

An aerial photograph showing a vibrant green agricultural field on the left, separated from a dense, lush green forest on the right by a narrow, winding dirt road. The sky is filled with soft, white clouds, and a thin white line, possibly a power line or a path, stretches across the upper portion of the image. The overall scene is peaceful and natural.

REPORT SUMMARY: RIGHT TO FOOD IN CONFLICT SETTINGS

A/72/188(2017)

UN SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD, HILAL ELVER

Copyright 2018

INTRODUCTION

In this first of two successive reports, the Special Rapporteur contextualizes the dire situation of severe food insecurity in several countries currently most affected by internal and international conflict and discusses the existing regulatory architecture of human rights law and international humanitarian law. Despite well-established rules governing these two areas of law, hunger and famine in a variety of combat settings inflict massive casualties and widespread suffering on the civilian population. A principal aim of the Special Rapporteur is to raise awareness about the failure to implement existing norms and guidelines, the non-compliance of States and other political actors with existing norms and the failure to address international criminal behavior that has a direct impact on the right to food.

CONFLICT AS A CAUSE OF FAMINE paras 7-10

The Integrated Food Security Phase Classification is a standardized tool that classifies the magnitude of food insecurity. Classification categories three, four and five-- crisis, emergency, and famine--require urgent action. Famine, the most severe form of food insecurity, is the absolute inaccessibility of food for an entire population or subgroup of a population, potentially causing death in the short term. During a famine, at least 20 per cent of households in a given group face an extreme food deficit, without the ability to cope; acute malnutrition prevalence exceeds 30 per cent; and mortality rates exceed 2 people per 10,000 inhabitants per day.

Along with other factors such as natural hazards, demographic growth, shocks to the global food supply and weak governance, conflict is a major cause of food emergencies, which can eventually lead to famine. Conflict can trigger food insecurity through the loss of assets, the undermining of communities' coping capacities and the breakdown of social support systems. The right to adequate food may be endangered in various ways, including through the disruption of agricultural activity, the deterioration of food-related economies and the deliberate undermining of access to food and humanitarian assistance by parties to the conflict. Contrary to popular belief, casualties resulting directly from combat usually make up only a small proportion of deaths in conflict zones, with most individuals in fact perishing from hunger and disease. In 2016, over 56 million people in more than 20 countries and territories were affected by protracted conflicts and suffered from severe undernourishment and emergency levels of food insecurity.

Conflict often reinforces existing social inequalities and intensifies the denial of human rights experienced by vulnerable populations, including the right to food. In times of conflict, disadvantaged groups, such as children under 5 years of age, orphans, pregnant women, female-headed households, refugees and internally displaced persons, older persons, persons with disabilities, minorities and already marginalized communities suffering from social exclusion tend to have less access to resources and the lowest coping capacities, leaving them most vulnerable to the risk of an inadequate diet.

LEGAL PROTECTIONS

INTERNATIONAL HUMAN RIGHTS LAW paras 47-61

Article 11 of the International Covenant on Economic, Social and Political Rights specifically recognizes “the fundamental right of everyone to be free from hunger”, which further imposes an obligation on States to ensure “the satisfaction of, at the very least, [the] minimum essential level” of this right under all circumstance, including during times of conflict. Freedom from hunger is accepted as part of customary international law, rendering it binding for all States regardless of whether they are a party to the Covenant. States cannot put aside or postpone the realization of the core content of economic and social rights, but must continue to take deliberate and targeted steps, even in times of conflict, using all appropriate means in order to fulfill those rights.

INTERNATIONAL HUMANITARIAN LAW paras 62-78

While international humanitarian law does not mention the “right to food” as such, many of its provisions are intended to ensure that people cannot be denied access to food during armed conflict. International humanitarian law should be treated as an essential specific legal framework in times of armed conflict that protects peoples’ livelihoods and their access to food. The four Geneva Conventions of 1949 and two Additional Protocols of 1977 set out major rules of international humanitarian law, including (a) prohibition of starvation of civilians as a method of warfare; (b) prohibition of forced displacement; (c) denying or blocking humanitarian assistance.

INTERNATIONAL CRIMINAL LAW paras 79-90

Individual criminal responsibility is fundamental to ensuring accountability for violations of international human rights and humanitarian law. Article 5 of the Rome Statute provides the most complete and updated definition of relevant international crimes. It is now widely accepted by the international community that intentionally caused famine and forced starvation are forbidden under international law. Famine becomes a crime if there is sufficient evidence of an intentional or reckless effort to block certain groups from access to food under conditions of conflict or hardship. The crime of famine could result from acts of omission, but also from indirect action such as blocking humanitarian assistance, failing to uphold the relevant laws of war or failing to provide international relief systems with the necessary resources in the context of famine conditions.

While it is theoretically possible to bring to justice those responsible for allowing their populations or those of their adversaries to starve to death during an armed conflict, the political will to do so is not clearly manifested in the current climate.

IMPACT OF PROTRACTED CONFLICT ON RIGHT TO FOOD

paras 14-34

A. Disruption of the agricultural sector

Conflict tends to disrupt food production and deplete seed reserves by limiting agricultural activities. Farmers may be unable to work owing to restrictions on their movement or because they have fled or have been forcibly recruited into armed forces or militias. Crops are often plundered or destroyed, serious damage may be inflicted on farming and fishing infrastructure and vital agricultural input may be difficult to come by. Pastoralists and herders are particularly vulnerable to losses of livelihood, being either forced to abandon their livestock, or if bringing them, facing challenges of gaining access to feed and water. Conflicts also often disrupt livestock markets and veterinary services, block migration routes and may lead to the killing of animals.

B. Economic Deterioration

Conflict can also severely affect household income and purchasing power. Mass unemployment and the breakdown of social services limit the ability to gain access to food, while currency devaluation, price inflation, market disruptions and reliance on costly food imports owing to shortages may render basic food items prohibitively expensive.

C. Deliberate Undermining of Food Security

In many situations, parties to armed conflict are unwilling to fulfill their responsibility to ensure access to basic services and goods, including food. They even deliberately undermine the food security of civilians for political or military reasons by intentionally targeting markets and ports, looting or besieging communities with the aim of causing hardship and starvation. They may also deliberately hamper the access and functioning of humanitarian agencies.

D. Restrictions on humanitarian assistance in conflict settings

The humanitarian food assistance response, which can provide a critical lifeline of support, often faces serious political, security and infrastructure - related impediments that obstruct the effective delivery of food assistance. Countries suffering from long-standing conflict tend to be particularly fragile and have poor governance and weak infrastructure, which hampers the effective coordination and delivery of food assistance. Interference by political forces and cumbersome negotiations can also slow down the humanitarian response. The delivery of humanitarian assistance may also be seriously hampered by fighting.

CURRENT FOOD CRISES IN CONFLICT SETTINGS

paras 10-13

YEMEN

Yemen, a country that was already one of the poorest in the Arab region, has seen an alarming rise in rates of acute malnutrition since the beginning of the civil war in 2015. Some 17 million Yemenis – 60 per cent of the population – are food insecure, while 7 million are at risk of famine and acute food insecurity, a situation that is expected to deteriorate further without emergency food assistance programmes immediately being scaled up. A severe cholera outbreak has disproportionately affected malnourished individuals and has exacerbated the nutrition crisis.

SOUTH SUDAN

The fragile food security situation in South Sudan, a country impoverished by decades of war, has been severely compounded by the outbreak of civil war in 2013. Currently, 5.5 million people are estimated to be in Integrated Food Security Phase Classification categories three (crisis), four (emergency) and five (famine). While the famine status announced at the beginning of 2017 has been downgraded, 45,000 people in Unity and Jonglei are still facing starvation unless they receive sustained humanitarian assistance.

NIGERIA

North-east Nigeria has historically been prone to periodic food crises and comprises some of the poorest federal states of the country. The magnitude of the effect of protracted war between the Nigerian army and the extremist group Boko Haram recently became evident when the group retreated from previously occupied territory. As Boko Haram fell back, thousands were discovered to be living in famine-like conditions. Around 5.2 million people are severely food insecure and in need of emergency assistance, and pockets of famine have been identified in Borno and Adamawa States, affecting around 50,000 people.

SOMALIA

Somalia, has suffered from enduring conflict, an economic crisis, the ongoing presence of the terrorist group Al-Shabaab, and prolonged drought and water shortages. Hunger has worsened since the beginning of 2017. Some 6.7 million people, or more than half of the population, are facing acute food insecurity, of whom 3.2 million are severely food insecure.

RECOMMENDATIONS

paras 96-97

To protect the right to food in situations of conflict the Special Rapporteur makes the recommendations set out below.

States should:

(a) Take specific steps to ensure that national legislation provides a framework that recognizes State's obligations to respect, protect and fulfill the human right to adequate food both in times of peace and in situations of conflict

(b) Guarantee that food assistance reaches the entire population in conflict zones without discrimination and distribute the maximum available resources in a non-discriminatory manner;

(c) Prevent, punish and redress attacks by armed groups against sources of food production and the blocking of humanitarian and convoys

(d) Prioritize the availability, accessibility and adequacy of food for the most vulnerable populations, including internally displaced persons and refugees;

(f) Codify national criminal law that absolutely prohibits the starvation of civilians as a method of warfare and forced displacement and recognizes the blocking of humanitarian assistance as a crime

The international community should:

(a) Establish a workable early warning system designed to warn of imminent famine conditions with a view to minimizing death, devastation and the outbreak of serious diseases

(b) Call for an amendment of the Rome Statute to add famine as a potential international crime, whether or not it occurs in an international or non-international armed conflict;

(c) Urge ICRC to convene as soon as possible a conference of States parties to the Geneva Conventions to revise international humanitarian rules to ensure that the crime of famine is no longer subject to impunity;

(d) Secure international funding other than voluntary contributions by establishing mandatory contributions at the international level, following the example of the Green Climate Fund.