



Legal considerations in the context of responses to COVID-19 to mitigate the risk of food insecurity

KEY MESSAGE

Countries are taking measures to halt the spread of COVID-19, which can have unintended consequences for food security, namely availability, access, utilization and stability of food supplies at global, national, local and individual levels.

In a context of potential food shortages and disruptions in the supply chain, the human right to food must be safeguarded.

Emergency legislative measures should therefore ensure the movement of foods and food-production related items and allow freedom of movement of agriculture and food workers, while taking measures to ensure their health and safety, including through physical distancing and sanitary facilities. At the same time, emergency legislation should ensure access to food through expanded coverage to social protection and food assistance for the most vulnerable people. Finally, global and local value chains would benefit from solid regulatory frameworks that facilitate safe transactions and protect farmers' access to production inputs.

The role of law in the emergency response to COVID-19

Most countries have provisions in their national constitution and specific laws that allow them to act during emergencies, including pandemics such as COVID-19, to protect the health of the population. Therefore, the following legal recommendations should be understood in the context of the legal frameworks that countries already have in place, and as part of governments' efforts to strengthen emergency preparedness legislation.

An emergency response to the global outbreak of COVID-19 grounded in international law and human rights principles is recommended to continue achieving the Sustainable Development Goals (SDGs) in the context of Agenda 2030, and in particular to fulfill the right to food for all focusing on those most vulnerable to food insecurity.

Legislation provides for emergency mechanisms for effective action, special procedures for budget allocation, powers and responsibilities to monitor, control and regulate the supply of commodities to ensure food availability, special measures to protect the rights of the most vulnerable against loss of income and possible food shortages, and complaint and law enforcement mechanisms to address grievances and sanction unlawful conduct.

Transparency, participation (inclusiveness), gender equality, non-discrimination and accountability are key legal principles to underpin the emergency response to COVID-19.

While some countries may already have robust social protection measures in place in their legislation, in other countries these may not be sufficient; therefore, it may be necessary to adopt special regulatory measures to ensure the protection of the most vulnerable population such as women (focusing on pregnant women and girls), low-income households with young children, jobless workers, elderly people, people with disabilities, refugees, migrant workers and homeless people.

Leaving no one behind in the context of legislative responses to COVID-19 implies also establishing and implementing targeted responses to address the needs and specific challenges of indigenous peoples, minorities and other marginalized sectors of the populations.

Potential legal measures to respond to the negative impacts of COVID-19 on food supply, food systems and food security

Due to the implications of stay-at-home measures on food demand, supply and production, legislation is an important instrument to: i) ensure transparent information to prevent market speculation; ii) avoid uncertainty about food availability, iii) mitigate disruptions in the food supply chain, and iv) minimize food loss and waste and post-harvest loss.

Legislation should provide for exceptions to the restriction of movement due to quarantine in order to facilitate the movement of products and workers in the food value chains, thus ensuring the proper functioning of food systems, which are vital to ensure access to food for the entire population. At the same time, legislation should protect the most vulnerable to food insecurity by protecting income and expanding food assistance and social protection. Furthermore, the closure of open markets and changes in buying practices may have a negative impact on farmers' access to consumers. Legislation can protect and facilitate contractual relations in the food distribution chain for farmers to find alternative markets through direct sales or big supermarkets.

To mitigate the disruptions in the food supply chain, legislation may:

- establish emergency coordination mechanisms for effective action ensuring participation and consultation of key stakeholders across the agricultural and food industry sector;
- assign responsibilities to conduct strict monitoring of food prices and the prices of inputs required for food production to identify significant and atypical variations in prices to avoid speculation;
- strengthen powers of inspection, control and surveillance of commercial businesses to ascertain that there is a reasonable supply of commodities, and that prices are not altered;
- establish mechanisms to foster coordination between control and surveillance agencies, and authorities in charge of investigating and sanctioning unlawful conduct;
- reinforce the duty of competent authorities to ensure transparent market information by: i) assigning powers to request the provision of data from actors in the chains of production, distribution, retailing and other forms of intermediation for the purpose of monitoring prices, and ii) requiring competent authorities to publish the prices of basic food commodities to safeguard the well-being of the most vulnerable consumers;
- establish accessible complaint mechanisms to report food shortages and unlawful behaviour along the supply chain. Online mechanisms are strongly recommended in times of quarantine;

- establish exceptions to the restriction of movement due to quarantine in order to facilitate the movement of products and workers in the value chains;
- establish special measures to protect employees engaged in food production, processing and distribution, both for their own health and that of others, as well as to maintain food supply chains;
- establish measures to encourage employment and administrative flexibility in agriculture including waivers to ensure the movement of agricultural and food industry workers;
- minimize the risk of closure of open markets and promote changes in consumers' behaviour, including encouraging local procurement and reducing food loss and waste, support local production, in particular small farmers' access to alternative markets, through enabling rules that facilitate fair contracts in the supply chain, as well as safe direct sales;
- establish special measures to allocate funds and provide incentives to support local production, in particular, small farmers (direct grants);
- establish measures for the postponement of rural credit payments and measures to create new credit lines to support family farming;
- use the contractual leverage of the state to support local procurement directly to family farmers and cooperatives for public food programmes such as school feeding programmes or food baskets to be distributed to the most vulnerable people (in-kind food distribution);
- establish mechanisms at the local level to support cold storage and preservation facilities of perishable products;
- establish measures that ensure agricultural services, including the supply of seeds, pesticides and fertilizers;
- approve measures to prevent and minimize food losses and waste at the retail level, as well as in earlier stages of the supply chain, with a view to strengthening good production practices and facilitate safe donations;
- support partnerships and sound contractual arrangements between local small farmers and food enterprises to ensure sustainable value chains that benefit local food producers; and
- prevent protectionist practices, remove unnecessary restrictions on international trade, and facilitate the flow of food commodities and agricultural inputs.

To facilitate access for the most vulnerable households to food, legislation may:

- establish an emergency coordinated mechanism to take special measures regarding food assistance and social protection;
- establish special measures to protect the most affected and the most vulnerable people such as national voucher schemes, cash grants to families whose children receive free school meals or who are in receipt of specific family-related social security assistance, sick and family leave to cover self-isolation and caregiving responsibilities during school and care facility closures;
- establish targeted measures to mitigate the impact of the pandemic on women who may be the first affected by increased responsibilities, loss of employment and income;
- take special measures to ensure the continuity of school feeding programmes while schools are closed through: i) exceptions to the restriction on freedom of movement for all activities related to implementing school feeding programmes, and ii) temporary measures allowing flexibility in implementing such programmes (food distributions to households, home rations, meal vouchers, cash transfers);

- set controls to ensure dignified conditions during food distribution, and to avoid low-income families being exposed to health risks when accessing food distribution;
- establish complaint mechanisms (hotlines, community monitoring and oversight mechanisms) to verify that children's right to food is respected during the delivery of school meals (local authorities may require teachers or principals to volunteer as guarantors in the delivery of food to the parents or guardians registered as beneficiaries);
- strengthen sanitary control measures during the distribution/delivery of foods to ensure that such responses do not become a focus of infection and a risk to either families or to staff/volunteers and suppliers;
- allocate additional funds for expanding emergency food assistance (cash or in-kind transfers) targeting the most vulnerable groups including children of low-income families, elderly people, homeless people, people with disabilities, jobless workers, pregnant women or mothers with young children, refugees, migrants and internally displaced people;
- establish temporary rules to expand emergency food assistance through temporary suspension of administrative requirements leading to a restriction of eligibility; and
- establish mechanisms to strengthening the collaboration between food banks and community-based groups to ensure food delivery (including home food delivery) and food redistribution to avoid food loss and waste.