



# A CRITICAL ANALYSIS OF THE UNFSS ROADMAP FOR “CORPORATE ACCOUNTABILITY” OF FOOD SYSTEMS TRANSFORMATION:

a dangerous façade of industry aligned rhetoric, which neglects international human rights standards and marginalizes front line voices.

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# CONTEXT AND URGENCY

The UN Food Systems Coordination Hub presented in June a roadmap to develop a corporate accountability framework for food systems transformation. This initiative goes back to the call to action presented by the UN Secretary General as an outcome of the 2023 UN Food Systems Summit (UNFSS+2) during which he identified six priority areas, one of which was “promoting increased engagement of businesses, including through public-private partnerships, to shape the sustainability of food systems and establish and strengthen accountability mechanisms, recognizing their centrality for food systems”.

The Hub developed this roadmap with the support of a group of stakeholders. The idea is to adopt a framework that “will provide the structure, including principles, exclusionary criteria, a list of parameters defining good corporate practices in food systems transformation and the ways to collect commitments and assess performance.” (p.4 UNFSS Hub, 2024)

The unwillingness of the UN Secretary General to tackle unjust power relations in food systems in the UNFSS sparked a controversy that continues to this day. The global food sovereignty movement has questioned both the strong involvement of the corporate sector in the preparation of the Summit, and the prioritization of approaches aligned with corporate interests in the transformation of food systems, particularly the prominent role of digital technologies, to the detriment of policies that seek to reduce existing inequalities in food systems. These concerns were expressed by the People’s Autonomous Response to the first UN Food Systems Summit in 2021. But it was not only civil society organizations and Indigenous Peoples who protested this corporate bias. Similar concerns have also been raised by scientists and researchers, as evidenced by statements of the International Panel of Experts on Sustainable Food Systems (IPES-Food) and the independent platform Healthy Societies, as well as by three UN Special Rapporteurs on Human Rights.

## CONCERNS AROUND THIS EFFORT TO RESHAPE THE EXISTING NARRATIVE OF CORPORATE ACCOUNTABILITY

This initiative aims to finally react to the paramount criticism that the UNFSS has been confronted with. Interestingly, the UNFSS Hub seems to be addressing, not the demands of the People's Autonomous Response to the UN Food Systems Summit, but rather the call of Access to Nutrition Initiative, The Food Foundation, Scaling UP Nutrition (SUN) Movement, and the World Benchmarking Alliance to “embed corporate accountability in the UN Food Systems Stocktaking process”.

As we will elaborate below, this development follows a well-known script of corporate tactics: civil society groups with close links to corporations and business associations launch a call which sounds like the call of groups seriously questioning corporate power. These corporate-aligned groups continue to demand and in fact help streamline a multistakeholder processes with participation of the corporate sector. And then the UN, in this case, the UNFSS Hub, is attentive to this demand in a glossy action attempting to convince the public that this can tackle the troubling infiltration of corporate interests in food multilateralism, while neither the UN nor governments take any real action to establish effective binding regulations establishing prevention and accountability mechanisms beyond borders to curb corporate power in food systems. Once again, the UNFSS Hub under the responsibility of the UN Secretary General firmly takes sides with corporations and organizes a seemingly inclusive process, which strategically leaves out voices from civil society movements at the frontline of the polycrisis in food systems, many of which are fueled by unbridled corporate exploitation and greed. The Roadmap document even ignores the UN Guiding Principles on Businesses and Human Rights and the demands of civil society for legal corporate accountability, clearly articulated in the process towards a Legally Binding Instrument on TNCs and OBEs with Respect to Human Rights, ongoing in the UN Human Rights Council. This process seems to be designed to only provide lip service and create a facade of real action in response to the sharp call of civil society organizations and Indigenous Peoples for corporate accountability.

We reject such elusive and inadequate efforts to thwart the multifaceted dangers of the control, influence, and interference of corporate driven ideology in food systems related multilateral and global discourses.

## DELIBERATE REPURPOSING OF THE TERM “CORPORATE ACCOUNTABILITY FRAMEWORK” TO ALIGN WITH CORPORATE IDEOLOGY

As the call of Access to Nutrition Initiative et al. rightly points, “corporate accountability has become a buzz word – it means different things to different people”. For the Access to Nutrition Initiative, corporate accountability can range “from simple transparency to a means of excluding companies from attending global summits. To ensure corporate accountability is effective and productive, there must be a transparent and consultative process in which the UN Sustainable Development Goals are made actionable through science-based targets, international standards and clear metrics. This should result in publicly available, comparable corporate data that can be used by governments, civil society and investors to make business (in) action consequential. An effective corporate accountability mechanism requires that the roles and responsibilities of businesses are clearly articulated in the context of global food systems.”

What is the understanding of corporate accountability in the UNFSS roadmap?

According to our analysis this includes:

- Providing principles, exclusionary criteria, and a list of parameters defining good corporate practices in food systems transformation.
- Defining the ways to collect commitments and assess performance.
- Providing support to national governments to help develop policies that can incentivize products and practices contributing to sustainable food systems and disincentivize products and practices that are detrimental to people and planet’s health.
- Mainstreaming corporate accountability at the country level. Implementing corporate accountability requires an enabling environment in which government action is pivotal. In parallel, governments must ensure a level playing field for companies through coherent and strong regulatory measures.
- Recognizing the centrality of businesses for food systems transformation.
- Establishing principles of engagement to guide private sector interactions with the UNFSS follow up.
- Developing knowledge products to strengthen corporate accountability mechanisms. Including expert informed parameters and metrics to guide SMART commitments and a transparent mechanism for companies to express their voluntary commitments.
- Strengthening independent monitoring mechanism to evaluate/assess progress towards achievement of commitments made. Mechanisms to assess real impact of action, free from conflict of interest, that can support companies to materialize their pledges.

## WHAT IS THE UNDERSTANDING DEVELOPED BY FIAN INTERNATIONAL, CORPORATE ACCOUNTABILITY AND OTHERS OF CORPORATE ACCOUNTABILITY?

### — Duty of care and prevention of harm:

The concept of duty of care is broader than due diligence. Due diligence – as currently interpreted under the UN Guiding Principles on Businesses and Human Rights (UNGPs) – requires companies to define the risks they produce and mitigate them, these lists of risks and mitigation provide measures for judges to use in defining liability. Duty of care imposes a broader legal obligation on corporations of reasonable care towards individuals and the environment, which they could foreseeably harm through their operations. Under the duty of care a judge defines the liability, not based on a list compiled by the alleged perpetrator, but on their own assessment of the reasonability of the company's behavior. This allows a broader room of maneuver in court.

### — Regimes of legal liability:

States individually and jointly (in particular 'home states') must adopt comprehensive regimes of legal liability of corporations for harms to human rights and the environment, both within their territory and abroad. This means a regime of administrative, civil, and criminal liability, or its equivalent, for harm caused throughout the corporation's business operations, including abroad, providing and facilitating access to justice and remedies to foreign plaintiffs in its courts. Such business operations include investors and financial institutions connected to the alleged harm, as well as digital corporations connected to food systems. Liability regimes differ from voluntary commitments, or good practices intentions, since the production of harm by action or omission has a clear legal consequence for the perpetrators, when human rights or environmental harm is produced, so long specific conditions of causality are given.

### — Recourse mechanisms and access to justice beyond borders:

Corporate accountability implies that people or communities affected by corporate abuses have access to resource mechanisms that allow them to access justice to claim corporate liability. This includes, among other things, that the affected people can claim, individually or collectively, against the allegedly involved companies not only in the territory of their domicile, but also in the jurisdictions where the controlling companies in the value chain have their domicile, assets required to provide reparation or substantial business activities. In order to ensure access to justice beyond borders, some legal institutions as the prohibition of the forum non-convenience or the application of the forum necessitatis (in which in absence of an adequate forum to claim the plaintiffs can use any forum) are of relevance.

### — Balancing power:

Power imbalances between human and environmental rights perpetrators and their victims are so big, that the sole access to recourse mechanisms is not enough to

get justice. therefore some conditions need to be given in the judicial procedures, to ensure balancing that power between the parties of the case, as for example the obligation of the perpetrator to provide all the needed information for the judgment of the case (for example on hazardous inputs used, the companies in the respective value chain, the possible risks caused by a defined product etc.), the reversal of the burden of proof, strict and several liability among others.

#### — International cooperation between states:

The regulation and liability of transnational corporations require international cooperation between States and therefore an international treaty, which establishes a global playing field, avoiding companies escaping from jurisdictions with more strict regulations to those with weaker standards, to escape liability. An international level playing field is also a guarantee for more legal certainty. Contrary to national approaches, international regulation can close gaps that exist when only national jurisdictions legislate on corporate accountability. Such gaps are often used by companies and their complex structures to evade justice. Taking actions through international cooperation is a human rights obligation of states under several human rights treaties and the UN Charter (e.g. CESCR art.2). States should therefore actively engage in discussion towards an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights.

#### — Rules to prevent corporate capture of governance spaces:

Companies with vested interests in the area of agriculture and food shall be excluded from policy and law negotiations on food governance, as foreseen for example on the Framework Convention for Tobacco Control (Art.5.3). Furthermore, clear rules on conflicts of interests, lobbying, and revolving doors should be adopted for individuals and institutions participating in governance processes, including those active in scientific research. Such rules should preserve the integrity, impartiality, and mandate of the specific institutions in which policies and laws are formulated and adopted, putting those values over funding interests. Corporate support to national legislation can normalize corporate interference and open the door for corporate capture of regulatory institutions.

#### — States and competent international institutions' actions to prevent abuses:

In addition to imposing a duty of care on corporations within their territory and jurisdiction, states can also themselves take action within different policy areas in order to prevent corporate human rights abuses both at home and abroad. State's trade, investment, energy, development cooperation, and foreign affairs policies, as well as policies in international financial institutions, should not incentivize corporate human rights abuses nor cause other States to lower their levels of human rights protection. In the same vein, competent international institutions such as CFS, FAO, IFAD, WFP should support states in the implementation of such actions and should abstain from inducing states to support or give incentives to corporate behaviors causing human rights harm.

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# WHAT IS THE DIFFERENCE BETWEEN THE TWO APPROACHES?

### Voluntary vs. Mandatory

The UNFSS roadmap focuses on the voluntary commitments of businesses, whereas our focus is on the regulatory powers of states over businesses to prevent, remediate and sanction corporate harm to people and the environment.

### Transnational corporate businesses vs. cooperative benefit building enterprises

The UNFSS roadmap seems to conflate the definitions of private sector with transnational corporate actors, whose practices continue to fuel destruction of global food systems. The roadmap paves the path to engage more robustly with such large businesses, instead of developing regulatory infrastructure for holding them liable for the harms they continue to cause.

### Multistakeholderism vs. rules to prevent corporate capture of governing spaces

The UNFSS roadmap intends to develop its framework with the active participation of businesses, and networks of mixed stakeholders close to businesses, whereas we consider that companies with vested interests in the area of agriculture and food should be excluded from developing a corporate accountability framework for food systems transformation.

### UNFSS driven process vs. member states driven process

The UNFSS is an ad hoc entity with poor oversight by UN member states. It cannot initiate a mandatory process to develop an international accountability framework for corporations. It remains confined to best practices and voluntary schemes which have repeatedly failed to deliver accountability for the people most affected by corporate harm in industrial food systems. Interestingly, member states are not part of the group of stakeholders developing this framework.

### Consolidating the power of corporations in food systems vs. rolling back their power

The UNFSS roadmap reinforces the central role that businesses should have in transforming food systems and further cements corporate power. It is very concerning that this UNFSS framework is supposed to inform national governments in policy making because it will most likely tend to undermine national efforts of passing mandatory regulation for corporations.



## Real accountability vs. corporate social responsibility 2.0: A license to do business as usual

With all the talk of “establishing and strengthening accountability mechanisms” through this plan, the effort seems to circumvent the straightforward definition of accountability, reloading the old and failed concept of corporate social responsibility under this new denomination. Corporate accountability in its original sense, the same that civil society defends, implies that a person or an institution is held legally responsible, and if necessary, legally liable, for their actions and decisions. We do not see any rigor or responsibility taken by the parties involved in the development of the document to embrace this concept of accountability, considering the glaring absence of any recognition of the persistent human rights abuses of the transnational businesses this guidance may provide a path to engage with.

## A sectoral approach in a complex network of corporations beyond agri-food businesses involved in human and environmental rights abuses connected to food systems

The proposal of the Hub pretends that it is enough to get commitments from the agri-food private sector to ensure what they call “corporate accountability” for abuses in food systems. Nonetheless, abuses in food systems are not only caused by companies in this sector, but often involve companies not considered part of the agri-food corporations, for example digital corporations or financial institutions. Therefore, effective regulation for corporate accountability in food systems, requires a more holistic legally binding instrument, as is the case of the treaty currently being negotiated in the UN Human Rights Council

## WHERE ARE THE CONFLICT OF INTEREST (COI) DISCLOSURES FOR THE PARTIES INVITED TO PARTICIPATE IN THE ROADMAP DEVELOPMENT?

We wonder how and if the process of developing this roadmap has followed the basic procedure to address conflicts of interest before engaging with international NGOs and private sector entities. We could not find any CoI disclosures in the document underscoring the deep programmatic and financial links the actors engaged in the creation of this roadmap have had with the private sector. Our own research and power-mapping have revealed many of these parties have deep ties with and a public reputation of benefiting from private actors from the food and agriculture industries. This is a cause for concern that implicit biases are present throughout this product, as no effective efforts seem to have been adopted to prevent such conflicts of interest or mitigate such bias.

Another observation is that the voices and ideas from Global South civil society, food justice movements, independent peasants and farmers coalitions are substantially overlooked, whereas these are the constituencies most impacted by corporate abuse in the food systems, raising doubts vis-a-vis the fundamental objective of developing this roadmap. We construe that by focusing on mostly Global North based corporate-backed NGOs and entities in this discourse, the roadmap has the potential to do more harm than good for those that urgently require global solidarity, UN leadership in multilateralism, and legal access to seek justice, protect sovereignty, and ensure that food systems are not continued to be exploited for profit by neocolonial corporate structures.



## CONCLUDING REMARK

Under the given conditions, the authors and supporters of this analysis reject the proposal by the UNFSS hub as a way to ensure effective and real corporate accountability for food systems transformation. We also call on the CFS to actively support the process towards a Legally Binding Instrument on Transnational Companies and Other Businesses Enterprises with respect to Human Rights, currently negotiated by the Human Rights Council.




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