFSN promotes this model of private sector involvement in agriculture. I will introduce it later in this chapter.

The above section demonstrates a gradual decline in food security in African communities. This decline is a paradox. 60% of global arable land is in Africa, but the continent produces only 10% of the global agricultural output.[192] With plenty of arable lands and an all-year

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[188] Human Rights Watch, "'Waiting Here for Death' Forced Displacement and 'Villagization' in Ethiopia's Gambella Region," *Human Rights Watch Website* (New York: Human Rights Watch, 2012), https://www.hrw.org/sites/default/files/reports/ethiopia0112webwcover_0.pdf.

[189] Joseph Gausi and Mlaka. "Land governance in Malawi: Lessons from large-scale acquisitions." PLAAS report. *Belville: Institute for Poverty, Land and Agrarian Studies*, Faculty of Economic and Management Sciences, Policy Brief 40, (2015): 1-4.

[190] For an overview of gender discrimination in enjoying the right to food, see Olivier D. Schutter, "Gender and the Right to Food," accessed June 28, 2021, https://www.ohchr.org/Documents/Issues/Food/20130304_gender_execsummary_en.pdf

[191] Helen Dancer and Tsikata. *Researching land and commercial agriculture in sub-Saharan Africa with a gender perspective: Concepts, issues and methods*. FAC Working Paper 132. (Brighton: Future Agricultures Consortium, 2015).

[192] NEPAD. *Process and Scope of The Agriculture Programme*, (Midrand, South Africa: New Partnership For Africa's Development and Comprehensive Africa Agriculture Development Programme, 2002). Accessed on June 17, 2021 from http://www.fao.org/3/y6831e/y6831e-03.htm#TopOfPage

climate favourable for agriculture, why is food security in Africa declining? The following section looks at the common causes of food insecurity.

2.3 Causes of Food Insecurity in Africa

There is a near-unanimous agreement that conflict contributes to food insecurity. However, other causes are contested or ignored, with different parties making arguments that legitimize their proposed intervention. At one end of the spectrum are those who attribute food insecurity to reduced yields, poor soil, reduction in small-scale holders' land sizes, inferior seed varieties, and failure to use technology.[193] The New Vision, advancing from the World Economic Forum, characterized the challenges to global agriculture to include a lack of capital and a 'vicious cycle of deprivation.'[194] Some scholars view this as advancing a narrative of food security that legitimizes interventions that subjugate peasant populations.[195] This deliberate narrative of poverty to demonstrate want and 'deprivation' sets the stage for their recommendation of a remedy that involves providing those 'wants,' including credit, fertilizer, improved seeds, and entrepreneurialism. It often ignores how unfair trade practices, such as massive subsidies to farmers in the Global North, result in food dumping in the Global South, suppressing the competitive edge of small-scale farmers and undermining agriculture in African states.[196]

At the other end of the spectrum are those who view trade policies and the growing commercialization of agriculture in Africa as an insult to food security. They blame the trade

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[193] David Nally. "Against Food Security: On Forms of Care and Fields of Violence," *Global Society*, 30:4 (2016): 558-582, DOI: 10.1080/13600826.2016.1158700

[194] David Nally. "Against Food Security: On Forms of Care and Fields of Violence."

[195] David Nally. "Against Food Security: On Forms of Care and Fields of Violence."

[196] Mshomba, R. (2002). How Northern subsidies hurt Africa. Africa Recovery, 16(2-3), 29. Retrieved from http://www.un.org/ecosocdev/geninfo/afrec/vol16no2/162agric.html

policies of the west for suppressing smallholder farming in Africa. This is despite governments' low investment in agriculture and poor agricultural practices that lead to soil degradation. They view hunger as a 'political creation which must be ended by political means.'[197] They also ignore the impact of gender and gendered discrimination on food security. As with everything else in life, food security is gendered, and gender discrimination devastates women.[198]

In the following section, I have condensed the causes of food insecurity into two categories; external and internal. These factors compromise food security by impacting production, market access, food quality or economic accessibility.

2.3.1 Internal Factors

Internal factors are those that a given community control. They include population growth, low government investment in agriculture, poor land management practices, and gender discrimination.

2.3.1.1 Population Growth

At independence, Africa's population was 635 million people. This had risen to 1.2 billion in 2018.[199] It is estimated that between 1970 and 1985, food production in Africa grew at half the rate of population growth.[200] This occurred contemporaneously with land degradation, invasion of arable land, and unsustainable farming systems. As a result, many countries face

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[197] Clover. *Food Security In Sub-Saharan Africa*, 12:1 (2003): 5-15

[198] United Nations General Assembly, "Human Rights Council Forty-third session A/HRC/43/L.12 - E - A/HRC/43/L.12 -Agenda item 3, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development," eSubscription to United Nations Documents, last modified February/March 2020, https://undocs.org/A/HRC/43/L.12.

[199] United Nations. *World Urbanization Prospects: The 2018 Revision.* (New York: United Nations, 2019). 25. Accessed on June 17, 2021from https://population.un.org/wup/Publications/Files/WUP2018-Report.pdf

[200] Eicher and Staatz. *Food Security Policy,* 1985 Conference, August 26-September 4, 1985, Malaga, Spain

declining agricultural production to feed a continually growing population that does not have adequate food purchasing power.[201] Food insecurity attributed to population growth was one of the justifications for aggressive family planning campaigns in parts of Africa in the mid-1980s.[202]

2.3.1.2 Low Investment in Agriculture

The majority of the population in Africa lives in rural areas and relies on small-scale subsistence agriculture for food and livelihood. An investment that would improve local market access and agricultural extension services and support farmers to join global supply chains would go a long way to helping these farmers.[203] Most African governments have not matched the rhetoric of agriculture being the backbone of many economies with corresponding agricultural investments.[204] For instance, despite the acknowledgement that a higher stake in agriculture would promote food security, by 2006, very few governments were spending at least 10% of their national budgets on agriculture.[205]

Some governments have turned to the private sector to bridge this expenditure gap. However, this has resulted in the further commercialization of agriculture.[206] This thesis will

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[201] Clover. *Food Security In Sub-Saharan Africa*, 12:1(2003): 5-15

[202] Philip Ndegwa. *Africa's Development Crisis and Related International Issues*. (Nairobi: Heinemann, 1985).

[203] High Level Panel of Experts on Food Security and Nutrition (HLPE) of the Committee on World Food Security, "Investing in smallholder agriculture for food security," FAO, accessed February 2, 2023, https://www.fao.org/publications/card/en/c/6559f2f5-10d4-5ff6-941d-498626eb219a/.

[204] Paul C. Banda, "Agriculture: The Backbone of The African Economy," Diplomatist, last modified March 5,2020, https://diplomatist.com/2020/03/05/agriculture-the-backboneof-the-african-economy/.

[205] NEPAD. *Maputo Declaration*. (Midrand, South Africa: NEPAD, 2003). Accessed on June 17, 2021 from https://www.nepad.org/caadp/publication/au-2003-maputo-declaration-agriculture-and-food-security

[206] Friedman Milton, The Social Responsibility for Business is to Increase its Profits", The New York Times Magazine, September 13, 1970. Copyright @ 1970 by The New York Times Company; Also, see Professor Alston's assertion about the privatisation of essential services. Although he is writing about privatisation, his argument applies this model. He says it "…often involves the systematic elimination of human rights protections and further marginalisation of the interests of low-income earners and those living in poverty."

demonstrate how NAFSN, one of such initiatives, has worsened food security, especially for small-scale farmers.

2.3.1.3 Neglect of sustainable farming and food consumption practices

Agricultural experts advocate for mixed cropping to replenish soil nutrients and prevent soil degradation. This is important in helping to maintain high yields. Failure to adhere to these practices has significantly reduced production in West Africa.[207] Soil degradation has resulted from a change in land-use patterns, lowered productivity, and increased reliance on fertilizers, raising the cost of agricultural production for small-scale farmers.[208]

Indigenous crops are known to be resilient and help communities absorb the shocks of climate change.[209] The gradual embrace of exotic food production methods has denied communities this resilience to climate change. The neglect of traditional foods in favour of processed food, as a component of the increasing commodification of food, is significantly responsible for a rise in non-communicable diseases in Africa.[210] This transition started at the onset of colonial occupation.[211] Some scholars argue that African communities have been

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[207] Niek Koning, Heerink and Kauffman. "Food Insecurity, Soil Degradation and Agricultural Markets in West Africa: Why Current Policy Approaches Fail," *Oxford Development Studies*, 29:2 (2001): 189-207, DOI: 10.1080/13600810124747

[208] Clover. *Food Security In Sub-Saharan Africa*, 12:1(2003): 5-15.

[209] Diosey Lugo-Morin. "Indigenous communities and their food systems: a contribution to the current debate." *Journal of Ethnic Foods,* 7, 6 (2020): 1-10. https://doi.org/10.1186/s42779-019-0043-1

[210] Raschke and Cheema. *The eradication of traditional food habits in East Africa*, 11, 7, (2007): 662–674.

[211] Verena Raschke and Bobby Cheema. "Colonisation, the New World Order, and the eradication of traditional food habits in East Africa: historical perspective on the nutrition transition." *Public Health Nutrition*, 11, 7, (2007): 662–674. https://doi:10.1017/S1368980007001140

resilient to changing climatic conditions long before colonialization. They blame the changing economic order for disrupting this resilience and compromising food security.[212]

2.3.1.4 Gender Discrimination

Women's contribution to food security is 'culturally constructed.'[213] They remain responsible for providing food to their families and communities, whether buying or harvesting from their farms. Despite international law protection from all forms of discrimination, women continue to face systematic discrimination in all societies.[214] Discrimination negatively impacts their role as food producers, from the farm to the plate. In most small-scale farming settings, women constitute most of the food producers, especially as labourers on farms.[215] Discrimination deprives women of the ability to be productive by limiting their access to capital and land.[216] Unequal pay and discrimination in accessing employment deprive women of the economic means to acquire food. Women are primarily employed in peripheral jobs where exploitation is common, and there are no chances of protection for social security.[217]

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[212] Paul Richards. *Indigenous agricultural revolution: Ecology and food production in West Africa*. (Boston: Unwin Hyman, 1985).

[213] Penny Esterik. "Right to food; right to feed; right to be fed. The intersection of women's rights and the right to food." *Agriculture and Human Values,* 16, (1999): 225–232.

[214] Bonita Meyersfeld, "A Theory of Domestic Violence in International Law," (PhD diss., Yale Law School, 2021).

[215] Davison, Jean, ed. *Agriculture, women, and land: The African experience*. Routledge, 2019.

[216] Olivier Schutter. *Women's rights and the right to food*. (New York: United Nations, Human Rights Council, 2012). Accessed on June 27, 2021 https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHRC2250_English.PDF

[217] Olivier Schutter. *Women's rights and the right to food*. (2012)

2.3.2 External Factors

External factors are those that affect the population beyond farmers as well. They include climate-change-related drought, unfair trade practices, commercialization of agriculture and external conflicts.

2.3.2.1 Climate Change (causing floods, drought, & change of seasons)

Unlike the Global North, Africa has not contributed significantly to global warming. However, it has disproportionately suffered the consequences of climate-change-related environmental impacts such as drought and flooding.[218] Delayed rainfall caused by climate change affected the SADC region in 1991 and 1992, leading to crop failure and forcing many communities that rely on agriculture to depend on food aid from governments and international agencies.[219] In extreme cases, communities migrate to other areas due to climate-related stress, leading to the loss of agricultural labour and competition for the few available opportunities in the urban areas.[220] The Intergovernmental Panel on Climate Change predicts a significant increase in environmental refugees by 2050.[221]

2.3.2.2 Unfair Global Food Regime

Some theorists believe there is enough food for everyone on the planet. Starvation is a function of trade inequalities that lead to unequal distribution. Amartya Sen's view is that food

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[218] UNFCCC, "Climate Change Is an Increasing Threat to Africa," UNFCCC, last modified October 27, 2020, https://unfccc.int/news/climate-change-is-an-increasing-threat-to-africa

[219] David Baker. *Food Security in Sub-Saharan Africa*. (London: Intermediate Technology Development Group-ITDG, 2001).

[220] Stephen Castles and Miller. *The Age of Migration. International Population Movements in the Modern World*. (New York: The Guilford Press, 2003)

[221] Clover. *Food Security In Sub-Saharan Africa*, 12:1, (2003):5-15.

insecurity is not a function of production only but political decisions that influence governance and trade systems.[222]

The drive to liberalize economies in the Global South was driven by the World Bank and supported by the developed economies as part of poverty reduction strategies in the mid-1990s.[223] This drive was called the Structural Adjustment Program and was implemented through country-specific Poverty Reduction Strategy Papers (SRSP). The view was that a free market would reduce poverty in the Global South. One condition for this free market was that the developing countries would stop subsidizing their farmers to create a 'fair' playing ground. This strategy was imposed on emerging countries by making it a condition for donor support for development projects.[224]

Despite undertaking not to subsidize their farmers, the countries in the Global North continued subsidizing their farmers. This lowered the cost of agricultural production, leading to a surplus of staple foods such as rice, corn, and wheat. In the meantime, the cost of production in the Global South increased due to the withdrawal of government subsidies. The surplus in the developed countries was 'dumped' to the developing economies' markets at a

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[222] Sen. *Poverty and Famine*, (1981).

[223] This goes back to the formalized and state-sanctioned slavery era. It was a market access strategy that has largely been dictated and driven by the Global North to support their survival and markets. For instance, freeing up and accessing colonies to support the imports of slaves to provide labour for their commercial farms. At later epochs, this was a tool to ensure exploitation of natural resources and commodities from Africa to keep the new industries in the Global North moving.

[224] International Monetary Fund, "Poverty Reduction Strategy Papers—Progress in Implementation," IMF, last modified September 7, 2000, https://www.imf.org/external/np/prsp/2000/prsp.htm#:~:text=Poverty

lower price than what is offered by the local farmers. Dumping continues to make agriculture economically unsustainable for local farmers.[225]

Quantitative analysis and case study evidence by the FAO and United Nations Conference on Trade and Development (UNCTAD) indicates that agricultural subsidies in the Global North have been associated with rapidly increasing food imports in developing countries, causing a decline in agricultural production.[226] This has undermined production for domestic markets and exports, restricting farmers' capacities to generate the supply response that food crisis calls require. One reason for this failure is that the SRSPs did not consider the impact of the policies on the poor. A review of 12 SRSPs by Oxfam revealed that only four factored their impact on the poor.[227]

Another trade practice that has impacted food security is the increasing commercialization of agriculture in the Global South. Land acquisition for large-scale agriculture is one component of this policy, with such acquisitions increasing since the global crisis.[228] In addition, governments have neglected small-scale farmers and given favourable legal and policy incentives for agribusinesses, mainly from the Global North. These agribusinesses propagate farming practices such as mono-cropping that have a long-lasting detrimental impact

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[225] Walden Bello. *The Food Wars*. (London: Verso, 2009); Ray Bush. *Poverty and Neoliberalism: Persistence and Reproduction in the Global South*. (London: Pluto Press, 2007); Thomas Pogge. *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms.* (Cambridge: Polity, 2002) 14.

[226] Oxfam. *Rigged Rules and Double Standards: Trade, globalisation, and the fight against poverty.* (Washington: Oxfam International Advocacy Office, 2002). Accessed on June 27, 2021 https://oxfamilibrary.openrepository.com/bitstream/handle/10546/112391/cr-rigged-rules-double-standards-010502-en.pdf

[227] Oxfam. *Rigged Rules and Double Standards: Trade, globalisation, and the fight against poverty.*

[228] Olivier Schutter. *Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge*. (New York: United Nations, 2009).

on sustainable food production.[229] In Chapter 6, I have comprehensively discussed how NAFSN, one of such initiatives, has impacted small-scale farmers.

2.3.2.3 Regional Conflicts

Empirical data reveals that hunger worsens in countries torn by conflicts, such as Burundi, Sierra Leone, the Democratic Republic of Congo, and Liberia.[230] Conflicts cause food insecurity in several ways. First, they curtail food distribution. Food may be plentiful in another part of the same territory. Still, producers may be unable to deliver their produce to the markets due to the disruption of the food transportation corridors. Agricultural production drops substantially in conflict regions due to adverse effects on labour supply, access to land and credit, theft, and destruction.[231]

Second, producers are unwilling to risk their lives and investments working at farms during conflicts. There is a shortage of farm supplies and labourers, affecting overall production. Third, conflict-related displacement takes communities from where they ordinarily earn their livelihood. This deprives the community of the economic means of buying food, whether they are food producers or earn livelihoods through other means.[232]

Finally, conflicts adversely impact a community's consumption patterns. A report by FAO demonstrates the adverse impact of violent conflicts on nutritional status, including stunting,

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[229] The impact of mono-cropping on sustainable food production is discussed in chapter 4

[230] Ziegler, Golay, Mahon, and Way. *The Fight for the Right to Food*, 62.

[231] Charles Martin-Shields and Stojetz. *Food security and conflict: Empirical challenges and future opportunities for research and policy making on food security and conflict.* (Rome: United Nations Food and Agriculture Organization, 2018). Working Paper No. 18-04. Accessed June 17, 2021 http://www.fao.org/3/CA1587EN/ca1587en.pdf

[232] Martin-Shields and Stojetz. Food security and conflict. Working Paper 18-04, pg. 10.

congenital disabilities, and general malnutrition.[233] Scientific evidence indicates that early exposure to conflicts has long-term dietary disadvantages.[234] Besides, migration and forced displacement affect communities' consumption patterns and their ability to cope with the food crisis.[235]

2.4 Comprehensive Africa Agriculture Development Programme

Interventions to address food insecurity by different actors follow attempts to identify the cause and depending on one's belief of the cause, the intervention will be structured in a certain way. Whereas there is near unanimity in admitting that environmental factors have contributed to a decline in food production, there are contrasting views on the role of domestic and international trade policies in influencing food security. These different views lead to a diversity of interventions and policy advocacy campaigns.[236] Some economists, such as Collier, argue that the commercialization of agriculture is the only way for Africa to become food secure.[237] Others disagree. In their opinion, commercialization compromises the livelihoods of small-scale farmers. [238] The food sovereignty movement urges the promotion of

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[233] Martin-Shields and Stojetz. Food security and conflict, 8

[234] Martin-Shields and Stojetz. Food security and conflict, 10

[235] Martin-Shields and Stojetz. Food security and conflict.

[236] Gilson Ian and Fouad Amir, "Trade Policy and Food Security : Improving Access to Food in Developing Countries in the Wake of High World Prices," Open Knowledge Repository, last modified 2015, https://openknowledge.worldbank.org/handle/10986/20537#:~:text=Directions%20in%20Development-,Trade%20Policy%20and%20Food%20Security%20%3A%20Improving%20Access%20to%20Food%20in%20Developing%20Countries%20in%20the%20Wake%20of%20High%20World%20Prices,-cb.

[237] Paul Collier and Dercon. "African Agriculture In 50 Years: Smallholders In A Rapidly Changing World?" *World Development*, 63(2014): 92-101. Accessed on June 27, 2021 https://doi.org/10.1016/j.worlddev.2013.10.001

[238] Anderson, M.D. Timothy A. Wise: Eating Tomorrow: agribusiness, small farmers and the battle for the future of food. *Agric Hum Values* **37,** 923–924 (2020). https://doi.org/10.1007/s10460-020-10024-w

agroecology as a cure for food insecurity in Africa. Amartya Sen theorizes on the imperative for political solutions to food insecurity.[239]

Despite these contestations, interventions have focused on different aspects of the food supply chain. These include nutritional interventions, enhancing market access, capacity building for farmers, strengthening resilience and coping strategies, value addition, and promoting good governance.[240]

This section discusses the Comprehensive Africa Agriculture Development Programme (CAADP), a primary regional intervention in Africa to address food insecurity and the precursor to the NAFSN. According to the African Union (AU), 200 million people (equivalent to 28% of the continent's population) were 'chronically hungry in 2002.[241] At the same time, African countries' net food imports from outside Africa continued to grow.[242] To address this imbalance, the AU, through the New Partnership for Africa's Development (NEPAD),[243] partnered with the FAO and conceptualized the CAADP.[244]

CAADP was designed as a pro-poor initiative promoting economic growth through increased agricultural production by scaling up public sector investment in agriculture.[245] The Assembly of Heads of States and Governments of the AU and the regional economic blocs

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[239] Sen. *Poverty and Famines,* 1981.

[240] Oxfam. *Rigged Rules And Double Standards,* 2002.

[241] NEPAD. *Maputo Declaration*, 2003, 1 & 6.

[242] NEPAD. *Maputo Declaration*, 2003; According to the AU, Africa is a rural continent and…the agricultural sector accounts for about 60% of the total labour force, 20% of total merchandise exports and 17% of GDP.

[243] NEPAD. *Who We Are*. (Midrand, South Africa: NEPAD, 2020). Accessed on June 27, 2021 http://www.nepad.org/who-we-are/about-us

[244] NEPAD. *Maputo Declaration*, 2003.

[245] NEPAD. *Maputo Declaration*, 2003, 4.

endorsed it.[246] To achieve CAADP objectives, members of the AU Summit committed to allocate at least 10% of their national budgets to agricultural promotional activities and adopt regional and national-level measures to increase agricultural productivity by at least 6%.[247]

CAADP implementation was decentralized to the regional levels. Regional blocks were required to design regional-focused strategies, considering their different priorities and capacities. Western Africa developed several initiatives through cooperation between the three leading regional Intergovernmental Organizations: the Economic Community of West African States (ECOWAS), the West African Economic and Monetary Union (WAEMU), and the Permanent Interstate Committee for Drought Control in the Sahel (CILSS), and with support from partners and non-state actors.[248] The Southern African Development Community (SADC) has developed a Food and Nutrition Strategy to promote food availability through improved productivity and competitiveness.[249] In response to perennial drought in the Horn of Africa region, the Intergovernmental Authority for Development (IGAD) Drought Disaster Resilience and Sustainability Initiative (IDDRSI) designed a roadmap for ending drought emergencies and building resilient production systems.[250] These regional strategies would then

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[246] African Union. *The Assembly*. (Addis Ababa: African Union, 2020). Accessed on June 27, 2021 https://au.int/en/assembly. The Assembly of the AU noted that "30% of the population of Africa…[was] chronically and severely undernourished; that the continent…[had] become a net importer of food; and that it…[was] the largest recipient of food aid in the world."

[247] African Union. *The Assembly*. (Addis Ababa: African Union, 2020).

[248] African Union. *The Assembly*. (Addis Ababa: African Union, 2020)., 15.

[249] Southern African Development Community. Council of Ministers, *Food and Nutrition Security Strategy, 2015-2025* (2015).

[250] InterGovernment Authority on Development (IGAD). "IGAD Regional Strategy," *Volume 2: Implementation Plan 2016 – 2020*. Accessed on June 27, 2021 https://igad.int/documents/6-igad-rs-implementationplan-final-v6/file

inform the respective national policies through national agricultural investment plans detailing how to operationalize the regional strategies at the national level.[251]

A review conducted by the Regional Strategic Analysis and Knowledge Support System on the progress made on CAADP's implementation several years after it was endorsed identified several substantial shortfalls in implementing the agreed roadmap.[252] A 2006 survey of the national budgets revealed that the average allocation to agriculture among African countries was 4%. Even though this represented a marginal improvement, it was still way below the 10% commitment made under CAADP.[253] Another audit conducted in 2008 revealed that only eight countries (Burkina Faso, Ethiopia, Mali, Malawi, Ghana, Niger, Senegal, and Zimbabwe) had achieved the 10% threshold investment in agriculture as agreed under the CAADP.[254]

2.5 Conclusion

Most countries did not honour their commitment under CAADP to allocate at least 10% of their budgets to agriculture, and unsurprisingly, the initiative did not significantly increase agricultural production in the targeted countries. In the next chapter, I will demonstrate how

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[251] FAO, "National Agriculture Investment Plan (NAIP) 2019-2024," last modified January 1, 2019, https://www.fao.org/faolex/results/details/en/c/LEX-FAOC189052/.

[252] NEPAD-CAADP. "CAADP Review: Renewing the commitment to African agriculture." Final Report, March 2010 NEPAD Planning and Coordinating Agency. Accessed on June 27, 2021 http://www.e-alliance.ch/fileadmin/user_upload/docs/Publications/Food/CAADP_Review_-_March_20101.pdf

[253] Patrick Hayford and Kloke-Lesch. "Africa Partnership Forum Evaluation Report: A Forum Puts Itself to the Test" September 2013. Accessed on June 17, 2021 https://www.die-gdi.de/fileadmin/user_upload/pdfs/dauerthemen_spezial/20170608_African_Partnership_Forum_Evaluation_Report_Patrick_Hayford_Adolf_Kloke-Lesch.pdf

[254] Babatunde Omilola, Yade, Karugia, and Chilonda. "Monitoring and Assessing Targets of the Comprehensive Africa Agriculture Development Programme and the First Millennium Development Goal (MDG) in Africa." *ReSAKSS Working Paper* # 31. (Washington: International Food Policy Research Institute-IFPRI, 2010). Accessed on June 27, 2021 http://ebrary.ifpri.org/utils/getfile/collection/p15738coll2/id/127212/filename/127423.pdf

CAADP was an essential framework for response to the 2008 global food crisis, which catalysed the launch of the NAFSN.

3. **NAFSN as a Response to the 2007-2008 Food Crisis.**

3.1 The 2007 Food Crisis

During the 2007-2008 global food commodity crisis, the prices of the major world staple food items, mainly maize, soya bean, rice, and wheat, doubled.[255] Unfavourable weather in 2005/2006 caused low production and reduced food reserves in the leading food-producing countries.[256] Food-importing countries panic bulk-bought and stocked up food commodities to secure reserves for their population. In response, many countries exporting food imposed restrictions on food exports to cushion their populations. This speculation worsened the limited availability of food, leading to inflation.[257] According to the European Union, world wheat prices rose by 181% within 36 months, while rice prices went up by 141% by early 2008.[258] Developing countries were the most affected due to exposure to the global food trading system and overreliance on imports.[259]

There was panic at both the international and domestic levels. There was an upsurge of food riots across the globe.[260] Margaret Chan, the then Director-General of the World Health

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[255] Jennifer Clapp and Cohen. "The Food Crisis and Global Governance," in Jennifer Clapp and Marc Cohen, (eds) *The Global Food Crisis; Governance Challenges and Opportunities.* (Waterloo, Canada: Wilfrid Laurier University Press, 2009).

[256] Jennifer Clapp and Cohen. "The Food Crisis and Global Governance."

[257] Jennifer Clapp and Cohen. "The Food Crisis and Global Governance."

[258] European Union. "Rising food prices in the European Union and developing countries." *European Parliament resolution of 22 May 2008 on rising food prices in the EU and the developing countries*. Accessed June 27, 2021 http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0229&language=EN

[259] Olivier Schutter. "The New Alliance for Food Security and Nutrition in Africa," Policy brief/paper, 17 of 2015 for European Parliament. Accessed June 27, 2021 http://www.fao.org/family-farming/detail/en/c/384055/ http://www.europarl.europa.eu/RegData/etudes/STUD/2015/535010/EXPO_STU(2015)535010_EN.pdf

[260] Marc Lacey. "Across globe, empty bellies bring rising anger." *The New York Times*, April 18, 2008. Accessed on June 27, 2021 https://www.nytimes.com/2008/04/18/world/americas/18food.html

Organization (WHO), captured the mood of the time by exposing how globalization had failed to secure equality for all. She observed that

> nearly one billion people are living on the margins of survival. These people have no coping capacity. It does not take much to push them over the brink. There is no cushion to absorb the shocks of an economic downturn, high food prices, climate change, more floods and droughts, and a shrinking food supply.[261]

Several international responses targeting both developed and developing countries were initiated. The UN formed the High-Level Task on Global Food and Nutritional Security to "provide robust and consistent support to countries struggling to cope with food insecurity."[262] In September 2008, the European Union established a fund for "rapid response to soaring food prices in the developing countries." The preamble of the EU regulation establishing the fund noted that "…[t]he volatility of food prices has put numerous developing countries and their populations in a dramatic situation. This food crisis, accompanied by a financial and energy crisis and environmental deterioration, risks putting additional hundreds of millions of people in extreme poverty…."[263] The fund was to support the establishment and strengthening of rural infrastructure to link farmers to markets.[264] The International Fund for Agricultural Development (IFAD) availed US$200 million to boost agricultural production in the developing world. It also pushed for longer-term agricultural investments to enable the 450

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[261] Margaret Chan. Focus on health is the key to welfare of humanity: Address at the Economic and Social Council 2009 High-level Segment. (Geneva: World Health Organization, 2009). Accessed on June 27, 2021 https://www.who.int/dg/speeches/2009/health_focus_20090706/en/

[262] United Nations. Secretary General's High level task force on Global Food and Nutrition Security (HLTF). (New York: United Nations, 2009). Accessed on June 27, 2021 https://www.un.org/en/issues/food/taskforce/

[263] European Union. "Regulation (EC) No 1337/2008 of the European Parliament and of the Council of 16 December 2008 establishing a facility for rapid response to soaring food prices in developing countries." *Official Journal of the European Union*, L 354, (2008): 62-69. Article 1. Accessed on June 27, 2021 https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:354:0062:0069:EN:PDF

[264] European Union. *The Food Facility: The EU rapid response to the food crisis.* (Luxembourg: Publications Office of the European Union, 2010). Accessed on June 27, 2021 https://ec.europa.eu/europeaid/sites/devco/files/publication-food-facility-a-rapid-response-from-eu-2010_en.pdf

million smallholder farmers in developing countries to grow more food productively, thereby increasing their incomes and resilience and responding to the increasing global demand for food.[265] The World Bank set up the Global Food Price Crisis Response Programme, which included US$200 million in grants for the poorest and most vulnerable countries.[266]

3.2 G8's L'Aquila Food Security Initiative

The leading food producers from the Global North were alarmed as the crisis exposed the fragile food security situation in the food-importing countries, including many in Sub-Saharan Africa. The vulnerable population were the most affected. These included those spending a high percentage of their income on food, net buyers of food, and those with low coping strategies due to heavy reliance on single commodities and lack of value addition.[267] There was a need to urgently take measures to boost food production and make food-importing countries less reliant on food aid and imports.[268]

According to some analysts, the crisis exposed the vulnerability of the then-prevailing food market system, where a conglomerate of agribusinesses based in the Global North dominated

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[265] Gérard Viatte, Graaf, Demeke, Takahatake and Arce. Responding to the food crisis: synthesis of medium-term measures proposed in inter-agency assessments. (Rome: FAO, 2009). Accessed on June 27, 2021 http://www.fao.org/fileadmin/user_upload/ISFP/SR_Web.pdf

[266] Sharada Keats, Wiggins and Clay. International rapid responses to the global food crisis of 2007/08. (London: Overseas Development Institute, 2011). Accessed on June 27, 2021 https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7632.pdf

[267] Henk-Jan Brinkman, Issa, Subran, and Bloem. "High Food Prices and the Global Financial Crisis Have Reduced Access to Nutritious Food and Worsened Nutritional Status and Health." *The Journal of Nutrition*, 140,1(2010): 153–161.

[268] Henk-Jan Brinkman, Issa, Subran, and Bloem. "High Food Prices and the Global Financial Crisis Have Reduced Access to Nutritious Food and Worsened Nutritional Status and Health, 7; Anuradha Mittal. "The Blame Game: Understanding Structural Causes of the Food Crisis" in Jennifer Clapp and Marc Cohen, (eds) The Global Food Crisis; Governance Challenges and Opportunities. (Waterloo, Canada: Wilfrid Laurier University Press, 2009), 3.

the food market.[269] The volatility in the financial and housing sector as investment options in the Global North was exposed, and investors sought more stable alternatives.[270] Investment in agriculture became an attractive option, especially in the Global South, where land was viewed as plentiful and idle. The investors expressed reason for this investment was that this was a charitable intervention strategy to save Africa from dwindling food security fortunes.[271]

The global food crisis received significant attention at the July 2009 G8 meeting in L'Aquila, Italy.[272] G8 members noted that low government investment in agriculture in the Global South was significantly eroding food security. The G8 leaders committed to increasing technical and financial assistance to those countries to help them "improve their food security strategies."[273] They established the L'Aquila Food Security Initiative and pledged to "partner with vulnerable countries and regions to help them develop and implement their food security strategies, and together, substantially increase sustained commitments of financial and technical assistance."[274] They pledged to invest USD 20 billion between 2009 and 2012 to boost agricultural production in these food-importing countries to achieve this.[275]

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[269] Nora McKeon. "The New Alliance for Food Security and Nutrition: a coup for corporate capital?" *TNI Agrarian Justice Programme Policy Paper*, May 2014, pg. 3. Accessed on June 27, 2021 https://www.tni.org/files/download/the_new_alliance.pdf

[270] European Union. "Regulation (EC) No 1337/2008 of the European Parliament and of the Council of 16 December 2008 establishing a facility for rapid response to soaring food prices in developing countries." *Official Journal of the European Union*, L 354, (2008): 62-69. Article 1. Accessed on June 27, 2021 https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:354:0062:0069:EN:PDF

[271] Jennifer Clapp. "Financialization, Distance and Global Food Politics. Food Sovereignty: A Critical Dialogue." *International Conference* Yale University 14-15 September 2013. Conference Paper # 5.

[272] "L'Aquila" Joint Statement on Global Food Security: L'Aquila Food Security Initiative (AFSI) (L'Aquila, Italy, 10 July, 2009). Accessed on June 27, 2021 http://www.g8.utoronto.ca/summit/2009laquila/2009-food.pdf

[273] "L'Aquila" Joint Statement on Global Food Security: L'Aquila Food Security Initiative, 2009, para. 3.

[274] "L'Aquila" Joint Statement on Global Food Security: L'Aquila Food Security Initiative, 2009.

[275] "L'Aquila" Joint Statement on Global Food Security: L'Aquila Food Security Initiative (AFSI) (L'Aquila, Italy, 10 July, 2009). Para. 12. Accessed on June 27, 2021 http://www.g8.utoronto.ca/summit/2009laquila/2009-food.pdf

3.3 New Alliance for Food Security and Nutrition (NAFSN)

A later report on G8 countries' performance in meeting their financial and non-financial pledges revealed a significant shortfall in honouring the L'Aquila commitments.[276] The G8 leaders meeting at the 2012 Camp David summit acknowledged that African governments still needed support to address the negative impacts of the lack of agricultural investment for nearly two decades that the Bretton Woods institutions have propagated. [277]

G8 members acknowledged the efforts to boost agriculture in African countries under the CAADP. They commended African governments for increasing "public investments in agriculture and for adopt[ing] the governance and policy reforms necessary to accelerate sustainable agricultural productivity growth, attain[ing] greater gains in nutrition, and unlock[ing] sustainable and inclusive country-led growth."[278] However, they noted that the public investment envisioned under CAAPD had not materialized. It was necessary to explore additional sources of capital. Their view was that on their own, African countries would not be able to scale up agricultural production after many years of underfunding at best and neglect at worst. To respond to this funding shortfall and build on the gains made under the CAAPD, they partnered with several African countries and launched the NAFSN. [279]

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[276] L'Aquila Food Security Initiative (AFSI). "2012 Report." Accessed on June 27, 2021 https://iif.un.org/sites/iif.un.org/files/L%27Aquila%20Food%20Security%20Initiative%202012%20Report.pdf

[277] The White House. "Camp David Declaration." (Camp David, Maryland, USA, May 19, 2012). Accessed on June 27, 2021 https://obamawhitehouse.archives.gov/the-press-office/2012/05/19/camp-david-declaration .

[278] The White House. "Camp David Declaration.", 26

[279] "L'Aquila" Joint Statement on Global Food Security: L'Aquila Food Security Initiative, 2009.

However, unlike the CAAPD, which targeted public investment in agriculture, NAFSN focused on injecting private-sector capital into the agricultural sector in the participating African countries. NAFSN sought

> to accelerate the flow of private capital to African agriculture, take to scale new technologies and other innovations that can increase sustainable agricultural productivity, and reduce the risk borne by vulnerable economies and communities…[It also aimed to "lift 50 million people out of poverty" within ten years.][280]

Under the NAFSN, donor partners committed to supporting Africa's potential for rapid and sustained agricultural growth and ensuring accountability for the NAFSN.[281] Additionally, the G8 countries would help prepare and finance agricultural infrastructure projects, secure commitments to the Global Agriculture and Food Security Program, and bring other actors, including the World Bank, onboard NAFSN. It was unclear whether the participating agribusinesses would benefit from the donor countries.[282] Under NAFSN, each participating country was to identify the areas in their national agricultural investment plans, formulated under the CAADP, that needed additional capital. They would then develop a country-owned plan to mobilize private capital. They would then make legal and policy changes to make it easier for agribusinesses committed to NAFSN to invest in them.[283]

The resulting document was called the Country Cooperation Framework (CCF).[284] The CCF indicated the pledges made by donor countries and businesses supporting NAFSN. Each

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[280] The White House. "Camp David Declaration."

[281] McKeon. *The New Alliance for Food Security and Nutrition*, May 2014.

[282] Mulat Demeke, Kiermeier, Sow and Antonaci. *Agriculture And Food Insecurity Risk Management In Africa: Concepts, lessons learned and review guidelines*. (Rome: Food and Agriculture Organization Of The United Nations, 2016).

[283] Oliver D. Schutter, "The New Alliance for Food Security and Nutrition in Africa," European Parliament's Committee on Development, last modified November 2015, https://doi: 10.2861/529638.

[284] Schutter. The New Alliance for Food Security and Nutrition in Africa, 17.

CCF has at least one G8 country and international organization servicing as an interlocutor. For instance, the US focused on Tanzania, and the European Union supported the efforts in Malawi.[285] Where the need arose, the country's strategies under the CAAPD were to be reviewed to ensure alignment with NAFSN priorities.[286]

CCFs focused on three areas. These are; securing a business-friendly environment through infrastructure improvement and tax incentives, among others; improving access to farm inputs, including seeds, fertilizers, and farm implements, while paying attention to the needs of women farmers; and specific-nutrition-based policies such as those addressing malnutrition.[287]

By 2013, ten African countries had signed the NAFSN: Ethiopia, Mozambique, Benin, Senegal, Burkina Faso, Ghana, Malawi, Nigeria, Côte d'Ivoire, and the United Republic of Tanzania. Agribusinesses would then make pledges on where they would invest. By 2013, 180 companies signed their 'Letters of Intent' pledging to invest a total of USD 8 billion in agriculture in the participating countries. Syngenta (a Swiss seed company) and Yara International (a Norwegian fertilizer manufacturer) were among the private investor players that pledged the highest amount, committing USD 500 Million and USD 1.5 billion, respectively.[288] The majority of the companies had headquarters in the Global North, with very

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[285] Wolfgang Obenland. Corporate influence through the G8 New Alliance for Food Security and Nutrition in Africa. (Bonn, Germany: Global Policy Forum, 2014). Accessed on June 17, 2021 https://neu.globalpolicy.org/sites/default/files/Corporate_Influence_through_the_G8NA.pdf

[286] Wolfgang Obenland. Corporate influence through the G8 New Alliance for Food Security and Nutrition in Africa.

[287] Wolfgang Obenland. Corporate influence through the G8 New Alliance for Food Security and Nutrition in Africa.

[288] G8 New Alliance for Food Security and Nutrition. “2013-2014 Progress Report” (August, 2014).

few based in African countries participating in the process.[289] Development partners had pledged a total of USD 6.2 billion.

Different participating countries' CCFs made different commitments, depending on their respective priorities, as depicted in the table below;

Table 1: CCFs Commitments to Different Participating Countries

Country	Commitments Made
Ghana	Promised to appoint representatives of private-sector investors in essential grains to a ministry of food and agriculture committee. [290] It also said it would change its seed law and, by the end of 2015, identify 10,000 hectares of land for private investors. The controversial Plant Breeders Bill later faced widespread opposition from farmers, trade unions, faith groups, and traditional leaders across the country.[291]
Mozambique	Said it would revise its seed law and stop the distribution of free and "unimproved" seeds except in emergencies. This would promote private sector investment in seed production and adopt procedures so that land rights could be obtained faster and at lower costs.[292]

[289] G8 New Alliance for Food Security and Nutrition. "2013-2014 Progress Report", note 29, page 12

[290] Badiane Ousmane, Collins, Dimaranan, and Ulimwengu. "An Assessment of the New Alliance for Food Security and Nutrition." *Synthesis Report*, April 2018. Accessed on June 27, 2021 https://www.tralac.org/documents/resources/africa/2009-new-alliance-for-food-security-and-nutrition-sytnesis-report-nepad-april-2018/file.html

[291] Global Justice Now. Growing evidence against the new alliance for food security and nutrition. (London: Global Justice Now, 2015). Accessed on June 27, 2021 http://www.globaljustice.org.uk/sites/default/files/files/resources/growing_evidence_against_the_new_alliance_.pdf; The proposed legislation is unpopular because it gives intellectual property rights to big seed companies, which would prevent farmers from freely saving, swapping and breeding seeds that are purchased from seed companies.

[292] New Alliance for Food Security and Nutrition. "Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Mozambique." (Mozambique: New Alliance for Food Security and Nutrition). https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/208211/new-alliance-progress-report-coop-framework-mozambique.pdf

Senegal	Pledged to "implement tax incentives for agricultural investment" by late 2013 but did not specify the incentives. It would also "update and implement" its policies on nutrition and the feeding of infants and young children in 2016.[293]
Ethiopia	Committed to refining its policies on agrochemical imports and revisiting its land law to encourage long-term land leasing. It would also ratify a new seed law and implement policies to secure ownership and trade rights for commercial farms. The government said it would encourage international seed companies to operate in the country and revisit regulations to "stimulate private sector engagement in livestock production."
Benin	Promised to change tax, legal and regulatory provisions to encourage and favour investment in agriculture by December 2014. It said it would also revise its investment code to create a more favourable environment for investors.[294]
Burkina Faso	Committed to helping private sector companies invest in fertilizer. It also said it would improve customs procedures and review its seed law.[295]
Ivory Coast	Undertook to strengthen services to support investors and develop an action plan to combat products and trademark fraud, threatening the agro-pharmaceutical industry. It also pledged to change its seed law

[293] New Alliance for Food Security and Nutrition. "Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Senegal." (Senegal: New Alliance for Food Security and Nutrition). Accessed on June 27, 2021 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/262518/Cooperation-Framework-NAFSN-Senegal.pdf

[294] NAFSN. 2013a. "G8 Cooperation Framework to support The New Alliance for Food Security and Nutrition in Benin". Accessed 1 July 2021 http://www.new-alliance.org/resource/benin-new-alliance-cooperation-framework

[295] NAFSN. 2012a. "Cooperation Framework to Support the New Alliance for Food Security & Nutrition in Burkina Faso". Accessed July 01 2021. http://www.new-alliance.org/resource/cadre-de-coop%C3%A9ration-%C3%A0-la-nouvelle-alliance-au-burkina-faso

	by the end of 2014. It said it would strengthen regulations and laws on biofortification and food hygiene and draft laws on marketing breast milk substitutes.[296]
Tanzania	Pledged to reduce or lift taxes on farm machinery, equipment, crops, seeds, and seed packaging. It also made commitments to facilitate imports of seeds and agrochemicals from outside the region. [297]
Malawi	Agreed to set aside 200,000 hectares of land for large-scale commercial agriculture by 2015. It also pledged to end export bans on crops other than maize and set up a one-stop-shop to promote and attract investment and assist investors. The government said it would fast-track new agriculture, irrigation, industry, and trade policies by January 2014 and review tax regimes to "maximize incentives to investment" in areas identified by its national export strategy by the end of 2016. [298]
Nigeria	Pledged to complete the privatization of power companies and pass a new seed law that elaborates the role of the private sector in the development, multiplication, and marketing of seeds. The government also promised to liberalize the country's agricultural insurance market by the end of 2014 to allow private sector companies to participate. It

[296] NAFSN. 2012b. "Cooperation Framework to Support the New Alliance for Food Security & Nutrition in Côte d'Ivoire". Accessed 1 July 2021. http://www.new-alliance.org/resource/cadre-de-coop%C3%A9ration-%C3%A0-la-nouvelle-alliance-au-c%C3%B4te-d%E2%80%99ivoire

[297] New Alliance for Food Security and Nutrition. "G8 Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Tanzania." (Tanzania: New Alliance for Food Security and Nutrition). Accessed on June 27, 2021 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208218/new-alliance-progress-report-coop-framework-tanzania.pdf

[298] New Alliance for Food Security and Nutrition. "Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Malawi." (Malawi: New Alliance for Food Security and Nutrition). Accessed on June 27, 2021 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/208059/new-alliance-progress-report-coop-framework-malawi.pdf

	would develop a fully costed plan and update its national policy on nutrition.[299]

These commitments appear noble at face value. However, a closer examination of their impact on small-scale farmers and an audit of how they have been implemented reveals that they harm food security and the drive to support poverty reduction. I examine this in detail in chapter 6 when I analyse the impact of NASFN on the right to food.

3.4 Conclusion

As discussed, food security has been shaped by internal and external factors historically. The growing influence of the food industry in changing food production, access and consumption patterns is evident. Investment by Global North private companies in Africa has compromised food security. NAFSN is an initiative that fortifies such private sector investment in agriculture, and the emerging evidence is that it continues this trend of undermining food security and livelihoods in Africa. [300]

One of the relatively positive reviews of the NAFSN was co-published in April 2018 by the Africa Growth and Development Consortium and Regional Strategic Analysis and Knowledge Support System. The report assessed NAFSN implementation in four participating countries: Burkina Faso, Benin, Ghana, and Nigeria.[301] One of its findings was that NAFSN projects in those countries "espoused the NEPAD and CAADP values and principles of alignment,

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[299] *The New Alliance for Food Security and Nutrition in Africa* (2015). https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/208216/new-alliance-progress-report-coop-framework-nigeria.pdf

[300] Canadian Food Security Policy Group, "A Critical Look at the New Alliance for Food Security and Nutrition (NAFSN) in Senegal," GRAIN, last modified February 2, 2017, https://grain.org/en/article/5733-a-critical-look-at-the-new-alliance-for-food-security-and-nutrition-nafsn-in-senegal

[301] Ousmane, Collins, Dimaranan, and Ulimwengu. *Synthesis Report*, April 2018.

inclusivity, and mutual accountability."[302] The report noted some shortcomings, including that NAFSN's progress review and dialogue process did not foster the full participation of all stakeholders, including the beneficiary communities.[303]

Diverse groups have opposed NAFSN based on either its conception or implementation. These include communities impacted by its projects and international Non-Governmental Organisations (NGOs) who claim that smallholder farmers have the same capacity to achieve agricultural activity and increase employment opportunities just as agro-industrial farms.[304] Amy Crankshaw also critiqued the NAFSN as undermining food sovereignty.[305] The European Union parliament also raised issues on power asymmetry between the multinational agribusinesses, the supporting governments and the small-scale farmers in the participating African countries.[306] A former UN Special Rapporteur also highlighted the right to food.[307] Their overall view is that NAFSN prioritized the interests of big corporations and large-scale commercial farmers at the expense of small-scale farmers. [308]

In the next chapter, I provide a deeper insight into how NAFSN was implemented in the

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[302]Ousmane, Collins, Dimaranan, and Ulimwengu. *Synthesis Report*, April 2018.

Ousmane, Collins, Dimaranan, and Ulimwengu. *Synthesis Report*, April 2018.

[303] Ousmane, Collins, Dimaranan, and Ulimwengu. *Synthesis Report*, April 2018.

[304] Hannah Twomey, Christina M. Schiavoni, Benedict Mongul. "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective Study." A https://www.misereor.de/fileadmin/publikationen/study-a-right-to-food-perspective-2015.pdf (Accessed June 27, 2021).

[305] Amy Crankshaw. *A food sovereignty critique of the G8 New Alliance on Food Security and Nutrition*. (South Africa: University of Witwatersrand, 2015).

[306] European Parliament. "European Parliament resolution of 7 June 2016 on the New Alliance for Food Security and Nutrition (2015/2277(INI))." (Brussels: European Union, 2014). Accessed on June 27, 2021 https://www.europarl.europa.eu/doceo/document/A-8-2016-0169_EN.pdf?redirect

[307] United Nations Human Rights Council. "Report of the Special Rapporteur on the right to food to the 25th session of the Human Rights Council, Annex: Mission to Malawi (12-22 July 2013)." A/HRC/25/57/Add.1 (15 Jan. 2014), para. 51.

[308] McKeon. *The New Alliance for Food Security and Nutrition*, May 2014.

participating African countries. I rely on examples of the background and implementation of NAFSN from the selected case studies in Tanzania and Mozambique. As previously stated in the methodology chapter, most examples will be based on Tanzania and, to some extent, Mozambique. For each of these countries, I discuss their CCF commitments and the link between these commitments. I introduce the growth corridors established in the respective countries under CAADP, which were a significant incentive for the investors. Lastly, I examine NAFSN implementation along these corridors. Where applicable, I explain how the privatization of formerly state-owned enterprises gave way to full-scale commercialization of agriculture under NAFSN as well as other initiatives.

4. **Implementation of NAFSN in Selected African Countries**

4.1 Introduction

Chapter 2 discusses the evolution of food security in Sub-Saharan Africa from the pre-colonial period to the contemporary period. It also highlights both the internal and external factors that exacerbate food insecurity. They include a lack of support for peasant farmers by government agencies, a rapid rise in population, continued discrimination against women who are mainly the food producers in the African cultural construct, and abandonment of sustainable farming practices such as cultivating weather-resistant crops. On the other hand, the external factors discussed are climate change and global warming, conflicts within and among African countries, and the imbalanced trade practices between the Global North and the Global South. In addition, I discuss some of the responses by the international and national actors to food insecurity that are closely tied to poverty reduction strategies in Africa. One such response is the NAFSN, launched in response to the 2007/2008 global food crisis and spearheaded by the G8 countries.

This chapter discusses NAFSN implementation in Tanzania and Mozambique to understand how NAFSN was implemented at the country level. NAFSN projects were implemented through and in growth corridors in the two countries; the Southern Agricultural Growth Corridor of Tanzania (SAGCOT) and the Beira Agricultural Growth Corridor (BAGC), which stretches across four countries, including Mozambique.[309]

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[309] SAGCOT is discussed later in this chapter under NAFSN in Tanzania. BAGC is also discussed in this chapter under NAFSN in Mozambique.

To achieve this, I first restate Country Cooperation Framework (CCF) commitments which both Tanzania and Mozambique adopted. Four primary targets characterised this CCF framework. The first target involved creating a business-friendly environment by attracting investors and improving the access of their products to the markets. Second, a country needed to show its intention to support local small-scale agricultural producers by improving their access to land and farm inputs. Third, a country would adopt specific policies on nutrition that would improve nutrition outcomes. Lastly, a country instituted a framework to follow up on the commitments made. The framework would be an annual review process under the CAADP strategy to monitor and ensure the key policy initiatives are met.[310]

I then discuss the implementation of NAFSN through selected Agribusinesses under the NAFSN in both countries.[311] For each case study, I mention the agribusinesses that signed the Letters of Intent and the public agencies, including some privatised with time, involved in the public-private partnership further the NAFSN agenda. The issues I bring up for these case examples include whether local communities participated in the conceptualisation and implementation of each project, the impact of the projects on livelihoods and access to food, whether measures were taken to ensure the projects did not reinforce discrimination against women, and whether there were measures to ensure those aggrieved by the operations of the agribusiness at the implementation level had access to a grievance handling mechanism.

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[310] Olivier DE SCHUTTER, *STUDY: The New Alliance for Food Security and Nutrition in Africa*, (Belgium: European Parliament's online database, 'Think tank', 2015), ISBN: 978-92-823-8388-9 (pdf).

[311] There are more case studies from Tanzania, the focus of the study, as explained in the methodology section. See chapter 1 of this thesis

4.2 NAFSN in Tanzania

Tanzania is located in East Africa along the Indian Ocean coastline. It has an estimated population of 59.73 million people.[312] It has significant arid, and semi-arid land through the Southern Agricultural Growth Corridor region, which covers approximately a third of mainland Tanzania and is characterised by fertile lands and adequate rainfall for reliable agriculture.[313]

Agriculture is the primary and most significant source of livelihood among the country's citizens. The employed workforce in the agricultural sector makes up 80% of Tanzania's adult population and is the primary source of food and sustenance for the population.[314] Agriculture contributes to almost half of Tanzania's Gross Domestic Product (GDP).[315] The sector is considered female-centred, with 54% of the labour force being women. In addition, 81% of women, compared to 73% of men, participate in agriculture as the principal economic activity.[316] Tanzania's agriculture is predominantly small-scale, though there are large-scale sisal, sugar, tea, coffee, tobacco, rice, wheat, and wattle farms. Livestock reared at the peasant farming level includes cattle, sheep, and goats.[317]

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[312] World Bank, "Population, Total - Tanzania," World Bank Open Data | Data, accessed October 9, 2021, https://data.worldbank.org/indicator/SP.POP.TOTL?locations=TZ

[313] World Economic Forum, *Southern Agricultural Growth Corridor of Tanzania: Investment Blueprint*, (Dar es Salaam, Tanzania: World Economic Forum, 2011), https://sagcot.co.tz/?mdocs-file=1023.

[314] "Tanzania | Integrated Production and Pest Management Programme in Africa | Food and Agriculture Organization of the United Nations," Home, accessed October 9, 2021, https://www.fao.org/agriculture/ippm/projects/tanzania/en/

[315] G. Ovensen, "Tracing gender effects among Tanzanian households. Statistics Norway: Oslo," SSB, last modified 2010, https://www.ssb.no/english/subjects/00/02/10/rapp_201026_en/.

[316] FAO, IFAD, ILO, "Gender Dimensions of Agricultural and Rural Employment: Differentiated Pathways out of Poverty," FAO, last modified 2010, https://www.fao.org/docrep/013/i1638e/i1638e00.htm.

[317] William A. De Glanville et al., "Classification and characterisation of livestock production systems in northern Tanzania," *PLOS ONE* 15, no. 12 (2020): doi:10.1371/journal.pone.0229478

Some recent initiatives in Tanzania to boost agricultural production include the 2006 Agriculture Sector Development Strategy and the 2009 *Kilimo Kwanza* (agriculture first) initiative, a public-private partnership. *Kilimo Kwanza* was launched in May 2010 by the World Economic Forum of Africa to quickly deliver growth in sustainable agriculture, thus eradicating poverty, enhancing resilience to climate change, and promoting food security. It brought together Tanzania government agencies, the local agribusiness sector, donor agencies such as USAID, representatives from the Alliance for a Green Revolution in Africa (AGRA) and multinational companies such as Yara International and Unilever. The Tanzania Sugarcane Growers Association represented farmers. The initial focus was to develop a plan for investment in the SAGCOT, which was seen as the most viable agricultural area, including investment by multinational agribusinesses.[318]

4.2.1 CCF Commitments

Tanzania committed to NAFSN in 2012. As expected of each of the ten NAFSN participating countries, Tanzania adopted a Country Cooperation Framework (CCF). Tanzania's CCF focused on four thematic areas. The First was to create a business-friendly environment to attract investors and improve the access of their products to the markets. This would be achieved by committing to increase stability and transparency in trade by reducing tariff and non-tariff barriers to allow food imports in times of emergency.[319] It would also take fiscal measures to promote private sector participation in agriculture, including the elimination of the local tax on agricultural produce, reducing Value Added Tax on agricultural machinery

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[318] World Economic Forum, *Southern Agricultural Growth Corridor of Tanzania: Investment Blueprint*

[319] Claire Provost, "Ten African Countries and Their G8 New Alliance Commitments," The Guardian, last modified October 15, 2020, https://www.theguardian.com/global-development/2014/feb/18/10-african-countries-g8-new-alliance-commitments.

and equipment, reviewing relevant laws to protect seed breeders' rights, allowing the introduction of imported seed varieties and allowing agribusinesses to produce seeds in the country.[320] Tanzania would also speed up the registration of imported agrochemicals to be consistent with international best practices. This would incentivise multinational agribusinesses to introduce new agrochemicals in the Tanzanian market.[321]

Second, Tanzania committed to supporting local small-scale agricultural producers by improving their access to land and farm inputs by taking legal and administrative steps to guarantee the security of tenure rights for smallholders and large-scale investors. Various government agencies whose mandate related to different aspects of land tenure, including the Tanzania Investment Centre (TIC), the ministry of lands, local authorities, and Rufiji Basin Development Authority (RUBADA), were to "responsibly and transparently" allocate land for investors in the SAGCOT region.[322]

Third, Tanzania promised to adopt specific policies on nutrition that would improve nutrition outcomes in the country. Therefore, Tanzania is committed to improving and aligning the National Food and Nutrition Policy with the National Nutrition Strategy, implementing a policy on infant and young child feeding, and implementing the Code of Marketing of Breast-Milk Substitutes and the Codex Alimentarius.[323] Lastly, Tanzania established the Tanzania Agriculture and Food Security Investment Plan (TAFSIP), a framework to follow up on the

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[320] New Alliance for Food Security and Nutrition, G8 Cooperation Framework to Support The "New Alliance for Food Security and Nutrition in Tanzania' (2012) https://new-alliance.org/resource/tanzania-new-alliance-cooperation-framework accessed on September 15 2017

[321] Brian Cooksey, "What difference has CAADP made to Tanzanian agriculture?," Future Agricultures Consortium,lastmodified November 2013, https://assets.publishing.service.gov.uk/media/57a08a45ed915d3cfd0

[322] Olivier DE SCHUTTER, *STUDY: The New Alliance for Food Security and Nutrition in Africa*, (Belgium: European Parliament's online database, 'Think tank', 2015), ISBN: 978-92-823-8388-9 (pdf).

[323] Olivier DE SCHUTTER, *STUDY: NAFSN*, 2015

commitments made. The framework would be an annual review process provided for under the Comprehensive Africa Agricultural Development Program (CAADP) strategy to monitor and ensure that the key policy initiatives are met.[324]

4.2.2 SAGCOT- Tanzania's Growth Corridor

As earlier stated, the Southern Agricultural Growth Corridor of Tanzania (SAGCOT) has been created as the agency in charge of implementing the *'Kilimo Kwanza'* initiative. SAGCOT is consistent with multinational agribusinesses, government agencies, local industries, donor agencies and farmers represented by grower associations to boost agricultural output in Southern Tanzania. Multinational agribusinesses include Yara, Monsanto, Dupont, Syngenta, Unilever, General Mills and SAB Miller.[325] On paper, the overarching goal was to improve income and food production by supporting smallholders as 'key agents in a future renaissance of African agriculture'.[326] These proposed outcomes included improving food security and promoting environmental sustainability while eradicating poverty, especially among rural communities, through public and private investment.[327] It had identified thematic areas,

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[324] Olivier DE SCHUTTER, *STUDY: The New Alliance for Food Security and Nutrition in Africa*, (Belgium: European Parliament's online database, 'Think tank', 2015), ISBN: 978-92-823-8388-9 (pdf).

[325] Helena Paul and Ricarda Steinbrecher, *African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses?* (EcoNexus, 2013), https://landportal.org/sites/landportal.info/files/african_agricultural_growth_corridors_new_alliance_-_econexus_june_2013.pdf.

[326] Singh and Singh, "Traditional Agriculture," 2017.

[327] Environmental Resources Management Limited, *Southern Agricultural Growth Corridor of Tanzania (SAGCOT) Investment Project Strategic Regional Environmental and Social Assessment (SRESA)*, (World Bank, 2013), https://documents1.worldbank.org/curated/en/968601468312048448/pdf/E30750V30REV0A00Box382146B00PUBLIC0.pdf.

including investments in Small and Medium enterprises, public investments, policy reforms, and large-scale commercial investments.[328]

SAGCOT planned to commercialise agriculture by shifting 10,000 small-scale farmers to commercial farmers and converting 350,000 hectares of land to commercial agricultural production. It targeted to build and improve agriculture-supporting infrastructures such as roads, railways, dams and irrigation systems. In addition, it would create 420,000 employment opportunities, ultimately collecting revenue averaging USD 1.2 billion annually and lifting at least two million people of poverty.[329]

SAGCOT projects target about a third of Tanzania's landmass (287,000km²), with a population of more than nine million. Wet coastal plains, semi-arid areas, extensive temperate highlands, and low tropical mountain valleys characterise the southern corridor region. These differences in the nature of soils, climate and altitude allow for the cultivation of different types of crops and livestock. The crops cultivated in the region include wheat, barley, maize, sorghum, rice, horticulture, sugar, citrus, soya beans, coffee, tea, potatoes, bananas, beans, vegetables and vegetables and sunflower. In terms of livestock, different areas in the region support goats, poultry, sheep, pigs, beef and dairy.[330]

The southern corridor was divided into six clusters to promote agricultural production, depending on the dominant economic activities, including Subawanga, Ihemi, Kilombero,

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[328] Environmental Resources Management Limited, *Southern Agricultural Growth Corridor of Tanzania (SAGCOT)*

[329] Denis Mpagaze, "Large Scale Farming: Feeding the Poor or Fooling the World? Voices from the SAGCOT Zone!" LinkedIn, last modified September 6, 2017, https://www.linkedin.com/pulse/large-scale-farming-feeding-poor-fooling-world-voices-mpagaze-denis/.

[330] William A. De Glanville et al., "Classification and characterisation of livestock production systems in northern Tanzania," *PLOS ONE* 15, no. 12 (2020): doi:10.1371/journal.pone.0229478.

Mbarali, Ludewa, and Rufiji.[331] These areas were deemed to have a confluence of factors that made agribusiness viable. These are good infrastructure, including road and rail, fertile land and the fact that most communities in this area are small-scale farmers. As earlier mentioned, the varying climate and soil conditions within the SAGCOT region resulted in its division into clusters. I highlight these clusters below;

The Ihemi cluster is located in the East part of the SAGCOT highlands region. The cluster is within Njombe and Iringa regions and covers 1,321,390 hectares, with 617,730 hectares of the total area as arable land. SAGCOT identified the cluster for its potential for wheat and barley production. It has access to the Dar es Salaam-Zambia highway. It is characterised by; reliable infrastructure, access roads to neighbouring countries of Malawi and Zambia, and access to Dar es Salaam, a commercial city. The area's major agricultural commodities include maize, paddy, pulses, sunflower, banana, potato, wheat, cattle, pigs, and poultry. Lastly, the area is prone to extensive deforestation and soil erosion.[332]

The Mbarali Cluster is a food basket with very high agricultural potential, covering a total area of 1,164,240 hectares, 137,200 of which is arable land. It has more than 3000 small farmers. Mbarali cluster consists of Ileje, Mbozi, Momba and Mbarali districts within its Mbeya and Songwe regions.[333] The major agricultural commodities in the area are paddy, maize, beans, sorghum, poultry, and cattle. The cluster has good roads close to the Tanzam

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[331] Singh and Singh, "Traditional Agriculture," 2017.
[332] World Economic Forum, *Southern Agricultural Growth Corridor of Tanzania: Investment Blueprint*.
[333] SAGCOT, accessed October 10, 2021, https://sagcot.co.tz/index.php/mbarali-cluster/.

Highway between Dar es Salaam and Zambia.[334] It is also characterised by wetlands and hosts Ruaha National Park.

The Rufiji Cluster is closest to Dar es Salaam and is the basis of forming a statutory government agency called Rufiji Basin Development Agency (RUBADA). RUBADA works in 80% of all SAGCOT clusters as it has shares in the SAGCOT initiative.[335] The agency is mandated to promote, regulate, coordinate and facilitate sustainable environmental and socio-economic development targeting the Rufiji basin's energy, agriculture, fisheries, forestry, tourism, mining, industry and transport sectors.[336] The Rufiji cluster is characterised by fertile lands, a rich ecosystem, mangroves, and coastal forest, and it's the largest river basin in the country. The major agricultural commodities within the cluster include maize, paddy, sugar, citrus, cashew, and legumes. The cluster has 75,000 & 10,000 hectares earmarked for commercial paddy and sugarcane farming, respectively. 50 out of 90 villages here have land-use plans in place. Rufiji cluster is the smallest among the clusters, with a total area of 666,950 hectares, 241,215 of which is arable land.[337]

The Ludewa Cluster runs through Iringa and Makote districts and covers a total area of 1,439,700 hectares, 715,000 of which is arable land. It is essential due to the recent discovery of large iron ore deposits, coal and gold.[338] The cluster is characterised by significant tea plantations and factories, including Broke Bond, massive individual and community-owned

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[334] World Economic Forum, *SAGCOT: Investment Blueprint*.

[335] "AGM," SAGCOT – Southern Agricultural Growth Corridor of Tanzania, accessed October 10, 2021, https://sagcot.co.tz/index.php/agm/.

[336] "AGM," SAGCOT – Southern Agricultural Growth Corridor of Tanzania.

[337] World Economic Forum, *SAGCOT: Investment Blueprint*.

[338] Helena Paul and Ricarda Steinbrecher, *African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses?;* World Economic Forum, *SAGCOT: Investment Blueprint.*

forests, perfect weather, well-developed settlers farming and six rivers that find their water source from Ludewa. Other essential agricultural commodities in the cluster include maize, paddy, pulses, banana, cattle, horticulture, citrus, and poultry.[339]

The Sumbawanga Cluster, located in the South West of Tanzania between L. Rukwa and L. Tanganyika, is the least developed because it's poor performing, thus, less attractive to commercial investors. This is associated with its far-off location, poor infrastructure, potential risks to the wetland, economic system and conflicts.[340] It covers both Sumbawanga and Nkasi districts, a total area of 1,738,460 hectares, 972,020 of which is arable land. It is characterised by extensive deforestation and soil erosion. In addition, it has several rivers cutting across its Uwanda Game Reserve. The SAGCOT initiative proponents involved in its development identified the region as a potential agricultural hub due to its mining and tourism potential. The primary agricultural commodities in the cluster include maize, sunflower, pulses, horticulture, paddy, citrus, banana, cattle, goats, pigs, and poultry.

The Kilombero Cluster, located in the Morogoro region, is the most developed and attractive cluster for government and private sector players.[341] The cluster covers an area of 1,044,260 hectares, 312,127 of which is arable land. The major agricultural commodities found in the cluster include paddy, sugarcane, maize, banana, poultry, and citrus.[342] The cluster is

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[339] Helena Paul and Ricarda Steinbrecher, African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses?; World Economic Forum, SAGCOT: Investment Blueprint.

[340] World Economic Forum, *SAGCOT: Investment Blueprint*.

[341] Helena Paul and Ricarda Steinbrecher, *African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses?* (EcoNexus, 2013); World Economic Forum, *SAGCOT: Investment Blueprint*.

[342] Helena Paul and Ricarda Steinbrecher, *African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses?* (EcoNexus, 2013); World Economic Forum, *SAGCOT: Investment Blueprint*.

characterised by large-scale commercial agribusinesses, including Kilombero Plantations Limited and Kilombero Sugar Company Limited, producing rice and sugar, respectively. These agribusinesses are discussed below. Kilombero Valley is also identified as the most fertile land in the Southern corridor.[343]

4.2.3 Examples of Cases in Tanzania

In Tanzania, different NAFSN projects are being implemented within the SAGCOT clusters. In this section, I discuss several of these projects in greater detail. These include the rice (Kilombero Plantations Limited) and sugar (Kilombero Sugar Company Limited) projects in the Kilombero cluster, the soybeans projects (Silverlands Tanzania Limited and Sao Hill) in the Ihemi cluster, and the sugarcane (Bagamoyo Agro EcoEnergy Limited) project in Bagamoyo. I will highlight the operations of the respective agribusiness to achieve the three SAGCOT goals; environmental sustainability, poverty eradication and food security. Where applicable, I will give a historical overview of how the projects evolved to large-scale commercial production. In addition, each action by the project proponents tied to the objectives of this thesis will be discussed. Therefore, the case study examples will identify the agribusiness involved, the model of engagement with the local communities, communication and information sharing procedures, engagement and involvement of women in each project, and a grievance handling mechanism.

4.2.3.1 Kilombero Plantations Limited

[343] Helena Paul and Ricarda Steinbrecher, African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses? (EcoNexus, 2013); World Economic Forum, *SAGCOT: Investment Blueprint.*

Kilombero Plantations Limited (KPL) started as a public-private partnership between the Rufiji Basin Development Authority (RUBADA) and Agrica Tanzania Limited.[344] Agrica Tanzania Limited is a subsidiary of UK-based Agrica.[345] It operates a rice-growing project in a 5818 hectares Mngeta Farm based in Kilombero District.[346] It borders Lukolongo, Mngeta, and Mkangawalo villages. KPL partnered with Syngenta from Swiss and Yara International from Norway to improve rice production through the involvement of local small-scale farmers. This collaboration targeted the introduction of new rice varieties in Kilombero and promoted increased use of fertilisers in agriculture.[347]

KPL traced its origin to 1986 when the Tanzanian government granted the farm to the Korea Tanzania Agricultural Company (KOTACO), jointly owned by the Korea and Tanzania governments), for rice production.[348] The construction of a 185 kilometres road by KOTACO ensured access to the farms and engaged in rice production on around 2,500 hectares, increasing the area's attractiveness to agribusinesses. The infrastructure reverted to RUBADA in 1993 after the Koreans deemed the project commercially unsustainable.[349]

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[344] RUBADA (Rufiji Basin Development Authority), established through The Rufiji Basin Development Act, 1975 is the Tanzania government's agency for developing the Rufiji river basin.

[345] Kilombero Plantations Limited (2010) Resettlement Action Plan: Development of Rice and Bean Cropping at Mngeta Farm, Kilombero Valley, Kilombero District, Morogoro Region, Tanzania" available at https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/KPL_Resettlement_Action_Plan-April-2010.pdf accessed on October 10, 2021.

[346] Kilombero Plantations Limited (2010) Resettlement Action Plan: Development of Rice and Bean Cropping at Mngeta Farm, Kilombero Valley, Kilombero District, Morogoro Region, Tanzania."; KPL is situated in the Kilombero Valley 450 kilometres from Dar es Salaam.

[347] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values*, (Dar es Salaam, 2017), pg 9 https://afjn.org/documents/2017/07/dislocation-of-tanzanians-from-their-land-by-corporations-impact-on-family-life-and-values-a-briefing-to-the-tanzanian-episcopal-conference-tec-dar-es-salaam-june-20-2017.pdf.

[348] Kilombero Plantations Limited (2010) Resettlement Action Plan: Development of Rice and Bean Cropping at Mngeta Farm, Kilombero Valley, Kilombero District, Morogoro Region, Tanzania."

[349] Rocio and Diaz-Chavez, "Report For Environmental Impact Statement: Redevelopment Of Rice & Bean Cropping Mngeta Farm, Kilombero Valley," The Oakland Institute, last modified September 2009,

The farm remained idle from 1994 to late 1999 when RUBADA leased the land to Kilombero Holding Company (KIHOCO), who farmed merely 400 hectares of the total land, with the remaining land used by settlers as early as 2005. RUBADA forced KIHOCO off the farm in August 2007 after they had accumulated five years' rent arrears. Consequently, settlers engaging in subsistence farming, including grazing livestock, gradually occupied the land as it was idle and used it for grazing livestock.[350] Agrica Limited acquired KPL and began operations in December 2007, finalising the legal transfer of title on Mngeta Farm in 2008. According to KPL, while fully irrigated, the Mngeta Farm can generate approximately 15,000 tons of milled rice and 30,000 tons of maize.[351]

Before KPL introduced rice intensification and improved agricultural production agenda to the small-scale farmers, agriculture was the primary source of livelihood in all Mngeta sub-villages within regions of residence.[352] Farming was primarily low-tech, where cultivation was done with minimal mechanisation and low input use.[353] The main crops produced included paddy, cassava, maize, banana, simsim, sweet potatoes, beans, groundnuts, and peas. These were for subsistence, and the surplus was sold.[354]

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https://wwwoaklandinstituteorg.webpkgcache.com/doc//s/www.oaklandinstitute.org/sites/oaklandinstitute.org/files/KPL_EIA-Sept.-09.pdf.

[350] Kilombero Plantations Limited (2010) Resettlement Action Plan: Development of Rice and Bean Cropping at Mngeta Farm, Kilombero Valley, Kilombero District, Morogoro Region, Tanzania."

[351] Rocio A. and Diaz-Chavez, "Redevelopment of Rice & Bean Cropping Mngeta Farm, Kilombero Valley."

[352] Oakland Institute, *Understanding Land Investment Deals In Africa*, (Tanzania: The Oakland Institute, 2011), https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_country_report_tanzania.pdf.

[353] Oakland Institute, *Understanding Land Investment Deals In Africa*, (Tanzania: The Oakland Institute, 2011.

[354] Oakland Institute, Understanding Land Investment Deals In Africa, (Tanzania: The Oakland Institute, 2011), https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_country_report_tanzania.pdf

When the KPL project began in 2011 with a planned investment over the project lifetime of USD 65,000,000 on 28,000 hectares of land with a 99-year lease, the company intended to employ approximately 315 people.[355] It further aimed to improve roads and establish a more favourable tax regime, thus boosting productivity and increasing participation in its commercialised smallholder program from 1,500 to over 5,000 farmer families who would supply it with rice. This would then improve the farmers' income. It also sought to improve the irrigation system to cover an area of over 3,000 hectares and construct biomass power plants.[356]

Kilombero Plantations Limited introduced the System of Rice Intensification (SRI) in collaboration with the Tanzanian government and USAID through farmer training.[357] The Future Agricultures Consortium identifies SRI as a combination of cheap crop management methods that contribute to agricultural growth and resilience to climate change within a community.[358] In addition, SRI is characterized by better water management practices that render continuous flooding unnecessary, the use of organic fertilizers, adopting pest control practices, a shorter seedling transplantation period, the use of fewer seedlings per hole and wider spacing between holes to avoid resource competition. The stated objective of SRI was to

[355] Kilombero Plantations Limited/ Organizations/ Grow Africa. https://www.growafrica.com/groups/kilombero-plantations-limited-kpl-agrica-tanzania. Accessed on 31/10/2018

[356] Kilombero Plantations Limited (2010) Resettlement Action Plan: Development of Rice and Bean Cropping at Mngeta Farm, Kilombero Valley, Kilombero District, Morogoro Region, Tanzania."

[357] Future Agricultures Consortium, "'SRI' in Kilombero Valley: Potential, Misconception and Reality," Future Agricultures, last modified January 25, 2019, https://www.future-agricultures.org/blog/sri-in-kilombero-valley-potential-misconception-and-reality/.

[358] Future Agricultures Consortium, "'SRI' in Kilombero Valley: Potential, Misconception and Reality," Future Agricultures.

reduce production costs and improve farm productivity, consequently enhancing the community's livelihoods through increased household income and food security.[359]

After introducing SRI to Kilombero, the process has benefited small-scale farmers who have gained knowledge of different rice farming practices. These practices enhance production as they improve the farmer's resilience to the changing climate or weather patterns and are best suited to changing local conditions such as reduced water availability. SRI training has benefitted farmers within 30km of the farm in 10 villages.[360] However, SRI encourages farmers to give up on traditional aromatic rice varieties and cultivate specific rice that grows faster. Farmers have resisted this as they claim that the locally available market favours the aromatic varieties. Aside from seed selection preferences, farmers have poorly adopted the SRI method because they deem it too labour-intensive and thus difficult to practice, as spending more time on the SRI method of cultivation would mean less time on the cultivation of food for subsistence.[361]

KPL and the out-growers had a contract farming agreement, which spelt out the terms and conditions of the relationship.[362] The out-growers live on their land, but what they grow and

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[359] Future Agricultures Consortium, "'SRI' in Kilombero Valley: Potential, Misconception and Reality," Future Agricultures, last modified January 25, 2019, https://www.future-agricultures.org/blog/sri-in-kilombero-valley-potential-misconception-and-reality/.

[360] Future Agricultures Consortium, "'SRI' in Kilombero Valley: Potential, Misconception and Reality," Future Agricultures, last modified January 25, 2019.

[361] Future Agricultures Consortium, "'SRI' in Kilombero Valley: Potential, Misconception and Reality

[362] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania' pg. 7 available at https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_Report_Irresponsible_Investment.pdf, p. 18

how they grow is spelt out in the contract. It further dictated that they could only sell their produce to KPL and how to arrive at the price.[363]

A report by the Oakland Institute has a sample contract from a past farming season. The contract explains that the company would give the out-grower a loan of USD 220 for exclusive use in rice production through the SRI farming model. The out-grower was required to spend USD 105 to buy inputs, including rice seedlings, weeding implements and fertiliser from specified vendors.[364] The contract also stipulated the quality of paddy to be supplied to the company. The out-grower was to begin loan repayment with the first ten instalments of USD 8 falling due two weeks after the loan. The balance would be paid in kind as paddy. Finally, the contract stipulated the price of the paddy and indicated that it was non-negotiable.[365]

Despite these terms of the contract that disproportionately favour KPL, many local farmers were optimistic that the arrangement would be profitable for them. There was a guaranteed market for their produce, and at the time, they hoped to fetch a better rate than the prevailing market price. The company had trained them in new farming methods, and they were hopeful of higher yields. Some of the out growers' farms yielded more than KPL's farms.[366]

When the farming season began, the out-growers viewed the company as having defaulted on the earlier undertaking to fix the price based on the market value of the paddy. This

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[363] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.' According to the Oakland report, the locals disagree with some of the obligatory practices under the contract such as use of fertilizers since the area has high soil fertility. However, they are obligated to honour it so that they are not held to be in breach.

[364] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.'

[365] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania,' p 18

[366] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.'

compromised their ability to pay their debts, leading to tension between them and the company. Therefore, the increase in production did not necessarily translate to an increase in their income levels, and many opted out of the scheme after the first year.[367]

When KPL started operations in 2007, local communities occupied about 25% of the farm. To facilitate a better understanding of the dynamics behind this continued occupation, KPL commissioned a study on those who would be impacted by the project, including those who had already moved at the request of local government officials.[368]

Before KPL commenced operations, it had identified Project Affected Persons (PAPs) whose livelihoods would be affected, including squatters who would be evicted to pave the way for its operations. It consequently prepared a Resettlement Action Plan (RAP), which identified 230 households with a population of 1,258 people as those that would be negatively impacted, including loss of their homes, farmland, access to water supply, compromised livelihoods or loss of crops to pave the way for its operations.[369] The RAP proposed measures for reducing these impacts, regardless of whether they had a legally sound claim to the right. These measures included compensation for the loss of crops, construction of new houses and allocation of alternative plots for farming. The RAP also stated that "care will be taken to find good individual solutions for each affected household so that none of them is forced to accept standard uniform solutions that they are unsatisfied with."[370] The RAP reiterated that it was

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[367] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.'

[368] Oakland Institute, *UNDERSTANDING LAND INVESTMENT DEALS IN AFRICA*, (Tanzania: The Oakland Institute, 2011.

[369] Kilombero Plantations Limited (2010) Resettlement Action Plan: Development of Rice and Bean Cropping at Mngeta Farm, Kilombero Valley, Kilombero District, Morogoro Region, Tanzania."

[370] Kilombero Plantations Limited (2010) Resettlement Action Plan.

consistent with international guidelines stipulating that where displacement was unavoidable, it should be done in a manner that restored and improved the livelihoods of those affected.[371]

According to Oakland Institute, despite KPL's claim to have adopted World Bank Guidelines on Involuntary Resettlement, the practice on the ground was different. Oakland Institute observed that land and housing were undervalued for compensation. For instance, the majority of the farmers (who had been squatters) in the Kichangani/Isago and Mbasa, which are sub-villages of Mngeta farm, owned between 5-10 acres of land before KPL commenced operations. Additionally, those displaced to pave the way for the project were not given any option of alternative land and had to contend with the housing offered by the company. The report quoted one village describing the process; thus, "the whole process has been like a dictatorship."[372] Another report specifies that land was compensated at 10 Tanzanian shillings per acre.[373] Villagers in Mbasa, one of the areas where those affected were resettled, were not satisfied with the housing quality and claimed that the area was not conducive due to flooding during the rainy season. The company had committed to ensuring those resettled would receive sub-titles for their new houses.[374] However, some farmers identified that they were resettled with no issuance of title deeds and were resettled in a small area and felt they were in refugee

[371] Kilombero Plantations Limited (2010) Resettlement Action Plan.

[372] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.' pg. 14

[373] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values*

[374] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.' pg. 14

camps.[375] Additionally, not all households displaced had been resettled and had to rent land for farming, with others providing cheap labour as they could not afford to buy or lease land.

Although the out-growers' production per hectare increased and surpassed the KPL's farm in production, this did not translate to increased income as the contract arrangement left them indebtedly. Some farmers claim to have been forced to sell household items to pay their debts.[376] Moreover, the promise of employing the local population did not yield much due to the temporary nature of the employment and low salaries, even though the company paid them about the minimum wage requirement.[377]

Some people from the local community affected by KPL felt that the company was not transparent in providing them with information about the project. The company dealt with the local administration officials and village elders who were not keen on ensuring the information trickled down to the project-affected persons.[378] The affected persons, for instance, had agreed with the company that they would be compensated through established financial institutions or direct cash payment for accountability. However, the company gave the cash to local leaders for onward transmission to those impacted, leaving room for manipulation.[379]

There have been several points of conflict between KPL and the local community. During the setting up of the irrigation infrastructure, for instance, the locals alleged that the company

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[375] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values.*

[376] Kilombero Plantations Limited (2010) Resettlement Action Plan; Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.'

[377] Kilombero Plantations Limited (2010) Resettlement Action Plan; Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.'

[378] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values*, (Dar es Salaam, 2017).

[379] AFJN and Rev. Aniedi Okure,, Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values.

had closed off roads cutting through the plantation, forcing the villagers to take a much longer route. This inconvenience led to protests, including blockades by the villagers to prevent access to KPL's premises. In addition, farmers alleged that KPL sprays pesticides with helicopters that destroy their harvest.[380] The villagers have also raised concerns about the impact of the use of organic fertiliser, pesticides and herbicides on soil and water, especially during the rainy season when there is surface-run off from KPL and out-growers' farms.[381] KPL maintains that it upholds high standards in the use of agrochemicals, and it refrains from using them during the rainy season. Despite this information, the fear of soil and water pollution persists as a grievance by the local community. These disputes have not been conclusively resolved and remain a point of tension between the local community and the company.[382] There was a lost opportunity to establish an effective grievance mechanism which could have helped with fact-finding to assess and mitigate risk.

4.2.3.2 SaoHill

SaoHill is jointly owned by Green Resources from Norway and Africa Agriculture Development Company (AgDevCo) and is the primary investor on land in the Ihagaha suburb, Muwimbi village, located in the Iringa district.[383] Green Resources focuses on forest development and wood processing. Green Resources received funding from World Bank's International Finance Corporation. The funding was to plant 8000 hectares of forest plantation to create 500 permanent jobs and 5000 seasonal jobs in Tanzania by 2011. In addition, it would

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[380] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations.*

[381] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.' pg.24

[382] Oakland Institute (2015), 'Irresponsible investment: Agrica's broken development model in Tanzania.'

[383] Denis Mpagaze, "Large Scale Farming: Feeding the Poor or Fooling the World? Voices from the SAGCOT Zone!"

allow for 'carbon trading' with the forest plantations as a carbon sink.[384] Therefore, the company would sequester roughly 700,000 additional tons of carbon emissions annually.[385] AgDevCo, on the other hand, has contributed to the development of the SAGCOT initiative and receives funding from UK Department for International Development and the Dutch Directorate-General for International Cooperation.[386]

In 2010 at Ihagaha Suburb in Iringa, SaoHill was fenced off to develop the first commercial maize and soya production establishment in the area through irrigation.[387] This need was occasioned by the increasing demand for soya locally and internationally, which was viewed as an opportunity to link many smallholders in the area to this value chain and improve their income. An out-grower scheme was established to develop soya production in the area. However, maize and soya production was for animal feed, not human consumption.[388]

In 1975, a local Tanzanian owner purchased the land where SaoHill is based.[389] Even after this acquisition, the local community continued to coexist with this investor as he had

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[384] Green Resources has been involved in a similar carbon-trading initiative in Uganda where local communities have raised human rights concern, include its impacts on their land rights. See REDD-Monitor, "Carbon Colonialism: Green Resources' Industrial Tree Plantations in Uganda Leave Communities Facing "An On-Going Hunger Crisis"," Oaklandinstitute.org, last modified December 23, 2017, https://www.oaklandinstitute.org/carbon-colonialism-green-resources-industrial-tree-plantations-uganda-leave-communities-facing-going.

[385] World Bank Group, *Supporting Sustainable Forestry in Tanzania*, accessed October 11, 2021, https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/green_resources_investment.

[386] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values*, (Dar es Salaam, 2017), pg. 10 https://afjn.org/documents/2017/07/dislocation-of-tanzanians-from-their-land-by-corporations-impact-on-family-life-and-values-a-briefing-to-the-tanzanian-episcopal-conference-tec-dar-es-salaam-june-20-2017.pdf.

[387] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values*, (Dar es Salaam, 2017).

[388] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values*.

[389] Hannah Twomey, Christina Schiavoni & Benedict Mongula. "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective." (2015)

earmarked some of the lands as access roads for villagers to pass through to gather firewood and mushrooms and access the nearby river. However, Green Resources fenced off the land when it obtained a lease for 99 years from the government in 2010. Residents interviewed by Misereor in 2015 said that this land transfer was done without consulting the community.[390] They claimed that they had depended on this land for grazing and as pathways to forage for drinking water, fruits, firewood, and medicinal herbs.[391] This was curtailed as the local community could no longer access natural resources crucial to their livelihoods. Paths leading to the river and livestock pasture have also been blocked.[392] Children, therefore, must walk greater distances than before to reach their school.[393] This situation has been exacerbated because at least five other major investors have acquired the adjacent land.[394] The village of Muwimbi is blocked off by six different investors, including Ihemi cluster, Oleta Farm, Green Resources, Solanze Farm, Sao Hill Agricultural Cooperated and Clinton Mafasio.[395]

According to SaoHill proponents, developing a commercial farm hub meant putting more land under agriculture and significantly improving the yields. It would also lead to an

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https://www.iss.nl/sites/corporate/files/39-ICAS_CP_Twomey_et_al.pdf; Africa Faith and Justice Network, 'Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values (2017)pg. 10

[390] Misereor , Hannah Twomey, Christina Schiavoni & Benedict Mongula. "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective.

[391] AEFJN, "Impact of Large Scale Farming in Tanzania," *YouTube,* minute 10.

[392] AEFJN, "Impact of Large Scale Farming in Tanzania," *YouTube,* minute 10.

[393] Denis Mpagaze, "Large Scale Farming: Feeding the Poor or Fooling the World? Voices from the SAGCOT Zone!"

[394] Misereor, Hannah Twomey, Christina Schiavoni & Benedict Mongula 'Impact of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective' 2015; AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values.*

[395] Hannah Twomey, Christina Schiaavoni, and Benedict Mongula, "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania. A Right to Food Perspective," Misereor, last modified May 2015, https://www.researchgate.net/publication/308795050_Impacts_of_large-scale_agricultural_investments_on_small-scale_farmers_in_the_Southern_Highlands_of_Tanzania_A_Right_to_

improvement in infrastructure, such as electrification, as well as a train over 350 smallholders in soya production. Nonetheless, even though investors provided temporary employment to people, there have been concerns about violating labour rights.[396] For instance, the working population spends most of their time producing for the investors, thus less food for sustenance. A study conducted by Misereor reveals casual labour and contractual agreement types of employment at SaoHill, which are unreliable and do not offer any social security cushioning. Employees on contract are employed on a 3-year contract with employees earning about 300,000Tshs, which is above the national minimum wage. However, the estimated number of employees under contract in 2015 was only 25, of whom only eight were from Muwimbi.[397]

In addition, SaoHill blocked the villagers' means of entry to the fields for sustenance.[398] Therefore, the local community experienced a shortage of physical stock of food to a large extent, forcing them to periodically purchase food commodities like rice from Iringa town, which is far.[399] Lastly, village leaders have tried reaching out to the company several times to resolve the issue of access to the former grazing areas without success.[400] However, leaders

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[396] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values*, pg. 11.

[397] Misereor, Hannah Twomey, Christina Schiavoni & Benedict Mongula 'Impact of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective' 2015, pg. 34.

[398] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values.*

[399] Misereor, Hannah Twomey, Christina Schiavoni & Benedict Mongula 'Impact of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective' 2015, pg. 33.

[400] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values,* pg. 11.

from the company fail to attend meetings when invited, and when they attend, they do not honour their commitments.[401]

4.2.3.3 Kilombero Sugar Company Limited

The ownership of Kilombero Sugar Company(KSC), which is the leading sugar miller in Tanzania, comprises a 55% stake by parent company Illovo's, 25% by the Government of Tanzania, and 20% by UK-based ED&F Man Group. Tanzania's operations are mainly in Kilombero and Kilosa districts within Rufiji Delta. [402] KSC acquired the land and facilities used in its operations from the Tanzanian government in the 1990s. KSC is the largest of Illovo's operations, and the company views itself as the leading sugar producer in Tanzania, mainly producing raw sugar.[403] KSC uses an estate-out-grower model with two plantations and approximately 8,000 growers represented by 19 different grower associations.[404] Kilombero Valley, where KSC operations are based, is surrounded by the Udzungwa Mountains National Park to the west and Mikumi National Park and Selous Game Reserve to the east. Before the company commenced operations, residents met their livelihood needs by farming cash and food crops. They grew sugarcane, rice, maize, and vegetables. They also grazed cows, goats, and sheep primarily.[405] In this part of the Kilombero valley, villages developed during the 20th

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[401] AFJN and Rev. Aniedi Okure, *Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values,* pg. 11.

[402]Case Study: Kilombero Sugar Company Ltd. In Tanzania. Prepared for Landesa's Responsible Investments in Property and Land (RIPL) Project February 2017 pg.4 available at https://www.landesa.org>uploads>KSCL

[403]Case Study: Kilombero Sugar Company Ltd. In Tanzania. Prepared for Landesa's Responsible Investments in Property and Land, page 32

[404] "…**estate out-growers model**, the investor operates its own estate which it uses to train surrounding out-growers and to manage the risk of non-supply from outgrowers." UNCTAD-World Bank. 2021. "Choosing Appropriate Business Models: Responsible Agricultural Investment (RAI)". *Olc.Worldbank.Org*. Accessed October 14. https://olc.worldbank.org/system/files/Choosing%20the%20Right%20Business%20Models%20%283%29.pdf.

[405] Case Study: Kilombero Sugar Company Ltd. In Tanzania Prepared for Landesa's Responsible Investments in Property and Land (RIPL) Project February 2017 pg.31.

Century as immigrants arrived through *ujamaa* to work for the TAZARA railway, Sugar Company, and other local businesses.[406]

In the 1960s, recognising Kilombero valley's agricultural potential, the Tanzanian government established a 1700 acres sugarcane plantation and KSCL. The company was nationalised in 1967.[407] The sugarcane plantation acted as a nucleus surrounded by out-growers. The government consolidated scattered land holdings to improve sugarcane production through villagisation and collective farming.[408] This resulted in the introduction of block farms that brought the scattered farmers together. In the 1970s, the government invested more funds into the project to increase the acreage under cultivation. However, over the years, the output by out growers declined, and operation costs increased, forcing the government to privatise KSCL in 1998.[409]

Since KSCL's privatisation, small-scale farmers have benefitted and been harmed by its operations. For instance, land is scarce in the Kilombero area.[410] Though some reasons are

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[406] Boesen, Jannik. "Tanzania: from ujamaa to villagization" In *Towards Socialism in Tanzania* edited by Bismarck Mwansasu and Cranford Pratt, 125-144. Toronto: University of Toronto Press, 2019. https://doi.org/10.3138/9781487577902-007

[407] Rebecca Smalley, Emmanuel Sulle, and Lameck Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014), https://media.africaportal.org/documents/FAC_Working_Paper_106_1.pdf.

[408] Both villagization and collective farming were under the Ujamaa policy, a socialism agenda by the president of the time. Villagization obliged farmers to produce what the state demanded. Collective farming involved villagers farming collectively on communal farms and sharing profits according to labour; Giuliano Martiniello and Ricardo Azambuja, "Contracting Sugarcane Farming in Global Agricultural Value Chains in Eastern Africa," *Debates, Dynamics, and Struggles* 8, no. 1-2 (July 2019): https://doi.org/10.1177%2F2277976019851955; Smalley, Sulle and Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014).

[409] Case Study: Kilombero Sugar Company Ltd. In Tanzania. Prepared for Landesa's Responsible Investments in Property and Land.

[410] Case Study: Kilombero Sugar Company Ltd. In Tanzania. Prepared for Landesa's Responsible Investments in Property and Land.

independent of KSCL actions, such as dividing land through inheritance, the company exacerbated this by increasing the number of out-growers to boost sugarcane production. The cost of land in the area increased, forcing some members of the local community to move to the city to search for alternative means of livelihood. Others erected informal settlements in wildlife-protected areas. In addition, the increased out-grower numbers led to a surplus of sugarcane and harvesting delays. Some of the harvesting delays are exacerbated by the corrupt out-grower associations who prioritise the harvest of corrupt elites at the expense of small-scale farmers, especially women.[411] Moreover, farmers must travel long distances to cultivate food crops for sustenance.[412]

KSCL did not consider the gender dimensions of its operations, especially in relation to access to land for cultivation. Even though women are not denied access to land, studies reveal that women-headed households own smaller and fewer out-grower plots.[413] In addition, deforestation has been conducted extensively to provide access to land for sugarcane production, forcing women to walk long distances to collect firewood. Also, KSCL entails a shift from food to cash crop cultivation; therefore, villagers have had to lease distant lands to provide sustenance for their families. This was more difficult for women-headed households as it was difficult for the women to find caretakers.[414]

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[411] Smalley, Sulle and Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014).

[412] Smalley, Sulle and Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014).

[413] Smalley, Sulle and Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014).

[414] Smalley, Sulle and Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014).

Women have also been disenfranchised in accessing capital and other means of production as out-growers. A study by Landesa observes that "…production in women-headed households is reported as lower as have less access to inputs such as fertiliser; limited labour and lower productivity on account of being unable to share the workload with a spouse; fewer leadership opportunities; and, in some situations, suffer malnutrition."[415] Lastly, neither the local government office, KSCL, nor out-grower associations had data on the number of women out-growers or women-headed households that were out-growers, making it difficult to assess the impact of their operations on women.[416]

For out-growers to work with KSCL, they had to join grower associations. Out-growers would join one of 15 farmer associations registered with the Tanzania Sugar Board (TSB).[417] The associations then enter a Cane Supply Agreement (CSA) with the company. The Cane Supply Agreement (CSA) dictated the farmers' produce would only be sold to KSCL. Out-growers raised the initial cost of seed cane and other inputs. A sample 2013-2016 CSA spells out that KSC pays out-growers depending on their delivered cane's tonnage and sucrose content and deducts the expenses incurred, such as harvesting and transport.[418] The price per ton paid

[415] Case Study: Kilombero Sugar Company Ltd. In Tanzania Prepared for Landesa's Responsible Investments in Property and Land (RIPL) Project.

[416] Case Study: Kilombero Sugar Company Ltd. In Tanzania Prepared for Landesa's Responsible Investments in Property and Land (RIPL) Project.

[417] Case Study: Kilombero Sugar Company Ltd. In Tanzania Prepared for Landesa's Responsible Investments in Property and Land (RIPL) Project, pg. 3

[418] PLAAS, *Study of sugarcane outgrowing at Kilombero*, (Tanzania: Future Agricultures, 2015), pg. 5 https://www.future-agricultures.org/wp-content/uploads/2015/05/Kilombero-stakeholder-report_English-Version2.pdf.

to farmers is roughly calculated at the start of each season and adjusted at the end of the season, depending on the actual sale price. [419]

These out-grower associations charge high deductions and fees to provide farm inputs to the farmer and harvest the produce. Moreover, some associations favour the elite by prioritising their harvest.[420] Prioritising the harvests of elites affects other farmers' income as KSCL pay depends on the produce's sucrose content, which decreases when the harvest is delayed.[421] The evident lack of individual contracts contributes to a lack of communication between the out-growers and KSCL. However, there is also no evidence to suggest that the company attempted to communicate with the out-growers. The company lacks avenues for the communities and locals to initiate dialogue, despite their grievances, such as calculating compensation for sugarcane delivered. Instead, KSCL negotiates with the grower associations whose representation does not necessarily include women. This failure to meet the local communities leaves KSCL unaware of the corruption within out-grower associations that disadvantages individual farmers. This includes associations' practice of demanding bribes to prioritise the harvests of those who pay bribes. Only the economic elite can bribe, which with delays affects the sucrose content of the produce of the rest, thereby reducing their earnings.[422]

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[419] PLAAS, *Study of sugarcane outgrowing at Kilombero*, (Tanzania: Future Agricultures, 2015), pg. 5 https://www.future-agricultures.org/wp-content/uploads/2015/05/Kilombero-stakeholder-report_English-Version2.pdf

[420] Case Study: Kilombero Sugar Company Ltd. In Tanzania. Prepared for Landesa's Responsible Investments in Property and Land.

[421] Smalley, Sulle and Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014).

[422] Case Study: Kilombero Sugar Company Ltd. In Tanzania. Prepared for Landesa's Responsible Investments in Property and Land.

On the positive side, some reports suggest that increased out-grower numbers have improved livelihoods due to the increased income among participating farmers. KSCL has been reported to "…provide long-term livelihoods improvements and attractive employment opportunities for out-growers, which has resulted in farmers migrating to the region from around the country."[423] Furthermore, the income participating farmers receive from sugarcane production has enabled them to "… fund new homes, other crops, childhood education, and other livelihood improvements. As part of its philanthropy and corporate social responsibility outreach, the company has supported local communities through rural road development, health, education, [out-grower] support, and environmental and conservation initiatives."[424]

However, these benefits have been short-lived. In recent years, the out-growers have lamented that income from sugarcane has declined due to a lower selling price. In addition, their yields have recorded a sucrose level of less than the benchmark of 10%. An increase in incidents of disease and pests occasions this. In other instances, the company takes long before harvesting mature sugarcane leading to a loss of income.[425]

There have been changes over time in the amount and timeliness of payment by KSCL to farmers, mainly due to changes in supply. For example, by 2005, the uncontrolled increase in out-grower numbers led to the over-production of sugarcane more than the KSCL milling industry's capacity. As a result, KSCL introduced harvesting schedules leading to losses among farmers, increasing the range of risks in sugarcane production to earn a livelihood. In

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[423] Case Study: Kilombero Sugar Company Ltd. In Tanzania. Prepared for Landesa's Responsible Investments in Property and Land.

[424] Future Agricultures and PLAAS, Opportunities and Challenges in Tanzania's Sugar Industry: Lessons for SAG COT and the NEW Alliance 3 (2014), available at http://www.plaas.org.za/sites/default/files/publications-pdf/Policy_Brief_076.pdf.

[425] PLAAS, *Study of sugarcane outgrowing at Kilombero*, (Tanzania: Future Agricultures, 2015), pg. 5

2013, KSCL began delaying payments claiming that the importation of cheaper sugar had primarily affected its revenue. When farmers learned about this drop in revenue, they complained to their respective out-grower associations. However, most farmers do not have access to CSA and are unaware of its contents. They were, therefore, unaware of their contractual rights and obligations.[426]

This section looks at how KSCL's operation impacted the Namwawala village community. The project area is estimated to be 9,272.54 hectares, which accounts for 62% of the whole land of the affected villages.[427] According to one of the villagers who had resided in the area for a considerable length of time, the investor came to the limelight in 2005 when villagers were called to discuss the application for a land lease by the investor. The local community refused to endorse the investment due to a lack of transparency in establishing the said investment and the failure to engage in participatory decision-making, especially concerning land. Despite their protests, the government insisted the project would continue, and the villagers would be displaced to pave the way for agribusiness. The villagers were ordered to return to where they had come from and leave the land for the investor.[428] The question of land ownership and the fate of those displaced to pave the way for the project was not dealt with, and neither the company nor the government provided alternative land for resettlement.[429]

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[426] Smalley, Sulle and Malale, *The role of the state and foreign capital in agricultural commercialisation: The case of sugarcane outgrowers in Kilombero District, Tanzania*, (https://www.future-agricultures.org/, 2014).

[427] Land Rights Research and Resources Institute and Legal and Human Rights Centre, 'Fact Finding Mission Report on the Prevailing Land Dispute at Namwawala Village in Kilombero District, Morogoro Region (2009) available at https://landportal.org/file/20600/download?token=XFjUFF78 (hereafter called Fact Finding Mission Report)

[428] Fact Finding Mission Report

[429] Fact Finding Mission Report. The District Administration claimed that the land would be acquired through Presidential acquisition. This was found questionable since the necessary procedures were not adhered to. Presidential acquisition of land is regulated under The Land Acquisition Act, of 1967, which entails survey of the

There is no evidence of engagement with the community or a resettlement plan in shifting ownership of the disputed land in Namwawala.[430] The land in dispute had earlier been allocated to the villagers by the government of Namwawala through the usual legal procedures. In a bid to allocate the same land to the company once it made an application to the government, the valuation process began in 2009 involving land, houses, plots, and crops. However, government officials did not clarify several issues, including the entity responsible for compensating them and offering them substitute land after displacement.[431] Some villagers thus consequently declined to participate in the valuation process, protesting the lack of fairness in it.[432]

This dispute in Namwawala village negatively affected many villagers' social and economic aspects.[433] At the social level, the access to education for 200 pupils whose school was built on disputed land was compromised, and it was unclear if the parents would get substitute land for resettlement. The village leaders and their subjects were in total disagreement over the issue, while family instability was evident in the areas affected as some parents were often in hiding for fear of arrest by government agents for opposing the project. On the economic front, agricultural production declined as most of the land was left uncultivated. People feared that their crops would be damaged to pave the way for agribusiness as government officials had ordered local communities not to cultivate permanent crops in the area, thus creating a food shortage.

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proposed land, giving notice of the proposed acquisition and then taking possession after compensation and due notice.

[430] Fact Finding Mission Report.

[431] Fact Finding Mission Report

[432] Fact Finding Mission Report

[433] Fact Finding Mission Report.

4.2.3.4 Bagamoyo Agro EcoEnergy Limited

Agro Ecoenergy Bagamoyo is a Swedish –owned company that proposed a large-scale sugar cane plantation and ethanol project in the Bagamoyo District of Tanzania. The African Development Bank, International Fund for Agricultural Development & Swedish International Development Agency supported the project financially. In May 2013, the company secured a 99 years lease on 20,374 hectares of land from the Tanzanian government.[434] The project would push small-scale producers off their land to develop a 7800-hectare sugar plantation and processing facility to source sugar from out-growers farming another 3,000 hectares of the land.[435] The plantation aimed to produce one million tonnes of sugar cane annually for food and energy production. Production was expected to start in 2016.[436]

The way the project was designed would have led to the displacement of the local community. The land had already been earmarked for the project, and many families had already been informed that they would soon be involuntarily resettled to pave for the business. A study by ActionAid reveals that the residents of Bagamoyo affected by the project were informed. However, Ecoenergy did not disclose information that was essential in decision-making, such as the permanent impacts of the project on their livelihoods, access to food and land rights. Moreover, Agro Ecoenergy conducted an involuntary resettlement, thus, the displacement of people, mainly farmers, from some or all of their land and homes without an

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[434] The farm is located 70km North of Dar es Salaam; ActionAid, Mark Curtis, and Richard Mbunda, *Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania*, (actionaid.org, 2015), https://actionaid.org/sites/default/files/stopecoenergy.pdf.

[435] ActionAid, Mark Curtis, and Richard Mbunda, *Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania.* Action Aid is a Civil Society Organization in Tanzania.

[436] ActionAid, Mark Curtis, and Richard Mbunda, *Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania.*

offer of a choice of whether to be resettled or not but only a choice of whether to receive compensation in cash or land for being resettled.[437] In addition, the company's land acquisition and resettlement plan was not publicly available. Some farmers complained that there was no binding commitment involved in resettlement, and in some instances, the farmers were resettled on less fertile land.[438]

Second, the company proposed employing the out-grower and the block farms model. It targeted around 1500 families to supply 300,000-400,000 tonnes of sugarcane per year by forming about 25-35 block farms. Groups of 50 smallholder farmers would create their own out-grower company financed through loans advanced through guarantees by the company. The loans would be repaid in 7 years before they could make a profit. Before the lapse of the seven years, farmers would earn income from their labour. Based on Tanzania's minimum wage, these profits were estimated to be low and incapable of supporting the livelihoods of the out-growers. Nonetheless, this detailed impact of the project on the benefits and costs of adopting the model was not communicated to the farmers, as revealed by ActionAid's research.[439] For instance, despite Ecoenergy's promise of profitability, farmers would have little bargaining power when procuring bank loans or determining the cost of sugarcane sold to the company.[440]

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[437] ActionAid, Mark Curtis, and Richard Mbunda, *Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania.*

[438] Kizito Makoye, "Villagers Spared Eviction As Tanzania Halts $500 Million Energy Project to Save Wildlife," U.S, last modified June 6, 2016, https://www.reuters.com/article/us-tanzania-investment-wildlife/villagers-spared-eviction-as-tanzania-halts-500-million-energy-project-to-save-wildlife-idUSKCN0YS20T.

[439] ActionAid, Mark Curtis, and Richard Mbunda, *Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania.*

[440] ActionAid, Mark Curtis, and Richard Mbunda, *Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania.*

Third, there were claims of inconsistency between information shared by Ecoenergy and that obtained from government sources. For instance, the company claimed that the government of Tanzania would own 25% of the company's shares. ActionAid determines that for the first 18 years of the project's life, the government would own only 10% of the company and would only own 25% in the year nineteen.[441]

Ecoenergy responded to some of these claims. Concerning displacement, the company claimed that "no one person had signed off on the resettlement package had been relocated, displaced, moved or evicted nor has had their livelihood stopped, whether eligible or ineligible at the time of responding."[442] It added that its Resettlement Action Plan would adhere to the IFC Performance Standards on Land Acquisition and Involuntary Resettlement that allow involuntary settlement. Therefore, the farmers had no say in whether or not they were resettled but in how they would be resettled. In addition, to the claims on the land being of poor quality, the company responded that the land was located farther away from the water sources; however, the farmers would have access to irrigation serviced by the company's out-grower farms. Lastly, the company stated that even though the out-growers would have incurred debt, their participation in the programme would be voluntary and would have followed the development of sustainable business plans.[443]

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[441]Columbia Center on Sustainable Investment, "Not So Sweet: Tanzania Confronts Arbitration over Large-Scale Sugarcane and Ethanol Project; Furthermore, the company overlooked its effect on the environment. It had leased 3000 hectares of land that fell within Saadani National Park. This was the main contributing factor to the project being stopped in 2016. However, the company now seeks arbitration for being stopped.

[442] BHRRC, "Bagamoyo EcoEnergy's Response," Business & Human Rights Resource Centre, last modified March 31, 2015, https://www.business-humanrights.org/en/latest-news/bagamoyo-ecoenergys-response/.

[443] BHRRC, "Bagamoyo EcoEnergy's Response," Business & Human Rights Resource Centre, page 3.

However, in January 2015, a parliamentary committee ordered the recovery of 3000 hectares of land leased to Agro Ecoenergy categorised under Saadani National Park.[444] It is reported that in 2016, the Ecoenergy project was halted, leading to an arbitration claim against the government of Tanzania by the four companies involved in the Ecoenergy project, including Agro EcoEnergy, African Development Bank, International Fund for Agricultural Development and the Swedish International Development Agency.[445]

4.2.3.5 Silverlands Tanzania Limited (Silverlands)

This is an agricultural investment project based in Ludodolilo within the Ihemi cluster whose main sponsor is Silver Street Capital, based in the UK. The investment is two-fold, with 2200 hectares for soya beans and maize cultivation and 673 hectares for poultry farming.[446] Additional funders include Caritas International, the Clinton Foundation, Melinda Gates Foundation, and World Bank. [447]

The poultry farm largely depends on the success of soya bean cultivation in Tanzania. In 2014, Silverlands built a soya processing plant to process soya beans into a protein component

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[444] Columbia Center on Sustainable Investment, "Not So Sweet: Tanzania Confronts Arbitration over Large-Scale Sugarcane and Ethanol Project," State of the Planet, last modified September 20, 2017, https://news.climate.columbia.edu/2017/09/21/not-so-sweet-tanzania-confronts-arbitration-over-large-scale-sugarcane-and-ethanol-project/.

[445] Kaitlin Cordes and Jesse Coleman, "Agro EcoEnergy Sues Tanzania After Govt. Cancels Project Due to Concerns over Human Rights Impacts," Business & Human Rights Resource Centre, last modified September 22, 2017, https://www.business-humanrights.org/en/latest-news/agro-ecoenergy-sues-tanzania-after-govt-cancels-project-due-to-concerns-over-human-rights-impacts/

[446] Gideon Hartmann, Innocent Mwaka, and Peter Dannenberg, "Large investments, small farmers: A financialisation perspective on value chains in a development corridor," *Development Southern Africa* 38, no. 1 (2020): doi:10.1080/0376835x.2020.1799758.

[447] Gideon Hartmann, Innocent Mwaka, and Peter Dannenberg, "Large investments, small farmers: A financialisation perspective on value chains in a development corridor," *Development Southern Africa* 38, no. 1 (2020): doi:10.1080/0376835x.2020.1799758.

used in animal feeds.[448] Silverlands adopted the out-grower model to support both investments. The small-scale farmers in the out-grower model would provide raw materials for feed production; therefore, they had to adapt to seed varieties that would match the company's demands.[449]

Silverlands operations have affected small-scale farmers in the region in various ways. First, land occupied by Silverlands was taken without the prior and informed consent of residents. As a result, the farmers had no more land to cultivate or even build better residential houses but had to share the 'little land' remaining.[450] In addition, the farmers claimed that the land they had resettled in was inhabitable, especially during the rainy season.[451]

It is claimed the company exacerbated rural-urban migration as some displaced local small-scale farmers have moved to cities in search of non-existent jobs. Those left behind the claim to be unproductive, hence lacking sustainable means of livelihood. This is because the company left the locals with land unsuitable for agricultural production.[452] The company was involved in logging trees that the villagers claim ownership of to clear space for cultivation. Consequently, the villagers, especially women, are forced to walk long distances for

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[448] *Silverstreet Capital Annual impact and ESG report – the Silverlands funds*, (Tanzania: Silverstreet Capital, 2018), https://static1.squarespace.com/static/5ce287fecd731b0001047515/t/5d15d4aa5ecd1700017ce40b/1561711936757/high+res+-+2018+Annual+ESG+Review+short+%281%29-compressed.pdf.

[449] Gideon Hartmann, Innocent Mwaka, and Peter Dannenberg, "Large investments, small farmers: A financialisation perspective on value chains in a development corridor."

[450] AEFJN, "Impact of Large Scale Farming in Tanzania," *YouTube*, January 25, 2017, https://youtu.be/cBO9Oe8BUGY, minute 4 and 5.

[451] AEFJN, "Impact of Large Scale Farming in Tanzania," *YouTube,* minute 6.

[452] AEFJN, "Impact of Large Scale Farming in Tanzania," *YouTube,* minute 7.

firewood.[453] Finally, when the villagers complain to the authorities, their claims are overlooked because Silverlands occupies the land lawfully.[454]

4.3 NAFSN in Mozambique

Mozambique is on the South East Coast of Africa, along the Indian Ocean coastline. The discovery of large deposits of coal and other mineral resources has attracted foreign investments in the country for mineral ore extraction and processing of minerals. Agriculture is the principal economic activity, contributing up to 23.4% of the country's GDP and 77% of the total population, depending on the sector for livelihoods.[455] Despite the reliance on the sector, less than 10% of the arable land in Mozambique is used. Also, the cultivation is done in flood-prone or drought-prone areas contributing to the vulnerability of the sector. In Mozambique, the land is state-owned.[456] The legal title (DUATs) is presented for proof or testimonial evidence by the men and women from local communities provided for the use and enjoyment of land in the country.[457]

The most fertile land in Mozambique is located in the north and, therefore, the section where most of the country's agricultural production is based. The main crops grown in the country are maize, cassava and beans. They occupy 60% of the arable land under cultivation in Mozambique.[458] 95% of the agricultural production in the country is a result of small-scale

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[453] AEFJN, "Impact of Large Scale Farming in Tanzania," *YouTube,* minute 8.

[454] AEFJN, "Impact of Large Scale Farming in Tanzania," *YouTube,* minute 11.

[455] "Demograficas E Indicadores Sociais — Instituto Nacional De Estatistica," INE Destaques — Instituto Nacional De Estatistica.

[456] Mozambique - Context and Land Governance | Land Portal. https://landportal.org/node/38418

[457] African Centre for Biodiversity, Agricultural Investment Activities in the Beira Corridor, Mozambique: Threats and Opportunities for Small-scale farmers

[458] African Centre for Biodiversity, Agricultural Investment Activities in the Beira Corridor

farming. The country's adoption of the commercialisation and modernisation of agricultural production, including seed selection, mechanisation and use of agrochemicals, is low. However, the production of maize in the country is not enough to sustain the population; hence a considerable amount is imported to meet local demand. Other cash crops include rice, cotton, tobacco, cashew nuts and sugar cane.[459]

To promote agricultural development, Mozambique adopted a 'Green Revolution' approach, which entails modernisation and commercialisation to realise food security and improve farmers' livelihoods.[460] This approach also included the expansion of technologies such as certified seeds, synthetic fertiliser, irrigation and credit. At the launch of NAFSN, the US and Japan committed to being the main funders of initiatives to increase food security.[461]

4.3.1 CCF Commitments

Mozambique made commitments tied to the four critical policies established under NAFSN. Hence, Mozambique would create a business-friendly environment by revising and implementing its seed national seed policy. This would include stopping the distribution of free and "unimproved" seeds except for pre-determined staple crops in emergencies. It also said it would implement approved regulations governing proprietary seed laws, thereby promoting private-sector investment in seed production.[462] In addition, Mozambique would align its seed certification guidelines with the Southern African Development Community (SADC) seed

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[459] African Centre for Biodiversity, Agricultural Investment Activities in the Beira Corridor

[460] African Centre for Biodiversity, Agricultural Investment Activities in the Beira Corridor, Mozambique: Threats and Opportunities for Small-scale farmers, Page 6

[461] African Centre for Biodiversity, Agricultural Investment Activities in the Beira Corridor, Mozambique: Threats and Opportunities for Small-scale farmers, Page 7

[462] Olivier DE SCHUTTER, *STUDY: NAFSN*, 2015; The Guardian, Ten African countries and their G8 New Alliance commitments.

protocol requirements. It also promised to establish and implement a national fertiliser regulatory and enforcement framework as well as assess and validate the National Fertilizer Strategy.[463]

Towards access to land and inputs for farmers, Mozambique promised to develop and authorise communities to participate in partnerships through leasing or subleasing. Also, it would fast-track the issuance of certificates on land use rights (DUATs) to allow small-scale farmers, both men and women, to secure tenure and to promote agribusiness investment. In addition, it would improve access to credit in the agricultural sector, especially to target small-scale farmers by enacting risk-based mobile financing regulations that motivate innovation. Third, it would market produce and simplify trade, particularly the small-scale farmers, by eliminating permit requirements for inter-district trade and introducing financial education programs for small-scale farmers.[464]

On the Specific Nutrition Based Policies front, Mozambique would implement the Multi-Sectoral Nutrition Action Plan for the Reduction of Chronic Undernutrition 2011-2015 (PAMRDC), which is aligned with Scaling Up Nutrition (SUN), as well as ensure that PAMRDC and CAADP implementation plans are aligned. It also promised to enact food fortification regulations, including bio-fortification.[465] Lastly, the established institutional framework involving an annual review process CAADP strategy to monitor and ensure that the

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[463] New Alliance for Food Security and Nutrition. "Cooperation Framework to Support the New Alliance for Food Security and Nutrition in Mozambique." (Mozambique: New Alliance for Food Security and Nutrition). https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/208211/new-alliance-progress-report-coop-framework-mozambique.pdf

[464] NAFSN, Cooperation Framework to Support NAFSN in Mozambique.

[465] NAFSN, Cooperation Framework to Support NAFSN in Mozambique

key policy initiatives are met was Plano Nacional de Investimento do Sector Agrário (PNISA).[466]

4.3.2 Beira Agricultural Growth Corridor (BAGC)

There are three well-established developmental corridors in Mozambique. These are Maputo, Beira and Nacala corridors. These corridors were established to improve the rural economy through the development of the infrastructural sector, to address the low financing capacity of the government by attracting foreign investments and public-private partnerships, and improve regional cooperation as some corridors extend beyond Mozambique's borders.[467] The Beira Agricultural Growth Corridor (BAGC) was launched in 2009 at the World Economic Forum as an initiative between the international community, the government of Mozambique, and the private sector.[468] BAGC stretches along Mozambique, Malawi, Zambia and Zimbabwe. The corridor mainly has a tropical savannah climate. The corridor is primarily supported by mining investments though there is a significant investment in agricultural and energy sectors as well.[469]

A rail network connects the four countries covered by BAGC to the port of Beira on the Indian Ocean. The corridor is characterised by high fertile arable land, accessible water resources, and climate favouring commercial crop cultivation. BAGC targets about 10000

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[466] Olivier DE SCHUTTER, *STUDY: NAFSN*, 2015

[467] Cities Alliance, *Mozambique Growth Corridors*, (Mozambique: Arup, 2016), https://www.arup.com/-/media/arup/files/publications/f/future-cities-africa--mozambique.pdf.

[468] AgDevCo, *Beira Agricultural Growth Corridor Investment Blueprint*, (agDevCo.com, 2010), https://www.agdevco.com/uploads/reports/BAGC_Investment_Blueprint_rpt19.pdf.

[469] African Centre for Biodiversity, Agricultural Investment Activities in the Beira Corridor

hectares in Mozambique for the commercialisation of agriculture.[470] In Mozambique, the corridor stretches along three provinces, including Manica, Tete and Sofala. Tete is a mineral-rich province along the corridor. USAID, AGRA and World Bank have provided significant financial support to agribusinesses in the corridor.[471]

According to the BAGC investment blueprint, by 2030, BAGC aimed to have 190,000 hectares of profitable irrigated agriculture, producing world-class yields, sold in domestic, regional and international markets. In addition, the corridor targeted the creation of 350,000 jobs in farming and the associated value chain. Also, up to 200,000 smallholder farmer families would enjoy improved access to finance, inputs and markets and benefit from improved yields and higher incomes. It also targeted triple net incomes to more than triple, therefore, lifting 1 million people out of extreme poverty. Lastly, it aimed to have at least 150 villages neighbouring the commercial farms that would benefit from the provision of power and water supply.[472]

Agricultural Investment along the Beira Corridor under NAFSN was approached in three ways. First, the out-grower model involved commercial farms providing services such as harvesting and mechanisation to the small-scale farmers surrounding them. Second, small-scale farmers under the out-grower model would also receive irrigation from the neighbouring commercial farms. Third, the block farms model entailed leasing serviced block farms to small-

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[470] Helena Paul and Ricarda Steinbrecher, *African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses?* (EcoNexus, 2013).

[471] African Centre for Biodiversity, Agricultural Investment Activities in the Beira Corridor

[472] AgDevCo, *Beira Agricultural Growth Corridor Investment Blueprint Summary*, (agDevCo.com, 2010), https://www.agdevco.com/uploads/reports/bagc_English_exe_sum.pdf

scale farmers. A farmer under the block farms model would lease land between 5 hectares and 50 hectares, thus, encouraging farmers to upgrade to medium-size.[473]

The following section discusses the ProSAVANA program, which is one of the flagship NAFSN projects in Mozambique.

4.3.2.1 ProSAVANA Programme

In September 2009, the ProSAVANA project was created as a collaboration between the Japanese, Brazilian and Mozambique governments. The project aimed to enhance agricultural production in Northern Mozambique, which is 107,002 km^2, extending into three provinces; Nampula, Niassa and Zambezia.[474] In the project's initial stages, Japan focused on shadowing the successful Cerrado development project in Brazil that had resulted in Brazil becoming the second-largest soybean exporting country.[475] Therefore, ProSAVANA would employ modern large-scale agricultural production and direct foreign investments through Public-Private Partnerships as had been successfully implemented in the Cerrado corridor in Brazil. However, proponents of this initiative ignored two notable differences between the Cerrado corridor and the Beira corridor. First, the Cerrado corridor was characterized by poor, infertile soils. Therefore, the investment programme in Brazil addressed this challenge. Second, owing to the poor, infertile soils, the area marked for development along the Cerrado corridor was scarcely

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[473] AgDevCo, *Beira Agricultural Growth Corridor Investment Blueprint*.

[474] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture: Implications of the ProSAVANA Programme in Northern Mozambique (May 2015) https://www.eur.nl/sites/corporate/files/CMCP_30-_IKEGAMI.pdf

[475] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture: Implications of the ProSAVANA Programme in Northern Mozambique.

populated. In Mozambique, however, the ProSAVANA programme was implemented in an area with good fertile soils and densely populated.[476]

Modern large-scale agricultural production involves engaging small-scale farmers as out-growers or labourers in a large-scale farm to improve profits in agriculture. In addition, agriculture would be commercialised and modernised through the introduction of improved seed varieties, agrochemicals, and mechanical farm tools in agricultural production.[477]

Despite these promises, the ProSAVANA implementation programme, including the fast-tracked registration of land use titles (DUATs), overlooked the traditional land-use practices in Mozambique. For instance, the land was used for grazing, pathways to access natural resources such as water, ceremonial purposes, as well as for shift cultivation, where land was left fallow to regain fertility.[478]

The proponents of the ProSAVANA project further failed to give information to local peasants about how it would be implemented. Civil Society Organisations criticise ProSAVANA by claiming that even though the government held meetings with the affected local communities, no relevant information was available.[479] The meetings had been one-sided without any meaningful participation by the community. This fuelled the small-scale farmers'

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[476] "What Happened to the Biggest Land Grab in Africa? Searching for ProSavana in Mozambique – Food Tank," Food Tank, last modified November 17, 2016, https://foodtank.com/news/2014/12/what-happened-to-the-biggest-land-grab-in-africa-searching-for-prosavana-in/.

[477] Helena Paul and Ricarda Steinbrecher, *African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses?*

[478] Ikegami, K., 1994, The traditional agrosilvopastoral complex system in the Kilimanjaro Region, and its implication for the Japanese assisted Lower Moshi Irrigation Project, African Study Monographs, 15-4; **Shift cultivation**, also known as 'slash and burn cultivation' is a common practice in Sub Saharan Africa where land was cleared and cultivated on for a time until it lost its fertility. The land is then 'abandoned' and fallow vegetation allowed to grow so as to regain fertility.

[479] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture: Implications of the ProSAVANA Programme in Northern Mozambique.

distrust for the project due to a lack of information about the project, including potential negative consequences.[480]

Small-scale farmers claim that the business investors under the ProSAVANA programme grabbed their land. The project proponents failed to communicate any information to the farmers since its vision was hatched in 2009. The farmers first learned of the project in 2013 when the agribusiness claimed 35 million hectares of land for the soybean plantation project.[481] The project produce would then be exported to China and Japan. In addition, the farmers received an eviction notice, indicating the land they occupied had been taken over for development without any prior engagement or communication on the project. This may be attributed to the unequal political power between small-scale farmers and business investors. A study reveals that investors followed the guidelines of the ProSAVANA initiative only when it suited them because of the many development projects available to them. For instance, he concludes that foreign investors were unwilling to invest in northern Mozambique unless the ProSAVANA and the Nacala Corridor projects were implemented.[482]

In some instances, there were verbal agreements between the farmers and investors that the investors quickly broke. For instance, in agreements involving the sale of land at agreed prices,

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[480] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture.

[481] "What Happened to the Biggest Land Grab in Africa? Searching for ProSavana in Mozambique – Food Tank," Food Tank, last modified November 17, 2016, https://foodtank.com/news/2014/12/what-happened-to-the-biggest-land-grab-in-africa-searching-for-prosavana-in/.

[482] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture.

the amount was sometimes reduced to favour the business actors.[483] Though indirectly, these actions facilitated land grabbing and the displacement of local communities in the region.[484]

Another instance of disregard for established procedures by investors is the failure to follow the land use law. This was the case with farmers in the Nacala corridor. To justify dispossessing the local communities, business investors and proponents of the ProSAVANA programme claimed that the land was unused or underused. In other cases, farmers were promised opportunities to work as labourers but did not receive formal contracts. Moreover, some farmers within the Nacala corridor were employed within large-scale agribusinesses. However, some stopped working due to harsh conditions and poor wages.[485]

The harm suffered by peasant farmers due to the operations of these agribusinesses has not been redressed. Despite many protests at the local level and documentation of the grievances by advocacy groups, neither the government nor the companies have made any substantial effort to deal with the grievances, including those relating to dispossession.[486]

4.4 Conclusion

In this chapter, I have given a deeper insight into how NAFSN projects were introduced in Tanzania and Mozambique. As the study reveals, there are cases where agribusiness interfered with local communities' livelihoods while agribusiness pursued a narrow view of food security

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[483] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture, Pg. 15

[484] Zaehringer, Julie & Atumane, Ali & Berger, Sibylle & Eckert, Sandra. (2018). Large-scale agricultural investments trigger direct and indirect land use change: New evidence from the Nacala corridor, Mozambique. Journal of Land Use Science. 1-19. Doi:10.1080/1747423X.2018.1519605 Pg. 13

[485] Zaehringer, Julie & Atumane, Ali & Berger, Sibylle & Eckert, Sandra. (2018). Large-scale agricultural investments trigger direct and indirect land use change: New evidence from the Nacala corridor, Mozambique. Journal of Land Use Science. 1-19. Doi:10.1080/1747423X.2018.1519605 Pg. 13

[486] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture, pg. 15

from a neoliberal view and ignored traditional views that have stood the test of time. The agribusinesses also failed to consider local realities, including issues such as land use. For example, in Tanzania, a local investor had allowed the neighbouring community to access his land for grazing. However, when a foreign investor bought the land, they fenced off the part the local communities had been using for grazing for many years without warning the community or engaging them on alternatives. In Mozambique, the failure of investors to understand the dynamics of shift cultivation led to the displacement of communities after the investors deemed the land to be unused.

As explained in the first chapter, I use international human rights law as the basis of my analysis to explain how these selected projects failed to meet their objectives. In the following chapter, I lay a foundation for this analysis, where I locate the evolution of the internationally recognised human right to adequate food. This includes highlighting the applicable human rights standards and concludes by discussing the emerging human rights responsibilities of agribusinesses. In this discussion, I focus on those human rights pertinent to this thesis's objectives: the right to access information, the right to access adequate food, the prohibition of discrimination against women, and the imperative that the victims of human rights-related harm access effective remedies.

5. **Situating the Right to Adequate Food in International Human Rights Law**

5.1 Introduction

The right to food is one of the fundamental human rights, first recognized in the Universal Declaration of Human Rights (UDHR) and later codified in the International Covenant on Economic, Social and Cultural Rights (ICESCR).[487] The ICESCR obligates states to protect, respect, and fulfil human rights, including the right to food.[488] The obligation to respect entails refraining from taking away people's right to food or creating hardship for them to obtain food. For instance, when government agents evicted people from their land, that was the primary means of accessing food. The obligation to protect entails taking legislative and administrative steps to ensure non-state actors do not violate the enjoyment of the right to food.[489] This includes regulating the operations of corporations, including agribusinesses. For example, the government must take steps to protect communities from the distribution of harmful food by agribusiness, and where that has already taken place, ensure that such cases are effectively investigated and the appropriate remedies provided.[490] The obligation to fulfil the right to food entails ensuring that vulnerable groups are identified and ensured access to food.[491] For

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[487] UN General Assembly, *Universal Declaration of Human Rights,* 10 December 1948, 217 A (III); UN General Assembly, *International Covenant on Economic, Social and Cultural Rights,* 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3. The right is also recognized in other international covenants and domestic legal instruments (See discussion on codification below)

[488] United Nations High Commissioner for Refugees, "*General Comment No. 24 (2017) on State Obligations Under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities*," 10 August 2017, E/C.12/GC/24, Refworld, accessed June 14, 2021, https://www.refworld.org/docid/5beaecba4.html.

[489] OHCHR, *The Right to Adequate Food*, (Geneva, 2010), https://www.ohchr.org/Documents/Publications/FactSheet34en.pdf.

[490] See Pillar III of the UNGPs, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (A/HRC/17/31).

[491] OHCHR, *The Right to Adequate Food*, (Geneva, 2010), https://www.ohchr.org/Documents/Publications/FactSheet34en.pdf.

instance, providing free milk programs to schools and other institutions frequented by children if it is established that there is systemic malnutrition that could be addressed through such a scheme.[492] This study is primarily concerned with the conduct of the agribusiness participating in NAFSN that may have led to, contributed or encouraged human rights violations.[493]

Agribusinesses are non-state actors who may impact the right to food. On the one hand, agribusiness may enhance the enjoyment of the right. For example, an agribusiness could boost the livelihood of small-scale farmers by purchasing products for export and improving the farmers' market access and better prices. On the other hand, a predatory contract farming arrangement with the farmers could consign them to cyclic indebtedness and jeopardize their livelihoods.[494] The NAFSN model is premised on agribusinesses improving food security and lifting 50 million people out of poverty in participating African countries.[495]

This chapter introduces the right to adequate food as recognised under international human rights law. It also includes frameworks and standards for regulating agribusinesses and standards for human rights observations by Agribusinesses. This discussion will lay the foundation for later analysis of whether NAFSN adopted a human rights framework. To achieve this, I first broadly highlight the evolution of international human rights and narrow

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[492] Ziegler J. et al. "*The Fight for the Right to Food: Lessons Learned*." (Basingstoke, UK: Palgrave Macmillan, 2012).

[493] See Chapter 6 of this thesis. Although there is no international law obligation for corporations to respect human rights, there is increasing debate on whether this position should change, especially in view of the growing power of corporations and their impact on human rights.

[494] United Nations High Commissioner for Refugees, "*Report of the Special Rapporteur on the Right to Food, Olivier De Schutter : Addendum, Mission to Canada*," Refworld, 24 December 2012, A/HRC/22/50/Add.1 accessed June 14, 2021, https://www.refworld.org/docid/511cb0422.html.

[495] See Chapter 2 of this thesis. I have discussed the history of food security in Sub-Saharan Africa. As I demonstrate in Chapter 4 of this thesis, there is growing evidence that the participating African countries under the NAFSN have adopted regulatory and policy changes that allow the operations of agribusinesses to restrict local communities' enjoyment of right to adequate food.

down the right to adequate food. I then discuss the progressive understanding of the scope of the right to adequate food in the following sequence; norm codification, norm elaboration, implementation guidelines for the right to food projects, and concrete interventions such as NAFSN. Lastly, I discuss how agribusinesses have impacted the right to food and the emerging standards of conduct to ensure they comply with their responsibility to respect human rights.

The adoption of the UDHR marked the recognition of human rights in a widely accepted document.[496] The deliberations leading to the adoption of the UDHR were marked by ideological differences, pitting capitalist-leaning countries against communist-leaning ones.[497] Countries advancing capitalism favoured the recognition of civil and political rights, while the communists pushed for economic, social, and cultural rights. As a middle ground, the UDHR included both sets of rights.[498]

The ideological schism continued to slow down efforts to frame the aspirations of the UDHR as legal obligations of states in a binding legal instrument. A consensus to come up with two documents representing the two contrasting views broke the stalemate.[499] The capitalists and their allies advanced the International Covenant on Civil and Political Rights (ICCPR).[500] The

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[496] United Nations High Commissioner for Refugees, "State Obligations Under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities." For a detailed analysis of international human rights before the adoption of UDHR, see Jenny Martinez, *The Slave Trade and The Origins of International Human Rights Law*. (New York: Oxford University Press, 2012), 1-263.

[497] Theo Van Boven, "Categories of Rights" in *International human rights law,* eds. Moeckli, Daniel et al., (New York: Oxford University Press, 2010), 60-147.

[498] United Nations, "Universal Declaration of Human Rights,", accessed February 2, 2023, https://www.un.org/en/about-us/universal-declaration-of-human-rights

[499] Theo Van Boven, "Categories of Rights."

[500] UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171

communists and their allies supported the ICESCR in 1966.[501] The ICESCR guaranteed the right to adequate food, which is the subject of this chapter.[502]

Despite weathering the ideological storm and gaining the requisite number of ratifications to come into force, the ICESCR faced two-pronged hurdles. The first were claims of its inferiority to the ICCPR.[503] Those propagating this dichotomy argued that ICCPR rights entailed negative obligations, with the state only required to refrain from conduct that would interfere with the enjoyment of certain freedoms. They also argued that states could implement ICCPR rights immediately and did not require significant financial resources.[504] On the other hand, the ICESCR rights were viewed as requiring positive obligations for states and could only be realized progressively and required significant resources. The dichotomy was an extension of the ideological fault lines witnessed while drafting the two covenants.[505] This differentiation ended up elevating, wrongly, in my view, the status of civil and political rights, giving the impression that economic, social, and cultural rights are inferior.[506]

The second hurdle related to their justiciability.[507] Some scholars and human rights advocates claimed adjudicating cases of an alleged violation of economic, social, and cultural

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[501] UN General Assembly, "*International Covenant on Economic, Social and Cultural Rights."* Both treaties did not enter into force until 1976 after obtaining the required number of ratifications.

[502] UN General Assembly, "*International Covenant on Economic, Social and Cultural Rights."* Article 11 of ICESCR.

[503] Theo Van Boven, "Categories of Rights."

[504] Theo Van Boven, "Categories of Rights."

[505] Asbjørn Eide & Allan Rosas. "Economic, Social and Cultural Rights: A Universal Challenge," in *Economic Social and Cultural Rights*. Asbjørn Eide, Catarina Krause & Allan Rosas, eds., ((Dordrecht: Martinus Nijhoff publishers, 2001).

[506] "OHCHR | Are Economic, Social and Cultural Rights Fundamentally Different from Civil and Political Rights," accessed June 14, 2021, https://www.ohchr.org/EN/Issues/ESCR/Pages/AreESCRfundamentallydifferentfromcivilandpoliticalrights.aspx

[507] See Aryeh Neier, "Social and Economic Rights: A Critique." *13 Human Rights Brief, no. 2* (2006); Diana Kearney, "Food Deprivations as Crimes Against Humanity." *NYU Journal of International Law and Politics,* 46,

rights was a judicial overreach.[508] There were strong arguments against judicial bodies compelling executive arms of governments to allocate resources towards the realization of these rights whenever they made a finding of a breach. Those advancing this thought anchored their argument on the doctrine of separation of powers, positing that allocation was an executive function. To them, the executive arm of government is best suited to decide the most optimal use of state resources.[509]

These two views have been successfully debunked. There is now consensus that economic, social, and cultural rights are not inferior but are at par with civil and political rights.[510] Some require immediate realization, for example, feeding a population suffering from an acute lack of food. Economic, social, and cultural rights are now justiciable at the domestic, regional, and international levels.[511] In addition, they are justiciable both at the international and domestic levels.

The three instruments (UDHR, ICCPR, and ICESCR), commonly referred to as the International Bill of Human Rights, have now gained customary international law status.[512] Despite this progress, the opinion among scholars on whether international law, including international human rights law, is effective is divided. Some view it as contributing to respect

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(2013) 253-288, 261; Linda Keller, "The Indivisibility of Economic and Political Rights." *Human Rights & Welfare* 1:3 (July 2001); Amartya Sen, *A review of Development as Freedom*. (New York: Knopf, 1999); Godfried Van Hoof, G. H. J. " The Legal Nature of Economic, Social and Cultural Rights: A Rebuttal of some Traditional Views" in *The Right to Food*, Alston & Tomasevski (eds.), (Dordrecht: Nijhoff, 1984), pp. 97-110.

[508] Marc Cohen & Mary Ashby Brown, "Access to Justice and the Right to Adequate Food" *Sustainable Development Law & Policy,* 6,1;17 (2005): 54, 55.

[509] Marc Cohen & Mary Ashby Brown, "Access to Justice and the Right to Adequate Food" Sustainable Development Law & Policy, 6,1;17 (2005): 54, 55.

[510] Theo Van Boven, "Categories of Rights.".

[511] Marc Cohen & Mary Ashby Brown, "Access to Justice and the Right to Adequate Food"

[512] Christopher Roberts, *The Contentious History of the International Bill of Rights*, (New York: Cambridge University Press, 2015).

for human rights at domestic and international levels.[513] Others question its legitimacy and efficacy in influencing the conduct of states.[514] However, at the minimum, there is a consensus that it clarifies states' obligations to ensure the respect, protection, and fulfilment of human rights.[515]

5.2 The Evolution of the Right to Adequate Food

The following section traces the evolution of the right to food from recognition as a norm to concrete interventions to ensure right holders access food. To achieve this, I will sequence the evolution into four stages. These include right codification, right elaboration, guidelines, and programmatic interventions. Codification is the recognition of the right in a legal instrument.[516] Elaboration is where an authoritative body explains the scope and nature of states' obligations and the entitlements of the right holders.[517] Elaboration is relatively general and does not give right holders and duty bearers a blueprint to guide them in concrete situations. Guidelines are more prescriptive directions for duty bearers to follow in different

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[513] Louis Henkin, How Nations Behave, (2nd ed.), (New York: Columbia University Press, 1979), pp. Xv, 400. Henkin opines that states routine respect for international law is a demonstration of its influence on the conduct of states; Elver Hilal, "The Challenges and Developments of the Right to Food in the 21st Century: Reflections of the United Nations Special Rapporteur on the Right to Food," *UCLA Journal of International Law and Foreign Affairs*, 20, 1(Spring 2016), pp. 1-44; Jeremy Bentham, *Of Laws in General*, H.L.A. Hart (ed.), (London: Athlone Press, 1970); [1782] ("[A] treaty made by one sovereign with another is not itself a law," though it has "an intimate connection" with the law, and may bind to some degree through "the force of the moral and religious sanctions."); Harold Hongju Koh, "Why Do Nations Obey International Law?" *The Yale Law Journal,* 106, 8 (1997), pp. 2599-2659. This elaborates more on the discussion on this; Douglass Cassel, "Does International Human Rights Law Make a Difference?", *Chicago Journal of International Law*, 2,1 (2001).

[514] Jeremy Benthan is considered as one of the fathers of international law. He does not view international treaties as a source of international law. He admits, however, that they have some force for moral sanction; Makau Mutua, *Human Rights: A Political and Cultural Critique*, (Philadelphia: University of Pennsylvania Press, 2002). Mutua questions the universality of human rights and argues that they are Eurocentric in nature.

[515] James Crawford, *Brownlie's Principles of International Law*, (Oxford: Oxford University Press, 2019).

[516] Wen-Yeu Wang, *Codification in International Perspective: Selected Papers from the 2nd IACL Thematic Conference* (Berlin: Springer Science & Business Media, 2014), xx, https://link.springer.com/book/10.1007/978-3-319-03455-3.

[517] Philips Alston, International Law and the Human Right to food", in *The Right to Food,* Philips Alston & Katarina Tomasevski (eds), (The Netherlands: Martinus Nijhoff Publishers, 1984), 9.

circumstances to meet their human rights obligations.[518] Strategic interventions are programmatic actions by duty-bearers to realize the right to food.[519] I will briefly explain each of these stages below.

5.2.1 Codification of the Right to Adequate Food

As mentioned above, codification is the recognition of the right in a legally binding instrument, including international treaties and domestic constitutions. Article 25 (1) of the UDHR states that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food...".[520] The right to adequate food was further codified in Articles 11(1) and 11(2) of the ICESCR.[521]

The right was buttressed by affirmation in international declarations during food security-related international summits. The 1974 World Food Conference in Rome, for example, adopted the Universal Declaration on the Eradication of Hunger and Malnutrition, which stated that "every man, woman, and child has the inalienable right to be free from hunger and malnutrition

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[518] United Nations, Food and Agriculture Organization of the United Nations, *Rome Declaration on World Food Security*, 13–17 November 1996, available at: http://fao.org/3/w3613e/w3613e00.htm [accessed 14 June 2021]. The summit declaration restated that *"*[d]emocracy, promotion, and protection of all human rights and fundamental freedoms, including the right to development, and the full and equal participation of men and women are essential for achieving sustainable food security for all."

[519] OHCHR, *Chapter 31: Advocacy and intervention with the national authorities intervention with the national authorities*, (Geneva: United Nations, 2011), https://www.ohchr.org/Documents/Publications/Chapter31-24pp.pdf.

[520] UN General Assembly, "*Universal Declaration of Human Rights,*" Article 25 (1).

[521] UN General Assembly, "*International Covenant on Economic, Social and Cultural Rights."* It provides that… "States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

a) To improve methods of production, conservation and distribution of food…

b) Taking 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."

in order to develop fully and maintain their physical and mental faculties."[522] A few decades later, states reaffirmed everyone's right to safe and nutritious food, consistent with the right to adequate food during the 1996 Rome Declaration.[523] Additionally, during the 2002 review of the 1996 Rome Declaration, the Heads of State and Governments reaffirmed everyone's "right to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger."[524]

The African Charter on Human and People's Rights does not expressly recognize the right to food.[525] However, the African Commission on Human and People's Rights (The African Commission) recognized the right in a case where the Ogoni community accused the Nigerian government of collaborating with an oil company leading to a loss of livelihoods.[526]

Several domestic constitutions also recognize the right to food.[527] For example, the South African Constitution protects economic and social rights, including the right to food.[528] Similarly, the 2010 Kenya Constitution guarantees the right to "…be free from hunger, and to have adequate food of acceptable quality."[529]

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[522] UN General Assembly, *World Food Conference,* 17 December 1974.

[523] United Nations, Food and Agriculture Organisation of the United Nations, *Report of the World Food Summit*, 13–17 November 1996, WFS 96/INF/1Rev 1.

[524] United Nations, Food and Agriculture Organisation of the United Nations, *Report of the World Food Summit*, 10–13 June 2002, part one, appendix; see also A/57/499, annex.

[525] Organization of African Unity (OAU), African Charter on Human and Peoples' Rights, ("Banjul Charter"), 27, June 1981, CAB/LEG/67/3 rev.5, 21 I.L.M. 58 (1982).

[526] African Commission on Human and People's Rights, Communication 155/96 (Social and Economic Rights Action Center/Center for Economic and Social Rights v. Nigeria). Case No. ACHPR/COMM/A044/1.

[527] Lidija Knuth & Margret Vidar, *Constitutional and Legal Protection of the Right to Food Around the World*, "The Right To Food | Food And Agriculture Organization Of The United Nations". 2010. *Fao.Org*. (Rome: Food and Agriculture Organisation of the United Nations, 2010), available at: http://www.fao.org/righttofood/publi11/constitutional_2011.pdf [accessed 14 June 2021].

[528] Constitution of the Republic of South Africa, 1996, Article 27 (1) (b).

[529] Constitution of Kenya, 2010, Article 43 (1) (c).

5.2.2 Right Elaboration

One of the criticisms levelled against the ICESCR is that the normative standards were vague and needed further clarification to ensure that states did not predicate the fulfilment of their obligations on their interpretation.[530] Elaboration clarifies the scope of state obligations regarding a particular right beyond what the international bill of rights provides. Some of the ways in which this is achieved in relation to the right to food include thematic treaties that relate to a special group of persons such as women and children, UN special procedures, General Comment No. 12 of the Committee on Economic, Social and Cultural Rights and judicial and quasi-judicial interpretation by various bodies where there is an alleged violation. I discuss each of these briefly.

5.2.2.1 Treaties

After the international bill of rights, other thematic treaties protecting the rights of special groups elaborated on how the right to food, among other rights, applied to those groups. These treaties are relatively more elaborate than the international bill of rights. For example, Article 14 of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) provides principles that should guide duty bearers in ensuring that every woman enjoys the right to food.[531] It stipulates that states should remove structural barriers faced by rural women, such as lack of access to credit and customary obstacles to secure land tenure for

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[530] Philips Alston, International Law and the Human Right to food", in *The Right to Food,* Philips Alston & Katarina Tomasevski (eds), (The Netherlands: Martinus Nijhoff Publishers, 1984), 9.

[531] UN General Assembly, *Convention on the Elimination of all Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249.

women. Other treaties that elaborate the right to food in relation to thematic groups include international covenants on children, detained persons, and persons in conflict situations.[532]

5.2.2.2 The United Nations Special Procedures

The United Nations has devised various mechanisms to support states in fulfilling their human rights obligations and monitoring compliance. These include special rapporteurs, independent experts, and working groups.[533]

In 2000, the United Nations Commission on Human Rights passed a resolution establishing the post of the Special Rapporteur on the Right to Food, with a broad mandate to investigate and report on situations impacting the right to food.[534] In discharging his mandate, a past Special Rapporteur on the Right to Food elaborated that the right to food entails;

> … [t]he right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs,

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[532] International Committee of the Red Cross (ICRC), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, art. 55-60; Article 24 of the Convention on the Rights of the Child (CRC) which relates to the health of children gives children the right to "nutritious food" Convention on the Rights of the Child, Nov. 20, 1989, 28 I.L.M. 1448, Article 24(2).

Detained persons: The Standard Minimum Rules for the Treatment of Prisoners, adopted by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders provides that "…every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served - Article 20 (1). Additionally, article 20 (2) provides that "Drinking water shall be available to every prisoner whenever he needs it."

Persons in armed conflict situations: The International Criminal Court's Rome Statute prohibits governments from preventing populations accessing relief food.

[533] "OHCHR | Special Procedures of the Human Rights Council," accessed June 14, 2021, https://www.ohchr.org/en/HRBodies/SP/Pages/Welcomepage.aspx.

[534] UN Commission on Human Rights, *Commission on Human Rights resolution 2000/10 The right to food*, 17 April 2000, E/CN.4/RES/2000/10; For an example of a report submitted by this mandate holder, see UN Commission on Human Rights, Report by the Special Rapporteur on the Right to Food, 7 February 2001, E/CN.4/2001/53; UN General Assembly, United Nations, *General Assembly Resolution 56/155, The right to food*, 15 February 2002.

> and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.[535]

The UN Special Rapporteur on Extreme Poverty and Human Rights has also issued guidelines on the right to adequate food.[536]

5.2.2.3 General Comments of the Committee on Economic, Social, and Cultural Rights

The Committee on Economic, Social and Cultural Rights (CESCR) is the ICESCR treaty monitoring body.[537] In 1999, CESCR published issue General Comment No. 12 (the General Comment) to elaborate on the scope of rights and obligations in relation to the right to food as provided in Article 11 of the ICESCR.[538] The General Comment states that the "…right to adequate food is realized when every man, woman, and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement."[539] This entails the availability of culturally appropriate food in quality and quantities sufficient to satisfy individual dietary needs, freedom of such food from harmful substances, and sustainability to ensure that such access to food does not interfere with the enjoyment of other rights.[540]

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[535] Jean Ziegler et al. *The Fight for the Right to Food: Lessons Learned*. (Basingstoke, UK: Palgrave Macmillan, 2011).

[536] United Nations Human Rights Council, 'The Transformative Potential of the Right to Food, Twenty-fifth session Report of the Special Rapporteur on the right to food, Olivier De Schutter (January 24 2014), para 24.

[537] UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights*, 16 December 1966, A/RES/2200, available at: https://www.refworld.org/docid/3b00f47924.html [accessed 12 June 2021].

[538] UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, 12 May 1999. Paragraphs 2 and 3 of the General Comment highlights it background, including the various organisations that were participated at different stages of its formulation.

[539] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, Para 2 and 3

[540] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, Para 2 and 3

According to the CESCR, the essential elements of the right to food are food availability, accessibility, and adequacy.[541] Food availability is through either direct access from the source or purchase from the market. Food accessibility is achieved through either economic means or physical access. Physical access includes the ability of all, including vulnerable groups such as prisoners, victims of armed conflict, and natural disasters, to access food. Economic accessibility is the ability of a population or individuals to obtain food from the market in the required dietary ratio without compromising other basic needs such as housing, clothing, healthcare, and education. Food adequacy is the ability to satisfy an individual or a population's dietary needs, factoring in their age, gender, occupation, and health. The food must also be culturally appropriate to ensure it does not offend cultural beliefs.[542] State parties to the ICESCR are under an obligation to take progressive steps to realize the right to food.[543]

The General Comment reiterates that, like other human rights, state parties have three levels of obligations. These are to respect, protect, and fulfil the right to food.[544] Under the obligation to respect, states must "not take actions that result in increasing levels of hunger, food insecurity, and malnutrition."[545] The obligation to protect entails taking measures to prevent third parties, including individuals and private entities such as businesses, from limiting the enjoyment of the right to food by compromising the existing means of accessing food.[546]

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[541] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, Para 2 and 3
[542] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, Para 2 and 3.
[543] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, Para 2 and 3.
[544] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, para 15.
[545] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, Para 2 and 3.
[546] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, para 15.

The obligation to fulfil entails two types of conduct. First, the state is obligated to proactively improve people's ability to obtain food by securing their livelihoods, including supporting their access to land and other resources. Second, it requires the state to provide food for people in vulnerable conditions who cannot secure the enjoyment of the right to adequate food by themselves due to factors beyond their control. These include those in lawful confinement, victims of war as well as natural disasters.[547]

The state's obligation to fulfil the right to food requires the allocation of financial resources. States have significant discretion in determining how the right is realized within their different political and economic contexts.[548] However, they have a minimum core obligation to mitigate and alleviate hunger and starvation in specific contexts.[549] For example, in the context of detained persons, the Human Rights Committee observed that this obligation to fulfil the right to food was independent of the availability of state resources, and lack of resources is not a lawful justification for the state to deny a detained person access to adequate food.[550] Besides their domestic obligations, states are obligated to pursue international cooperation to promote

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[547] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, para. 21.

[548] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, para 21.

[549] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, Para 6.

[550] *Mukong v. Cameroon*, Communication No. 458/1991, U.N. Human Rights Committee (HRC), 21 July 1994, para. 9.3, available at: https://www.refworld.org/cases,HRC,4ae9acc1d.html [accessed 14 June 2021]; UN Human Rights Committee (HRC), CCPR General Comment 21: Article 10, para. 4, (Humane Treatment of Persons Deprived of their Liberty), 10 April 1992 available at: https://www.refworld.org/docid/453883fb11.html [accessed 14 June 2021]. The Human Rights Committee observed that "certain minimum standards regarding the conditions of detention must be observed regardless of a State party's level of development. These include…provision of food of nutritional value adequate for health and strength. It should be noted that these are **minimum** requirements which the Committee considers should always be observed, even if economic or budgetary considerations may make compliance with these obligations difficult. The Human Rights Committee also observed that "treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule. Consequently, the application of this rule, as a minimum, cannot be dependent on the material resources available in the State party."

human rights extraterritorially. The extent and scope of states' extraterritorial obligation in relation to the right to food are discussed later in this chapter.

State parties to the ICESCR are obligated to ensure the progressive realization of economic, social, and cultural rights.[551] However, there are two instances where the obligation is immediate in relation to the right to food. First, states are under a duty to ensure immediate access to food for persons who cannot obtain food due to their circumstances.[552] Second, it does not apply to those whose access to food or the means for its procurement is limited due to discrimination on grounds such as race, colour and sex.[553]

The CESCR also issued General Comment No. 24 on "State Obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities."[554] This General Comment compiles the jurisprudence on the CESCR on states' required to conduct in regulating businesses to ensure they respect human rights. Whereas it does not explicitly focus on the right to food, it guides businesses, including agribusinesses, to operate in a manner consistent with the ICESCR.[555]

5.2.2.4 Judicial Interpretation

Judicial and quasi-judicial authorities have also elaborated on the right to food in their pronouncements. In a referral to the African Commission on Human and People's Rights (The

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[551] UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1 of the Covenant),* 14 December 1990, E/1991/23.

[552] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, para 17.

[553] CESCR *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, para 18.

[554] CESCR, *General Comment No. 24 on State Obligations Under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities*, UN Doc. E/C.12/GC/24.

[555] Tara Van Ho, "General Comment No. 24 (2017) on State Obligations Under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities (CESCR)," *International Legal Materials,* 58 (2019). Tara Van Ho details the discussion on General Comment No. 24.

Commission) against Nigeria, the Commission stated that though the African Charter does not expressly recognize the right to food, the Charter implicitly protects it through provisions guaranteeing the right to life and health.[556] It held that Nigeria violated the right to food directly through the destruction of food sources by security forces and the oil consortium. The country failed to prevent third parties (oil companies) from destroying food sources and terrorizing the local population, creating an environment that made it impossible for them to meet their food requirements.

In Colombia, the constitutional court held that failure to provide relief food to displaced families who lacked access to food arising from the eviction was unconstitutional.[557] The court ruled that the minimum core obligation was to ensure at least minimal subsistence.[558] Despite clarity on states' obligations concerning the right to food, there is still contestation in many jurisdictions on the extent to which courts may dictate the executive branch's conduct that demands the allocation of resources.[559] The Human Rights Committee ruled that the ICCPR implicitly recognizes the right to food by characterizing the right to life as a fundamental human right.[560]

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[556] Dinah Shelton, "Decision Regarding Communication 155/96 (Social and Economic Rights Action Center/Center for Economic and Social Rights v. Nigeria). Case No. ACHPR/COMM/A044/1," *The American Journal of International Law*, 96, 4(October, 2002), pp. 937-942.

[557] Cesar Rodriquez –Garavito, "Beyond the Courtroom: The Impact of Judicial Activism on Socioeconomic Rights in Latin America," *Texas Law Review*, 89, 1669 (2009), pp. 2010-2011.

[558] Cesar Rodriquez –Garavito, "Beyond the Courtroom: The Impact of Judicial Activism on Socioeconomic Rights in Latin America."

[559] Jeanne Woods, "Justiciable Social Rights as a Critique of the Liberal Paradigm," *Texas International Law Journal,* 38, (2003) 763.

[560] CESCR, *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1 of the Covenant);* Smita Narula, "The Right to Food, Holding Global Actors Accountable under International Law," *Columbia Journal of Transnational Law,* 44, 3(2015), pp. 691-800.

5.2.3 Implementation Guidelines

Rights elaboration still results in broad rules and lacks the precision that duty bearers may rely on in untangling the precise conduct expected under a treaty. For example, the General Comment on the right to food is not sufficiently concrete to guide a state party seeking a balance between promoting traditional agriculture and introducing a land tenure system that promotes agribusiness. Further guidelines on how to pursue either of these options in a manner that does not compromise the right to food would be helpful. This is what rights-based implementation guidelines achieve.

The 1996 Rome World Food Summit made a significant step in formulating implementation guidelines on the right to food.[561] It set out a Plan of Action to make the right to food a reality, including mandating the United Nations High Commissioner for Human Rights to define the rights related to food and offer guidance on how to realize them.[562] Specifically, the United Nations High Commissioner for Human Rights was tasked to "clarify the content of the right to adequate food and the fundamental right of everyone to be free from hunger…" and "give particular attention to implementation and full and progressive realization of this right as a means of achieving food security for all."[563]

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[561] United Nations, Food and Agriculture Organization of the United Nations, *Rome Declaration on World Food Security*, 13–17 November 1996, available at: http://fao.org/3/w3613e/w3613e00.htm [accessed 14 June 2021]. The summit declaration restated that "[d]emocracy, promotion, and protection of all human rights and fundamental freedoms, including the right to development, and the full and equal participation of men and women are essential for achieving sustainable food security for all."

[562] World Food Summit, 1996. World Food Summit Plan of Action, Goal 7.4 & 6.1 paragraphs 1 and 4 in Rome Declaration on World Food Security and World Food Summit Plan of Action; World Food Summit, 13-17 November 1996, Rome, Italy (Rome: FAO), 43 p.

[563] World Food Summit, 1996. World Food Summit Plan of Action, objective 7:4 (e).

The follow-up World Food Summit in 2002 established an Intergovernmental Working Group to elaborate "voluntary guidelines…to achieve the progressive realization of the right to food."[564] Working under the FAO Council, it formulated the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in November 2002.[565] The full FAO Council adopted these guidelines, and all states approved them in 2004.[566] The Voluntary Guidelines were:

> … first attempt by governments to interpret an economic, social, and cultural right and to recommend actions to be undertaken for its realization…[and] provide practical guidance to States in their implementation of the progressive realization of the right to adequate food in the context of national food security.[567]

The elaboration of the right to food in the Voluntary Guidelines "provided a space for reaffirming the importance of human rights in the fight against hunger and malnutrition and developing a better understanding of duty bearers' obligations concerning the right to food."[568]

The guidelines lay out the expected conduct of states in diverse circumstances. Upon recognition of the centrality to the realization of the right to adequate food, FAO formulated the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security.[569] These guidelines…" provide[d] guidance

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[564] United Nations, Food and Agriculture Organization of the United Nations, Declaration of the World Food Summit: Five Year Later, 10-13 June2002, available at: http://fao.org/3/y1780e00.htm [accessed 14 June 2021].

[565] United Nations, Food and Agriculture Organization of the United Nations, Declaration of the World Food Summit.

[566] United Nations, Food and Agriculture Organization of the United Nations, *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security*, Adopted by the 127th Session of the FAO Council November 2004, Rome, Italy.

[567] United Nations, Food and Agriculture Organization of the United Nations, *"Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security."* Preface.

[568] Jeanne Woods, "Justiciable Social Rights as a Critique of the Liberal Paradigm," *Texas International Law Journal,* 38, (2003) 763, p. 8.

[569] Jeanne Woods, "Justiciable Social Rights as a Critique of the Liberal Paradigm."

to improve the governance of tenure of land, fisheries, and forests with the overarching goal of achieving food security for all and supporting the progressive realization of the right to adequate food in the context of national food security."[570]

The Voluntary Guidelines are more prescriptive as they detail how various agencies can responsibly guarantee the right to food. These include the emphasis on the need for states to promote democracy, good governance, human rights, and respect for the rule of law to empower individuals and civil society actors to make demands on governments.[571] There is also a call for states to factor in the right to food and consult stakeholders when conceptualizing and designing poverty reduction strategies.[572]

States should also ensure proper regulation of market systems to guarantee non-discrimination in food market access and the application of a multi-stakeholder approach to development. This should happen with the private sector and civil society actors' involvement to leverage their expertise and ensure efficient use of resources.[573] States should also ensure sustainable and non-discriminatory access to resources to improve livelihoods as well as promote and protect land tenure systems. This is important to give disadvantaged segments of the population, such as women and the poor, an opportunity to buy and grow food for subsistence.

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[570] Jeanne Woods, "Justiciable Social Rights as a Critique of the Liberal Paradigm."

[571] Jeanne Woods, "Justiciable Social Rights as a Critique of the Liberal Paradigm," Guideline 1.

[572] Jeanne Woods, "Justiciable Social Rights as a Critique of the Liberal Paradigm," Guideline 3, Guideline 2.5.

[573] Jeanne Woods, "Justiciable Social Rights as a Critique of the Liberal Paradigm," Guidelines 4 & 6.

Another set of right-to-food-related guidelines is the Standard Minimum Rules for the Treatment of Prisoners. The United Nations Congress adopted it on the Prevention of Crime and the Treatment of Offenders.[574] The rules provide that prisoners should be provided with sufficient food at "usual hours" and drinking water whenever they need it.[575]

Courts have played an equally important role in issuing guidelines to duty-bearers in relation to the right to food.[576] When the African Commission found Nigeria to be in violation of the right to food by destroying the local community's food sources, it prescribed corrective measures, including compensation and cleaning up of polluted rivers and damaged lands.[577] In South Africa, the High Court held that a law on marine resources limiting a fishing community's access to the sea violated their right to food. It ordered the government's executive branch to ensure the affected community's immediate access to the sea and safeguard the community's right to participate in any other similar legislation to remedy the injustice.[578] In India, the Supreme Court ruled that the shrimping industry's economic activities were likely to compromise the local community's right to food. The local community has traditionally and primarily relied on fishing as a source of food.[579]

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[574]United Nations, Standard Minimum Rules for the Treatment of Prisoners, 30 August 1955.

[575] United Nations, Standard Minimum Rules for the Treatment of Prisoners.

[576] Khosa and Others v. Minister of Social Development and Others, Mahlaule and Another v Minister of Social Development (CCT 13/03, CCT 12/03) [2004] ZACC 11; 2004 (6) SA 505 (CC); 2004 (6) BCLR 569 (CC) (4 March 2004)

[577] Christopher Mbazira, "Reading the right to food into the African Charter on Human and Peoples' Rights," *Africa's Regional Developments* 5, no. 1 (2004): https://journals.co.za/doi/pdf/10.10520/AJA1684260X_71.

[578] Minister of Environmental Affairs & Tourism v. Kenneth George and Others (437/05, 437/05) [2006] ZASCA 57; 2007 (3) SA 62 (SCA) (18 May 2006)

[579] S. Jagannath vs. Union of India (1997) 2 SCC 87: AIR 1997 SC 811. Bench: Kuldip Singh, S. Saghir Ahmad.

5.2.4 Strategic Interventions

These are concrete plans conceptualized, designed, and implemented to help individuals and communities enjoy the right to food, including accessing food sustainably. The initiatives target farmers, consumers, marketers, farm input manufacturers, and other agriculture supply chains. Many domestic, regional, and international government-backed initiatives have been launched over time in response to both cases of acute shortage or to improve food availability in Africa. The NAFSN is one such strategic intervention. Under NAFSN, ten participating African countries have taken legislative and policy reforms to promote agribusinesses to improve food security and reduce poverty.[580] However, the targeted communities cannot access food sustainably due to the intervention's design and implementation.

As I will demonstrate later in this thesis, while NAFSN was introduced to improve access to food, its implementation did not respect the targeted communities' right to food. The participating countries introduced measures and dictated projects implemented by the agribusinesses without consulting local communities. Consequently, NAFSN projects have compromised livelihoods and the communities' ability to grow food or buy from the local markets. Women are the majority of food producers but are left without control over what is planted and the allocation of food sale proceeds. The projects have not provided the consistent and reliable employment that they promised. There are no effective mechanisms to redress local communities' grievances, including women and small-scale farmers, on how NAFSN projects are impacting them.

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[580] See Chapter 3 of this thesis on New Alliance for Food Security and Nutrition

The following section highlights mechanisms that have set standards and guidelines to regulate agribusinesses to respect human rights, including the right to food. These include both voluntary and regulatory mechanisms.

5.3 Regulating Agribusinesses: Frameworks and Standards

The international human rights law obligation of states to protect human rights includes an obligation not to enter into any arrangement with third parties, including corporations, that might limit the enjoyment of human rights by others.[581] This includes enacting legislation and regulatory framework that restricts the operations of such third parties. On their part, businesses have argued that self-regulation, including voluntary social audit initiatives, indicates the growing awareness of their human rights responsibilities. They have for a long time been opposing the idea of regulation. However, this rigid position is gradually shifting, especially for the most prominent investors.[582] For instance, the Investors Alliance for Human Rights has joined the growing calls for mandatory human rights due diligence to ensure they do not cause any harm.[583]

The following section highlights the bodies that have issued guidelines for agribusinesses, whether voluntary or binding. Some of the standards mentioned below relate to a broad range

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[581] UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, 10 August 2017, E/C.12/GC/24, available at: https://www.refworld.org/docid/5beaecba4.html [accessed 14 June 2021]. For instance, elected leaders in Tanzania did not know about the introduction of NAFSN until agribusinesses started operations.

[582] Michelle Langrand, "Human Rights Overshadowed by Big Business in UN Food Summit, Says UN Expert," Geneva Solutions, last modified May 19, 2022, https://genevasolutions.news/climate-environment/human-rights-overshadowed-by-big-business-in-un-food-summit-says-un-expert

[583] Investor Alliance For Human Rights, "The Investor Case for Mandatory Human Rights Due Diligence" (Investor Alliance For Human Rights), accessed June 14, 2021, https://investorsforhumanrights.org/sites/default/files/attachments/2020-04/The%20Investor%20Case%20for%20mHRDD%20-%20FINAL_3.pdf.

of business sectors, including agribusinesses. Others, especially those by FAO and other industry actors, are limited to agribusinesses. I will discuss the standards and guidelines set by UN Special Procedures, the Committee on Economic, Social and Cultural Rights, intergovernmental bodies, governments and regional blocs and voluntary codes of conduct.

5.3.1 Committee on Economic, Social and Cultural Rights

As discussed earlier, the Committee on Economic, Social and Cultural Rights (CESCR) issues General Comments to guide how states and third parties can fulfil their obligations and responsibilities under the ICESR. CESCR has given authoritative guidance on how agribusinesses should conduct their operation, including their extraterritorial obligations. For example, some aspects of General Comments No. 11 and No. 24 relate to various aspects of agribusinesses.[584] I discuss the guidelines that are relevant to this thesis later in this chapter.

5.3.2 Special Procedures

Special procedure is a mechanism where the UN Human Rights Council appoints independent human rights experts or a group of them to advise and report on thematic human rights issues.[585] They include Special Rapporteurs and UN Working Groups. One mandate holder that often issues guidelines on the human rights dynamics of agribusinesses is Olivier De Schutter during his mandate as Special Rapporteur on the right to food as well as the Special

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[584] "International Covenant on Economic, Social and Cultural Rights," OHCHR, last modified December 16, 1966, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights. This was in relation to past hearings on the conduct of agribusinesses from Germany, Austria and China

[585] Aoife Nolan, Rosa Freedman, and Thérèse Murphy, *The United Nations Special Procedures System*, *Google Books* (BRILL, 2017), https://books.google.com/books?hl=en&lr=&id=He_zDQAAQBAJ&oi=fnd&pg=PR3&dq=un+special+procedures+&ots=yUFRU9rrVF&sig=AemYAlC1Y6ZMd1gSF6_Qc13WMTg. For a comprehensive understanding of the UN Special Procedures.

Rapporteur on extreme poverty. Over the years, De Schutter has responded to the need to provide guidelines for various aspects and impacts of agribusinesses on human rights, including identifying smallholder farmers and agricultural workers as some of the vulnerable groups in the agricultural value chain.[586] He also discussed the role of states, agribusinesses and buyers in protecting these groups.[587] Other reports have issued guidance on the impact of agribusinesses on women, the dynamics of contract farming, and the impact of debt on the right to food.[588]

5.3.3 The Food and Agriculture Organization (FAO)

FAO has issued several guidelines regarding how agribusinesses and the measures they should take to avoid harming communities where they operate. These include the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.[589] As discussed later, these guidelines, though issued by a body composed of state parties, are not binding. This significantly waters down their efficacy

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[586] United Nations Human Rights Council, "Human Rights Council Thirteenth Session Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report of the Special Rapporteur on the Right to Food, Olivier De Schutter, Agribusiness and the Right to Food," documents-dds-ny.un.org (United Nations General Assembly, December 22, 2009), https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/177/76/pdf/G0917776.pdf?OpenElement.

[587] United Nations Human Rights Council, "Human Rights Council Thirteenth Session Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report of the Special Rapporteur on the Right to Food, Olivier De Schutter, Agribusiness and the Right to Food."

[588] Contract farming see UN Human Rights Council, "Human Rights Council Twenty-Fifth Session Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development Report of the Special Rapporteur on the Right to Food, Olivier" (New York: UN General Assembly, 2014), http://www.srfood.org/images/stories/pdf/officialreports/20140310_finalreport_en.pdf. para 26

[589] Committee on World Food Security and Food and Agriculture Organization, "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security" (Rome: Food and Agriculture Organization of the United Nations, 2012), http://www.fao.org/3/a-i2801e.pdf.

in gaining traction amongst agribusinesses as an authoritative guide to their conduct, especially in dealing with small-scale farmers.

5.3.4 Government and Regional Bodies

Some regional bodies have mandated standards of conduct by businesses with a significant link to them, either through subsidiaries or the existence of supply chains. For instance, the Organisation for Economic Cooperation and Development's Guidelines for Multinational Enterprises (OECD Guidelines) cover a broad range of human rights issues, including labour and the environment.[590] The European Union Parliament raised concerns during its early stages of NAFSN implementation as its architecture was likely to compromise small-scale farmers.[591] An encouraging development is a recent commitment to introducing a European Union-wide mandatory human rights due diligence law aimed at businesses operating in Europe.[592]

Other governments have also established human rights standards that impact agribusinesses, though they may also apply to other sectors. For instance, the French government has mandated human rights due diligence for specific categories of corporations based in France or a subsidiary of a company headquartered in France.[593] The Netherlands has enacted legislation

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[590] The Guidelines are available here OECD, "OECD Guidelines for Multinational Enterprises 2011 EDITION" (OECD Publishing, 2011), http://www.oecd.org/daf/inv/mne/48004323.pdf. For a critique of the guidelines, see Kenneth A. Reinert, Oda T. Reinert, and Gelaye Debebe, "The New OECD Guidelines for Multinational Enterprises: Better but Not Enough," *Development in Practice* 26, no. 6 (August 17, 2016): 816–23, https://doi.org/10.1080/09614524.2016.1195795.

[591] European Parliament, "REPORT on the New Alliance for Food Security and Nutrition (2015/2277(INI)) Committee on Development Rapporteur: Maria Heubuch on the New Alliance for Food Security and Nutrition (2015/2277(INI))," A8-0169/2016 § (2016), https://www.europarl.europa.eu/doceo/document/A-8-2016-0169_EN.pdf.

[592] Norton Rose Fulbright, "Proposal for an EU Wide Mandatory Human Rights Due Diligence Law," Norton Rose Fulbright, May 2020, https://www.nortonrosefulbright.com/en-gb/knowledge/publications/1a58997f/proposal-for-an-eu-wide-mandatory-human-rights-due-diligence-law.

[593] Business & Human Rights Resource Centre, "France: Natl. Assembly Adopts Law Imposing Due Diligence on Multinationals to Prevent Serious Human Rights Abuses in Supply Chains - Business & Human Rights Resource Centre," www.business-humanrights.org, February 14, 2017, https://www.business-

that prohibits the use of child labour.[594] The United Kingdom has enacted anti-slavery legislation as well.[595] Africa has seen similar but less robust developments in relation to the regulation of business conduct. For example, in Kenya, the Constitution places a higher threshold for businesses. The bill of rights is binding to all persons, including businesses. As a result of this safeguard, several businesses have been found liable for constitutional violations.[596]

5.3.5 Voluntary Codes of Conduct

These are codes of conduct adopted by agribusinesses to encourage them to comply with specific standards related to labour, workers' health, safety, and the prohibition of child labour. These include the UN Global Compact, which is open to all sectors.[597] The Roundtable on Sustainable Palm Oil is one such voluntary body that relates to agribusinesses.[598]

These voluntary codes have failed to secure respect for human rights by the members.[599] For instance, members of the Round table on Sustainable Palm Oil have been accused of

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humanrights.org/en/latest-news/france-natl-assembly-adopts-law-imposing-due-diligence-on-multinationals-to-prevent-serious-human-rights-abuses-in-supply-chains/. For commentaries on the French Mandatory Human Rights Due Diligence Law.

[594] Jones Day-Kornel Olsthoorn, "The Netherlands Adopts Business and Human Rights Legislation to Combat Child Labor | Lexology," www.lexology.com, February 4, 2020, https://www.lexology.com/library/detail.aspx?g=c65161b5-1450-405b-9848-1d5612a4954f. The Netherland's legislation to combat child labour.

[595] United Kingdom Modern Slavery Act "Modern Slavery Act 2015," 2015 CHAPTER 30 (2020), https://www.legislation.gov.uk/ukpga/2015/30/enacted/data.pdf.

[596] National Council for Law Reporting, "Petition 17 of 2013 - Kenya Law," kenyalaw.org, accessed June 12, 2021, http://kenyalaw.org/caselaw/cases/view/90844. Kenya constitution provides the bill of rights applies to all persons. The interpretative provisions of the constitution include the leeway that this includes businesses. Since the promulgation of the current constitution, courts have held corporations liable for human rights violations.

[597] United Nations, "The Ten Principles | UN Global Compact," Unglobalcompact.org, March 14, 2019, https://www.unglobalcompact.org/what-is-gc/mission/principles. The ten principles of the UN Global Compact.

[598] United Nations, "The Ten Principles | UN Global Compact," Unglobalcompact.org.

[599] See International Council on Human Rights Policy, ICHRP, *Beyond Voluntarism: Human Rights and the Developing International Legal Obligations of Companies : Summary* (Geneva, Switzerland: ICHRP, 2002), https://ssrn.com/abstract=1551200. Also see McLeay, Fiona. "Corporate Codes of Conduct and the

violating human rights in Indonesia.[600] The efficacy of voluntary codes has been challenged on several fronts. First, they usually regard the minimum legal standards applicable to agribusinesses under local legislation and, therefore, do not enhance the protections or guarantees of workers.[601] Second, they overly focus on the responsibilities of the suppliers; for instance, not to resort to child labour but ignore the role of the agribusinesses to pay competitively or support the suppliers with the technical capacity to conduct audits.[602] Finally, they do not have a credible enforcement mechanism in the event of non-compliance. In short, there is no cost attached to non-compliance.[603] Unsurprisingly, agribusinesses rank among the worst performers based on the Corporate Human Rights Benchmark that tracks the human rights policies and practices of the leading businesses in selected sectors.[604] A recent briefing

Human Rights Accountability of Transnational Corporations: A Small Piece of A Larger Puzzle." In *Transnational Corporations and Human Rights*, edited by Olivier De Schutter, 219–240. London: Hart Publishing, 2006. Accessed October 13, 2021. http://dx.doi.org/10.5040/9781472563729.ch-006.

[600] Vincent Kiezebrink, "Roundtable on Sustainable Palm Oil (RSPO) Companies Are Violating Labour Rights and Human Rights in Indonesia," SOMO, last modified February 12, 2018, https://www.somo.nl/roundtable-sustainable-palm-oil-rspo-companies-violating-labour-rights-human-rights-indonesia/.

[601] United Nations Human Rights Council, "Human Rights Council Thirteenth Session Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report of the Special Rapporteur on the Right to Food, Olivier De Schutter, Agribusiness and the Right to Food," documents-dds-ny.un.org (United Nations General Assembly, December 22, 2009), https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/177/76/pdf/G0917776.pdf?OpenElement. para 22

[602] United Nations Human Rights Council, "Human Rights Council… Olivier De Schutter, Agribusiness and the Right to Food," para 23.

[603] United Nations Human Rights Council, "Human Rights Council… Olivier De Schutter, Agribusiness and the Right to Food," para 23.

[604] World Benchmarking Alliance and Corporate Human Rights Benchmark, "Corporate Human Rights Benchmark 2019 Key Findings Across Sectors: Agricultural Products, Apparel, Extractives & ICT Manufacturing" (CHRB Ltd, November 2019), https://www.corporatebenchmark.org/sites/default/files/2019-11/CHRB2019KeyFindingsReport.pdf.

stated that social audits have failed to secure human rights and called for hard law strategies to bridge the gap created by weak social assurances.[605]

5.3.6 United Nations Guiding Principles on Business and Human Rights

The United Nations Guiding Principles on Business and Human Rights endorsed by the UN Human Rights Council is a widely accepted restatement of the duty of the state and the responsibilities of businesses in relation to human rights.[606] Pillar II restates the responsibility of businesses to respect human rights, giving guidance on the broad measures that businesses should embrace. These include conducting human rights due diligence to assess and identify the potential adverse human rights impacts so that it can avoid or mitigate them.[607] Pillar III is about access to remedy, including the imperative for businesses to ensure that they do not restrict access to remedy by victims of human rights violations.[608]

5.4 A Synopsis of the Standards for Human Rights Observance by Agribusiness

The state's duty to protect human rights entails ensuring investment priorities do not compromise their human rights obligations. Regulatory and policy steps to improve the ease of doing business should not compromise the enjoyment of human rights by individuals and

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[605] MSI Integrity, *Not Fit-for-Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance*, (MSI Integrity, 2020), https://www.msi-integrity.org/wp-content/uploads/2020/07/MSI_Not_Fit_For_Purpose_FORWEBSITE.FINAL_.pdf.

[606] United Nations, Human Rights Office of the High Commissioner, "Guiding Principles on Business and Human Rights Implementing the United Nations 'Protect, Respect and Remedy' Framework" (New York and Geneva: United Nations, 2011), https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf.

[607] Nora Gotzmann, "Human Rights and Impact Assessment: Conceptual and Practical Considerations in the Private Sector Context," *SSRN Electronic Journal* 2014/2 (2014), https://doi.org/10.2139/ssrn.2555271. One way that this has been achieved is through conducting human rights impact assessments, though there is a widening split about the contours of a proper human rights assessment due to a multiplicity of methodologies.

[608] See Chapter 4 of this thesis on Access to Remedy.

communities.[609] CESCR addresses this concerning the right to food when it states that state parties "…should take appropriate steps to ensure that activities of the private business sector and civil society are in conformity with the right to food."[610] It further provides that "the private business sector – national and transnational – should pursue its activities within the framework of a code of conduct conducive to respect of the right to adequate food…."[611]

Whereas the scope of a state's obligation is clear, the role interplay between business and human rights has been relatively blurred. Although there is clarity on the contribution businesses have to human rights, they have for a long time resisted any measures that would impose human rights obligations on them.[612] Businesses have argued that international law traditionally is made by and applies to states to regulate inter-state relations.[613] Some have argued that they have adopted codes of conduct as an indication that they are aware of the increasing awareness of their responsibilities.[614] However, there is a limitation on what codes

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[609] Report of the Special Rapporteur on the right to food, United Nations Human Rights Council, "Human Rights Council Nineteenth Session Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report of the Special Rapporteur on the Right to Food, Olivier De Schutter. Addendum. Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements," documents-dds-ny.un.org (United Nations General Assembly, December 19, 2011), https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/174/71/PDF/G1117471.pdf?OpenElement.

[610] United Nations Economic and Social Council, "Committee On Economic, Social And Cultural Rights Twentieth Session Geneva, 26 April-14 May 1999 Agenda Item 7 Substantive Issues Arising In The Implementation Of The International Covenant On Economic, Social And Cultural Rights: General Comment 12 (Twentieth Session, 1999) The Right to Adequate Food (Art. 11)," documents-dds-ny.un.org (United Nations, May 12, 1999), https://documents-dds-ny.un.org/doc/UNDOC/GEN/G99/420/12/pdf/G9942012.pdf?OpenElement. para. 27. This follows an earlier statement that "…failure [of a state] to regulate activities of individuals or groups so as to prevent them from violating the rights to food of others" Para. 19.

[611] United Nations Economic and Social Council, "Committee On Economic, Social And Cultural Rights Twentieth Session Geneva… The Right to Adequate Food (Art. 11),", para 20.

[612] Taylor and Francis, "Multinational Corporations and the Ethics of Global Responsibility."

[613] "Multinational Corporations and the Ethics of Global Responsibility: Problems and Possibilities | Taylor & Francis Group," Taylor & Francis, accessed June 14, 2021, https://www.taylorfrancis.com/chapters/edit/10.4324/9781315252964-5/multinational-corporations-ethics-global-responsibility-problems-possibilities-mahmood-monshipouri-claude-welch-evan-kennedy.

[614] McLeay, Fiona. "Corporate Codes of Conduct and the Human Rights Accountability of Transnational Corporations: A Small Piece of A Larger Puzzle." In *Transnational Corporations and Human Rights*, edited by

of conduct can achieve in regulating business conduct.[615] A significant weakness is that they only apply to those that accept them and have been slow in effecting change. Market forces have been unable to protect the weak and vulnerable members of society. These groups include workers, with traditional forms of advocacy, such as trade unions, gradually eroded by globalization and blurred lines of accountability. However, neither voluntarism nor market forces have been effective in protecting those affected by corporate-related human rights abuses.[616] However, globalization makes it increasingly necessary for individuals and corporate entities to participate in the international legal order.[617]

The Universal Declaration of Human Rights provides an injunction to companies and individuals not to harm.[618] The responsibility of businesses to respect human rights is also widely accepted.[619] This responsibility applies independently of states' ability or willingness to fulfil their human rights obligations. It is not a justification for businesses to claim that their inability to respect the right is due to the failure of the state to meet its obligations to the same rights holders.[620] Also, the test of compliance with this responsibility is judged from an international human rights lens. This is necessary as there are many instances where domestic

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Olivier De Schutter, 219–240. London: Hart Publishing, 2006. Accessed October 13, 2021. http://dx.doi.org/10.5040/9781472563729.ch-006.

[615] McLeay, Fiona. "Corporate Codes of Conduct and the Human Rights Accountability of Transnational Corporations: A Small Piece of A Larger Puzzle."

[616] Human Rights Watch, *On the Margins of Profit: Rights at Risk in the Global Economy*, (New York, 2019), https://www.hrw.org/report/2008/02/18/margins-profit/rights-risk-global-economy.

[617] For instance, by being permitted to file individual petitions in relation to international treaties such as The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, UN Doc A/RES/34/830, (1980) 19 ILM 33

[618] Art. 30 Universal Declaration of Human Rights (UDHR) (adopted 10 December 1948) UNGA Res 217 A (III). It states "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein."

[619] Pillar II, U.N. Office of the High Commissioner of Human Rights [OHCHR], Guiding Principles on Business and Human Rights HR/PUB/11/04 (2011)

[620] Pillar II, U.N OHCHR, Guiding Principles on Business and Human Rights.

laws offer weaker protection than international human rights standards. It is also not sufficient to argue that businesses comply with the local laws, especially where the local laws may have a standard of conduct lower than the international standard. The use of international law as a framework helps to avert the absurdity of a multinational corporation having to apply different standards in different countries where it may be operating, especially when corporations expand, outgrowing their home state regulation.[621] Gauging a corporation's conduct from a human rights lens provides a common and universal standard. International standards are less prone to change and diverse interpretations than national standards.[622] There is, therefore, more predictability and certainty for entities that seek to use it, including corporations. In this section, I use the human rights issues identified as problematic for NAFSN to highlight the standards applicable to agribusinesses.

5.3.7 Participation and Consent of Local Communities

Project proponents should consult local communities during the design of development projects.[623] This consultation should be done transparently, with the involvement and informed participation of local communities. Access to information is an integral part of this process and entails educating the community about both the positive and potential negative impacts of the proposed project. Complex ideas should be synthesized as much as possible. This synthesis

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[621] International Council on Human Rights Policy, "Human Rights Standards: Learning from Experience," International Commission of Jurists, last modified 2006, https://www.icj.org/wp-content/uploads/2006/09/human-rights-standards-learning-from-experience.pdf.

[622] International Council on Human Rights Policy, "Human Rights Standards: Learning from Experience," International Commission of Jurists, last modified 2006, https://www.icj.org/wp-content/uploads/2006/09/human-rights-standards-learning-from-experience.pdf.

[623] Olivier De Schutter Special Rapporteur on the right to food, Oliver De Schutter, "Large-Scale Land Acquisitions and Leases: A Set of Core Principles and Measures to Address the Human Rights Challenge," 2009, http://www.srfood.org/images/stories/pdf/otherdocuments/20090611_large-scale-land-acquisitions_en.pdf.

helps provide the information in a language the targeted community understands to make informed decisions. The consultation should not be a tick-box exercise but should be done in good faith, with the community given the right to reject the implementation of the project.[624]

The United Nations Declaration on the Rights of Indigenous Peoples imposes a high threshold in relation to the treatment and handling of indigenous peoples affected by development projects. It states that indigenous peoples "shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent [FPIC] of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."[625] Free connotes the absence of coercion, inducement or intimidation. Prior means that consent must be sought before the project begins. Informed means that affected communities fully understand the planned project, including in a language they understand, as well as all the social impacts. Consent means that the communities have a right and opportunity to decline the initiation of the project if they consider it non-beneficial or if they do not fully understand how it will impact them.[626]

The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security offer guidelines on a right-based approach to strategies aimed at improving food security. They include the need for states to empower

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[624] FAO, "Free Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities," United Nations, last modified 2016, https://www.fao.org/3/i6190e/i6190e.pdf.

[625] Article 10 United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295), adopted by the General Assembly on Thursday, 13 September 2007 of the UNDRIP

[626] FAO, "Free Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities," United Nations, last modified 2016, https://www.fao.org/3/i6190e/i6190e.pdf.

individuals and civil society actors to make demands on governments and the necessity to consult stakeholders in poverty reduction strategies.[627]

5.4.1 The Responsibility to Respect Human Rights

Livelihoods refer to how individuals and communities earn their living. According to the UNGPs, the responsibility of businesses to respect human rights entails ensuring that their operations do not harm individuals or communities.[628] In the context of agribusinesses, harm may be occasioned through displacement and evictions: Land is a vital resource for groups such as small-scale farmers and members of indigenous communities, as it is the basis for their livelihoods, including food security.[629] The special rapporteur on the right to food has identified small-scale farmers and workers in the agricultural supply chain as among other vulnerable groups that insensitive agricultural policies could disrupt.[630] Forced eviction denies such communities access to the means of procuring food directly and employment for agricultural workers, which is crucial to their effort to obtain food. Eviction can therefore compromise their rights in a cascading manner, including housing, health, and education, among other rights. CESCR has also discouraged forced evictions unless it is necessary.[631] The special rapporteur on the right to food has developed minimum international standards prohibiting forced

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[627] Committee on World Food Security and Food and Agriculture Organization, "Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security" (Rome: Food and Agriculture Organization of the United Nations, 2012), http://www.fao.org/3/a-i2801e.pdf.

[628] Pillar II, U.N. Office of the High Commissioner of Human Rights [OHCHR], Guiding Principles on Business and Human Rights HR/PUB/11/04 (2011)

[629] "Report of the Special Rapporteur on the right to food" (A/65/281)

[630] United Nations Human Rights Council, "Human Rights Council Thirteenth Session Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report of the Special Rapporteur on the Right to Food, Olivier De Schutter, Agribusiness and the Right to Food," documents-dds-ny.un.org (United Nations General Assembly, December 22, 2009), https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/177/76/pdf/G0917776.pdf?OpenElement.

[631] Office of the United Nations High Commissioner for Human Rights (OHCHR) and United Nations Human Settlements Programme (UN-Habitat), Forced Evictions, Fact Sheet No. 25/Rev.1 (2014), p. 16.

evictions, especially in view of their impact on the right to food.[632] Individuals and communities at risk of eviction should have access to effective remedies. Evictions should also leave such communities better off than they were.

The agency implementing the development project should avoid forced eviction unless in exceptional circumstances. Where forced evictions are conducted, they should follow the local laws and should only be justifiable based on the public good. Those affected should be adequately compensated and given alternative settlements.[633] In opting for alternative settlements, local communities should participate in decision-making, which involves any shift in land use.

Agribusinesses should conduct human rights due diligence before commencing projects to understand the impact of their investment on the right to food.[634] The focus areas should include local employment, access to productive resources, the introduction of new technology, and environmental impacts, including soil degradation and water access.

5.4.2 The Responsibility not to Perpetuate Discrimination Against Women

International human rights instruments have responded to discrimination against women in various cultural, economic and social spheres. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the leading international human rights

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[632] A/HRC/13/33/Add.2, annex, principle 2

[633] Olivier De Schutter Special Rapporteur on the right to food, Oliver De Schutter, "Large-Scale Land Acquisitions and Leases: A Set of Core Principles and Measures to Address the Human Rights Challenge," 2009, http://www.srfood.org/images/stories/pdf/otherdocuments/20090611_large-scale-land-acquisitions_en.pdf.

[634] Global Agribusiness Alliance, "Advancing human rights policy and practice in the agribusiness sector," WBCSD, last modified October 2020, https://docs.wbcsd.org/2020/11/GAA-Advancing-human-rights-policy-and-practice-in-the-agribusiness-sector.pdf.

instrument focusing on the prohibition of discrimination based on gender.[635] It requires states to address systematic and historical injustices against women in many spheres of life. Other international treaties prohibit discrimination on the basis of gender as well.[636] CEDAW defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."[637] The law requires that positive steps be taken to address the unequal power relations that are rooted in religion, tradition, history and culture.[638] CESCR has paid particular attention to discrimination and clarified that states' obligations are immediate concerning groups that may be discriminated against in accessing food.[639] It has urged states to ensure non-discrimination, including refraining from operations that may have adverse

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[635]UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, available at: https://www.refworld.org/docid/3b00f2244.html [accessed 12 June 2021].

[636] For example, see UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: https://www.refworld.org/docid/3ae6b3712c.html [accessed 12 June 2021], Art. 2; UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: https://www.refworld.org/docid/3ae6b3aa0.html [accessed 12 June 2021], Arts. 2, 3 and 26; UN General Assembly, *International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights*, 16 December 1966, A/RES/2200, available at: https://www.refworld.org/docid/3b00f47924.html [accessed 12 June 2021], Art. 2.

[637] UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, available at: https://www.refworld.org/docid/3b00f2244.html [accessed 12 June 2021] UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, available at: https://www.refworld.org/docid/3b00f2244.html [accessed 12 June 2021], Art. 1.

[638] Equality of rights between men and women (article 3), 29/3-2001. CCPR/21/Rev.1/ Add.10, ICCPR General Comment 28, para. 5. UN Human Rights Committee (HRC), *CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women)*, 29 March 2000, CCPR/C/21/Rev.1/Add.10, available at: https://www.refworld.org/docid/45139c9b4.html [accessed 12 June 2021]

[639] United Nations, Human Rights Office of the High Commissioner, "CESCR General Comment No. 12: The Right to Adequate Food (Art. 11) Introduction and Basic Premises" (New York: United Nations, 1999), https://www.refworld.org/pdfid/4538838c11.pdf.

impacts on women, children, and indigenous peoples in relation to the exploitation of natural resources.[640] For instance, forced evictions also disproportionately affect women, including any change of land use that limits their land rights. [641]

In the relatively nascent though growing field of considering approaches to ensure that businesses do not violate human rights, there is still room to clarify and mandate measures to ensure that business operations do not exacerbate gender discrimination.[642] Granted, there are guidelines that are applicable to agribusiness and their impact on women. The UN Working Group on Business and Human Rights has produced guidelines on gender and business and human rights.[643] For instance, several human rights guaranteed under CEDAW may be applicable to an agribusiness setting. These include the obligation to ensure women have the same employment opportunities as men in the workplace.[644] The treaty also guarantees the right to equal remunerations and equal treatment.[645] It further prohibits dismissal from the

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[640] UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, 10 August 2017, E/C.12/GC/24

[641] UN Office of the High Commissioner for Human Rights (OHCHR), *Fact Sheet No. 25 (Rev.1), Forced Evictions*, 2014, No. 25/Rev.1, available at: https://www.refworld.org/docid/5566d6744.html [accessed 12 June 2021, p. 16.

[642] For a discussion on the justification and the imperative of international law to consider integration of gender into the business and human rights discourse, see Bonita Meyersfeld, "Business, human rights and gender: a legal approach to external and internal considerations," in *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?*, ed. Surya Deva and David Bilchitz (Cambridge University Press, 2013), https://doi.org/10.1017/CBO9781139568333.013.

[643] UN Human Rights Council, "Gender dimensions of the Guiding Principles on Business and Human Rights," para 45, ESubscription to United Nations Documents, accessed September 21, 2021, https://undocs.org/A/HRC/41/43.

[644] UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, available at: https://www.refworld.org/docid/3b00f2244.html [accessed 12 June 2021], Art. 11. 1 (b)

[645] UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, Art. 11.1. (d)

workplace on the basis of pregnancy or maternity leave.[646] The International Labour Organisation (ILO) instruments oblige states to ensure that private employers guarantee equality of women in the workplace.[647] The International Finance Corporation, which is the private sector financing arm of the World Bank, also provides standards related to gender.[648]

Despite these guarantees, discrimination in the context of business operations still exists. This explains the growing calls for not only mandatory human rights due diligence in operations but one that assesses the ways women are disadvantaged by employing gendered lenses.[649]

An examination of NAFSN documents reveals a lack of concrete measures to ensure that the projects did not exacerbate discrimination against women existed. In the analysis chapter, I demonstrate how this insensitivity ended up disadvantaging women who were already in a precarious situation, given the prevailing gender imbalances.[650]

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[646]UN General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, A/RES/34/180, Art. 11. 1 (a)

[647] International Labour Organization (ILO), *Discrimination (Employment and Occupation) Convention, C111*, 25 June 1958, C111, available at: https://www.refworld.org/docid/3ddb680f4.html [accessed 12 June 2021]; International Labour Organization (ILO), *Equal Remuneration Convention*, 29 June 1951, C100, available at: https://www.refworld.org/docid/5c6fc21b7.html [accessed 12 June 2021]

[648] World Bank Group. 2015., "World Bank Group Gender Strategy (FY16-23) : Gender Equality, Poverty Reduction and Inclusive Growth," Handle Proxy, accessed September 21, 2021, https://hdl.handle.net/10986/23425.

[649] Bonita Meyersfeld, "Chapter 9: The rights of women and girls in HRIA: The importance of gendered impact assessment," in Handbook on Human Rights Impact Assessment, ed. Nora Gtzmann (Gloucestershire: Edward Elgar Publishing, 2019).

[650] This is one of the reasons France advanced to justify its decision to withdraw its support of NAFSN, see 'France Withdraws from NAFSN; Agribusiness is not the cure for hunger!" ActionAid, February 09, 2018, available at https://www.actioncontrelafaim.org/en/press/france-withdraws-from-nafsn-agribusiness-is-not-the-cure-for-hunger.

5.4.3 The Responsibility to Ensure Access to Remedy

State bodies, individuals or communities who claim infringement of their rights are entitled to pursue justice at either the domestic or the international level. Under the International Convention on Civil and Political Rights, states are under a duty to provide a remedy, including ensuring that claimants have access to "competent, judicial, administration or legislative authorities…."[651]

This obligation extends to victims of abuses by third parties, including corporations. Pursuant to this obligation, often, states design both judicial and non-judicial remedies to which victims of corporate-related abuse can take recourse.[652] Further, the UNGP require businesses to take measures to ensure those harmed by their operations have access to remedy by, for instance, ensuring that they have operational-level grievance mechanisms.[653]

Despite the protections offered to victims of corporate-related abuses, procedural and structural obstacles impede the pursuit of legal accountability through state-based mechanisms. These obstacles include the high costs of litigation, stringent rules on *locus standi* (legal standing) to file cases, case backlog making inordinately long for claims to be determined, and inadequate remedies.[654] In other cases, it is difficult for victims of corporate harm to obtain

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[651] UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: https://www.refworld.org/docid/3ae6b3aa0.html [accessed 12 June 2021], Article 2(3)

[652] See Pillar III of the UNGPs, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (A/HRC/17/31).

[653] See Pillar III of the UNGPs, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework

[654] Jennifer Zerk, "Corporate liability for gross human rights abuses: Towards a fairer and more effective system of domestic law remedies," UN Human Rights Office, last modified May 2013, https://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies.pdf.

witnesses either due to the cost involved in the case of expert witnesses.[655] In other cases, such difficulty may arise because the witnesses could be required to testify in a jurisdiction that requires logistical support that the victims may not afford.[656]

A growing deterrent for victims of corporate-related abuse and their advocates from pursuing justice is when corporations institute legal proceedings against communities or their advocates. The lawsuits are commonly referred to as Strategic Litigations Against Public Participation (SLAPP suits) and are meant to intimidate complainants into preventing them from filing complaints or asserting their rights through either judicial or non-judicial channels.[657] For instance, human rights advocates were summoned to appear before an investigative tribunal after SOCFIN initiated proceedings for alleged defamation. This related to reports the advocates had written raising concerns about SOCFIN's operations, including in Sierra Leone's agribusiness sector.[658] The UN Working Group on Business and Human Rights has offered guidance on how businesses should conduct themselves to ensure that their operations respect the work of human rights defenders.[659]

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[655] Zerk, "Corporate liability for gross human rights abuses: Towards a fairer and more effective system of domestic law remedies,"

[656] Zerk, "Corporate liability for gross human rights abuses: Towards a fairer and more effective system of domestic law remedies,"

[657] For more on Strategic Litigation Against Public Participation, see ICNL The International Center for Not-for-Profit Law, accessed June 28, 2021, https://www.icnl.org/wp-content/uploads/SLAPPs-in-the-Global-South-vf.pdf

[658] FIAN International, "New SLAPP of the Agro-industrial Group SOCFIN," FIAN International, last modified December 8, 2019, https://www.fian.org/en/press-release/article/new-slapp-of-the-agro-industrial-group-socfin-2258.

[659] United Nations Human Rights Council, "Human Rights Council Forty-First Session 24 June–12 July 2019 Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Gender Dimensions of the Guiding Principles on Business and Human Rights, Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises" (New York: United Nations General Assembly, May 23, 2019), https://media.business-humanrights.org/media/documents/files/documents/A_HRC_41_43.pdf. Also, The Investors Alliance for Human Rights has also called on companies to protect human rights defenders, Investor Statement on Strategic Lawsuits Against Public Participation (SLAPPs)

Other obstacles include the possibility of threats and intimidation by state agents should they view the pursuit of justice against businesses as inimical to their efforts to promote trade.[660]

Communities impacted by business operations often lack information about the obligations of the businesses. This includes the effective accountability mechanisms they may use to assert their rights against corporations should the corporations fail to meet their obligations. Access to information by communities is, therefore, a critical component regarding access to remedy.[661]

These challenges are easy to overcome if corporations and states perform their respective roles as stipulated by a growing body of authoritative sources. As earlier indicated, they should facilitate an operational-level grievance mechanism to deal with cases permissible at the operational level.[662] This helps deal with such cases that might cause a backlog at the local courts as well as help foster a good relationship between the business and the local community and workers.

There is a range of basic freedoms that are necessary for employees or a community to access remedies in cases of violations. These include protection of the freedom of expression,

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[660] Jennifer Zerk, "Corporate liability for gross human rights abuses: Towards a fairer and more effective system of domestic law remedies," UN Human Rights Office, last modified May 2013, https://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies.pdf.

[661] Jennifer Zerk, "Corporate liability for gross human rights abuses: Towards a fairer and more effective system of domestic law remedies," UN Human Rights Office, last modified May 2013 https://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies.pdf.

[662] OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (New York and Geneva: United Nations, 2011), https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

peaceful assembly and association, as well as the freedom to hold divergent beliefs.[663] Businesses should, therefore, not have policies or practices that limit the enjoyment of these freedoms. This includes allowing trade union activities as well as authorizing retaliation in the form of demonstrations, protests, and other forms of expression.[664]

In addition, a business should not be complicit in measures that may be taken by state agents that threaten, intimidate or blackmail human rights defenders or any attempt by states to limit their ability to defend victims of corporate-related harm. The UN General Assembly has urged businesses to "…prevent many of the threats and attacks against defenders […by recognizing] the legitimacy and utility of free expression and dissent and to guarantee the meaningful participation of civil society stakeholders in decisions relating to business which affect them."[665] Businesses are encouraged to foster a safe environment for defenders, adopt human rights policy statements that embed responsibility to respect human rights defenders, disengage from businesses relationship that risk human rights defenders, and take responsibility for violations to ensure access to remedy.[666]

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[663] UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: https://www.refworld.org/docid/3ae6b3712c.html [accessed 20 June 2021], UNGA Res 217 A (III), Art. 18, 19, 20; UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: https://www.refworld.org/docid/3ae6b3aa0.html [accessed 20 June 2021], Art. 19, subject to prohibition in Art. 20 of hate speech; Prohibition in Art. 20 of hate speech, Arts. 21 and 22; and Art. 18.

[664] United Nations, "Universal Declaration of Human Rights," United Nations, accessed February 2, 2023, https://www.un.org/en/about-us/universal-declaration-of-human-rights

[665] United Nations General Assembly, "Seventy-Second Session Item 73 (b) of the Provisional Agenda* Promotion and Protection of Human Rights: Human Rights Questions, Including Alternative Approaches for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms Situation of Human Rights Defenders," documents-dds-ny.un.org, July 19, 2017, https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/220/75/pdf/N1722075.pdf?OpenElement. Para 22.

[666] United Nations General Assembly, "Seventy-Second Session Item 73 (b) of the Provisional Agenda* Promotion and Protection of Human Rights: Human Rights Questions, Including Alternative Approaches for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms Situation of Human Rights Defenders."

The above four thematic issues reveal the multiplicity of obligations states have to ensure that they do not harm human rights. The 'do no harm' obligation may mislead one into assuming that it entails negative obligations only. However, businesses are also required to take positive steps to ensure that their operations do not exacerbate inequalities. For example, in a bid to ensure that hiring practices are non-discriminatory, an agribusiness may have to profile certain cadres and ensure that they are reserved for more women to counterbalance historical practices of discrimination against women in relation to employment opportunities.[667] The effect of having more men in cadres that require skills that women may be disadvantaged in.

Human rights due diligence is a necessary process to help businesses identify the potential human rights impacts of their proposed and ongoing projects. The CESCR has urged states to adopt mandatory human rights due diligence regimes for companies.[668] One of the key issues for the human rights due diligence process is to have a gendered lens, something that has been lacking in many human rights due diligence processes.[669]

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[667] For instance, Kakuzi, a Kenyan agribusiness subsidiary of a UK-based company has historically employed men to serve as security guards. Following increased complaints of harassment from members of the community, the company sought to increase the number of women employed as security guards by recruiting three groups of women-only guards to correct the imbalance. See Kakuzi, "Human Rights Policy," https://www.kakuzi.co.ke/human-rights-policy.

[668] UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, 10 August 2017, E/C.12/GC/24. Para 15-17.

[669] United Nations Human Rights Council, "Human Rights Council Forty-First Session 24 June–12 July 2019 Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Gender Dimensions of the Guiding Principles on Business and Human Rights, Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises" (New York: United Nations General Assembly, May 23, 2019), https://media.business-humanrights.org/media/documents/files/documents/A_HRC_41_43.pdf.

5.5 What Motivates States' Extraterritorial Intervention of Food Security?

Some of the significant interventions in cases of severe food shortage are by bodies such as the World Food Program, FAO, and international financial institutions such as the World Bank and the African Development Bank.[670] Other interventions are by regional blocks such as the European Union and the African Union.[671] There are also cases where countries come to the aid of others at a bilateral level.[672] Non-governmental organizations such as Oxfam and ActionAid are involved in humanitarian activities.[673] At the local level, corporations and citizens occasionally rally to support food-deprived individuals and communities.[674] The following section discusses the various justifications for intervention by different actors.

5.5.1 International Obligations

Articles 55 and 56 of the Charter of the United Nations commit states to cooperate in the promotion of human rights.[675] These rights include the realization of the right to food,

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[670] For instance, see AfDB's brief on food security for an overview of the bank's intervention. African Development Bank Chief Economic Complex. 2013. "Africa Food Security Brief." https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Africa_Food_Security_Brief_-_Issue_4.pdf

[671] European Commission, "EU Achievements in Food and Nutrition, Security and Sustainable Agriculture 2014-2018," 2019. https://ec.europa.eu/international-partnerships/system/files/p3293-euachievements-brochure-web_en.pdf

[672] For instances, for a review of Norwegian bilateral support on food security, see Evaluation of Norway's Bilateral Agricultural Support to Food Security, last modified 2013. https://norad.no/globalassets/import-2162015-80434-am/www.norad.no-ny/filarkiv/vedlegg-til-publikasjoner/evaluation-of-norways-bilateral-agricultural-support-to-food-security.pdf

[673] Seinatt Argaw and Banbul Shewankena, "The Role of NGO's on Food Security," *International Journal of Scientific and Research Publications*, May/June 2018, doi:10.29322/IJSRP.8.4.2018.p7667.

[674] Vanhamme, Joëlle, Adam Lindgreen, Jon Reast, and Nathalie van Popering. 2021. "To Do Well By Doing Good: Improving Corporate Image Through Cause-Related Marketing."; Also, see the Kenyans for Kenya initiative by the corporate world to address food shortage "Kenyans For Kenya Initiative Underscoring Accountability In Use Of Public Funds". *Redcross.Or.Ke*. Accessed June 27. https://www.redcross.or.ke/images/Kenyans%20for%20Kenya%20Initiative%20lessons%20learnt.pdf.

[675] United Nations. *UN Charter*. (New York: United Nations, 1945). Accessed on June 27, 2021 https://www.un.org/en/sections/un-charter/un-charter-full-text/

recognized in several international human rights instruments. Articles 22 and 28 of the Universal Declaration of Human Rights (UDHR) recognises the right to adequate.[676] Articles 4 and 24(4) of Convention for the Rights of the Child stipulates the state obligation to ensure that the right is realised in relation to children.[677] Articles 2 (1) and 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) also relates the right to adequate food.[678]

Article 28 of the UDHR entitles human beings to a social and international order that will help them realize the rights and freedoms outlined in the UDHR. The Committee on Economic, Social, and Cultural Rights (CESCR), the treaty body that monitors the implementation of the ICESCR, in its elaboration of the scope of state obligation, has clarified that states should corporate at the interventional level to ensure the realization of the right to food.[679] General Comment 12 of the CESCR obligates states to seek and give assistance in pursuing their obligations under the ICESCR.[680] Under the Vienna Convention on the law of treaties, states that have not ratified international agreements, such as ICESCR, are under a duty to refrain from conduct that defeats the objects of such agreements.[681] It means, therefore, that states that are not parties to international covenants recognizing the right to food are under an obligation not to engage in conduct that would compromise the enjoyment of the right. In addition, there

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[676] Universal Declaration of Human Rights, Articles 22 and 28
[677] Convention on the Rights of the Child, Articles 4 and 24(4)
[678] The International Covenant on Economic Social and Cultural Rights, Articles 2 (1) and 11
[679] The Committee on Economic, Social and Cultural Rights, General comment No. 3 , Paragraph 14.
[680] The Committee on Economic, Social and Cultural Rights, General Comment 12 paragraph 17.
[681] Vienna Convention on the Law of Treaties, Article 18.

is growing consensus that the UDHR, the ICCPR and the ICESCR are now customary international law and are universally binding.[682]

Initiatives such as the Millennium Development Goals and its successor Sustainable Development Goals, have food security-related goals.[683] Goal 2 of the Sustainable Development Goals aims to end hunger by 2030. Some scholars have argued that states have an extraterritorial responsibility towards the achievement of Sustainable Development Goals.[684] The extraterritorial obligations of states are derived from the Charter of the United Nations.[685] Committee on Economic, Social and Cultural Rights has emphasized that an integral part of international cooperation required under the treaty obligates the State party to "adopt a human rights-based approach to its policies of international cooperation".[686] In relation to states' extraterritorial obligations in relation to the right to food, the CESCR has several times called on state parties to the covenant to undertake human rights impact assessments to ensure that funding takes a human rights approach.[687]

The Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights also require states to take measures to protect the rights of those

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[682] Bill Campbell, "The Dynamic Evolution of International Law – The Case for the More Purposeful Development of Customary International Law," *Victoria University of Wellington Law Review* 49, no. 4 (2018): 561-572, doi:10.26686/vuwlr.v49i4.5340.

[683] World Health Organization. *Millennium Development Goals*. (Geneva: WHO, 2018). Accessed June 17, 2021 https://www.who.int/news-room/fact-sheets/detail/millennium-development-goals-(mdgs)

[684] Magdalena Bexell and Kristina Jönsson. "Responsibility and the United Nations' Sustainable Development Goals," *Forum for Development Studies*, 44:1(2017): 13-299. DOI: 10.1080/08039410.2016.1252424

[685] Articles 55, 56 and 103 of the Charter of the United Nations.

[686] Committee on Economic Social and Cultural Rights [2014} Concluding Observations: China UN Doc. E/C.12/CHN/CO/2 (13 June 2014)

[687] For example, in its concluding observations in regard to Austria (2013 Concluding Observations: Austria UN Doc. E/C.12/AUT/CO/4 (29 November 2013)), Norway (2013 Concluding Observations: Norway UN Doc. E/C.12/NOR/CO/5 (13 December 2013)), Germany (2011 Concluding Observations: Germany UN Doc. E/C.12/DEU/CO/5 (12 July 2011))

within and beyond their territories.[688] This obligation, however, does not extend to non-state actors unless it can be demonstrated that such non-state actors are agents of the state.[689]

Countries have also participated in the formulation of declarations, where they have acknowledged their collective responsibility to take measures and alleviate hunger and reduce the percentage of people without access to safe drinking water.[690] In addition, United Nations bodies such as the World Food Program, Food and Agriculture Organization, and the United Nations Development Program have used the narratives of these goals to shape their thematic interventions.[691]

5.5.2 International Financial Institutions

The World Bank, IMF, and other development banks such as the African Development Bank, significantly influence development projects through their funding policies. They have been vehicles at the heart of significant development initiatives, including in the Global South, where they have wielded considerable control over states. However, their responsibility to respect human rights is unclear. The World Bank has consistently denied having any human rights responsibilities.[692] Some scholars argue that the burden is on states that are shareholders

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[688] For a commentary on The Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, see Olivier De Schutter et al., "Commentary to the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights," *Human Rights Quarterly* 34, no. 4 (2012): 927-958, doi:10.1353/hrq.2012.0063.

[689] Smita Narula, "The right to food: holding global actors accountable under international law", Colombia Journal of Transnational Law, No. 44 (2006), pp. 752–753.

[690] FAO. "Rome Declaration on World Food Security." World Food Summit (November 13-17, 1996 Rome, Italy). Accessed on June 27, 2021 http://www.fao.org/3/w3613e/w3613e00.htm

[691] World Food Programme. *Overview-WFP*. (Rome, Italy: World Food Programme, 2020). Acccessed on June 27, 2021 https://www.wfp.org/overview

[692] Patel, Stuffed and Starved. Also, see Ziegler, Golay, Mahon and Way. *The Fight for the Right to Food*, 84.

in these financial institutions.[693] Others call for a reorientation of the human rights considerations of the World Bank and IMF, given empirical evidence on how their lending may have undermined human rights.[694]

5.5.3 Strategic Interest

Countries intervene in situations where they have geopolitical or historical interests. There is a trend, for instance, where former colonial powers support their former colonies with food aid. This 'trusteeship' has largely shaped development policies in the former colonies.[695] However, there is a shifting paradigm with growing South-South cooperation. A notable leading initiative is the rise of the BRICS, a coalition involving Brazil, Russia, India, China, and South Africa that now advocates for a different development paradigm, free from the Global North. However, this is yet to transform development geopolitics radically.[696]

There has been a surge in land acquisitions for large-scale agribusiness in the Global South, primarily by investors from the Global North and supported by their rich home states. These investors' perception that land in the Global South is idle and cheap is seen as giving them an opportunity for a good return on their investment.[697] This wave of land acquisition has ignored

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[693] Komala Ramachandra. *The World Bank Should Stop Dodging Responsibility: US Supreme Court Challenge Calls Legal Immunity Into Question.* (New York: Human Rights Watch, 2018). Accessed on June 27, 2021 https://www.hrw.org/news/2018/05/16/world-bank-should-stop-dodging-accountability

[694] Jessica Evans. "The Record of International Financial Institutions on Business and Human Rights." *Business and Human Rights Journal, 1*(2) (2016): 327-332. doi:10.1017/bhj.2016.11

[695] Claire Mercer, Mohan and Power. "Towards a Critical Political Geography of African Development," *Geoforum* 34,4 (2003): 19–436.

[696] Fahimul Quadir. "Rising donors and the new narrative of 'South–South' cooperation: what prospects for changing the landscape of development assistance programmes?" *Third World Quarterly*, 34,3 (2013): 321–338.

[697] Olayinka Kareem, "The determinants of large-scale land investments in Africa," *Land Use Policy*, 75, (2018): 180-190. Accessed on June 27, 2021 https://doi.org/10.1016/j.landusepol.2018.03.039

Lorenzo Cotula. The Great African Land Grab? Agricultural Investments and the Global Food System. ResearchGate (0nline, 2013). Accessed on June 27, 2021

a warning by academics and policymakers about the negative human rights impacts of the commercialization of agriculture on small-scale farmers and the recommendation that agroecology has a better chance of improving food security for small-scale farmers.[698] I will analyse the negative impact of the commercialization of agriculture when I discuss how NAFSN has compromised food security for small-scale farmers.[699]

5.5.4 Public Demand

There have been episodes where media highlights of severe cases of starvation have sparked global or domestic attention to food crises neglected for a long time. Such focus has occasionally led to some form of intervention. The downside is that a media-driven response may leave out more urgent and chronic situations. The 1993 Sudan starvation continued until Kevin Carter's picture of a hungry little boy, and a vulture waiting to prey on him elicited international attention.[700] However, a few decades later, a famine in the same region was ignored after being overshadowed by other global news, including the deteriorating situation in the Middle East and the downing of a Malaysian Airlines plane, killing all on board that seemed to capture media houses' attention.[701]

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https://www.researchgate.net/publication/269395499_The_Great_African_Land_Grab_Agricultural_Investments_and_the_Global_Food_System

[698] Olivier Schutter. "Agroecology and the Right to Food", Report presented at the 16th Session of the United Nations Human Rights Council [A/HRC/16/49], 8 March 2011. Accessed on June 27, 2021 http://www.srfood.org/en/report-agroecology-and-the-right-to-food

[699] See Chapter 6 of this thesis

[700] Alberto. *Kong Nyong, The Boy Who Survived the Vulture*. El Mundo February 21, 2011.

[701] Compare Sudan during the time when Kevin Carter's took a little boy's photo and the vulture with Sudan in 2013 covered by the Guardian in this article Maaza Mengiste, "We must not look away from the crises in Africa," *The Guardian*, July 31, 2014, https://www.theguardian.com/commentisfree/2014/jul/31/world-tired-africas-tragedies-look-harder.

5.6 Conclusion

The growing commercialization of agriculture, including in communities that predominantly practised subsistence small-scale farming, has seen a rise in harm to communities' right to adequate food. Communities' traditional forms of subsistence have been disrupted. Women have suffered disproportionately by being discriminated against, unsubordinated and disadvantaged.[702] Agribusiness, whether abusing the lack of an effective regulatory regime or favourable policy and legal changes that favour them, have continued to ignore embedding measures that protect communities against harm by their conduct. This has been worsened by the procedural and legal barriers that have made it difficult for victims of corporate harm to seek a remedy through either state or non-state-based mechanisms. In the following chapter, I assess the earlier selected NAFSN cases and their shortcomings based on the international human rights laws, standards, and frameworks for agribusinesses discussed in this chapter.

[702] Bantekas, I., & Oette, L. (2013). The human rights of women. In *International Human Rights Law and Practice* (pp. 452-483). Cambridge: Cambridge University Press

6. **Analysing NAFSN's Shortcomings from a Human Rights Perspective**

6.1 Introduction

For the last decade, small-scale farmers have been responsible for producing about 70 % of the food produced in Africa.[703] Despite their significant contribution to food security, aid and development programs that seek to improve food security have often prioritized corporate interests at their expense. One way they do this is by formulating laws and policies that favour corporations.[704] One often-used justification for corporations' intervention is to modernize agriculture, often preceded by falsely depicting small-scale farming as backward and incapable of addressing food security concerns.[705] This narrative then paves the way for modernization and commercialization of agriculture as the panacea for food security, a Segway for injection of private capital given most governments' failure to invest in agriculture, either due to neglect or financial constraints.[706]

Unfortunately, such an approach's inevitable results are policies that promote the use of public resources to advance corporations' interests, compromising peasant communities' livelihoods. This includes restriction of land access for small-scale farmers, including pastoralists, to pave the way for agribusiness, policies and practices that exacerbate discrimination against women, and subjugate communities' traditional and more sustainable

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[703] See Chapter 2 of this thesis on Food Security in Sub-Saharan Africa.

[704] Friedman Milton, The Social Responsibility for Business is to Increase its Profits", The New York Times Magazine, September 13, 1970. Copyright @ 1970 by The New York Times Company;

[705] Global Agribusiness Alliance, "Advancing human rights policy and practice in the agribusiness sector," WBCSD, last modified October 2020, https://docs.wbcsd.org/2020/11/GAA-Advancing-human-rights-policy-and-practice-in-the-agribusiness-sector.pdf.

[706] Friedman Milton, "The Social Responsibility for Business is to Increase its Profits", The New York Times Magazine, September 13, 1970. Copyright @ 1970 by The New York Times Company;

agrarian practices such as crop rotation and mixed cropping. This failure to respect communities' rights, including the right to adequate food by governments and complicit agribusinesses, occurs due to the refusal to respect international standards and guidelines applicable to agribusinesses involved in pro-poor development strategies.[707]

In chapter 5, I discussed the standards applicable to agribusinesses in designing and implementing development projects to ensure they respect human rights. In the preceding chapters, I demonstrated how NAFSN projects were introduced from the national to the local level and the worrying failure to involve local communities in the projects from inception.

Using these and other case studies, this chapter explains NAFSN's failure to respect the rights of local communities and the promotion of the interests of agribusinesses.[708] The two most significant shortcomings are compromising local communities' right to adequate food and exacerbating discrimination against women. These shortcomings have consequently contributed to NAFSN's failure to achieve the stated objectives of reducing food insecurity and lifting 50 million Africans out of poverty.[709] My discussion will primarily focus on the shortcomings of the agribusinesses, though I will also mention the failures of the governments of the participating African countries.

This chapter is divided into three major parts. In the first part, I briefly discuss how agribusinesses have impacted human rights in Africa. Subsequently, I will narrow the scope to

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[707] OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (New York and Geneva: United Nations, 2011), https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

[708] Nora McKeon. "The New Alliance for Food Security and Nutrition; A Coup for Corporate Capital." Transnational Institute, 27 May 2014. https://www.tni.org/en/publication/the-new-alliance-for-food-security-and-nutrition

[709] See Chapter 3 of this thesis on the New Alliance on Food Security and Nutrition.

specific NAFSN agribusinesses and how they impact human rights. I will then illustrate the various ways in which NAFSN negatively impacted the right to adequate food for local communities, and how the project proponents' failed to consider its impact on women and hence take remedial action, exacerbating discrimination against women in violation of international human rights standards.

In the last part, I will offer two explanations for these shortcomings. First, NAFSN architects failed to ensure local communities, including small-scale farmers and women, participated in its conceptualization and implementation. Second, NAFSN was unable to ensure adequate accountability mechanisms. This failure is in two regards: the failure to have publicly available performance indicators to commit state actors and agribusinesses and the lack of access to remedy pathways for individuals and communities harmed by the proposed projects. Finally, I conclude that NAFSN's failure to achieve its objectives due to structural flaws was not unforeseeable. It follows an unfortunate pattern of prioritization of the interest of unaccountable corporations at the expense of poor communities' rights.[710]

6.2 The Human Rights Impacts of Agribusinesses

Africa's food production and consumption patterns have drastically changed since the pre-colonial era. It started with a gradual introduction of exotic crops, the establishment of settler farms seized from local populations and the shift from agroecology to the use of agrochemicals.[711] Many of these practices not only continued after independence but today,

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[710] REDD-Monitor, "Carbon Colonialism: Green Resources' Industrial Tree Plantations in Uganda Leave Communities Facing "An On-Going Hunger Crisis"," Oaklandinstitute.org, last modified December 23, 2017.

[711] Jan Vansina. "Finding Food and the History of Precolonial Equatorial Africa: A Plea." *African Economic History*, no. 7 (1979): 9-20. https://doi:10.2307/3601199

most facets of the food chain are increasingly commercialized for significant sections of the population.[712] While those behind the agribusinesses continue to make profits, many aspects of individual and community lives have been negatively affected, with unsustainable production models that continue to widen inequalities.[713]

The introduction and profit-driven propagation of commercial crops using contemporary food production methods have contributed to environmental degradation and exacerbated climate change.[714] The increase in lifestyle diseases in Africa has been partly blamed on shifting food consumption patterns from traditional foods to Western lifestyles.[715] Land grabbing, attributed to the search for idle and arable land in the Global South by rich governments and private entities, has led to local communities' displacement, often without compensation. All these have disrupted the livelihoods of local communities.[716]

The impact of agribusinesses goes beyond those mentioned above. This section examines four of the ways agribusinesses impact human rights. First is the common practice of states and complicit agribusinesses imposing projects on communities without adequate information, consultation and consent of those likely to be impacted. Second is how agribusiness projects

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[712] Felix Adamu Nandonde and John Kuada, "Perspectives of Retailers and Local Food Suppliers on the Evolution of Modern Retail in Africa," *British Food Journal* 120, no. 2 (February 5, 2018): 340–54, https://doi.org/10.1108/bfj-02-2017-0094. This explains the evolution of modern food retailing in Tanzania.

[713] James Zhan, Hafiz Mirza, and Will Speller, "4 The Impact of Larger-Scale Agricultural Investments on Communities in South-East Asia: A First Assessment," *Large-Scale Land Acquisitions*, 2016, doi:10.1163/9789004304758_005.

[714] IPCC — Intergovernmental Panel on Climate Change, accessed June 14, 2021, https://www.ipcc.ch/srccl/chapter/chapter-5/.

[715] Raschke and Cheema. *The eradication of traditional food habits in East Africa*, 11, 7, (2007): 662–674; Diosey Lugo-Morin. "Indigenous communities and their food systems: a contribution to the current debate." *Journal of Ethnic Foods,* 7, 6 (2020): 1-10.

[716] Human Rights Watch, "'Waiting Here for Death' Forced Displacement and 'Villagization' in Ethiopia's Gambella Region," *Human Rights Watch Website* (New York: Human Rights Watch, 2012), https://www.hrw.org/sites/default/files/reports/ethiopia0112webwcover_0.pdf.

affect livelihoods and the right to food for local communities. The third is how agribusinesses often exacerbate gender discrimination, and finally, how the relationship between the state, agribusiness and the local communities affects access to remedies in light of human rights violations.[717]

6.2.1 Access to Information and Lack of Consultation with Local Communities

Agribusinesses projects may affect individuals and communities in several ways. These include voluntary or forced evictions, loss of livelihoods and compromising their food security. Such individuals should participate in decision-making on matters that impact them, including at the conceptualization, design, and implementation stages.[718] This can be done either directly or through elected representatives. Communities should also participate in periodic reviews of the project and course-correct where negative impacts are identified.

Agribusinesses, like other corporations, wield significant power.[719] It is common to find agribusiness projects imposed by the state without the informed participation of those likely to be impacted.[720] This can be attributed to several factors.

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[717] See chapter 5 of thesis on the Synopsis of the Standards for Human Rights Observance by Agribusiness.

[718] Morten Broberg and Hans-Otto Sano, "Strengths and Weaknesses in a Human Rights-Based Approach to International Development – an Analysis of a Rights-Based Approach to Development Assistance Based on Practical Experiences," *The International Journal of Human Rights* 22, no. 5 (December 20, 2017): 664–80, https://doi.org/10.1080/13642987.2017.1408591. For more on human-rights based approach to development.

[719] J Ziegler et al. "*The Fight for the Right to Food: Lessons Learned*." (Basingstoke, UK: Palgrave Macmillan, 2012) page, 91 for an overview of the global reach of the top agribusinesses; Molly Anderson, "A Question of Governance: To Protect Agribusiness Profits or the Right to Food?" (Agribusiness Action Initiatives (AAI), November 2009), https://www.files.ethz.ch/isn/111296/2009-11_A-Question-of-Governance.pdf.

[720] Global Agribusiness Alliance, "Advancing human rights policy and practice in the agribusiness sector," WBCSD, last modified October 2020, https://docs.wbcsd.org/2020/11/GAA-Advancing-human-rights-policy-and-practice-in-the-agribusiness-sector.pdf.

6.2.1.1 Trade Agreements that Ignore Human Rights Standards

Historically, international investment law predominantly safeguards the interests of investors.[721] The priority is ensuring that states honour their obligations and that private investors are protected. This includes giving private sector actors significant freedom to choose the forum for dispute resolution. States are often liable and have indeed paid a significant amount of damages for breaches of the terms of the agreements.[722] Consequently, such states negotiate without involving local communities, either directly or through their elected representatives.[723] This is especially where they can ignore it at the domestic level without being held accountable. Chapter six demonstrates how states in many NAFSN-participating African countries failed to involve communities or farmers' representatives in formulating the NAFSN.

6.2.1.2 Use of Coercive Power by States and Businesses

There are instances where communities resist the introduction of projects due to their potential to disrupt their lifestyle and negatively impact livelihoods. In some cases, states have resorted to coercive strategies, including legislation and, in extreme cases, force to compel

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[721] Howard Mann, "International Investment Agreements, Business and Human Rights: Key Issues and Opportunities Session 2.2.: The Policy Framework for Investment: The Social and Environmental Dimensions" (International Institute for Sustainable Development, March 2008), http://www.oecd.org/investment/globalforum/40311282.pdf

[722] Howard Mann, "International Investment Agreements, Business and Human Rights: Key Issues and Opportunities Session 2.2.: The Policy Framework for Investment: The Social and Environmental Dimensions" (International Institute for Sustainable Development, March 2008), http://www.oecd.org/investment/globalforum/40311282.pdf

[723] Howard Mann, "International Investment Agreements, Business and Human Rights: Key Issues and Opportunities Session 2.2.: The Policy Framework for Investment: The Social and Environmental Dimensions" (International Institute for Sustainable Development, March 2008), http://www.oecd.org/investment/globalforum/40311282.pdf.

compliance with the state's position on such projects.[724] Recourse to such coercive strategies invariably ends up protecting corporate as opposed to the community's interest. [725] For example, the Ethiopian government forcibly evicted the indigenous Anuak community to pave the way for agribusinesses under a scheme where the local population was compelled to live in villages, abandoning their traditional lifestyle.[726] There have also been cases of intimidation of human rights defenders who protect community interests, including by resorting to strategic litigation against public participation, now commonly referred to as SLAPP suits.[727]

6.2.1.3 Neo-colonialism

The state in the colonial setting routinely used terror as opposed to engagement to impose its wishes on communities.[728] It would seize land, conscript innocent people to work as forced labourers, restrict movement based on race, and impose taxes without notice to the locals.[729] This continued with very strongman-oriented post-independence African counties. Despite the opening of democratic space, including ratifying international human rights covenants, many states have not changed the colonial mindset to accommodate the possibility of

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[724] Michelle Langrand, "Human Rights Overshadowed by Big Business in UN Food Summit, Says UN Expert," Geneva Solutions, last modified May 19, 2022, https://genevasolutions.news/climate-environment/human-rights-overshadowed-by-big-business-in-un-food-summit-says-un-expert

[725] Michelle Langrand, "Human Rights Overshadowed by Big Business in UN Food Summit, Says UN Expert," Geneva Solutions, last modified May 19, 2022, https://genevasolutions.news/climate-environment/human-rights-overshadowed-by-big-business-in-un-food-summit-says-un-expert

[726] Human Rights Watch Report on displacement to pave way for agribusinesses in Ethiopia Human Rights Watch, "'Waiting Here for Death' Forced Displacement and 'Villagization' in Ethiopia's Gambella Region," *Human Rights Watch Website* (New York: Human Rights Watch, 2012), https://www.hrw.org/sites/default/files/reports/ethiopia0112webwcover_0.pdf.

[727] Murombo, T. and Valentine, H. (2011) 'Slapp Suits: An Emerging Obstacle to Public Interest Environmental Litigation in South Africa, South African Journal on Human Rights 27(1), 82-106

[728] Caroline Elkins, *Britain's Gulag: The Brutal End of Empire in Kenya* (London: The Bodley Head, 2014).

[729] Caroline Elkins, *Britain's Gulag: The Brutal End of Empire in Kenya*.

consulting local communities.[730] On their part, some local communities, though self-aware of what to challenge the government, are disadvantaged by a power imbalance that prevents them from questioning such government conduct.[731] For example, in 2014, I visited a community in Tanzania's Bagamoyo area, where the government had earmarked their ancestral land for agribusinesses without any information or consultation. Although some community members were dissatisfied with the lack of information about the proposed project's potential impacts, they mentioned that they are 'cultured' not to question government officials' orders.[732] Such subservience has been exacerbated by the rise of authoritarian governments with limited civic choices, including the possibility of demanding accountability.[733]

6.2.2 Impact on Livelihoods and The Right to Food

As discussed in chapter 2, food production, distribution, and consumption patterns in many African societies have changed. Food was a unifying factor and an assurance of a community's security. It has now shifted to an object of trade. The trend continued after independence, and international financial institutions such as the World Bank and the IMF fortified through trade and aid policies. New crops have been introduced, with the primary consideration being their profitability as opposed to their ability to meet basic food requirements.[734] Faster food production models have seen a rise in the use of inputs, characterized by the widespread use of

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[730] See Chapter 4 of this thesis on the examples of NAFSN cases in various African countries and their common failure to consult local communities.

[731] Gabor Konig, Carlos A. Da Silva, and Nomathemba Mhlanga, "Enabling environments for agribusiness and agro-industries development: Regional and country perspectives," FAO, last modified 2013, https://www.fao.org/3/i3121e/i3121e00.pdf.

[732] Conversation with small-scale farmer, Tanzania, August, 2014.

[733] Tobias Hagmann and Filip Reyntjens, *Aid and Authoritarianism in Africa: Development without Democracy* (Uppsala, Sweden: Nordiska Afrikainstitutet; London, UK, 2016).

[734] Paul Richards. Indigenous agricultural revolution: Ecology and food production in West Africa. (Boston: Unwin Hyman, 1985).

agrochemicals, without due regard to their impact on human health and the environment.[735] These developments have impacted livelihoods and the right to food in several ways.

6.2.2.1 Impoverishment through Large Scale Commercial Agriculture

In the colonial era, some colonies had land seizures by colonial powers to provide raw materials for the industrial revolution.[736] Though now sanctioned by independent African states, the last decade has witnessed a surge of large-scale land acquisition by investors looking to diversify their portfolio into agriculture.[737] The investors now view Global South as a lucrative option for their operations. In some cases, this wave has brought tension between the investors and local communities due to the disruption of the land use system and interference with land access and use rights that local communities may have enjoyed in the past.[738]

In his report to the Human Rights Council, the former Special Rapporteur on the right to food noted increased interest in large-scale commercial agriculture in Sub-Saharan Africa and Latin America by agribusinesses, especially after the 2009 global food crisis.[739] This interest was motivated by Western governments' and private investors' perception that there were large tracts of unused lands. The governments in the Global North had to look for land where their agribusinesses could grow crops for biofuel production and respond to the economic crisis by

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[735] Olivier De Schutter, "The Political Economy of Food Systems Reform," *European Review of Agricultural Economics* 44, no. 4 (May 11, 2017): 705–31, https://doi.org/10.1093/erae/jbx009. For a critique of modern agricultural systems, including use of agrichemicals.

[736] See how Europe underdeveloped Africa. Walter Rodney. *How Europe underdeveloped Africa*. (London: Bogle-L'Ouverture Publications, 1972).

[737] Lorenzo Cotula, *The Great African Land Grab? Agricultural Investments and the Global Food System,* (London Zed Books Ltd, 2013), https://www.researchgate.net/publication/269395499_The_Great_African_Land_Grab_Agricultural_Investments_and_the_Global_Food_System.

[738] Lorenzo Cotula, *The Great African Land Grab? Agricultural Investments and the Global Food System*.

[739] ODS, para 19, accessed June 14, 2021, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/158/28/PDF/G0915828.pdf?OpenEle.

looking for more stable investment options. There was also increased demand for raw materials such as wood products leading to the establishment of lumber companies and speculation by private investors.[740]

Agribusinesses have focused on maximizing their return on investments. Therefore, they have resulted in the widespread use of agrochemicals to boost production, mainly of single crops, as opposed to traditional farming, where different crops were grown on the same piece of land. These practices have degraded the environment and negatively impacted the health of local communities.[741] Additionally, they are known to alter soil composition, making future farming economically unviable.[742]

The appropriation of vast tracts of land for agribusinesses impoverishes families that had previously relied on subsistence farming as they have to spend a disproportionately high amount of their income purchasing food.[743]

6.2.2.2 Compromising Local Communities' Resilience to Climate Change

A tangential result of the introduction of cash crops is the propagation of mono-cropping as a farming model. Experts have consistently advocated for mixed cropping as a farming model

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[740] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', Africa Growth and Development Policy Modeling Consortium & Regional Strategic Analysis and Knowledge Support System, April 2018 available at 34472-doc-nafsn20full20report20with20annexes.pdf (au.int)

[741] Lorenzo Cotula, *The Great African Land Grab? Agricultural Investments and the Global Food System* (London Zed Books Ltd, 2013), https://www.researchgate.net/publication/269395499_The_Great_African_Land_Grab_Agricultural_Investments_and_the_Global_Food_System.

[742] Hannah Twomey, Christina Schiaavoni, and Benedict Mongula, "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania. A Right to Food Perspective," Misereor, last modified May 2015, https://www.researchgate.net/publication/308795050_Impacts_of_large-scale_agricultural_investments_on_small-scale_farmers_in_the_Southern_Highlands_of_Tanzania_A_Right_to_Food_Perspective.

[743] UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant)*, 12 May 1999, available at: https://www.refworld.org/docid/4538838c11.html [accessed 23 June 2021]

that helps replenish soil nutrition and makes using farm inputs such as fertilizers and chemicals unnecessary. However, mono-cropping has eroded soil nutrients forcing farmers to use fertilizers to get any meaningful yield. This has led some experts to conclude that the relationship between small-scale farmers and agribusiness is predatory. The agribusinesses do not invest in efforts to curb climate change and often relocate to more productive areas.[744] The special rapporteur advocates for the adoption of agroecology as it is more healing to the environment and takes care of the interest of smallholders.[745]

6.2.2.3 Unreliable Employment Opportunities

Some agribusinesses have persuaded small-scale farmers to shift from subsistence to commercial farming on the promise that they will sell their produce to businesses or for processing and earn them lucrative returns. This is often accompanied by promises that the local population will be employed on the farms or along the value chain. There are cases where workers under such arrangements end up earning less than the living wage and without any social or regulatory protection.[746] This has impacted their income, leaving them more vulnerable and with less and unreliable income to purchase food as well as meet other basic needs.[747] For instance, in 2009, 40% of the global agricultural workforce consisted of about

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[744] Elisabeth Caesens and Maritere Rodríguez, *Climate Change and the Right to Food: A Comprehensive Study*, ed. Olivier De Schutter, vol. 8 (Berlin Heinrich-Böll-Stiftung C, 2009), 1–155. For more on climate change and the right to food.

[745] Pillar II, U.N. Office of the High Commissioner of Human Rights [OHCHR], Guiding Principles on Business and Human Rights HR/PUB/11/04 (2011), para 18

[746] Future Agricultures Consotium, " 'SRI' in Kilombero Vally: Potential, Misconception and Reality," Future Agricultures, last modified January 25, 2019.

[747] The reference to waged labour connotes that they work expecting an income at the end of their employment period. Reference to agribusinesses therefore includes smallholder farmers who may be practicing subsidence farming but sell surplus to meet other basic needs.

450 million waged workers, with less than 20% enjoying basic social protection.[748] In addition, 70% of child labourers globally work in agriculture.[749] Unless there are radical changes and a rethink of this model, these statistics put agribusinesses' stated potential of reducing poverty through employment in the sector in serious doubt.

6.2.2.4 Reduced Food Options

One of the features of the expansion of agribusiness is the shift from mixed cropping for subsistence to mono-cropping. The demand for raw materials for biofuels by companies enjoying government subsidies in the north has caused a shift to non-food items.[750] At the community level, this shift causes a shortage of various food items that might have been available before.[751] For instance, a human rights impact assessment of the coffee sector in East Africa revealed that, in many cases, more than half of the acreage of smallholder farms in central Kenya was dedicated to coffee farming, limiting the local availability of subsistence crops.[752]

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[748] UN Human Rights Council, "Human Rights Council Thirteenth Session Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development Report of the Special Rapporteur on the Right to Food, Olivier De Schutter," 2009, https://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-33.pdf. para 10

[749] UN Human Rights Council, "Human Rights Council Thirteenth Session Agenda Item 3.

[750] Kerstin Nolte, Martin Ostermeier, and Kim Schultze, "Food or Fuel: The Role of Agrofuels in the Rush for Land," *GIGA Focus* International Edition English, no. 5 (2014).

[751] Irene Mugo and Gitonga Marete, "Farmers Boycott Tea Picking in Bonus Dispute with KTDA," *Nation Africa*, October 6, 2020, https://nation.africa/kenya/business/farmers-boycott-tea-picking-in-bonus-dispute-with-ktda-2458242.

[752] Institute for Human Rights and Business (IHRB), "Human Rights Impact Assessment A Report about the East African Coffee Sector in: Kenya, Uganda, the Democratic Republic of the Congo, Rwanda, Ethiopia and Burundi" (Coop Danmark, 2017), https://om.coop.dk/Upload/om.coop.dk/Ansvarlighed/Human%20Rights%20Impact%20Assessment_%20East%20African%20coffee%20sector.pdf.

6.2.2.5 Exposure to Predatory Trade Agreements

There are cases where agribusinesses engage in predatory practices that leave farmers exposed. These include contract farming, where local farmers enter into an agreement with an agribusiness for the exclusive supply of their produce to the business, normally on terms predetermined by the business.[753] Contract farming can introduce farmers to new markets. However, where the agreement is skewed in favour of agribusinesses and ends up condemning small-scale producers into cyclic poverty.[754]

At the macro level, the predatory arrangement is enabled where rich countries, either directly or through global trade bodies that they significantly control, dictate the world economic system. They have compelled developing countries to liberalize their economies to promote trade by heavily subsidized corporations based in the Global North.[755] Due to the surplus in some food commodities, the rich countries' traders dump their farm produce in the Global South. The unfair competition makes local food production commercially unviable, denying farmers from the Global South a means of earning their livelihoods.[756]

6.2.3 Perpetuating Gender Discrimination

In traditional patriarchal African societies, women did not own land. However, they could use the land and enjoy the fruits of their labour as communities did not regard food as a

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[753] UN General Assembly, "The Right to Food" (New York: United Nations, August 4, 2011), https://www.ohchr.org/Documents/Issues/Food/A.66.262_en.pdf.

[754] I have discussed contract farming in further detail in chapter 4

[755] Oxfam, "Rigged Rules and Double Standards: Trade, Globalisation, and the Fight against Poverty" (Washington DC: Oxfam & Make Trade Fair, 2002), https://oxfamilibrary.openrepository.com/bitstream/handle/10546/112391/cr-rigged-rules-double-standards-010502-en.pdf.

[756] Oxfam, "Rigged Rules and Double Standards: Trade, Globalisation, and the Fight against Poverty".

commodity for trade.[757] However, the growing commercialization of agriculture has changed this dynamic. Despite being touted as inclusive agriculture, the new farming mode geared towards profit-making has further disenfranchised women and smallholder farmers in general.[758] The lack of land titles limits the range of benefits they can accrue from the land.

Generally, women are not involved in negotiations with those who purchase farm produce in agribusiness settings, with the role going to the eldest male member of their family.[759] In other circumstances, they must look for alternative ways of earning wages and feeding their families. Their share of unpaid work increases as they spend a significant time cultivating the farms. The lack of awareness or deliberate ignorance of how women are impacted makes businesses complicit in perpetuating gender discrimination.[760] In this study, I demonstrate how the NAFSN projects have perpetuated a patriarchal system and power dynamics and the community as well as the household level that has exacerbated gender discrimination. This includes the gender differences in agriculture and how the division of labour plays out, with men and women growing different crops. I also show how the project proponents failed to factor in resource access, allocation and distribution at the household level which would disadvantage women.

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[757] Penny Esterik. "Right to food; right to feed; right to be fed. The intersection of women's rights and the right to food." *Agriculture and Human Values,* 16, (1999): 225–232.

[758] Laura A. German et al., "'Inclusive Business' in Agriculture: Evidence from the Evolution of Agricultural Value Chains," *World Development* 134 (October 2020): 105018, https://doi.org/10.1016/j.worlddev.2020.105018.

[759] UN Human Rights Council, "Human Rights Council Twenty-Second Session Agenda Item 3 Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report Submitted by the Special Rapporteur on the Right to Food, Olivier De Schutter" (United Nations General Assembly, 2012), https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHRC2250_English.PDF. For a comprehensive understanding on how women are impacted.

[760] United Nations, "Universal Declaration of Human Rights," United Nations, accessed February 2, 2023, https://www.un.org/en/about-us/universal-declaration-of-human-rights

6.2.4 Access to Remedy

The state's obligation to protect the right to food entails ensuring that those whose rights have been violated have access to remedy. On the other hand, businesses, including agribusinesses, are also expected to have operational-level grievance mechanisms. The current growth of agribusinesses has compromised access to remedy in several ways.[761]

First, the power imbalance between local communities and the agribusinesses: Accessing remedies, in many cases, requires financial resources and takes time. In almost all cases, the companies have resources that are superior to the local communities. During a visit to Tanzania, I asked why they were not suing a company they were aggrieved with. The local elders said that they could not take on an 'elephant'.[762] This partly explains where communities that have allegedly suffered from practices of powerful multinationals have been unable to file cases domestically and only resorted to extraterritorial litigation with external financial and technical support.[763]

Second, effectively pursuing remedies is predicated on the rights holders knowing their rights. However, many communities lack this knowledge. Communities rely on governments and corporations to give them information. However, this information is not always given, and when given, it is often not in a manner that the local communities can understand.

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[761] Jennifer Zerk, "Corporate liability for gross human rights abuses: Towards a fairer and more effective system of domestic law remedies," UN Human Rights Office, last modified May 2013, https://www.ohchr.org/Documents/Issues/Business/DomesticLawRemedies.pdf.

[762] Tobias Hagmann and Filip Reyntjens, *Aid and Authoritarianism in Africa: Development without Democracy*.

[763] Business & Human Rights Resource Centre, "Malawi: Lawsuit Filed Against British American Tobacco and Imperial Brands in UK Courts Alleging the Cos. Profit from Child Labour & Worker Exploitation on Tobacco Farms in Malawi," Business & Human Rights Resource Centre, last modified December 18, 2020, https://www.business-humanrights.org/en/latest-news/malawi-lawsuit-filed-against-british-american-tobacco-and-imperial-brands-in-uk-courts-alleging-the-cos-profit-from-child-labour-worker-exploitation-on-tobacco-farms-in-malawi/.

Consequently, communities do not know about the arrival of agribusinesses in many instances until it is too late; they rarely have time to self-educate on their rights and how they can enforce them under different power arrangements.[764]

Third, failure to effect working operational-level grievance mechanisms: The 2020 Corporate Human Rights Benchmark reveals that less than 25% of agribusinesses surveyed have an effective grievance handling system.[765]

Finally, the influence of policy-making by agribusinesses: The entry of powerful multinationals has compounded the governance gap existing in many countries in the Global South. Ordinarily, communities should make governance decisions directly or through their representatives. However, trade pacts have been negotiated with entities that do not consult and are not accountable to the local communities. There have also been cases where agribusiness, among other multinational corporations, use their power and political influence to shape government practices.[766] For example, in the run-up to the 2021 UN Food Summit, civil society organisations from the Global South protested that the organisation and the agenda were geared towards supporting and increasing the dominance of agribusiness in the global food system.[767]

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[764] Claire Provost and Erick Kabendera, "Tanzania: 'Large-Scale Farming Turns Small Farmers into Mere Labourers,'" *The Guardian*, February 18, 2014, sec. Global development, https://www.theguardian.com/global-development/2014/feb/18/tanzania-large-scale-farming-small-farmers-labourers?CMP=twt_gu. For instance, elected leaders in Tanzania did not know about the introduction of NAFSN until agribusinesses started operations.

[765] Corporate Human Rights Benchmark, "Measurement Themes," Corporate Human Rights Benchmark (Corporate Human Rights Benchmark, 2020), https://www.corporatebenchmark.org/measurement-themes.

[766] Gabor Konig, Carlos A. Da Silva, and Nomathemba Mhlanga, "Enabling environments for agribusiness and agro-industries development: Regional and country perspectives," FAO, last modified 2013, https://www.fao.org/3/i3121e/i3121e00.pdf.

[767] Elizabeth M. Mpofu and Edgardo Garcia, "Here is Why We Are Boycotting the UN Food Systems Summit," Breaking News, World News and Video from Al Jazeera, last modified July 25, 2021, https://www.aljazeera.com/opinions/2021/7/25/here-is-why-we-are-boycotting-the-un-food-systems-summit; Nina Lakhani, "'Corporate Colonization': Small Producers Boycott UN Food Summit," The Guardian, last modified September 23, 2021, https://www.theguardian.com/environment/2021/sep/23/small-producers-boycott-un-food-summit-corporate-interests.

The UN Special Rapporteur on the Right to Food stated, "human rights were initially excluded from the Summit preparations, and have now been included, but remain on the margins…."[768]

The following section highlights mechanisms that have set standards and guidelines to regulate agribusinesses to respect human rights, including the right to food. These include both voluntary and regulatory mechanisms.

6.3 Human Rights Shortcomings of the NAFSN

In this section, I discuss two significant ways NAFSN failed to respect local communities' rights. These are a compromise of the right to adequate food and perpetuating discrimination against women.

6.3.1 Failure to Respect the Right to Adequate Food

In chapter 3 of this thesis, I have demonstrated how the right to adequate food is at the heart of NAFSN. Individuals and communities can enjoy the right to food through either physical or economic access. NAFSN's stated objectives of improving production and reducing poverty approach the right to food from both physical and economic access dimensions. A human rights-based approach to an intervention addressing poverty and food insecurity requires that it revolves around those impacted by hunger and the vulnerable groups within such a population and that they should be consulted in crafting the intervention.[769] This includes

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[768] Human rights overshadowed by big business in UN food summit, says UN expert, Michelle Langrand, "Human Rights Overshadowed by Big Business in UN Food Summit, Says UN Expert," Geneva Solutions, last modified March 3, 2021, https://genevasolutions.news/climate/human-rights-overshadowed-by-big-business-in-un-food-summit-says-un-expert; also see Olivier De Schutter and Olivia Yambi, "Op-Ed: The 2021 Food Systems Summit Has Started on the Wrong Foot – But It Could Still Be Transformational," Food Tank, last modified March 25, 2020, https://foodtank.com/news/2020/03/2021-food-systems-summit-started-on-wrong-foot-it-could-still-be-transformational/.

[769] See paragraphs 4 and 5 of the Preamble to the UN Guiding Principles on Extreme Poverty and Human Rights, A/HRC/21/3, 2012.

understanding the underlying causes and the root causes of their food insecurity to inform such an intervention.

Instead of seeking to understand the root causes, NAFSN architects either oversimplified or ignored the causes of food insecurity and poverty among small-scale farmers. They assumed that lack of capital was the problem and that the lack of capital to accelerate innovation and production was required to improve food security. They prescribed injecting private capital as a solution. NAFSN's market-driven interventions that ignored human rights standards gave the agribusinesses which signed Letters of Intent significant economic and political power to determine and shape food systems in these countries.[770]

Businesses have a responsibility to ensure their activities respect human rights.[771] For agribusinesses, it entails ensuring that their operations do not compromise individuals' or communities' ability to either physically or economically access food. One way to ensure that such projects do not harm these cases is to put the right-holders at the heart of such intervention by having rights-oriented outputs and outcomes.[772]

Special attention should be paid to special groups that have been historically marginalized to ensure that they are not further excluded or discriminated against.[773] In this context, this

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[770] See European Union, *The New Alliance for Food Security and Nutrition in Africa* (2015), PDF e-book, page 9

[771] Restated in Pillar II of the United Nations Guiding Principles on Business and Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework (Guiding Principles), UN Doc. HR/PUB/11/04 (2011), available at www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

[772] United Nations, "Universal Declaration of Human Rights," United Nations, accessed February 2, 2023, https://www.un.org/en/about-us/universal-declaration-of-human-rights

[773] Bonita Meyersfeld, "Chapter 9: The rights of women and girls in HRIA: The importance of gendered impact assessment," in *Handbook on Human Rights Impact Assessment*, ed. Nora Gtzmann (Gloucestershire: Edward Elgar Publishing, 2019).

includes peasant farmers, especially women, who form a significant percentage of those who produce food for domestic consumption.[774]

The impact of the proposed projects on small-scale farmers' existing food access model should have been considered. This includes how the projects affect crop and diet diversity.[775] It should also be factored in whether any commercial seeds and fertilizers were introduced to promote the production of starchy food, which is one of the leading causes of lifestyle ailments.[776] NAFSN lacked these considerations. This resulted in harming local communities' right to adequate food in the following ways:

6.3.1.1 Loss of Food Production Assets

One of the challenges faced by communities that access and use land-based resources for their livelihood is the lack of titles. This shortcoming is largely due to the failure of governments to develop a framework to recognize communally held land. This lack of titles disenfranchises such communities where decisions of access and use of land are based on possession of the title.

NAFSN perpetuated this injustice. Some participating African states committed to providing agricultural land to agribusinesses under the NAFSN.[777] They would ensure certification and titling of land that did not have formal ownership documents to protect land rights. One benefit of such titling is the potential to secure communities' land rights, including

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[774] "UN Women Statement on the International Day of Rural Women, 15 October," UN Women, accessed July 1, 2021, https://www.unwomen.org/en/news/stories/2018/10/statement-un-women-international-day-of-rural-women.

[775] Olivier De Schutter, *Report of the Special Rapporteur on the right to food, Olivier De Schutter, Final report: The transformative potential of the right to food*, (2014), (United Nations A/HRC/25/57).

[776] Olivier De Schutter, Final report: The transformative potential of the right to food, (2014),

[777] See chapter 3 for a highlight of the commitments made by different participating African countries

ensuring that small-scale farmers are protected. For instance, communities that rely on untitled tracts of land for subsistence could not access such a resource if the local land registration regime does not recognize communal ownership. This could happen where the titling is conducted by government technocrats and is perhaps costly for poor populations. This could potentially exclude communities that were not eligible to get the certification. These groups' failure to acquire titles could be used as justification for displacing them to pave the way for agribusinesses.[778] NAFSN constitutive documents stated that it would be guided by standards such as the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT), which protects such communal land.[779] However, as I will demonstrate below, NAFSN dealt with the land issue from a narrow perspective as it put much premium on land certification.

Several agribusinesses under the NAFSN benefited from the land from which local communities had been displaced, including prior to its implementation.[780]. This disrupted the communities' means of livelihood that they had enjoyed for many generations, forcing them to opt for other means of subsistence, such as waged labour.[781]

Apart from cases of outright eviction, there were other cases where, in pursuance of the government's undertaking to avail land, agribusinesses worked with government agencies to

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[778] Human Rights Watch, '"Waiting Here for Death": Displacement and "Villagization" in Ethiopia's Gambella Region', 2012 available at https://afsafrica.org/wp-content/uploads/2019/10/agrawiseprelimfindings2017.pdf

[779] "Analytical Framework for Responsible Land-Based Agricultural Investments," New Alliance, accessed July 1, 2021, https://newalliance.travelvisabookings.com/resource/analytical-framework-responsible-land-based-agricultural-investments.

[780]Human Rights Watch, '"Waiting Here for Death": Displacement and "Villagization" in Ethiopia's Gambella Region', 2012 available at https://afsafrica.org/wp-content/uploads/2019/10/agrawiseprelimfindings2017.pdf

[781] Human Rights Watch, 'Waiting Here for Death": Displacement and "Villagization" in Ethiopia's Gambella Region'

identify land for commercial agriculture. In some instances, local communities had occupied that land for many generations, though they may not have had titles. The government would then notify the local communities of its intention to appropriate that land with or without compensation. Such directives, especially without full disclosure of the next course of action, created uncertainty and fear and in some cases, affected food production.[782]

Several cases illustrate how displacement and a narrow view of land rights compromised access to food for several communities.

Case 1: Ethiopia's Gambela Agribusiness Project: According to Human Rights Watch, the Ethiopian government displaced thousands of Anuak and Neur indigenous peoples in Western Gambella regions from their ancestral land under the 'villagization' programme. State agents used threats, intimidation and violence to pave the way for agricultural corridors for allocation to investors.[783] The communities were forcibly relocated to areas that did not have social amenities and adequate food. Despite earlier promises, the government did not give them the required agricultural support services, such as providing seeds and fertilizers to be food secure. Pastoralists were forced to abandon their cattle rearing and embrace crop farming due to a lack of pastoral lands. Other communities were relocated to villages away from reliable water sources they had relied on to grow their food, causing a food shortage.[784]

Case 2: Tanzania's Sao Hill (a Subsidiary of Green Resources): Sao Hill is jointly owned by Norwegian Green Resources and Tanzania's Africa Agriculture Development Company

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[782] Human Rights Watch, 'Waiting Here for Death"
[783] Human Rights Watch, 'Waiting Here for Death":
[784] Human Rights Watch, 'Waiting Here for Death".

(AgDevCo).[785] The company produces maize and soya for the processing of animal feeds. AgDevCo invested in SaoHill to develop the first commercial soya production establishment in the area, mainly through irrigated crop production.[786] This need was occasioned by the increasing demand for soya locally and internationally. This demand was presented as an opportunity to link many smallholders in the area to this value chain and improve their income. An out-grower scheme was established to develop soya production in the area.[787]

In 2010, the land where SaoHill is based was transferred from the previous local Tanzanian owner who had been there since 1975.[788] The local community coexisted peacefully with this investor as he left the land open for villagers to pass through to gather firewood, and mushrooms and access the nearby river. However, the land was fenced off when Green Resources obtained a lease for 99 years from the government. Residents interviewed in 2015 said that this land transfer was done without consulting the community. They claimed they depended on this land for grazing, drinking water, fruits, firewood, and medicinal herbs. As earlier stated, since the transfer to SaoHill, the local community has been prevented from accessing the land.

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[785] Denis Mpagaze. "Large Scale Farming: Feeding the poor or fooling the world? Voices from the SAGCOT Zone!" September, 2017 https://www.linkedin.com>pulse>large-scale-farming-feeding-poor-fooling-world-voices-mpagaze-denis

[786] AgDevCo-Tanzania. "All Investments". https://www.agdevco.com/our-investments/by-country/Tanzania

[787] AgDevCo Tanzania. "All Investments." https://www.agdevco.com/our-investments/by-country/Tanzania. AgDevCo claims that SaoHill has had a positive impact on the area including the development of a commercial farm hub, putting more land under agriculture and significantly improving the yields. It has also led to an improvement in infrastructure such as electrification. The project has also allegedly trained over 350 smallholders in soya production.

[788] Aniedi Okure, "Dislocation of Tanzanians From Their Land by Corporations: Impact on Family Life and Values". Africa Faith and Justice Network, June 20,2017, pg. 10 available at http://afjn.org/documents/2017/07/dislocation-of-tanzanians-from-their-land-by-corporations-impact-on-family-life-and-values-a-briefing-to-the-tanzanian-episcopal-conference-tec-dar-es-salaam-june-20-2017.pdf (hereafter referred to as AFJN brief)

Additionally, paths leading to the river and livestock pasture have also been blocked. The shortcuts that passed through the land were blocked, and children had to walk greater distances than before to reach their school.[789] This situation has been exacerbated because at least five other major investors have acquired the adjacent land.[790]

Case 3: Mozambique's ProSAVANA: The ProSAVANA programme is based in northern Mozambique and lies on the Nacala Corridor Project, one of those identified under the NAFSN. It has been implemented by Japan, Brazil and Mozambique governments to promote the cultivation of soybeans for export.[791] One of the concerns that local farmers and civil society organizations have consistently raised is the violation of land rights for small-scale farmers in the process of acquiring land for the investors. Land demarcation was done without due regard to the fact that the local communities had been using such' vast unused and underused land' for other purposes, such as water, food, and pasture.[792] This resulted in evictions and consequent loss of livelihoods. ProSavana's introduction of soybeans for export in areas where farmers were previously self-sufficient in accessing food compromised food availability.[793]

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[789] Denis Mpagaze. "Large Scale Farming: Feeding the poor or fooling the world? Voices from the SAGCOT zone!" September, 2017

[790] Hannah Twomey, Christina Schiavoni & Benedict Mongula. "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania. A Right to Food Perspective". 2015, available at https://www.researchgate.net/publication/308795050_Impacts_of_large-scale_agricultural_investments_on_smallscale_farmers_in_the_Southern_Highlands_of_Tanzania_A_Right_to_Food_Perspective

[791] For a detailed critique of the program, see Koichi Ikegami, "Corridor Development and Foreign Investment in Agriculture: Implications of the ProSAVANA Programme in Northern Mozambique," Erasmus Universiteit Rotterdam | Erasmus University Rotterdam, last modified May 2015, https://www.eur.nl/sites/corporate/files/CMCP_30-_IKEGAMI.pdf.

[792] For a detailed critique of the program, see Ikegami, "Corridor Development and Foreign Investment in Agriculture https://www.eur.nl/sites/corporate/files/CMCP_30-_IKEGAMI.pdf

[793] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture: Implications of the ProSAVANA Programme in Northern Mozambique (May 2015) https://www.eur.nl/sites/corporate/files/CMCP_30-_IKEGAMI.pdf

Case 4: Tanzania's EcoEnergy in Bagamoyo: In 2013, the Tanzanian government granted a 99-year lease over 20,373 hectares of land in the Bagamoyo area to Bagamoyo Agro EcoEnergy, a local subsidiary of Sweden-based Agro EcoEnegy.[794] Part of this land was earmarked for sugarcane farming as well as a processing facility.[795] A section of this land had been occupied by small-scale farmers who grew subsistence crops such as maize, cassava and fruits. ActionAid estimated that there were about 70 pastoralists who would be relocated as well.[796] The targeted farmers were ordered not to plant any perennial crops pending resettlement. However, they were yet to be resettled four years after the directive—this created uncertainty and food scarcity as they could not fully invest in their land. Officials, allegedly contracted by the company, took data from different households in readiness for compensation. The community had not been compensated by the fourth year of this directive and could only rely on short-term crops to meet its food requirements.[797] Although they had been consulted, they had not been given the real choice of whether they wanted to be resettled. Most of their concerns were about how this would impact their livelihoods. They were also wary that they had not been given full information on how the project would affect them. [798]

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[794] Mark Curtis and Richard Mbunda. "*Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania."* ActionAid, March 2015. Accessed on June 25, 2021. Available at https://actionaid.org/publications/2015/take-action-stop-ecoenergys-land-grab

[795] All land in Tanzania is technically government land, regardless of whether it is settled on by communities. The governance over such land is vested in village elders.

[796] Mark Curtis and Richard Mbunda. "*Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania."* ActionAid, March 2015. Accessed on February 25, 2021. Available at https://actionaid.org/publications/2015/take-action-stop-ecoenergys-land-grab

[797] All land in Tanzania is technically government land, regardless of whether it is settled on by communities. The governance over such land is vested in village elders.

[798] Mark Curtis and Richard Mbunda. "Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania." ActionAid, March 2015. Accessed on June 25, 2021. Available at https://actionaid.org/publications/2015/takeaction-stop-ecoenergys-land-grab

Case 5: Malawi's Illovo Sugar Plantation: Illovo Sugar Plantation is one of the flagship projects of NAFSN in Malawi. It is owned by Illovo, a subsidiary of Associated British Foods PLC (ABF).[799] It is based in the Dwangwa area, which was covered by forest before 2015. which before 2015 was mostly covered by forest. The Dwangwa plantation, which is primarily for sugar production, has a land-grabbing history. For example, it is estimated that more than 500 farmers in Kazilira Dambo and Nkhunga were displaced between 2006 and 2008. Other families lost their crops and houses.[800]

6.3.1.2 The Failed Promise of Commercial Agriculture as a Reliable Income-Earning Opportunity

One of the ways NAFSN sought to contribute to poverty reduction was through employment in the agribusinesses and the expanded supply chains.[801] However, measures to introduce jobs in commercial agriculture settings are usually problematic. This was one of the concerns that local communities had when they learned of the introduction of NAFSN. The number of locals employed in the agribusinesses was not significant, and the income, though in most cases above the statutory minimum, was not sufficient to be relied on as a sustainable means of livelihood, including buying food where the traditional means of accessing food had been compromised.

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[799] PLAAS policy brief, "Opportunities and Challenges in Tanzania's Sugar Industry: Lessons for SAGCOT and the New Alliance." http://repository.uwc.ac.za/xmlui/bitstream/handle/10566/4390/fac_pb_76_opportunities_challenges_tanzania%E2%80%99s_sugar_industry_lessons_for_sagcot_and_the_new_alliance_july_2014.pdf?sequence=1&isAllowed=y

[800] Even though some of the grabbing occurred before NAFSN was launched, companies are under a responsibility to conduct due diligence to ensure that they are not perpetuating or complicit in human rights violations. See Chapter 5 on the synopsis of the standards for human rights observance by agribusiness.

[801] For instance, the 2015-2016 progress reports for Burkina Faso and Nigeria cited creation of employment as one of the achieved objectives. Cited in O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', Africa Growth and Development Policy Modeling Consortium & Regional Strategic Analysis and Knowledge Support System, April 2018 available at 34472-doc-nafsn20full20report20with20annexes.pdf (au.int)

This was compounded by a lack of publicly available reliable data to verify the job opportunities directly and indirectly created by the projects.[802]

An additional problem created by the promise of improving poverty to promote access to food is the many cases of former peasant farmers who had previously cultivated on their own land but were now forced to earn wages from employment. Whereas the promise of mechanization and improved inputs can support an increase in crop yields, this does not necessarily translate to poverty reduction unless there are sufficient safeguards to ensure that small-scale farmers are protected and sustainable land and water resource use.[803]

Case 1: Kilombero Sugar Company (KSC): KSC, one of the flagship SAGCOT projects, has a contract farming model where out-growers do not have individual contracts with KSC but are required to join one of 15 farmers' associations registered with the Tanzania Sugar Board (TSB)[804]. The associations then enter a Cane Supply Agreement (CSA) with the company. Out-growers were responsible for raising the initial cost of seed cane and other inputs. A sample 2013-2016 CSA spells out that KSC pays out-growers depending on the tonnage and sucrose content of their delivered cane and deducts the expenses incurred, such as harvesting and transport.[805]

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[802] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', April 2018.

[803] Alex P. Vercillo, "African Agriculture Without African Farmers," Breaking News, World News and Video from Al Jazeera, last modified October 9, 2021, https://www.aljazeera.com/opinions/2021/10/9/african-agriculture-without-its-farmers.

[804] "Case Study: Kilombero Sugar Company Ltd In Tanzania." Prepared for Landesa's Responsible Investments in Property and Land (RIPL) Project February 2017, https://www.landesa.org/wp-content/uploads/KSCL-Tanzania-Case-Study-FINAL.pdf, Pg. 3

[805] Even though some of the grabbing occurred before NAFSN was launched, companies are under a responsibility to conduct due diligence to ensure that they are not perpetuating or complicit in human rights violations. See Chapter 5 of this thesis.

The company, the government, and associations employ some extension staff, but their coverage of the numbers of out-growers is insufficient. Under the CSA, KSC is not obligated to provide agricultural extension services, leaving out-growers vulnerable due to a lack of technical guidance on best crop husbandry practices.

Farmland has become scarcer and more expensive.[806] This scarcity and steep prices have made it difficult for the youth, poor people and immigrants to acquire land in the area. As a result, villagers build houses in the hills because there is no more room in the village centres. Additionally, sugarcane has replaced food crops in many fields.

Due to land scarcity in the sugarcane area and difficulty cultivating other crops near sugarcane, residents have bought or rented land in nearby villages such as Signali or Lungongole to farm maize or rice.[807] The challenge comes because parents leave their children alone for long periods while working on their rented farmland.[808] Children, especially teenage girls, are vulnerable and suffer from a lack of parental and adult supervision, leading to harmful consequences, such as erratic attendance at school.[809]

Case 2: NAFSN in Nigeria: An assessment of NAFSN in four countries revealed that despite the investment and interventions in agricultural production in Nigeria, the country recorded only a marginal improvement in undernourishment, child wasting, child stunting and

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[806] "Study of Sugarcane outgrowing at Kilombero." Africa Portal (Stakeholder's feedback report, May 2015), pg.4 https://media.africaportal.org/documents/Kilombero_stakeholder_report_English_Version.pdf

[807] "Study of Sugarcane outgrowing at Kilombero." Africa Portal (Stakeholder's feedback report, May 2015).

[808] This problem affects poor farmers who have less money for tractors or workers and must spend weeks planting, weeding, and harvesting.

[809] "Study of Sugarcane outgrowing at Kilombero." Africa Portal (Stakeholder's feedback report, May 2015).

child mortality.[810] Similarly, there was no noticeable change in poverty reduction in 2013-2016 compared to 2009-2012.[811] In addition, a survey conducted among the intended beneficiaries of the NAFSN, including at the household level, revealed that any livelihood improvement was due to farmers' own efforts to provide financing and training.[812] The survey concluded that there was no improvement traceable to the NAFSN. The promises of improved access to capital continued to be an impediment, with financial institutions charging high-interest rates and the government not providing agricultural promotion services for small-scale farmers.[813]

6.3.1.3 Replacing Food Crops with Cash Crops

Subsistence crops are one way of enhancing peasant farmers' resilience. The food can be consumed at the domestic level as well as surplus sold in the local markets. Replacing food crops with non-food mono-crops limits the food options available for domestic consumption and local markets.[814]

In some cases, peasant farmers embraced farming non-food crops such as cotton, sugar, and palm for energy under the NAFSN due to the promise of steady income. As some were to

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[810] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', Africa Growth and Development Policy Modeling Consortium & Regional Strategic Analysis and Knowledge Support System, April 2018 available at 34472-doc-nafsn20full20report20with20annexes.pdf (au.int)

[811] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', page 146

[812] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', page 152

[813] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report'.

[814] Million Belay, "Africa is Not a Monoculture, We Reject the Plan to Make It One," Breaking News, World News and Video from Al Jazeera, last modified September 22, 2021, https://www.aljazeera.com/opinions/2021/9/22/africa-is-not-a-monoculture-we-reject-the-plan-to-make-it-one.

realize later, this was dependent on market forces that they, and in some cases the agribusiness, had little control over.[815]

Case 1: Illovo Sugar: The Illovo case discussed above illustrates how NAFSN projects coerced communities that historically practised subsistence farming into planting cash crops, becoming significantly reliant on a corporation for their livelihood.[816]

Case 2: Tanzania Sao Hill: In the case of Sao Hill discussed above, six different investors, including Sao Hill, have blocked off Muwimbi village. The villagers have no means of entry to the fields for sustenance as before.[817] The local community has claimed that since the investment by SaoHill began, there has been a shortage of physical stock of food to a large extent such that residents must, from time to time purchase food commodities like rice from Iringa town, which is far.[818] This decrease in the availability of adequate food was attributed to a shortage of land accessible to the local community. [819]

The majority of residents only grow enough for subsistence with no surplus for sale. This situation has reduced their income, thus compromising their ability to purchase food. The population has increased because of migrations into the area over the last ten years, thus

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[815] Oliver De Schutter, "The New Alliance for Food Security and Nutrition in Africa," European Parliament's Committee on Development, last modified November 2015, https://doi: 10.2861/529638.

[816] 'Land Governance in Malawi, Lessons from Large-Scale Acquisitions', PLAAS Institute for Poverty, Land and Agrarian Studies, University of the Western Cape, Policy Brief 40, available at PLAAS_ADC_policy_brief_Malawi_D1.pdf (africaportal.org)

[817] Hannah Twomey, Christina Schiavoni & Benedict Mongula. "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective." (2015) https://www.iss.nl/sites/corporate/files/39-ICAS_CP_Twomey_et_al.pdf

[818] Hannah Twomey and others. "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective." (2015)

[819] Hannah Twomey and others. "Impacts of large-scale agricultural investments on small-scale farmers in the Southern Highlands of Tanzania: A Right to Food Perspective." (2015)

aggravating the cultivable land shortage.[820] Residents walk long distances searching for water, health services, and schools. Paths to pasture land for livestock have also been closed. Locals are forced to lease land from neighbouring villagers for growing food crops.[821] Therefore, the maize and soya produced by the investor are for livestock feed and not human consumption and do not directly improve food availability for the local community.

Case 3: Tobacco Farming in Malawi: Malawi's CCF contained provisions about promoting tobacco farming. This ignores the human rights concerns raised about Malawi's tobacco sector, including health concerns, gender discrimination, and how the industry perpetuates cyclic poverty.[822]

Case 4: Bagamoyo Eco Energy: As discussed in the previous chapter, Bagomoyo Agro EcoEnergy planned to engage local farmers in biofuel production. This proposed shift from a long practice of growing subsistence crops without engaging the local community would have compromised individual farmers' access to food in the long term. In the short term, the order by government agencies not to plant perennial crops due to impending eviction created uncertainty affecting the ability of the local communities to make longer-term investments.[823]

Case 5: Silverlands (Tanzania): Silverlands Tanzania Limited contributed to the shift from local food crop production among small-scale farmers to the production of soya beans for its poultry feed processing company. Therefore, farmers' access to food was affected, especially

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[820] Hannah Twomey and others. A Right to Food Perspective, Pg.28

[821] Hannah Twomey and others. A Right to Food Perspective, Pg. 10

[822] David Levene. "Human rights in the tobacco fields of Malawi – in pictures." The Guardian, Nov 2019. https://www.theguardian.com/global-development/gallery/2019/nov/01/human-rights-in-the-tobacco-fields-of-malawi-in-pictures

[823] ActionAid,Mark Curtis, and Richard Mbunda, *Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania.*

since the displaced farmers were resettled on land the farmers considered inhabitable and, therefore, uncultivatable, particularly during the rainy season.

6.3.1.4 Failure of Cash Crops to Guarantee Minimum Returns/Improve Livelihoods

One way NAFSN projects were meant to reduce poverty was through contract farming. This would link local farmers' cooperatives to local and international food processors. There were instances, however, where contract farming did not benefit farmers. This was partly due to the economic unsustainability of the contracts between the farmers' cooperatives and the agribusiness, as the farmers were the weaker parties in the agreement and often lacked full information about the buyers and the international market to help them make sound decisions during negotiations. For instance, some contracts provided that the buyers could decline to buy the produce without any notice. In other cases, agribusinesses persuaded farmers to abandon subsistence farming to embrace cash cropping into financial distress and abandoned the project areas without giving the farmers adequate notice. During negotiations, this power imbalance also disadvantaged farmers in understanding their legal obligations under the contracts, the determinants of prices for their produce, and information on how the agribusinesses would determine the quality of their produce.

6.3.1.5 Failure of Contract Farming

Select NAFSN projects promoted contract farming with local communities by assuring them of credit facilities, seed supply, farm implements as well as a market for their produce. The out-growers were promised better economic returns, though in some cases, they did not have

the freedom to alter the terms of template contracts that were in favour of agribusinesses by transferring the risks of production to local farmers.[824]

Case 1: KPL Company, Tanzania: The KPL project began in 2011 with a planned investment over the project lifetime of USD 65,000,000 on 28,000 hectares of land with a 99-year lease.[825] Its stated intention, subject to the improvement of roads and the establishment of a more favourable tax regime, was to boost productivity and increase participation in its commercialized smallholder program from 1,500 to over 5,000 farmer families who would supply it with rice to improve their income. It also sought to improve the irrigation system to cover over 3,000 hectares and construct biomass power plants.[826] KPL and the farmers have a contract farming agreement, which spells out the relationship's terms and conditions.[827] The out-growers live on their land, but what they grow and how they grow is spelt out in the contract. It further dictates that they can only sell their produce to KPL and arrive at the price.[828]

As discussed in the preceding chapter, the out-grower farmers who were supplying rice to KPL signed contracts in the belief that the project would improve their livelihoods since the

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[824] Helena Paul and Ricarda Steinbrecher, *African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition. Who benefits, who loses?* (EcoNexus, 2013); World Economic Forum, SAGCOT: Investment Blueprint.

[825] Bede Lyimo, "Sub Saharan Africa's Unfolding Tragedy in Mega Land Deals for Agro investments with lessons from Tanzania" FAO, Rome. August 2011 http://www.fao.org/fileadmin/templates/tci/pdf/InternationalInvestment/Tanzania_Agric_Invest_Report_Draft11_13Aug2011_Final_4_.pdf

[826] Prudence Lugendo et al "Joint New Alliance and Grow Africa Progress Report Tanzania."2016. Progress Report submitted to Africa Union.10.13140/RG.2.1.3224.8567. file:///C:/Users/user/Downloads/NA-GrowAfricareportSept2020151.pdf

[827] Oakland Institute "Irresponsible investment: Africa's broken development model in Tanzania". 2016. Available at https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_Report_Irresponsible_Investment.pdf p. 18 (hereafter called the Oakland Institute Report)

[828] According to the Oakland report, the locals disagree with some of the obligatory practices under the contract such as use of fertilizers since the area has high soil fertility. However, they are obligated to honor it so that they are not held to be in breach.

undertaking by the company to advance them a loan required for seed, fertiliser, and farm implements appeared beneficial to them. Some provisions of the contracts were restrictive, but the promise of better economic returns overshadowed these limitations. For instance, the contract stipulated the quality of paddy to be supplied to the company. The out-grower was to begin loan repayment with the first of ten instalments of USD 8 falling due two weeks after the loan. The balance would be paid in kind as paddy. Finally, the contract stipulated the price of the paddy and indicated that it was non-negotiable.[829]

However, these expectations were not met at the onset of the farming season. According to the out-growers, KPL had reneged on the earlier undertaking to fix the price based on the paddy's market value. This compromised their out-growers' ability to pay their debts, leading to tension between them and the company. Although the out-growers' production per hectare increased and even surpassed the KPL's farm in production, this did not translate to increased income. After the first year, many opted out of the scheme as the contract arrangement left them in a high level of indebtedness. Some claim to have been forced to sell their belonging to pay the debts.[830]

The promise of employing the local population did not yield much due to the temporary nature of the employment and low salaries (though the company paid them about the minimum

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[829] Oakland Institute Report (2015), p 18

[830] Kilombero Plantations Limited (2010) "Resettlement Action Plan: Development of Rice and Bean Cropping at Mngeta Farm, Kilombero Valley, Kilombero District, Morogoro Region, Tanzania" available at https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/KPL_Resettlement_Action_Plan-April-2010.pdf See also Mikael Bergius, "Irresponsible Investment: Agrica's Broken Development Model In Tanzania," | The Oakland Institute, last modified 2015, https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_Report_Irresponsible_Investment.pdf. (hereinafter referred to as Oakland Institute report).

wage requirement. The employment provided by the company was not sustainable and could not guarantee a reliable source of income to buy food and other essentials for the employees.[831]

Case 2: Coumba Nor Thiam (CNT) Company, Senegal: Besides cultivating rice on its farm, CNT has production contracts with about 2,500 peasants. It obtains credit from a local bank and distributes inputs to the local farmers, besides processing and harvesting services. It recoups its money from the farmers through the harvest. They can then sell the surplus as they so wish. Whereas this solves financial inclusion issues, CNT charges a high-interest rate, and farmers find themselves in a cycle of indebtedness. Those unable to repay have their farms temporarily seized until they redeem them. The preference would be a favourable banking system that meets their needs as it gives them a choice, not a predatory arrangement with an agribusiness.[832]

6.3.1.6 Unequal Resources Allocation

As discussed earlier in this chapter, the participating African countries committed to extending agricultural support services to areas where NAFSN projects would be based. One consequence of fulfilling this commitment was the re-channelling of extension services to benefit agribusinesses, leaving small-scale farmers under-resourced with potentially negative impacts on their food security and livelihoods.[833]

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[831] Kilombero Plantations Limited (2010) "Resettlement Action Plan: Development of Rice and Bean Cropping at Mngeta Farm, Kilombero Valley, Kilombero District, Morogoro Region, Tanzania" available at https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/KPL_Resettlement_Action_Plan-April-2010.pdf

[832] Marie Gagné, "Is Private Investment in Agriculture the Solution? An Evaluation of the New Alliance for Food Security and Nutrition in Senegal "March 2017, Food Security Policy Group (FSPG), Canada

[833] Helena Paul and Ricarda Steinbrecher. "African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition: Who Benefits, Who Loses?" June 2013. EcoNexus. Available at

For instance, Malawi committed to providing 200,000 hectares of land to agribusinesses.[834] In a bid to meet its obligations under the NAFSN, Malawi disproportionately allocated public resources, such as agricultural extension services, to growth corridors where NAFSN projects were located. This was at the expense of promoting agriculture in more deserving areas that were outside the growth corridors. A similar situation was witnessed in Mozambique, where investors insisted that the projects within the Nacala and Beira growth corridors had to take place concurrently. This would ensure profitable returns from both the mining in the Nacala corridor and Agriculture in Beira Corridor. Whereas this was a sound investment decision on their part, it demonstrates that the investors dictated the location and nature of the projects, as opposed to the local communities.[835]

6.3.2 Exacerbation of Discrimination Against Women

As discussed in chapter 5, states are obliged to ensure equality for all, including eliminating all forms of discrimination against women. In many peasant farming settings, women occupy a uniquely vulnerable position. In most communities, culture places men at the top of the hierarchy, as they are the ones who have the title to the land, a significant factor of production.[836] Women provide labour in small-scale farmer settings and are assigned traditional roles that require they have access to food. This is notwithstanding that men

https://econexus.info/files/African_Agricultural_Growth_Corridors_%26_New_Alliance_-_EcoNexus_June_2013.pdf

[834] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi. Available at https://www.wathi.org/debat_id/developpement-de-lagriculture/wathinote-developpement-de-lagriculture/study-the-new-alliance-for-food-security-and-nutrition-in-africa/

[835] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi. Available at https://www.wathi.org/debat_id/developpement-de-lagriculture/wathinote-developpement-de-lagriculture/study-the-new-alliance-for-food-security-and-nutrition-in-africa/

[836] Peterman A, J. Behrman and A. Quisumbing, A Review of Empirical Evidence on Gender Differences in Nonland Agricultural Inputs, Technology, and Services in Developing Countries, IFPRI, Washington DC, 2010, p. 6.

predominantly control the tangible resources, whether forest, land, water sources, and the intangible resources, including networks, political influence, information, and human resources of control over labour, knowledge, and skills. The men also have a near-monopoly in making rules about rights and obligations and confer authority over resources pertinent to determining access to food. This is culturally entrenched gender discrimination.[837] All this skewed system calls for gendered human rights due diligence during the decision-making on development projects. Such a due diligence process would ensure the redistribution of benefits and risks and avoid aggravating the existing inequalities.

NAFSN committed to removing barriers faced by women as small-scale food producers. However, the real test of whether this was done is through an examination of the implementation of the projects. This will help assess whether this general expression is just rhetoric or if the barriers were addressed in the country's cooperation frameworks. Only Burkina Faso had such a program. The others did not prioritize, budget or even monitor the gender indicators.

An examination of the NAFSN projects reveals not only a systematic failure to take measures to ensure that the projects did not compromise women's position but indeed disadvantaged women's position by exacerbating gender discrimination in the following ways;

6.3.2.1 Lack of a Gendered Analysis on the Impact of the Projects

One of the overall structural failures of NAFSN was the failure to mandate participating African countries and the agribusiness that had signed Letters of Intent to conduct a gendered

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[837] Peterman A, J. Behrman and A. Quisumbing, A Review of Empirical Evidence on Gender Differences in Nonland Agricultural Inputs, Technology, and Services in Developing Countries.

analysis on how the projects would impact women. This was despite an acknowledgement of the vulnerability of women in peasant farming settings.[838] This failure resulted in disproportionate disadvantages for women.

A statement issued by civil society organizations from Senegal acknowledged that NAFSN had signalled a will to improve the poor and women's plight. However, it identified three shortcomings:

a) None of the NAFSN-affiliated businesses had involved women groups in their activities.
b) No women's organizations or women-led cooperatives had been recruited as NAFSN business partners.
c) Finally, most jobs created under the NAFSN were assigned to men.[839]

These shortcomings reveal a failure to take concrete measures to bridge the gap caused by cultural factors by conferring some advantages to women so that they could participate in the projects on equal footing with men. In the course of this study, it was established that neither KSCL nor the local government and the out-grower associations under the sugarcane project had data on women-headed households who were out-growers or women out-growers themselves.[840]

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[838] Peterman A, J. Behrman and A. Quisumbing, A Review of Empirical Evidence on Gender Differences in Nonland Agricultural Inputs, Technology, and Services in Developing Countries.

[839] Letter addressed to the Government of Senegal, G7 member states and the African Union by a coalition of civil society organisations from Senegal, June 2018, available at farmlandgrab.org | Letter addressed to the Government of Senegal, G7 members state, and the African Union

[840] Case Study: Kilombero Sugar Company Ltd. In Tanzania. Prepared for Landesa's Responsible Investments in Property and Land (RIPL) Project February 2017. Available at https://www.landesa.org

6.3.2.2 Failure to Consult Women at the Project Design Stage

I later demonstrate a general and widespread failure to consult project beneficiaries at the design and implementation stages. Women were disproportionately impacted due to their cultural roles and place in small-scale farming settings. There were benefits from NAFSN, and men were more likely to profit from cash crop farming, while women would be mostly labourers at the out-grower level. NAFSN designers and implementers' failure to consult women as an especially vulnerable group exacerbated the discrimination.[841]

6.3.2.3 Compromise of Subsistence Farming

The erosion of traditional forms of food subsistence has forced women to recourse to more tedious means, including travelling longer distances, to secure food for their families. Malawi's Illovo Sugar and Tanzania's Sao Hill cases discussed above are some of the projects that forced women who had been growing subsistence crops to resort to travelling long distances in search of food after displacement for agribusiness.[842]

In Ghana, on paper, some policies aimed to ensure women were invested in agriculture. However, one questionable policy objective is the prioritization of women in out-grower schemes by offering them opportunities to work as casual labourers in the event they were displaced to pave the way for agribusinesses.[843] In addition, women's resistance to the use of

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[841] Michael Phoenix et al., *Land Grabbing for Palm Oil in Sierra Leone: Analysis of the SOCFIN Case from a Human Rights Perspective*, (FIAN Belgium, 2019)

[842] See Chapter 6 of this thesis

[843] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', page 108

certified seeds was responded to by giving them a seat at the national Seed Council, which educated them on the advantages of using certified seeds.[844]

Employment as casual labourers in the agribusinesses was neither consistent nor sufficient to meet their living expenses, yet they still have the additional burden of non-paid customary roles at the family level. Moreover, as noted above, one of the concerns that civil society organizations in Ghana had about the NAFSN is that most of the casual labour jobs that were created under the NAFSN went to men. On its part, despite Sao Hill promising casual jobs for women, they were intermittent and could not be relied on for sustenance.[845]

In NAFSN's early days, the European Parliament had observed that Country Cooperation Frameworks did not have any commitment to gender budgeting or measuring progress based on the advancement of women's plight.[846] It urged G8 countries to eliminate barriers faced by women in accessing land and credit and the benefits of agricultural research.

6.4 Why NAFSN has Failed

It is becoming increasingly clear that NAFSN has not only failed to achieve its objectives but has left some local communities worse off than they were before it was implemented. This includes failing to respect their right to adequate food as well as worsening discrimination against women. In this section, I theorize that NAFSN failed for two main reasons. First, the architect's failure to involve local communities at both the design and implementation stages.

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[844] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', page 108

[845] AFJN and Rev. Aniedi Okure,, *Dislocation of Tanzanians From Their Land by Corporations: Imoact on Family Life and Values*, (Dar es Salaam, 2017).

[846] European Parliament, 'Report on the New Alliance for Food Security and Nutrition (2015/2277(INI), available at https://www.europarl.europa.eu/doceo/document/A-8-2016-0169_EN.pdf

This led to the failure to put the interests of communities most affected by hunger at the core of its programs. Second, it lacked accountability mechanisms. This has two dimensions; failure to have reporting indicators that could be relied on by the right holder to hold duty bearers to account and lack of credible access to remedy pathways for individuals and communities aggrieved during its design and implementation. This section illustrates these failures in some detail.

6.4.1 Lack of Participation

A human rights approach to development in the context of the right to food entails ensuring that stakeholders most affected by hunger and nutrition participate in conceptualizing and elaborating a project to correct the situation. These groups include peasant farmers and their associations, indigenous persons, women and other groups.

According to Arnstain's ladder of citizen participation, efforts to engage a community on an initiative may fall at any point within a broad spectrum and is significantly dependent on what the party that seeks to consult wants to achieve.[847] The continuum includes manipulation, therapy, information, consultation, placation, partnership, delegated power and citizen control.[848] On one extreme is manipulation, where the party consulting has no intention of considering the views of the community. At the other extreme, the local community has control over the outcome of the consultation, with their concerns fully taken into account.

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[847] Arnstein, S. (1969.) "A ladder of citizen participation." *Journal of the American Planning Association*, 35(4), 216–224.

[848] Arnstein, S. (1969.) "A ladder of citizen participation." *Journal of the American Planning Association*.

The following questions should be answered to assess whether the right groups have participated in the design and implementation of the project:

a) Have those affected by the projects, including those who live within the locality, been adequately informed about the plans, including being involved in the activity's design?
b) Has everybody affected by the activity participated in the decision-making, and if not, what are the obstacles? Are they real or imagined?
c) Have the communities or their bona fide representatives been given a chance to oppose the activity?
d) Are there other processes for feedback and evaluation?
e) What are the special measures taken to ensure inclusion and enhance participation of specific groups such as women?

An examination of how NAFSN was conceptualized and implemented in several projects reveals a failure to pass these tests in several regards.

6.4.2 Criteria for Choosing Participating Countries

There is no evidence that local food security needs were the paramount consideration in selecting the participating African countries. Several factors seem to have influenced G8 countries' choice of participating in African countries. First, countries where agriculture was already a primary foreign exchange earner: At the time NAFSN was designed, there were countries in Africa that had more acute food shortages, yet they were not invited to participate.[849]

[849] Marie Gagné, "Is Private Investment in Agriculture the Solution? An Evaluation of the New Alliance for Food Security and Nutrition in Senegal "March 2017, Food Security Policy Group (FSPG), Canada

Second, the participating African countries predominantly include regimes considered favourably by G8 countries for geopolitical interests and would have been willing to make reforms favourable to private investors. For instance, Ethiopia, Nigeria and Tanzania had a good relationship with the Global North powers and had experienced periods of relative political stability. Other participating African countries, such as Malawi, were coerced to join NAFSN as a quid pro quo to receive donor support.[850] This pressure led Malawi to join within three months, with hardly any time for national consultations on whether NAFSN was the most appropriate intervention.[851] Canada encouraged Senegal to join so that the new Canadian government could channel donor support through NAFSN projects. During an interview to assess NAFSN in Senegal, an official at the Canadian High Commission in Dakar revealed that the objective of lifting 50 million people out of poverty was a 'marketing strategy' to legitimize NAFSN more of an aspirational…not attributional' goal.[852] There was no intention to be bound by the figure.

Third, the presence of infrastructure that could support agribusiness was a major determinant. The agricultural growth corridors are areas in the participating countries that were served by a relatively good road, rail or port infrastructure. For instance, seven out of the ten participating countries had a port. This reveals that the participating African countries' choice

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[850] Marie Gagné, "Is Private Investment in Agriculture the Solution? An Evaluation of the New Alliance for Food Security and Nutrition in Senegal "March 2017.

[851] Raj Patel et al., "Cook, eat, man, woman: understanding the New Alliance for Food Security and Nutrition, nutritionism and its alternatives from Malawi," The Journal of Peasant Studies 42, no. 1 (2014): doi:10.1080/03066150.2014.971767

[852] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi.

favoured those that had transport corridors that could support the activities of the agribusinesses from the Global North.[853]

The choice of the sponsoring countries casts doubts about the intention of NAFSN and its' being packaged as a G8 initiative. For example, although Norway is not a member of the G8 countries, Norwegian companies had signed letters of intent committing disproportionately more investment in the participating African countries than other major economic powers such as the UK and the USA. A plausible explanation is that Norway is the home country to the biggest agribusiness globally and needed to expand its markets to Africa.[854] During a survey on NAFSN's implementation in Senegal, an official from an agribusiness that was part of the NAFSN stated that the company signed Letters of Intent to get an opportunity to access government authorities and articulate their grievances. The survey pointed out that many CEOs expected favourable policy changes on their issues, while others expected government support.[855]

6.4.3 Failure to Mandate Local Communities' Participation

The elaboration of NAFSN's Country Cooperation Framework at the national level in many participating African countries excluded stakeholders who are key to the issue of hunger

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[853] Helena Paul and Ricarda Steinbrecher. "African Agricultural Growth Corridors and the New Alliance for Food Security and Nutrition: Who Benefits, Who Loses?" June 2013. EcoNexus. Available at https://econexus.info/files/African_Agricultural_Growth_Corridors_%26_New_Alliance_-_EcoNexus_June_2013.pdf

[854] European Union, *The New Alliance for Food Security and Nutrition in Africa* (2015), PDF e-book, 36. Accessed June 9, 2021, https://www.europarl.europa.eu/RegData/etudes/STUD/2015/535010/EXPO_STU(2015)535010_EN.pdf. De schutter says this pattern… "explains why many observers consider the NAFSN to be a Trojan horse for Western multinational firms, eager to expand their markets by taking part in the relaunching of African agriculture -- but imposing, in the process, their own views of the trajectory to be followed, and of the associated agronomic and economic choices."

[855] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi.

nutrition, despite this being the key focus of the project.[856] The negotiating parties paid most attention to agribusiness and the participating African countries.

Suppose there was a genuine desire to counteract the existing inequalities. In that case, NAFSN architects should have mandated a policy and practice to include the views of the marginalized and the most food-insecure and put them at the heart of the intervention. NAFSN exacerbated the existing inequalities. However, an analysis of the Country Cooperation Frameworks reveals that the interests of corporations were prioritized. The participating African countries got away without making any concrete commitments to their communities to the way they committed to ensuring an enabling environment for the agribusinesses.[857]

This failure to ensure the participation of local communities took place at two levels. First, the introduction of NAFSN to the domestic consistencies ought to have consulted stakeholders at the national level. The second was the failure to consult communities at the project level.

6.4.4 Failure by State to Engage Elected Leaders

In several participating African countries, the executive arm of government did not engage elected leaders at the national level to decide whether to commit to NAFSN and, if yes, which commitments to make. A few cases illustrate this failure.

a) Tanzania: In Tanzania, the chairman of a parliamentary watchdog (PAC) did not learn about the introduction of NAFSN through official channels but through the media. This

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[856] Wolfgang Obenland. Corporate influence through the G8 New Alliance for Food Security and Nutrition in Africa.

[857] Gabor Konig, Carlos A. Da Silva, and Nomathemba Mhlanga, "Enabling environments for agribusiness and agro-industries development: Regional and country perspectives," FAO, last modified 2013, https://www.fao.org/3/i3121e/i3121e00.pdf.

is notwithstanding the potentially far-reaching consequences of the project where communities or their elected representatives ought to have been given a chance to interrogate NAFSN before joining it.[858]

b) Malawi: In Malawi, the government signed CCF three months after the then-president was encouraged by the UK government to join NAFSN to be considered for donor support.[859] This short window left no room for consultation with the relevant stakeholders at the domestic level.

c) Senegal: The decision to have Senegal as a member of NAFSN was made at a high political level, without public consultation to assess its value addition.[860] According to a Canadian embassy official based in Dakar, Canada persuaded Senegal to join the NAFSN to improve Canadian donor support to Senegal.[861] Several consultations were organized to elaborate on the CCF once the decision to accede to NAFSN was made. Even in that case, NGOs voices and priorities were not factored. Peasant farmers' voices trying to promote substance farming were largely ignored.[862] The report concludes that direct consultations with those affected (both positively and negatively) by the NAFSN in rural and urban areas are remarkably absent from the New Alliance elaboration and implementation process, a pattern observed in other member countries as well. None of

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[858] Claire Provost and Erick Kabendera. “Tanzania: Large-scale farming turns small-on gscale farmers into mere laborers.” 18 February 2014. The Guardian. Available at https://www.theguardian.com/global-development/2014/feb/18/tanzania-large-scale-farming-small-farmers-labourers

[859] Raj Patel et al., "Cook, eat, man, woman: understanding the New Alliance for Food Security and Nutrition, nutritionism and its alternatives from Malawi," The Journal of Peasant Studies 42, no. 1 (2014): doi:10.1080/03066150.2014.971767

[860] “Study the New Alliance for Food Security and Nutrition in Africa.” Nov 2015. Wathi.

[861] “Study the New Alliance for Food Security and Nutrition in Africa.” Nov 2015. Wathi.

[862] “Study the New Alliance for Food Security and Nutrition in Africa.” Nov 2015. Wathi.

the agricultural producers interviewed for this study had ever heard of the NAFSN.[863] I use several cases to illustrate this failure.

Case 1: Tanzania's Kilombero Sugar Company Limited: As discussed in Chapter 6, local residents of Namwawala village refused to endorse the investment by KSCL as there was no transparency between the investors and the local community, and despite the effects of the company on the villagers' interest in land, the company failed to engage the community in participatory decision making.[864] Despite their protest, they were informed that the project would still be established, and their exit was mandatory. In addition, no RAP was established to deal with the displacement of people that took place.[865]

This dispute in Namwawala village negatively affected both the social and economic aspects of many villagers.[866] For instance, some pupils were denied their right to education, adults lived in fear of apprehension and stayed in hiding, and most farmers failed to cultivate on their land in fear of losing their crops, as well as in response to a ban by the government officials on planting permanent crops. Ultimately, the villagers suffered a food shortage.[867]

Case 2: Malawi' Illovo Sugar: Illovo Sugar benefited from land acquired from the local community, but local communities' requirement to consent to land acquisition was merely

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[863] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi.

[864] Land Rights Research and Resources Institute and Legal and Human Rights Centre. "Fact Finding Mission Report on the Prevailing Land Dispute at Namwawala Village in Kilombero District, Morogoro Region." 2009. Available at https://landportal.org/file/20600/download?token=XFjUFF78 (hereafter called Fact Finding Mission Report)

[865] Fact Finding Mission Report. The District Administration claimed that the land would be acquired through Presidential acquisition. This was found questionable since the necessary procedures were not adhered to. Presidential acquisition of land is regulated under The Land Acquisition Act, of 1967, which entails survey of the proposed land, giving notice of the proposed acquisition and then taking possession after compensation and due notice.

[866] Fact Finding Mission Report.

[867] Fact Finding Mission Report.

perfunctory. In Illovo Sugar's case, the local communities were required to agree to convert their land from subsistence crops to cash crops. However, the Traditional Authority (TA) had the ultimate power, which is often exercised, to compulsorily take land for sugarcane growing for the community's benefit.[868]

Case 3: NAFSN Projects, Benin: In Benin, a study commissioned in 2014-2015 on the monitoring and evaluation of NAFSN projects under the National Council for Food and Nutrition revealed fading enthusiasm of stakeholders brought from civil society, farmers' organizations, private sector firms and government representatives to report progress and constraints encountered in implementing NAFSN projects that were essential in doing the country reports.[869] They were reluctant to give information pertinent to the projects. The national investors misconstrued NAFSN as an opportunity to receive funding, technological and technical support to modernize their projects or benefit from tax and administrative facilities.[870] This is a clear indication that communication on NAFSN was poor.

Case 4: NAFSN Projects, Senegal: According to a survey reviewing NAFSN's implementation in Senegal, despite efforts by the NAFSN to respond to criticism about the need to involve NGOs and small-scale farmers' associations, these groups are still underrepresented at the national level. There is also continued failure to consult those impacted by its implementation. Local farmers' wealth of knowledge on agroecology has also been

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[868] PLAAS policy brief, "Opportunities and Challenges in Tanzania's Sugar Industry: Lessons for SAGCOT and the New Alliance." http://repository.uwc.ac.za/xmlui/bitstream/handle/10566/4390/fac_pb_76_opportunities_challenges_tanzania%E2%80%99s_sugar_industry_lessons_for_sagcot_and_the_new_alliance_july_2014.pdf?sequence=1&isAllowed=y

[869] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', pages 65, 66

[870] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', page 85 – there was no credible consultation otherwise these misconceptions would not have existed.

ignored. Finally, the report observes that the individuals who consistently experience food shortages were not invited to shape NAFSN priorities.[871]

6.4.5 Lack of Information

Stakeholders can only meaningfully participate if they have complete and accurate information, including information that may lead them to decline a given proposal. NAFSN architects at the international, national and local levels often failed to provide information, including to local agribusinesses, on the initiatives' objectives. This is demonstrated by concerns raised by peasant farmers in several instances, who claimed they would not have signed contracts with the agribusinesses had they known they would end up worse off than before the engagements.[872]

A case in point is that the plight of local communities impacted the operations of Tanzania's KPL. They felt that the company had not been transparent in providing them with information about the project. The company dealt with the local administration officials and village elders who were not keen on ensuring the information trickled down to the project-affected persons. In Burkina Faso, some donors were unaware of the link between their commitments and the projects on the ground. Others had never heard of NAFSN.[873]

In Mozambique, the farmers learned of the ProSAVANA programme four years after the project was conceptualised. In addition, when the farmers were engaged, no relevant

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[871] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi.

[872] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report',

[873] O. Badiane & others, An Assessment of the New Alliance for Food Security and Nutrition Synthesis Report', pages 83 & 84

information was relayed. This contributed to the farmers' distrust of the programme and unwillingness to participate.[874]

6.4.6 Lack of Accountability and Access to Effective Remedy

The failure of accountability is two-pronged. First, there were no performance indicators for agribusiness and governments upon which communities could base claims and hold the duty-bearers to account or even define success. Second, there was no mandated access to remedies mechanisms at the project level.

For a project such as NAFSN to have a human rights perspective, there is a need to monitor and report the agreed outcomes and outputs. The monitoring should be independently verifiable. If adverse impacts are noted midstream, stakeholders should have an opportunity to change course to mitigate the negative impacts. The mitigation plan should be developed in a collegiate manner, monitored and then reported.

In regards to access to remedies, international human rights law binds States to ensure that victims of human rights violations have access to remedies. This position is reiterated in the United Nations Guiding Principles on Business and Human Rights. Both states and businesses should ensure that they do not place barriers for victims of corporate-related harm to obtain a remedy. Unfortunately, evidence suggests that NAFSN did not address this issue in any way.

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[874] Koichi Ikegami, Corridor Development and Foreign Investment in Agriculture: Implications of the proSAVANA Programme in Northern Mozambique.

The following cases demonstrate failure at both levels.

6.4.6.1 Lack of Adequate Monitoring System

One of the shortcomings of the NAFSN is that with the prioritization of private sector interest, the participating African countries behaved as if they had effectively surrendered their obligation and duties to the unaccountable private sector. NAFSN preparatory documents referred to "shared responsibilities and mutual accountability" between states and businesses, but this was not sufficiently defined to understand the breadth and scope of accountability. There was no human rights framework for accountability, either recognizing the applicable standards or even creating a mechanism for mandating accountability.

A major weakness of the NAFSN is the lack of a mechanism to evaluate its effectiveness or contribute to achieving its twin objectives. The progress reports, which are ad hoc, do not have indicators that can be used to measure progress. The indicators include the value of investments, the number of jobs created, the number of smallholders reached, and the status of implementing LOIs.[875] There is no independent verification with each agribusiness required to update its progress. As expected, the negative impacts are not included in the reports, making them skewed.[876]

Officials at the Canadian High Commission in Dakar, Senegal, have been quoted as saying that the figure of 50 million as those that NAFSN planned to lift out of poverty was purely aspirational, and there was no intention of being held accountable for it.[877] There is no

[875] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi, page 205.
[876] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi, page 205
[877] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi.

accountability by any of the stakeholders. According to the report, NGOs point fingers at the private sector. The government blames the private sector and says they look for flimsy excuses to avoid liability. The state also blames the private sector for its failure to report accomplishments under the NAFSN. It is unknown how the NAFSN has progressed in Senegal.[878]

On its part, Canada says it is not legally responsible for the measures adopted under NAFSN as it entered under the umbrella of G7 countries. The Canadian team is of the view that its commitment is not legal but political, and its accountability is to its G7 peers.

Finally, companies consider their scope of responsibility as moral as opposed to legal obligation. As one private partner explains: "It is true that commitments are public, but there is no binding character attached to these commitments if no accompaniment measures are offered in return. I have very clear objectives, but their realization depends on my capacity to raise funds. If I do not find them and do not fulfil my pledges, no one can hit me over the head because the NAFSN does not help me to find means of achieving them."[879]

6.4.6.2 Accountability Gaps

NAFSN architects failed to integrate accountability mechanisms from two different perspectives. First, there were no input and outcome indicators on what was expected from the agribusinesses and the participating states, upon which targeted beneficiaries could hold the proponents to account. Second, in many participating countries, the agribusinesses did not

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[878] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi, page 43
[879] "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015. Wathi, page 244

facilitate the creation of credible access to remedy pathways where communities aggrieved by their projects could seek and obtain relief. I discuss each of these below.

Lack of Accountability Indicators: For a project of NAFSN's magnitude and potential ramifications, there ought to have been outcomes agreed upon before the project implementation. These should have been independently verifiable. These should have been publicly available so that affected communities could assess NAFSN's progress towards the realization of its objectives. However, this was not the case, with some countries leaving it to businesses to give their progress on how they were contributing to poverty reduction, including through employment.[880]

Lack of Credible Access to Remedy Pathways: The UNGPs call upon businesses to take measures to ensure those harmed by their operations have access to remedy. This includes establishing an operational-level grievance mechanism. In addition, they should take steps to ensure that they do not limit or obstruct those impacted by their operations. Several cases illustrate that some communities with grievances arising from NAFSN's operations, including unaddressed grievances from entities that ended up benefiting from NAFSN, were not addressed.[881]

i) Communities that suffered abuses at the inception have neither been compensated nor have the perpetrators been held to account.

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[880] Oakland Institute, "Irresponsible Investment"

[881] AEFJN, "Impact of Large Scale Farming in Tanzania." *Youtube*. January 25, 2017, https://youtu.be/cBO9OeBUGY

After being evicted from their land, the Anuak and Neur indigenous peoples have not been compensated.[882] In Tanzania, local communities in Bagamoyo have not been compensated for the loss of earnings resulting from their displacement for the proposed activities of Agro EcoEnergy.[883]

ii) Communities did not understand their rights

Both the participating African countries and the agribusinesses did not educate the local populations on their rights under the initiative. The manner of the introduction of the NAFSN was abrupt. Communities were ambushed.[884]

Because NAFSN was forced on the communities, some do not conceptualize any distinction between the state and businesses. Hence, they could not contemplate lodging a grievance against the agribusinesses to regulatory authorities.[885] In addition, communities in several participating countries, such as Ethiopia and Tanzania, have low confidence in the public justice system's capacity to impartially remedy their grievances against agribusinesses.[886]

Moreover, in Tanzania, the community signed a CSA with KSCL throughout-grower associations. However, most of the out-growers had never seen the CSA, thus, were unaware of their contractual rights when KSCL delayed payments.[887]

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[882] Human Rights Watch, '"Waiting Here for Death": Displacement and "Villagization" in Ethiopia's Gambella Region', 2012 available at https://afsafrica.org/wp-content/uploads/2019/10/agrawiseprelimfindings2017.pdf

[883] ActionAid, Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania.

[884] AEFJN, "Impact of Large Scale Farming in Tanzania."

[885] All land in Tanzania is technically government land, regardless of whether it is settled on by communities. The governance over such land is vested in village elders.

[886] AEFJN, "Impact of Large Scale Farming in Tanzania."

[887] Case Study: Kilombero Sugar Company Ltd in Tanzania. Prepared for Landesa's Responsible Investments in Property and Land.

iii) Simple grievances that an operational-level grievance mechanism at the company level could have handled

There are many instances where disputes between agribusinesses and local communities escalated due to a lack of operational-level grievance mechanisms that could have resolved them at the earliest opportunity. For example, the grievances against Agro EcoEnergy could have been handled at the earliest opportunity possible and clarified.[888]

In Tanzania's KPL, there have been several points of conflict between KPL and the local community. For instance, the locals alleged that the company had closed off roads cutting through the plantation when setting the infrastructure for irrigation, forcing the villagers to take a much longer route. This inconvenience led to protests, including blockades by the villagers to prevent access to KPL's premises. This dispute has not been conclusively resolved and remains a source of tension between the local community and the company.[889]

The villagers have also raised concerns about organic fertilizer, pesticides and herbicides on soil and water, especially during the rainy season when there is surface-run off from KPL and out-growers' farms.[890] KPL maintains that it upholds high standards in the use of agrochemicals, and it refrains from using them during the rainy season. Despite this information, the fear of soil and water pollution persists as a local community's grievance.[891]

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[888] ActionAid, Mark Curtis, and Richard Mbunda, *Take Action: Stop EcoEnergy's Land Grab in Bagamoyo, Tanzania.*

[889] Oakland Institute (2015), 'Irresponsible investment: Africa's broken development model in Tanzania' available at https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_Report_Irresponsible_Investment.pdf, Pg. 23

[890] Oakland Institute (2015), 'Irresponsible investment: Africa's broken development model in Tanzania', page 24

[891] Rinku Singh and G.S. Singh, "Traditional Agriculture: a climate-smart approach for sustainable food production," Energy, *Ecology and Environment* 2, no.5 (2017): doi:10.1007/s40974-017-0074-7.

7. **Conclusion and Recommendations**

7.1 Conclusion

NAFSN co-opted a host of private sector players, including food processors, seed and agrochemical companies and commodity traders, to improve food security. To justify corporations' intervention, a narrative that food insecurity can only be resolved by injecting private capital into agriculture has increasingly taken root. The narrative asserts that this would help net food-importing countries become self-reliant by reducing their food imports and dependence on food aid.[892]

These stated objectives of the NAFSN were thus noble and appealing. However, an examination of various CCFs and the way the initiative was introduced and implemented reveals that the overall objective's rhetoric was not matched with the expressions in the CCF, which were deficient in the following regards:

a) The reliance on international private sector players and the global market has not built local communities' resilience, but it has denied them an opportunity to determine their food production and consumption patterns. It disrupted local communities' food systems. The introduction of fertilizers, certified seeds and agrochemicals risked various communities' traditional agricultural practices. The long-term viability of these projects is already in doubt, and some have collapsed.[893]

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[892] The White House, “Camp David Declaration."
[893] See Chapter 6 of this thesis

b) The reliance on agribusinesses to resolve poor and vulnerable communities food security concerns is counterproductive.[894] Corporations are motivated by the need to maximize profit, while local communities need to be cushioned. The negative consequences of such an approach were exacerbated by project proponents' failure to meaningfully consult small-scale farmers and other key actors at the grassroots level.

c) Whereas NAFSN foundational documents recognize women as key players in agriculture, no concrete steps were taken to address the traditional disadvantages that they experience. Women were treated as recipients of charity by NAFSN instead of right holders who should be engaged right from conceptualization to implementation. [895]

d) Failure to take concrete steps to address grievances that have arisen due to the implementation of NAFSN denies communities the opportunity to be compensated and receive apologies and guarantees of non-repetition by those who have compromised their rights.[896]

NAFSN's failure should not have come as a surprise. Despite the existence of internationally acceptable standards applicable to pro-poor development projects, there was no credible attempt to align NAFSN to such widely accepted standards. The advancement of corporate interest runs counter to the history and the needs of the continent on the interventions that can meaningfully improve the food security situation.[897] The promise by NAFSN that it would improve food security and lift millions out of poverty legitimized the expansion of international

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[894] See Chapter 6 of this thesis

[895] See Chapter 6 of this thesis

[896] See Chapter 6 of this thesis

[897] For instance, see Wise, Timothy, ' AGRA at Ten Years: Searching for the Evidence of a Green Revolution in Africa', Tufts University and Small Planet Institute, November 2017, available at https://afsafrica.org/wp-content/uploads/2019/10/agrawiseprelimfindings2017.pdf

markets for agribusinesses, primarily based in the Global North.[898] This explains why agribusinesses have approached their activities to maximize profits without considering their operations' negative impacts on the local communities and the environment.[899]

These findings are consistent with a report on the implementation of NAFSN in Senegal. The report finds that the NAFSN has not achieved its goals. It concludes that … "the New Alliance has not so far delivered on its promises, be it significant reforms conducted by the Senegalese government, increased private investment in agriculture, or improved food security and nutrition."[900] A past Special Rapporteur on the Right to Food says that "…many observers consider the NAFSN to be a Trojan horse for Western multinational firms, eager to expand their markets by taking part in the re-launching of African agriculture -- but imposing, in the process, their views of the trajectory to be followed, and of the associated agronomic and economic choices."[901]

This thesis has demonstrated that the investment-driven models of improving food security, such as NAFSN, if not designed pro-poorly, are often costly to small-scale farmers. They worsen the situation of already food-insecure communities. The intervention by poorly regulated agribusinesses that, as expected, prioritize the interests of their shareholders is highly unlikely to improve the plight of communities that need to be cushioned from external shocks they have little or no control over. There have been better and more successful models

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[898] Wise, Timothy, 'AGRA at Ten Years: Searching for the Evidence of a Green Revolution in Africa', Tufts University and Small Planet Institute, November 2017.

[899] Hamza Hamouchene. "The G8's New Alliance for Food Security and Nutrition." November 2013. Available at https://www.globaljustice.org.uk/blog/2013/nov/27/g8%E2%80%99s-new-alliance-food-security-and-nutrition-instrument-control-african

[900] Wathi. "Study the New Alliance for Food Security and Nutrition in Africa." Nov 2015.

[901] European Parliament, 'The New Alliance for Food Security and Nutrition in Africa', 2015, available at The New Alliance for Food Security and Nutrition in Africa (europa.eu)

elsewhere that have put small-scale farmers at their heart.[902] For instance, agroecology – farming in harmony with nature as it focuses on farmers' rights and promotes social justice for all members, is more sustainable and is proven to improve the livelihoods of small-scale farmers.

7.2 Recommendations

NAFSN projects have already harmed local communities. Moreover, similar agribusiness-led interventions continue to be advanced as a solution to food insecurity in Africa.[903] Sadly but predictably, the projects continue to fail local communities but benefit agribusinesses. This injustice of promoting agribusiness at the expense of the hungry population should stop. Future initiatives addressing food insecurity in Africa should adopt a human rights framework. This framework includes securing the participation of peasant communities from conceptualization to implementation, respecting the existing means of livelihood among small-scale farmers, adopting measures to protect the rights of women, and ensuring access to remedy for those who such projects may negatively impact. I briefly discuss as follows:

a) Participation

Governments and agribusiness should ensure that beneficiaries participate and make informed choices on the project should be implemented. One crucial aspect of this is access to information, including the potential negative impacts of the projects. This includes the impact it will have on land tenure, existing food production patterns, as well as the risks, if any, to

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[902] By, contrast, a University of Essex study of 50 large ecological agriculture projects documented a 79 percent average increase in yields for a diversity of crops, with farmers seeing reduced costs and increased incomes.

[903] See Chapter 3 of this thesis

their income. Since the projects are ongoing, participation should as well be continuous, including in the monitoring and evaluation of the projects. This would afford the intended beneficiaries an opportunity to give their views on aspects of the project that are helpful and those that need improvement.

In addition, special measures should be taken to ensure that groups that may be excluded from the mainstream mechanism elaborate on each of those areas of societal participation, such as women and indigenous peoples, participate in such deliberations.

b) Take measures to respect the right to adequate food

The failure to conduct any human rights due diligence at the design stage denied the participating African governments and the agribusiness a chance to assess the potential human rights risks and take measures to avoid and mitigate them. Governments should make it mandatory for businesses to conduct human rights due diligence and ensure the participation of the targeted community. The findings, including any human rights risk mitigation measures, should be made public and periodically reviewed if a decision to go ahead with the project is made.

Legislation is one of the tools used to restrict peasant farmers' utilisation of traditional farming methods. For instance, outlawing the use of non-certified seeds has only benefitted corporations but made it expensive for peasant farmers to farm. Agribusinesses should refrain from using their power to influence legislation that advances their commercial interest in a manner that oppresses peasant farmers.

In this study, I highlight the power asymmetry between local communities and businesses as one of the causes of business relationships, such as out grower contracts that compromise the livelihoods of local communities. This occurs where for instance, their contract does not

clarify when the local suppliers would be paid and if there are guaranteed minimum returns. Agribusiness should adopt measures to rebalance this asymmetry. For example, during the negotiation of model contracts, peasant farmers should have an opportunity to make counteroffers as opposed to being compelled to sign predetermined contracts.

c) Protecting the rights of women

Failure to conduct human rights due diligence has harmed peasant farmers. This study reveals that women have suffered more than men. A gendered human rights due diligence would guarantee a special focus on proposed projects that would negatively impact women and take measures to ensure that the projects do not reinforce discrimination against women.

In the study, I further establish that women are marginalised in decision-making during negotiations with agribusinesses. At the same time, the proposed gendered human rights due diligence would identify discrimination in decision-making organs and affirmative action to guarantee women's participation and leadership opportunities along the supply chain entities such as out-growers associations. This may be achieved by encouraging and supporting women to vie for elective positions within such associations or reserving some positions for women.

Governments need to pay special attention to how trade agreements impact women. According to the Committee on the Elimination of Discrimination Against Women, states should take measures to address the negative impacts of "economic policies, including agricultural and general trade liberalization, privatization and commercialization of land, water and natural resources" on rural women and the enjoyment of their rights.[904]

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[904] See OHCHR, "Committee on the Elimination of Discrimination Against Women. General Recommendation No.34 on the Rights of Rural Women, 2016, para 11" OHCHR, accessed October 13, 2021,

d) Access to remedy

Communities have already been harmed by the failure to adopt a human rights-based approach in the commercialisation of agriculture as a solution to food insecurity. They have been displaced and lost their livelihoods, among other types of harm. These deserve justice. Consequently, NAFSN proponents should establish a fact-finding mechanism to determine the type of harm suffered and take measures to mitigate and remedy the harm suffered by peasant farmers and other aggrieved parties.

To ensure that aggrieved parties access remedy effectively, the participating agribusinesses should adopt an operational-level grievance mechanism that conforms with international standards, including the guidelines provided under the third pillar of the UNGPs.[905] On their part, governments should ensure that the judicial and state-based non-judicial grievance mechanisms are effective access to remedy pathways for those who have suffered harm.

The growing dominance of corporations on Africa's food system, coupled with the failure of both domestic and international mechanisms, continue to threaten local populations, especially peasant farmers. Whereas men have suffered from these changes, women have, in most cases, been disproportionately impacted. Initiatives that seek to promote the injection of private capital in agriculture as a means of improving food security have, for the most part, failed to achieve the desired results. The World Bank-led strategy to liberalise agriculture failed. More recently, emerging reports indicate that AGRA has not improved food security in

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https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsldCrOlUTvLRFDjh6%2fx1pWB6lCUVZF6giuQZbHO4%2fX%2b4Db%2bKev44QYdiHl9FsT1evybcMuaSbhtRSEgF9LzC%2bftEbBrdWL2QQi2xDxGAzgBP.

[905] United Nations. Office of the High Commissioner for Human Rights and United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, (New York: United Nations Publications, 2011).

targeted countries despite an investment of a significant amount of money. Critics say that agribusinesses have been the sole beneficiaries.[906]

Finally, the corporate capture of the global food system continues unabated. The 2021 UN Food Systems Summit was boycotted by groups representing peasant farmers' voices due to the perceived dominant role of agribusinesses and a perception that the agenda was tailored to entrench the commercial interests of agribusinesses at the expense of peasant communities.[907] These developments demonstrate that NAFSN is not isolated as an initiative to drive the corporate agenda for agribusiness.

[906] Wise, Timothy, ' AGRA at Ten Years: Searching for the Evidence of a Green Revolution in Africa', Tufts University and Small Planet Institute, November 2017, available at https://afsafrica.org/wp-content/uploads/2019/10/agrawiseprelimfindings2017.pdf To see AGRA's response to concerns that the initiative has not helped peasant farmers, see Has Africa′s green revolution failed? | Africa | DW | 15.08.2020

[907] John Vidal, "Farmers and Rights Groups Boycott Food Summit over Big Business Links," The Guardian, last modified March 12, 2021, https://www.theguardian.com/global-development/2021/mar/04/farmers-and-rights-groups-boycott-food-summit-over-big-business-links.

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