Review of the Right to Food Guidelines

Date 27 June 2023

Pat Mc Mahon of Mothers First

Contact nutritionforall.net@gmail.com

Whatsapp 089 9593147

Overview

We have carried out this review of the right to food guidelines by assessing the human rights-based framework they adhere to. In recent years, progress on the right to food has shifted from gradual stagnation to regression. This regression can be attributed to multiple factors, including poverty, climate change, and conflict. Since the ratification of the Sustainable Development Goals in 2015, hunger has increased every year both in terms of numbers and severity.

This submission on the right to food guidelines speaks on behalf of approximately 230 million individuals who are now in need of humanitarian interventions, which are currently underfunded by 75%.

We will present an argument that the financing of life-saving Humanitarian Response Plans is not solely a matter of moral duty but also a legal obligation of the International donor community. The interface is the pivotal role international cooperation plays with the human rights framework as well as the United Nations founding principles.

Framework of the submission.

The submission will be structured into three chapters.
Chapter 1: The first chapter will provide an analysis of the humanitarian crisis, focusing on the scale of food insecurity in terms of both numbers and severity. This section will also highlight the extent of underfunding and its immediate impacts on those that are furthest behind in achieving food security and the Right to food.

Chapter 2: The second chapter will present an overview of the international framework of human rights, specifically addressing the right to food and the crucial role that international cooperation plays within this human rights framework. In this chapter, the focus will shift from considering the financing of humanitarian response plans as a moral duty to recognizing it as a legal obligation that we in the international donor community must fulfill.

Chapter 3: The third chapter will examine the accountability framework of the Human Rights Treaty-based system. It will analyze how the issue of international

responsibility is articulated within the periodic reviews and independent expert mechanisms and compliance by State parties to the human rights treaty bodies of human rights. This section will also explore how the right to food is integrated into the United Nations framework, including the knowledge bearer system.

In conclusion, the submission will propose a set of recommendations aimed at amplifying the voices of those who are furthest behind within the Right to Food guidelines. These recommendations will be based on a comprehensive analysis presented in the preceding chapters, with the goal of advancing the cause of food security and human rights.

Chapter 1
According to 2023 Global Humanitarian Overview

“The largest global food crisis in modern history is unfolding, driven by conflict, climate shocks and the looming threat of global recession. Hundreds of millions of people are at risk of worsening hunger. Acute food insecurity is escalating, and by the end of 2022, at least 222 million people across 53 countries are expected to face acute food insecurity and need urgent assistance. Starvation is a very real risk for 45 million people in 37 countries.”

“One in every 23 people now needs humanitarian assistance. In 2023, a record 339 million people will need humanitarian assistance and protection – a significant increase from 274 million people at the beginning of 2022. The UN and partner organizations aim to assist 230 million people most in need across 68 countries, which will require $51.5 billion”

Comment

The infographic is an update for June of this year gives us a sense of the humanitarian crisis that we are facing with additional funding requirements of 4.5 billion dollars. The funding deficit of 46 billion dollars is the highest on record.

The Hunger Hotspot Report in June to November 2023:

Highest concern: Hotspots with catastrophic conditions

“This category includes countries with populations already in Catastrophe (IPC/CH Phase 5);(Famine) and countries at risk of deterioration towards catastrophic conditions, i.e. where an extremely vulnerable population in Emergency (IPC/CH Phase 4) is facing severe aggravating factors – especially access constraints – which indicate the possibility of a further deterioration and possible occurrence of catastrophic conditions in the outlook period. By definition, this category also includes countries with Famine or risk of famine.

Afghanistan, Nigeria, Somalia, South Sudan and **Yemen** remain hotspots of highest concern for the June to November 2023 outlook. **Haiti, the Sudan** and **Sahel region (Burkina Faso** and **Mali)** have been included in this category for this edition, increasing the level of concern from very high in the last edition. These countries all have segments of populations identified or projected to experience starvation or death (Catastrophe/Famine, IPC/CH Phase 5), or at risk of deterioration towards catastrophic conditions. They require the most urgent attention”

Somalia

“Somalia, in particular, is experiencing an extreme deprivation of food due to a likely sixt below-average rainy season, high food prices, and persistent conflict. Alarming acute food insecurity is projected to deteriorate through June 2023, bringing 40 350 people to Catastrophe (IPC Phase 5), facing starvation and death, due to the impact of a three‑year drought, high food and water prices, and persistent conflict. The devastating effects of the drought, the longest and most severe in recent history, are far from over. Over 43 000 excess deaths* were estimated in 2022 alone, half of whom were children under five years of age, with excess mortality projected to persist due to the continued effects of the three‑year drought”

Comment.

*An important component to equity is the ability of decision makers to comprehend on a human level what the quantitative data we are being told. An additional 43 000 people in Somalia died last year because of the drought which was caused by climate change. The report predicted that by June of this year 135 people every day would and now are dying due to the drought.

When a child or a mother dies, there are always multiple causes and conditions that come together and the flight ends there, The body just stops. To have borne witness to this, and to comprehend 135 people every day brings my mind to pause.

Chronic underfunding of Humanitarian Response Plans gradually erodes peoples resilience. At a certain point hope is lost that help will come at last.

To understand inequality this is an important report to read and can be found here

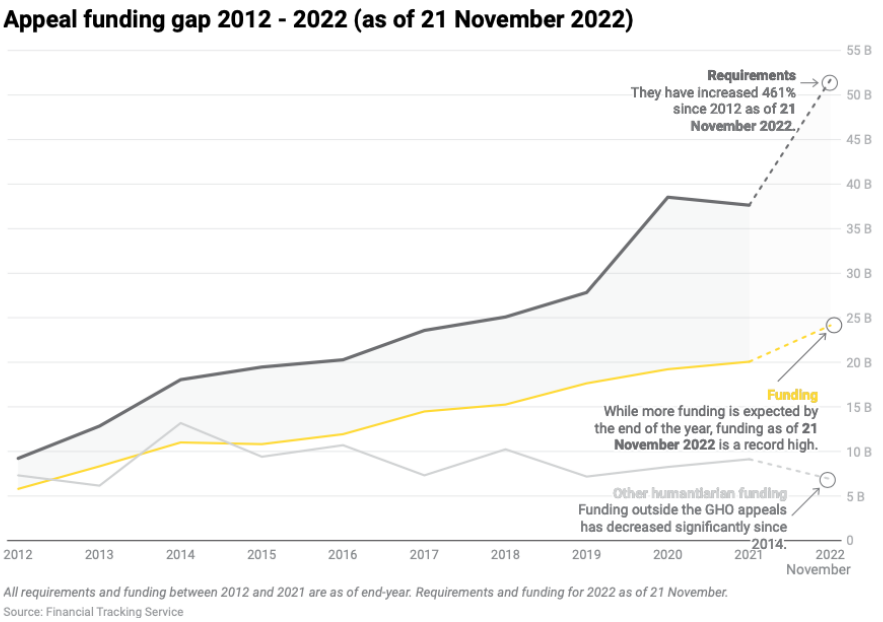
https://reliefweb.int/report/somalia/mortality-patterns-somalia-retrospective-estimates-and-scenario-based-forecasting-report-1-february-2023

Appendix 1 includes extracts from the IPC report, outlining the devastating impacts of insufficient funding on humanitarian operations in Somalia.

Experts warn that without funding for fundamental food security and resilience-building programs, famine and starvation will become a grim reality. Millions of people, particularly women, children, and the most marginalized, will endure greater hardship, with children facing the risk of death. Underfunding poses a severe threat to the basic services necessary for the well-being of those who are furthest behind in our world today.

Chapter 2:

Chapter 1 presented the immediate needs of the furthest behind people in our world , along with the impacts of underfunded humanitarian response plans.



This chapter will examine the human rights framework, specifically in relation to international cooperation. We will seek to shift the debate from moral duty to the legal obligation of fully funding humanitarian response plans.

Does the under-resourced Humanitarian Response Plans transcend a moral failing to a legal failing based on the human rights treaties we have signed?

Humanitarian Response Plans are independently assessed to provide emergency humanitarian interventions. Currently over 230 million people, representing the most food-insecure individuals in the world, are in need of assistance. While there are comprehensive legal frameworks centered on human rights, there is an important question regarding the level of responsibility donor countries have in ensuring a minimum level of food security. The main treaties and supplementary guidance material pertaining to the right to food are outlined below.

The right to food is recognized in the 1948 Universal Declaration of Human Rights as part of the right to an adequate standard of living and is enshrined in the 1966 International Covenant on Economic, Social and Cultural Rights.

Additionally, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and regional treaties and national constitutions protect the right to food.

In 2004, the Food and Agriculture Organization (FAO) developed voluntary guidelines and a fact sheet on the realization of the right to adequate food, emphasizing a holistic approach.

.

The International Covenant on Economic, Social and Cultural Rights comprehensively addresses the right to food, and its ratification by 171 countries makes it one of the most ratified conventions. It is important to note that *"Ratification assumes a legal obligation to implement the rights recognised in that treaty."*

International cooperation within the Treaty Base

Article 11.2 of the Covenant recognises the intrinsic right to adequate food for everyone through shared international cooperation.

"The States Parties to the present Covenant, recognising the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed:

Article 2.1 of the Covenant recognises the need for international assistance and cooperation to realize the right to food for all.

"Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum <u>of its available resources,</u> with a view to achieving progressively the full realization of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures".

● *Substance Issues Arising in the implementation of the International Covenant on Economic, Social and Cultural Rights: General Comment 12*

General Comment 12 of the Covenant provides clarity on the roles and responsibilities of all stakeholders in achieving the right to food for all. It highlights the state's role in upholding the right to food and distinguishes between an inability and unwillingness to provide minimum interventions to free people from hunger.

"The fundamental role of states to uphold the right to food. In determining which actions or omissions amount to a violation of the right to food, it is important to distinguish the inability from the unwillingness of a State to provide the minimum set of interventions to free people from hunger. An inability refers to a state party that

argues that resource constraints make it impossible to provide access to food for those who are unable by themselves to secure such access",

It goes on to say

"In such a case the state has to firstly prove that this is the case and secondly that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of necessary food".

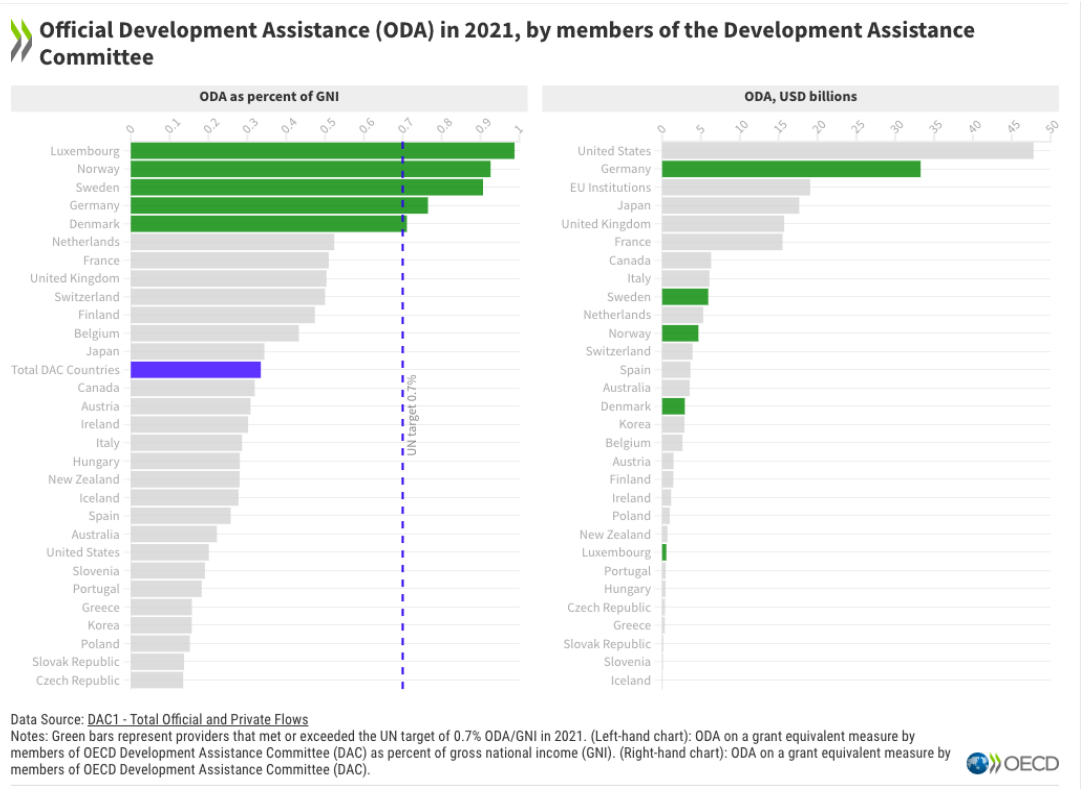
The Humanitarian Response Plan is prepared for emergencies requiring international humanitarian assistance. As these plans necessitate international assistance, the responsibility shifts from the affected country to the donor community.

Article 2.1 of the Covenant implies that the donor community becomes the duty-bearer within the scope of its available resources.

We will now seek to articulate within the context of humanitarian needs what might constitute available resources. To determine what constitutes available resources within the context of humanitarian need, we briefly examine the history of overseas development aid (ODA) and the proportion of aid provided by Developing Countries and Territories' (DAC)countries to developing countries.

In 1970, the General Assembly adopted a resolution to set a .7% ODA/GNI aid target for economically Developed countries (DAC) by the middle of that decade. In the intervening 53 years only 5 of the 28 DAC countries have reached that target. These countries are Denmark, Germany, Luxembourg, Norway and Sweden.

In 2022 the Developing Countries and Territories' (DAC) ODA total is equivalent to 0.36% of DAC donors' combined gross national income (GNI).



Although the USA is the largest humanitarian

donor, its aid spending as a percentage of GDP ranks 22 out of 28 countries accounting for 0.18% of GDP. (as measured by the OECD)

Comment

We believe that the foundation for moving international cooperation from moral to legal duty has some merit. Failure to meet the commitment of .7% GNI after 53 years in itself remains a moral decision. Coupled with our legally binding treaty base and isolating the fact that fully funded responce plans would only cost 0.1% of GNI while providing life saving assistance to over 230 million people.

Mothers First very much welcomes the Council of Europe's Conclusions on addressing the humanitarian funding gap, approved on May 22, 2023. We do however note with some disappointment that the call to action was not framed within the formidable architecture of human rights.
https://www.consilium.europa.eu/en/press/press-releases/2023/05/22/council-conclusions-on-addressing-the-humanitarian-funding-gap/

Chapter 3

Dissecting responsibility within the reporting procedures of the Human Rights Council:

In expressing our disappointment with the European Council's call to action on humanitarian financing without carrying forward the human rights mandate, we were not surprised. The right to food, despite its comprehensive legislative and formative frameworks, remains poorly articulated across the UN, civil society, and political space.

To highlight another example of this absence is the European Consensus on Humanitarian Aid, which serves as the policy framework for the EU's response to humanitarian crises. Signed in 2007 by the Council, European Parliament, and European Commission, it fails to mention a human rights framework and international responsibility.
https://ec.europa.eu/echo/files/aid/countries/factsheets/thematic/consensus_en.pdf

Similarly, within the UN architecture for nutrition, human rights frameworks are virtually absent from all UN reports, except for the notable exception of the CFS Framework for Action for food security and Nutrition in protracted Crisis.

A specific example of which Mothers First contributed inputs into the VO draft is the recent report by the HLPE on Reducing Inequalities for food security and nutrition. While we congratulated the team on the inclusion of human rights into its narrative,

the report failed to articulate the component of international cooperation. Our submission to the VO draft can be found here
https://www.fao.org/fsnforum/comment/11101

Other example of reports which do not integrate a human rights based framework into its narrative.

- *The SOFI Report*
- *IPC analysis*
- *Global Nutrition report*
- *Global Humanitarian Overview*

The Human Rights Council employs two central and interrelated monitoring systems to oversee international cooperation. The first is the periodic reviews, which aim to comprehensively assess the human rights landscape. The second system focuses on specific human rights treaties that countries have ratified.We will now detail both processes to understand how international cooperation is included within their accountability frameworks.

The Universal Periodic Review (UPR) is regarded by the Human Rights Council as a unique procedure involving periodic evaluations of the human rights records of all 193 UN Member States. The UPR represents a significant innovation and is based on equal treatment for all countries.

During the UPR, each state has the opportunity to declare the actions it has taken to enhance the human rights situation “in their countries and to overcome challenges to the enjoyment of human rights”
What is significant is the wording “in their countries”. Despite the periodic reviews including the treaty bodies such as the Covenant the reviews center only on what individual countries activities to improve human rights in their countries and does not include the dimension of international responsibility.

For instance, Somalia's Periodic Review in 2021 failed to mention hunger or international assistance, despite almost half of the population experiencing severe food insecurity (IPC 3-5) that year.
https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/174/04/PDF/G2117404.pdf?OpenElement

Similarly, the Report of the Independent Expert on the situation of human rights in Somalia, covering the period from 1 July 2020 to 30 June 2021, discussed underfunding of humanitarian response plans and called upon international donors to step up funding. However, these calls to donors did not consider the broader framework of human rights and international

cooperation.https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/182/47/PDF/G2118247.pdf?OpenElement

Equally reporting compliance by State parties to the human rights treaty bodies has not highlighted the implications of Article 2.1 on donor or recipient countries in their concerns outlined during the reporting procedure. As an example, countries that cannot guarantee the right to adequate food for their people do not cite a lack of development or humanitarian assistance as a barrier to fulfilling people's immediate needs and right to receive food assistance.

Please find the Human Rights Committee List of issues prior to submission of the sixth periodic report of Yemen* (April 2021)

Equally, countries that cannot ensure the right to adequate food for their people do not cite a lack of development or humanitarian assistance as a barrier to providing people's immediate need and right to receive food assistance. Please find here Yemen's last report to the Human Rights Council in 2014.

We are concerned that the monitoring framework of the Human Rights Council exhibits a lack of recognition for international obligations, raising questions about its effectiveness. The formation of the Human Rights Council was driven by a resolution of the General Assembly. Indeed the very first line of this resolution reaffirms the purposes and principles outlined in the Charter of the United Nations, including *"the development of friendly relations among nations, respect for equal rights and self-determination of peoples, and the achievement of international cooperation in resolving economic, social, cultural, or humanitarian challenges while promoting respect for human rights and fundamental freedoms for all*."

Given the explicit mention of international cooperation in the resolution that formed the Human Rights Council, it remains unclear why the monitoring framework of the Council pays little attention to this aspect. The inclusion of international cooperation is essential for effectively addressing human rights concerns on a global scale and ensuring the fulfillment of international obligations.

It is unclear why international obligations receive little recognition within the monitoring framework of the Human Rights Council, considering the UN General Assembly's resolution establishing the council emphasizes the importance of international cooperation in solving economic, social, cultural, and humanitarian issues and promoting respect for human rights and fundamental freedoms.

As we conclude Chapter 3, it is evident that there is a need to address the lack of recognition and integration of international cooperation and human rights frameworks within the monitoring and reporting processes of the Human Rights Council.

Conclusion and recommendations

In conclusion, despite the existence of comprehensive legislative and formative frameworks on the right to food, its articulation across the UN and civil society remains insufficient. The pervasive underfunding of humanitarian response plans, even when the required funding represents only 0.1% of Gross National Income (GNI) from DAC countries, can be seen as a lack of willingness rather than an inability to provide assistance.

It is important to recognize that humanitarian response plans can only be funded by the international community, as the countries affected simply lack the financial capacity. In these cases, we argue that developed countries have a duty of care to ensure the right to food, and their failure to provide adequate assistance could be seen as a violation of the legally binding treaties they have signed.

Unfortunately, we have found that the two-way accountability process for measuring human rights remains largely silent on the role of international cooperation. This gap in international accountability undermines the efforts to address the right to food and other essential human rights.

Recommendations

1 To mark the 20th anniversary of the right to food we need to superimpose the furthest behind directly within the human rights framework.

2 Promote discussion on the duty the international community has to ensure the right to food for those whose food security falls with IPC 3-IPC5

3 Stocktake how the human rights framework can be narrated more effectively across United Nations and civil society publications.

4 Promote awareness particularly within low and middle income countries on the role of international obligations within the Human Rights Council.

5 Develop a clearer narrative around what information policy makers require to make equatable policy choices framed within human rights.

Appendix 1

IPC Integrated Food Security Phase Classification
Evidence and Standards for Better Food Security and Nutrition Decisions

Nearly 8.3 million people across Somalia face Crisis (IPC Phase 3) or worse acute food insecurity outcomes

Famine (IPC Phase 5) is projected in three areas

13 December 2022, Mogadishu – Amid an anticipated scale-down in humanitarian assistance starting in April 2023 due to insufficient funding, approximately 8.3 million people across Somalia are expected to face Crisis (IPC Phase 3) or worse acute food insecurity outcomes between April and June 2023. This unprecedented level of need within Somalia is driven by the impacts of five consecutive seasons of poor rainfall, a likely sixth season of below-average rainfall from March to June 2023, and exceptionally high food prices, exacerbated by concurrent conflict/insecurity and disease outbreaks. Furthermore, Famine (IPC Phase 5) is projected between April and June 2023

among agro pastoral populations in Baidoa and Burhakaba districts of Bay region and among internally displaced people (IDP) in Baidoa town of Bay region and in Mogadishu. These three areas are already currently experiencing very high levels of acute malnutrition and mortality consistent with Emergency (IPC Phase 4) outcomes. In addition, an increasing number of people are expected to be in Catastrophe (IPC Phase 5) in multiple other areas across Somalia through mid-2023. The results of past integrated surveys conducted between May and July 2022 and subsequent IPC acute malnutrition analysis conducted in August remain valid, with the total estimated acute malnutrition burden in Somalia reaching approximately 1.8 million children, including 513,550 children who are likely to be severely malnourished, through July 2023.

In addition to the Famine (IPC Phase 5) projection in Bay region and Mogadishu, several areas in central and southern Somalia have an increased Risk of Famine between April and June 2023 if (1) the 2023 Gu season rainfall turns out to be poorer than currently predicted, leading to more crop and livestock production failures and (2) humanitarian assistance does not reach the country's most vulnerable populations. The areas and population groups facing an increased Risk of Famine are Hawd Pastoral of Central and Hiiraan; Addun Pastoral of Northeast and Central; Coastal Deeh Pastoral of Central; Sorghum High Potential Agropastoral of Middle Shabelle; and IDP settlements in Garowe, Galkacyo, and Dollow. Emergency (IPC Phase 4) levels of acute malnutrition and elevated mortality levels are already occurring in these areas.

Funding for humanitarian food assistance is currently sufficient to reach over 5.8 million people per month, on average, through March 2023, which is expected to mitigate the size of the acutely food-insecure population and prevent the worsening of food security and nutrition outcomes in many areas. However, levels of acute food insecurity across Somalia remain very high and will further deteriorate if food assistance is not sustained at similar levels beyond March. Between October and

December 2022, an estimated 5.6 million people are still experiencing Crisis or worse (IPC Phase 3 or higher) outcomes, including 214,000 people estimated to be in Catastrophe (IPC Phase 5), meaning they have not received sufficient food assistance to prevent food consumption gaps. While the level of food assistance has scaled up since July and is expected to continue at high levels through March, the number of people supported with food assistance will steeply decline by around 60-80 percent between April and June 2023. If humanitarian food assistance is not scaled up and sustained, then acute food insecurity and malnutrition levels are expected to deteriorate further and faster between April and June 2023, with approximately 8.3 million people expected to face Crisis (IPC Phase 3) or worse outcomes, including 2.7 million people that will likely be in Emergency (IPC Phase 4) and at least 727,000 people that will likely be in Catastrophe (IPC Phase 5).

Urgent and timely scaling up of integrated humanitarian assistance (in-kind food, cash/voucher transfers, nutrition, WASH, and health- related) is required through at least June 2023, and likely through late 2023, to prevent Famine (IPC Phase 5) – defined by extreme levels of food insecurity, acute malnutrition, and excess mortality, including starvation – among rural and IDP populations in Baidoa and Burhakaba districts of Bay Region, Baidoa town, and Mogadishu and to prevent the Risk of Famine in seven additional areas.

The conclusions above are based on updated IPC Acute Food Insecurity and Famine Risk Analyses conducted in November 2022 by 47 technical experts, representing 22 institutions (government, UN, NGO, and IPC GSU-the Integrated Food Security Phase Classification Global Support Unit). IPC GSU provided technical support throughout the analysis process.

The cumulative impacts of consecutive seasons of poor rainfall and persistent drought are expected to lead to a worsening of the humanitarian situation (i.e., adverse impacts on livelihoods, food security, nutrition, and mortality outcomes) in Somalia through at least mid-2023. Consecutive poor-to-failed harvests, the loss of agricultural income among farmers and the continued loss of livestock among pastoralists are contributing to worsening food security and nutrition outcomes and pushing poor and vulnerable communities to the brink of starvation. In addition to poor rainfall and persistent drought, other drivers of acute food insecurity and malnutrition in Somalia include high food prices, conflict/insecurity and disease outbreaks. Both drought and conflict are also leading to further population displacement from rural areas to IDP settlements in urban towns and cities, and newly displaced people are arriving in desperate condition.

While the ongoing Deyr (October-December 2022) rains marginally replenished pasture and water resources and enabled crop cultivation in some areas, water and

pasture scarcity persists and crop production prospects for the January 2023 harvest are grim. As of mid-December, cumulative Deyr season rainfall between October and December 2022 ranges from 25 to 55 percent below average across most parts of Somalia. Due to the impacts of drought on livestock health, poor and vulnerable pastoral households currently have limited access to milk and lack saleable animals. Pastoral households have also accumulated very high debt burdens, driven by the prohibitive costs of water and feed for livestock, increased reliance on purchasing food for the family on credit, and abnormal livestock migration to distant areas in search of pasture and water. Households in agropastoral and

riverine livelihood zones have had several consecutive failed cereal harvests, with further disruption to cash crop and cereal production in riverine areas due to low water levels in the Juba and Shabelle Rivers. In agropastoral and riverine areas, area planted is far below normal due to the poor rains, the displacement of households away from their farms, and farmers' reduced ability to afford seeds, irrigation, and other inputs.

Accordingly, the 2022 Deyr season cereal harvest in southern Somalia is expected to be 40-60% below the 1995-2021 average, and agricultural labour opportunities are very low for poor households who rely on this income source. Despite a slight reduction in recent months, staple food and fuel prices remain at atypically to record-high levels and out of reach for most poor rural, urban and displaced families. In most regions across Somalia, prices in October 2022 were far above the 2017-2021 five-year average, including for local cereals (32-142%), imported rice (27-85%), and diesel (43-102%). Water prices in October 2022 were 9-154% above the five-year average in most of regions of the country. Prices are expected to remain at abnormally high levels through at least mid-2023. Given the likelihood of below-average April to June 2023 Gu season rainfall, the 2023 Gu season harvest is also estimated to be 40-60% below the 1995- 2022 average. This will also limit income from agricultural employment for poor households As a result of these compounding shocks, many rural households face widening food consumption gaps, and the erosion of their livelihoods limits their coping capacity. Social support systems are increasingly overstretched in many parts of the country. These factors have driven a surge in population displacement from rural areas to IDP settlements and towns and cities.