

Mandate of the Special Rapporteur on the right to food

Ref.: AL OTH 89/2022
(Please use this reference in your reply)

31 August 2022

Dear Ms. Sadoff,

I have the honour to address you in my capacity as Special Rapporteur on the right to food, pursuant to Human Rights Council resolution 49/13.

I am an independent human rights expert appointed and mandated by the United Nations Human Rights Council to report and advise on issues related to the right to food. My mandate is part of the special procedures system of the United Nations, which has 58 thematic and country mandates on a broad range of human rights issues. I am sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information I have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, I would like to bring to your attention information I have received concerning the recent governance changes within the Centers of the Consultative Group on International Agricultural Research (hereinafter referred to as CGIAR) into “One CGIAR”, which in my view represent great risks for the food security and sovereignty of many countries in the Global South, including of the African continent. The countries concerned by this restructuring are already in an extremely vulnerable situation because of the ongoing food crisis. The restructuring process – which is allegedly taking place without consultation with farmers and those most affected by food insecurity or their governments – might have profound impacts on the availability, viability, and even ownership of hundreds of thousands of germplasm accessions and accelerate the influence of private corporations on public agricultural extension and support programmes.

According to information received:

CGIAR was established in 1971 by the World Bank with the sponsorship of FAO, UNDP, and, for a time, UNEP. The organization has since expanded considerably from its two original centers. CGIAR currently has 15 Research

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Centers worldwide which are non-profit research organizations conducting innovative research.

The CGIAR Systems Organization has its headquarters in Montpellier, France, and is governed by the System Council and System Board. Although each Center is legally independent, they depend on CGIAR for financial support, evaluation, and various administrative arrangements. Each Center has a legally binding Host Country Agreement in countries where they are based as well as numerous other legal arrangements with Governments with whom they collaborate. Also, the Centers often have broader collaboration on plant breeding in these countries.

CGIAR's international gene banks are held under the policy oversight of FAO and the access and benefit-sharing (ABS) aspirations of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). Together, CGIAR Centers hold the largest public collection of unique plant germplasm in the world as well as vital livestock and aquatic organism germplasm for food and nutrition.

In May 2018, the CGIAR System Council, at its 6th meeting in Berlin, Germany, acknowledged that there was a “funder appetite for an expanded shared agenda with increasing shared agenda/pooled funding over time.” This was followed by the formation of the System Reference Group (SRG), co-chaired by the Bill & Melinda Gates Foundation and the Chair of the System Management Board, in late 2018.¹

In November 2019, the 9th System Council held in Chengdu, China, unanimously endorsed the five interconnected recommendations of the SRG for a “One CGIAR”.² These recommendations suggested, inter alia, establishing a One CGIAR Common Board to provide a unified governance system for all CGIAR's legal entities (CGIAR Centers and the CGIAR System Organization), increasing overall investment and a shift to greater pooled funding (at least 50%).³

In 2020, CGIAR's leading financial supporters, including the Bill & Melinda Gates Foundation, World Bank, and some bilateral aid agencies, proposed the merger of the Centers. The Centers were invited to vote on a new governance structure to be known as One CGIAR, which would significantly centralize all program, finance, and administrative arrangements at the headquarters in Montpellier, France.

Allegedly, under the new system, each Center's Board of Trustees would be nominated by headquarters in Montpellier. This would significantly alter the Center's governance structures and render them subsidiaries of One CGIAR. The Director-General of each Center, along with some other senior staff and program leaders, would be compensated from the headquarters since financial flows from donors would be redirected to headquarters rather than to each Center. Individual Centers, which had a wide range of donors and contracts of varying duration, are likely to lose their independent donor base, and the role

¹ https://storage.googleapis.com/cgiarorg/2019/11/SC9-02_SRG-Recommendations-OneCGIAR.pdf

² <https://storage.googleapis.com/cgiarorg/2019/11/SC9-Chairs-Summary.pdf>

³ https://storage.googleapis.com/cgiarorg/2019/11/SC9-02_SRG-Recommendations-OneCGIAR.pdf

of the host country and the region is expected to be marginalized.

The information conferred to my mandate suggests that this restructuring is taking place without formal consultation and involvement in the decision-making of all affected stakeholders, including farmers and host country authorities, triggering opposition from the Governments and relevant multilateral organisations.

The Governments of Cote d'Ivoire, Ethiopia, Kenya, and Mexico, as well as the African Union and the African Development Bank, have expressed their concern that One CGIAR is violating their Host Country Agreements and are calling for consultations. It has also been brought to my attention that the governments of India, Indonesia, and Italy have expressed their concern and/or are reviewing their Host-Country Agreements with Centers – some of whom have refused to join One CGIAR and may have an uncertain legal status. Currently, of the 15 CGIAR Centers, the future of the governance structure of at least 7 is in doubt.

Over the last 50 years, CGIAR Centers in Africa have played a central role in public sector agricultural research and training across the continent and have had a major influence on crop and livestock production and policies. The new One CGIAR structure, reduces the role and influence of host countries over regional CGIAR Research centers. While at the same time, the new structure captures agricultural research and assets, including Africa's own financial and human resources, that represent a major share of public sector agricultural development on the continent.

On 8-9 March 2022, at a meeting of the CGIAR leadership, African governments expressed their dissatisfaction with the merger process and called for further meetings to clarify several practical and legal concerns.

The President of the African Development Bank, Dr. Akinwumi A. Adesina, speaking on behalf of the African Union on 19 May 2022, stated that preliminary investigations in some African states suggested that the mergers violate the headquarters agreements of Centers in Africa. According to him, the host countries, which have provided land, facilities, tax exemptions, and diplomatic support for the work of the CGIAR Centers, have not been consulted – nor even informed – of the mergers, expressing concerns over the lack of diversity and the absence of senior African leadership in the management committee of the CGIAR.⁴

In addition, One CGIAR is reportedly considering fundamental changes to its research relationship with national agricultural research systems (NARS). Conventionally, NARS establishes its research goals and seeks support from CGIAR Centers. Currently, One CGIAR reportedly is establishing a set of very specific goals and will only work with selected NARS centers.

Adding to the concerns, over the recent years, CGIAR tends to prioritize digital farming over research which directly benefits vulnerable farmers. For

⁴ Speech by Dr. Akinwumi A. Adesina, President of African Development Bank Group, Consultative Meeting on the Reforms of the Consultative Group on International Agricultural Research (One CGIAR). May 19, 2022, available at <https://www.youtube.com/watch?v=tNNmfhI7vel>

example, the CGIAR Platform for Big Data in Agriculture recently announced that it intends to become the world's largest digital innovation network in agri-food through the transformation to the One CGIAR system. Such moves raise worries that CGIAR's decision-making and research priorities might be increasingly driven by profit.

Forestry gene banks

The lack of clarity around the governance of the CGIAR's international gene banks has implications for other international organizations. CGIAR's two forestry centers – Center for International Forestry Research in Indonesia and World Agroforestry in Kenya – allegedly voted against the merger. Most recently, the International Centre for Research in Semi-Arid Tropics (ICRISAT) based in India also chose not to be included in One CGIAR.

Given FAO's policy oversight over CGIAR's gene banks, the withdrawal of gene banks from CGIAR may impact their obligations to FAO. Beyond FAO, each of the CGIAR gene banks has a contractual arrangement with the Global Crop Diversity Trust based in Germany, which provides technical and financial support to the gene banks. As I understand the FAO, its member states and the Global Crop Diversity Trust have not been formally consulted on these changes.

Finally, the CGIAR gene banks either have – or are in the process of – duplicating their germplasm accessions for storage in the Svalbard Seed Vault in Norway. Under the conditions of storage, only the party entrusting seeds in the vault can retrieve them. Governance changes that create uncertainties with Host Countries could lead to serious problems concerning germplasm regeneration and restoration.

In Africa, for example, farmers and livestock-keepers have donated hundreds of thousands of breeding accessions to the international gene banks held by 11 CGIAR regional Research Centers, recognizing the importance of these accessions for the future food security of Africa and the world. This invaluable contribution has been made on the assumption of shared responsibility for and access to these collections.

The new One CGIAR structure may imperil Africa's rights to these gene bank accessions and has implications for access and benefit-sharing under consideration in the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) as well as under the Nagoya Protocol of the UN Convention on Biological Diversity.

The case of International Livestock Research Institute in Kenya

The Government of Kenya has allegedly expressed alarm about the restructuring, particularly with respect to the International Livestock Research Institute (ILRI) headquartered in Nairobi. This reflects growing public concern that the transformation of the governance structure of ILRI will create the centralized, top-heavy bureaucratic management model which is likely to weaken the regional Centers and their livestock research on the ground.

Livestock is central to the livelihoods of rural Africa and is strategically important to the continent's food and nutritional security and economy through intra-African and global trade. The African livestock sector contributes between 30 and 80% of the agricultural gross domestic product and has the potential to deliver both agricultural-led growth and socio-economic transformation. In Kenya, the livestock industry employs nearly 50 percent of the country's agricultural labor force and accounts for about 12 percent of the entire GDP. The chief of the State Department for Livestock of Kenya described the industry as a major pillar of its economy and a key driver for achieving a goal of becoming a middle-income country by 2030.⁵

The centrality of livestock research in Kenya and on the continent necessitated the Kenya Government, for example, to support the establishment of ILRI and subsequent commitment through a Host Country Agreement and availing other facilities. Since the Host Country Agreement between ILRI and the Kenyan Government was signed in 1994, the Government has provided appropriate international status, privileges and immunities, and other conditions necessary to enable it to operate effectively towards the attainment of its objectives.

At the meantime, the Kenyan Government has not received any request for termination of the Agreement establishing ILRI and therefore any reform in the CGIAR governance requires awareness of this reality. A possible transformation of the governance structure of ILRI could create a centralized, top-heavy bureaucratic management model which is likely to weaken the regional Centers and their livestock research on the ground.

While I do not wish to prejudge the accuracy of these allegations, I am deeply concerned about the consequences of the restructuring of Boards of Trustees of CGIAR Centers in the Global South without due consultation or agreement from host countries, farmers, international mechanisms and other relevant stakeholders, as the process poses a direct threat the right to self-determination and the ability of states to set their own agricultural research agendas, food sovereignty and the ability for local communities to control their own food system, and regional food security.

In my view, the impacts of the merger raise both immediate and long-term human rights concerns, particularly relating to potential violations of the right to food. The allegations represent a threat to democratic and local control of food systems, shifting the governance structure from a coordinated network of local research centers reflecting regional needs to a centralized system primarily influenced by funders. At its core, the human rights approach calls for government accountability as well as the participation of the most affected in policymaking. The merger threatens to lead to increasing capture of food systems by rich funders, reducing the space for governments to legislate and set agricultural agendas as well as shifting the parameters of food systems governance away from those most impacted and local interests. I believe the influence and resources of rich donors should ideally remain within proportions, to avoid any situations where their assistance could lead to exercising pressure over decision making processes.

Previous experience demonstrates that well-empowered CGIAR Centers in Africa are able to disseminate new technology to farmers, making these Centers key

⁵ <https://www.kenyanews.go.ke/livestock-industry-spurs-kenyas-economic-growth/>

to helping countries in Africa reach their “zero hunger” goal by 2030. The case of Technologies for African Agricultural Transformation (TAAT), which successfully enabled several African countries to reduce their dependence in importing crops, further corroborates the need for CGIAR Center autonomy and local effectiveness. TAAT has delivered seeds to 12 million farmers in 27 countries in two years, which led Sudan to reduce its wheat import by 50 percent and Ethiopia not to import wheat in 2022. The success was possible in part thanks to Africa-based CGIAR Centers which effectively delivered technologies that were tested in local agroecological zones by millions of farmers.⁶

The merger also puts the future of food production in the Global South into jeopardy, with widespread implications for the right to food realization. There is no question that consolidating control and increasing corporate influence over the gene banks puts at risk not only the seeds contained in them but the right to life in general. In this respect, I want to recall my thematic report, “Seeds, right to life and farmers’ rights,” submitted to the Human Rights Council ([A/HRC/49/43](#)) in 2022, where I provided a framework for the advancement of farmers’, indigenous peoples’ and workers’ rights and a guide to ensure the world’s seed systems are biodiverse and safe and fulfil human rights obligations.

Control over research also has deep implications for the right to food realization. As mentioned by Dr. Akinwumi A. Adesina, “People do not eat research papers.”⁷ In order to produce research outputs that can actually alleviate hunger, researchers should reflect on the need of the farmers and local food consumers rather than businesses. In this aspect, publicly funded research is essential. When research is fueled by profits, it often misses those most affected by food insecurity, fails to take account of their needs, neglects local knowledge, and proposes high-cost technical-oriented solutions that further stratify and impoverish rural areas and historically have worked to the detriment of rural people and the environment (for example by focusing on increasing food production at the cost of accessibility and sustainability). Public research is also essential because it can take into account different expertise, from traditional knowledge to experience working on the ground, etc. Increasing CGIAR consolidation will not be to the benefit of producing research essential to the transitions our food systems must undergo to realize the right to food today and in the future.

Last but not least, the centralization of the Centers as One CGIAR may increase external domination of Africa’s agricultural future and promote public-private partnerships which may effectively surrender Africa’s resources to the interests of multinational agribusiness.

I encourage CGIAR to initiate inclusive regional conversations on the future of international public agricultural research, beyond the creation of One CGIAR, and consider better alternatives to it with the active participation of and consultation with governments, researchers, agricultural workers, international organisations and the civil society representatives of all concerned countries.

⁶ Speech by Dr. Akinwumi A. Adesina, President of African Development Bank Group, Consultative Meeting on the Reforms of the Consultative Group on International Agricultural Research (One CGIAR). May 19, 2022, available at <https://www.youtube.com/watch?v=tNNmfhl7veI>

⁷ Same as above

In making management decisions, Governments and farmers should be seen as equal partners and stakeholders of CGIAR, especially considering the valuable contributions they have made over the years. I wish to add that without the strong support of governments for the CGIAR Centers in Africa, One CGIAR will fail on the continent.

In connection with the above-alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned concerns.
2. Please provide information on the outcome of any review, or any social or human rights impact assessment that has been conducted to protect Governments' authority for their legislation and agricultural agenda-setting as well as relevant stakeholders, farmers, and food consumers affected by the restructuring to ensure its compatibility with international human rights law, in particular with the right to food.
3. Please provide additional information as to whether CGIAR held genuine consultations or intends to do so, with all affected Governments, Centers, and stakeholders in the process of the decision-making; please describe the form and nature of the consultation along with what substantive information was provided to stakeholders.
4. Please clarify which mechanisms are foreseen by One CGIAR for enhancing local Centers' power, participation, and inclusion and respecting their local knowledge within the context of the right to self-determination. Please also clarify how you intend to support states to ensure that people most affected by food insecurity can participate in decision-making aimed at ameliorating their material conditions.
5. Please provide information on how One CGIAR intends to establish relationships with national agricultural research systems (NARS). What changes are envisaged and how will those changes ensure inclusive and transparent involvement of all NARS?
6. Please specify which steps CGIAR intends to undertake to protect the existence and functioning of gene banks in Africa which will no longer be part of One CGIAR.
7. Please specify which steps CGIAR intends to undertake to protect the existence and functioning of ILRI in Kenya.

I intend to issue a public statement on the issues mentioned above as I believe that the public should be informed about them. Any public statement on my part will

indicate that I have been in contact with CGIAR leadership to clarify the issues in question.

This communication and any response received from your Organisation will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, dear Madame, the assurances of our highest consideration.

Michael Fakhri
Special Rapporteur on the right to food

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to refer to **Article 25** of the Universal Declaration of Human Rights which recognizes the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family, including food.” **Article 11 (1)** of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions.”

In its General Comment No. 12 Committee on Economic Social and Cultural Rights (CESCR) stresses that the right to food requires States to proactively engage in activities to enhance access and populations of the resources and means necessary to ensure their livelihoods. States are required to respect existing access to adequate food and to take no action to prevent such access. The Committee also recalled that the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to food may constitute a violation of this right. The formulation and implementation of national strategies, mandatory for the progressive realization of the right to food, require full compliance with the principles of transparency, accountability, and participation of the people. In this regard, the CESCR states that the formulation and implementation of national strategies for the right to food require full compliance with the principles of accountability, transparency, people’s participation, decentralization, legislative capacity, and the independence of the judiciary (para. 23).

I would also like to refer to Article 2 of the ICESCR which states the obligation to devote maximum available resources to the progressive realization of human rights, individually or through international cooperation. As stated in General Comment 12, “States parties should recognize the essential role of international cooperation and comply with their commitment to take joint and separate action to achieve the full realization of the right to adequate food. In implementing this commitment, States parties should take steps to respect the enjoyment of the right to food in other countries, protect that right, facilitate access to food, and provide the necessary aid when required. States parties should, in international agreements whenever relevant, ensure that the right to adequate food is given due attention and consider the development of further international legal instruments to that end”.

I also wish to refer to the United Nations Declaration on the Rights of Peasants and other People Working in Rural Areas (UNDROP), which provides in article 15 (para 4 and 5) that Peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty. This includes the right to participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures. States shall formulate, in partnership with peasants and other people working in rural areas, public policies at the local, national, regional, and international levels to advance and protect the right to adequate food, food security, food sovereignty, and sustainable and equitable food systems that promote and protect the rights contained in the present Declaration. States shall establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural, and development policies with the realization of the rights contained in the present Declaration.

Moreover, I would like to draw your attention to the Universal Declaration on the Eradication of Hunger and Malnutrition which recognizes that (f) All countries, big or small, rich or poor, are equal. All countries have the full right to participate in the decisions on the food problem; (i) For a lasting solution of the food problem all efforts should be made to eliminate the widening gaps which today separate developed and developing countries and to bring about a new international economic order. It should be possible for all countries to participate actively and effectively in the new international economic relations by the establishment of suitable international systems, where appropriate, capable of producing adequate action in order to establish just and equitable relations in international economic co-operation; (j) Developing countries reaffirm their belief that the primary responsibility for ensuring their own rapid development rests with themselves. They declare, therefore, their readiness to continue to intensify their individual and collective efforts with a view to expanding their mutual co-operation in the field of agricultural development and food production, including the eradication of hunger and malnutrition; (k) Since, for various reasons, many developing countries are not yet always able to meet their own food needs, urgent and effective international action should be taken to assist them, free of political pressures.

In addition, I also wish to recall that, in the Vienna Declaration and Programme of Action, the World Conference on Human Rights calls upon States to refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of the human rights set forth in the Universal Declaration of Human Rights and international human rights instruments, in particular the rights of everyone to a standard of living adequate for their health and well-being, including food and medical care, housing and the necessary social services. The World Conference on Human Rights affirms that food should not be used as a tool for political pressure (para. 31).