

Protecting Children's Right to a Healthy Food Environment



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Key messages

- The Convention on the Rights of the Child (CRC), recognizes that all children up to 18 years of age are human beings in their own right, and are entitled to inalienable rights – inherent to human dignity – including the right to healthy food and adequate nutrition, the right to non-discrimination, and the right to consider their best interests in all matters that affect them.
- As we celebrate progress made over the past 30 years in protecting, promoting and fulfilling children's rights, it is clear more work remains to be done. Governments are the primary duty-bearers in protecting the rights of all children. Countries that have ratified the CRC are legally bound to uphold their commitments, which includes giving special consideration to the specific needs and vulnerabilities of children, including protecting children from unhealthy food environments that undermine their right to healthy food and adequate nutrition.
- Globally, almost 200 million children under 5 suffer from stunting, wasting or both, and at least 340 million suffer from the hidden hunger of vitamin and mineral deficiencies. At the same time, 50 million children under 5 are overweight and the toll of overweight and obesity keeps rising, even in lower-income countries. Overall, children are not growing well because of malnutrition – in



early childhood, 2 in 3 children do not receive the minimum diverse diet they need for healthy growth and development.

- The economic impact of obesity is estimated to be US\$2 trillion, or 2.8 per cent of the world's GDP – roughly equivalent to the economic costs of smoking or armed conflict. Cumulatively, the impact of all forms of malnutrition could reach US\$3.5 trillion a year.
- In their daily lives, children are continuously exposed and vulnerable to the impacts of unhealthy food environments. Children and adolescents face pervasive and relentless exposure to emotion-based marketing strategies for unhealthy foods, across multiple media (from television to digital media), including in settings where they should be especially protected (e.g., schools) as well as retail environments where

important decisions about food purchases are made on a daily basis. This undermines children's right to healthy food and adequate nutrition, but also infringes on other interrelated rights.

- Because of poverty and exclusion, the most vulnerable children are at greatest risk of all forms of malnutrition. In far too many low-income and marginalized households, the right to healthy food and adequate nutrition is not realized because affordable food options are limited. These factors are violations of children's fundamental right to non-discrimination.
- Industrialized low-cost food production is increasing worldwide, and 77 per cent of processed food sales globally are controlled by just 100 large firms. More and more people are consuming commercialized diets that rely heavily on ultra-processed foods high in unhealthy fats, salt and sugars. Consequently, many children's diets do not satisfy their nutritional needs, even if the amount of food may be sufficient to meet their basic energy requirements.
- Malnutrition is often viewed as a result of the failure to protect essential human rights, due largely to insufficient action, governance and accountability. A rights-based approach to improving children's food environments and adequate nutrition is vital to guaranteeing that marginalized and vulnerable populations – who are disproportionately affected by malnutrition – have equitable access to nutritious food.
- In all cases, children's rights – and the best interests of the child – must be at the centre of government efforts to create healthy food environments. As the primary duty-bearers of children's rights, governments should prioritize efforts to address the root causes of poor health among children by ensuring that they have access to nutritious and affordable food and a healthy and safe environment.
- Once the concept of 'rights' is introduced in policymaking, the rationale for regulating unhealthy food environments no longer derives merely from the fact that children have needs but also from the fact that they have rights. Rights-based policymaking highlights the obligations of governments to respect, protect and fulfil these rights for all children, and brings powerful new arguments to overcome attempts to delay, deflect and divide effective policy efforts.



A worldwide legal framework to protect children from unhealthy food environments: The Convention on the Rights of the Child

“If we are to meet the malnutrition challenge full on, we need a scaled-up approach that puts children’s nutritional rights at the heart of food systems and prioritizes nutrition outcomes in other key systems.”

UNICEF, *The State of the World’s Children 2019*

Children, Food and Nutrition: Growing well in a changing world, page 142

UNICEF’s flagship report, *The State of the World’s Children 2019*, highlights that at least 1 in 3 children under 5 are not growing well due to one or more forms of malnutrition.

This statistic and other data provided throughout the report underscore how current food systems, and the food environments surrounding us in our daily lives, are failing children and failing to protect their right to nutritious, safe, affordable and sustainable food and diets. As a result, millions of children face multiple forms of malnutrition – including undernutrition, hidden hunger and overweight – that are threatening their survival, growth and development, and impeding the progress of economies and nations.¹

As we celebrate the 30th anniversary of the Convention on the Rights of the Child (CRC) and the progress made in recognizing children’s rights, we must also reflect on the unfinished agenda and emphasize the continuing obligations of governments² to guarantee special safeguards for children, specific to their needs and vulnerabilities.

This is a moment for bold action to ensure we leave no child behind, and to support every child to reach her or his full potential, with a renewed focus on the right to healthy food and adequate nutrition as a human right.

The lives of millions of children have improved because of the important protections from discrimination, violence and neglect enshrined within the CRC and its Optional Protocols.³ The CRC is the most widely ratified human rights treaty in history, inspiring governments around the world to change laws and policies and make investments to protect, respect and fulfil children’s rights. Through the CRC, children across the world have been recognized as human beings in their own right, entitled to inalienable rights – inherent to the human dignity of all people – including the right to healthy food and adequate nutrition. Yet so much more remains to be done to fulfil these rights.

Against this backdrop, this advocacy brief explores how a child rights-based approach can and should be used to create and safeguard food environments that better enable healthy diets for children and contribute to the fulfilment of the fundamental right to healthy food and adequate nutrition, to which all children are entitled.



BOX 1

Definition of 'food environments'

Food environments are spaces where children and their families interact or engage with food. Depending on how they are structured, they may either help or harm children's nutrition.

The *external food environment* is the physical, economic, political and sociocultural context in which consumers procure, prepare and consume food. It includes the places where consumers interact with food (e.g., retail and commercial markets, schools, worksites and informal vendors) and reflects food availability, price, marketing and advertisements, and vendor and product properties, such as hours of operation and the products offered.

An *obesogenic food environment* is an external food environment characterized by low availability, accessibility, desirability and affordability of healthy foods; aggressive marketing of unhealthy foods, including snacks and sugary beverages; and increasingly large portion sizes. These factors lead to unhealthy food consumption patterns. In addition, misleading and inadequate labelling of industrially prepared foods makes it difficult for caregivers, children and adolescents to understand whether such foods contribute to a healthy diet. Recurring exposure to unhealthy food environments can shape preferences and lead to routine or unhealthy behaviours.

The *personal food environment* represents the individual- and household-level factors that consumers bring to the food environment, such as purchasing power, access, convenience, affordability and desirability. They influence why people choose particular foods. Personal food environments are a counterpart to the dimensions of price, availability and vendor properties in the external food environment.

Source: UNICEF, 'Food Systems for Children and Adolescents', <www.unicef.org/nutrition/food-systems_103420.html>.

The impact of unhealthy food environments: Data on the triple burden of malnutrition

“The state of children’s malnutrition in the 21st century can be summed up like this: more children and young people are surviving, but far too few are thriving. They are not thriving in the crucial first 1,000 days, when the foundations for healthy, lifelong physical growth and mental development are laid. And they are not thriving at other crucial development stages of life across childhood and into adolescence.”

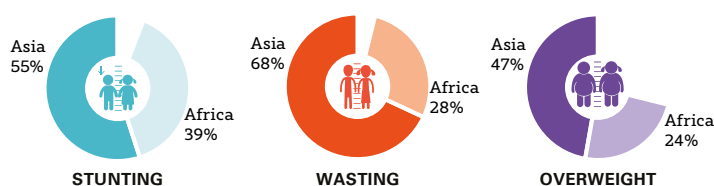
UNICEF, *The State of the World’s Children 2019*, page 18

Globally, 2 in 3 children aged 6–23 months do not receive the recommended minimum diverse diet they need in early childhood to grow healthy. Because many countries, communities and families face a multiple burden of malnutrition simultaneously, the various forms of malnutrition cannot be viewed as separate issues. Undernutrition early in life can lead to an increased risk of overweight and obesity later in life, especially when children and their families are confronted with a rapid shift to an obesogenic food environment that promotes high energy intake and sedentary behaviour.

While the proportion of children affected by undernutrition has been declining, albeit far too slowly to meet globally agreed targets, the proportion of children who are overweight is rising rapidly, including in regions that are still struggling with a high burden of undernutrition.

Globally, almost 200 million children under 5 suffer from stunting, wasting or both, and at least 340 million suffer from the hidden hunger of vitamin and mineral deficiencies. At the same time, 50 million children under 5 are overweight and the toll of overweight and obesity keeps rising, including in lower-income countries.⁴ Children in Asia and Africa, in particular, bear the greatest burden of all forms of malnutrition, as shown in Figure 1.

Figure 1. Children in Asia and Africa bear the greatest share of all forms of malnutrition



Note: % among all children under age 5, in 2018. **Source:** United Nations Children’s Fund, World Health Organization and World Bank Group, ‘Levels and Trends in Child Malnutrition’, WHO, Geneva, 2019, p. 3.

Worldwide reductions in stunting have been substantial, yet slow, while the rise in overweight has been rapid and widespread. Globally, between 2000 and 2018, the number of children under 5 who were stunted declined from 198.2 million to 149.0 million, while the number of children who were overweight increased from 30.1 million to 40.1 million.⁵

Widespread changes in food environments – including the increased availability, affordability and marketing of ultra-processed, unhealthy foods high in fats, salt and sugars – are the major driver of escalating overweight and obesity prevalence during the past 30 to 40 years.⁶ Poverty and inequality, which undermine access to and affordability of adequate nutritious and healthy food, are drivers of both obesity and vitamin and nutrient deficiencies, in addition to undernutrition.⁷

At a rapidly increasing rate, people are moving towards commercialized diets that rely heavily on unhealthy foods, high in saturated fats, salt and sugars, and inadequate in fruits, vegetables and whole grains.⁸ Consequently, many children's diets do not satisfy their nutritional needs, even if the amount of food being consumed may meet – or exceed – their basic energy needs.

Overweight and obesity across the life cycle: The need for prevention

As highlighted in *The State of Food Security and Nutrition in the World 2019*,⁹ the consequences of unhealthy diets do not always manifest in children until they are older. Figure 2 illustrates how the prevalence of overweight increases progressively across the life-course and is highest among adults.

Between 2000 and 2016, the prevalence of overweight rose across all regions and among all age groups – and the prevalence of obesity more than doubled among children and adolescents, as shown in Figure 3.

Figure 2. Global figures for overweight, by age group



Preschool children (<5 years)

Total population = 678 million of which **40 million** (or **5.9%**) are overweight



School-age children (5–9 years)

Total population = 638 million of which **131 million** (or **20.6%**) are overweight



Adolescents (10–19 years)

Total population = 1 billion of which **207 million** (or **17.3%**) are overweight

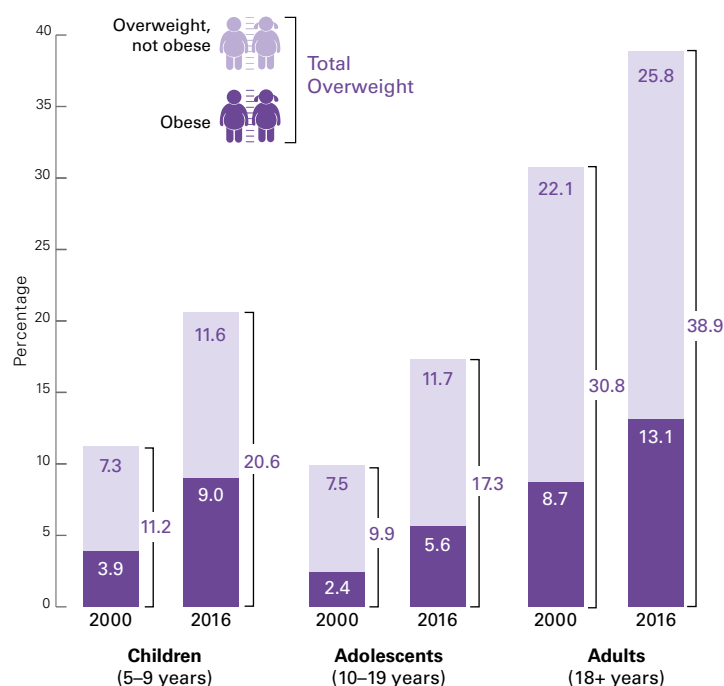


Adults (18+ years)

Total population = 5 billion of which **2 billion** (or **38.9%**) are overweight

Source: FAO, IFAD, UNICEF, WFP and WHO, *The State of Food Security and Nutrition in the World 2019*, FAO, Rome, 2019, p. 35.

Figure 3. Overweight and obesity prevalence, by age group, 2000 vs. 2016



Source: FAO, IFAD, UNICEF, WFP and WHO, *The State of Food Security and Nutrition in the World 2019*, FAO, Rome, 2019, p. 35.

The progressive increase in overweight and obesity across childhood and adolescence underlines the importance of healthy food environments for school-aged children and adolescents, but should not detract from important determinants early in life. A child's behavioural and biological responses to an obesogenic environment can be shaped even before birth, potentially setting up a pathway to obesity when faced with an unhealthy diet and low physical activity.

To address childhood and adolescent obesity, the environmental context needs to be considered during three critical time periods: preconception and pregnancy; infancy and early childhood; and older childhood and adolescence.¹⁰

Children who are affected by overweight, and specifically those who are affected by obesity, are at higher risk of developing non-communicable diseases (especially later in life) as well as cognitive, behavioural and emotional difficulties, including low self-esteem and lower scores on cognitive tests. Overweight and obesity in childhood can also result in stigmatization, poor socialization, depression and reduced educational attainment, thus interfering with other economic, social and cultural rights.¹¹

The high costs of inaction are borne by children and their communities

In addition to the personal costs of malnutrition, there are also significant economic costs, which further underscore the need for urgent action to prevent malnutrition. In Asia, for example, low weight, poor childhood growth and micronutrient deficiencies are estimated to average annual losses in gross domestic product (GDP) of 11 per cent. Globally, the economic impact of obesity is estimated to be US\$2 trillion, or 2.8 per cent of the world's GDP – roughly equivalent to the economic costs of smoking or armed conflict. Cumulatively, the impact of all forms of malnutrition could reach US\$3.5 trillion a year.¹²

Because of poverty and exclusion, the most vulnerable and disadvantaged children face the greatest burden of all forms of malnutrition, and the highest risk of non-communicable diseases. For far too many low-income and marginalized households, the right to healthy food and adequate nutrition is not realized because food options are limited.¹³

The impacts of restricted access to healthy food are compounded in contexts where foods of low-nutritional quality are readily available, inexpensive and heavily marketed. This is a violation of children's fundamental right to non-discrimination.

As the data make clear, the consequences of unhealthy food environments are grave and life-long, undermining the right to health and adequate nutrition in childhood, and jeopardizing the futures of children, communities and nations.

“There is a need for bridging the disconnect between policies that address underweight and overweight in children and adolescents to coherently address the large remaining underweight burden while curbing and reversing the rise in overweight and obesity.”

NCD Risk Factor Collaboration (NCD-RisC)

‘Worldwide Trends in Body-Mass Index, Underweight, Overweight, and Obesity from 1975 to 2016’, The Lancet, vol. 390, October 2017, page 2628

How food environments are driving malnutrition and failing to protect children's rights

As noted by the Committee on the Rights of the Child, children's health has been affected by many shifting factors and changes are likely to continue.¹⁴

The Special Rapporteur on the Right to Food has stated that the underlying causes of malnutrition in all its forms include poverty and gender inequality, exacerbated by inadequate sanitation, health, and education services. In many parts of the world, food systems are dominated by industrial production and processing, along with trade liberalization and aggressive marketing strategies. These practices promote unhealthy eating habits and a dependence on highly processed, nutrient-poor foods. Inequalities in access to and control of productive resources, and unsustainable food production and consumption patterns further contribute to food systems that are ill-equipped to meet the nutritional needs and rights of children.¹⁵

Industrialized food systems are also among the greatest drivers of environmental degradation and climate change, which, in turn, further undermine access to adequate nutritious food, especially among children.¹⁶

Malnutrition is not only caused by a lack of calories or micronutrients; it is also the result of unhealthy food environments that do not provide adequate nutritious foods and do not support healthy food consumption habits.

Aspects of modern food environments that drive malnutrition

While there are many barriers to protecting children's rights in modern food environments, this advocacy brief identifies the following as particularly important:

"Despite all the technological, cultural and social advances of the last few decades, we have lost sight of this most basic fact: If children eat poorly, they live poorly."

Henrietta Fore, UNICEF Executive Director

UNICEF, 'Poor Diets Damaging Children's Health Worldwide', 22 October 2019, <www.unicef.org/uzbekistan/en/press-releases/poor-diets-damaging-childrens-health-worldwide-warns-unicef>

- **Healthy foods are not available, and unhealthy foods are predominant.**

The lack of physical access to adequate nutritious food is frequently described as a 'food desert', where neighbourhoods have little or no access to healthy food markets, while the overabundance of energy-dense low-nutrient products and fast-food and convenience outlets is referred to as a 'food swamp'.¹⁷ Both situations are often found in low-income urban neighbourhoods.

In a recent study, London's Child Obesity Taskforce spoke with children and families in the city's poorest neighbourhoods to better understand how they viewed their food environments. Children who have only experienced unhealthy foods, due to their affordability and accessibility, have entrenched food habits and are reluctant to eat healthy foods even when they are available.¹⁸

"We are not able to eat healthy food because we have already tasted junk food and are now attracted to that only."

Boy, 14, India

UNICEF, The State of the World's Children 2019: Children, food and nutrition, page 26

- **Healthy foods are not affordable.** Low-income families are especially vulnerable to economic barriers to food accessibility; these families may not be able to afford sufficient nutritious food for a healthy diet without having to forgo or compromise other basic needs, such as education, health care and housing.¹⁹ In addition, when parents work full-time, commute to work, or require more than one job to support their families, they may also be constrained by ‘time poverty’, making it difficult or impossible to find time to buy the ingredients and prepare healthy meals.

- **Children are particularly vulnerable consumers.** But they face pervasive and relentless exposure to emotion-based marketing strategies on unhealthy food,²⁰ across multiple media (from television to digital), in settings where they should be protected (e.g., schools, online) and in retail environments where daily food purchases are made.²¹ Children’s ability to perceive persuasive selling intentions varies at different ages, and even older children can be susceptible to marketing or lack the motivation to apply cognitive defences against the effects of exposure.²²

- **The commercialization of childhood.** Food companies intentionally target unhealthy food marketing to children and their caregivers to encourage them to buy unhealthy food and to create ‘positive, emotional brand associations’, which are the most effective long-term form of marketing and can change social norms.²³ Through these marketing strategies, children’s vulnerabilities are exploited for commercial gain.

Commercializing childhood and exploiting children’s ‘pester power’ undermines parents’ and other caregivers’ efforts to

support a healthy diet and contributes to the development of unhealthy food preferences. Furthermore, unhealthy food marketing disproportionately aims to reach disadvantaged children from particular racial, ethnic and/or socio-economic groups, which exacerbates health and nutrition inequities and violates the right to non-discrimination.²⁴

- **Industrialized low-cost food production prevails.** Manufacturers focus on increasing production and maximizing efficiency at the lowest possible economic cost, meaning that many ultra-processed packaged foods have excessive amounts of low-cost fats, salt and sugars. Reflecting their affordability, availability and aggressive marketing strategies, 77 per cent of processed food sales worldwide are controlled by just 100 large firms.²⁵
- **Misleading and inadequate labelling practices continue to be a widespread problem.** Existing regulations on nutrition labelling, in particular those related to consumer-friendly front-of-pack and menu labelling, can be weak, voluntary or entirely absent.²⁶ The absence of sufficient, clear and accurate information undermines the ability of parents and other caregivers to choose healthy foods. It also disempowers children, who are capable of understanding simplified, consumer-friendly messages and can become advocates for healthy diets in their families and communities.²⁷
- **Conflicts of interest and abuse of power persist.** Current safeguards are insufficient to prevent negative corporate influences on nutrition and marketing governance. Because industry self-regulation has proved to be widely ineffective, much stronger mechanisms are needed to ensure that the private sector does not use its position as a ‘stakeholder’ to influence public policymaking for private commercial gain to the detriment of children’s right to healthy food and adequate nutrition.²⁸ As a general rule, private sector actors should not be involved in the development of policies, but rather, in their implementation. Such safeguarding mechanisms are needed to protect nutrition policymaking processes at local, regional, national and international levels.

“Marketing strategies are particularly harmful when they target untapped markets in developing nations, a spillover from the ‘saturation’ of markets in developed countries. ... If left uncontrolled, undernutrition in lower-income countries will be rapidly eclipsed by obesity and non-communicable diseases, as is already the case in China, India and many middle-income countries.”

Hilal Elver, United Nations Special Rapporteur on the Right to Food

Interim Report of the Special Rapporteur on the Right to Food, A/71/282, United Nations, 3 August 2016, para. 34

Safeguarding all children: Building policies to uphold the interlinked rights established in the CRC

Malnutrition is often viewed as a result of the failure to protect essential human rights, due largely to insufficient action, governance and accountability. Applying a human rights-based approach to preventing and reducing malnutrition ensures the implementation of procedural rights – including participation, accountability, non-discrimination and transparency.²⁹ Accordingly, governments should adopt protections to foster healthy food environments that promote and enhance the overall well-being of every child. This requires policymakers to consider how food environments impact on children’s physical, psychological, spiritual, social, emotional, cognitive, cultural and economic development.³⁰

The CRC makes it clear that the right to health and to adequate nutritious food must be regarded as a fundamental human right,³¹ and that special protections must be extended to children to ensure their right to enjoy the highest attainable standard of health (article 24). Over the years, the Committee on the Rights of the Child has issued several general comments to support governments in combating malnutrition and safeguarding every child’s right to a healthy food environment.³²

The Food and Agricultural Organization (FAO) Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security³³ represent aligned efforts that draw from the CRC and its Optional Protocols. Despite their voluntary character, these guidelines are essential tools that help policymakers apply a human rights lens to planning and implementing policies that aim at promoting healthier food environments.

“Applying a human-rights-based approach to the child’s right to food and nutrition in a holistic manner requires good governance and political will at national and international levels. Once this political will is garnered, improving participation, accountability, monitoring and transparency are the first steps to implementing human rights principles effectively.”

Hilal Elver, United Nations Special Rapporteur on the Right to Food

UNICEF, The State of the World’s Children 2019, page 33

Placing children’s rights at the centre of government efforts

Discussing food environments within a rights-based framework is vital to ensuring that the marginalized and vulnerable populations who are disproportionately affected by malnutrition are guaranteed access to adequate nutritious food. This includes support and protection for optimal infant and young child feeding practices and creating a food environment that ensures adequate nutritious food, rather than the minimum number of calories needed to survive. Social protection programmes, for example, should be robust enough so that low-income households are able to buy an adequate amount of food that is nutritious and healthy.³⁴

Creating food environments that support a healthy diet and respect children's rights requires policymakers to weave the links of associated rights³⁵ into strong and effective policies and programmes. This will contribute to protecting the broad range of children's fundamental rights, specifically those related to healthy food environments which are secured in the following articles of the CRC, as outlined in Figure 4.

In the 30 years since the CRC's adoption and its progressive ratification, many crucial aspects of the food environment have changed, accompanied by changes in the causes and nature of malnutrition among children.

Figure 4. CRC articles on rights related to healthy food environments for children

				 1 1 A 'child' is every human being below age 18 DEFINITION OF A CHILD	
2 No child can be denied their rights or treated unfairly for any reason	 2 NO DISCRIMINATION	3 The best interests of the child must be a primary consideration in all decisions and actions that concern them	 3 BEST INTERESTS OF THE CHILD	4 Governments must take all appropriate measures to ensure the rights of all children within their jurisdiction, through international cooperation when needed	 4 MAKING RIGHTS REAL
 6 LIFE, SURVIVAL AND DEVELOPMENT	6 Ensure children's survival and the chance to develop to their fullest potential	 12 RESPECT FOR CHILDREN'S VIEWS	12 The right to freely express their views, and to be heard in any judicial and administrative proceedings that affect them	 16 PROTECTION OF PRIVACY	16 Every child has the right to privacy
17 Access to accurate information from multiple sources and in all types of media, with protection from harmful material	 17 ACCESS TO INFORMATION	18 Parents or legal guardians have primary responsibility for children's upbringing and development, and governments must offer appropriate assistance	 18 RESPONSIBILITY OF PARENTS	24 Highest possible standard of health, combating disease and malnutrition, including the provision of nutritious foods, clean drinking water and preventive health care	 24 HEALTH, WATER, FOOD, ENVIRONMENT
 27 FOOD, CLOTHING, A SAFE HOME	27 Adequate standard of living – nutrition, clothing, housing – and support for families who need assistance	 28 ACCESS TO EDUCATION	28 Every child has the right to education	 29 AIMS OF EDUCATION	29 Encouraging development of their personality, talents, and mental and physical abilities
31 The right to rest and leisure, to engage in play and to participate in age-appropriate recreational activities	 31 REST, PLAY, CULTURE, ARTS	32 Protection from economic exploitation	 32 PROTECTION FROM HARMFUL WORK	36 and from all other forms of exploitation, including those not mentioned in the Convention	 36 PROTECTION FROM EXPLOITATION

Source: United Nations, *Convention on the Rights of the Child: Certified true copy*, United Nations, New York, 20 November 2019.

Accordingly, UNICEF’s response continues to evolve towards a multidimensional systems approach that addresses all forms of malnutrition.³⁶ The launch of UNICEF’s Framework on Food Systems for Children and Adolescent, the UNICEF Programming Guidance for Overweight and Obesity Prevention in Children and Adolescents, *The State of the World’s Children 2019 on Children, Food and Nutrition* and the upcoming Nutrition Strategy 2020-2030 demonstrate the centrality and importance of responsive action.

Governments also need to adapt to these changes in order to guarantee the rights to which children are entitled. This advocacy brief recommends specific actions to support governments in their efforts to uphold the CRC, and to advance in the protection, respect and fulfilment of all children’s rights. Initiatives for and with children and those who care for them can be designed according to evidence on their evolving capacities during all phases of life, from supporting the rights of pregnant and lactating women³⁷ to recognizing the particular strengths and vulnerabilities of adolescents.³⁸

“States [governments] should adopt a national strategy to ensure food and nutrition security for all. This strategy should address critical issues and measures in regard to all aspects of the food system, including the production, processing, distribution, marketing and consumption of safe food, as well as parallel measures in the fields of health, education, employment and social security.”

CESCR General Comment No. 12: The Right to Adequate Food (Art. 11), E/C.12/1999/5, United Nations, 12 May 1999, paras. 21–28

In all cases, children’s rights – and the best interests of the child – must be at the centre of government efforts to create healthy food environments. Governments, as the primary duty-bearers of children’s rights, should therefore prioritize efforts to address the root causes of poor health among children, and should ensure, among other things, the availability of and access to adequate nutritious food and a healthy and safe environment.³⁹

BOX 2

International guidance for government, business and civil society

Governments have specific duties to protect, respect and fulfil children’s rights as set out in the Convention on the Rights of the Child, a binding international treaty dedicated to child rights and further developed in the General Comments of the Committee on the Rights of the Child. Other binding international legal frameworks addressing government obligations to uphold children’s rights include the International Covenant on Economic, Social and Cultural Rights, including the General Comment No. 24 of the Committee

on Economic, Social and Cultural Rights;^[1] and the Convention on the Elimination of All Forms of Discrimination Against Women. These treaties require governments to take actions to address child rights violations and deprivations, including the harmful impact of business practices on children.

Industry responsibilities in protecting child rights are primarily defined in the United Nations Guiding Principles on Business and Human Rights^[2] and the Organisation for Economic

Co-operation and Development Guidelines for Multinational Enterprises.^[3] How the CRC can be applied by business is described in the Committee on the Rights of the Child’s General Comment No. 16^[4] and the Children’s Rights and Business Principles.^[5]

Civil society and academia can use these documents as a framework for advocacy and multi-stakeholder dialogue and collaboration.

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We need to take action: Using a child rights-based approach to prevent and reduce malnutrition in all its forms

“One word must be at the heart of our response to children’s malnutrition – action. We need action that reflects the core role of food systems, that strengthens the supply of – and demand for – better food, that improves children’s food environments, and leverages the role of key supportive systems.”

UNICEF, *The State of the World’s Children 2019*, page 10

The CRC acknowledges and addresses the unique sensitivities of children and their need for special protection. Through the articulation of a wide array of rights, it sets out a legal framework for a child rights-based approach to regulating unhealthy food environments and establishes the corresponding obligations of governments (‘States Parties’ to the Convention, as established in article 2).

A child rights-based approach begins with four basic premises: (a) children are rights holders, distinct from their parents or legal guardians, and governments are the corresponding duty-bearers; (b) the

standards and principles of international human rights treaties should guide all policies and practices that can have impacts on children; (c) government agencies and other stakeholders should strengthen children’s capacities to understand and claim their rights, and develop the capacities of governments to understand and meet their obligations;⁴⁰ and (d) children should know about and have easy access to remedies that are designed for their situation and be given fair, prompt responses.

As specifically related to the CRC, four general principles guide the delivery of all rights enshrined in this treaty (*see Box 3*).

BOX 3

General principles of the Convention on the Rights of the Child

Non-discrimination: all children have the right to be treated equally regardless of their race, colour, sex, language, disability, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (article 2).

The best interests of the child: children’s best interests must be a major factor in all actions or decisions that concern them, particularly in relation to their care and protection (article 3).

Life, survival and development: the child’s inherent right to life, and State Parties’ obligation to ensure to the maximum extent possible the survival and development of the child (article 6).

Participation: the child’s right to express his or her views freely in all matters affecting the child, with those views being given due weight (article 12).

Because the CRC is an international human rights treaty, governments that ratify it are legally bound to uphold their commitments.

Once the concept of ‘rights’ is introduced in policymaking, the rationale for regulating unhealthy food environments no longer derives merely from the fact that children have needs, but also from the fact that they have rights. This highlights government obligations to respect, protect and fulfil these rights for all children, and it also brings powerful new arguments to bolster efforts where third parties’ vested interests may challenge evidence and undermine policy efforts.

Children’s right to a healthy food environment can be achieved by fulfilling the interlinked and mutually supportive rights set forth in the CRC, as illustrated in Figure 5.

The CRC guides the way forward

The 30th anniversary of the CRC marks a moment of great celebration and a time for serious reflection. In a changing world, the face of malnutrition is evolving, and the promotion of healthy food environments is essential in efforts to end all forms of malnutrition.

As the primary duty-bearers of children’s rights, governments have the responsibility to ensure the realization of every child’s right to healthy food and adequate nutrition.

Because the CRC is an international human rights treaty, governments that ratify it are legally bound to uphold their commitments and be accountable for its implementation, including by introducing measures to advance children’s rights.

Figure 5. The rights enshrined in the CRC are interlinked and mutually supportive



As States Parties, they enter into a binding agreement, asserted in article 4, to “undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.”

The recommended actions listed at the end of this advocacy brief are proposed to achieve the following outcomes:

- Governments develop and enforce policies and regulations that ensure nutritious and affordable food and healthy and sustainable food environments for all children.
- All children are protected from the harmful impact of inappropriate promotion, marketing and advertising of unhealthy foods.
- Food industry complies with government policies and regulations and is incentivized to do the right thing for all children.
- All families, caregivers and children learn about healthy food preferences and have access to and demand nutritious foods.

This list should not be considered exhaustive. While discussions on food environments to date have focused primarily on obesity prevention, UNICEF aspires to an expanded narrative that includes the prevention all forms of malnutrition. Listing the actions by CRC articles does not mean they are mutually exclusive. Rather, all of the rights are interconnected and can be used to find ways to connect the actions to each other.

A comprehensive and integrated rights-based approach is required to transform the unhealthy food environments that leave children exposed to violations of multiple fundamental rights. In the long term, this collective work involves identifying policy actions that address all forms of malnutrition and give children access to more affordable, sustainable and nutritious diets – while supporting governments in making this goal a reality.



List of recommended actions to support healthy food environments using a child rights-based approach

Acknowledging the universal, indivisible, interrelated and interconnected nature of human rights to which children are entitled, the following is a non-exhaustive list of recommended complementary policy actions for protecting the human rights declared in the CRC, particularly those that are negatively impacted by unhealthy food environments.⁴¹



Article 1: Definition of a child

- ✍ A 'child' is any human being up to age 18, and full protection extends to all children, everywhere, including in food marketing regulations.
- ✍ To ensure the greatest possible impact for all children, policies on food environments should be comprehensive and strong; that is, they should cover all children up to age 18, in all relevant settings, and be mandatory, based on nutrient profile models, and set ambitious targets for supporting the right to healthy food and adequate nutrition.



Article 2: Non-discrimination

- ✍ Access to nutritious, safe and affordable food must be provided on the basis of the rights and needs of children and all other people, not on the basis of financial return.
- ✍ Nutrition policies and programmes must be developed within:
 - a rights-based framework to ensure that marginalized and vulnerable children/families disproportionately affected by malnutrition – including indigenous, low-income, rural and migrant communities, girls and women – are guaranteed an optimal level of nutrition and health by ensuring a nutritious, sustainable and healthy diet for all; and
 - a comprehensive life-course approach ensuring that the needs of all children from birth through adolescence and adulthood are considered.
- ✍ Enable households to readily access nutritious, safe, affordable and culturally food by introducing strategies such as economic incentives and zoning laws to bring fresh fruit and vegetable markets to low-income neighbourhoods, and limit the number of fast food vendors, unhealthy food outlets and/or convenience stores in areas with high density.
- ✍ Ensure no child is discriminated against or stigmatized on the basis of their nutritional status. This includes adopting policies that promote positive attitudes towards a healthy weight range in schools, recreational and sports activities, and health services.



Article 3: Best interests of the child

- ✍ Children's best interests must be given primary consideration in all actions and decisions that concern their nutrition. This means ensuring that commercial and other interests are not given priority over the best interests of the child and limiting the influence of commercial actors on policy development.
- ✍ Systematically consider the 'best interests' principle in developing, implementing and assessing policies that have a potential impact on children and young people.
- ✍ Include a child's rights perspective throughout the public-policy life cycle related to food and nutrition, including in mandatory child rights impact assessments, which are legislated domestically.

- ✍ Promote and enable the establishment and functioning of accountability mechanisms, such as an ombudsperson for child nutrition, children's commissioner, child advocate or other public authorities for the protection of children as a particularly vulnerable group of food consumers.
- ✍ Implement mandatory standards that ban unhealthy foods in protected spaces that should be free from commercialization, such as schools, early childhood education and care services.



Article 4: Governments to ensure the rights of all children within their jurisdiction

- ✍ Develop comprehensive national and local action plans, across all relevant government sectors and departments,⁴² including specific measures for the promotion of optimal diets for children.
- ✍ Develop appropriate mechanisms to ensure that child rights concerns are addressed across all sectors of government. For example, a high level of public health protection should not only be pursued via earmarked budgets and distinct policies focused on nutrition, it must also be incorporated within relevant policy areas and across national and local levels of jurisdiction.
- ✍ Adopt appropriate and strong regulations to protect children from the effects of an unhealthy food environment. Ensure that such regulations are fully implemented, monitored and enforced.
- ✍ Ban all forms of marketing of unhealthy foods and beverages to which children are likely to be exposed, including advertising through all types of media (television, print, social media, digital games and others), the use of licensed characters to promote unhealthy food products, and sponsorship of all children's sporting events (and other events that are likely to be attended by children).⁴³
- ✍ Include specific and explicit provisions for preserving the regulatory capacity to protect and promote public health – with attention to vulnerable groups such as children – in trade and investment agreements, and develop formal public nutrition and health risk assessments as part of the national interest analysis on trade and investment agreements.
- ✍ Conduct risk assessments of potential partnerships or consultations to identify and address potential risks involved in multi-stakeholder engagements, and ensure that an eventual engagement would not contribute to perpetuating an unhealthy food environment or other harmful effects on children's rights.
- ✍ Strengthen all procedures to prevent and manage conflicts of interest to ensure that food industry representatives are not involved in policy development.
- ✍ Ensure that nutrition advisory committees, public health organizations and other civil society organizations can be proactively involved in food and nutrition policy and programme development, implementation and evaluation through formal platforms that are free from conflicts of interest.
- ✍ Provide access to remedies for rights violations. Take appropriate measures within the territory and/or jurisdiction to ensure that those affected by human rights abuses related to unhealthy food environments – including children – have access to effective judicial and non-judicial remedies. This implies the establishment of an appropriate and effective remedy infrastructure through judicial, administrative, legislative or other relevant means.⁴⁴



Article 6: Children's survival and the chance to develop to their fullest potential

- ✍ Promote optimal development for every child through the implementation of preventive measures, including effective policies to increase the availability, accessibility and affordability of adequate nutritious food.
- ✍ Ensure that all schools and early childhood education and care services provide nutritious meals or snacks and are free of unhealthy foods and beverages.
- ✍ Restrict the availability of foods high in fats, salt and sugars to children in all settings where they gather, such as leisure facilities, cinemas, sports events and supermarkets.

- ✎ Use policies, such as subsidies, to encourage the consumption of healthier foods.
- ✎ Discourage consumption of unhealthy products through measures such as taxes or levies on sugar-sweetened beverages and other sugary products – and explore how the revenue could be applied to create healthy food environments and promote healthy diets.
- ✎ Develop and disseminate guidelines with practical actions for the promotion of healthy diets in schools and other settings where children gather.
- ✎ Set food composition standards or food reformulation targets (e.g., reduce fats, salt and sugars), through regulation or co-regulation, for packaged foods as well as out-of-home foods and meals.
- ✎ Set and apply consistent standards to promote fairness towards the food industry sector and encourage innovations that offer consumers healthier options, while ensuring compliance and alignment with national nutrition goals.
- ✎ Establish mandatory, evidence-based, consumer-friendly front-of-package food labelling (that is prominent and easily readable) for all packaged food products; and implement mandatory nutrient declarations with information on all nutrients, including fats, salt and sugars.
- ✎ Apply a consistent, simple and clearly visible system of labelling on the menu boards of all quick service restaurants (fast food chains) that enables consumers to interpret the nutrient quality and energy content of foods and meals.
- ✎ Establish regulations to decrease the visibility/appeal of unhealthy food in retail settings and avoid placing them within reach of small children; and require supermarkets to display fruits and vegetables in highly noticeable and accessible locations.



Article 12: The right of children to freely express their views in all matters affecting them and to be taken seriously, including the right to be heard in judicial and administrative proceedings

- ✎ Develop policies, legislation, regulation and interventions through participatory processes that include children's views about how various measures relate to them, based on their evolving capacities to assess them and shape alternatives.
- ✎ Establish and disseminate official participation mechanisms for children, ensuring they are aware of their right to be heard and to influence processes that affect them. This includes respecting children's right to participate in digital media.
- ✎ Enable children to demand their rights and claim redress when their rights are violated, including through child rights education, legal and paralegal aid, and access to independent complaints procedures and the courts.
- ✎ Ensure that children (personally, through a parent or guardian, or through a legal representative) can initiate judicial and administrative proceedings on matters related to unhealthy food environments that affect their rights. Provide appropriate, effective and child-sensitive mechanisms in national legislation that enable children to express their views and seek remedy; and strengthen the role of national human rights and civil society institutions in supporting children's access to remedy.



Article 16: Every child's right to privacy;

Article 32: Protection from economic exploitation;



Article 36: Protection from all other forms of exploitation,⁴⁵ including those not mentioned in the Convention

- ✎ Protect children's right to participate in the digital environment, banning the use of techniques that collect and exploit their personal data for commercial purposes related to unhealthy food.
- ✎ Protect children from behavioural manipulation via digital media marketing, whether by persuasive design and/or extraction and use of their personal data, including what sites they access and what content they 'like'.
- ✎ Ensure that children are not encouraged to disseminate unhealthy digital marketing content to peers via 'likes', hashtags, or sharing commercial content or their own personal photos.



- ✍ Ensure that children are not exposed to harmful material, and that their private and personal online behaviours are not tracked and monitored for subsequent targeted marketing, profiling and algorithmic discrimination.
- ✍ Develop guidelines and regulations for online content targeted at children to ensure that content creators – including individuals, ‘influencers’, companies and organizations – do not engage in any type of unhealthy food marketing (whether disclosed or undisclosed) or encourage children to engage in online behaviours that are used to promote unhealthy food products and habits.



Article 17: Access to accurate information and protection from harmful material

- ✍ Launch informative campaigns that highlight the negative health impacts of sugar-sweetened beverages and other unhealthy foods.
- ✍ Require platforms and publishers to restrict content that may be harmful to children, including misleading marketing and other harmful content.
- ✍ Prohibit the use of toys, giveaways or other incentives that aim to entice children to consume unhealthy foods and meals or are linked to the promotion of particular brands.
- ✍ Strengthen the digital media literacy and digital competencies of children, families and caregivers to help them critically assess the food and nutrition-related content they are exposed to through online environments and other digital technology.



Article 18: Parents or legal guardians have primary responsibility for children's upbringing and development, and governments must offer appropriate assistance

- ✍ Support families and empower parents through opportunities to build skills and competencies so that all children can grow in healthy family environments.
- ✍ Raise awareness among parents and other caregivers of all forms of children's exposure to unhealthy food marketing and incentivize them to become active in promoting healthy food environments.
- ✍ Provide accessible and consistent platforms for public policymakers and regulators to hear from parents and other caregivers on their concerns and ideas for the food environment.
- ✍ Implement initiatives to protect, promote and support exclusive breastfeeding in the first six months after birth, and continued breastfeeding for two years or beyond, together with safe and appropriate complementary feeding. Also set global and national targets for continued breastfeeding, complementary feeding and healthy diets.
- ✍ Establish maternal nutrition and antenatal care programmes that offer nutrition and health services for mothers and their infants; and provide long-term and sustained care for complex non-communicable diseases.
- ✍ Promote supportive policies for mothers, parents and families, including parental leave and the provision of time and spaces for breastfeeding in the workplace and in public places.
- ✍ Prohibit the promotion of breastmilk substitutes, feeding bottles and teats, in accordance with the International Code of Marketing of Breast-milk Substitutes and subsequent World Health Assembly Resolutions.



Article 24: Right to health and to adequate nutritious food

- ✍ Apply a comprehensive, life-course approach to national health and nutrition plans/strategies, including awareness-raising initiatives to promote good nutrition and support for healthy lifestyles that include physical activity.
- ✍ Support health systems to provide screening and treatment for anaemia, vitamin A deficiency, growth failure and excessive weight gain.
- ✍ Subsidize or remove taxes or duties to make healthy food more affordable, and tax unhealthy food to discourage purchase and shift behaviours.

- ✍ Ensure that national efforts to secure every child's right to the highest possible standard of health include preventive health care, environmental sanitation and clean drinking water, and adequate nutritious food to combat malnutrition.
- ✍ Promote international cooperation in realizing these rights, particularly considering the needs of developing countries.



Article 27: Adequate standard of living (nutrition, clothing, housing) and assistance for families when needed

- ✍ Build spaces that promote healthy diets and physical activity in safe and healthy contexts, including low-income neighbourhoods.
- ✍ Encourage public agencies and community institutions to adopt a 'healthy food in all policies' approach, in which the nutritional and health impact of zoning and community development, affordable housing, retail expansion, taxation, subsidies and other measures of well-being are considered before the policy or programme is implemented.
- ✍ Stimulate the availability, accessibility and affordability of nutritious, easy-to-prepare foods, particularly in low- and middle-income countries.
- ✍ Provide food transfers, school feeding programmes, food vouchers or cash transfers and other social protection measures to ensure children's access to healthy, nutritious and diverse diets.
- ✍ In crisis-prone areas, ensure that ready-to-use therapeutic foods for the treatment of acute malnutrition in children are quickly and easily available by facilitating local production or removing barriers to import.



Article 28: Education for every child;

Article 29: Education will be directed to encourage development of the child's personality, talents, and mental and physical abilities

- ✍ Support schools in updating their curricula to integrate information on nutrition that shapes lifelong healthy habits, and to tailor food programmes (for undernutrition or overweight) and increase child/caregiver participation in school meal programmes and other school food initiatives.
- ✍ Expand school and community nutrition education to reduce the promotion and prevalence of unhealthy food at community, city, provincial/state and national levels.
- ✍ Include education programmes that foster children's ability to make balanced decisions regarding nutrition and healthy living.
- ✍ Educate children and families about the persuasive strategies and effects of media, including digital media and the impact of marketing that goes beyond 'media literacy'.



Article 31: The right to rest and leisure, to engage in play, and to participate in age-appropriate recreational activities

- ✍ Prohibit low-nutrition beverage sales and marketing in settings where children gather, including recreational settings such as parks, playgrounds and malls.
- ✍ Set school schedules that provide adequate time during the day for physical activity and active play in safe recreational spaces.
- ✍ Regulate unhealthy food marketing strategies that use online games and other means of recreation for children – including television, movies, books and social media for all age groups, as well as businesses and restaurants that give away toys to market unhealthy foods – thus ensuring children's right to play without exposure to harmful or misleading content.

Endnotes

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- 2 Governments that have ratified the CRC, and their agencies, are officially referred to as 'States Parties' and they are the primary duty-bearers; this advocacy brief primarily uses the term 'governments'.
- 3 Optional Protocols to the Convention on the Rights of the Child are treaties in their own right, open to signature, ratification or accession. They are 'optional' because the obligations they delineate may be more demanding than those in the CRC, so governments must independently choose whether or not to be bound by them. These protocols may be on any topic relevant to the CRC and are used to further address something in the original treaty, respond to a new or emerging concern, or add a procedure for the operation and enforcement of the treaty. In May 2000, the United Nations General Assembly adopted two Optional Protocols: (1) on the involvement of children in armed conflict; and (2) on the sale of children, child prostitution and child pornography. In 2011, an Optional Protocol was adopted on a communications procedure that allows children or their representatives to bring complaints directly to the Committee on the Rights of the Child. The Committee then investigates the claims and can direct governments to take action. *For more information on the Optional Protocols to the CRC, see: UNICEF, <www.unicef.org/child-rights-convention/strengthening-convention-optional-protocols>.*
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- 13 *Ibid.*, p. 96.
- 14 Committee on the Rights of the Child, 'General Comment No. 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health', CRC/C/GC/15, United Nations, 17 April 2013, para. 5.
- 15 Elver, Hilal, 'Interim Report of the Special Rapporteur on the Right to Food', A/71/282, United Nations, 3 August 2016, para. 2. *For more information, see:* Commission on Ending Childhood Obesity, 'Report of the Commission on Ending Childhood Obesity', World Health Organization, Geneva, January 2016; United Nations General Assembly, 'Time to Deliver: Accelerating our response to address non-communicable diseases for the health and well-being of present and future generations', Political declaration of the third high-level meeting of the General Assembly on the prevention and control of non-communicable diseases, A/RES/73/, United Nations, 17 October 2018; World Health Organization, 'Implementing the UN Decade of Action on Nutrition 2016–2025', <www.who.int/nutrition/decade-of-action/information_flyer/en/index1.html>; and Elver, Hilal, 'Interim Report of the Special Rapporteur on the Right to Food', A/74/164, United Nations, 15 July 2019.
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- 40 United Nations Children's Fund, *A Child Rights-Based Approach to Food Marketing*, UNICEF, Geneva, April 2018, p. 30.
- 41 The recommendations for action are based on in-depth consultations among UNICEF, OHCHR and other colleagues, and draw from the extensive evidence found in the sources cited throughout this advocacy brief, along with the following documents (in alphabetical order, by author):
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- 42 The relevant sectors of government include, for example, the national treasury and ministries with authority for regulating health, food and agriculture; trade, commerce, industry or business; legal and consumer affairs; information technology, media or communications; family affairs and child protection; and/or education, culture and sport.
- 43 International guidance on the restriction of marketing to children can be found, for example, in the: International Code of Marketing of Breast-milk Substitutes (1981) and relevant World Health Assembly Resolutions; WHO Guidance on ending the inappropriate promotion of foods for infants and young children; and WHO Set of recommendations on the marketing of foods and non-alcoholic beverages to children (2010).
- 44 Given how accountability is core to a rights-based approach, access to remedy is a key action point across the different rights. The legal basis is the International Covenant on Civil and Political Rights (article 2) and the Committee on the Rights of the Child's General Comment No. 5 (CRC/GC/2003/5), in particular, paragraph 24: "For rights to have meaning, effective remedies must be available to redress violations. This requirement is implicit in the Convention and consistently referred to in the other six major international human rights treaties. Children's special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights. So States [governments] need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives." Child agency is further discussed in this General Comment, including the provision of child-friendly information, advice, advocacy, and access to independent complaints procedures and to the courts with necessary legal and other assistance.
- 45 Discussing the impacts of economic exploitation in regard to food environments is a rather new concept. In its discussion paper 'Children and Digital Marketing: Rights, risks and opportunities' (2018), UNICEF identifies economic exploitation and violations of privacy as key child rights concerns. Reflecting concepts developed in the discussion paper, privacy and the right to be free from economic and all other forms of exploitation are discussed together in the advocacy brief list of actions.

