



# THE RIGHT TO LAND AND THE UNDROP

**HOW CAN WE USE THE UNITED NATIONS DECLARATION ON THE RIGHTS OF PEASANTS AND OTHER PEOPLE WORKING IN RURAL AREAS TO PROTECT THE RIGHT TO LAND?**

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## KEY MESSAGES AND RECOMMENDATIONS

### KEY MESSAGES

The adoption of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) by the UN General Assembly in 2018 is the result of almost 20 years of mobilisation by La Via Campesina and its allies, and of six years of negotiations at the UN. It aims to respond to the multiple forms of discrimination faced by peasants and other people working in rural areas.

The UNDROP has been adopted to rebalance power relations in rural areas and to protect the rights of peasants, rural women, landless people, people living from traditional fishing, herding, and hunting activities, and rural workers, who are the first victims of hunger, extreme poverty, forced evictions, displacements, and criminalisation.

In the implementation of the UNDROP, particular attention shall be paid to the rights and special needs of individuals and groups who have historically been discriminated against, including older persons, youth, children, persons with disabilities, and women, who play a key role in local and global food security

but are the first victims of discrimination; girls represent 70% of the world's hungry people.

The right to participation of peasants and other people working in rural areas shall be guaranteed. They shall participate, directly and/or through their representative organisations, in all decision-making processes that may affect their lives, lands, and livelihoods. States shall also respect and support the establishment and growth of strong and independent organisations of peasants and other people working in rural areas.

Accountability for violations of the rights enshrined in the UNDROP shall be increased by the establishment of new human rights monitoring mechanisms, or the reinforcement of existing ones at national, regional, and international levels. Monitoring mechanisms shall be available to monitor the implementation of the UNDROP at all levels.

## RECOMMENDATIONS

- ★ **States and international and regional organisations shall disseminate the UNDROP and promote understanding of and respect for its provisions**, including those protecting the right to land. They shall encourage, support, and/or provide training for government officials, members of legislative branches, national human rights institutions, and international and regional organisations, judicial authorities, organisations of peasants and other people working in rural areas, civil society organisations (CSOs), and all other relevant actors. They shall also support the translation of the UNDROP into various languages and dialects.
- ★ **States shall respect, protect, and fulfil the right to land and other rights of peasants and other people working in rural areas**, which can be exercised alone, or in association with others or as a community, individually and/or collectively, and shall promptly take legislative, administrative, and other appropriate steps to achieve progressively the full realisation of rights that cannot be immediately guaranteed. They shall recognise the importance of international cooperation in support of national efforts aimed at implementing the right to land and the UNDROP.
- ★ **States shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas**, to promote their empowerment, and to ensure that they enjoy without discrimination all the human rights and fundamental freedoms set out in the UNDROP.
- ★ **States shall integrate the whole of the UNDROP or the right to land in domestic law**, by revising their constitutions or developing new national laws.
- ★ **States shall ensure the consistency of their national laws and policies, and of international agreements and standards** to which they are parties, with the right to land and the UNDROP.
- ★ **States shall strengthen the role of national human rights institutions** in promoting and protecting the right to land and the implementation of the UNDROP.
- ★ **States shall protect human rights defenders of land**, who are the first victims of criminalization, intimidation and attacks against their physical integrity and life, via all available mechanisms.
- ★ **States shall take all necessary measures to ensure that non-state actors** that they are in a position to regulate, such as private individuals and organisations and transnational corporations and other business enterprises, **respect and strengthen the right to land and other rights enshrined in the UNDROP.**
- ★ **Domestic courts should protect the right to land** and other rights of peasants and other people working in rural areas, by directly applying the UNDROP, or using it to interpret rights recognised in domestic law or other international instruments.
- ★ **National human rights institutions should include the monitoring of the right to land and the UNDROP in their work**, including through awareness-raising activities, analysis of the compatibility of laws with the UNDROP, possibilities for receiving complaints about violations of the rights enshrined in the UNDROP, and the production of annual reports on the implementation of the UNDROP for national, regional, and international bodies.

- ★ **Regional human rights bodies should use the UNDROP to protect the right to land** and other rights of peasants and other people working in rural areas. The African Human Rights Commission should establish a Working Group on peasants and other people working in rural areas in Africa, and the Inter-American Commission on Human Rights should create a mandate for a rapporteur on the rights of peasants and other people working in rural areas.
- ★ **At regional level, parliamentary groups should be created on the rights of peasants** and other people working in rural areas, and regional/ sub-regional institutions should support the implementation of the right to land and the UNDROP in their regions.
- ★ **The UN Human Rights Council should create a new special procedure on the rights of peasants and other people working in rural areas.** It should also include explicit references to the UNDROP in all its relevant resolutions, in the mandates that it gives to subsidiary bodies and special procedures, and in the reports it requests from the UN Secretary-General and the Office of the UN High Commissioner for Human Rights (OHCHR).
- ★ **UN special procedures should all include the monitoring of the implementation of the UNDROP** in their thematic and country visit reports, and in their communications to states and other stakeholders.
- ★ **States should use the Universal Periodic Review of the Human Rights Council** to push for the implementation of the UNDROP in other states.
- ★ **UN treaty bodies should include the monitoring of the implementation of the UNDROP** in their examination of the periodic reports of state parties, in their concluding observations, in their general comments or recommendations in which they define rights and states' obligations in their respective treaties, and in their examination of communications.
- ★ **CSOs and lawyers should support peasants who are victims of human rights violations** by using the possibilities that national, regional, and UN human rights mechanisms offer in terms of monitoring, accountability, and remedy. Among other activities, they should send information to these mechanisms, and support victims' claims based on the right to land and other rights enshrined in the UNDROP.
- ★ **The Committee on World Food Security, FAO, IFAD, and other UN specialised agencies, funds, and programmes shall contribute to the full realisation of the right to land and the UNDROP**, including through the mobilisation of development assistance and cooperation. They shall also promote respect for and the full application of the right to land and the UNDROP and follow up on their effectiveness.
- ★ **The UNDROP and the right to land should be mainstreamed** into strategies aimed at achieving the Sustainable Development Goals (SDGs) and at implementing the UN Decade of Family Farming.
- ★ The International Monetary Fund, the World Intellectual Property Organization, the World Trade Organization, and other **intergovernmental organisations, including international and regional financial organisations, should take the UNDROP into account in their work.**

★ **CSOs should use the UNDROP to protect the right to land in their fields of work.**

Among other activities, they should raise awareness, produce manuals, and organise training about the UNDROP at national, regional, and international levels.

★ **CSOs should also use the UNDROP to fight discrimination, forced evictions, and displacements, and to push for agrarian reform, for the recognition of peasants as rights-holders, and for the recognition of states and regional and international organisations as duty-bearers.**

★ **The International Land Coalition should support the implementation of the UNDROP,** and it should include it

in its different activities. It should start by organising awareness-raising and training activities on the UNDROP at its next regional meetings.

## INTRODUCTION

The United Nations General Assembly (UNGA) adopted the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) in 2018, after almost 20 years of mobilisation by the international movement of peasants' organisation La Via Campesina and its allies.

The implementation of the UNDROP represents a unique opportunity to better protect and promote the rights of peasants and other people working in rural areas, who have frequently been marginalised within international, regional, and national laws and policies. It can play a key role in redressing various forms of discrimination and historical disadvantage that have affected peasants and other people working in rural areas for too long.

While the COVID-19 crisis has had detrimental impacts on women, peasants, agricultural workers, small-scale fishers, and indigenous peoples, the UNDROP offers solutions to respond to the crisis by supporting small-scale food producers and local food systems, instead of relying on the industrial food system and by doing so pushing those groups, even more so than before, into hunger and malnutrition.<sup>1</sup>

Several articles of the UNDROP aim to respond to the multiple human rights violations suffered by these groups, including **ARTICLES 5** and **17** on the right to land and other natural resources. These provisions also define the rights to food, food sovereignty, water, housing, participation, information, freedom of expression, access to justice, and environment.

According to the UNDROP, states shall respect, protect, and fulfil the right to land, and they shall engage in international cooperation and assistance with the same purpose. States shall also ensure that their laws and policies, as well as the international agreements to which they are party, do not lead to violations,

<sup>1</sup> See FIAN International (2020). Monitoring Report on the Right to Food and Nutrition during COVID-19. [https://www.fian.org/files/files/Covid\\_Monitoring\\_Report\\_-\\_Template\\_EN\(1\).pdf](https://www.fian.org/files/files/Covid_Monitoring_Report_-_Template_EN(1).pdf); FIAN International (2020). Monitoring Toolkit on the Right to Food and Nutrition during COVID-19. [https://www.fian.org/files/files/Monitoring\\_Toolkit\\_RtFN\\_During\\_Covid-19.pdf](https://www.fian.org/files/files/Monitoring_Toolkit_RtFN_During_Covid-19.pdf); and FIAN International (2020). A Recipe for Disaster: COVID Response Based on the Industrial Food System. Press release, 17 June 2020. <https://www.fian.org/en/press-release/article/a-recipe-for-disaster-covid-response-based-on-the-industrial-food-system-2510>

# THE GUIDE

but to a better protection of the right to land. The UNDROP also provides that UN specialised agencies, funds, and programmes, and other intergovernmental organisations, including international and regional financial organisations, shall contribute to the full realisation of the UNDROP, and that they shall promote respect for and the full application of the UNDROP, and follow up on its effectiveness.

This guide responds to a request by the International Land Coalition (ILC). It aims to support its members and the land community in general in the implementation of the UNDROP. A number of manuals have been produced to support the protection of human rights in relation to land<sup>2</sup> or the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (the VGGTs), adopted by the UN Committee on World Food Security (CFS) in 2012.<sup>3</sup> In April 2020, a manual was also released to guide action to protect the right to land in Europe,

in which the UNDROP is included.<sup>4</sup> This study is the first attempt that we know of to provide guidance on the implementation of the right to land and the UNDROP at the global level.

This guide focuses on the steps that states and international and regional organisations shall take, and that social movements and civil society organisations (CSOs) should take to better promote and protect the right to land. It is divided into three parts:

- ★ Part 1: Description of the UNDROP
- ★ Part 2: Definition of the right to land
- ★ Part 3: Implementation of the UNDROP and the right to land.

<sup>2</sup> See, for example, FIAN International and Amnesty International (2015). Haki Zetu: ESC Rights in Practice. Land and Human Rights. [https://www.amnesty.nl/content/uploads/2017/01/haki\\_zetu.pdf?x39640](https://www.amnesty.nl/content/uploads/2017/01/haki_zetu.pdf?x39640)

<sup>3</sup> See, for example, FAO and FIAN International (2017). Putting the Voluntary Guidelines on Tenure into Practice: A Learning Guide for Civil Society Organizations. <http://www.fao.org/3/a-i7763e.pdf>; Transnational Institute (TNI), FIAN International, International Institute of Social Studies (ISS), and Institute for Poverty, Land and Agrarian Studies (PLAAS) (2017). Using the Tenure Guidelines for Action Research: A Primer. [https://www.tni.org/files/publication-downloads/web\\_tenure\\_guidelines.pdf](https://www.tni.org/files/publication-downloads/web_tenure_guidelines.pdf); International Planning Committee for Food Sovereignty (2016). People's Manual on the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. A Guide for Promotion, Implementation, Monitoring and Evaluation. <https://www.foodsovereignty.org/wp-content/uploads/2016/06/peoplesmanual.pdf>

<sup>4</sup> Nyéléni Europe and Central Asia Platform for Food Sovereignty (2020). Your Land, My Land, Our Land: Grassroots Strategies to Preserve Farmland and Access to Land for Peasant Farming and Agroecology. [https://www.eurovia.org/wp-content/uploads/2020/05/EN-Your\\_Land\\_My\\_Land\\_Our\\_Land1.pdf](https://www.eurovia.org/wp-content/uploads/2020/05/EN-Your_Land_My_Land_Our_Land1.pdf)



## THE UNDROP

The UNDROP was adopted by the UN Human Rights Council (HRC) in Geneva in September 2018, and by the UN General Assembly in New York in December 2018.<sup>5</sup>

This first part starts with a brief history of the Declaration's adoption. It then aims to respond to the following questions:

- ★ How are peasants and other people working in rural areas defined in the UNDROP?
- ★ What rights and state obligations have been enshrined in the UNDROP?
- ★ Why should human rights and the UNDROP prevail over other international instruments and over national laws and policies?
- ★ What human rights mechanisms exist, or need to be created, to monitor implementation of the UNDROP?

### BRIEF HISTORY OF THE UNDROP

As human beings, peasants and other people working in rural areas are entitled to all human rights that have been recognised by the UNGA since the adoption of the Universal Declaration of Human Rights in 1948, including those enshrined in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights adopted in 1966.<sup>6</sup> More than 50 years after the adoption of these two instruments, however, peasants and other people working in rural areas remain particularly vulnerable and at risk.

<sup>5</sup> See UN General Assembly, UN Declaration on the Rights of Peasants and Other People Working in Rural Areas, 17 December 2018. <https://undocs.org/A/RES/73/165>

<sup>6</sup> See Universal Declaration of Human Rights (1948). [https://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf); International Covenant on Economic, Social and Cultural Rights (1966). <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>; and International Covenant on Civil and Political Rights (1966). <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

Peasants, landless people, rural workers, herders, pastoralists, and fisherfolk represent 70% of all people who live in extreme poverty and 80% of the world's hungry.<sup>7</sup> Hundreds of millions of peasants and other people working in rural areas are victims of discrimination and human rights violations. Human rights defenders protecting the rights of peasants and other people working in rural areas to land and other natural resources also face a very high risk of being subjected to different forms of intimidation, harassment, and criminalisation.<sup>8</sup>

In response to this situation, in 2008 La Via Campesina, a network of peasant organisations and one of the world's largest transnational social movements, adopted its "*Declaration on the Rights of Peasants – Women and Men*".<sup>9</sup> Four years later, the HRC decided to create an open-ended intergovernmental working group to negotiate a UN Declaration.<sup>10</sup>

Five sessions of the working group took place between 2013 and 2018, with the active participation of representatives of peasants, rural women, people living from traditional fishing, herding, and hunting activities, and rural workers,<sup>11</sup> and in 2018 the UNDROP was presented for adoption to the HRC and UNGA.<sup>12</sup> On 28 September 2018, the HRC (with its 47 Member States) adopted the UNDROP by a vote of 33 states in favour, three against and 11 abstentions.<sup>13</sup> On 17 December 2018, the UNGA (composed of all UN Member States) adopted it by a vote of 121 states in favour, eight against and 54 abstentions.<sup>14</sup>

7 UN Department of Economic and Social Affairs (2019). Report of the Expert Group Meeting on "*Eradicating Rural Poverty to Implement the 2030 Agenda for Sustainable Development*". <https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/04/DraftReport-EGM-Rural-Poverty2019.pdf>; C. Di Nucci et al. (2020). To move the needle on ending extreme poverty, focus on rural areas. IFAD. <https://www.ifad.org/en/web/latest/blog/asset/41808748>

8 Observatory for the Protection of Human Rights Defenders, OMCT, and FIDH (2014). "*We are not afraid*". Land Rights Defenders: Attacked for Confronting Unbridled Development. Annual Report 2014. [https://www.omct.org/files/2014/12/22918/obs\\_2014\\_uk\\_web2.pdf](https://www.omct.org/files/2014/12/22918/obs_2014_uk_web2.pdf)

9 This declaration is available on La Via Campesina's website at: <https://viacampesina.org/en/wp-content/uploads/sites/2/2011/03/Declaration-of-rights-of-peasants-2009.pdf>

10 Resolution 21/19 of the Human Rights Council was adopted on 27 September 2012, by 23 votes in favour, nine against, and 15 abstentions. <https://undocs.org/A/HRC/RES/21/19>

11 Information about the negotiations that took place during the five sessions of the working group can be found on the OHCHR website on the drafting of the UNDROP. <https://www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/WGRuralAreasIndex.aspx>

12 On the UNDROP's history, see C. Hubert (2019). The United Nations Declaration on the Rights of Peasants: A Tool in the Struggle for our Common Future. CETIM. <https://www.cetim.ch/product/e-book-the-un-declaration-on-the-rights-of-peasants/>. See also P. Claeys and M. Edelman (2019). The United Nations Declaration on the rights of peasants and other people working in rural areas. The Journal of Peasant Studies, Grassroots Voices. <https://www.tandfonline.com/doi/pdf/10.1080/03066150.2019.1672665>

13 Resolution 39/12 of the Human Rights Council, adopted on 28 September 2018. <https://undocs.org/A/HRC/RES/39/12>

14 Resolution 73/165 of the UN General Assembly, adopted on 17 December 2018. <https://undocs.org/A/RES/73/165>. It is important to mention that China declared that it did not participate in the vote at the UNGA on 17 December, but that it was in favour of the adoption of the UNDROP. China also pointed out that it voted in favour of the UNDROP at the HRC and at the UNGA Third Committee. See <https://www.un.org/press/fr/2018/ag12107.doc.htm>

## 121 STATES VOTED IN FAVOUR OF ADOPTING THE UNDROP

Afghanistan, Algeria, Angola, Antigua-Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brunei Darussalam, Burundi, Cabo Verde, Cambodia, Central African Republic, Chad, Chile, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Portugal, Qatar, Republic of Moldova, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, São Tomé and Príncipe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Solomon Islands, Somalia, South Africa, South Sudan, Sri Lanka, Sudan, Suriname, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Vietnam, Yemen, Zambia and Zimbabwe

## 54 STATES ABSTAINED WHEN THE UNDROP WAS ADOPTED

Albania, Andorra, Argentina, Armenia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Ethiopia, Fiji, Finland, France, Georgia, Germany, Greece, Honduras, Iceland, Ireland, Italy, Japan, Kiribati, Latvia, Lesotho, Liechtenstein, Lithuania, Malta, Montenegro, Netherlands, Norway, Palau, Poland, Republic of Korea, Romania, Russian Federation, Samoa, San Marino, Singapore, Slovakia, Slovenia, Spain, the former Yugoslav Republic of Macedonia, Turkey, Tuvalu, Ukraine and Vanuatu

## EIGHT STATES VOTED AGAINST ADOPTION OF THE UNDROP

Australia, Guatemala, Hungary, Israel, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America

It is important to underline that when it adopted the UNDROP, the UNGA invited *“Governments, agencies and organizations of the UN system and intergovernmental and non-governmental organizations to disseminate the Declaration and to promote universal respect and understanding thereof”*, without making any distinction according to the votes of states during this adoption.<sup>15</sup> All states, as well as international organisations and CSOs, should therefore promote implementation of the UNDROP.

## DEFINITION OF PEASANTS AND OTHER PEOPLE WORKING IN RURAL AREAS

### ARTICLE 1 - UNDROP

1. For the purposes of the present declaration, a peasant is any person who engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land.
2. The present declaration applies to any person engaged in artisanal or small-scale agriculture, crop planting, livestock raising, pastoralism, fishing, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. It also applies to dependent family members of peasants.
3. The present declaration also applies to indigenous peoples and local communities working on the land, transhumant, nomadic and semi-nomadic communities, and the landless, engaged in the above-mentioned activities.
4. The present declaration further applies to hired workers, including all migrant workers, regardless of their migration status, and seasonal workers, on plantations, agricultural farms, forests and farms in aquaculture and in agro-industrial enterprises.

The UNDROP aims to protect the rights of some of the most marginalised people, who together represent around two billion people around the world: peasants, landless people, people living from traditional fishing, herding, and hunting activities, and rural workers.

The definition in **ARTICLE 1** of the UNDROP identifies several key characteristics of peasants and other people working in rural areas (which may not apply to all rural workers), including their **special relationship with land**, the way they work and produce, and their specific situation, combining economic vulnerability and a desire for autonomy.

<sup>15</sup> Resolution 73/165 of the UN General Assembly, adopted on 17 December 2018, §2. <https://undocs.org/A/RES/73/165>

**ARTICLE 1.1** of the UNDROP defines a peasant as *“any person who engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land”*.

Describing the activities in which a peasant can be engaged, **ARTICLE 1.2** provides that the UNDROP applies to any person engaged in artisanal or small-scale agriculture, crop planting, livestock raising, pastoralism, fishing, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. The fact that a peasant can be engaged in these activities *“alone, or in association with others or as a community”* (**ARTICLE 1.1**) gives a clear collective dimension to the rights enshrined in the UNDROP.

**ARTICLES 1.2** and **1.3** add that the UNDROP also applies to dependent family members of peasants, indigenous peoples, and local communities working on the land, transhumant, nomadic, and semi-nomadic communities, and the landless, engaged in the above-mentioned activities. And **ARTICLE 1.4** provides that the UNDROP also applies to rural workers, defined as *“hired workers, including all migrant workers, regardless of their migration status, and seasonal workers, on plantations, agricultural farms, forests and farms in aquaculture and in agro-industrial enterprises”*.

## RIGHTS ENSHRINED IN THE UNDROP

The UNDROP expresses deep concern at the structural discrimination faced by peasants and other people working in rural areas, who disproportionately suffer from, inter alia, poverty, hunger, and malnutrition, forced evictions and displacements, and criminalisation (Preamble and **ART. 3.3**), and it recognises an important number of rights to overcome that situation.

- ★ The right to natural resources (**ART. 5**)
- ★ The right to life (**ART. 6**)
- ★ The right to legal personality (**ART. 7**)
- ★ The right to freedom of thought, conscience, religion, opinion, expression, and peaceful assembly (**ART. 8**)
- ★ The right to organize to protect their interests (**ART. 9**)
- ★ The right to participation (**ART. 10**)
- ★ The right to information (**ART. 11**)
- ★ The right to have access to justice (**ART. 12**)
- ★ The right to work (**ART. 13**)
- ★ The right to working conditions that safeguard their safety and health (**ART. 14**)
- ★ The right to food and food sovereignty (**ART. 15**)
- ★ The right to an adequate standard of living (**ART. 16**)
- ★ The right to land (**ART. 17**)
- ★ The right to a safe, clean, and healthy environment (**ART. 18**)
- ★ The right to seeds (**ART. 19**)
- ★ The right to biological diversity (**ART. 20**)
- ★ The right to drinking water and sanitation (**ART. 21**)
- ★ The right to social security (**ART. 22**)
- ★ The right to health (**ART. 23**)
- ★ The right to adequate housing (**ART. 24**)
- ★ The right to education and training (**ART. 25**)
- ★ Cultural rights (**ART. 26**).

We cannot describe all these rights in detail here. We will come back to the specific rights that are most relevant to the protection of the right to land in Part II of this study.

## STATES' OBLIGATIONS

States have a key role to play in the implementation of the UNDROP. This role is underlined in the numerous provisions of the Declaration that define their obligations.<sup>16</sup>

The UNDROP provides that states shall:

- ★ Respect, protect, and fulfil the rights of peasants and other people working in rural areas (ART. 2.1);
- ★ Promptly take legislative, administrative, and other appropriate steps to achieve progressively the full realisation of the rights set forth in the UNDROP that cannot be immediately guaranteed (ART. 2.1);
- ★ Take all necessary measures to ensure that non-state actors that they are in a position to regulate, such as private individuals and organizations and transnational corporations and other business enterprises, respect and strengthen the rights enshrined in the UNDROP (ART. 2.5);
- ★ Ensure the consistency of international agreements and standards to which they are party with the UNDROP (ART. 2.4), and establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural, and development policies with the new UN Declaration (article 15.5). They should also integrate the whole of the UNDROP within their domestic law, or integrate specific rights enshrined in the UNDROP in their constitutions or national laws;
- ★ Pay particular attention to the rights and special needs of individuals and groups who have historically been discriminated against, including older persons, women, youth, children, and persons with disabilities, taking into account the need to address multiple forms of discrimination (ART. 2.2);
- ★ Recognise the importance of international cooperation in support of national efforts aimed at implementing the UNDROP (ART. 2.6);
- ★ Take appropriate measures to eliminate conditions that cause or help to perpetuate discrimination, including multiple and intersecting forms of discrimination (ART. 3.3);
- ★ Take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas, to promote their empowerment, and to ensure that they enjoy without discrimination all the human rights and fundamental freedoms set out in the UNDROP (ART. 4.1 and 4.2).

<sup>16</sup> See also C. Golay (2019). The Implementation of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, Geneva Academy research brief, pp. 4-5. [https://www.geneva-academy.ch/joomlatools-files/docman-files/The implementation of the UN Declaration on the rights of peasants and other people w.pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20implementation%20of%20the%20UN%20Declaration%20on%20the%20rights%20of%20peasants%20and%20other%20people%20w.pdf)

## OBLIGATIONS OF INTERNATIONAL AND REGIONAL ORGANISATIONS

### ARTICLE 27 - UNDROP

1. The specialized agencies, funds and programmes of the United Nations system, and other intergovernmental organizations, including international and regional financial organizations, shall contribute to the full realization of the present declaration, including through the mobilization of, inter alia, development assistance and cooperation. Ways and means of ensuring the participation of peasants and other people working in rural areas on issues affecting them shall be considered.
2. The United Nations and its specialized agencies, funds and programmes, and other intergovernmental organizations, including international and regional financial organizations, shall promote respect for and the full application of the present declaration, and follow up on its effectiveness.

The UNDROP provides that UN specialised agencies, funds and programmes, and other intergovernmental organisations, including international and regional financial organisations, shall contribute to the full realisation of the Declaration, and that they shall promote respect for and the full application of the UNDROP and follow up on its effectiveness (ART. 27).

At the UN, a Voluntary Fund for peasants and other people working in rural areas could be established to support their participation in the activities of the UN system. The UNDROP should also be mainstreamed into strategies aimed at achieving the Sustainable Development Goals (SDGs).

The CFS, UN specialised agencies, and other international organisations shall integrate implementation of the UNDROP into their work and find opportunities to work together, as well as with organisations of peasants and other people working in rural areas for that purpose. These include the Food and Agriculture Organization of the UN (FAO), the International Fund for Agricultural Development (IFAD), the UN Development Programme (UNDP), the International Labour Organization (ILO), the World Health Organization (WHO), the UN Educational, Scientific and Cultural Organization (UNESCO), and the World Bank.

At regional level, parliamentary groups could be created on the rights of peasants and other people working in rural areas, and the promotion of these rights could be integrated into the work of parliamentary groups that are already established, such as the parliamentary fronts that aim to fight hunger in Latin America and Africa.<sup>17</sup>

The European Parliament, which pushed European Union (EU) Member States to vote in favour of the adoption of the UNDROP, and the European Economic and Social Committee (EESC), which called on the European institutions and EU Member State governments to actively support it in all future work leading up to its realisation, should continue to promote implementation of the UNDROP in Europe. In Africa, the UNDROP's implementation could be integrated, inter alia, within the work of the Pan-African Parliamentary Alliance For Food Security and Nutrition (PAPA-FSN). The Economic Community of West African States (ECOWAS) and the General Assembly of the Organization of American States (OAS), which have recognized the right to food sovereignty, could also promote the UNDROP's implementation in their regions.

## PRIMACY OF HUMAN RIGHTS AND THE UNDROP OVER OTHER INTERNATIONAL INSTRUMENTS AND NATIONAL LAWS AND POLICIES

### ARTICLE 2.4 – UNDROP

States shall elaborate, interpret and apply relevant international agreements and standards to which they are party, in a manner consistent with their human rights obligations as they apply to peasants and other people working in rural areas.

<sup>17</sup> See their respective websites. <http://parlamentarioscontraelhambre.org/en/> and <https://agrinatura-eu.eu/news/pan-african-parliamentary-alliance-for-food-security-and-nutrition>

### ARTICLE 5.5 – UNDROP

[...] States shall establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural and development policies with the realization of the rights contained in this Declaration.

In international law, in accordance with the Charter of the United Nations (the UN Charter),<sup>18</sup> international human rights instruments take precedence in the hierarchy of norms over other international instruments, such as those protecting international trade and foreign investments.

According to the UN Charter, the promotion and protection of human rights is one of the main purposes of the UN (ART. 1.3), and UN Member States pledged to take joint and separate action to promote universal respect for human rights (ART. 55.c and 56). The UN Charter also provides that “[i]n the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail” (ART. 103). It is also relevant to mention that in the Vienna Declaration and Programme of Action, all states reaffirmed that the protection of human rights is the first responsibility of governments.<sup>19</sup>

The primacy of human rights over economic and financial interests is reflected in two articles of the UNDROP, which provide that states shall elaborate, interpret, and apply relevant international agreements and standards to which they are party in a manner consistent with their human rights obligations as they apply to peasants (ART. 2.4), and that they shall establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural, and development policies with the realisation of the rights contained in the UNDROP (ART. 15.5).

These two provisions reflect the fact that, as higher-order norms, human rights do not have to be adapted to international trade and investment agreements or to national laws and policies. On the contrary, it is international trade and investment agreements and national laws and policies that must be adapted to ensure the ongoing protection of human rights.

<sup>18</sup> Charter of the United Nations, 1945. <https://www.un.org/en/charter-united-nations/>

<sup>19</sup> UN General Assembly, Vienna Declaration and Programme of Action, 12 July 1993, Sl.1. <https://undocs.org/A/CONF.157/23>

## ACCOUNTABILITY AND MONITORING MECHANISMS

Human rights mechanisms have a key role to play in monitoring implementation of the UNDROP and in ensuring the participation of peasants and other people working in rural areas in their work. Where human rights mechanisms do not exist to monitor the UNDROP, it is important to create them, in order to increase accountability at national, regional, and international levels.<sup>20</sup>

At national level, it is essential that courts protect the rights of peasants and other people working in rural areas by directly applying the UNDROP, or by using it to interpret rights recognised in domestic law or in other international instruments. National human rights institutions should also include monitoring of the UNDROP in their work, including through awareness-raising activities, analysis of the compatibility of laws with the UNDROP, possible mechanisms for receiving complaints about violations of the rights enshrined in it, and the production of annual reports on its implementation for national, regional, and international bodies.

At regional level, human rights bodies, including the Inter-American Court and Commission on Human Rights, the African Commission and Court on Human and Peoples' Rights, the European Court of Human Rights, the European Committee of Social Rights (ECSR), the Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights, and the Arab Human Rights Committee should protect the rights of peasants and other people working in rural areas. The African Commission on Human and Peoples' Rights could establish a Working Group on peasants and other people working in rural areas in Africa, and the Inter-American Commission on Human Rights could create a mandate for a Rapporteur on the rights of such people.

At the international level, the UN Human Rights Council should create a new Special Procedure – a Special Rapporteur or a Working Group composed of five independent experts – on the rights of peasants and other people working in rural areas, and it should encourage its monitoring mechanisms to integrate the UNDROP, including the Universal Periodic Review. It is also important that other UN human rights mechanisms, in particular the UN special procedures and treaty bodies, include the UNDROP in their work.

<sup>20</sup> See C. Golay (2020). The Role of Human Rights Mechanisms in Monitoring the United Nations Declaration on the Rights of Peasants. Geneva Academy research brief. [https://www.geneva-academy.ch/joomlatools-files/docman-files/The Role Of Human Rights Mechanisms In Monitoring The United Nations Declaration On The Rights Of Peasants.pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20Role%20Of%20Human%20Rights%20Mechanisms%20In%20Monitoring%20The%20United%20Nations%20Declaration%20On%20The%20Rights%20Of%20Peasants.pdf)

On 17 December 2019, nine UN special procedures and four members of UN treaty bodies released a joint statement in which they committed to integrate the implementation of the UNDROP into the exercise of their mandates, protect the rights of peasants and other people working in rural areas, and provide guidance to states on how they can implement the UNDROP.<sup>21</sup>

### KEY CONCLUSIONS OF PART I

The UNDROP was adopted by a large majority of UN Member States in 2018, and it is based on several binding international human rights instruments.

The UNDROP provides that all states, UN agencies, and international and regional organisations shall contribute to its implementation. Organisations of peasants and other people working in rural areas and other CSOs should also support the implementation of the UNDROP in their fields of work.

It is also essential that national, regional, and UN human rights mechanisms start monitoring the respect, protection, and fulfilment of the rights enshrined in the UNDROP.

<sup>21</sup> Joint statement by UN human rights experts – 1st anniversary of the adoption of the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas. 17 December 2019. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25439&LangID=E>



## THE RIGHT TO LAND IN THE UNDROP

The right to land is recognised in **ARTICLES 5** and **17** of the UNDROP. This part aims to provide a response to the following questions:

- ★ What are the main elements of the right to land and states' obligations in the UNDROP?
- ★ How is the right to land of peasant women enshrined in the UNDROP?
- ★ Does the UNDROP include other rights that are particularly relevant for the protection of the right to land?
- ★ How does the UNDROP complement other international instruments protecting the right to land?

## THE RIGHT TO LAND AND OTHER NATURAL RESOURCES

**ARTICLES 5** and **17** of the UNDROP define the right to land and other natural resources, along with states' obligations.

### ARTICLE 5 – UNDROP

1. Peasants and other people working in rural areas have the right to have access to and to use in a sustainable manner the natural resources present in their communities that are required to enjoy adequate living conditions [...]. They also have the right to participate in the management of these resources.
2. States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to:
  - (a) A duly conducted social and environmental impact assessment;
  - (b) Consultations in good faith, in accordance with article 2.3 of the present declaration;
  - (c) Modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas.

**ARTICLE 17 – UNDROP**

1. Peasants and other people living in rural areas have the right to land, individually and/or collectively, [...] including the right to have access to, sustainably use and manage land and the water bodies, coastal seas, fisheries, pastures and forests therein, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.
2. States shall take appropriate measures to remove and prohibit all forms of discrimination related to the right to land, including those resulting from change of marital status, lack of legal capacity or lack of access to economic resources.
3. States shall take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights, not currently protected by law, recognizing the existence of different models and systems. States shall protect legitimate tenure, and ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed. States shall recognize and protect the natural commons and their related systems of collective use and management.
4. Peasants and other people working in rural areas have the right to be protected against arbitrary and unlawful displacement from their land or place of habitual residence, or from other natural resources used in their activities and necessary for the enjoyment of adequate living conditions. States shall incorporate protections against displacement into domestic legislation that are consistent with international human rights and humanitarian law. States shall prohibit arbitrary and unlawful forced eviction, the destruction of agricultural areas and the confiscation or expropriation of land and other natural resources, including as a punitive measure or as a means or method of war.
5. Peasants and other people working in rural areas who were arbitrarily or unlawfully deprived of their lands have the right, individually and/or collectively, in association with others or as a community, to return to their land of which they were arbitrarily or unlawfully deprived, including in cases of natural disasters and/or armed conflict and to have restored their access to the natural resources used in their activities and necessary for the enjoyment of adequate living conditions, whenever possible or to receive just, fair and lawful compensation when their return is not possible.

6. Where appropriate, States shall take pertinent measures to carry out agrarian reforms in order to facilitate broad and equitable access to land and other natural resources necessary to ensure that peasants and other people working in rural areas enjoy adequate living conditions, and to limit excessive concentration and control of land taking into account its social function. Landless peasants, young people, small-scale fishers and other rural workers should be given priority in the allocation of public lands, fisheries and forests.
7. States shall take measures aimed at the conservation and sustainable use of land and other natural resources used in their production, including among others through agroecology, and ensure the conditions for the regeneration of biological and other natural capacities and cycles.

**ARTICLE 5** enshrines the right of peasants and other people working in rural areas – alone, or in association with others or as a community (**ART. 1.1**) – to have access to and to use in a sustainable manner the natural resources present in their communities that are required to enjoy adequate living conditions, including land, and their right to participate in the management of these resources (**ART. 5.1**).

Article 17 enshrines the right to land of peasants and other people living in rural areas, and provides that this right can be exercised individually and/or collectively (**ART. 17.1**), alone, or in association with others or as a community (**ART. 1.1**).

According to the UNDROP, the right to land of peasants and other people working in rural areas includes the right to have access to, sustainably use, and manage land and the water bodies, coastal seas, fisheries, pastures, and forests therein, to achieve an adequate standard of living, to have a place to live in security, peace, and dignity and to develop their cultures (**ART. 17.1**). The right to land includes freedoms and entitlements that states shall respect, protect, and fulfil, without any discrimination.<sup>22</sup>

<sup>22</sup> See also S. Monsalve Suárez (2015). The right to land and other natural resources in the United Nations Declaration on the Rights of Peasant and Other People Working in Rural Areas. FIAN International. [https://www.fian.org/fileadmin/media/Publications/Peasants\\_Rights/PeasantsRights\\_right\\_to\\_land.pdf](https://www.fian.org/fileadmin/media/Publications/Peasants_Rights/PeasantsRights_right_to_land.pdf)

In this part, we put emphasis on the five following elements of the right to land:

- ★ Freedom from discrimination
- ★ Protection against forced eviction and displacement
- ★ Protection against the negative effects of land exploitation
- ★ Entitlements to agrarian reform
- ★ Conservation and sustainable use of land.

### **FREEDOM FROM DISCRIMINATION**

Peasants and other people working in rural areas have the right to the full enjoyment of the right to land, free from any kind of discrimination in the exercise of this right (ART. 3.1 and 17.1). To guarantee that right, the UNDROP provides that states shall take appropriate measures to eliminate conditions that cause or help to perpetuate discrimination, including multiple and intersecting forms of discrimination, against peasants and other people working in rural areas (ART. 3.3). States shall also remove and prohibit all forms of discrimination relating to the right to land, including those resulting from change of marital status, lack of legal capacity, or lack of access to economic resources (ART. 17.2).

### **PROTECTION AGAINST FORCED EVICTION AND DISPLACEMENT**

Peasants and other people working in rural areas also have the right to be free from forced eviction and arbitrary displacement (ART. 17.3 and 17.4).

To guarantee the exercise of this right, states shall provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems. States shall protect legitimate tenure and ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed. States shall also recognize and protect the natural commons and their related systems of collective use and management (ART. 17.3).

To protect peasants and other people working in rural areas against arbitrary and unlawful displacement from their land, states shall incorporate protections against displacement into domestic legislation that are consistent with international human rights and humanitarian law. States shall prohibit arbitrary and unlawful forced eviction, the destruction of agricultural areas, and the confiscation or expropriation of land and other natural resources, including as a punitive measure or as a means or method of war (ART. 17.4).

The UNDROP also provides that those who have been arbitrarily or unlawfully deprived of their lands have the right, individually and/or collectively, in association with others or as a community, to return to their land of which they were arbitrarily or unlawfully deprived, including in cases of natural disasters and/or armed conflict, and to have restored their access to the natural resources used in their activities and necessary for the enjoyment of adequate living conditions, whenever possible, or to receive just, fair and lawful compensation when their return is not possible (ART. 17.5).

The UNDROP's ARTICLE 24 on the right to housing also provides that states shall not, arbitrarily or unlawfully, either temporarily or permanently, remove peasants or other people working in rural areas against their will from the homes or land that they occupy without providing or affording access to appropriate forms of legal or other protection (ART. 24.3). When eviction is unavoidable, the state must provide or ensure fair and just compensation for any material or other losses (ART. 24.3).

### **PROTECTION AGAINST THE NEGATIVE EFFECTS OF LAND EXPLOITATION**

To protect peasants and other people working in rural areas against the negative effects of land exploitation, Article 5 provides that states shall take measures to ensure that any exploitation affecting the natural resources that they traditionally hold or use is permitted based on, but not limited to: a duly conducted social and environmental impact assessment; consultations in good faith, in accordance with ARTICLE 2.3 of the UNDROP;<sup>23</sup> and modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas (ART. 5.2).

## ENTITLEMENTS TO AGRARIAN REFORM

The UNDROP also recognises the need to conduct agrarian reform to fulfil the right to land. Its **ARTICLE 17** provides that states “*shall take appropriate measures to carry out agrarian reforms in order to facilitate the broad and equitable access to land and other natural resources necessary to ensure that peasants and other people working in rural areas enjoy adequate living conditions, and to limit excessive concentration and control of land, taking into account its social function*” (**ART. 17.6**). It also provides that landless peasants, young people, small-scale fishers, and other rural workers should be given priority in the allocation of public lands, fisheries, and forests (**ART. 17.6**).

## CONSERVATION AND SUSTAINABLE USE OF LAND

The UNDROP recognises the right of peasants and other people working in rural areas to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage (**ART. 18.1**).

To protect that right, **ARTICLE 18** provides that states shall take effective measures to ensure that no hazardous material, substance, or waste is stored or disposed of on the land of peasants and other people working in rural areas, and they shall cooperate to address the threats to the enjoyment of their rights that result from trans-boundary environmental harm (**ART. 18.4**).

States shall also protect peasants and other people working in rural areas against abuses by non-state actors, including by enforcing environmental laws (**ART. 18.5**). In addition, they shall protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers, and lakes, from overuse and contamination by harmful substances, in particular by industrial effluent and concentrated minerals and chemicals that result in poisoning, either slow or fast (**ART. 21.4**).

To fulfil that right, the UNDROP provides that states shall take measures aimed at the conservation and sustainable use of land and other natural resources used in their production, including through agroecology, and ensure conditions for the regeneration of biological and other natural capacities and cycles (**ART. 17.7**).

## THE RIGHT TO LAND OF RURAL WOMEN

### ARTICLE 4 – UNDROP

1. States shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas and to promote their empowerment in order to ensure, on the basis of equality between men and women, that they fully and equally enjoy all human rights and fundamental freedoms and that they are able to freely pursue, participate in and benefit from rural economic, social, political and cultural development.
2. States shall ensure that peasant women and other women working in rural areas enjoy without discrimination all the human rights and fundamental freedoms set out in the present declaration and in other international human rights instruments, including the rights:
 

[...] (h) To equal access to, use of and management of land and natural resources and equal or priority treatment in land and agrarian reform and in land resettlement schemes [...].

Peasant women play a key role in local and global food security – producing food crops worldwide and earning incomes to feed their families. Yet women and girls represent 70% of the world’s hungry people, and are subject to multiple discriminations in access to productive resources, including land.<sup>24</sup>

In international human rights law, the rights of rural women have been recognised in **ARTICLE 14** of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>25</sup> and, in a very similar way, in **ARTICLE 4** of the UNDROP.

<sup>24</sup> FAO (2011). The State of Food and Agriculture 2010–11. Women in Agriculture: Closing the Gender Gap for Development. <http://www.fao.org/3/i2050e/i2050e.pdf>

<sup>25</sup> See CEDAW Committee, General Recommendation No. 34 on the rights of rural women, UN doc CEDAW/C/GC/34, 4 March 2016. <https://undocs.org/CEDAW/C/GC/34>

UNDROP's **ARTICLE 4** provides that states shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas, to promote their empowerment, and to ensure that they enjoy without discrimination all the human rights and fundamental freedoms set out in the UNDROP, including the right to equal access to, use of, and management of land and other natural resources, and to equal or priority treatment in land and agrarian reform and in land resettlement schemes (**ART. 4.1** and **4.2**).

Its Article 17 also provides that states shall remove and prohibit all forms of discrimination relating to the right to land, including those resulting from change of marital status, lack of legal capacity, or lack of access to economic resources (**ART. 17.2**).

## KEY RELATED RIGHTS

A number of other rights enshrined in the UNDROP are interdependent, interrelated, and mutually reinforcing with the right to land. The most important for the protection of the right to land include the rights to participation, information, and access to justice.

### RIGHT TO PARTICIPATION

#### ARTICLE 10 - UNDROP

1. Peasants and other people working in rural areas have the right to active and free participation, directly and/or through their representative organizations, in the preparation and implementation of policies, programmes and projects that may affect their lives, land and livelihoods.
2. States shall promote the participation, directly and/or through their representative organizations, of peasants and other people working in rural areas in decision-making processes that may affect their lives, land and livelihoods; this includes respecting the establishment and growth of strong and independent organizations of peasants and other people working in rural areas and promoting their participation in the preparation and implementation of food safety, labour and environmental standards that may affect them.

The right to participation, enshrined in **ARTICLES 2.3** and **10** of the UNDROP, is fundamental to the implementation of the right to land, as well as of the whole Declaration.

To guarantee this right, the UNDROP provides that states shall promote the participation, directly and/or through their representative organizations, by peasants and other people working in rural areas in decision-making processes that may affect their lives, lands, and livelihoods. These include the elaboration of international agreements and standards (**ART. 2.4**), food safety, labour and environmental standards (**ART. 10.2**), legislation covering the evaluation and certification of their products (**ARTICLE 11.3**), seed policies, plant variety protection and other intellectual property laws, certification schemes and seed marketing laws (**ART. 19.8**), and the undertaking of agricultural research and development (**ART. 19.7**).

According to the UNDROP, states shall also respect the establishment and growth of strong and independent organizations of peasants and other people working in rural areas (**ART. 10.2**), and facilitate and ensure their full and equitable access and participation in local, national, and regional markets to sell their products at prices that allow them and their families to attain an adequate standard of living (**ART. 16.3**).

The UNDROP also provides that states shall formulate, in partnership with peasants and other people working in rural areas, public policies at the local, national, regional, and international levels to advance and protect the right to adequate food, food security and food sovereignty, and sustainable and equitable food systems that promote and protect their rights (**ART. 15.5**). Specialised agencies, funds, and programmes of the UN system and other intergovernmental organisations, including international and regional financial organisations, shall also consider ways to ensure the participation of peasants and other people working in rural areas in the implementation of the UNDROP (**ART. 27.1**).

## RIGHT TO INFORMATION

### ARTICLES 11.1 AND 11.2 – UNDROP

1. Peasants and other people working in rural areas have the right to seek, receive, develop and impart information, including information about factors that may affect the production, processing, marketing and distribution of their products.
2. States shall adopt appropriate measures to ensure that peasants and other people working in rural areas have access to relevant transparent, timely and adequate information in a language and form and through means adequate to their cultural methods so as to promote their empowerment and to ensure their effective participation in decision-making in matters that may affect their lives, land and livelihoods.

The right to information is enshrined in **ARTICLE 11** of the UNDROP, which defines it as the right of peasants and other people working in rural areas to seek, receive, develop, and impart information, including information about factors that may affect the production, processing, marketing, and distribution of their products.

To guarantee this right, the UNDROP provides that states shall adopt measures to ensure that they have access to relevant, transparent, timely, and adequate information in a language and form and through means adequate to their cultural methods so as to promote their empowerment and to ensure their effective participation in decision-making in matters that may affect their lives, land, and livelihoods (**ART. 11.2**).

## ACCESS TO JUSTICE

### ARTICLES 12.1 AND 12.5 – UNDROP

1. Peasants and other people working in rural areas have the right to effective and non-discriminatory access to justice, including access to fair procedures for the resolution of disputes and to effective remedies for all infringements of their human rights. Such a decision shall give due consideration to their customs, traditions, rules and legal systems in conformity with relevant obligations under international human rights law.
5. States shall provide peasants and other people working in rural areas with effective mechanisms for the prevention of and redress for any action that has the aim or effect of violating their human rights, arbitrarily dispossessing them of their land and natural resources or of depriving them of their means of subsistence and integrity, and for any form of forced sedentarization or population displacement.

Access to justice is key to protect the right to land and to protect land rights defenders.<sup>26</sup>

The UNDROP recognises the right of peasants and other people working in rural areas to effective and non-discriminatory access to justice, including access to fair procedures for the resolution of disputes and to effective remedies for all infringements of their human rights (**ART. 12.1**). It also provides that such decisions shall give due consideration to their customs, traditions, rules, and legal systems in conformity with relevant obligations under international human rights law (**ART. 12.1**).

To guarantee that right, as well as the right to land, UNDROP's Article 12.5 requires states to provide peasants and other people working in rural areas with effective mechanisms for the prevention of and for redress for any action that has the aim or effect of violating their human rights, arbitrarily dispossessing them of their land and natural resources, or of depriving them of their means of subsistence and integrity, and for any form of forced sedentarisation or population displacement.

<sup>26</sup> OHCHR (2015). Land and Human Rights: Annotated Compilation of Case Law. [https://www.ohchr.org/Documents/Publications/Land\\_HR-CaseLaw.pdf](https://www.ohchr.org/Documents/Publications/Land_HR-CaseLaw.pdf)

## COMPLEMENTARITY OF THE UNDROP WITH OTHER INTERNATIONAL INSTRUMENTS PROTECTING LAND RIGHTS

During the first session of the working group mandated to elaborate the UNDROP, experts underlined that in drawing up the Declaration, it was essential to take a holistic approach to the protection of the rights of peasants in order to fill gaps in international law, and to ensure that the UNDROP builds upon existing instruments, rather than weakening them.<sup>27</sup>

International law is fragmented on this matter, and the elaboration of the UNDROP represented a unique opportunity to recognise the rights of peasants, local communities, indigenous peoples, fisher people, pastoralists, nomads, hunters, gatherers, landless people, rural women, and rural workers in one single instrument.

Negotiators accepted this holistic vision, with the UNDROP building on and complementing other standard-setting initiatives in the UN. They also agreed that the main added values of a human rights instrument include its capacity to recognise individual and collective rights that can be transformed into legal entitlements in national and regional laws and can become enforceable before judicial or quasi-judicial bodies at national, regional, or international levels, and its capacity to define states' obligations in a way that is more precise than those that are contained in other international instruments.<sup>28</sup> As a result, the UNDROP enshrines individual and collective rights that can be transformed into legal entitlements and can become justiciable at all levels, and it defines detailed and precise obligations of states.

To define the right to land and related rights, the UNDROP has built on a number of binding international instruments,<sup>29</sup> including the:

- ★ Universal Declaration of Human Rights
- ★ International Covenant on Economic, Social and Cultural Rights
- ★ International Covenant on Civil and Political Rights

27 See C. Golay (2015). Negotiation of a United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas. Geneva Academy. [https://www.geneva-academy.ch/joomlatools-files/docman-files/InBrief5\\_rightsofpeasants.pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/InBrief5_rightsofpeasants.pdf)

28 See C. Golay and A. Bessa (2019). The Right to Seeds in Europe: The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas and the Protection of the Right to Seeds in Europe, pp. 23-24. Geneva Academy. <https://www.geneva-academy.ch/joomlatools-files/docman-files/The Right to Seeds in Europe.pdf>

29 See OHCHR (2015). Land and Human Rights: Standards and Applications. [https://www.ohchr.org/Documents/Publications/Land\\_HR-StandardsApplications.pdf](https://www.ohchr.org/Documents/Publications/Land_HR-StandardsApplications.pdf); S. Monsalve Suárez (2015). The right to land and other natural resources in the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, FIAN International. [https://www.fian.org/fileadmin/media/Publications/Peasants\\_Rights/PeasantsRights\\_right\\_to\\_land.pdf](https://www.fian.org/fileadmin/media/Publications/Peasants_Rights/PeasantsRights_right_to_land.pdf); and M. Özden (2014). The Right to Land. CETIM. <https://www.cetim.ch/wp-content/uploads/Right-to-land-A42.pdf>

- ★ Convention on the Elimination of All Forms of Discrimination Against Women
- ★ ILO Convention 169 on Indigenous and Tribal Peoples
- ★ UN Declaration on the Right to Development
- ★ UN Declaration on the Rights of Indigenous Peoples
- ★ Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security
- ★ Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
- ★ Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication.

The UNDROP has also built on the reports presented by the UN Special Rapporteur on the right to food, including the reports on land presented by Olivier De Schutter in 2010.<sup>30</sup>

### KEY CONCLUSIONS OF PART II

The right to land is recognized in UNDROP's ARTICLES 5 and 17, in a way that is complementary to other international instruments protecting land rights. In ARTICLE 4, it is recognised in a similar way for rural women.

Other rights that are essential for the protection of the right to land have been enshrined in the Declaration, including the rights to participation, information, and access to justice.

The right to land includes freedoms and entitlements, including freedom from discrimination, protection against forced eviction, displacement, and land exploitation, and entitlements to agrarian reform and to conservation and sustainable use of land.

30 Report of the Special Rapporteur on the right to food. UN Doc. A/65/281, 11 August 2010. <https://undocs.org/A/65/281>; Report of the Special Rapporteur on the right to food. Addendum on large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge. UN Doc. A/HRC/13/33/Add.2, 28 December 2009. <https://undocs.org/A/HRC/13/33/Add.2>

# 3

## IMPLEMENTATION OF THE UNDROP AND THE RIGHT TO LAND

In this third part, we describe the steps that states and international and regional organisations shall take, and that social movements and CSOs should take, to protect the right to land and promote the UNDROP. We aim to provide some guidance on the implementation of the right to land and the UNDROP, by focusing on the following activities:

- ★ Fighting forced evictions and displacements, and raising awareness about the UNDROP and the right to land;
- ★ Pushing for agrarian reform and for the recognition of peasants as rights-holders;
- ★ Pushing for the recognition of states and regional and international organisations as duty-bearers;
- ★ Calling for more accountability mechanisms and using existing ones.

### **FIGHTING FORCED EVICTIONS AND DISPLACEMENTS AND RAISING AWARENESS ABOUT THE UNDROP AND THE RIGHT TO LAND**

There are many ways to raise awareness about the UNDROP and the right to land, and to fight forced evictions and displacements. For example, since the adoption of the UNDROP, the Geneva Academy has published studies and has organised conferences, workshops, and training courses on the UNDROP's implementation.<sup>31</sup> Its staff have also travelled to Bangkok, Brussels, Bucharest, Budapest, Luxembourg, Montpellier, Paris, Phnom Penh, and Rome to participate in awareness-raising events focused on the UNDROP, organised by peasant organisations, CSOs, states, and UN agencies.

<sup>31</sup> See Geneva Academy project on the rights of peasants. <https://www.geneva-academy.ch/research/our-project/detail/13-the-rights-of-peasants>

This section focuses on activities aimed at fighting forced evictions and displacements and at raising awareness about the UNDROP and the right to land that can take place at national level, using Nepal as an example.

### **CASE STUDY 1: FIGHTING FORCED EVICTIONS AND DISPLACEMENTS AND RAISING AWARENESS ABOUT THE RIGHT TO LAND AND THE UNDROP IN NEPAL<sup>32</sup>**

In Nepal, more than 70% of the population live in rural areas, and more than 65% are engaged in agriculture. More than 50% of those engaged in agriculture are peasants who own less than half a hectare of land.

The Lands Act, adopted in 1964, aimed to protect the most vulnerable people and give them land ownership. However, it has been poorly implemented, in particular for women, indigenous peoples, and landless people. As a result, 400,000 tenants are still waiting to get their land. Peasants in Nepal also suffer from forced evictions due to national development projects.

In 2004, during the armed conflict in Nepal, the National Land Rights Forum was created by landless and grassroots organisations. Today, it is composed of thousands of people living in more than 50 of the country's 77 districts, reaching over 600,000 people.<sup>33</sup>

In 2018, the adoption of the Right to Food and Food Sovereignty Act provided for the protection of agricultural occupations and for the promotion of peasant livelihoods. It stipulated a number of measures to enhance peasants' dignity and adequate standards of living. The Act also provided for the identification and classification of peasants – with local governments mandated to issue an identity card – and empowered the Government of Nepal to classify them for subsidy, concessions, and assistance.<sup>34</sup>

Jagat Basnet from the Community Self-Reliance Centre (CSRC), a CSO created in 1993 to support struggles for land tenancy, participated in four sessions of the UN working group elaborating the UNDROP, during which he made statements on the right to land.

Since 2018, implementation of the UNDROP has been a priority for CSRC. The CSO translated the Declaration into Nepali and began to disseminate it widely. It organised meetings with two ministries to discuss its implementation, the Ministry of Land Management, Cooperatives and Poverty Alleviation and the Ministry of Agriculture and Livestock Development. It also organised an online discussion on the UNDROP with the Land, Agriculture and Food Alliance, which brings together CSOs and peasant organisations.

CSRC is working in close partnership with the All Nepal Peasant Federation (ANPFa), a member organisation of La Via Campesina. In the coming years, meetings, trainings and conferences on the UNDROP are planned with peasant groups and organisations and with CSOs working with peasants. A discussion is also planned with the National Human Rights Commission of Nepal, to try to convince it to include the UNDROP in its work.

<sup>32</sup> This case study has been drafted on the basis of an interview conducted on 9 June 2020 with Jagat Basnet of the Community Self-Reliance Centre (CSRC) in Nepal, a member of ILC. See CSRC. Land Reform for Equitable Prosperity: A Strategy for the Land and Agrarian Movement 2020–2025. <https://csrcnepal.org/>

<sup>33</sup> The National Land Rights Forum (NLRf) is a national association of peasants deprived of their land rights. <http://www.nlrfnepal.org/nlrf>

<sup>34</sup> Amnesty International (2019). Right to Food in Nepal: Analysis of the Right to Food and Food Sovereignty Act 2018. <https://reliefweb.int/sites/reliefweb.int/files/resources/ASA3101302019ENGLISH.pdf>

## PUSHING FOR AGRARIAN REFORM AND THE RECOGNITION OF PEASANTS AS RIGHTS-HOLDERS

The UNDROP offers important opportunities to push for agrarian reform and for the recognition of peasants as rights-holders at national, regional, and international levels. This section emphasises the opportunities it offers at a national level, using the example of Colombia.

### CASE STUDY 2: FIGHT FOR AGRARIAN REFORM AND THE RECOGNITION OF PEASANTS AS RIGHTS-HOLDERS IN COLOMBIA<sup>35</sup>

Colombia has one of the highest rates of inequality in rural land ownership both in Latin America and in the world. Extreme land concentration has been aggravated by the armed conflict that started in the 1980s, leading to resistance by peasant organisations, and hence to the criminalisation of peasant leaders. In response to this situation, peasant organisations decided to fight for agrarian reform and for the inclusion of peasants as rights-holders in national laws and policies.

During the negotiation period of the UNDROP, peace agreements were concluded in Colombia, with point 1 of the peace accord, on comprehensive rural development, focusing on peasants' right to land. A legislative initiative was also discussed, seeking constitutional recognition of peasants as rights-holders. The Senate did not approve this initiative, but it led to a debate on the precariousness, exclusion, and inequality faced by rural communities. Several elements of the draft UNDROP were debated during the process of drafting and adopting Resolution 464 of 2017, which established the public policy guidelines for peasant, family, and ethnic community agriculture.

<sup>35</sup> This case study was drafted on the basis of an interview conducted on 9 June 2020 with Alexander Fernández, who has been a member of peasant organisations in the Departamento del Cauca, Colombia for 30 years, and Liliana Vargas from the Red Nacional de Agricultura Familiar (National Network of Family Farming – RENAF). RENAF is a network of 142 social, non-governmental, academic, and cooperation organisations in Colombia, and is a member of ILC. See <http://agriculturafamiliar.co/red-nacional-de-agricultura/>

In 2018, peasant organisations chose the tutela (a form of legal action) as a strategy to call for the inclusion of peasants as a distinct category in national laws and policies. The outcome of this strategy was a Supreme Court of Justice's Sentence of 2018, which ordered the relevant ministries to define the concept of peasantry and include it in their plans, programmes, and projects. In the same year, an administrative act created an Office of Peasant Affairs in the Ministry of Interior, as a national space for dialogue and negotiation.

On 4 April 2019, La Via Campesina, the Red Nacional de Agricultura Familiar (RENAF), the Agrarian, Peasant, Ethnic and Popular Summit, the Alliance for Agrobiodiversity, the National Federation of Agricultural Unions, and FIAN Colombia organised a forum on "*The UN Declaration on the Rights of Peasants: Proposals and Challenges*".<sup>36</sup>

At the conclusion of this forum, participating organisations issued a statement in which they committed to disseminate and implement the UNDROP, and to push the national government to implement the peace accords in accordance with the UNDROP. They also called for the inclusion of peasants in Colombia's National Development Plan, in recognition of their contributions to the right to food and the country's economy; for the full respect, protection, and fulfilment of the rights of rural women; and for the defence of peasants' lands and territories.

A few months later, peasants were included in the National Development Plan, the National Administrative Department of Statistics included them in its political culture survey, and the Office of the Attorney-General issued Directive 007 setting out guidelines for the recognition, promotion, and defence of the rights of peasants.

<sup>36</sup> See Forum on the UN Declaration on the Rights of Peasants: Proposals and Challenges (in Spanish). <http://agriculturafamiliar.co/event/declaracion-de-la-onu-sobre-derechos-del-campesinado-propuestas-y-desafios-en-colombia/>

## PUSHING FOR THE RECOGNITION OF STATES, REGIONAL AND INTERNATIONAL ORGANISATIONS, AND CSOS AS DUTY-BEARERS

When it adopted the UNDROP, the UNGA invited “*Governments, agencies and organizations of the UN system and intergovernmental and non-governmental organizations to disseminate the Declaration and to promote universal respect and understanding thereof*”.<sup>37</sup> It is therefore not only states and international organisations but also social movements, including peasants’ organisations, and other CSOs, which should take the lead on implementing the UNDROP. As described in this section, many have already done so.

In October 2018 Bolivia and Switzerland – two countries which played a key role during the negotiation and adoption of the UNDROP – jointly organised an expert seminar at the UN in Geneva on the role of states, international organisations, CSOs, and social movements in implementing the Declaration. As the co-organiser of this expert seminar, the Geneva Academy released a publication on this topic in 2019 (in English, French, and Spanish) with recommendations for all stakeholders.<sup>38</sup>

In 2019, Switzerland and Costa Rica organised a conference in Rome with FAO, IFAD, and the World Food Programme (WFP) to discuss the role that these UN agencies can play in the UNDROP’s implementation, and links that can be made with the implementation of the UN Decade of Family Farming.

The same year, the European Coordination Via Campesina (ECVC) organised a training course in Budapest for 14 participants from FAO’s regional offices in Eastern Europe and Central Asia on their role in supporting the implementation of the UNDROP. It also organised a meeting in Bucharest with the Government of Romania and a number of meetings in Brussels with the EU, on the role of the EU and its Member States in implementing the UNDROP.

In 2019, development CSOs in Luxembourg organised a meeting with representatives of the government, peasant organisations, and other CSOs on the role of international cooperation and assistance in the realisation of the rights enshrined in the UNDROP.

37 See UNGA, UN Declaration on the Rights of Peasants and Other People Working in Rural Areas, 17 December 2018, §2. <https://undocs.org/A/RES/73/165>

38 The English, French, and Spanish versions of this publication are available on the Geneva Academy website describing the project on the rights of peasants. <https://www.geneva-academy.ch/research/our-project/detail/13-the-rights-of-peasants>

This section ends with examples of activities that took place in Cambodia in 2019 and in Burkina Faso in 2020.

### CASE STUDY 3: PUSHING DUTY-BEARERS IN CAMBODIA<sup>39</sup>

In July 2019, the NGO Forum on Cambodia (a coalition) and HEKS/EPER Cambodia (an NGO) invited relevant ministries and CSO networks, including the Network for Development of Food Security and Safety in Cambodia, the Land and Housing Rights Network, the Indigenous People and Forestry Network, along with grassroots organisations and other partners, to attend a workshop in Phnom Penh on the implementation of the UNDROP. The organisers stated that, while Cambodia had voted in favour of adopting the Declaration at the UNGA in 2018, it was time to take action to put it into practice.

During the workshop, which took place on 31 July, more than 100 participants debated the history and content of the UNDROP, the role of states, international organisations, and CSOs in its implementation, lessons learned from the implementation of the UN Declaration on the Rights of Indigenous People (UNDRIP) in Cambodia, and opportunities and challenges for implementing the UNDROP in the country.

Also in July 2019, a meeting was organised with UN agencies based in Cambodia, at which the OHCHR country office committed to translate the UNDROP into Khmer, and the FAO office committed to include it in its work, including in its dialogue on food security with the government. The Center for the Study of Humanitarian Law at the Royal University of Law and Economics in Cambodia also organised an academic conference on the UNDROP’s implementation.

39 See the Geneva Academy news story describing the events on the implementation of the UNDROP that took place in Cambodia in July 2019. <https://www.geneva-academy.ch/news/detail/257-a-summer-dedicated-to-the-implementation-of-the-un-declaration-on-the-rights-of-peasants>

#### CASE STUDY 4: PUSHING DUTY-BEARERS IN BURKINA FASO<sup>40</sup>

In Burkina Faso, extreme poverty and food insecurity are widespread among peasants and other people working in rural areas, where two-thirds of the population live and work. This situation has been exacerbated by land grabbing over the last 20 years.

A representative of FIAN Burkina Faso participated in the negotiations of the UNDROP in Geneva. In 2020 FIAN Burkina Faso, which is also coordinating a national platform of the West African Global Convergence of Land and Water Struggles<sup>41</sup>, started a multiple-year campaign to promote implementation of the UNDROP.

This campaign aims to inform rights-holders about their rights under the UNDROP, to strengthen peasant organisations so that they can push for its implementation, and to convince local, national, and sub-regional authorities and institutions of their obligations and responsibilities to protect the right to land and to implement the Declaration.

This began with the organisation of workshops with peasant organisations and local authorities in one of the five regions of Burkina Faso. It will continue with similar activities in the four other regions, and with awareness-raising and lobbying activities with national parliamentarians and sub-regional organisations, in particular ECOWAS and the West African Economic and Monetary Union (WAEMU/UEMOA). FIAN Burkina Faso is also producing a study on current protection of the main elements of the UNDROP, including the right to land, in domestic law.

## CALLING FOR MORE ACCOUNTABILITY MECHANISMS AND USING EXISTING ONES

The UNDROP will never be properly implemented if strong monitoring mechanisms do not exist at national, regional, and international levels to make duty-bearers accountable.

At the national level, it is essential that courts protect the rights of peasants and other people working in rural areas by directly applying the UNDROP, or by using it to interpret rights recognised in domestic law or in other international instruments. National human rights institutions should also monitor the UNDROP, including through awareness-raising activities, analysis of the compatibility of laws with the Declaration, creating mechanisms to receive and review complaints about violations of the rights enshrined in it, and the production of annual reports on its implementation for national, regional, and international bodies.

CSOs and lawyers can be instrumental in supporting peasants who are victims of human rights violations, and in convincing judges and national human rights institutions to take steps to protect the rights enshrined in the UNDROP.

At the regional level, all human rights bodies – including the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the European Court of Human Rights, the European Committee of Social Rights, the ASEAN Intergovernmental Commission on Human Rights, and the Arab Human Rights Committee – should use the UNDROP to protect the right to land and other rights of peasants and other people working in rural areas. The African Commission on Human and Peoples' Rights should also establish a Working Group on peasants and other people working in rural areas in Africa, and the Inter-American Commission on Human Rights should create a mandate for a Rapporteur on the rights of peasants and other people working in rural areas (similar procedures already exist in the two regions to protect the rights of indigenous peoples).

CSOs and lawyers can also support peasants who are victims of human rights violations by using the possibilities offered by regional human rights mechanisms to claim rights enshrined in the UNDROP. In 2020, in the case *Indigenous Communities of the Lhaka Honhat (Our Land) Association v. Argentina*, the Inter-American Court of Human Rights was the first regional human rights body to refer to the UNDROP to protect the right to land.

40 See the websites of FIAN Burkina Faso (<http://fianburkina.org>) and FIAN Switzerland (<https://fian-ch.org/fr/notre-travail/themes/droit-des-paysans.html>). FIAN is supporting this project.

41 See the West African Global Convergence website. <https://africaconvergence.net/?lang=en>

### CASE STUDY 5: INDIGENOUS COMMUNITIES OF THE LHAKA HONHAT (OUR LAND) ASSOCIATION V. ARGENTINA<sup>42</sup>

In February 2020, in its decision on this case, the Inter-American Court of Human Rights recognised for the first-time autonomous violations of the rights to a healthy environment, adequate food, water, and cultural identity. It also played a pioneer role in referring to the UNDROP to protect the right to land for the first time. The indigenous communities, numbering over 10,000 people and united under the association Lhaka Honhat (“*Our Land*”), began to fight for their ancestral lands in 1984. The international component of the case has been litigated by the Centro de Estudios Legales y Sociales, a human rights NGO in Argentina, for over 20 years. The Inter-American Court received eight amici curiae (submissions sent by persons or organisations) from indigenous organisations, NGOs, an international expert, and universities in relation to this case.

At the global level, in 2019 the Human Rights Committee became the first UN treaty body to refer to the UNDROP, in its decision in Portillo Cáceres and Others v. Paraguay.

### CASE STUDY 6: PORTILLO CÁCERES AND OTHERS V. PARAGUAY<sup>43</sup>

Portillo Cáceres and members of his family are peasants engaged in family farming in Paraguay. They live in a community that received land under the agrarian reform programme in 1991. They sent a communication to the UN Human Rights Committee in 2016, claiming that massive use of agrochemicals (pesticides and insecticides) in nearby large plantations had poisoned several of them, led to the death of their relative Ruben Portillo Cáceres, and polluted their land and other resources.

<sup>42</sup> For a description of this case with all documents, see the ESCR-Net Caselaw Database. <https://www.escr-net.org/caselaw/2020/indigenous-community-members-lhaka-honhat-our-land-association-vs-argentina>

<sup>43</sup> For a description of this case with all documents, see the ESCR-Net Caselaw Database. <https://www.escr-net.org/caselaw/2020/portillo-caceres-and-others-v-paraguay-ccprc126d27512016-communication-27512016>

In July 2019, in its decision in this case, the Human Rights Committee found violations of the rights of Cáceres family members to life, to privacy, family, and home, and to an effective remedy, because of the failure of the state to enforce environmental regulations and to redress the resulting harms.

The Human Rights Committee explained that Portillo Cáceres and members of his family depended on their crops, fruit trees, livestock, fishing, and water resources for their livelihoods. It added that they have a special attachment to and dependency on the land, using the words of and referring to Article 1 of the UNDROP. For the Committee, these elements can therefore be considered to fall under the scope of “*home*”, i.e. the place where a person resides or carries out his or her usual occupation. As the pollution has had direct repercussions on the Cáceres family’s crops, fruit trees, livestock, fishing, and water resources, their right to privacy, family, and home had been violated.<sup>44</sup>

In the coming years, all UN human rights mechanisms should include monitoring of the UNDROP in their work, with the full participation of peasants and other people working in rural areas.<sup>45</sup>

A first step in this direction was the release on 17 December 2019 of a joint statement by nine UN special procedures and four members of UN treaty bodies, in which they called for more accountability mechanisms to ensure the UNDROP’s implementation.<sup>46</sup> This joint statement was issued to mark the first anniversary of the instrument’s adoption, after extensive consultation with representatives of social movements, including La Via Campesina, NGOs such as FIAN International, and academia.

<sup>44</sup> Views of the UN Human Rights Committee, para. 7.8. <https://undocs.org/CCPR/C/126/D/2751/2016>

<sup>45</sup> C. Golay (2020). The Role of Human Rights Mechanisms in Monitoring the United Nations Declaration on the Rights of Peasants. Geneva Academy research brief. [https://www.geneva-academy.ch/joomlatools-files/docman-files/The Role Of Human Rights Mechanisms In Monitoring The United Nations Declaration On The Rights Of Peasants.pdf](https://www.geneva-academy.ch/joomlatools-files/docman-files/The%20Role%20Of%20Human%20Rights%20Mechanisms%20In%20Monitoring%20The%20United%20Nations%20Declaration%20On%20The%20Rights%20Of%20Peasants.pdf)

<sup>46</sup> Joint statement by UN human rights experts – 1st anniversary of the adoption of the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas, 17 December 2019. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25439&LangID=E>

## JOINT STATEMENT OF UN HUMAN RIGHTS MECHANISMS

On 17 December 2019, nine UN special procedures and four members of UN treaty bodies explained that they had witnessed in their work the need to protect the rights of peasants and other people working in rural areas. They committed to protect these rights, to integrate the UNDROP's implementation into the exercise of their mandates, and to provide guidance to states on how they can implement the Declaration. They also called on the Human Rights Council to create a new special procedure to monitor the UNDROP.

UN human rights experts urged states to implement the UNDROP in good faith, and to pay particular attention to the rights and special needs of women and girls and of those who live in vulnerable situations and/or who have historically been discriminated against, including older persons, youth, children, ethnic minorities, and persons with disabilities.

They also underlined that special measures shall be taken by states and other stakeholders to protect human rights defenders of land, environment, and natural resources – who are the first victims of criminalisation, intimidation, and attacks against their physical integrity and life – and that their safety must be prioritised and protected via all available mechanisms.

They also called on the CFS and on UN specialised agencies, funds, and programmes to integrate implementation of the UNDROP in their work, and on the International Monetary Fund (IMF), the World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO) to take the UNDROP into account in their work. They added that the UNDROP should be mainstreamed into strategies aimed at achieving the SDGs.

In the near future:

- ★ CSOs should support peasants who are victims of human rights violations by sending information to UN human rights mechanisms, and by using the possibilities that these mechanisms offer in terms of monitoring and accountability.
- ★ All UN special procedures should include the monitoring of the implementation of the UNDROP in their thematic and country visit reports, and in their communications to states and other stakeholders.
- ★ The Human Rights Council should include explicit references to the UNDROP in all its relevant resolutions, in the mandates that it gives to subsidiary bodies and special procedures, and in the reports it requests from the UN Secretary-General and OHCHR.
- ★ States should use the Universal Periodic Review of the Human Rights Council to push for the implementation of the UNDROP in other states.
- ★ UN treaty bodies should include the monitoring of the implementation of the UNDROP in their examination of periodic reports by state parties, in their concluding observations, in their general comments or recommendations in which they define the rights and states' obligations in their respective treaties, and in their examination of communications.

### KEY CONCLUSIONS OF PART III

States, international organisations and CSOs have begun to use the UNDROP to protect the right to land.

In doing so, they have undertaken activities aimed at fighting forced evictions and displacements, raising awareness about the UNDROP, pushing for agrarian reform, and recognising peasants as rights-holders and states and regional and international organisations as duty-bearers. They have also called for more accountability mechanisms and for greater use of existing ones.

On their side, regional and UN human rights mechanisms have started to include the UNDROP in their work, and to protect the right to land by referring to it.

## CONCLUSION

The UNDROP was adopted by a large majority of UN Member States in 2018. It is based on a number of binding international human rights instruments, and has been elaborated in a way that is complementary to these and other international instruments protecting land rights.

The Declaration recognises the right to land of non-indigenous peoples and communities for the first time in international human rights law. Its **ARTICLES 5** and **17** provide that this right can be exercised individually and/ or collectively, and that it includes freedoms and entitlements: freedom from discrimination and protection against forced evictions, displacements, and land exploitation, and entitlements to agrarian reform and to conservation and sustainable use of land. Combined with Article 4, these articles define the right to land of rural women, who should be empowered and enjoy all rights without discrimination.

Other rights that are essential to the protection of the right to land have been enshrined in the UNDROP, including the rights to food, food sovereignty, water, housing, participation, information, freedom of expression, access to justice, and environment.

The UNDROP provides that all states, UN agencies, and international and regional organisations shall contribute to its implementation. CSOs, including peasant organisations, should also support the UNDROP's implementation in their fields of work.

In this study, we have described some of the activities that these actors have undertaken to promote the UNDROP and protect the right to land. These include fighting forced evictions and displacements, raising awareness about the UNDROP, pushing for agrarian reform and for the recognition of the natural commons and their related systems of collective use and management, pushing for the recognition of peasants as rights-holders, pushing for the recognition of states and regional and international organisations as duty-bearers, and calling for more accountability mechanisms while using existing ones.

These activities have been undertaken since 2018 in a small number of countries in Asia, Africa, and Latin America. They promise to be instrumental in inspiring similar developments in many other countries in the near future.

We have also seen that regional and UN human rights mechanisms have begun to include the UNDROP in their work. In 2019 and 2020, the UN Human Rights Committee and the Inter-American Court of Human Rights referred to the UNDROP to protect the right to land in two important cases. In December 2019, a number of UN human rights experts called on the Human Rights Council to create a new special procedure to monitor the UNDROP, and they committed to protect the rights enshrined in the Declaration, to integrate its implementation in the exercise of their mandates, and to provide guidance to states on how they can also implement the UNDROP. All national, regional, and UN human rights mechanisms should now follow these examples and make similar commitments.

# ANNEX

# ANNEX 1

## ARTICLES OF THE UNITED NATIONS DECLARATION ON THE RIGHTS OF PEASANTS AND OTHER PEOPLE WORKING IN RURAL AREAS RELATING TO THE RIGHT TO LAND

United Nations

A/RES/73/165



General Assembly

Distr.: General  
21 January 2019

### United Nations declaration on the rights of peasants and other people working in rural areas

*The Human Rights Council*, [...]

*Recognizing* the special relationship and interaction between peasants and other people working in rural areas, and the land, water and nature to which they are attached and on which they depend for their livelihood, [...]

*Alarmed* by the increasing number of peasants and other people working in rural areas forcibly evicted or displaced every year, [...]

*Stressing* that peasant women and other rural women play a significant role in the economic survival of their families and in contributing to the rural and national economy, including through their work in the non-monetized sectors of the economy, but are often denied tenure and ownership of land, equal access to land, productive resources, financial services, information, employment or social protection, and are often victims of violence and discrimination in a variety of forms and manifestations, [...]

*Stressing also* that several factors make it difficult for peasants and other people working in rural areas, including small-scale fishers and fish workers, pastoralists, foresters and other local communities to make their voices heard, to defend their human rights and tenure rights, and to secure the sustainable use of the natural resources on which they depend,

*Recognizing* that access to land, water, seeds and other natural resources is an increasing challenge for rural people, and stressing the importance of improving access to productive resources and investment in appropriate rural development, [...]

*Concerned* that individuals, groups and institutions that promote and protect the human rights of those working on land and natural resources issues face a high risk of being subject to different forms of intimidation and of violations of their physical integrity,

*Noting* that peasants and other people working in rural areas often face difficulties in gaining access to courts, police officers, prosecutors and lawyers to the extent that they are unable to seek immediate redress or protection from violence, abuse and exploitation, [...]

*Recalling also* the extensive work of the Food and Agriculture Organization of the United Nations and the Committee on World Food Security on the right to food, tenure rights, access to natural resources and other rights of peasants, in particular the International Treaty on Plant Genetic Resources for Food and Agriculture, and the Organization's Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication and the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security,

*Recalling* the outcome of the World Conference on Agrarian Reform and Rural Development and the Peasants Charter adopted thereat, in which the need for the formulation of appropriate national strategies for agrarian reform and rural development, and their integration with overall national development strategies, was emphasized,

*Reaffirming* that this Declaration and relevant international agreements shall be mutually supportive with a view to enhance the protection of human rights, [...]

*Solemnly adopts* the following declaration on the rights of peasants and other people working in rural areas:

#### Article 1

1. For the purposes of the present declaration, a peasant is any person who engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land.

2. The present declaration applies to any person engaged in artisanal or small-scale agriculture, crop planting, livestock raising, pastoralism, fishing, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. It also applies to dependent family members of peasants.
3. The present declaration also applies to indigenous peoples and local communities working on the land, transhumant, nomadic and semi-nomadic communities, and the landless, engaged in the above-mentioned activities.
4. The present declaration further applies to hired workers, including all migrant workers, regardless of their migration status, and seasonal workers, on plantations, agricultural farms, forests and farms in aquaculture and in agro-industrial enterprises.

#### **Article 2**

1. States shall respect, protect and fulfil the rights of peasants and other people working in rural areas. They shall promptly take legislative, administrative and other appropriate steps to achieve progressively the full realization of the rights of the present declaration that cannot be immediately guaranteed.
2. Particular attention shall be paid in the implementation of the present declaration to the rights and special needs of peasants and other people working in rural areas, including older persons, women, youth, children and persons with disabilities, taking into account the need to address multiple forms of discrimination.
3. Without disregarding specific legislation on indigenous peoples, before adopting and implementing legislation and policies, international agreements and other decision-making processes that may affect the rights of peasants and other people working in rural areas, States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions, engaging with and seeking the support of peasants and other people working in rural areas who could be affected by decisions before those decisions are made, and responding to their contributions, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.

4. States shall elaborate, interpret and apply relevant international agreements and standards to which they are party, in a manner consistent with their human rights obligations as they apply to peasants and other people working in rural areas.
5. States shall take all necessary measures to ensure that non-State actors that they are in a position to regulate, such as private individuals and organizations, and transnational corporations and other business enterprises, respect and strengthen the rights of peasants and other people working in rural areas.
6. States, recognizing the importance of international cooperation in support of national efforts for the realization of the purposes and objectives of the present declaration, shall take appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of peasants and other people working in rural areas, among others. Such measures could include:
  - (a) Ensuring that relevant international cooperation, including international development programmes, is inclusive, accessible and pertinent to peasants and other people working in rural areas;
  - (b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
  - (c) Facilitating cooperation in research and in access to scientific and technical knowledge;
  - (d) Providing, as appropriate, technical and economic assistance, facilitating access to and sharing of accessible technologies, and through the transfer of technologies, particularly to developing countries on mutually agreed terms;
  - (e) Improving the functioning of markets at the global level and facilitating timely access to market information, including on food reserves, in order to help to limit extreme food price volatility and the attractiveness of speculation.

### Article 3

1. Peasants and other people working in rural areas have the right to the full enjoyment of all human rights and fundamental freedoms recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and all other international human rights instruments, free from any kind of discrimination in the exercise of their rights based on any grounds such as origin, nationality, race, colour, descent, sex, language, culture, marital status, property, disability, age, political or other opinion, religion, birth or economic, social or other status.
2. Peasants and other people working in rural areas have the right to determine and develop priorities and strategies to exercise their right to development.
3. States shall take appropriate measures to eliminate conditions that cause or help to perpetuate discrimination, including multiple and intersecting forms of discrimination, against peasants and people working in rural areas.

### Article 4

1. States shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas and to promote their empowerment in order to ensure, on the basis of equality between men and women, that they fully and equally enjoy all human rights and fundamental freedoms and that they are able to freely pursue, participate in and benefit from rural economic, social, political and cultural development.
2. States shall ensure that peasant women and other women working in rural areas enjoy without discrimination all the human rights and fundamental freedoms set out in the present declaration and in other international human rights instruments, including the rights:
  - (a) To participate equally and effectively in the formulation and implementation of development planning at all levels; [...]
  - (f) To participate in all community activities; [...]
  - (h) To equal access to, use of and management of land and natural resources and equal or priority treatment in land and agrarian reform and in land resettlement schemes [...]

### Article 5

1. Peasants and other people working in rural areas have the right to have access to and to use in a sustainable manner the natural resources present in their communities that are required to enjoy adequate living conditions, consistent with article 28 of the present Declaration. They also have the right to participate in the management of these resources.
2. States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to:
  - (a) A duly conducted social and environmental impact assessment;
  - (b) Consultations in good faith, in accordance with article 2.3 of the present declaration;
  - (c) Modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas.

### Article 7

[...]

3. States shall, where required, take appropriate measures to cooperate with a view to address transboundary tenure issues affecting peasants and other people working in rural areas that cross international boundaries, in accordance with article 28 of this Declaration.

### Article 8

[...]

2. Peasants and other people working in rural areas have the right, individually and/or collectively, in association with others or as a community, to participate in peaceful activities against violations of human rights and fundamental freedoms.
- [...]
4. States shall take all necessary measures to ensure protection by the competent authorities of everyone, individually and in association with others, against any violence, threat, retaliation, de jure or de facto discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise and defence of the rights described in the present declaration.

#### **Article 10**

1. Peasants and other people working in rural areas have the right to active and free participation, directly and/or through their representative organizations, in the preparation and implementation of policies, programmes and projects that may affect their lives, land and livelihoods.
2. States shall promote the participation, directly and/or through their representative organizations, of peasants and other people working in rural areas in decision-making processes that may affect their lives, land and livelihoods; this includes respecting the establishment and growth of strong and independent organizations of peasants and other people working in rural areas and promoting their participation in the preparation and implementation of food safety, labour and environmental standards that may affect them.

#### **Article 11**

1. Peasants and other people working in rural areas have the right to seek, receive, develop and impart information, including information about factors that may affect the production, processing, marketing and distribution of their products.
2. States shall adopt appropriate measures to ensure that peasants and other people working in rural areas have access to relevant transparent, timely and adequate information in a language and form and through means adequate to their cultural methods so as to promote their empowerment and to ensure their effective participation in decision-making in matters that may affect their lives, land and livelihoods.

[...]

#### **Article 12**

1. Peasants and other people working in rural areas have the right to effective and non-discriminatory access to justice, including access to fair procedures for the resolution of disputes and to effective remedies for all infringements of their human rights. Such a decision shall give due consideration to their customs, traditions, rules and legal systems in conformity with relevant obligations under international human rights law.

[...]

5. States shall provide peasants and other people working in rural areas with effective mechanisms for the prevention of and redress for any action that has the aim or effect of violating their human rights, arbitrarily dispossessing them of their land and natural resources or of depriving them of their means of subsistence and integrity, and for any form of forced sedentarization or population displacement.

#### **Article 15**

1. Peasants and other people working in rural areas have the right to adequate food and the fundamental right to be free from hunger. This includes the right to produce food and the right to adequate nutrition, which guarantee the possibility of enjoying the highest degree of physical, emotional and intellectual development.

[...]

5. States shall formulate, in partnership with peasants and other people working in rural areas, public policies at the local, national, regional and international levels to advance and protect the right to adequate food, food security and food sovereignty and sustainable and equitable food systems that promote and protect the rights contained in the present declaration. States shall establish mechanisms to ensure the coherence of their agricultural, economic, social, cultural and development policies with the realization of the rights contained in this Declaration.

#### **Article 17**

1. Peasants and other people living in rural areas have the right to land, individually and/or collectively, consistent with article 28 of this Declaration, including the right to have access to, sustainably use and manage land and the water bodies, coastal seas, fisheries, pastures and forests therein, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.
2. States shall take appropriate measures to remove and prohibit all forms of discrimination related to the right to land, including those resulting from change of marital status, lack of legal capacity or lack of access to economic resources.

3. States shall take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights, not currently protected by law, recognizing the existence of different models and systems. States shall protect legitimate tenure, and ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed. States shall recognize and protect the natural commons and their related systems of collective use and management.
4. Peasants and other people working in rural areas have the right to be protected against arbitrary and unlawful displacement from their land or place of habitual residence, or from other natural resources used in their activities and necessary for the enjoyment of adequate living conditions. States shall incorporate protections against displacement into domestic legislation that are consistent with international human rights and humanitarian law. States shall prohibit arbitrary and unlawful forced eviction, the destruction of agricultural areas and the confiscation or expropriation of land and other natural resources, including as a punitive measure or as a means or method of war.
5. Peasants and other people working in rural areas who were arbitrarily or unlawfully deprived of their lands have the right, individually and/or collectively, in association with others or as a community, to return to their land of which they were arbitrarily or unlawfully deprived, including in cases of natural disasters and/or armed conflict and to have restored their access to the natural resources used in their activities and necessary for the enjoyment of adequate living conditions, whenever possible or to receive just, fair and lawful compensation when their return is not possible.
6. Where appropriate, States shall take pertinent measures to carry out agrarian reforms in order to facilitate broad and equitable access to land and other natural resources necessary to ensure that peasants and other people working in rural areas enjoy adequate living conditions, and to limit excessive concentration and control of land taking into account its social function. Landless peasants, young people, small-scale fishers and other rural workers should be given priority in the allocation of public lands, fisheries and forests.
7. States shall take measures aimed at the conservation and sustainable use of land and other natural resources used in their production, including among others through agroecology, and ensure the conditions for the regeneration of biological and other natural capacities and cycles.

#### **Article 18**

1. Peasants and other people working in rural areas have the right to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage. States shall take appropriate measures to ensure that peasants and other people working in rural areas enjoy, without discrimination, a safe, clean and healthy environment.  
[...]
3. States shall take effective measures to ensure that no hazardous material, substance or waste is stored or disposed of on the land of peasants and other people working in rural areas, and shall cooperate to address the threats to the enjoyment of their rights that result from transboundary environmental harm.
4. States shall protect peasants and other people working in rural areas against abuses by non-State actors, including by enforcing environmental laws that contribute, directly or indirectly, to the protection of the rights of peasants or other people working in rural areas.

#### **Article 21**

- [...]
2. Peasants and other people working in rural areas have the right to water for personal and domestic use, farming, fishing and livestock keeping as well as to securing other water-related livelihoods, ensuring the conservation, restoration and sustainable use of water. They have the right to equitable access to water and water management systems, and to be free from arbitrary disconnections or the contamination of water supplies.  
[...]
4. States shall protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes, from overuse and contamination by harmful substances, in particular by industrial effluent and concentrated minerals and chemicals that result in slow and fast poisoning.  
[...]

#### **Article 24**

1. Peasants and other people working in rural areas have the right to adequate housing. They have the right to sustain a secure home and community in which to live in peace and dignity, and the right to non-discrimination in this context.
2. Peasants and other people working in rural areas have the right to be protected against forced eviction from their home, harassment and other threats.
3. States shall not, arbitrarily or unlawfully, either temporarily or permanently, remove peasants or other people working in rural areas against their will from the homes or land that they occupy without providing or affording access to appropriate forms of legal or other protection. When eviction is unavoidable, the State must provide or ensure fair and just compensation for any material or other losses.

#### **Article 27**

1. The specialized agencies, funds and programmes of the United Nations system, and other intergovernmental organizations, including international and regional financial organizations, shall contribute to the full realization of the present declaration, including through the mobilization of, inter alia, development assistance and cooperation. Ways and means of ensuring the participation of peasants and other people working in rural areas on issues affecting them shall be considered.
2. The United Nations and its specialized agencies, funds and programmes, and other intergovernmental organizations, including international and regional financial organizations, shall promote respect for and the full application of the present declaration, and follow up on its effectiveness.

#### **Article 28**

1. Nothing in the present declaration may be construed as diminishing, impairing or nullifying the rights that peasants and other people working in rural areas and indigenous peoples currently have or may acquire in the future.
2. The human rights and fundamental freedoms of all without discrimination of any kind shall be respected in the exercise of the rights enunciated in the present declaration. The exercise of the rights set forth in the present declaration shall be subject only to such limitations as are determined by law compliant with international human rights obligations. Any such limitations shall be non-discriminatory and necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others, and for meeting the just and most compelling requirements of a democratic society.

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