

On the Performance of the State's Obligation to Protect the Right to Food: Taking Food Conservation and the Combat Against Food Waste as Examples

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Abstract: *Food and food waste have multi-dimensional impacts on and pose threats to the state's performance of its obligation to protect the right to food. Under the guidance of the holistic food security concept and the governance philosophy of classified regulation balancing public and private interests, the anti-waste regulatory framework constructed around food loss and food waste has effectively ensured the adequacy, availability and accessibility of food, and enriched the rule-of-law strategies for the state to fulfill its obligation to protect the right to food. Nevertheless, the practice path of the holistic food security concept remains to be optimized; the "command-and-control" operation mode of the repressive classified regulatory model neglects the heterogeneity of subjects of waste conduct and their specific regulatory logic. Guided by the new concept of national food security protection, drawing on the beneficial legal experience of other countries, and adopting the dual classified regulatory model of responsive law and autonomous law, we shall fully safeguard the state's performance of its obligation to protect the right to food, and optimize and shape a Chinese-style realization model of the state's obligation to protect the right to food in a multi-dimensional manner.*

Keywords: the right to food ♦ state's obligation to protect ♦ waste regulation ♦ autonomous law ♦ responsive law

In recent years, the growing number of food security risk factors, including armed conflicts, economic shocks, public health emergencies, climate crises, and soaring costs, has made the protection of the right to food increasingly prominent. Disparities in socioeconomic conditions and the allocation of environmental resources have begun to directly affect individuals'

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ability to realize this right. As a result, risks to food affordability, availability, quality, and security have increased, while gaps in sustainability and adaptive capacity continue to widen, ultimately leading to food crises within the community. According to a food security index report,¹ China achieved a perfect score of 100 in both the “Food Security Net Programme” and “Policy Support for Food Security and Access.” This underscores the pivotal role of the existing framework for the State’s fulfillment of its obligation to protect the right to food in consolidating the foundations of the national food security strategy. However, the score for “Policy Guarantees for Adaptability” is markedly lower, at 66.2, suggesting that the current legal system for protecting the right to food remains insufficiently equipped to respond to the increasing complexity of global food security risks. This disparity points to the need to further enhance the coherence and comprehensiveness of the existing system. The *Food Waste Index Report 2024*² notes that the G20 has connected the fight against hunger with the three major global crises of climate change, pollution, and biodiversity loss, while also promoting educational initiatives to raise awareness of food waste. The *Kunming-Montreal Global Biodiversity Framework*³ has acknowledged the linkage between food waste and biodiversity loss, and explicitly sets the target of halving global food waste by 2030. Actually, the objectives of “consolidating the foundations of food security” and “implementing a national food security strategy” have been incorporated into the *National Human Rights Action Plan of China (2021-2025)*. Furthermore, existing legislation has brought food conservation and the prevention of food waste within the scope of legal regulation. The *Anti-food Waste Law* and the *Food Security Protection Law* jointly establish “a comprehensive perspective on food waste,” under which food waste is defined as the disposal of food or the reduction in food quantity or quality resulting from improper use, and also as losses occurring across the entire food supply

¹ <https://impact.economist.com/sustainability/project/food-security-index/download-the-index>, accessed August 10, 2023.

² https://wedocs.unep.org/handle/20.500.11822/45230;jsessionid=DF1C0BD1C8FC10D2F34623_CC7A023_3F3, accessed January 29, 2025.

³ <https://www.cbd.int/doc/c/e6d3/cdld/daf663719a03902a9b116c34/cop-15-1-25-en.pdf>, accessed January 29, 2025.

chain, including production, processing, procurement and transportation, as well as storage and warehousing.⁴ For example, the *Food Security Protection Law* regulates food production, reserves, circulation, and processing in separate chapters, and further extends the scope of food conservation to cover the stages of “production, reserves, circulation, processing, and consumption”⁵ in the chapter titled “Food Conservation”, rather than confining it solely to the consumption stage. However, existing operational mechanisms of policies and laws have largely overlooked the systematic construction for the fulfillment of the State’s obligation to protect the right to food. As a result, they fail to provide clear normative guidance, constraints, and evaluative standards for the exercise of State power in the field of food conservation and anti-food waste. The limited scholarly attention to this issue within the legal academy has, to some extent, constrained the development of a coherent and comprehensive legal framework for protecting the right to food.

Food constitutes the foundation of the rights to life, survival, and health. As human access to food has shifted from self-sufficiency to dependence on State and societal provision, the right to food has correspondingly evolved from a matter of personal economic freedom into a broader social, economic, and cultural right, thereby imposing on the State the obligation to ensure its protection and fulfillment. From the perspective of an all-encompassing approach to food⁶ and food waste, and viewed through the lens of legal safeguards for the national food security strategy and the State’s proactive role in ensuring food security, a central challenge in the State’s fulfillment of its obligation to protect the right to food lies in the continued reliance on a “command-control” repressive law regulatory model. Such a model often fails to account for the diversity of subjects involved in food waste and the special regulatory logic of different subjects’ behaviors. Consequently, regulatory efforts targeting food waste frequently encounter frictions inherent in the regulatory process itself within food conservation and anti-food waste practices,

⁴ Articles 7, 8, and 15 of the *Anti-food Waste Law* and Articles 52 to 56 of the *Food Security Protection Law*.

⁵ Article 52 (2) of the *Food Security Protection Law*.

⁶ Article 2 (2) of the *Food Security Protection Law*.

resulting in a misalignment between waste regulation and the State's fulfillment of its obligation to ensure the adequacy, availability, and accessibility of food. From the perspective of the State's fulfillment of its obligation to protect the right to food, this paper reviews existing studies on the rule of law and anti-food waste efforts, and categorizes and analyzes the root causes of the misalignment or conflicts between the regulation of food waste and legislative, enforcement, and judicial practices. Based on the conceptual renewal and normative adjustment drawn from autonomous and responsive laws, this paper also seeks to develop a framework for fulfilling the State's obligation to protect the right to food — one that accommodates the characteristics of different subjects of wasteful behavior and can be implemented on a sustained basis.

I. The Right to Food: Human Rights Objectives in Food Conservation and Anti-food Waste

In international human rights law, the right to food is recognized as a specific entitlement within the broader right to an adequate standard of living. Its fundamental human-rights nature was first normatively articulated through a series of international instruments, including the *Universal Declaration of Human Rights* and the *International Covenant on Economic, Social, and Cultural Rights*.⁷ The right to food encompasses both natural and social dimensions, covering the entitlements to access, security, and personal dignity.⁸ In 1984, Norwegian scholar Asbjorn Eide noted in his work *Food as a Human Right* that States must respect, protect, and fulfil the right to food.⁹ This opinion has been adopted by the UN Committee on Economic, Social and Cultural Rights (CESCR) and clearly articulated in General Comment No.12. Besides, the Committee clarifies the core content of the right to food, emphasizing that food is acceptable within a given culture and accessible in ways that are sustainable and that do not interfere with the enjoyment of other human rights,

⁷ Li Buyun and Sun Shiyan, *Selected Cases of Human Rights* (Beijing: Higher Education Press, 2008 edition), 230.

⁸ Liu Suhua, "On Citizens' Right to Food and the Reconstruction of Food Security Regulatory Mechanisms," *China Law Review* 5 (2017): 201-203.

⁹ Asbjorn Eide, et al, *Food as a Human Right* (Tokyo: UN University, 1984), 154 and 252-256.

as well as available in a quantity and quality sufficient to satisfy the dietary needs of individuals and free from adverse substances.¹⁰ In paragraph 124 of the 2001 Report on the Right to Food submitted to the United Nations Commission on Human Rights, Special Rapporteur Jean Ziegler recommended that each State develop a national framework law consistent with its obligations to respect, protect, and fulfill the right to food.¹¹ In short, States must, through the effective fulfillment of their obligations to respect, protect, and fulfill, ensure the availability of adequate food, its security and quality, the sufficiency of nutritional intake, and access to food within people's basic capabilities, thereby achieving the objectives of respecting and protecting human rights. In fulfilling their obligations to protect the right to food, States may pursue multiple approaches, including both direct and indirect approaches, as well as internal and external measures. Direct approaches include measures such as ensuring the maximum possible provision of adequate food to disaster-affected areas, regulating food security and distribution under the rule of law, and establishing channels for affected populations to assert food-related claims. Indirect approaches, by contrast, involve the State's regulation of private activities in accordance with the law, and require private entities to assume legal responsibility for preventing, mitigating, and remedying violations of the right to food.

Food conservation and the prevention of food waste are direct and effective means of ensuring the adequacy, availability, and accessibility of food. According to a recent study by the Institute of Food and Nutrition Development of the Ministry of Agriculture and Rural Affairs (MARA), "if food losses across seven major categories were reduced by half, an estimated 50% loss, China could save 230 million tons of food annually, sufficient to meet the nutritional needs of 190 million people for an entire year."¹²

¹⁰ Ning Libiao and Duan Shaohuai, "The Historical Development of the Right to Food," *Journal of Guizhou University (Social Science Edition)* 4 (2011): 61.

¹¹ United Nations General Assembly, Preliminary Report of the Special Rapporteur of the Commission on Human Rights on the Right to Food, Jean Ziegler [EB/OL]. (July 23, 2001). <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N01/465/52/PDF/N0146552.pdf?OpenElement>.

¹² "Spoilage & Wastage: Huge Room to Cut Food Losses," *China Comment* (July 13, 2023), accessed January 29, 2025, http://www.banyuetan.org/jrt/detail/20230713/1000200033134991688698691162834536_1.html.

Accordingly, establishing a legal framework for food conservation and anti-food waste is a key element in building a robust system for the State's fulfillment of its obligation to protect the right to food. In response to growing global risks to food security, China has increasingly emphasized food security and its related challenges, and gradually developed a rule-of-law framework that seeks to respect, protect, and fulfill the right to food through measures aimed at food conservation and anti-food waste. At the national level, the principle of "practicing thrift and opposing waste" was first enshrined in the 1982 *Constitution*. The *Anti-food Waste Law*, enacted in 2021, marked a milestone in transforming moral restraints into institutional governance. Since 2023, various government bodies, including the State Administration for Market Regulation, the Standardization Administration of China, the Ministry of Civil Affairs, and the General Office of the Central Commission for Guiding Cultural and Ethical Progress, have issued a series of documents such as the *Opinions on Further Strengthening the Prevention of Catering Waste*, the *Guidelines for Preventing Food Waste in Party and Government Organ Canteens*, the *General Rules for Managing Food Waste in the Catering Industry*, and the *Guiding Opinions on Leveraging Online Food Delivery Platforms to Prevent Waste Effectively*, focusing on classified regulation and conduct standards for subjects of wasteful behavior. The *Food Security Protection Law*, effective in 2024, elevated the construction of a food conservation and anti-food waste system to the level of economic and social stability, and even national security. In the same year, the General Offices of the Central Committee of the Communist Party of China (CPC) and the State Council issued the *Action Plan on Food Conservation and Anti-food Waste*, establishing a normalized mechanism for food conservation and anti-food waste. The 2025 revision of the *Food Security Law* further strengthened supervision of food transportation and related stages. Since the 18th National Congress of the CPC, the CPC Central Committee has consistently prioritized the promotion of thrift and the fight against waste. In particular, the newly revised *Regulations on Practicing Thrift and Opposing Waste in Party and Government Organs* (May 2025) provides a new institutional basis for Party

and government bodies to implement thrift and standardize waste management practices. At the local level, since 2020, numerous provinces and cities have introduced relevant local laws and regulations. Most are framed either as promoting “civilized behavior” or as measures to “prevent catering waste.” The former category includes nearly 300 provinces and cities, such as Guizhou, Guangdong, Chongqing, Hainan, Henan, and Beijing, while the latter covers six cities, including Zunyi, Jiayuguan, Suzhou, Huangshan, Hefei, and Shigatse.

II. Considering Public Power and Private Rights: Features of the State’s Fulfillment of Its Obligation to Protect the Right to Food

Analyzing the State’s fulfillment of its obligation to protect the right to food in the context of food conservation and anti-food waste requires attention to the division of subjects of waste behavior based on public-private logic and the regulation of their behavior, and also to the evaluation criteria from the perspective of the effectiveness of subject classification, thus enabling a deeper understanding of the underlying causes of waste. The regulation of food waste has long been a central concern of modern legal theory and regulatory practice, highlighting that such regulation constitutes a sustained and focused governmental effort, through policies and laws, to regulate wasteful behavior within the sphere of public power. During this period, regulatory attention was largely limited to the wasteful practices of public power, while consistently maintaining the principle of the “sanctity and inviolability of private property.” With the advent of industrial society, policies and laws aimed at realizing individual freedom tended to grant absolute protection to private property. This approach largely overlooked broader societal interests and principles of fairness, focusing almost exclusively on private rights and the “sanctity and inviolability of private property,” thereby leaving individual acts of resource waste unchecked and contributing substantially to resource depletion and scarcity. As consensus gradually emerged that private property should be subject to necessary limitations, regulatory measures addressing the abuse of personal ownership and private rights began to take shape, gradually forming

the foundation of a vast and intricate legal framework. In this process, individual acts of waste increasingly became a subject of legal consideration, raising the question of whether such behavior should be restricted or regulated. Scholars such as Xu Aiguo take a positive view on this issue, arguing that while the law generally has no authority to restrict the exercise of private property rights, the unrestricted nature of individual acts of waste inevitably leads to the depletion of public resources and environmental pollution, issues that affect the survival and future of humanity and future generations. Therefore, imposing legal restrictions on such behavior is deemed necessary. Therefore, food waste should be taken as the starting point, incorporating individuals into the scope of food waste regulation and classifying the subjects into four categories: government agencies, public institutions, enterprises, and individuals.¹³

In different fields, the standards and perspectives for evaluating the classification of subjects vary based on the considerations or limitations at play. For instance, in civil law, logical coherence is often the key standard for categorization, with the classification of subjects essentially being a logical construction of genus-species relationships within a conceptual framework.¹⁴ The basic classification of subjects in the context of food loss and food waste is also a logical categorization of legal concepts, where facts about subjects with corresponding characteristics can be subsumed under the appropriate categories. In this context, this paper, aiming for coherence, seeks to encompass all subjects engaged in food conservation and anti-food waste.¹⁵ Drawing on the established classifications of regulated subjects in China's current policies and laws, it incorporates the "fourfold classification" proposed by the aforementioned scholars and employs a public-private binary framework for analysis. Accordingly, the subjects of food waste consist of two broad categories: Public authorities and private rights subjects. Public authorities are

¹³ Xu Aiguo and Pan Cheng, "Jurisprudential Foundations and Legal Design of China's Anti-food Waste Law," *Journal of Henan University of Economics and Law* 2 (2018).

¹⁴ Zhang Li, "The Logic of Legal Person Classification in the Civil Code: Functions, Limitations, and Ways to Overcome Them," *Journal of Anhui University (Philosophy and Social Sciences Edition)* 43 (2019): 93.

¹⁵ *Ibid.*

further subdivided into government agencies and public institutions, while private rights subjects are classified into enterprises and individuals. A review of China's food policies, laws, and regulatory documents shows that public authorities primarily include government agencies, people's organizations, state-owned enterprises, public institutions, and their staff, such as "the national food and material reserves departments," "organizations with canteens," and "schools" in the *Anti-food Waste Law*; "people's governments at or above the county administrative level," and "relevant departments such as those for development and reform, agriculture and rural affairs, food and reserves, market regulation and management, commerce, industry and information technology, and transportation" in the *Food Security Protection Law*; "Party organs, People's Congress organs, administrative organs, CPPCC organs, supervisory organs, judicial organs, prosecutorial organs, as well as trade unions, the Communist Youth League, the Women's Federation, and public institutions managed according to civil servant law" in the *Regulations on Practicing Thrift and Opposing Waste in Party and Government Organs*; "government organ canteens," "school canteens," and "enterprise canteens" (specifically state-owned enterprises) in the *Action Plan on Food Conservation and Anti-food Waste*; Party organs, People's Congress organs, administrative organs, CPPCC organs, supervisory organs, judicial organs, prosecutorial organs, as well as trade unions, the Communist Youth League, the Women's Federation, and public institutions managed according to civil servant law in the *Guidelines for Preventing Food Waste in Party and Government Organ Canteens*; "official training schools, higher education institutions, primary and secondary schools, kindergartens, and other educational and training institutions" in the *Regulations of Suzhou City on Preventing Food Waste in Catering*; and "radio stations and television stations" in the *Work Programme on Anti-food Waste*, among others. In addition to common entities such as catering services, supermarkets, and takeout businesses, as well as families and individuals, private rights subjects also include online audio and video service providers¹⁶, catering industry associations¹⁷, public figures¹⁸, star-rated hotels,

¹⁶ Article 22 of the *Anti-food Waste Law*.

A-level tourist attractions, travel agencies¹⁹, etc.

In light of both global and national contexts, General Secretary Xi Jinping has emphasized the close connection between ensuring food security and combating food waste.²⁰ The *Anti-food Waste Law* and the *Food Security Protection Law* were enacted to promote conservation and regulate waste. These laws serve as key pillars in the legal and theoretical framework supporting the regulation of food waste. To address and mitigate the risks and challenges currently threatening food security, and to fulfill its obligation to protect the right to food, the State must implement legal measures to prevent third parties from depriving others of their right to adequate, accessible, and available food. Specifically, in addressing food waste, the State must act as a regulator, intervening in a systematic manner in the food waste practices of various third parties, using judicial, administrative, legislative, or other appropriate measures to ensure the effectiveness of waste regulation. On one hand, it is essential to actively fulfill the duty to prevent harm by taking measures to prevent, mitigate, and remedy food waste behavior among different subjects. On the other hand, through legal measures, initiatives, and concrete actions, the State must directly provide food to vulnerable groups whose rights to food are at risk, addressing issues such as weakened access and imbalanced food availability, while fulfilling its duty to rectify these issues and prevent waste. Currently, multiple policy and legal documents have established a dual-regulation model addressing wasteful practices by both public authorities and private rights subjects. For example, Article 6 of the *Anti-food Waste Law* regulates wasteful behavior by public authorities, such as government agencies, people's organizations, state-owned enterprises, and public institutions, during official activities like receptions, meetings, and training. Articles 7 and 10 to 14 address the wasteful practices of private rights subjects, including businesses in catering, tourism, supermarkets, and takeout services, as well as organizers and participants in events such as weddings,

¹⁷ Article 22 of the *Regulations of Guizhou Province on the Promotion of Civilized Conduct*.

¹⁸ Article 6 of the *Regulations of Huangshan City on the Prevention of Food Waste*.

¹⁹ *Work Programme on Anti-food Waste*.

²⁰ The Central People's Government, "Xi Jinping Issues Important Instructions on Preventing Food Waste in Catering," accessed August 11, 2020, http://www.gov.cn/xinwen/2020-08/11/content_5534026.htm.

funerals, family gatherings, and business activities, along with families and individuals in their daily production, operations, and lifestyle. Similarly, the *Food Security Protection Law* includes a dedicated chapter titled “Food Conservation,” which regulates wasteful practices by food producers and operators, food product operators, individuals, and families during production, circulation, and consumption. It also outlines the responsibilities of entities such as government agencies, people’s organizations, social groups, schools, enterprises, and public institutions in managing, inspecting, and correcting food waste in canteens. Additionally, the State Administration for Market Regulation and the Standardization Administration of China have issued the *Guidelines for Preventing Food Waste in Party and Government Organ Canteens* and the *Management Guidelines for Anti-food Waste in the Catering Industry*, respectively, targeting both public authorities and private rights subjects. In the *Action Plan on Food Conservation and Anti-food Waste*, public authorities involved include the canteens of government agencies, schools, and state-owned enterprises, while private rights subjects encompass families, individuals, youth, catering service providers and online platforms, food producers and operators, and retailers. From the perspective of specialized regulation of wasteful behavior by public authorities, a relatively comprehensive set of anti-waste regulations has gradually taken shape, ranging from the Eight-Point Regulation of the CPC Central Committee and other policy initiatives to the *Regulations on Practicing Thrift and Opposing Waste in Party and Government Organs*. These regulations govern wasteful practices in areas such as official dining, canteen meals in government agencies, and catering consumption, targeting wasteful behavior by various government bodies, people’s organizations, state-owned enterprises, and their staff. However, there is currently no specific legal or policy regulation addressing wasteful behavior by private rights subjects, as restricting the exercise of individual property rights could potentially conflict with the Constitution. Therefore, aside from employees of public authorities, even in legal frameworks such as the *Anti-food Waste Law* and the *Food Security Protection Law*, which adopt a dual-regulation approach, no provisions impose legal

liability on individuals, as private rights subjects, for wasteful behavior. The provisions on liability for private rights subjects, particularly businesses, primarily target serious or gross wasteful practices by catering service providers and food producers, such as inducing or misleading consumers to order excessive amounts of food, resulting in obvious waste, or causing substantial food waste during food production and operation. The regulation of wasteful behavior by private rights subjects mainly relies on advisory and guidance-based measures. Undoubtedly, relevant actions and initiatives have yielded tangible results. For instance, China's "Empty Plate Campaign" and "Civilized Dining Table Campaign" have garnered support from businesses, families, and individuals. Catering services, tourism, supermarkets, and takeout providers have actively reminded consumers to avoid food waste, while families and individuals have become increasingly mindful of taking leftovers home. The advisory and guidance-based regulation of wasteful behavior by private rights subjects has the advantages of broad acceptance and ease of implementation, playing a key role in reducing wasteful practices among businesses in sectors such as catering, tourism, supermarkets, and takeout, as well as among families and individuals.

However, certain objective challenges should not be overlooked. For instance, some food operation companies waste excessive raw materials due to poor planning, equipment malfunctions, inefficiencies, and a lack of effective management and oversight. Moreover, some catering and food businesses, driven by the need to cut costs or boost profits, may disregard the consequences of food waste, as the cost of compliance is high and penalties for violations are relatively lenient. According to relevant surveys, two years after the implementation of the *Anti-food Waste Law*, food waste induced by online food delivery platforms remains an ongoing issue. 60% of respondents reported being influenced by "money-off promotions" on delivery platforms, which led them to order excessive amounts. Additionally, 42% of respondents ordered more food than needed due to minimum order requirements set by delivery vendors, while 41% encountered situations where delivery services did not

offer smaller portion sizes.²¹ Meanwhile, some regulators often ease the enforcement of waste regulations for businesses, families, and individuals. Media reports suggest that in many regions, penalties under the *Anti-food Waste Law* were not issued until a year after its implementation, revealing a prominent lag in law enforcement. This highlights the limited effectiveness of advisory and guidance-based regulations on wasteful behavior, which mainly address the passive aspect of ensuring that private rights subjects refrain from excessive or severe waste. The acceptability of private rights subjects is crucial to preventing food waste. The situations outlined above highlight the need to establish medium- and long-term regulatory measures tailored to specific circumstances, to ease the pressures arising from limited resources in food production, supply, and consumption, and to gradually ensure the fulfillment of the right to sufficient food.

III. Imbalance Between Supply and Demand: Challenges in the State's Fulfillment of Its Obligation to Protect the Right to Food

In academic discourse, legal phenomena in society are generally categorized into three types: Repressive law, autonomous law, and responsive law. The main representative figures include Philippe Nonet and Philip Selznick from the Berkeley School. According to Philippe Nonet and Philip Selznick, repressive law is a fundamental legal phenomenon characterized by authoritative decision-making and enforced through coercive power, operating on a “command-control” model. In contrast, autonomous law emphasizes control and suppression, adhering to strict substantive regulations or legal review systems. The key distinction of responsive law, compared to the first two, lies in its affirmation of legal certainty. It fully leverages the positive impact of legal responses to actively address the ever-changing social realities, responding promptly and self-correcting to close “normative gaps,”²² Within

²¹Sichuan Economic Daily, “Sichuan Releases Two-year Implementation Report on the *Anti-food Waste Law*: Suggestions for Addressing Four Major Issues with Three Key Measures,” accessed April 28, 2023, <https://www.scjrb.com/2023/04/28/99362350.html>.

²² Dong Zheng'ai, et al. “Towards a Transformative Path for Responsive Environmental Risk Legal Regulation — Legal Reconstruction of the Multi-normative System for Environmental Governance,” *Social Science Research* 4 (2015): 98.

the legal framework that ensures the adequacy, accessibility, and availability of food, the current regulatory model for food conservation and anti-food waste in China remains primarily repressive, focusing mainly on controlling wasteful behavior by public authorities. For a long period, this approach has yielded clear results in the regulation of food waste within the context of protecting the right to food. However, as major food-producing countries such as India, Russia, Kazakhstan, Vietnam, and Serbia increasingly impose export bans, the imbalance in global food trade has exacerbated China's food security risks. Under the repressive law regulatory model, the approach to regulating wasteful behavior faces operational challenges, proving ineffective in addressing the growing food security risks. This undermines the adaptability of legal protections designed to ensure the adequacy, accessibility, and availability of food. One of the reasons for this is the unified regulations on food waste formulated by legislators and regulators out of considerations such as legislative costs are difficult to adapt to the differences between public authorities and private rights subjects. There are notable variations in the extent and frequency of wasteful practices across different subjects. For example, even within public authorities, such as Party and government organs, state-owned enterprises, and public institutions, and institutional cafeterias, their respective food waste profiles vary considerably. As such, a one-size-fits-all regulatory standard proves impractical in practice. Besides, applying the same regulatory requirements to both high-cost waste producers, such as businesses involved in production, processing, storage, transportation, and catering services, and families and individuals, which incur relatively low waste costs, under a uniform regulatory framework may lead to a certain degree of waste of law enforcement resources. The second reason is that China's current regulatory model for wasteful behavior adopts a one-way approach, which fails to take into account the status and rights of those responsible for waste. As a result, regulators tend to focus on suppression, coercion, and authoritative measures to tackle food loss and waste, relying on a top-down regulatory system rather than using a two-way consultative approach. Specifically, regulators typically require public authorities to complete the necessary

corrections within a specified timeframe according to the rectification opinions, without simultaneously providing a channel for expressing demands or concerns.²³ This is true for public authorities, but the issue is even more pronounced for private rights subjects, where channels for expressing interests or seeking redress are often not smooth, limited, or overly simplistic. For instance, food producers and operators involved in significant food waste are required to make immediate corrections following a meeting with regulators.²⁴ Whether for public authorities or private rights subjects, blocked channels for expressing concerns and engaging in negotiation hinder regulators from effectively receiving feedback. Consequently, regulators' governance and decision-making struggle to gain an effective response and support from both public authorities and private rights subjects. From the standpoint of legal protection of the right to food, the traditional regulatory model for wasteful behavior, though originally intended to protect this right, often encounters significant challenges, particularly when it comes to regulating private rights subjects in the regulatory system for food loss and waste. This issue is compounded by the lack of clear obligations related to the right to food, which undermines the clarity of legal application and, to some extent, hinders the realization of the right to adequate food.

From the perspective of legal regulation that considers both public and private rights, the supply-demand imbalance in the pathways of food conservation and anti-food waste under the legal protection of the right to food can be summarized in three aspects. First, existing policies and legislation are fragmented and outdated, with an incomplete legal framework for reducing food waste. There is insufficient coordination between policies and laws, and local legislation tailored to regional needs is lacking. Additionally, there are

²³ For example, in the *Interpretation of the Measures of Guizhou Province on Energy Conservation Management for Public Institutions*, Article 6 addresses the issue of "How to handle waste caused by public institutions in violation of regulations." The interpretation states: "The relevant administrative body, in collaboration with the appropriate departments, shall issue a rectification notice for energy conservation, and the public institution must promptly implement the required actions."

²⁴ For example, according to Article 17 (2) of the *Anti-food Waste Law*, food producers and operators who cause significant food waste during production and operation are required to attend a meeting with the administrative authority, and "the food producer or operator who is summoned must make immediate rectification."

inadequate medium- and long-term measures for ensuring adaptive legal protection of the right to food. In the new era of comprehensively promoting the rule of law, the evolving changes in protecting the right to food require new policies, laws, and systems for food conservation and anti-food waste that align with these developments. This, in turn, will help develop an adaptable and proportionate regulatory model for wasteful behavior. Although lawmakers have begun implementing anti-waste legislation in key industries and sectors based on the principle of “rule of law,” the overall situation remains complex, with food security risks becoming increasingly severe. The interrelated and cumulative effects of various risk factors are likely to expand the scope of food loss and waste regulation across more areas and levels. However, there is a lack of both specialized and comprehensive anti-waste frameworks, and the broader goals for anti-waste are neither clear nor specific. Furthermore, regulation of wasteful practices by private rights subjects is insufficient or absent, leaving them unable to shoulder the responsibilities that correspond to their right to food. Currently, national standards for anti-food waste are limited to “government organ canteens” and “the catering industry,” with no reference or guidance available for regulating the behavior of a broader range of private rights subjects. The rule of law is both a proactive measure to prevent food crises and a reliable safeguard to mitigate food security risks. However, since both the *Anti-food Waste Law* and the *Food Security Protection Law* are foundational, overarching frameworks, there are still gaps and deficiencies in China’s legal system for regulating food waste. Therefore, there is a need to develop a broader, multi-layered legal framework with enhanced quality and greater scope to tackle food waste and provide sustained, robust protection of the right to food. As mentioned earlier, China has long relied on policy documents as substitutes for legislation. In the past two years, the number of policies related to food conservation and anti-food waste has steadily increased, mainly in the form of circulars and guidelines. However, normative documents such as the *Opinions on Practicing Thrift and Opposing Food Waste* and the *Action Plan on Food Conservation and Anti-food Waste*, which have been introduced one after another, cannot replace legislation in effectively fulfilling

the State's obligations to respect, protect, and fulfill the right to food.

Second, the policy and legal enforcement system is inadequate, lacking the necessary resources and capacity to achieve effective outcomes. The true strength of a law lies in its implementation; without effective enforcement of policies and laws on food conservation and anti-food waste, even the most detailed regulatory frameworks will prove ineffective. Food conservation and anti-food waste policies serve as the cornerstone of legal safeguards for food security. Only by continuously strengthening the enforcement and application of these policies and laws can the institutional advantages of food conservation and anti-food waste be transformed into tangible regulatory outcomes, thereby enhancing the legal protection of the right to food. From the perspective of government efforts in food conservation and anti-food waste, provinces, municipalities, and autonomous regions such as Hunan, Henan, Inner Mongolia, Yunnan, and Shanghai have released their reports for 2024. In the area of food conservation and loss reduction, Shanghai reported an average mechanical harvest loss rate of 1.58% for rice and 0.97% for wheat,²⁵ while Hainan province recorded an average mechanical harvest loss rate of 1.42% for early rice.²⁶ In the area of anti-food waste, Inner Mongolia autonomous region mandated the rectification of food waste practices by catering service providers on 692 occasions,²⁷ while Yunnan Province issued rectification orders and warnings in 258 cases, and also published 15 typical cases.²⁸ With regard to the current assessment of the effectiveness of anti-food waste policies and laws, attention has primarily focused on government organ canteens. The Government Offices Administration of the State Council has issued the *Notice on the Comprehensive Implementation of the Assessment and Reporting System*

²⁵ Shanghai Municipal Development & Reform Commission, "2024 Shanghai Report on Food Conservation and Anti-food Waste Efforts," accessed February 1, 2025, https://fgw.sh.gov.cn/fgw_gzdt/20241220/a3b3d5eecfcf4a3884824ca0c08755d6.html.

²⁶ Hainan Provincial Development and Reform Commission, "2024 Hainan Report on Food Conservation and Anti-food Waste Efforts," accessed February 1, 2025, <http://plan.hainan.gov.cn/sfgw/0400/202412/a25eb76bcf56427085fd87848b0c929f.shtml>.

²⁷ Development and Reform Commission of Inner Mongolia Autonomous Region, "Inner Mongolia 2024 Report on Food Conservation and Anti-food Waste Efforts," accessed February 1, 2025, http://fgw.nmg.gov.cn/xxgk/zxxz/fgdt/202412/t20241225_2643546.html.

²⁸ Yunnan Provincial Development and Reform Commission, "2024 Yunnan Report on Food Conservation and Anti-food Waste Efforts," accessed February 1, 2025, https://yn-drc.yn.gov.cn/html/2025/tongzhigonggao_0103/19274.html.

for the Effectiveness of Anti-food Waste Work in Government Organ Canteens and the *Notice on the Issuance of Assessment Standards for Anti-food Waste Work in Central Government Organ Canteens* successively. Moreover, provinces such as Hubei, Shandong, and Guangxi have introduced normative documents to guide the evaluation of anti-food waste efforts. In practice, government organ canteens have established dedicated departments and implemented internal systems to prevent food waste. Overall, however, compared with the objectives of food-rights protection under existing policies and laws and the huge number of practical tasks, both the intensity and effectiveness of enforcement are inadequate. There is a lack of operational manuals for implementing anti-food waste policies and laws, and substantive, landmark, or milestone achievements, outcomes, and cases in food conservation and anti-food waste remain limited. Moreover, the segmented allocation of powers and responsibilities across departments has weakened the integration, coordination, and overall coherence of responsibilities for anti-waste. This partly limits the effectiveness of existing policies and laws and leads to the underutilization and waste of certain enforcement resources. Viewed from the enforcement regulation of food waste by public authorities, a series of measures, ranging from the Eight-Point Regulation of the CPC Central Committee and related policy initiatives and internal Party regulations to the *Anti-food Waste Law* and the *Food Security Protection Law*, have clearly defined the responsibilities of public authorities, including government organs at all levels, people's organizations, and state-owned enterprises and public institutions. These measures have achieved a certain degree of enforcement effectiveness. According to data released by the Government Offices Administration of the State Council in 2025, as of September 2024, 89.7% of government organs nationwide at or above the county level had met energy-saving standards. In Guizhou Province, nearly 70,000 public institution officials and staff participated in the "Empty Plate Campaign for Public Institutions", achieving an estimated food conservation of approximately 11 tons.²⁹ Within this enforcement framework, enhancing the regulation of

²⁹ Government Offices Administration of the State Council, "Implementing a Comprehensive

wasteful behavior by public authorities, along with measures to prevent and reduce food waste, helps safeguard the sustainability and systemic coherence of the legal protection for the right to food at this level. By contrast, in regulating wasteful behavior by private rights subjects, regulators struggle to define precise objectives, resulting in substantial challenges for practical implementation. The structural and functional obstacles underlying this predicament primarily arise from the information gap between regulators and private rights subjects, manifested in the contradiction between the regulators' limited channels for acquiring information and the vast number and diversity of private rights subjects. Since private rights subjects include enterprises and organizers of commercial activities across production, processing, transportation, storage, and sales — spanning sectors such as production, operations, logistics, warehousing, catering, tourism, supermarkets, and takeout — and also hundreds of millions of families and individuals at the consumption stage, regulators are clearly unable to monitor or assess the wasteful behavior of every private rights subject. The lack of clear and explicit enforcement mechanisms holding private rights subjects accountable for their obligations to protect the right to food makes it difficult to mobilize organizers and consumers across all stages through a comprehensive legal framework. This is a central factor limiting the effectiveness of enforcement.

For instance, under the *Anti-food Waste Law*, many regions did not issue their first fines until a year after its implementation. On October 27, 2022, the State Administration for Market Regulation published five typical cases of food waste violations for the first time. By July 2025, nine batches of such cases had been released, covering provinces and municipalities including Fujian, Jiangsu, Zhejiang, Shandong, Hubei, and Chongqing. These cases primarily involved wasteful practices by catering businesses, such as failing to take measures to prevent food waste, not proactively reminding consumers to avoid waste, omitting essential information on food delivery platforms, and inducing consumers to over-order. Meanwhile, in response to these subjects

Conservation Strategy for a Beautiful China: Highlights from the 2024 Conference on Energy and Resource Conservation and Environmental Protection in Public Institutions,” accessed February 1, 2025, https://gbc.ggj.gov.cn/zgjghq/2024/2405/202409/t20240909_46542.htm.

and their wasteful practices, market regulation authorities at the provincial, municipal, and county levels nationwide have issued nearly 2,000 administrative penalties under the *Anti-food Waste Law* and related regulations.³⁰ In practice, the insufficiency of regulation targeting private rights subjects is particularly evident. Policies and laws addressing these subjects, especially families and individuals, primarily rely on measures such as “guidance”, “promotion”, “standardization”, and “advocacy”, while lacking enforceable constraints on wasteful behavior or clear provisions on their consequences. As a result, there is little legal foundation for enforcing regulations against wasteful conduct by private rights subjects. For example, Article 22 (5) of the *Regulations of Guangdong Province on Promoting Civilized Behavior* explicitly lists “food conservation” and “avoiding food waste” as components of a “civilized, healthy, green, and environmentally friendly lifestyle.” However, the “Legal Responsibility” section merely stipulates that those engaging in uncivilized behavior will be held accountable under relevant laws,³¹ mentioning several circumstances where penalties may or may not apply,³² but failing to specify the types or standards of punishment. In the fourth typical case published by the State Administration for Market Regulation, Shanghai XiaoBeiKe Catering Management Co., Ltd. Violating Public Order and Morality through Advertising,³³ the company issued an advertisement promoting an activity that clearly involved food waste, leading to negative publicity around food waste. However, the local market regulation

³⁰ Obtained using the keyword “food waste” from Wolters Kluwer China Law & Reference.

³¹ Article 45 of the *Regulations of Guangdong Province on Promoting Civilized Behavior* states: “Any uncivilized behavior that violates the provisions of these Regulations shall be subject to administrative penalties in accordance with relevant laws and regulations. If such conduct results in harm, the responsible party shall bear civil liability under the law; if it constitutes a criminal offense, criminal liability shall be pursued in accordance with the law.”

³² Article 46 of the *Regulations of Guangdong Province on Promoting Civilized Behavior* provides: “Where an individual who commits uncivilized conduct in violation of these Regulations takes proactive steps to eliminate or mitigate the harmful consequences of their actions, a lighter or reduced administrative penalty may be imposed in accordance with the law. If the violation is minor, promptly rectified, and no harm is caused, no administrative penalty shall be imposed. In the case of a first-time violation with minimal harm, if it is promptly corrected, administrative penalties may be waived. However, repeated violations or a refusal to correct such conduct will result in more severe penalties in accordance with the law.”

³³ [2022] No.072021003197 Penalty Decision of the Shanghai Municipal Administration for Market Regulation.

authority only imposed a fine and ordered the company to cease the advertisement according to the *Advertising Law*. It neither imposed penalties on the company for its food waste practices under the *Anti-food Waste Law* nor assessed the behavior of the participants in the activity.

Finally, the mechanisms for policy and legal supervision and protection remain underdeveloped, particularly in terms of judicial supervision and protection, which requires further strengthening. Not only is there a lack of systems for evaluating and reviewing the overall enforcement and effectiveness of food conservation and anti-food waste policies and laws, but substantive supervision of anti-waste efforts across various sectors and government departments is also relatively weak. In particular, judicial supervision — known for its strong monitoring capacity and public credibility — has yet to fully realize its potential in providing a structured, refined, standardized, and rule-of-law-driven framework for protection. As of January 2025, the Supreme People’s Procuratorate issued Procuratorial Recommendations No.9 and 10 to the National Food and Strategic Reserves Administration and China Grain Reserves Corporation, respectively. A total of 385 individuals were prosecuted for crimes related to food procurement and sales. Additionally, the Procuratorate published several typical cases concerning food security, including 10 cases of official crimes in the food purchase and sales sector, four cases involving the safety of edible agricultural products, 10 public interest litigations related to farmland protection, and four cases of crimes involving the production and sale of counterfeit agricultural inputs. Currently, there are few publicly available judicial cases concerning food loss or waste. Prosecutorial authorities in cities such as Taizhou, Xingcheng, Xuhui, Tacheng, and Kaifeng have initiated individual public interest lawsuits related to food waste. However, no representative or authoritative guiding cases have yet emerged. On the one hand, due to the regulation of relevant laws, Party regulations, and policy documents, the wasteful behavior by public authorities has been effectively constrained and rectified, thus preventing them from advancing to the final stage of judicial supervision. On the other hand, in the areas of food conservation and anti-food waste, prosecutorial authorities have

not fully exerted their public interest litigation function to promote public authorities in addressing wasteful behavior. There is a lack of effort to guide public authorities in transitioning from disorderly to orderly practices in food production, processing, storage, transportation, and consumption, as well as from unlawful to lawful conduct. At present, the regulation of wasteful behavior by private rights subjects mainly centers on administrative oversight of enterprises, including food producers, operators, and catering service providers, with relatively few cases reaching judicial proceedings. As of January 2025, there were nine cases involving food waste by private rights subjects, including six civil cases, two administrative cases, and one criminal case. Additionally, there were only six cases related to food product waste by private rights subjects, consisting of three civil cases, two administrative cases, and one national compensation case. In the cases mentioned above, food waste is merely one of the causes or outcomes of the disputes and not the focus. For example, in the case of Liu,³⁴ who was charged with “gathering a crowd to disrupt social order,” Liu, along with others, blocked the entrance for an extended period, preventing most faculty and students from accessing the cafeteria. This caused substantial food waste, resulting in an economic loss of RMB 9,232. However, the trial in this case did not focus on food waste. The court gave insufficient attention to, or assessment of, the food waste resulting from the criminal act, considering it only as one aspect of the broader offense. As a result, the case did not become a typical example for the legal regulation of food waste, and thus failed to serve as an effective deterrent to private rights subjects regarding such behaviors.

IV. Foreign References for the State's Fulfillment of Its Obligation to Protect the Right to Food

The issue of food waste, including the waste of food products, which hinders the fulfillment of the State's obligation to protect the right to food, is a key concern in global human rights governance. Regulating food loss and waste is crucial for establishing a more efficient, inclusive, resilient, and

³⁴ [2011] ZXC Zi No.12 Criminal Judgment of the People's Court.

sustainable legal framework for ensuring food adequacy, availability, and accessibility. Moreover, such regulation can generate positive spillover effects, contributing to the resolution of global human rights issues. These include enhancing food security, combating climate change, saving financial resources, and alleviating pressures on land, water, and biodiversity — ultimately benefiting both humanity and the planet. For example, some countries encourage non-governmental organizations (NGOs) to engage in and foster collaboration between government agencies and NGOs to regulate food waste, using measures such as setting targets, enacting legislation, launching initiatives, and signing cooperative agreements. These efforts promote sustainable coordination and collaboration between governments and society within the legal framework for the right to food, enhancing food production, protection, and distribution methods while effectively addressing food waste and ensuring the right to adequate food. Therefore, China can draw on and incorporate valuable experiences from the laws, regulations, and operational mechanisms of foreign countries in regulating food waste to enhance its legal framework for protecting the right to food and optimize its approach to reducing food waste.

From a legal standpoint, Japan introduced the *Basic Act on Food Education* in 2005 to foster the concept of reducing food waste in children. In 2016, France passed the *Food Waste Act*, the world's first law specifically targeting food waste reduction. Following this, countries such as Italy, Japan, Australia, and Norway have implemented similar legislation. For example, Italy's *Anti-food Waste Law* (2016) seeks to reduce food waste and encourage the donation of surplus food, while Japan's *Food Waste Reduction Promotion Act* (2019) sets targets for waste reduction and promotes measures by businesses and individuals to minimize food waste. Across various legal systems, whether in civil law or common law countries, the regulation of wasteful behavior by public authorities shall, at a minimum, cover a complete legal system, efficient law enforcement, impartial administration of justice, and other legal measures integrating criminal, administrative, and civil aspects. Civil law countries, such as Germany, France, and Japan, regulate wasteful

behavior by private rights subjects through a curatorship system under civil law. This involves appointing a curator for the subject of waste behavior and limiting their legal capacity to regulate and constrain behaviors such as the reckless squandering of assets;³⁵ In contrast, common law countries such as the United Kingdom and the United States use the “spendthrift trust” system, which divides property rights into three categories: ownership (held by the settlor), right of possession (held by the trustee), and right to benefits (held by the beneficiary). This system aims to prevent heirs from squandering inherited assets.³⁶

From an operational standpoint, countries such as the United States, France, and Germany have moved from government-led models to a multi-centered approach, encouraging the involvement of NGOs and fostering collaboration between government agencies and NGOs. In 2019, the U.S. Department of Agriculture, the Environmental Protection Agency, and the U.S. Food and Drug Administration announced a partnership with the “Food Waste Reduction Alliance.” By enhancing institutional coordination, launching consumer education initiatives, and collaborating with supply chain businesses, they aim to advance efforts to reduce food waste.³⁷ Beyond the government-NGO cooperation model, NGOs in the United States have also emerged as relatively independent regulatory actors in anti-food waste, with organizations such as “Feeding America,” the “Food Waste Reduction Alliance,” and U.S. food banks serving as prominent examples. For example, “Feeding America” works with manufacturers, distributors, retailers, food service companies, and farmers to identify food waste risks, collect food, and deliver it to food banks across the country, ultimately redirecting food that would have otherwise been wasted to those in need.³⁸ In 2017, the French government renewed the *National Food Waste Convention* with various stakeholders and established a

³⁵ Chen Bangfeng, “On Prodigus,” *Modern Law Science* 6 (2011).

³⁶ *William Wheeler v. Hugh Smith and Phineas Janney and Molly E. Taylor and the Common Council of Alexandria*, 50 U.S. 55; 13 L. Ed. 44; 1850 U.S.

³⁷ Shen Yuzhe, et. al., “International Experiences and Local Practices in the Implementation of Anti-food Waste Policies,” *Chinese Journal of Agricultural Resources and Regional Planning*, accessed February 1, 2025, <https://kns.cnki.net/kems/detail/11.3513.s.20220107.1640.048.html>.

³⁸ *Ibid.*

joint body to tackle food waste. This body consists of two committees and six working groups: the Monitoring Committee, the Executive Committee, the Food Indicators and Measurement Group, the Expiry Date Group, the Management Group for Unsold Goods and Food Donations, the Innovation, Efficiency, and Partnerships Group, the Food Education and Training Group, and the Working Group on Preventing Food Waste. Each group plays a distinct role in addressing food waste. Modeled after the U.S. food bank model, French food banks coordinate volunteers to collect donated food from 2,780 supermarkets nationwide and from the general public at fixed times. The collected food is then distributed through 5,400 partner organizations to those in need.³⁹ In Germany, the Ministry of Agriculture, in collaboration with federal states, relevant food businesses, associations, and social organizations, developed and implemented the *National Strategy for Reducing Food Waste*. This included the establishment of federal and state committees, along with expert advisory working groups, to oversee cross-sectoral and cross-regional coordination. Additionally, a national dialogue forum was established, with sub-forums dedicated to production, processing, wholesale and retail, food consumption outside the home, and household consumption. A specialized website for food value assessment was also launched. Additionally, the German Ministry of Agriculture partnered with food wholesalers and retailers, providing 700,000 euros in funding support. In 2020, it signed a joint declaration with 17 companies to combat food waste, aiming to reduce waste throughout the food production and supply chains by promoting packaging innovations, extending shelf life, optimizing logistics and cold chain systems, providing employee training, and collecting data on food waste.⁴⁰

V. Responsive and Autonomous Law: Path to Optimizing the State's Fulfillment of Its Obligation to Protect the Right to Food

The traditional repressive law regulatory model focuses on implementing the unilateral will of the regulator, with the ultimate goal of realizing the right

³⁹ Ibid.

⁴⁰ Shen Liping, "German Strategic Action Against Food Waste," *World Agriculture* 10 (2020): 125-126.

to food as defined by the regulator. This approach to addressing food loss and waste triggers specific, rigid legal consequences⁴¹ when certain regulatory conditions are met. It is clear, direct, and easy to implement, and has played a significant role in regulating food loss and waste behavior among public authorities and certain private sector enterprises. However, under this model, the State fulfills its obligation to ensure food adequacy, availability, and accessibility in a rigid and fixed way. This requires substantial social resources and regulatory costs. Over time, numerous issues are bound to arise that cannot be ignored. This is primarily reflected in the overly rigid operational mechanism, which fails to effectively address the new challenges and practical demands of protecting the right to food. Additionally, the regulatory structure tends to be closed, lacking a communication mechanism between regulators and the subjects of wasteful behavior, leading to a breakdown in communication between public authorities, private rights subjects, and regulators. The unique risks and adaptive requirements of the State's fulfillment of its obligation to protect the right to food mean that the repressive, "command-control" regulatory model for anti-food waste cannot effectively address the systemic crisis in the legal protection of the right to food amidst global and regional food security challenges. This crisis presents an opportunity for new institutional growth, while political demands, historical experience, and green development offer a timely chance for the emergence and evolution of a new generation of protection of the right to food and food waste regulation. From a value hierarchy perspective, the regulator's unilateral judgment of wasteful behavior across different subjects is a key factor contributing to the systemic crisis in the State's fulfillment of its obligation to protect the right to food. Establishing a communication and consultation mechanism to reconcile these diverse value demands could serve as a critical catalyst for the emergence of a new generation of waste regulation.⁴² Moreover, the obligations imposed on those responsible for food and food product waste go beyond moral or political considerations; they are primarily legal duties that

⁴¹ Gao Qinwei, "Social Self-regulation and the Role of Administrative Law," *China Legal Science* 5 (2015): 85.

⁴² Tan Binglin, "On Third-Generation Environmental Regulation," *Modern Law Science* 1 (2018): 121.

align with the roles of public authorities and private rights subjects. With the increasing influence of concepts such as food conservation and anti-food waste, alongside principles from the *Civil Code*, including “public order and good morals,” “honesty and good faith,” and the “green principle,” in the field of food security and food loss reduction, wasteful behavior is no longer just an individual act without any boundaries for the exercise of rights. It is now unacceptable for public authorities or private rights subjects to arbitrarily dispose of food or food products. Legal intervention has become both necessary and justified. For example, Article 6 of the *Anti-food Waste Law* regulates the dining activities of public authorities, Article 7 governs the operations of food service providers, and Article 14 sets rules for individuals, families, and their members. Similarly, Article 56 of the *Food Security Protection Law* provides guidance for citizens and families, while Article 57 regulates the management of institutional cafeterias. These provisions largely reflect the legal response to food conservation and the prevention of food waste. However, given the traditional private nature of individual ownership and the inherently restrained role of the law, legal regulation should strike a balance between the reasonable exercise of ownership rights by private rights subjects and the appropriate intervention in wasteful behavior. This is also a key reason behind the enactment of the *Anti-food Waste Law*, the *Food Security Protection Law*, and various local government regulations on food conservation and anti-food waste, as well as efforts to promote civilized behavior. The primary role of law in food conservation and anti-food waste initiatives is shifting from repression to autonomy and responsiveness.

Autonomous law and responsive law are not mere theoretical constructs. In fact, various institutional models have already emerged in both domestic and international practices regarding the legalization of anti-waste for food and food products, as well as the regulation of wasteful behavior. Examples such as food banks in the United States, the Joint Agency for Anti-food Waste in France, and initiatives in China, including the “Energy-Saving Institutions Campaign,” the “Empty Plate Campaign,” and the food bank at KFC in Xiamen, all highlight the varying degrees of regulatory effectiveness of

autonomous or responsive law. Based on this, it would be feasible to develop a governance framework where responsive law primarily addresses wasteful behavior by public authorities, and autonomous law serves as the main mechanism for regulating wasteful behavior by private rights subjects, with responsive law playing a supplementary role.

A. Clarifying the plans and objectives for the legal system regarding the State's fulfillment of its obligation to protect the right to food, and addressing gaps in basic and comprehensive legal frameworks

The State's fulfillment of its obligation to protect the right to food should align with the practical needs of regulating wasteful behavior by both public authorities and private rights subjects in the food and food products sector. It requires clear delineation and adjustment of the scope and content of policies, laws, administrative regulations, departmental rules, and industry standards. This approach seeks to rationalize a multi-layered regulatory system for wasteful behavior across various types of subjects, transitioning China's food conservation and anti-food waste legislative philosophy from a repressive framework to one where responsive law primarily governs wasteful behavior by public authorities, and autonomous law becomes the primary mechanism for regulating wasteful behavior by private rights subjects, with responsive law playing a supplementary role. In the operational model advocated by responsive law, existing laws and regulations are inadequate to meet the current demand for the rule of law in food conservation and the prevention of food waste. As such, legislative bodies should refine current policies, laws, and regulations to address the increasing legislative demand for protecting the right to food. For example, in October 2025, the Standardization Professional Committee of the Henan Society of Food Science and Technology initiated the drafting of two standards: the *Loss Control Procedures of Cold Chain Transportation for Frozen Poultry Meat* and the *Loss Control Procedures of Cold Chain Logistics for Blueberries*, and solicited public comments. In 2024, the Guidelines for Regulating Marketing Behaviors to Prevent Takeout Food Waste established waste-reduction behavioral guidelines for two key subjects: "online food platforms" and "takeout vendors." In 2023, the *Notice on Further*

Efforts to Prevent Waste in Wedding Banquets addressed wedding banquet food waste through three main areas: “implementing the primary responsibility of enterprises,” “leveraging the guiding role of the industry,” and “enhancing departmental supervision and guidance.” In 2021, the *Amendment to the Regulations of Guizhou Province on Promoting Civilized Behavior* introduced provisions for restaurant industry associations,⁴³ emphasizing industry self-regulation and encouraging proactive efforts to combat food waste by guiding food service providers. Also in 2021, the *Regulations of Tianjin City on Preventing Food Waste* specifically targeted behaviors such as promoting excessive eating, binge eating, and the misuse of ingredients and utensils in Mukbang.⁴⁴ The fundamental characteristic of responsive law is its ability to respond to social needs. This necessitates exploring more flexible and effective approaches that align with a rule-of-law society, such as flexible authorization models and multidimensional public participation, to achieve legislative goals. Specifically, based on the all-encompassing approach to food and food waste outlined in laws such as the *Anti-food Waste Law* and the *Food Security Protection Law*, it is essential to strengthen legislation for food conservation and anti-food waste in time. This requires refining and coordinating Party regulations with national laws and regulations to effectively address the legal needs for anti-waste across various sectors and industries. Additionally, it is crucial to define legal concepts, judgment criteria, and basic principles for food loss, food waste, and anti-waste that are consistent with both international standards and China’s specific conditions. A multi-dimensional, comprehensive legal framework and supporting policy systems for anti-waste should be established.

It is important to note that the responsive legislative model highlights the approach lawmakers take to address and resolve urgent legislative challenges

⁴³ Article 22 (3) of the *Regulations of Guizhou Province on Promoting Civilized Behavior* (revised in 2021) provides: “Catering industry associations shall strengthen self-regulation, establish and improve industry standards, and guide food service providers to voluntarily engage in anti-food waste activities.”

⁴⁴ Article 25 (2) of the *Regulations of Tianjin City on Preventing Food Waste* provides: “Producers of online content must adhere to laws, regulations, and business ethics, promote the traditional virtue of thrift, advocate for healthy eating habits, and refrain from engaging in live streaming activities that encourage excessive eating, binge eating, or the misuse of food ingredients and utensils, such as fake eating, inducing vomiting, or seeking novelty.”

or gaps. However, in the context of a legal framework for anti-waste, whether from the perspective of food security or the respect and protection of human rights, the specific legislative issues concerning the right to food and anti-waste require a tailored approach. It is crucial to choose the most appropriate legislative path to advance the improvement of a legal framework for anti-waste in the food and food products sector. In contrast, the most prominent feature of autonomous legislation is its recognition of the rule of law as a unique institutional system, rather than an abstract ideal model. Within the framework of rule-of-law democracy, it represents a relatively autonomous legal entity that seeks limited supremacy, within the boundaries of its powers and functions.⁴⁵ The concept of autonomy in the legal protection of the right to food, particularly in the areas of food conservation and anti-food waste, focuses on how to effectively categorize and regulate different types of wasteful behavior by private rights subjects. It aims to address various forms and circumstances of food loss and waste, while enhancing both the regulatory and autonomous aspects of anti-waste by private rights subjects and protecting their property rights. This approach seeks to ensure a fair balance between rights and obligations, and tries to eliminate both the “absence” and “overreach” of regulation regarding wasteful behavior by private rights subjects. As noted above, the legislative philosophy shifts from repressive legislation to one where responsive law primarily addresses wasteful behavior by public authorities, while autonomous law serves as the main mechanism for regulating wasteful behavior by private rights subjects, with responsive law playing a supplementary role. Building on this, legislative efforts should focus on several key areas, including flexible authorization in legislation and administrative powers, fostering multidimensional public participation, appropriately categorizing behaviors, and defining the allocation and balance between rights and obligations. Specifically, regulatory efforts should target wasteful behavior across various contexts, such as: waste in official dining and institutional canteens by government agencies, organizations, state-owned enterprises, and

⁴⁵ Philippe Nonet and Philip Selznick, *Law and Society in Transition: Toward Responsive Law*, translated by Zhang Zhiming (Beijing: China University of Political Science and Law Press, 2004), 53.

public institutions; waste in the operations of catering services, tourism, supermarkets, and takeout businesses; waste in daily life by families and individuals; and food loss in processes such as machine harvesting, storage, transportation, and processing. The ultimate goal is to establish a legal framework for anti-waste through the rule of law's functions of absorption, guidance, and regulation. Besides, considering China's national conditions, the U.S. approach, which emphasizes incentives over penalties, is unlikely to yield favorable results. Instead, China could draw on France's experience by incorporating both incentives and penalties into the implementation of laws and regulations. This approach would penalize and deter behaviors that lead to food loss or waste, and also encourage and incentivize proactive efforts to reduce food waste.

B. Optimizing the enforcement entities of the legal system for the State's fulfillment of its obligation to protect the right to food and its supporting mechanisms

The enforcement authorities of the anti-food waste legal system serve as the primary regulators of food conservation and anti-food waste. Legalizing the enforcement mechanism is a complex and systematic project that involves defining the duties and powers of enforcement entities, establishing enforcement procedures, and outlining remedial measures. Responsive law is grounded in the timely adaptation of legal frameworks to social needs. It requires granting enforcement entities the appropriate discretion, allowing for a constructive cycle of interaction between legal implementation and social phenomena. In the responsive law enforcement model, enforcement entities are not merely representatives of public authority regulating and managing wasteful behavior. Rather, they participate as members of society in addressing the issue of waste. This shift transforms legal enforcement from a one-way process to an interactive engagement with the issues of food loss and food waste. By adopting this new responsive law enforcement model, the legal framework for protecting the right to food can gain an interactive dimension, enhancing its effectiveness.

The design of the ideal enforcement model for responsive law can be

summarized in three key aspects: enforcement entities, law enforcement operations, and inter-departmental collaboration. First, it is crucial to balance the allocation of rights and responsibilities among enforcement entities and strengthen their awareness of legal protections for the right to food. This involves improving the enforcement entities of the legal system for anti-waste and their supporting mechanisms, accurately adjusting their roles, and clearly defining their respective duties and powers. Additionally, it is necessary to evaluate legislation and legal development in the areas of food conservation and anti-food waste, update models for enhancing the awareness of enforcement entities, and incorporate them into the legal development evaluation and assessment systems. Second, it is essential to update the law enforcement model for food conservation and anti-food waste, focusing on strengthening enforcement in key industries and sectors. This involves transitioning from traditional enforcement models to the enforcement model advocated by responsive law, which emphasizes direct and interactive engagement between enforcement entities and their targets. The goal is to enhance the regulatory and deterrent functions of enforcement entities in safeguarding food security. Meanwhile, enforcement efforts should be intensified in key industries and sectors, with the establishment of exemplary cases that demonstrate effective enforcement and strong deterrent effects. Third, it is crucial to strengthen cooperation across departments to create synergy throughout the entire process of food conservation and anti-food waste. Food loss and waste occur in the whole process from production, storage, and transportation to processing and consumption, involving multiple departments. Therefore, cooperation among these departments is indispensable. Considering its national conditions, China may draw upon the experience of France's Joint Agency for Anti-food Waste. A joint coordinating body for food conservation and anti-food waste may be established, consisting of Party and government departments, including those responsible for publicity, agriculture, environmental protection, transportation, market regulation, and disciplinary inspection. This body would be tasked with setting goals and strategies for food conservation and anti-food waste, as well as coordinating efforts across sectors.

Specialized working groups will be formed to address specific tasks related to food conservation and anti-food waste. The types and responsibilities of the working groups can be structured around key areas such as food indicators and assessments, expiration management, donation management, anti-waste education and training, and oversight of production and transportation. For instance, the production and transportation oversight group could be led by the agriculture and transportation departments, aiming to reduce losses during the production and transportation stages of food, including various food products.

Given the complexity of food conservation and anti-food waste efforts, along with the diversity of subjects involved, the autonomous law model is no longer confined to the central role of State governance. Instead, it embraces a more diverse, context-driven approach to governance, allowing the regulators of wasteful behavior to extend, under certain conditions, to private rights subjects, social organizations, and even stakeholders. Specifically, from the perspective of autonomous law, it is essential to include private rights subjects, social organizations, and stakeholders in the waste regulation system when addressing the regulation of wasteful behavior by private rights subjects. The demands and capacities of multiple stakeholders will be incorporated, ultimately fostering a comprehensive legal enforcement pattern for waste regulation. This pattern will feature the interaction and complementarity between external regulatory forces and internal autonomous mechanisms, including “regulators under effective supervision,” “private rights subjects under effective regulation,” and “social organizations and stakeholders participating in the whole process.” For private rights subjects, relying solely on the fulfillment of enforcement authorities clearly leads to limited effectiveness. Therefore, given the limited regulatory impact on private rights subjects, particularly individuals, publicity and environmental protection departments should strengthen efforts in promoting food conservation and anti-food waste education. This will raise awareness among private rights subjects about the importance of saving food, opposing waste, and protecting the right to food. Additionally, food conservation and anti-food waste should be seen as part of the social responsibility of private rights subjects, helping to cultivate a

societal atmosphere that encourages food conservation and discourages waste overall. Furthermore, efforts to raise national awareness of food conservation should be integrated into the initiatives for building civilized cities, towns, organizations, families, and campuses. This will foster habits of thrift and help eliminate food waste across society. For private rights subjects, especially businesses, the United States' experience can offer valuable insights. Relevant awards can be established to recognize companies that set an example and play a leading role in preventing food waste. The award-winning companies could receive appropriate policy support, encouraging them to actively engage in food conservation, anti-waste, and protecting the right to food. Besides, inspiration can be drawn from Germany's 2012 "Too Good for the Bin!" campaign. The agricultural department could launch an innovation award initiative for food conservation and anti-food waste efforts, inviting participation from businesses, research institutions, NGOs, and individuals, and recognizing and promoting exemplary projects that help prevent and reduce waste. NGOs play a crucial role in food waste regulation mechanisms in countries such as the United States, France, and Germany. For instance, "Feeding America" partners with U.S. manufacturers, distributors, retailers, food service companies, and farmers to collect food at risk of being wasted across the production, transportation, and consumption stages, and redistributes it to food banks. Similarly, ReFED⁴⁶ functions as a think tank, offering policy recommendations on anti-food waste to government agencies. Therefore, it is appropriate to involve social organizations to fill the existing gaps. Drawing on the experience of NGOs in the U.S., France, Germany, and other countries in collaborative governance and shared responsibility, China could establish food banks and other social organizations tailored to its national context. These organizations would handle the storage, transportation, and distribution of food, playing a crucial role in the legal protection of the right to food.

C. Establishing and improving a comprehensive supervision mechanism for the State's fulfillment of its obligation to protect the right to food

⁴⁶ ReFED is a collaborative organization composed of businesses, nonprofit organizations, foundations, and government officials, committed to reducing food waste in the United States.

The People's Courts and the People's Procuratorates are the judicial bodies responsible for supervising the fulfillment of the State's obligation to ensure food adequacy, availability, and accessibility. These institutions supervise the actions of public authorities and private rights subjects regarding food loss and food waste, and assess whether such actions are lawful and reasonable within their legal authority. They help public authorities, private rights subjects, stakeholders, and even the general public better understand the meaning of the legal norms related to food conservation and anti-food waste, as well as the reasoning behind judicial interpretations, thereby enhancing the legal framework for protecting the right to food for both public authorities and private rights subjects. In practice, the judicial supervision mechanism is backed by the State's robust organizational system, enabling it to actively supervise the food loss and waste behavior of both public authorities and private rights subjects. This makes the closed-off supervision of anti-waste more proactive. However, despite the strong initiative of judicial bodies, their regulation of wasteful behavior by public authorities and private rights subjects ultimately depends on the stimulation of legal authority. Ineffective communication between judicial bodies and public authorities or private rights subjects may limit the effectiveness of supervision in food conservation and anti-food waste. The responsive law model redefines the basic scope and methods of interaction between legal norms and social phenomena through non-coercive means such as negotiation, discussion, and compromise. In this sense, the interaction between judicial bodies and public authorities or private rights subjects, integrated into the judicial supervision mechanism, aligns with the requirement for negotiation and dialogue between the judiciary and society inherent in the theory of responsive law.⁴⁷

The supervision by the Commission for Discipline Inspection and the Supervisory Commission is a vital aspect of supervising, regulating, and evaluating food loss and waste behavior by public authorities. In line with their supervisory functions, these bodies actively follow up on anti-waste efforts and

⁴⁷ Deng Weihui, "Responsive Governance: The Disenchantment and Reconstruction of the Public Interest Litigation Governance Model in Procuratorial Work," *Social Scientist* 8 (2021): 121.

strengthen the oversight of public authorities' efforts in food conservation and anti-food waste, playing a key role in the practical implementation of food-saving measures. In 2023, the Central Commission for Discipline Inspection of the Communist Party of China (CPC) and the National Supervisory Commission issued the *Opinions on Deepening the Special Rectification of Corruption in Food Purchase and Sales*. In July, 90 cases were publicly disclosed, and disciplinary and supervisory bodies in Heilongjiang, Guangxi, Shandong, Henan, Hunan, and other regions reported a series of typical cases. By the end of 2023, State-owned food-related enterprises had reviewed 2,496 cases of violations, initiated investigations into 2,513 individuals, imposed Party disciplinary and administrative sanctions on 1,241 individuals, and placed 78 individuals under supervision by local supervisory commissions. These efforts led to the recovery or prevention of economic losses totaling RMB 223 million.⁴⁸ Disciplinary inspection and supervisory bodies at various levels have advanced reforms in regulatory systems and mechanisms. For example, the Sichuan Provincial Commission for Discipline Inspection and the Supervisory Commission facilitated the provincial government's issuance of the *Guiding Opinions on Separating the Policy Functions and Business Functions of Local Government Food Reserve Enterprises in Sichuan Province*. Similarly, the Kaifeng Municipal Commission for Discipline Inspection and the Supervisory Commission urged food authorities and State-owned food enterprises to develop and improve regulations, including the *Financial Management Measures for Units under the Kaifeng Municipal Bureau of Grain and Material Reserves* and the *Interim Measures for the Management of Three Public Expenses of Kaifeng Grain Group*.⁴⁹ However, a study conducted by the Central Commission for Discipline Inspection of the CPC and the National Supervisory Commission in November 2024 revealed several issues in food

⁴⁸ Central Commission for Discipline Inspection of the Communist Party of China and the National Supervisory Commission, "Continued Efforts to Strengthen the High-pressure Stance against Corruption in State-Owned Enterprises and Central Enterprises," accessed February 3, 2025, https://www.ccdi.gov.cn/toutiao-on/202403/t20240314_334210.html.

⁴⁹ Central Commission for Discipline Inspection of the Communist Party of China and the National Supervisory Commission, "Strengthening the Use of Cases to Promote Reform and Governance, Advancing the Improvement of Long-Term Mechanisms for Food Management and Regulation," accessed February 3, 2025, https://www.ccdi.gov.cn/yaowenn/202406/t20240628_357896.html.

purchase and sales, including the absence of standardized management systems for food brokers, weak enforcement of food regulation, inadequate internal governance in grassroots state-owned grain enterprises, and inefficiencies in the reserve grain management system.⁵⁰ Judicial supervision and oversight by the Commission for Discipline Inspection and the Supervisory Commission have their limitations and cannot fully address the food waste issues of both public authorities and private rights subjects. Therefore, a more sustainable and feasible model of autonomous supervision is needed. This model would encourage various subjects to engage in self-regulation for food conservation and anti-food waste, thereby establishing a full-chain supervision mechanism. This is also the legal logic of protecting the right to food shared by both responsive law and autonomous law. Due to the complexity and diversity of the subjects involved in food loss and food waste, it is essential to encourage various subjects to actively engage in self-regulation. The extended linkage between the supervision mechanism of responsive law and that of autonomous law is driven by the complexity and diversity of subjects involved in food waste, as well as the increasing need for specialized and precise regulation in food conservation and anti-food waste efforts. This regulatory need calls for a more interactive and open supervision mechanism, introducing social oversight to achieve a unified legal order. It transitions from a logic confined to a single field to one that coordinates and aligns multiple fields and subjects, ultimately forming a more widely accepted framework for anti-waste regulation.

Based on this logic, a sound full-chain supervision mechanism should be established, grounded in the public disclosure of information on food loss, food waste, and anti-waste. The system should primarily rely on judicial supervision and the oversight of disciplinary and supervisory commissions, with social oversight playing a supplementary role. Meanwhile, the three key areas of supervision should be reinforced, ensuring stronger enforcement and greater accountability across all supervisory mechanisms. First, judicial authorities at all levels should ensure the respect, protection, and realization of the right to

⁵⁰ Central Commission for Discipline Inspection of the Communist Party of China and the National Supervisory Commission, “Comprehensive Efforts to Safeguard the Granary of the World,” accessed February 3, 2025, https://www.ccdi.gov.cn/pln/202411/t20241106_385812.html.

food by issuing timely judicial policies on food conservation and anti-food waste, as well as publishing guiding and case reports. They should also strengthen legal penalties for food loss and waste in accordance with the law. Second, disciplinary and supervisory commissions at all levels should focus on their responsibilities for discipline inspection and oversight, with particular attention to food loss and waste. They should strengthen accountability and supervision of food waste practices within government agencies, State-owned enterprises, institutional canteens, and university cafeterias, among others. Additionally, they should apply discipline inspection recommendations more effectively, raising the legal protection of the right to food to the level of full and strict governance over the Party. Third, a diversified system of social supervision and feedback should be established and improved to provide clear and stable channels for monitoring food conservation and anti-food waste. This will encourage positive interaction between the public and social oversight, fostering a constructive public opinion environment for food conservation and anti-food waste efforts. In contrast to traditional, repressive law regulatory models, a model primarily based on autonomous law, with responsive law as a supplement, offers a more complex approach to supervising wasteful behavior by private rights subjects. This model involves oversight by businesses and individuals and includes supervision by social groups and other NGOs. It requires integrating food conservation and anti-food waste into citizens' codes of conduct, village regulations, and industry standards. For instance, in the case of self-regulation by industry associations to prevent food waste, the primary targets of oversight, management, and supervision include the associations themselves, their members, and other private rights subjects. When an industry association identifies food waste by the parties mentioned above, it may promptly investigate by conducting on-site inspections, gathering evidence, and preserving documentation. Based on its findings, the association may submit recommendations for administrative penalties to the relevant authorities according to specific circumstances. In rural areas, to address common food waste issues arising from traditional events such as weddings, funerals, and banquets, village committees or village groups, as self-governing organizations,

can enhance local oversight mechanisms through collective agreements such as village rules and regulations. This would help regulate wasteful behavior by villagers as private rights subjects.

Conclusion

In response to the increasingly complex external environment and the risks to food adequacy, availability, and accessibility, it is essential to explore diverse and adaptive measures for the State's fulfillment of its obligation to protect the right to food, in line with an all-encompassing approach to food. Laws and policies such as the *Anti-food Waste Law*, the *Food Security Protection Law*, and the *Action Plan on Food Conservation and Anti-food Waste* have emerged as legal responses to the growing prominence of food waste issues and the limitations of conventional legal measures. These instruments play a vital role in the State's fulfillment of its obligation to protect the right to food. Theoretical models such as repressive law, autonomous law, and responsive law can serve as analytical tools for analyzing legal phenomena. In the process of fulfilling the State's obligation to protect the right to food, any plan or model that successfully persuades both public authorities and private rights subjects to reach a consensus becomes a law regulating food loss and waste. In this context, "it evolves into a social contract, a form of rhetoric based on the assumptions of a specific plan,"⁵¹ The regulation of food loss and waste by public authorities primarily relies on responsive law, while the regulation of such behavior by private rights subjects is mainly governed by autonomous law, with responsive law playing a supplementary role. This approach effectively addresses the practical need to reallocate responsibilities for preventing food waste during the State's fulfillment of its obligation to protect the right to food and the evolution of the national food security concept. In the context of the full implementation of policies and laws such as the *Anti-food Waste Law*, the *Food Security Protection Law*, and the *Action Plan on Food Conservation and Anti-food Waste*, categorizing public authorities and private rights subjects within the legal framework for food conservation and

⁵¹ Xie Hui, "The Weak Contract, the Benefits of Acceptable Evidence, Evidence of Law as the System Rhetoric," *Journal of Political Science and Law* 2 (2018): 19.

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anti-food waste by legislation, law enforcement, and supervision will ensure a balanced regulation of wasteful behavior through both responsive and autonomous law. It will effectively and systematically build consensus on the State's fulfillment of its obligation to protect the right to food, the national food security strategy, and the legal protection of food, while shaping China's approach to protecting the right to food and food security, along with its strategies, wisdom, and experience.

(Translated by *SHEN Jinjun*)