

THE RIGHT TO FOOD, VIOLENCE,  
AND FOOD SYSTEMS

MICHAEL FAKHRI

Eighth Annual  
T.M.C. Asser Lecture



ASSER PRESS



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*by*

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Published by T.M.C. Asser Press  
P.O. Box 30461, 2500 GL The Hague, The Netherlands  
<https://www.asserpress.nl>

*The Annual T.M.C. Asser lecture has been established in honour of the Dutch jurist and Nobel Peace Prize Laureate, Tobias Michael Carel Asser (Amsterdam, 28 April 1838 – The Hague, 29 July 1913), and his significant contributions to the development of public and private international law. The Annual Lecture builds on his vision and mission, it invites distinguished international scholars to take inspiration from Asser's idea of cultivating trust and respect through law and legal institutions, and to examine what it could mean in their area of expertise today.*

*The T.M.C. Asser Instituut is grateful for the support of the Municipality of The Hague.*

ISBN 978 90 6704 386 1

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PRINTED IN THE NETHERLANDS

## FOREWORD

Throughout his career, Prof. Michael Fakhri has been reframing the concept of sovereignty through his trailblazing work on food systems and their relationship to law, capital and property. He has done this as a scholar and, most recently, as UN Special Rapporteur on the Right to Food, a role in which he has elevated the structural inequalities inherent to world food systems to the agenda of the UN human rights establishment and, controversially, the UN Security Council.

In this Asser Annual Lecture, Prof. Fakhri continues these reflections by uncovering the power dynamics that shape the global food market, and contribute to the creation of profit-driven demand and scarcity, but which also weaponise food and hunger. What results is a deep critique of food systems and an articulation of their structural violence and inequity.

Prof. Fakhri shows that ensuring the right to food for everyone across the globe is predicated on addressing the more profound challenge of creating fairer economies and reducing the influence of agribusiness and other entrenched interests that have a stake in multilateral and national policies. In other words, a more collaborative and people-centred approach to food production and distribution is needed.

What results is a rephrasing of the concept of sovereignty which, to Prof. Fakhri's mind, should include interdependence and sharing: "If I feed my neighbour, if I feed my kin, if I feed my loved ones, my friends, if I feed the community I'm in, in whatever sense, in effect I am feeding myself."<sup>1</sup> Sustenance and self-preservation cannot be achieved without collaboration.

<sup>1</sup> L. Castellanos-Jankiewicz, C.E. Lewis and M. Schneider, 'The Sovereignty of Sharing: An Interview with Michael Fakhri (Part II)', *Opinio Juris*, 6 July 2023, available at: <https://opiniojuris.org/2023/07/06/the-sovereignty-of-sharing-an-interview-with-michael-fakhri-part-ii/>

## FOREWORD

Prof. Fakhri decentres the state in order to showcase the various institutional and geographical locales in which this is already happening: the food sovereignty movement, small farm holders, rural and other groups. We often forget that these communities have a political identity of their own: peasants, pastoralists, fishers. And, as other political communities, these peoples have a close relationship to the territory they inhabit and use, and they have a sense of responsibility over its resources that is multi-generational and transcends state borders.

This new concept of sovereignty, the “sovereignty of sharing”, is what Prof. Fakhri brilliantly articulates in this lecture. Ultimately, this booklet invites the reader to imagine food and sovereignty otherwise.

Dr Christophe Paulussen  
*Acting Chair of the Executive Board and Academic  
Director*



# THE RIGHT TO FOOD, VIOLENCE, AND FOOD SYSTEMS

MICHAEL FAKHRI

*Ever since the pandemic, I have come to really appreciate and value any sort of public gathering, even more one with a large audience as in the case of the Asser Lecture. This is why I have decided to publish my lecture in a form that is close to the oral version (with the exception of Sections II.B and IV.B), in the spirit of capturing the importance of such gatherings.*

## I. INTRODUCTION

I am still not sure how to talk about the COVID-19 pandemic. Do we talk about it in the past tense? People still get sick from the virus, people still die from COVID-19, and many people are still vulnerable. While the effects of the virus itself may have diminished, the profound inequality that was made worse during the pandemic will last for years to come. Moreover, everyone is still tired. Everyone is carrying more sorrow, more pain, and more anger.

Between my UN duties as the Special Rapporteur and parental duties, travelling long distances is hard for me. It requires high-level negotiations with my spouse and seven-year-old son. Of course, the prestige of the Asser Lecture and the setting of the Peace Palace is remarkable and it was an incredible honour to be invited. Right before I left home, my son asked me if the Peace Palace was really a Palace. I told him it was. He asked me that since it was a Peace Palace does that mean no one is allowed to bring weapons. I told him, "That's right, it's a place where everyone leaves their weapons at home and where enemies agree not to fight. A sanctuary of sorts." When talking to a seven-year-old it is important to not be cynical. And I always try to be truthful when answering my son's questions, no matter what he

asks, while always trying to find an answer that is appropriate for his age. So, I had to pause when he asked me what made it a Peace Palace and not a War Palace. I told him it is a Peace Palace because it is where countries come to use their words and imagination to work things out.

This lecture draws on my experience as the UN Special Rapporteur on the Right to Food.<sup>1</sup> As a UN Special Rapporteur, I am an independent expert selected by the Human Rights Council. My job is to act as the eyes, ears, and good conscience of the UN system on all matters concerning hunger, malnutrition, and famine from a human rights perspective. It is my job to talk to and learn from everyone. I talk with governments, social movements, activists, businesses, journalists, researchers, students, and international civil servants. And part of my duties includes advising governments and international organizations. I have briefed the Human Rights Council, General Assembly, and Security Council. And have met with scores of international organizations.

But at the heart of how I understand my duties, I think my job is to provide a practical interpretation of the right to food that serves everyone.

First, I briefly explain what the right to food means to me. Second, I explain the particular problems I have encountered in my work and what I learned from the pandemic. Here I will explain why I chose the issue of violence as my topic for my report to the UN General Assembly. Third, I outline how to frame the problem of hunger, malnutrition, and famine. I identify different forms of violence and the conditions that enable these forms of violence. And finally, I conclude by pointing in the direction of which way we could all go, showing

<sup>1</sup> This lecture delivered on 20 April 2023 primarily draws from my report written in my capacity as Special Rapporteur on the Right to Food, 'Conflict and the Right to Food', A/HRC/52/40. I am incredibly grateful to Lys Kulamadayil since I learned a lot by working on the report with her. Nevertheless, all views are my personal ones and all shortcomings are my own.

what other world is actually possible, what other world we could make together by salvaging what we have today.

Much of this lecture is an exercise in critical description and institutional tactics.<sup>2</sup> What I mean by that is I share what theoretical lessons I have learned from navigating the social and institutional spaces of the food crisis at the global scale. There is a lot at stake in how an issue is framed. How you frame something determines what futures are visible or possible. And so, my main intervention is to frame the main problems in food systems today as a matter of violence.

## II. HUMAN RIGHTS AND THE RIGHT TO FOOD

### A. Drawing from Emancipatory Traditions of Human Rights

It is odd to talk about violence when my focus is food. As a researcher, I first decided to focus on food because of its role in everyday life. Food to me is first and foremost about pleasure – the pleasure of eating; the pleasure of eating with others.

In fact, in some ways, it is also a little odd for me to talk about human rights. I am aligned with the many traditions that are cautious about law's emancipatory potential. More particularly, I come from a tradition of international law that has been very suspicious of human rights law.<sup>3</sup> This tradition – Third World Approaches to International Law – TWAIL – is actually wary of all of international law, arguing the following:

<sup>2</sup> Robert Knox, 'Strategy and Tactics', *Finnish Yearbook of International Law*, vol 21 (Brill Nijhoff 2010); Anne Orford, 'In Praise of Description' (2012) 25 *Leiden Journal of International Law* 609.

<sup>3</sup> See e.g. Makau Mutua, 'Savages, Victims, and Saviors: The Metaphor of Human Rights' (2001) 42 *Harvard International Law Journal* 201; Vasuki Nesiiah, 'The Ground Beneath Her Feet: "Third World" Feminisms' (2013) 4 *Journal of International Women's Studies* 30; Obiora Chinedu Okafor, 'Praxis and the International (Human Rights) Law Scholar: Toward the Intensification of TWAILian Dramaturgy' (2016) 33 *Windsor Yearbook of Access to Justice* 1.

- International law has been and continues to be a constituting feature of imperial adventures.
- International law has been and continues to be a constituting feature of capitalism.
- And in turn, imperialism and capitalism in all their intertwining forms continue to be central to international law.<sup>4</sup>

But TWAIL doesn't abandon international law just yet, because that cedes too much ground too quickly. In TWAIL, we maintain a critical stance in relation to international law, but we always look for tactical opportunities for resistance and salvage. Like others,<sup>5</sup> we continue asking if we can push human rights to be a force of emancipation.

What inspired me to become a Special Rapporteur was the food sovereignty movement. This movement began in the mid-1990s by peasants primarily from Latin America and Europe. It quickly expanded globally and also drew in fishers, pastoralists, Indigenous peoples.<sup>6</sup> Today the main platforms that constitute the food sovereignty move-

<sup>4</sup> See e.g. Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press 2005); BS Chimni, 'Capitalism, Imperialism, and International Law in the Twenty-First Century' (2012) 14 *Oregon Review of International Law* 17; Robert Knox, 'Valuing Race? Stretched Marxism and the Logic of Imperialism' (2016) 4 *London Review of International Law* 81; Ntina Tzouvala, *Capitalism As Civilisation: A History of International Law* (Cambridge University Press 2020); James Thuo Gathii and Ntina Tzouvala, 'Racial Capitalism and International Economic Law: Introduction' (2022) 25 *Journal of International Economic Law* 199.

<sup>5</sup> See e.g. Shannon Speed, *Rights in Rebellion: Indigenous Struggle and Human Rights in Chiapas* (Stanford University Press 2008); Sofia Monsalve Suárez, 'Human Rights and the Food Sovereignty Movement: Reclaiming Control' (2018) 45 *The Journal of Peasant Studies* 226; Ayça Çubukçu, *For the Love of Humanity: The World Tribunal on Iraq* (University of Pennsylvania Press 2018); Daniel Brinks, Julia Dehm and Karen Engle, 'Introduction: Human Rights and Economic Inequality' (2019) 10 *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 363; Susan Marks, *A False Tree of Liberty: Human Rights in Radical Thought* (Oxford University Press 2020).

<sup>6</sup> Priscilla Claeys, 'Via Campesina's Struggle for the Right to Food Sovereignty: From Above or from Below?' in Nadia CS Lambek and others (eds), *Rethinking Food Systems: Structural Challenges, New Strategies and the Law* (Springer Netherlands 2014); Annie Shattuck, Christina M. Schiavoni and Zoe VanGelder, 'Translating the Politics of Food Sovereignty: Digging into Contradictions, Uncovering New Dimensions' (2015) 12 *Globalizations* 421; Marc Edelman (ed), *Critical Perspectives on Food Sovereignty: Global Agrarian Transformations, Volume 2* (Routledge 2015).

ment are the International Planning Committee for Food Sovereignty and the People's Coalition for Food Sovereignty.<sup>7</sup> This is the movement that gives the right to food its radical power. Also, the trade unions representing food and agricultural workers that also brought their own popular power into the right to food, and along with them international labour law.<sup>8</sup>

The combination of peasants, fishers, pastoralists, Indigenous peoples, and workers makes the right to food an opportunity for all these different social movements and unions to come together on a global scale, and potentially change food systems all over the world.

So, I do not believe in international law as such; I do not share the faith that many international lawyers have that international law is inherently a force for good. It is a force like other forces that can be wielded in all sorts of different ways. What I believe in is people's ability to organize themselves and express their popular power. I believe in people's ability to use their power to *make* the world despite profound degrees of oppression, exploitation, and inequality. What I have seen during the pandemic is that despite the anguish, despite the high rates of sickness and death, people survived. They expressed their right to food when they organized themselves and took care of each other. They exercised their right to food when they pushed their governments to meet their demands for access to good food. And they deployed the right to food when they struggled and resisted against corporate interests.

What I learned from the food sovereignty movement is that people have been fighting for decades to regain power in their food systems. They are trying to regain it from transnational corporations and those that serve corporate interests. What I have also learned from the food sovereignty movement is that if you change the food system, you change everything.

<sup>7</sup> <https://www.foodsovereignty.org/> ; <https://pcfs.global/>.

<sup>8</sup> The most work in this regard arises from the IUF – the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations, which is made up of 407 affiliates in 126 countries. See <https://www.iuf.org/>.

So what does the right to food mean? Just as States are obliged to respect, protect, and fulfil the right to food, the corollary that I witnessed during the pandemic is that people are entitled to express and exercise their right to food and resist forces of oppression and exploitation to do so. Let us not start then with talk of violations and victims, of hunger and famine, of bad guys doing criminal things, or of good guys coming in to save the day. Let us start with how we actually eat food.

The right to food is the right for everyone to celebrate life through their meals with each other in communion.

Drawing from Article 11 of the International Covenant on Economic, Social and Cultural Rights, part of the right to food is everyone's right to be free from hunger, malnutrition and famine. This reminds us that the right to food is an inherent part of the right to life. Every instance of hunger – and malnutrition, famine or starvation – can be understood as the result of a system that is exploiting or oppressing people, stripping them of a fundamental freedom.

Something to keep in mind is that for the past 60 years, if not several hundred years, hunger and famine are always caused by political forces using food as a weapon or institutional failure due to negligence. The problem of hunger, malnutrition, and famine is always a political problem and not a matter of scarcity as such.<sup>9</sup>

That means it is not a fantasy to call for the elimination of hunger. To call for universal freedom from hunger is a political agenda. Moreover, it is an existential agenda. Food is a key way that people define their very understanding of community. Food is also central to how people establish their relationship with the land and with waterways. Food is therefore an inherent way that people produce their culture. With this in mind, it is helpful to think of human rights as part of a political and cultural agenda.

<sup>9</sup> Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* (Oxford University Press 1981).

What matters most is not the specific legal status of the right to food in a national legal system or the degree of specificity that the right to food provides. These things matter as a legal concern and influence tactical decisions but they are not the drivers of change. The primary force of change arises from the campaigns around the right to food, the new ways people organize themselves around right to food campaigns that generate new relationships of solidarity and friendship.

### B. Legal Agenda for the Right to Food

If, as I mentioned, you change the food system and you change everything, then the right to food can be a way of imagining and organizing a new world. I think there can be an ambitious legal agenda to accompany the right to food's political and cultural agenda. Rather than situating the right to food squarely within the corpus of human rights law, the right to food's radical potential can be realized if the right to food itself is taken as a way to weave together different parts of international, transnational and national laws into a coherent and cohesive framework.

In human rights, there is often a focus on violations. While that can be sometimes useful, I also think it is very helpful to think about how human rights are about relationships. More specifically, human rights focus on the relationship between governments and people. That relationship is key to navigating the complexities of the food system. In the end, a government is only as strong as its people. So things like workers' rights, farmers' rights, women's rights, and children's rights are vital to keeping people strong. The other relationship that is important is people's relationship to the environment. People are only as strong as the biosphere. So things like soil and plant health, biodiversity, resilience, and marine life matter as a human rights concern.

The purpose of human rights is to ensure that every aspect of society, every sector of the economy works to serve and empower those relationships, the government and the people, the people and the environment.

The key to human rights, and the right to food specifically, is that people are at the centre of it all, not profits or geopolitics. Markets should serve the people. For too long, it has been the other way around. People must have as much power as possible over their own food system, their own destiny. In turn, governments are obliged to create the conditions for all people to be able to access good, nutritious, affordable food with dignity, now and in the future.

The right to food means that everyone is entitled for their food to always be adequate, available, and accessible.<sup>10</sup>

For food to be adequate, that means that people must have good food and they have the right to determine what is good food. This means that people must be able to decide for themselves what is culturally, nutritionally, socially and ecologically appropriate food, based on their particular conditions. The key value here is dignity.

For food to be available, people must have a reliable source of food. This can either be through directly feeding oneself by working the land and having access to natural resources. Or it can be about ensuring that food is available in shops and markets. The key value here is fairness: people's access to land and territory must be equitable, and markets should be fair markets.

And finally, food must be accessible. States must ensure that food is always economically accessible to everyone. This means institutions must ensure that people should always be able to get a good meal. This may be through things such as free school meals, fair markets, or a social system ensuring that people have the time and resources necessary to cook at home and feed their communities. Food must also be physically accessible. This means that States must ensure that all food systems and institutions are universally inclusive. The key value again is inclusivity. And here I like to think about access as a matter of access to a kitchen (broadly defined). Regardless of a person's physical abilities, state of health, legal status or housing condition,

<sup>10</sup> Committee on Economic, Social and Cultural Rights, General comment No. 12 (1999) on the right to adequate food.



States must support everyone's ability to get to a kitchen in order to obtain or make a good meal.

The right to food is unique within the International Covenant on Economic, Social and Cultural Rights because Article 11(2) obliges States to enact specific programmes in order to eliminate hunger and fulfil the right to food. As a result, though this list is not exhaustive, the right to food comes with an international legal framework that guides States and people. States must:

- (a) Cooperate internationally;
- (b) Improve food production and conservation;
- (c) Fully use and share technical and scientific knowledge, including principles of nutrition;
- (d) Efficiently use natural resources to develop or reform agrarian food systems;
- (e) Enact trade policies that take into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Considering the current, acute need to internationally cooperate and coordinate a response to the food crisis, it is worth highlighting that the right to food is the only right in the Covenant which includes international cooperation as an explicit obligation (Art. 11(2)(a)). Such cooperation should adhere to human rights principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law.<sup>11</sup>

The meaning of the right to food is regularly advanced with significant effect. It was through the right to food that the States' general obligation to respect, protect, and fulfil human rights was first articulated.<sup>12</sup> General Comment 12 provided an authoritative detailing of the right

<sup>11</sup> Right to Food Voluntary Guidelines, Article 7.

<sup>12</sup> UN Center for Human Rights, *Right to adequate food as a human right* (1989), <https://digitallibrary.un.org/record/82605?ln=en>.

to food.<sup>13</sup> Just like the right to food is uniquely detailed in the Covenant, building on General Comment 12, the 2004 Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security (“Right to Food Voluntary Guidelines”) was the first policy instrument of its kind, providing States further guidance in regard to realizing an economic, social, cultural right.

In the twenty years since the Right to Food Voluntary Guidelines, there has been an incredible progression of the right to food particularly in relation to: the rights of persons with disabilities;<sup>14</sup> rights of women,<sup>15</sup> especially rural<sup>16</sup> and Indigenous women;<sup>17</sup> peasants’ rights;<sup>18</sup> Indigenous peoples’ rights;<sup>19</sup> workers’ rights;<sup>20</sup> small-scale fishers’ and fish workers’ rights;<sup>21</sup> land rights;<sup>22</sup> and farmers’ rights in relation to seeds.<sup>23</sup>

<sup>13</sup> Committee on Economic, Social and Cultural Rights, General comment No. 12 (1999) on the right to adequate food.

<sup>14</sup> Convention on the Rights of Persons with Disabilities, Arts. 25(f); Art. 28(1).

<sup>15</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Art. 12.

<sup>16</sup> *Ibid.*, Art. 14; Committee on the Elimination of Discrimination against Women, General recommendation No. 34.

<sup>17</sup> Committee on the Elimination of Discrimination against Women, General recommendation No. 39.

<sup>18</sup> UN Declaration on the Rights of Peasants and Other Working People in Rural Areas.

<sup>19</sup> UN Declaration on the Right of Indigenous Peoples.

<sup>20</sup> There are scores of relevant ILO treaties and policy instruments. The foundational treaties are the Convention on the Right of Association (Agriculture), 1921 (No.11); ILO Convention on Rural Workers’ Organizations, 1975 (No.141). Most recently see *Policy guidelines for the promotion of decent work in the agri-food sector* (2023).

<sup>21</sup> Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication.

<sup>22</sup> Committee on Economic, Social and Cultural Rights, General comment No. 26; Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.

<sup>23</sup> International Treaty on Plant Genetic Resources for Food and Agriculture, Art. 9; UN Declaration on the Rights of Peasants and Other Working People in Rural Areas, Arts. 19, 20.

There have been policy advancements connecting the right to food to agroecology<sup>24</sup> and political advancements connecting it to the concept of food sovereignty.<sup>25</sup> In turn, agroecology and food sovereignty are interconnected. Agroecology combines traditional and scientific knowledge binding together social and cultural practices with ecology and agronomy. Its primary goal is to mimic ecological processes and biological interactions as much as possible. A large body of research puts forward that if we calculate productivity in terms of per hectare and not for a single crop, and in terms of energy input versus output, agroecology is often more productive than industrial intensive techniques. Agroecological and smallholder-led modes of supplying the world's food do not focus exclusively on crop yields but in more holistic terms on individual, communal, and environmental well-being. Agroecology also focuses on the relationship amongst all living beings in a food system by framing those relationships in terms of equity and fairness.<sup>26</sup>

It is therefore important to appreciate the meaning of the right to food's international legal framework considering these normative developments and contemporary understandings of how food should be adequate, available, and accessible. The right to food's international legal framework not only articulates State obligations, but also provides a detailed, coherent, and cohesive framework that States can follow when transforming their food systems.

With this set of international obligations and shared commitment to transform food systems in mind, the right to food should be understood in the following way:

- (a) International cooperation is not just about international institutions but in more modern terms can be understood as international solidarity and food sovereignty. Solidarity means developing

<sup>24</sup> Report of the Special Rapporteur on the Right to Food, Olivier De Schutter, 'Agroecology and the Right to Food', A/HRC/16/49.

<sup>25</sup> UN Declaration on the Rights of Peasants and Other Working People in Rural Areas, Art 15.4.

<sup>26</sup> Report of the Special Rapporteur on the Right to Food, Michael Fakhri, 'The right to food and the coronavirus disease pandemic', A/77/177.

- a national food policy that is not only generous and fair to people and ecosystems within a country but is also generous and fair to other communities as a matter of reciprocity. An economy built on solidarity relies on organizing commerce through democratically governed enterprises designed to meet human needs instead of pursuing profit. How and with whom people trade should be intentional and enhance a community's quality of life;
- (b) Improving food production and conservation can be reframed in terms of increasing biodiversity, not strictly efficiency, food safety, and economic growth. It includes people's right to determine what is culturally, nutritionally, socially and ecologically adequate food, based on their particular conditions and sense of dignity;
  - (c) Knowledge is not just technical and scientific but includes traditional and Indigenous knowledge. Good nutrition is key to fulfilling the right to food, but it should be understood within appropriate cultural contexts and the broader dynamics of public and environmental health;
  - (d) Reforming agrarian food systems should be expanded to include all types of food systems. This includes recognizing the plurality of food systems and their inherent link to different cultural understandings, values and cosmovisions. This also entails understanding food systems as a dynamic set of relationships. Reform should focus on increasing food system stability and transparency by improving trust amongst individuals and communities;
  - (e) Equitable trade is not just a supply management issue but a matter of food sovereignty and labour rights. A trade policy informed by food sovereignty and labour rights means that food markets are not simply about buying and selling commodities. Markets need to be fair and stable. This means that trade policy should be woven into how people co-design food systems within different levels of government and across different territories. Trade policy should strengthen local, regional, and inter-communal self-sufficiency.

III. WHAT IS THE PROBLEM?

My doctrinal interpretation of the right to food draws from my understanding of the right to food that made sense to me in the midst of the pandemic, in the midst of a food crisis. This understanding of the right to food that has enabled me to engage with a wide range of people and communities in a time of great need.

But what is the problem? Yes, we are in a food crisis. But we can frame the problem in a lot of different ways. In very general terms, the rate of hunger and malnutrition has been on the rise since 2015. The pandemic made existing problems worse. Because of lockdowns, because workers' health and safety was not adequately addressed, because migrant workers and rural communities were dehumanized – we had so-called supply chain disruptions. Because people could not go to work, go to the shops, or visit each other – people could not access food. No country, rich or poor, has escaped the food crisis. Moreover, all this is against the backdrop of a climate change crisis. And now a cost-of-living crisis. Because of the pandemic, almost every country is experiencing a debt crisis. I was just reading about the Dutch nitrogen crisis. Crisis, crisis, crisis...

Many activists and scholars will frame things as a crisis in order to spur on change. The theory being that if only people and governments knew the truth and urgency of the matter, then they would take action. Well people know. We all know how bad things are. We do not need anyone to tell us. And if you are so privileged that you are still unaware or surprised by how profoundly bad things are, then you are part of the problem. All this talk of crisis can leave you feeling powerless. Thinking in terms of crisis also often leads to reactive, superficial, and ahistorical analysis. Those with institutional power will always try and use a crisis as an opportunity to increase their power, shrouding themselves in the false cloak of helpfulness.

Despite all the talk of crisis and institutional hand-wringing, in the midst of the pandemic, and in the midst of the current food crisis, people mobilized. When governments were unable to ensure people

had access to good food, neighbours, families and communities took it upon themselves to work together to feed each other. When you're hungry, you do not wait for someone else to feed you.

As part of my duties as Special Rapporteur, in the midst of the pandemic and lockdown, I organized a series of online consultations with communities from a wide range of regions, representing different constituencies. Luckily, I had asked several comrades to help, and we called these consultations Right to Food Conversations. They were Nadia Lambek, Ntina Tzouvala, Tomaso Ferrando, Emily Cunningham, and Nick Kahmann. During the Right to Food Conversations, I rarely heard things framed as a crisis as such. Yes, we were in the midst of the pandemic and struggling. But people focused on explaining their problems and how they were dealing with those problems. People also knew what they needed to get past those problems, both in the immediate and long term.

If our working assumption is that all people are equal in dignity and in rights,<sup>27</sup> and if we think that people have the power to determine their path in life, then, when we witness situations of profound inequality, we have to ask ourselves: what caused this inequality. How are people made poor, vulnerable, or marginalized? How is inequality produced? Structural inequality is not a natural occurrence or anomalous. It is produced by systems, including food systems. What happens is that when food providers are vulnerable or weak, that makes communities vulnerable and weak. In other words, when caregivers, workers, peasants, fishers, pastoralists go hungry, we all go hungry.

To go back to the Right to Food Conversations... Now, in those many hours of conversations with communities from around the world, I was focused on facilitating the conversation. I was listening to people in an effort at making everyone feel welcome and creating a space of testimony and solidarity.

<sup>27</sup> Universal Declaration of Human Rights, Article 1.

But what did this all mean? When my comrades and I were all debriefing, it was Ntina Tzouvala who pointed out the incredible amount of violence that people were describing. As soon as she said that, it was this immediate moment of clarity. This led me to the work of people like Hilary Charlesworth,<sup>28</sup> Susan Marks,<sup>29</sup> Julia Dehm,<sup>30</sup> Usha Natarajan,<sup>31</sup> E. Tendayi Achiume,<sup>32</sup> Anna La Chimia,<sup>33</sup> and Eliana Cusato.<sup>34</sup>

From the conversations and reading, I learned three theoretical points:

The first thing is that structural inequality has made mass-amounts of people more vulnerable to violence – in turn, systemic violence has been a significant cause of structural inequality. So the place to first start is focusing on the vicious cycle of structural inequality and systemic violence.

The second thing to take into consideration is that human rights are limited when you see everything in terms of identifying a victim and finding a violation. It is analytically limited because you will miss the root causes of the problem. But more importantly, this focus on violations and victims is politically problematic. Primarily focusing on violations and victims puts the power in the hands of the human rights

<sup>28</sup> Hilary Charlesworth, 'International Law: A Discipline of Crisis' (2002) 65 *Modern Law Review* 377.

<sup>29</sup> Susan Marks, 'Human Rights and the Bottom Billion' [2009] *European Human Rights Law Review* 37; Susan Marks, 'Human Rights and Root Causes' (2011) 74 *Modern Law Review* 57.

<sup>30</sup> Julia Dehm, 'International Law, Temporalities and Narratives of the Climate Crisis' (2016) 4 *London Review of International Law* 167; Julia Dehm, 'Climate Change, "Slow Violence" and the Indefinite Deferral of Responsibility for "Loss and Damage"' (2020) 29 *Griffith Law Review* 220.

<sup>31</sup> Usha Natarajan, 'Who Do We Think We Are?: Human Rights in a Time of Ecological Change' in Julia Dehm and Usha Natarajan (eds), *Locating Nature: Making and Unmaking International Law* (Cambridge University Press 2022).

<sup>32</sup> Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Tendayi Achiume, 'Global extractivism and racial equality', A/HRC/41/54.

<sup>33</sup> Anna La Chimia, 'Procuring for COVID-19: Housebound Reflections on a Procurement Earthquake' (2020) 19 *Public Procurement Law Review* 161.

<sup>34</sup> Eliana Cusato, 'Of Violence and (in)Visibility: The Securitisation of Climate Change in International Law' (2022) 10 *London Review of International Law* 203.

expert and takes agency away from the alleged victim. Rarely does one want to experience life as a victim because it implies that you are an object and that something was done to you. People who experience profound degrees of harm and violence rarely describe themselves as victims. They often describe themselves as survivors. Everyone alive today is a survivor of systemic violence. No one is a victim. We are all survivors. And by the sheer fact that we are still alive, we have power. The political task is therefore not about empowering others. It is about how we recognize, share and organize the power that we all possess.

The third thing I learned was that the dead also have power. Our kin, family, and friends that have died give us our sense of tradition, dignity, and justice. However, we must be open and courageous enough to always keep learning new meanings of tradition, dignity, and justice from the dead.

#### IV. VIOLENCE

##### A. Systemic Violence

Having introduced what the right to food means to me and what theoretical and political lessons I have learned, let me now turn to explaining how food systems produce violence.

Generally, I am trying to understand how violence is a force of change. To me, change arises by forming new relationships or when relationships change. Therefore, when thinking about how violence is a force of change, I want to think about it in terms of how it creates and changes relationships. When I am looking at violence, I am looking for a type of harm that reverberates through people's webs of relationships. For the most part, I have focused on how violence damages an individual's relationship with their history, land, and community. In my reading and research, I often look for how people resist violence. At times, violence itself is used as a form of resistance. But to understand resiliency, as we experienced and witnessed resiliency during the pandemic, I think I have a lot more to learn about how people respond



to violence by *deepening* their relationship with their history, land, and community.

What I mean by systemic violence is that it is the result of human choices and is not natural or unavoidable. Many food systems *rely* on violence. People have built food systems that allow them to regularly benefit from oppressing and exploiting other people. As a result, food systems not only produce food, but also amplify and produce violence that makes people more poor and marginalized.

It is also important to keep in mind that violence is prevalent in food systems during times of peace and war. International humanitarian law makes a distinction between armed conflict and peace time. But from a food systems perspective, that distinction is not necessarily helpful. Sometimes people have better access to food during war time than they do during peace time. This was true in some places in Europe comparing the time of World War II to the 1950s, and this is true in my own country, in Lebanon. People had better access to food during the 15-year civil war than they do today.

#### B. Limits of International Humanitarian Law and International Criminal Law

One common form of right-to-food analysis in the context of armed conflict is to catalogue which aspects of international humanitarian law provide protection from hunger.<sup>35</sup> International humanitarian law sets out to protect three categories of persons from hunger: the wounded and sick, prisoners of war, and civilians. Currently, international humanitarian law includes some protection against right to food violations, but this field of law does not do enough to fully protect against hunger in armed conflict nor to shield food systems from further violence. This is because international humanitarian law ultimately organizes, but does not eliminate, violence in food systems.

<sup>35</sup> See Reports of the Special Rapporteur on the right to food, Jean Ziegler, A/56/210 and E/CN.4/2002/58.

Moreover, the rules for the protection of the natural environment in armed conflict, despite having evolved significantly since the 1970s, are still insufficient to address the harm caused to the natural environment.<sup>36</sup> As a result, armed conflict can inhibit a region's ability to safely produce food long after the hostilities have ceased.

International humanitarian law prohibits attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, including foodstuffs, agricultural areas for the production of foodstuffs, crops and livestock.<sup>37</sup> All conduct that results in food not being consumable any more are prohibited, including the destruction of crops by defoliants.<sup>38</sup> There is, however, a military exception with long-term, systemic right to food implications: foodstuffs or drinking water installations may, for example, be attacked “when required by imperative military necessity for a party to defend its own national territory”.<sup>39</sup>

Another example of how the laws of war insufficiently protect the right to food are its rules on starvation as a method of warfare. While international humanitarian law prohibits the starvation of civilians, the starvation of combatants remains lawful.<sup>40</sup> This is a condemnable exception: starvation of any person, regardless of that person's legal status in armed conflict, is a slow and cruel form of killing. It is also an indiscriminate form of killing in the sense that it is effectively

<sup>36</sup> ICRC, *Starvation, Hunger and Famine in Armed Conflict* (2022); and *AI HRC/5/5*. See also International Law Commission, *Draft principles on protection of the environment in relation to armed conflicts* (2022), principles 10-11, 19-22.

<sup>37</sup> See Additional Protocol I to the 1949 Geneva Conventions, art. 54 (2); Additional Protocol II to the 1949 Geneva Conventions, art. 14; International Humanitarian Law Databases, Rule 54 Customary IHL Database, [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule54](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule54); and Security Council resolutions 2417 (2018) and 2573 (2021).

<sup>38</sup> ICRC, *Commentary on the Additional Protocols*, p. 655.

<sup>39</sup> Additional Protocol I, arts. 54 (3)(b) and 54 (5).

<sup>40</sup> Additional Protocol I, art. 54 (1); Additional Protocol II, art. 14; Security Council resolution 2417 (2018), para. 5. See also Yves Sandoz, Christophe Swinarski and Bruno Zimmermann, eds., *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Martinus Nijhoff, 1987), paras. 144–1460; United Kingdom Manual on the Law of Armed Conflict, para. 5.19; and United States Department of Defense Law of War Manual, para. 17.9.2.1.

impossible to separate the starvation of combatants from that of civilians. Starvation indiscriminately violates non-derogable human rights, such as the right to life and the prohibition of cruel and inhumane treatment. The distinction between combatants and civilians in the laws of war as it concerns starvation is based on the premise that civilian, military and humanitarian supply chains can be separated from one another. Such supply chains, however, not only overlap but often are one and the same. As a result, blockades and sieges of combatants and their supplies inevitably increase the risk of starving non-combatants. Indeed, the rules of war on starvation are so far removed from the realities of armed conflict that they may in fact legitimize indiscriminate hunger, malnutrition and starvation.

International criminal law is also relevant. Using starvation of civilians as a method of warfare by denying access to food, including wilfully impeding the delivery of relief supplies, constitutes a serious violation of the laws and customs applicable to international armed conflict and amounts to a war crime.<sup>41</sup> Most instances of starvation occurring today, however, are in the context of non-international armed conflicts. In 2018, Switzerland, with the support of the Netherlands, led the adoption of the amendment to the Rome Statute to include starvation in the list of recognized war crimes that can be committed in non-international armed conflicts; the number of signatories to the amendment are slowly increasing.<sup>42</sup>

While these are important developments, we must also understand the limits of international criminal law in ending violence and delivering justice. International criminal law cannot deliver remedial justice nor alleviate the suffering of those who are denied access to food because it can only hold identifiable individuals culpable – and even then, only natural persons, not corporations. As a result, it draws public attention towards the acts of an alleged perpetrator rather than

<sup>41</sup> Rome Statute, art. 8 (2)(b)(xxv).

<sup>42</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10-g&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-g&chapter=18&clang=_en).

the survivors of violence. This can be consequential. It risks equating justice with criminal accountability.<sup>43</sup>

Moreover, international criminal accountability recognizes starvation as a war crime only when it is deliberately inflicted. As seen in the case of the disruption of food markets by the Russian invasion of Ukraine, violence is systemic and armed conflict in one food-exporting region can lead to hunger and famine in regions that are not under conflict. Pursuing international criminal conviction for food-related war crimes should not preclude addressing pressing structural reasons leading to widespread severe violations of the right to food in conflict regions and beyond. International criminal courts' decisions show that the court is almost only triggered by extraordinary suffering. This is reflected by the fact that gruesome forms of killing have led to more convictions than slow forms of killing, as is the case with starvation.<sup>44</sup>

### C. Forms of Violence in Food Systems

To better understand instances of violence in food systems, I found it helpful to create a heuristic and outline different forms of violence. This allows me to better understand how different manifestations of violence are interconnected. It also enables me to better understand how food systems are both structured by and produce violence.

I am not able yet to provide an account of how it is all interconnected. However, I do start with identifying forms of violence in order to show how different instances of violence are more similar than they may appear at first.

The four forms of violence I conceptualize are:

1. discrimination;

<sup>43</sup> Kamari Maxine Clarke, 'The Rule of Law through Its Economies of Appearances: The Making of the African Warlord' (2011) 18 *Indiana Journal of Global Legal Studies* 7.

<sup>44</sup> *Ibid.*

2. bodily harm or assault against a person's physical and mental integrity;
3. ecological violence; and
4. erasure.

It is important to think of these four forms of violence as interconnected and overlapping. This is not the only way to conceptualize violence nor is it an exhaustive list. The point is to provide a narrative on how different interests and identities are experiencing shared forms of violence. To enable an intersectional analysis.

I will detail a bit more what each of these four forms of violence mean. I will then explain the conditions that enable this violence. As a preview, I will explain how systemic violence and structural inequality in food systems are a central feature of a global economy that is supported by relationships of dependence amongst individuals, countries, international financial institutions, and corporations. This economy also relies on extractive practices that disrupt people's social and ecological relationships and denigrate human and environmental health. So it is a story of four forms of violence that arise out of relationships of dependency and extraction.

### *1. Discrimination*

By framing discrimination as a form of systemic violence, it allows me to understand how inequality is created by oppressing people because of their identity. One significant way that human rights try to ensure that all human beings are free and equal in dignity and rights is by prohibiting discrimination based on a person's identity, lack of wealth, or legal status.

The most common way that inequality is produced in food systems is by denying, or impeding, people's access to food as well as denying people access to the means and entitlements necessary for the procurement of food. Discrimination by denying people access to food, as well as to means and entitlements for its procurement, is always an instance of violence. It causes individual harm because it exposes a

person to a higher risk of hunger and malnutrition. That denial also disrupts people's social and ecological relationships in long-lasting ways.

Instances of discrimination are usually part of a pattern of systemic violence because it is based on widely-held assumptions regarding ability, class, legal status, age, gender, race and other identities. Discrimination as a form of systemic violence stems from a constructed, abstract notion of what is normal and targets whomever does not fit that particular definition of normal. It also often stems from an assumption that certain people are less worthy because of certain traits and their identity.

So again, discrimination shows how we all have a range of different identities, and our access to food is determined by the different degrees of privilege and oppression that operate through the intersection of all those identities.

## *2. Bodily Harm or Assault against a Person's Physical and Mental Integrity*

Bodily harm is the most tangible form of violence in food systems. What I wanted to do here is to understand how violence operates at different scales in food systems. Of course, all forms of hunger, malnutrition and famine cause a degree of bodily harm. That point needs to be made, though obvious, to highlight what is at stake. But I wanted to also include sexual and gender-based violence; unilateral coercive measures; and armed conflict. This highlights the structural nature of the harm and allows us to see (and eventually better understand) how bodily harm is unevenly and predictably distributed at the expense of women, people from LGBTIQ+ communities, Indigenous peoples, racialized people, children, people with disabilities, and migrants.

I was inspired by a lot of feminist work from the past decades to group all these instances as harm together as the same form of violence. What all these instances of violence share is that they are primarily driven by a desire for domination, to weaken others by forcing them to

submit. This makes me think that it may be patriarchy behind all these forms of violence, though I need to think more about that.

Violence causing bodily harm not only includes direct harm but denial of access to food by destroying infrastructure or crippling an economic system. This form of violence is about more than hurting or killing. Bodily harm includes creating a climate of fear that denigrates individuals, communities, and peoples and makes them vulnerable to exploitation.

### 3. *Ecological Violence*

Industrial food systems have a massive environmental impact. Food systems emit approximately one third of the world's greenhouse gases.<sup>45</sup> Moreover, because of climate change, biodiversity is decreasing due to pollution, ecological destruction, deforestation, and the removal of protective ecological barriers. Around 1 million animal and plant species are now threatened with extinction, many within decades.<sup>46</sup> What has driven much of this damage has been industrial intensive agriculture and export-oriented food policies.<sup>47</sup>

It is common to frame the problem as a technical matter, a lack of effective environmental policies that require the careful management and use of natural resources. What is happening, however, is that food systems are ripping apart people's relationship with the environment leading them to disassociate from and destroy the very same ecosystems that sustain them. Recognizing this dynamic as ecological violence highlights the fact that one cannot separate environmental harm from human harm. Too often people want to protect the environment and do not think about the people that are an inherent part of that particular ecosystem.

<sup>45</sup> M. Crippa and others, 'Food Systems Are Responsible for a Third of Global Anthropogenic GHG Emissions' (2021) 2 *Nature Food* 198. CH<sub>4</sub>, N<sub>2</sub>O, fluorinated gases

<sup>46</sup> Eduardo Brondizio and others, *Global Assessment Report on Biodiversity and Ecosystem Services* (IPBES Secretariat 2019).

<sup>47</sup> J. Bélanger and D. Pilling (eds.), *The State of the World's Biodiversity for Food and Agriculture* (FAO Commission on Genetic Resources for Food and Agriculture 2019), 182-183, 240.

So in many ways, conceptualizing ecological violence as a right to food issue, highlights the political agenda for agricultural transformation. Here is an outline of that political agenda for agricultural transformation:

Some describe the ecological violence caused by climate change as “slow violence”, the idea being that much of the harm and death it causes, is not instantaneous or spectacular but incremental and invisible.<sup>48</sup> The historical debate becomes whether this process began with the industrial revolution or with the advent of agriculture itself.

The concept of ecological violence means understanding the fact that when land and environmental defenders are threatened, attacked, and killed, this is meant to instil fear into the heart of a community. Threatening, attacking, and killing these individual defenders is meant to stop communities from defending their territory, and should therefore be understood as acts of terror and assassination.

Focusing on ecological violence also highlights the importance of land rights. I do not mean private property, but rather what I mean is people’s informal and formal systems of land tenure that they create to ensure a stable, longstanding relationship with the land. Framing instances of environmental harm as ecological violence in the context of the right to food highlights the importance of making sure that farmers and Indigenous peoples can freely save, use, exchange and sell seeds. Pushing against turning seeds and genetic material into private property. It also highlights the importance of talking about agrarian reform and the redistribution of land.

#### 4. Erasure

Erasure can refer to the practice of collective indifference that renders certain people and groups invisible. It arises from the narratives that are set and produced by political agendas, raising the questions of:

<sup>48</sup> Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Harvard University Press 2011).



- Whose stories are taught and told and by whom?
- Whose knowledge and experience are prioritized? Whose struggles are recognized?
- Whose dead are mourned?<sup>49</sup>

What is at stake with dispossession and occupation is not only ecological violence and land rights, but the undermining of people's very existence.

Colonial settlers around the world have dispossessed Indigenous peoples from their territory through erasure. This is exemplified by the well-known Zionist phrase, "A land without a people for a people without a land", which was used as an (unsuccessful) attempt to render the Palestinian people invisible. Gradual and immediate erasure occurs when communities are dispossessed of their ancestral lands by land grabs or occupation, leaving them displaced, dispersed and forgotten. This has turned many a biodiverse region into a space of resource extraction and export-dependency, rife with local hunger and malnutrition.

In Mexico, Indigenous communities have been dispossessed and displaced through land grabs. These land grabs were made possible by free trade agreements and neoliberal agricultural policies, justified by claims of increasing food production. These policies have not only deprived these communities of their livelihood, but also of their identity, causing them to migrate to urban areas, which in turn aggravates urban poverty and leads to further violence. The Polavaram Dam project in India has had devastating impacts on rural communities with an estimated 70,000 people expected to lose their livelihood entirely or partially. In Guatemala, Maya, Garifuna and Xinka peoples have been excluded and marginalized at the expense of local businesses, transnational corporations in the sectors of hydroelectricity, and extractive industries like monoculture farming and mining.

<sup>49</sup> Parul Sehgal, 'Fighting "Erasure"' (2 February 2016) New York Times Magazine <https://www.nytimes.com/2016/02/07/magazine/the-painful-consequences-of-erasure.html>.

One powerful legal tool Indigenous peoples have to protect their land and lives from violence is the principle of Free, Prior and Informed Consent (FPIC). This is the right of Indigenous peoples to give or withhold their consent for any action that would affect their lands, territories, or rights which is codified in UNDRIP (Article 10). Non-Indigenous rural communities can turn to legal tools from the UN Declaration on the Rights of Peasants and other People Working in Rural Areas (UNDROP, Art. 2.3). UNDROP provides that States shall consult and cooperate in good faith with peasants ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes, while taking into consideration power imbalances.

#### V. CONDITIONS THAT ENABLE VIOLENCE

Countries and transnational corporations, in their pursuit of extracting resources from nature, have disrupted and reconfigured people's social and ecological relationships. This relational disruption means that corporations and countries are limiting people's ability to have a stable livelihood and are attacking people's very existence. This degree of disruption and reconfiguration is a violent act against people, undermining their dignity and humanity, often through categories of disability, race and gender.

The resulting structural inequality is illustrated by the fact that people in situations of vulnerability and from marginalized communities are usually – and predictably – at the losing end of having their rights met, especially their right to food. Systemic violence limits or denies people access to the necessities of life: land, seeds, water, fair and stable markets, and dignified work. When people are dispossessed of their land or work in hostile conditions, they are more exposed to harm on a regular basis.

With less secure access to land or dignified work, people have less *bargaining power* because they are limited in their ability to negotiate favourable terms in commercial transactions or for work. This is how

systemic violence makes people vulnerable and dependent while enabling a relatively small group to take advantage of their vulnerability. It allows the few who already have power and resources to gain the ability to restrict access to what is necessary to reproduce life, generating more violence and inequality. In other words, what makes the rich powerful is that they act as gatekeepers to the necessities of life.

During today's food crisis, transnational corporations in the agri-food sector are profiteering while people struggle and suffer as life gets harder. During the pandemic, the wealth of food-sector billionaires increased by a billion dollars every two days.<sup>50</sup> In 2021, Cargill, one of the world's largest food traders, made almost \$5 billion in net income, the biggest profit in its 156-year history, with even higher gains expected in 2023.

Markets today amplify the crisis and are prone to volatility because of a global food system which relies on a small number of industrially-produced staple grains; a small number of countries to produce those grains for export; and a small number of corporations that dominate the agri-food market.

Starting in the 1980s and continuing until this day, the dominant global common sense was that governments should no longer use international agricultural policy to cooperate or to try and stabilize markets; instead policy-makers were driven by short-term calculations of rapid production and maximizing profit.

I will briefly highlight how food systems that produce violence rely on relationships of dependency and extraction.<sup>51</sup>

<sup>50</sup> 'Profiting from pain: The urgency of taxing the rich amid a surge in billionaire wealth and a global cost-of-living crisis', Oxfam media briefing (23 May 2022), <https://www.oxfam.org/en/research/profitting-pain>. See Rupert Neate, 'Soaring food prices push more Cargill family members on to world's richest 500 list', *The Guardian* (17 April 2022), <https://www.theguardian.com/news/2022/apr/17/soaring-food-prices-push-more-cargill-family-members-on-to-world-richest-500-list>.

<sup>51</sup> This is outlined more fully in A/HRC/52/40/.

Food systems rely on a series of dependency relationships, where one party relies on another party with little bargaining leverage and few options to exit the relationship:

- importing countries depend on global markets for food;
- food-exporting countries depend on global markets for capital;
- workers depend on employers for their livelihood;
- survivors of sexual and gender-based violence sometimes become more economically dependent on aggressors because of the abuse;
- people depend on a shrinking number of food commodities for their nourishment;
- farmers increasingly depend on transnational corporations for their inputs; and
- developing countries depend on international financial institutions and richer countries for capital.

Global food systems are characterized by extractivism, which can be understood as the “non-reciprocal dominance-based relationship”<sup>52</sup> amongst human beings, non-human beings, and the land and water. Extractivist economies rely on the extraction and export of their natural resources. Extractivist industries include mineral and fossil fuel extraction, as well as mono-cultural large-scale agricultural, forestry and fishery operations.

Many development models rely on extractivism to generate economic growth. The theory is that the ecosystem is a collection of commodities, and ecological destruction is justified by economic growth. The assumption is that exploiting nature is worth it because the ensuing revenue will be shared and will benefit the public at large. The reality is that extractivism leads to human impoverishment especially at the expense of Indigenous peoples, racialized communities, rural communities, small-scale food producers/peasants, food and agriculture workers, and women.

<sup>52</sup> Naomi Klein, *This Changes Everything: Capitalism vs. The Climate* (Simon and Schuster, 2014) 169.

Extraction from nature and exploitation of people, however, are inherently linked since one cannot separate how you treat nature from how you treat people. From a right to food perspective, extractivism generates two problems. First, extractivist projects undermine and destroy traditional and small-scale hunting, fishing, herding, and agriculture along with foraging and gardening practices that enhance biodiversity. Second, more food systems are becoming more lethal because they limit biodiversity – by taking from the land and leaving nothing in return turning the soil barren. Soil depletion makes farmers more dependent on chemical inputs and high-energy processes, generating approximately one-third of the world's greenhouse gases.

Trade law and investment law has enabled extractivist global food systems. Such food systems favour transnational and industrial food production practices and thereby permit the enrichment of corporate actors at the expense of impoverishing rural communities all over the world. Global food systems also extract monetary value from the natural environment for global capital markets, leaving the environment degraded, depleted and destroyed for centuries to come. Finally, global food production and supply chains are extractive because they take more than they give to workers and small-scale food producers by underpaying them and exposing them to precarious and hazardous working conditions.

In sum, relationships of dependency and extraction are based on profound power imbalances and reaffirm structural inequality and create systemic violence.

#### VI. CONCLUSION: RECIPROCITY AND SANCTUARY

Let me conclude with a description what a healthy relationship looks like. Relationships based on reciprocity recognize the fact that we all share the same planet and therefore share all food systems; reciprocal relationships *build* an economy that generates substantive equality; reciprocal relationships also build an economy designed to encourage social cooperation and solidarity.

I have witnessed during the pandemic how in times of crisis, relationships of dependency quickly break down, and relationships of reciprocity stay resilient. I will end with a vision for the future. This is a vision for the future that I see based on what I have witnessed today. It is a vision of the future based on practices and spaces happening right now, and that draw on a long history.

To be concrete at first – I saw this future by looking at schools during the pandemic. Many schools during the pandemic were granted extra resources by local and national governments to expand their mandate as institutions of care. Communities limited childhood hunger when they ensured all children received good food, no questions asked. All a child had to do was pick up food. There were additional positive benefits that extended to families and communities, because when you alleviate hunger and malnutrition amongst children you also reduce the rate of poverty. Some schools, like the ones in my son's school district, opened up their kitchens for the entire community and offered meals to anyone with a child who came to pick up food.

There is also a practice using schools' public procurement programmes as a force for change. Brazil started the Zero Hunger programme in 2003. And hunger and malnutrition were significantly reduced by making sure that schools purchased a good portion of their food from local small producers and Indigenous farmers. This not only granted children access to good food, it also provided local producers a stable market. It connected local schools to local producers through a reciprocal relationship. I can imagine a version of school procurement that supports food producers as a way to engage in agroecological practices that enhance biodiversity. And I can see a version of school procurement that is also committed to enforcing labour rights. In this way, you can see how universal school meals combined with a particular public procurement programme can have a transformative effect.

Now, because the pandemic is ending, unfortunately many governments are ending these universal school feeding programmes, even though they have proven to reduce hunger and malnutrition and

strengthen communities. And in Brazil, when Bolsonaro took over in 2019, his administration dismantled the progressive procurement programme established in 2003. But I have been deeply inspired by the experience of enhancing schools' ability to be institutions of care and creating transformative relationships of reciprocity through procurement programmes.

So, if I may end this lecture by going back to that conversation with my seven-year-old son: Let us use this space today, this gathering in the Peace Palace, as an opportunity to use our words and imagination to work things out. This is what I see for the future:

Let us imagine the moment of a meal as a moment in which we come together to eat, in which we celebrate life and each other not just for holidays but every day and with every meal. Let us remember every time we eat how many people, how many strangers had to cooperate, and how many human and non-human relationships were involved to enable the meal. This should be easy to imagine.

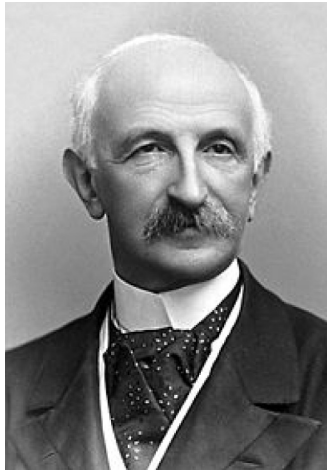
Now imagine if, every day, we kept working to eliminate violence in all its forms from these spaces. We are not ending war as such. Or eliminating all violence. But we are working and cooperating to carve out spaces to make, share and eat food. We are making these spaces a place of sanctuary where everyone is safe and welcome. And we are working to *expand* these spaces of making, sharing and eating food and defending them from violence. These practices of making, sharing and eating food, and these spaces where life can flourish despite ongoing violence – these could be palaces of peace, even if for a moment.





THE ANNUAL T.M.C. ASSER LECTURE ON THE  
DEVELOPMENT OF INTERNATIONAL LAW

*A Mission for Our Time*



INTRODUCTION

The Annual T.M.C. Asser lecture has been established in honour of the Dutch jurist and Nobel Peace Prize Laureate, Tobias Michael Carel Asser (Amsterdam, 28 April 1838 – The Hague, 29 July 1913), and his significant contributions to the development of public and private international law. It is the T.M.C. Asser Instituut's flagship lecture and its date commemorates the foundation of the Institute in December 1965.

MISSION

Tobias Asser was a man with a vision. A man who kept his finger on the pulse of his time, and who managed to shape the legal develop-

ments during his days.<sup>1</sup> In his Inaugural Address upon the acceptance of his professorship at the University of Amsterdam in 1862, Asser explained that it was his ‘vocation’ to reflect on commercial law and its ‘import’, while ‘taking into consideration the condition of society in [his] century’.<sup>2</sup> What we learn from his lecture extends beyond the field of commercial law; it shows Asser’s view of the law more generally: ‘law serves primarily to cultivate trust’.<sup>3</sup>

For its mission statement, the Annual T.M.C. Asser Lecture builds on the vision and mission of the man who has lent it his name. It invites distinguished international lawyers to take inspiration from Asser’s idea of cultivating trust and respect through law and legal institutions, and to examine what it could mean in their area of expertise today.

Current legal scholarship has uncovered the complications of Asser’s mission, and of his internationalist friends and colleagues.<sup>4</sup> It has pointed to the downside of how the international legal order took shape in spite of the good intentions of these late 19th and early 20th century liberal-humanitarian internationalists. Asser himself was well aware of the dangers of utopian idealism<sup>5</sup> on the one hand, and the dangers of a nationalistic conservative attitude towards international law on the other. Every age has different needs and pitfalls and hence, sailing between commitment and cynicism,<sup>6</sup> every age requires a different course.

1 A. Eyffinger, *T.M.C. Asser [1838–1913] Founder of The Hague Tradition* (The Hague: Asser Press, 2011), p. 11.

2 The Inaugural Address is included in E.M.H. Hirsch Ballin (ed. and intro.), *A Mission for his Time. Tobias Asser’s Inaugural Address on Commercial Law and Commerce, Amsterdam 1862* (The Hague: Asser Press, 2012), p. 18.

3 *Ibid.*, p. 22.

4 See below ‘Tobias Asser in context: One of the ‘Men of 1873’.

5 At the Second Hague Peace Conference, Asser himself said ‘you know I am not a Utopian’, Eyffinger, p. 5, n. 45.

6 M. Koskenniemi, ‘Between Commitment and Cynicism: Outline for a Theory of International Law as Practice’, in *Collection of Essays by Legal Advisors of States, Legal Adviser of International Organizations and Practitioners in the field of International Law* (United Nations, NY, 1999), pp. 495–523; also available online.

Our time, too, is in dire need of reflection. It is marked by the politics of fear, domestically as well as globally. In different ways ‘fear operates directly as a constitutive element of international law and the international ordering and decision-making processes.’<sup>7</sup> Taking note of Tobias Asser’s legacy in this context, a reorientation of the international order towards an order based on respect and trust urges itself upon us.<sup>8</sup>

Today, with international lawyers perhaps sadder and wiser, it seems more than ever to be an international lawyer’s task to examine – as Asser did in his day – how to respond to ‘the condition of society’. Mutual trust and respect are crucial to the health of any heterogeneous society, whether it is the international society or one of the rapidly growing cities across the globe. A (research) question which Tobias Asser bequeathed to us is ‘how can law serve this aim?’

In spite of well-known complications and dark sides,<sup>9</sup> in this context the Rule of Law and the principles of human rights are paramount. These may provide direction in our considerations about trust and respect in relation to challenges brought by, for example, globalisation, urbanisation, (global) migration, the atomisation of society, climate change, environmental degradation, the complexity of the traditional North-South divide, the dangers of a renewed international arms race, and the dilemmas of new global actors such as the EU.

Against this backdrop, the Annual T.M.C. Asser Lecture aspires to be a platform for a constructive, critical reflection on the role of law in dealing with the challenges and (potentially radical) changes of the global society of the 21st century.

7 D. Joyce & A. Mills, ‘Fear and International Law’, *Cambridge Review of International Affairs*, 19:2 (2006), pp. 309–310.

8 A. Carty, ‘New Philosophical Foundations for International Law: From an Order of Fear to One of Respect’, *Cambridge Review of International Affairs*, 19:2 (2006), pp. 311–330; also J.E. Nijman, ‘Paul Ricoeur and International Law: Beyond ‘The End of the Subject’. Towards a Reconceptualization of International Legal Personality’, *Leiden Journal of International Law*, 20 (2007), pp. 25–64.

9 D. Kennedy, *The Dark Sides of Virtue* (Princeton: PUP 2004); also M. Koskenniemi, *The Gentle Civilizer*, *infra* note 21, and *The Politics of International Law* (Oxford: Hart 2011).

BACKGROUND

In Asser's time, the cultivation of trust and respect in international relations was indeed an urgent matter. Asser's professional life spans from the second half of 'the long 19th century'<sup>10</sup> up to the eve of the First World War. It was a time of rising nationalism and mounting 'distrust and despair'<sup>11</sup> in Europe. The 19th century Eurocentric world order was to collapse only a few years after Asser's death.

In Asser's lifetime America had experienced the Civil War (1861–65) and slavery was abolished after a slow struggle. In Europe, the Crimean War (1853–56) and the Franco-Prussian War (1870–71) brought decades of peace in Europe to an end. With these wars the horrors of industrial warfare began and forever changed the destructive scale and intensity of armed conflict. In Asia, Britain and France forced China, by military means, to open up its markets for opium, on the basis of what they argued to be their sovereign right to free trade, even against the imperial government's desperate attempt to protect its dwindling population from opium addiction. A socialisation into international society and law that was to leave its mark on China's approach to international law well into our time.<sup>12</sup> In the latter days of his career, Asser actively supported the International Opium Conference (1912) to end the opium enslavement of the Chinese people.<sup>13</sup>

With the economic policies of the late 19th century the European empires spurred on the process of modern globalisation in the industrial era. Asser had a keen interest in economics and as the head of a (commercial) law practice for most of his life,<sup>14</sup> he is likely to have been especially sensitive to the process. In his view, transnational trade and commerce were crucial for societies to thrive and develop peace-

10 Eric Hobsbawm's term for the period 1789–1917.

11 Eyffinger, p. 67.

12 S. Suzuki, 'China's Perceptions of International Society in the Nineteenth Century: Learning more about Power Politics?', 28 *Asian Perspective* (2004), pp. 115–144.

13 Eyffinger, p. 79.

14 Among his clients, though, were the heirs of King Leopold in the Congo heritance.

fully. In that sense, his perspective on free trade and commerce was utilitarian – in the service of ‘public welfare’.<sup>15</sup> Hence, his stance was not uncritical; transnational trade and commerce facilitated by law and legal institutions were to serve peace and justice, but not to exploit or violate ‘the inalienable rights of a free people’.<sup>16</sup>

The urbanisation of 19th century Europe prefigures that of today; it basically put much of the current global city system in place. Asser was outspoken about his love for the ‘distinguished mercantile city’ of Amsterdam: ‘[u]nder any circumstances, wherever my place of domicile, I will forever remain an Amsterdammer!’<sup>17</sup> His love of Amsterdam, however, not only sprung from the city’s tradition of international trade and commerce, but also and even more so from its tradition of openness to strangers and providing a refuge for the expelled. Being a Dutch citizen of Jewish descent, the exclusion and violence brought about by anti-Semitism in European (urban) societies must have been a matter of personal concern for someone so eager to participate in the public sphere. Nationalism, a growing sentiment in Europe, was completely alien to Asser. With his urban cosmopolitan mind-set, his thinking was transnational by nature. His vision of international and personal relations did not hinge upon fear and othering, but rather upon respect and trust.

For Asser, the role of law was vital to the emancipation of the Jewish minorities in Europe, as was the case for any minority. He worked with an integral view of the Rule of Law, to be strengthened as much in the domestic as in the international society. Asser’s dedication to citizens’ rights and the principle of legal equality is visible, for example, in his advocacy of equal voting rights for women.<sup>18</sup>

While Asser’s vision of law and legal institutions was all about the ideals of peace, prosperity and justice, he was concrete and prag-

15 Hirsch Ballin, p. 19.

16 *Ibid.*, p. 33.

17 Eyffinger, p. 13.

18 Hirsch Ballin, p. 13.

matic when aiming to shape developments in private and public international law.

Asser's commitment to international trade and commerce as a means to achieve peace and international solidarity inspired his efforts to deal with 'conflict of laws' and to promote a unification and codification of the rules of private international law. In his view, the demands of international life went beyond economic relations only, and so, being the pragmatic lawyer that he was, Asser presided over the Four Hague Conferences on Private International Law (1893–1904) which managed to produce six conventions ranging from procedural law to family law issues.

While international tensions intensified and an arms race was looming, Asser moved into the realm of public international law – albeit with a good share of realism about state conduct and the pursuit of self-interest. Together with Feodor Martens, Asser stood at the helm of the Hague Peace Conferences (1899 and 1907), which focused on international humanitarian law and the peaceful settlement of disputes. The First Conference resulted in the constitution of a Permanent Court of Arbitration (PCA). Being a prominent arbiter himself, Asser participated in the first case before the PCA. Thanks to Andrew Carnegie, who wanted to ensure a 'wise distribution' of his wealth, the Peace Palace was built and The Hague was thus granted its role of *City of Peace and Justice*.

T.M.C. Asser's mission of peace, liberty and justice defined both his academic and diplomatic work. He intended to listen to 'the voice of the conscience of [his] century' and tirelessly applied his legal genius to develop public and private international law. After decades of neutrality, he would moreover steer the Netherlands back into the diplomatic arena and towards a more prominent international position.

Tobias Asser's legacy is almost too vast for one man. No wonder his role was recognized by the Nobel Prize Committee in 1911. The

Committee portrayed Asser as ‘the Hugo Grotius of his day’.<sup>19</sup> Certainly they both aimed to strengthen the Rule of Law in a global society.<sup>20</sup>

In contemporary international legal scholarship, Professor T.M.C. Asser was one of the international lawyers Martti Koskenniemi has famously called the ‘Men of 1873’: twenty to thirty European men who were actively engaged in the development of international law and who, thanks to among others Asser and his dear friend Rolin, established the *Institut de Droit International* in 1873.<sup>21</sup> They were interested in ‘extending the mores of an *esprit d’internationalité* within and beyond Europe. ... [they were the] “founders” of the modern international law profession.’<sup>22</sup>

For the men of 1873, international law was to be social and cultural in a deep sense: not as a mere succession of treaties or wars but as part of the political progress of European societies. They each read individual freedoms and the distinction between the private and the public into constructive parts of their law. If they welcomed the increasing interdependence of civilized nations, this was not only to make a point about the basis of the law’s binding force but to see international law as part of the progress of modernity that was leading societies into increasingly rational and humanitarian avenues.<sup>23</sup>

Their liberal project was a project of reform, human rights, freedom of trade, and ‘civilization’. In their view, ‘jurists should not remain in the scholar’s chamber but were to contribute to social progress.’<sup>24</sup> Koskenniemi further cites Asser to explain the *esprit d’internationalité*:

For Asser, for instance, the tasks of the *jurisconsulte* in the codification of private international law followed “from the necessity to subordinate

19 See for the Nobel Peace Prize 1911 speech: <[http://www.nobelprize.org/nobel\\_prizes/peace/laureates/1911/press.html](http://www.nobelprize.org/nobel_prizes/peace/laureates/1911/press.html)>.

20 See Asser’s Address at the Delft Grotius Memorial Ceremony, 4 July 1899, p. 41.

21 Eyffinger; M. Koskenniemi, *The Gentle Civilizer of Nations* (Cambridge: CUP 2002).

22 *Ibid.*, p. 92.

23 Koskenniemi, pp. 93–94.

24 *Ibid.*, p. 57.

interest to justice – in preparation of general rules for the acceptance of governments to be used in their external relations”<sup>25</sup>

BUILDING ON TOBIAS ASSER’S VISION AND MISSION

The institution of this Annual Lecture is inspired by these ‘Men of 1873’ in general and by Asser’s social progressive, ‘principled’ pragmatism, liberalism, and ‘emancipation from legal traditionalism’ in particular.<sup>26</sup>

Drawing inspiration from the ‘Men of 1873’ is however not without complications. Part of their project was the ‘civilizing mission’, with all its consequences. On the one hand, in the early decades of the 20th century these scholars may have been hopeful about decolonisation and lifting developing countries out of poverty. Asser’s own involvement in attempts to end a most ‘embarrassing chapter of Western history’, the Opium Wars, may also be mentioned. On the other hand, international law as an instrument of civilisation has surely shown its dark sides. Today, more than ever before, we are aware of how internationalism and the Rule of Law have been the handmaidens of (economic, legal) imperialism.<sup>27</sup> Scholars have pointed to the ‘double standards’ as ‘an integral part of the ideology of democracy and the rule of law’ so visible in the application of international law even today.<sup>28</sup>

The rich and somewhat complex heritage of internationalism does not leave room for naïve ideas about international law as an instrument only for the good of liberal-humanitarian reform; if ‘[l]egal internationalism always hovered insecurely between cosmopolitan humanism and imperial apology... [and i]f there is no perspective-

25 Ibid., pp. 57–58.

26 Hirsch Ballin, pp. 12 and 2.

27 E.g. A. Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: CUP, 2005).

28 A. Carty, ‘The terrors of freedom: the sovereignty of states and the freedom to fear’, in J. Strawson (Ed.) *Law after Ground Zero* (London: Glasshouse Press, 2002), pp. 44–56.



independent meaning to public law institutions and norms, what then becomes of international law's universal, liberating promise?<sup>29</sup>

While for some this rhetorical question marks the end-point of possible legal endeavours, the Annual T.M.C. Asser Lecture hopes to be a place for reflecting critically on what lies *beyond* this question. As Koskenniemi points out, '[i]n the absence of an overarching standpoint, legal technique will reveal itself as more evidently political than ever before.'<sup>30</sup> And so, since '[i]nternational law's energy and hope lies in its ability to articulate existing transformative commitment in the language of rights and duties and thereby to give voice to those who are otherwise routinely excluded', we ask: What does the *esprit d'internationalité* mean today and what could it mean in and for the future?

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29 Koskenniemi, p. 513.

30 *Ibid.*, p. 516.



## RETHINKING PUBLIC INTEREST IN INTERNATIONAL AND EUROPEAN LAW

*Pairing critical reflection with perspectives for action – Contours of  
the strategic research agenda of the Asser Institute 2022-2026*

The notion of ‘public interest’ plays a central yet contested role in international and European law. The Asser Institute’s research agenda ‘Rethinking public interests in International and European law’, argues for a critical re-examination of how public interest is understood and applied. By doing so, the Institute aims to reclaim its emancipatory potential.

A cascade of global crises – climate change, ecocide, transnational terrorism, unsustainable capitalism, widening social inequality, the digital divide, mass migration, and the looming threat of breaching planetary boundaries – has thrust a critical question to the forefront: How can law be harnessed to safeguard our social and natural world?

Although frequently invoked in legal and political discourse, the concept of ‘public interest’ remains surprisingly understudied in legal scholarship. This ambiguity is particularly troubling given its growing importance in navigating these complex challenges. The term’s lack of clear definition allows international and European actors to manipulate its meaning for their own benefit, sometimes disguising private agendas as concerns for the public good. Moreover, this lack of clarity can lead to policy formulations that disproportionately favour powerful factions, perpetuating a cycle of inequality and eroding public trust in international and European institutions.

By critically examining the notion ‘public interest’, the Asser Institute aims to reclaim its emancipatory potential. Critical scrutiny may open up a space for alternative conceptions of the public interest to guide law- and policymaking. The goal is to help develop public interest

arguments that offer pathways towards restoring trust and ensuring that international and European law functions in the best interests of society.

Our research agenda emphasises the need to understand how ‘public interest’ is constructed through legal arguments and public discourse. Who participates in these discussions? Whose voices are heard, and whose are excluded? Most importantly, what are the societal consequences of different interpretations of public interest? Do they promote fairness and justice, or do they exacerbate existing inequalities? The research questions that we will address in the coming years are:

- How do legal processes and institutions create and reproduce ‘public interest’?
- How do international and European law and policy shape the publics involved in defining public interest?
- Who benefits from particular understandings of public interest?
- How can competing public interest claims be reconciled?
- How are public interests addressed in international courts and institutions?

*Research strand ‘In the public interest: accountability of the state and the prosecution of crimes’*

This research strand examines the accountability of states, both individually and collectively (e.g., the United Nations or the European Union), in light of public interest standards in the context of counterterrorism. Moreover, this strand looks into the prosecution of individuals for international and transnational crimes in the public interest. Finally, to ensure both the accountability of states and the prosecution of individuals for international and transnational crimes in the public interest, this research strand also investigates the role of journalists, digital media, human rights NGOs, and academics in protecting and promoting public interest standards.

*Research strand 'Regulation in the public interest: Disruptive technologies in peace and security'*

The proliferation of disruptive technologies in warfare raises critical questions about international regulation. This strand examines how to develop an international regulatory framework to address the military applications of disruptive technologies, such as autonomous weapons and biological threats, and the resulting arms race in both conventional and non-conventional weapons. Ultimately, this research aims to safeguard public interests and promote peace and security in the face of these emerging challenges.

*Research strand 'Transnational public interests: constituting public interest beyond and below the state'*

In the past century, national governments embodied the pursuit of the public interest on issues like environmental protection or human rights. Yet, since the turn of the century, the influence of non-state actors, such as corporations, NGOs or international organisations like the European Union on global issues such as environmental protection, human rights or digital safety has grown rapidly. Researchers in this strand examine how non-state actors are increasingly shaping and defending the transnational/European public interest on critical issues and, conversely, how this public turn affects their operations. They raise fundamental questions, such as: how do we ensure that the interests pursued are actually those of the public? And, more fundamentally, who is the public in this context?



## THE ANNUAL T.M.C. ASSER LECTURE SERIES

The Annual T.M.C. Asser Lecture is a platform for a critical, multi-disciplinary and constructive reflection on the role of law in the (potentially radically) changing global society of the 21st century, and a high-level event within the context of our research programme.

In 2015, Professor Joseph Weiler (President of the European University Institute in Florence, and University Professor at NYU School of Law) delivered the Inaugural Annual T.M.C. Asser Lecture on *'Peace in the Middle East: has International Law failed?'* in which he identified an indeterminacy issue in the legal framework of belligerent occupation that allows for different interpretations. This, according to Weiler, has turned into a political dispute about the facts, for which international law can provide no more than a roadmap.

In 2016, Onora O'Neill, Professor Emeritus of Philosophy at the University of Cambridge and crossbench member of the British House of Lords, spoke about *'Accountable Institutions, Trustworthy Cultures'* and how rules are not enough. The ethics and culture of institutions, international or otherwise, are important for the trustworthiness of these institutions. This is an important argument that still resonates in these days of institutional distrust.<sup>1</sup>

In 2017, Saskia Sassen, Robert S. Lynd Professor of Sociology at Columbia University (NY), discussed the relations between globalisation, economic development and global migration in the lecture entitled *'A Third Emergent Migrant Subject Unrecognized in Law: Refugees from "Development"'*. She asked: 'Is there any role for inter-

<sup>1</sup> O. O'Neill, *Accountable Institutions, Trustworthy Cultures* (The Hague, T.M.C. Asser Press 2017).

national law in the prevention of, and protection against, expulsions caused by the accelerating destruction of land and water bodies?<sup>2</sup>

In 2018, Martti Koskenniemi, Professor of International Law at the University of Helsinki and Director of the Erik Castrén Institute of International Law and Human Rights, gave the lecture '*International Law and the Far Right: Reflections on Law and Cynicism*' in which he critically reflected on the general state of international law, as well as on its role in the rise of the far right.<sup>3</sup>

The Fifth Annual T.M.C. Asser Lecture, held in 2019, was delivered by Anne Orford, Professor of International Law at Melbourne Law School and was entitled '*International Law and the Social Question*'. It placed the social question, the value of solidarity and social justice back on the table of international lawyers.<sup>4</sup>

The Sixth Annual T.M.C. Asser Lecture '*Almost Human: Law and Human Agency in the Time of Artificial Intelligence*' was delivered by Prof Andrew Murray from the London School of Economics via the internet, due to COVID-restrictions. The lecture challenges the process of datafication in society: the reduction of the complexity of the world to data values, which threatens the fabric of human agency and the rule of law.<sup>5</sup>

In 2022, Brigid Laffan, Emeritus Professor at the European University Institute, addressed in the Seventh Annual T.M.C. Asser Lecture '*Can Collective Power Europe Emerge from Putin's War?*' the implications of the Russian invasion of Ukraine in 2022 for the security and po-

2 S. Sassen, *A Third Emergent Migrant Subject Unrecognized in Law: Refugees from 'Development'* (The Hague, T.M.C. Asser Press, 2018).

3 M. Koskenniemi, *International Law and the Far Right: Reflections on Law and Cynicism* (The Hague, T.M.C. Asser Press, 2019).

4 A. Orford, *International Law and the Social Question* (The Hague, T.M.C. Asser Press, 2019).

5 A. Murray, *Almost Human: Law and Human Agency in the Time of Artificial Intelligence* (The Hague, T.M.C. Asser Press, 2021).



litical economy architecture of Europe and the wider world for decades to come.<sup>6</sup>

For more information on the Annual Lecture Series, registration and programme, please go to: <https://www.asser.nl/annual-lecture>, or contact [TMCAsserLecture@asser.nl](mailto:TMCAsserLecture@asser.nl)

<sup>6</sup> B. Laffan, *Can Collective Power Europe Emerge from Putin's War?* (The Hague, T.M.C. Asser Press, 2022).

## ABOUT THE AUTHOR



Michael Fakhri, the UN Special Rapporteur on the Right to Food since 2020, is a professor at the University of Oregon School of Law where he teaches courses on human rights, food law, development, and commercial law. He is also the director of the Food Resiliency Project (University of Oregon School of Law). He investigates key environmental and policy issues relating to all stages of the food system, including production, transportation, packaging and consumption. Mr Fakhri has taught courses on the right to food at Harvard Law School, European University Institute, and the University of Arizona Indigenous Governance Program. He has lectured on international human rights and development topics at universities around the globe. Mr. Fakhri has further led public dialogues on human rights and development with peasant organisations, labour unions, and human rights activists in the Arab region and North America, and at international organisations such as the WTO. During his practice as a lawyer, Mr. Fakhri fought for the rights of people who were indigent and incarcerated in a psychiatric institution. He is the author of the book *Sugar and the Making of International Trade Law*.



About the 8th Annual T.M.C. Asser Lecture, Michael Fakhri writes:

“Drawing on my work as Special Rapporteur on the Right to Food and my upcoming report to the Human Rights Council, I will outline a way out. I will explain how systems not only produce food but also amplify and produce forms of violence that make people more poor, vulnerable, and marginalised. I also describe how food systems rely on a global economy of dependency and extractivism.

In sum, food systems are part of a cycle between structural inequality and systemic violence causing wide-spread human rights violations. I will address the war in Ukraine to highlight how international markets amplify rather than abate violence, creating global shocks from a regional war.”

