

Business Responsibility in Realizing the Human Right to Food

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Responsibilities for the Right to Food

Addressing food security in the production stage of the agriculture supply chain requires the participation and collaboration of the state, local communities, trade unions, civil society, as well as private businesses. No single entity is solely responsible for addressing food security and working together can bring synergies to have a bigger impact.

The state has the duty to respect, protect, and fulfil human rights including the right to food with its laws and policies [1] and businesses are obliged to comply with applicable laws and policies and respect human rights. While businesses should cooperate with the state, they must uphold human rights in their operations and areas of influence, even in the absence of state regulations.

This is particularly crucial when national legislation and enforcement are behind international human rights conventions. However, there remains confusion regarding the extent of businesses' responsibility and the actions necessary to fulfil this duty, especially in cases where the state does not fully fulfil its obligations.



Figure 1. Parties that are responsible for addressing food security in the agriculture production stage

State Responsibility

The state has the primary responsibility to protect against human rights violations within its territory or jurisdiction including business-related violations of the right to food and other related human rights abuses.[2] It must ensure that its policies and laws respect the right to food and related human rights and puts into place the framework conditions and enforcement mechanisms to ensure that businesses align with the state law and regulations.[3] The state can take responsibility by enacting the following actions: [4]

- Aligning business-related policies and legislations to reflect well on human rights.
- Provide legal guidance to businesses on how to respect human rights in their operation including advice on human rights due diligence.
- Provide judicial grievance mechanisms and other monitoring and accountability mechanisms to oversee businesses' activities.
- Government agencies such as research institutes or regulatory bodies provide reports and data valuable for businesses in the due diligence process such as reports on the business-specific or geography-specific adverse impacts.
- Encourage businesses to communicate and report on their human rights impacts by providing incentives or establishing requirements.

Business Responsibility

Businesses shall align with international frameworks and due diligence obligations.[5] Businesses shall take responsibility for their operation and their area of influence and address the adverse actual and potential impacts individually or in collaboration with other stakeholders. [6]

To ensure that the workers in the farms are food secure and the business operation does not deteriorate the food security status in the area of influence, businesses can establish a due diligence system to identify, prevent, mitigate, and account for the actual and potential risks in the operations, their supply chain, and other business relations.[7]

The responsible actions taken by businesses will not only enable businesses to respect human rights and meet legal requirements but will also improve their access to the global supply chain, retain workers, enhance business performance, and reduce reputational risks which eventually can support the businesses to be more resilient, profitable, and sustainable.

Creating Synergies Through Collaboration

The state may have limits in their reach of responsibility to regulate the private sector sufficiently due to a lack of resources or gaps in legislation.[8] One example is the situation where the business has operations outside of the state's territory and the state's accountability for human rights cannot be reached to all the operations. This gap can be narrowed down by the state requiring businesses that have global operations to report on the entire operation and providing guidelines and standards to support businesses abroad to fulfil their responsibility through due diligence frameworks and regulations. In addition, the state can establish and enforce extraterritorial legislation

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This is especially the case when it comes to problems caused by factors that are outside of businesses' immediate control. This includes high rates of poverty, widespread discrimination in the country, price volitation, natural disasters, and climate change. All these external factors can be considered more matters to be addressed by the state. However, businesses can still address the issues by developing company policies, emergency/contingency plans, and monitoring plan to prevent and manage the risks from within. For example, companies can develop company policies on discrimination prevention in the company and emergency/contingency plan for the natural and human-made disaster risk in the area of operation.



To reduce the limitations and create synergies of responsibilities that the state and the businesses take, businesses can engage in multi-stakeholder initiatives and participate in dialogues with diverse stakeholders that include the state, civil society, local communities, and business partners.

Due Diligence Frameworks and Regulations

Conventions (or protocols) from the International Labour Organization (ILO) outline basic principles and rights at work intended to be implemented by member states. These principles and rights become legally binding when ratified by member states. On top of this, with the increasing demand for transparency of businesses' operations including operations abroad and with the need to provide a level playing field for businesses, international frameworks and national and regional regulations on corporate due diligence have been introduced.

The Guiding Principles on Business and Human Rights (UNGPs) by the United Nations Human Rights Council provides a comprehensive set of recommendations on the actions the state and businesses should take to protect human rights within their respective sphere of responsibility.[9] It is applicable to all states and all businesses regardless of their size, location, ownership, and structure. It has been used as a reference to other international guidelines such as OECD-FAO Guidance for Responsible Agricultural Supply Chains[10] and OECD Guidelines for Multinational Enterprises[11].

While these frameworks were voluntary, legally binding regulations have been proposed or endorsed in recent years with the basis of the UNGP. Recent establishments include the German Supply Chain Act (LkSG) and the Corporate Sustainability Due Diligence Directive (CSDDD) proposed by the European Commission.



Human Rights Due Diligence System for Businesses

Businesses may establish a human rights due diligence system to identify human rights risks from their operation and prevent and mitigate them. The suggested steps for the due diligence system and the tasks for the respective steps are explained in Table 1. The system can be used for transparent reporting of their business impact and to align with due diligence obligations. The due diligence process shall be performed regularly and before engaging in new arrangements.






	Human rights management system	<ul style="list-style-type: none"> Align business policies with the strictest law among jurisdictional laws and international frameworks. Integrate policies into all processes of the business operation as well as the indirect business supplier.
	Identifying risks	<ul style="list-style-type: none"> Carry out environmental and social impact assessment (ESIA) sensitive to Right to Food. Identify potential or actual risks of the business itself or in the context in which the business takes place. Involve rightsholders from the risk identification process onwards.
	Preventing & mitigating	<ul style="list-style-type: none"> Establish a risk management system that includes actions to prevent and mitigate the risk. Perform public consultations with stakeholders to gather valuable guidance for risk management.
	Performance & monitoring	<ul style="list-style-type: none"> Monitor management plan using defined indicators to ensure both in-farm and community impact are frequently measured and that sufficient progress due to corrective actions takes place. Establish a grievance mechanism to enable employees and stakeholders to file complaints and grievances for the business in case of violations of human rights including the right to food.
	Transparent reporting	<ul style="list-style-type: none"> Report on the business due diligence annually to demonstrate compliance with the human right's due diligence. Share the report publicly to increase credibility and transparency.

Table 1. Steps of due diligence system and tasks for the respective steps

Certification schemes can be utilized in the overall process of the due diligence system. They support risk identification by assessing risks through defined requirements and support in risk management and monitoring by defining prevention measures and indicators to track their progress. Additionally, companies can use the certification and audit results for their transparent reporting. The Food Security Standard (FSS) was developed to support agricultural production businesses in fulfilling their human rights due diligence responsibilities, particularly concerning their impact on respecting

the right to food. It is especially beneficial for businesses operating in high food security risk areas. It is especially beneficial for businesses operating in high food security risk areas. Figure 2 shows how the FSS can support companies to implement human rights due diligence, and how its tool can be used in the respective due diligence system steps.



1	Human rights management system	<ul style="list-style-type: none"> • Integrate the right to food into corporate policies & procedures • Establish internal management structure
2	Identifying risks	<ul style="list-style-type: none"> • Abstract risk analysis on national level → NaFSA • Concrete food security risk analysis on the ground → QAT • Full assessment → Checklist
3	Preventing & mitigating	<ul style="list-style-type: none"> • Respond to identified risks → FOSSEM or FSS • Develop action plan • Follow participatory rights-based approach
4	Performance & monitoring	<ul style="list-style-type: none"> • Monitor food security situation → QAT • On-site verification & annual progress reports • Complaints mechanism • Evidence on FSS measures
5	Transparent reporting	<ul style="list-style-type: none"> • Substantiated reporting on Human Right to Food • Annual assessment / audit reports • FOSSEM statement / FSS certificate

Table 2. Steps of corporate human rights due diligence support by Food Security Standard [12]

ACTIONS THAT BUSINESSES CAN TAKE TO RESPECT THE RIGHT TO FOOD

This section provides examples of suggestions from the FSS on actions that businesses can take and consider to respect the right to food and related human rights in their operations. For a more detailed description of the actions, please refer to the FSS documents.[13][14][15]

Food and nutrition security of the workers and their families

- Develop and communicate a policy on the commitment to human rights, including the human right to food in all operations and transactions
- Monitor the food security status of the workers in the operation.
- Provide training on nutrition and food security to the farmers and stakeholders.

Food security in the area of influence of the business

- Conduct a risk assessment of local and national food security and develop a risk management plan prior to starting or expanding operations.
- Take diverse measures to support local value creation.
- Land & water rights including formal, informal, customary rights are assessed
- Implement a complaints and grievances mechanisms.
- Monitor the water and soil conditions in the area and the impact of the operation.

Food at work

- Provide clean and safe facilities such as dining area, kitchen, and storage facilities.
- Provide workers good access to safe and sufficient water.
- If it is not possible for workers to bring food, provide options to purchase nutritious and sufficient food for snack and meals.
- Provide sufficient breaks to drink water and consume food when working.

Women's rights for food security

- Provide equal opportunities to the workers in terms of employment, remuneration, benefits, training, and promotions.
- Support the establishment of a gender committee or gender representatives.
- Grant at least two additional 30 minute daily breaks for nursing mothers.
- Provide at least eight weeks of maternity leave with compensation consistent with national laws, whichever is higher.

Health & safety

- Establish a business policy on the health and safety in the operation.
- Establish emergency and accident procedures appropriate for the operation and record all work-related accidents.
- Ensure first aid kits are available in the operation.
- Provide personal protective equipment, tools, and uniforms when needed.
- Provide access to medical care for all workers and their family.
- Establish a policy on regular sick leave and leave caused by employment injury.
- Provide training on health and safety to all people working for the operation.

Decent working conditions

- Establish a policy recognizing the freedom of association, child protection, and prevention of sexual harassment.
- Provide contracts and pay slips including sufficient information agreed upon by both parties in understandable languages.
- Provide employees with fair wages.
- Ensure working hours and additional benefits comply with the stringiest regulations.
- Eliminate practices such as, retention of identity documents, lack of freedom of workers to quit or movements, or debt bondages.

References

- [1][2] United Nations Human Rights Council (UNHRC), Guiding Principles on Business and Human Rights: Implementing the United Nations (Geneva: UNHRC, 2011)
- [3] Beuchelt, T.D., Schneider, R., & Gamba, L. (2022) Integrating the right to food in sustainability standards: A theory of change to move global supply chains from responsibilities to impacts. Applied Economic Perspectives & Policy
- [4] UNHRC, Guiding Principles on Business and Human Rights: Implementing the United Nations (Geneva: UNHRC, 2011)
- [5] Organisation for Economic Co-operation and Development (OECD), OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (Paris: OECD, 2023)
- [6][7] OCED, Due Diligence Guidance for Responsible Business Conduct (Paris: OECD, 2018)
- [8] Beuchelt, T.D., Schneider, R., & Gamba, L. (2022) *ibid.*
- [9] UNHRC, Guiding Principles on Business and Human Rights: Implementing the United Nations (Geneva: UNHRC, 2011)
- [10] OECD and Food and Agriculture Organization of the United Nations (FAO), OECD-FAO Guidance for Responsible Agricultural Supply Chains (Paris: OECD, 2016); (Rome: FAO, 2016)
- [11] OCED, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (Paris: OECD, 2023)
- [12] NAFSA= National Food Security Assessment tool using publicly available data to identify potential human rights risks for each country. QAT = Quick Assessment Tool to identify concrete food security risks at the local level using structured interviews. FOSSEM = Food Security Sensitive Management is a step-wise approach designed for farms that are not yet certified or cannot fully meet social sustainability requirements.
- [13] FSS, Food Security Standard Principles, Criteria, and Indicators (Bonn: FSS, 2020)
- [14][15] FSS, The FSS: Demonstrating Companies' Efforts Towards Zero Hunger Supply Chains (Bonn: FSS, 2023)

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